

FORGING AHEAD OR PROCEEDING WITH CAUTION;
DEVELOPING POLICY FOR GENERATIVE ARTIFICIAL
INTELLIGENCE IN LEGAL EDUCATION

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Generative Artificial Intelligence is rapidly being integrated into every facet of society, including a growing impact on law schools. It has become abundantly clear that there is a need to develop well-defined governing policies for its use and adoption in legal education. This article offers an introductory analysis of related approaches currently taken in various law schools, exploring the factors influencing these policies and their ethical implication. A comparative review of institutional policies reveals both similarities and unique approaches. Common themes include the need for balance between limited use and outright reliance, as well as the need for transparency and the promotion of academic integrity. Similarly, additional recurring concerns and considerations are explored, such as the potential impact on curricular integration and academic rigor.

Ethical and professional implications surrounding using these tools and platforms in legal education set the stage; delving into the importance of understanding the limitations and risks, a discussion of educating students about the appropriate contexts for using AI as a learning tool is presented. Additionally, the unique role of law school faculty governance in shaping these policies is explored, emphasizing the critical decision-making processes involved in establishing enforceable and implementable guardrails and guidelines. By looking at the focus behind policies across multiple institutions, best practices and approaches begin to emerge. Takeaways include future implications and recommendations for law schools and faculty in effectively governing the emerging use of generative artificial intelligence in legal education. The implications go beyond the walls of academia and impact practicing attorneys significantly. To prepare for this reality, law schools must think carefully about and generate policy approaches in line with universal goals and considerations. This article aims to provide valuable insights and recommendations for prudent governance, ultimately contributing to the ongoing discourse on its responsible and effective use within the legal academic sphere.

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INTRODUCTION

As Generative Artificial Intelligence (GAI) in education, specifically legal education, becomes more adept at automating routine tasks, law school administrators must carefully consider creating and executing policies around these technologies.¹ Key questions remain on whether and how to

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¹ Nachman N. Gutowski & Jeremy W. Hurley, *Navigating the AI Revolution: Challenges and Opportunities in Legal Practice and Education*, VA. LAWS. WKLY. (Jan. 21, 2024), <https://valawyersweekly.com/2024/01/21/navigating-the-ai-revolution-challenges-and-opportunities-in-legal-practice-and-education/> [https://perma.cc/XST5-43TV]. GAI tools can enhance traditional legal education by aiding in legal research, drafting arguments, and summarizing complex legal principles. These tools offer new methods for students to engage with vast databases, streamline research processes,

regulate GAI in these settings. Common concerns revolve around its use on or during examinations and for assignment submissions.² There is even discussion about the appropriateness of its use for idea generation and baseline study support.³ The overarching theme can be described as a concern centering around permissive versus prohibitive use, and which is the better starting point for law schools. Outright bans are problematic, as they could be seen to limit student preparation for the new realities of legal practice.⁴ However, unlimited access is a serious issue since it may considerably undermine the valid assessment of individual analytical abilities.⁵ A balanced approach that allows some access while placing restrictions on ‘ghost generation’ or overreliance on machine outputs may be more universally appropriate.⁶ Additional policies that revolve around

and improve the precision of legal drafting. This advancement allows for innovative approaches to understanding and applying legal principles, making legal education more accessible and dynamic. Addressing concerns requires careful oversight and policies that balance the use of AI with the preservation of educational values and ethical standards.

² Margaret Ryznar, *Exams in the Time of ChatGPT*, 80 WASH. & LEE L. REV. ONLINE 305 *passim* (2023). Generative AI’s ability to generate human-like responses to various prompts introduces new avenues for potential academic dishonesty. Generative AI’s capacity to provide sophisticated answers that are difficult to detect as AI-generated exacerbates the difficulty of maintaining exam integrity, especially in environments where traditional proctoring methods are not feasible.

³ John Spencer, *Seven Questions to Ask Before Having Students Use AI Tools*, SPENCER EDUCATION (Sept. 9, 2024), <https://spencereducation.com/seven-questions-to-ask-before-having-students-use-ai-tools/> [https://perma.cc/LG8G-Z2JE].

⁴ Raymond H. Brescia, *Teaching to the Tech: Law Schools and the Duty of Technology Competence*, 62 WASHBURN L.J. 507, 529–36 (2023). Preventing students from using these technologies may result in ill-prepared graduates utilizing such tools ineffectively in their professional lives, where AI is likely to play a significant role. Law schools should instead focus on teaching students how to use AI responsibly and ethically as part of their legal education. Instead of banning AI tools, legal education should integrate them into the curriculum to reflect their growing use in the legal industry. This approach can include developing guidelines and frameworks for the ethical use of AI, ensuring that students understand both the benefits and limitations of these technologies. Educators should focus on fostering students’ ability to critically evaluate and complement AI-generated content with their legal knowledge and skills, thus ensuring that AI serves as a learning aid, rather than a shortcut.

⁵ Marjan Ajevski et al., *ChatGPT and the Future of Legal Education and Practice*, 57 L. TCHR. 352, 360–62 (2023). Allowing unrestricted access to AI tools can significantly distort learning outcomes. Students might achieve higher grades without genuinely grasping the concepts or developing the skills the assessments aim to measure. This could result in a misalignment between grades and actual competencies, potentially leading to less prepared graduates for the demands of legal practice. Balanced policies that neither entirely ban nor fully permit AI tools in educational assessments, coupled with developing assessment strategies that are resistant to AI-generated responses, are alternatives to total exclusion. These could include incorporating oral exams to effectively evaluate students’ understanding and ability to articulate their thoughts without reliance on AI. Alternatively, professors can design assessments that necessitate personal reflection, case-specific analysis, or recent legal changes that AI can handle less effectively, encouraging students to engage directly with the material.

⁶ Ghost generation involves students submitting AI-generated content with minimal personal input, making the work primarily the product of the AI rather than their intellectual effort. This can lead to accusations of academic dishonesty, as students present AI-generated work as their own, misleading educators about their actual knowledge and skills. Often, this practice arises from an overreliance on AI tools to complete assignments, circumventing the intended learning process and stunting the student’s

required disclosure and attribution could also be effective.⁷ Clear rules and guidelines are essential to preempt disputes over academic integrity and set the stage for faculty and students about what is within the acceptable university policies and what is not.

Law faculty must also determine how GAI may need to be factored into adjusted curriculum design and even reconsider its impact on required course loads.⁸ If legal research and initial drafting become (even partially) automated, additional time can be reallocated to further enhance and support skills-based simulations and practicums.⁹ Oversight will still be needed to ensure core doctrinal competencies are achieved in line with accreditation requirements and individual institution missions. Carefully considered policies addressing academic conduct, assessment, disclosure, and curriculum are needed to maximize the benefits of these technologies while upholding the necessary rigors of legal education, all while ensuring fairness

academic growth and development. When students depend on AI for their work, they miss out on opportunities to develop critical thinking, problem-solving, and knowledge-acquisition skills, which are central. Additionally, students who engage in ghost generation fail to develop essential skills such as strong legal writing, critical analysis, and general research, leading to significant gaps in their abilities and impacting their future academic and professional success.

⁷ See generally, Andrew Martineau & Loren Turner, *ChatGPT in the Legal Research Classroom: Tips from the Trenches: What It Is, How to Ethically Use It, and Why It's Becoming an Essential Part of Every Instructor's, Law Student's, and Lawyer's Toolkit*, AALL SPECTRUM, Nov.–Dec. 2023, at 33. Practical examples of how these policies can be implemented effectively include: A student using GAI to draft a portion of their legal memorandum might include a statement such as, “Sections 2 and 3 of this memorandum were generated using ChatGPT, with subsequent edits and final review by the author.” An example of attribution can include when GAI is used to gather initial research or create drafts; students can annotate their documents with footnotes like, “ChatGPT generated initial draft of this section based on prompt [specific prompt details]. The final revision was completed by [student's name].” These examples illustrate how disclosure and attribution can be integrated into academic and professional work to maintain integrity and transparency while leveraging AI tools’ benefits. These policies foster a culture of honesty and responsibility in the use of AI, enabling evaluators to assess the true extent of a student’s or professional’s capabilities. However, implementing these policies will require educating students and professionals about the importance of disclosure and how to attribute AI contributions properly. There are also practical difficulties in consistently monitoring and enforcing these requirements, especially as AI tools evolve and their use becomes more integrated into daily workflows.

⁸ Dinish Kalla et al., *Study and Analysis of Chat GPT and Its Impact on Different Fields of Study*, 8 INT’L J. INNOVATIVE SCI. RSCH. & TECH. 827, 831 (2023). Instructors could include modules on the ethical implications of AI in legal practice, such as how to avoid over-reliance on AI-generated legal analysis and ensure client confidentiality when using AI tools. For instance, a course on legal research might include a unit where students learn to use GAI to draft a brief, followed by a discussion on the ethical and practical considerations of using AI in this context. Assignments might require students to use GAI to gather case law or draft legal arguments but then to critically analyze the AI’s suggestions, highlighting any inaccuracies or biases. This encourages students to engage with AI as a tool, rather than a crutch, ensuring they develop a balanced skill set that includes technological proficiency and traditional legal analysis.

⁹ Students and educators can shift focus to more complex and experiential learning activities when routine tasks such as basic legal research, document drafting, and summary cases are automated. These activities, such as mock trials, client interviews, and negotiation simulations, provide students with practical skills crucial for their future careers but are often underemphasized in traditional curricula. They also have the added benefit of preparing students for potential changes promised in the NextGen Bar Exam.

and ethical considerations are accounted for.¹⁰ An open and deliberative process involving administrators, faculty, and students will help establish rules that balance innovation and academic standards.¹¹ When stakeholders are involved in the policy-making process, positive results will follow.¹²

I. BACKGROUND ON GAI IN LAW SCHOOLS

The emergence of sophisticated GAI tools has already begun disrupting education.¹³ As these large language models (LLM) have grown more powerful through self-supervised learning from vast online datasets, their capabilities have started to mirror and potentially surpass traditional methods for a growing list of tasks.¹⁴ The tremendous investment in advancements, specifically for law, is incredible. ChatGPT¹⁵ and its many successors

¹⁰ Cecilia Ka Yuk Chan & Wenjie Hu, *Students' Voices on Generative AI: Perceptions, Benefits, and Challenges in Higher Education*, INT'L. J. EDUC. TECH. HIGHER EDUC., 2023, at 1, 15, <https://educationaltechnologyjournal.springeropen.com/articles/10.1186/s41239-023-00411-8#citeas> [<https://perma.cc/725A-ZPXR>]; see also Nora McDonald et al., *Generative Artificial Intelligence in Higher Education: Evidence from an Analysis of Institutional Policies and Procedures*, COMPUTERS IN HUMAN BEHAVIOR: ARTIFICIAL HUMANS, March 2025, at 1 *passim*, <https://www.sciencedirect.com/science/article/pii/S2949882125000052> [<https://perma.cc/95SP-9D8V>]. Policies should delineate clear guidelines for acceptable and unacceptable uses of AI in academic settings. For example, policies might specify that students may use ChatGPT to brainstorm ideas, draft outlines, or conduct preliminary research, while simultaneously stating that the generation of final submissions, full essays, or uncredited content by GAI would be considered a violation of academic integrity policies. Such guidelines would ensure that students can benefit from AI tools while maintaining their analytical abilities and avoiding academic misconduct.

¹¹ See Nachman N. Gutowski & Jeremy Hurley, *AI in Legal Education: Drafting Policies for Balancing Innovation and Integrity* 4 (Nov. 29, 2023) (unpublished manuscript) (on file with authors).

¹² *Id.*

¹³ See Partha Pratim Ray, *ChatGPT: A Comprehensive Review on Background, Applications, Key Challenges, Bias, Ethics, Limitations and Future Scope*, 3 INTERNET THINGS & CYBER PHYSICAL SYS. 121, 137 (2023). Disruption of traditional education by these GAI tools stems from the speed and quality of automated content generation, which students can leverage to produce work otherwise requiring reliance on their independent abilities.

¹⁴ See Stuart Hargreaves, *'Words Are Flowing Out Like Endless Rain Into a Paper Cup': ChatGPT & Law School Assessments*, 33 LEGAL EDUC. REV. 69, 70–71 (2023); see also Matthew Dahl et al., *Large Legal Fictions: Profiling Legal Hallucinations in Large Language Models*, 16 J. LEGAL ANALYSIS 64, 66 (2024); see also Joseph Regalia, *From Briefs to Bytes: How Generative AI is Transforming Legal Writing and Practice*, 59 TULSA L. REV. 193, 201 (2024). GAI is becoming increasingly powerful due to self-supervised learning from extensive online datasets. This advancement enables LLMs to perform tasks that traditionally require human expertise or manual effort, often with comparable or superior outcomes. These tools are trained on massive amounts of diverse and unstructured text data, allowing them to develop a deep understanding of language patterns and contexts, dissecting and replicating language into a pattern. This training method does not require human-labeled data, making it scalable and effective for continuous improvement. At the same time, these GAI tools can produce text that mirrors human writing across various approaches, including drafting legal documents, writing essays, and summarizing complex information. Its capacity to generate nuanced and contextually appropriate responses demonstrates how it can surpass traditional methods that rely on manual drafting and data synthesis.

¹⁵ ChatGPT is a chatbot created by OpenAI. See *Introducing ChatGPT*, OPENAI (Nov. 30, 2022), <https://openai.com/index/chatgpt/> [<https://perma.cc/4X72-5P6V>].

demonstrate potential for augmenting the law school experience.¹⁶ There are even higher education-focused and specific models now.¹⁷ Some early adopters report using them to more efficiently identify seminal cases, statutes, and secondary sources related to specific assignments.¹⁸ Similarly, for legal papers and notes, these tools can rapidly scan an ever-growing number of sources and extract relevant information, even pinpointing where the information was found.¹⁹

As accessibility increases through countless free, open-sourced, and low-cost options, GAI is expected to see broader experimentation, acceptance, and integration across multiple areas among the general public.²⁰ While law students are arguably still hesitant to utilize these platforms or at least admit to using them, that can't be the case for long.²¹ Additionally, law faculty have already integrated GAI-related tools into their courses, directing students to use them as a starting point before developing their legal arguments.²² A lasting benefit of this early hands-on integration is the exposure students gain to real-world techniques while freeing up time for higher-level thinking. Courses focusing on integrating GAI into the law are expanding, and new curricula on its impact are being developed and launched.²³

¹⁶ See Christopher D. Thomas et al., *Legal Literacy and Generative Artificial Intelligence: Comparing the Education Law Knowledge of Practicing Educators and Large Language Models like ChatGPT*, 414 EDUC. L. REP. 783, 785 (2023); see also Martineau & Turner, *supra* note 7, at 34.

¹⁷ E.g., Lin Wang, *New AI for Universities: ChatGPT Edu*, MEDIUM (June 12, 2024), <https://medium.com/@daneallist/new-ai-for-universities-chatgpt-edu-fb7a1f7db516> [<https://perma.cc/L66Z-GAQN>]; see also *Introducing ChatGPT Edu*, OPENAI (May 30, 2024), <https://openai.com/index/introducing-chatgpt-edu/> [<https://perma.cc/S95Y-J6SE>].

¹⁸ See Ajevski et al., *supra* note 5, at 356–57.

¹⁹ See generally Tegwen Malik et al., *Exploring the Transformative Impact of Generative AI on Higher Education*, in NEW SUSTAINABLE HORIZONS A.I. & DIGIT. SOLS. 69 (Marijn Jannsen et al. eds., 22nd ed. 2023); Jan Kocon et al., *ChatGPT: Jack of All Trades, Master of None*, 99 INFO. FUSION, 2023, at 1, <https://www.sciencedirect.com/science/article/pii/S156625352300177X>? [<https://perma.cc/AM4N-2AG5>]. However, this can be unreliable on generally available and certainly free platform versions. It works much better utilizing paid and advanced access versions, creating a potential concern about access and equity.

²⁰ See, e.g., RICHARD FLETCHER & RASMUS KLEIS NIELSEN, WHAT DOES THE PUBLIC IN SIX COUNTRIES THINK OF AI IN NEWS? 35–36 (2024), https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2024-05/Fletcher_and_Nielsen_Generative_AI_and_News_Audiences.pdf [<https://perma.cc/9NY7-PSKC>].

²¹ See Julianne Hill, *Head of the Class*, 110 A.B.A. J., 2024 at 42, <https://www.abajournal.com/legalrebels/article/head-of-the-class-law-schools-consider-post-chatgpt-coursework> [<https://perma.cc/9MRB-N3LJ>].

²² This is particularly the case in Legal Research and Writing (LRW) courses.

²³ E.g., JAMIL N. JAFFER, GEORGE MASON UNIV., ANTONIN SCALIA L. SCH., SYLLABUS – THE EMERGING LAW OF ARTIFICIAL INTELLIGENCE 1 (Jan. 9, 2024), https://www.law.gmu.edu/assets/files/academics/schedule/2024/spring/Jaffer_758-S.pdf [<https://perma.cc/7GCV-YSHE>]. See generally Brendan Johnson & Francis Shen, *Teaching Law and Artificial Intelligence*, 22 MINN. J.L. SCI. & TECH. 23 (2021).

As with any new and disruptive technology, challenges also emerge.²⁴ From a legal and educational standpoint, these include, but are in no way limited to, overreliance, academic integrity, and assessment validity. Prudent policies are needed to maximize benefits and prevent potential issues. GAI promises to modernize legal pedagogy and better prepare students for technology-integrated practice if its use is guided appropriately.²⁵ Another consideration is that the American Bar Association (ABA), as the accrediting body for law schools, may have to set standards relating to GAI in education sooner rather than later.²⁶ As the models continue “learning” and improving, their educational and professional applications will also expand. Purposeful and deliberate policy creation and implementation will be foundational to ensuring proper oversight and maintenance of academic standards as these technologies become more prevalent learning aids.

GAI excels at rapidly surveying vast troves of pattern-aligned data, such as information stored in language, or words as we mere humans think of it.²⁷ As a result, setting GAI loose on case law, statutes, and secondary sources opens possibilities of speed, accuracy, and expanded reach never before imagined.²⁸ They can efficiently identify authorities and commentary relevant to nearly any topic. This allows students to start research in minutes versus spending hours manually browsing databases.²⁹ Research assistants and law librarians could leverage GAI to efficiently handle routine student and faculty reference questions.³⁰ This would free up considerable time and

²⁴ Harry Surden, *ChatGPT, AI Large Language Models, and Law*, 92 FORDHAM L. REV. 1941, 1943–44 (2024). LLMs are “generative pretrained transformer[s],” *id.* at 1957. Despite their impressive capabilities, LLMs have severe limitations, particularly regarding accuracy and genuine understanding. LLMs, including advanced models, often produce errors, hallucinate information, and lack proper comprehension of the text they generate. These limitations stem from their statistical nature, which, while enabling them to mimic human-like responses, does not equate to human cognitive understanding. It is of tremendous importance to recognize these constraints when considering the application of LLMs in legal contexts.

²⁵ Brescia, *supra* note 4, at 537.

²⁶ See *Task Force on Law and Artificial Intelligence: Addressing the Legal Challenges of AI*, AM. BAR ASS’N, https://www.americanbar.org/groups/leadership/office_of_the_president/artificial-intelligence/ [https://perma.cc/V2J5-YZEQ]; see also *Task Force on Law and Artificial Intelligence: Addressing the Legal Challenges of AI, AI and Legal Education*, AM. BAR ASS’N, https://www.americanbar.org/groups/centers_commissions/center-for-innovation/artificial-intelligence/ai-in-legal-education/ [https://perma.cc/R9MQ-GXB9].

²⁷ Hargreaves, *supra* note 14, at 70.

²⁸ See Martineau & Turner, *supra* note 7, at 33.

²⁹ E.g., *Lexis + AI: Transform Your Legal Network*, LEXISNEXIS, <https://www.lexisnexis.com/en-us/products/lexis-plus-ai.page> [https://perma.cc/VMC7-U5FF]; *Generative AI for Lawyers: Westlaw Precision with CoCounsel*, THOMSON REUTERS, <https://legal.thomsonreuters.com/en/c/westlaw/westlaw-precision-generative-ai?> [https://perma.cc/LP6Z-UKA3].

³⁰ See Bob Ambrogi, *Survey Says Gen AI Puts Law Librarians and KM Professionals At Risk of Obsolescence*, LAWSITES (July 6, 2023), <https://www.lawnext.com/2023/07/survey-says-gen-ai-puts-law-librarians-and-km-professionals-at-risk-of-obsolence.html> [https://perma.cc/D5H6-U98W]; see also *Generative AI in the Law: Where Could This All Be Headed?*, WOLTERS KLUWER (July 25, 2023),

other resources for refocusing interpersonal assistance on more complex inquiries while admittedly diminishing some of the experience and value of sidetracked rabbit-holing that happens in any good research. Some even herald the capabilities of these tools as eventually rivaling or surpassing human consciousness.³¹

For writing tasks, GAI is a particularly powerful tool that can be deployed to augment the drafting process. Models can produce initial case briefs, outlines, early elements for papers, or memoranda.³² Writing centers could experiment with “writing buddy” GAI applications that review drafts and provide feedback on structure, analysis, grammar, etc., to support the development process. There is even the incredibly powerful ability to build unique and task-specific models utilizing internal materials.³³ While not a substitute for human legal analysis, this initial work provides a foundation to build. These tools can be treated like paralegals and non-lawyers for document draft generation and idea distillation.³⁴ GAI should never be seen as replacing the final review or submission of work product creation by attorneys, students, or anyone.³⁵ The same professional and ethical responsibilities that apply to reviewing work produced by a paralegal or a junior associate must also apply to work generated by GAI.³⁶ This includes taking ultimate responsibility for the work product’s accuracy, reliability, and legal sufficiency with the attorney. Unfortunately, too many examples of practitioners not checking simple things, such as the authenticity of case law, have become more frequent.³⁷ To be clear, these instances are not an indictment on the value of GAI; rather, they show the need for proper training, utilization, and follow-up.

Simultaneously, students participating in law journals and moot court programs may want to consider using GAI to help evaluate submissions and potentially identify promising candidates for participation. Similarly, they

<https://www.wolterskluwer.com/en/expert-insights/generative-ai-in-the-law-where-could-this-all-be-headed> [https://perma.cc/4G94-8RL4].

³¹ Katherine B. Forrest, *Of Another Mind: AI and the Attachment of Human Ethical Obligations*, 92 FORDHAM L. REV. 1815, 1815 (2024). Though, admittedly, few hold this position, it does beg legal considerations and questions about the meaning of self, right, and the law. This is a conversation for another time and place.

³² *AI Tools for Legal Writing*, BL, <https://pro.bloomberglaw.com/insights/technology/ai-tools-for-legal-writing/> [https://perma.cc/8EVY-9XEW].

³³ *See id.*

³⁴ Natalie A. Pierce & Stephanie L. Goutos, *Why Lawyers Must Responsibly Embrace Generative AI*, 21 BERKELEY BUS. L.J. 469, 483–84 (2024).

³⁵ Hilary Gerzhoy et al., *AI and Legal Ethics: What Lawyers Need to Know*, PRAC. GUIDANCE J., Summer 2024, at 4, 6, <https://www.lexisnexis.com/pdf/practical-guidance/journal/summer-edition-2024-prospecting.pdf> [https://perma.cc/KBF5-755K].

³⁶ *Id.*

³⁷ *See e.g.*, Maura R. Grossman et al., *Is Disclosure and Certification of the Use of Generative AI Really Necessary?*, 7 JUDICATURE, 2023, at 68, 69–70, <https://judicature.duke.edu/articles/is-disclosure-and-certification-of-the-use-of-generative-ai-really-necessary/> [https://perma.cc/W29Q-RBR3].

can utilize it to speed up the initial review process by tasking the GAI with synthesis and sorting based on narrow and specific prompts that are appropriate for each organization. Legal clinics involved in routine tasks such as boiler document drafting, filing, or research could partially implement GAI to streamline workflows and take on additional client matters. Clinics and the need for more practical training for law students make this use particularly attractive. With many changing requirements, both from the ABA and in response to a changing Bar Exam landscape, GAI may be just the tool that supports the expansion clinics need to make.³⁸

As technology matures, it allows for enhanced automation of more work. This can free law school and university resources to focus on higher-level skills that are not replicable by machines. Simulations, clinics, and public service opportunities could be expanded. First-year courses may integrate GAI into assignments to generate hypothetical fact patterns or sample exam questions for students who want to review and answer them under timed conditions. Professors can more easily evaluate the veracity of their examinations and other assignments. Advanced seminars could task students with researching specialized topics. The impact on legal education and use is truly limitless.

The reality is that there are significant and ever-increasing real-world applications for GAI use. It has now been integrated into platforms such as Lexis and Westlaw.³⁹ These established and cornerstone legal research tools were already incredibly useful to quickly identify relevant cases, statutes, and secondary sources on topics for papers, briefs, and exams before the upgrades.⁴⁰ With the addition of these AI technologies, the implications are seismic in scale. Additionally, when writing a document, GAI is particularly helpful in providing targeted sentence-level feedback and recommendations to improve clarity and correct grammar/punctuation errors.⁴¹ After completing their initial draft independently, students can refine and improve

³⁸ See Nachman N. Gutowski, *NextGen Licensure & Accreditation*, 22 U.N.H. L. REV. 311, 311 (2024); see also W. Kearsse McGill, *Ethical Rules to Consider When Using Generative Artificial Intelligence as a Judge*, A.B.A. TECH. COLUMN (Apr. 23, 2023), https://www.americanbar.org/groups/judicial/publications/judicial_division_record_home/2024/vol27-3/ethical-rules-generative-ai-judges/ [https://perma.cc/N4P2-ALB2]; see also Bradford Newman, *The Use of Generative AI in the Law: Understanding Ethical Rules and Responsibilities*, A.B.A. BUS. L. PODCAST (July 31, 2023), https://www.americanbar.org/groups/business_law/resources/podcast/the-use-of-generative-ai-in-the-law/ [https://perma.cc/7KKB-SKPR].

³⁹ E.g., *Lexis + AI: Transform Your Legal Network*, *supra* note 29; *Generative AI for Lawyers: Westlaw Precision with CoCounsel*, *supra* note 29.

⁴⁰ See generally *Lexis + AI: Transform Your Legal Network*, *supra* note 29; *Generative AI for Lawyers: Westlaw Precision with CoCounsel*, *supra* note 29.

⁴¹ Ajevski et al., *supra* note 5, at 360-61; see generally Malik et al., *supra* note 19, at 71. This is not dissimilar to other AI tools that have been around for a long time, and professors may be more comfortable with student use. These include Grammarly, and even Microsoft Word's spell check and writing assistance. Maybe one of the "original" AI writing integrated tools many people remember is "Clippy."

it by making necessary changes and corrections. Students can even try to utilize it to assist with conformity to Bluebook or other citation styles.⁴² Citation generators have existed elsewhere for some time. Although they are not all that reliable for a final product without adjustments, they can be a good starting point and are, therefore, helpful.⁴³ Interestingly, while the Bluebook does not currently have guidance on how to cite GAI work, it is likely to be part of the next edition.⁴⁴

Summarizing research, GAI creates first-pass outlines capable of organizing key legal issues, rules, analyses, and even arguments for course assignments.⁴⁵ Students will always need to refine the computer-generated framework and ensure it is accurate, comprehensive, and useful. It is important also to recognize GAI's limitations, including the potential for "hallucinations" where the tool might generate inaccurate or misleading information based on poor prompts or commands, lack of access to strong training data, or simply mistaken responses.⁴⁶ This can result in a product that falls significantly short of the drafter's vision. Users should approach GAI outputs critically, verifying all generated content against reliable sources.⁴⁷ It turns out that the more expertise a user has, the more skeptical they become of generated content within their field of purview. Interestingly, though, with more expertise, follow-up prompts, and revisions, GAI outcomes resemble something of usable value.

GAI is already impacting every facet of legal education.⁴⁸ GAI can support students when studying for assessments, including by creating and analyzing input practice questions and generating scenario outputs.⁴⁹ For

⁴² Ethan Isaacson, *AI and The Bluebook: Why ChatGPT Falls Short of Traditional Algorithms for Bluebook Legal Citation Formatting*, LAWNEXT (Mar. 26, 2023), <https://directory.lawnext.com/library/ai-and-the-bluebook-why-chat-gpt-falls-short-of-traditional-algorithms-for-bluebook-legal-citation-formatting/> [https://perma.cc/B7XX-8SBM].

⁴³ *Id.*

⁴⁴ See *Writing For & Publishing in Law Reviews*, U. WASH. GALLAGHER L. LIBR. <https://lib.law.uw.edu/c.php?g=1238342&p=9807989> [https://perma.cc/CWG3-W2RP] (last updated Oct 3, 2024, 5:00 PM).

⁴⁵ Nick Noonan, *Creative Mutation: A Prescriptive Approach to the Use of ChatGPT and Large Language Models in Lawyering* 18 (Mar. 13, 2023) (unpublished manuscript) (accessible on SSRN https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4406907 [https://perma.cc/BFL9-8LLK]; Regalia, *supra* note 14, at 215.

⁴⁶ Ray, *supra* note 13, at 148; Dahl et al., *supra* note 14, at 64; Michael Townsen Hicks et al., *ChatGPT is Bullshit*, ETHICS & INFO. TECH., June 8, 2024, at 1, 1, https://www.researchgate.net/publication/381278855_ChatGPT_is_bullshit [https://perma.cc/949F-7R27].

⁴⁷ See generally Iria Giuffrida, *Liability for AI Decision-Making: Some Legal and Ethical Considerations*, 88 FORDHAM L. REV. 439, 442 (2019); Dahl et al., *supra* note 14, at 64, 76.

⁴⁸ Hill, *supra* note 21, at 42.

⁴⁹ Rosario Michel-Villarreal et al., *Challenges and Opportunities of Generative AI for Higher Education as Explained by ChatGPT*, EDUC. SCIS., Aug. 23, 2023, at 1, 2, <https://www.semanticscholar.org/reader/7bd7431f0fa8ad5738cb2e481e8d415857b66107> [https://perma.cc/8FRP-Z48E].

classes and even moot court assignments, GAI can rapidly develop realistic fact patterns and questions for use in practice. Through extensive feedback loops and by quickly quizzing students on legal concepts and principles, GAI, in conjunction with the user, will be able to identify weak areas to focus on and simulate sample exam questions.⁵⁰ Training on available past examples and what strong responses include, the positive impact potential here is enormous.⁵¹

The current usage of GAI amongst law students for educational purposes remains relatively low, but interest is growing.⁵² This suggests as GAI systems continue advancing and their applications within legal education become more widespread and sophisticated, law student adoption rates may increase considerably in the coming years. Still, these early survey figures indicate that while the potential for GAI to transform legal research, writing, and learning is widely acknowledged, most students have yet to adopt it regularly into their academic routines, according to LexisNexis' research.⁵³ Interest appears to be rising based on those planning to utilize it going forward, though.⁵⁴ Perhaps one explanation for the lower stated utilization numbers among students can be understood as a response to unclear or non-existent policies and the corresponding fear of misuse or non-permissive use. Clarity goes a long way toward impacting behaviors.⁵⁵

As law school Academic Support Programs (ASP) are increasingly important in promoting student success, GAI technology shows great potential to enhance these efforts. Academic support departments are also experimenting with integrative uses.⁵⁶ These mission-critical professionals

⁵⁰ Ajevski et al., *supra* note 5, at 360–61.

⁵¹ By providing personalized feedback that mirrors the expertise of seasoned and specific educators, GAI can help students adequately prepare for examinations and present their master of the topic in a format consistent with what the professor is expecting. Imagine having access to a tutor who knows every old exam, model answer, and even notes from class for a particular course. This is what is possible now, at scale.

⁵² Serena Wellen, *Learning the Law with AI: Why Law School Students are Tentative about Using ChatGPT*, LAWNEXT (June 2, 2023), <https://directory.lawnext.com/library/learning-the-law-with-ai-why-law-school-students-are-tentative-about-using-chat-gpt/> [https://perma.cc/S4AK-MQDP]. The survey found that only 9% of the 800 law students polled reported presently using generative AI tools like ChatGPT to assist with their studies. However, 25% of respondents indicated that they plan to incorporate such technologies into their legal coursework and assignments in the future.

⁵³ See *id.* (noting that GAI will develop and continue to be utilized by the legal industry under more regulation); see also Gerzhoy et al., *supra* note 35, at 5.

⁵⁴ Chan & Hu, *supra* note 10, at 8.

⁵⁵ When students know when and how they are allowed to integrate this tool and technology into their studies and preparation, they will undoubtedly be more willing to do so without fear of running afoul of yet unknown or unclear rules and protocols for academic dishonesty.

⁵⁶ See, e.g., Daisuke Akiba & Michelle C. Fraboni, *AI-Supported Academic Advising: Exploring ChatGPT's Current State and Future Potential Toward Student Empowerment*, EDUC. SCIS., Aug. 31, 2023, at 1, https://www.researchgate.net/publication/373574468_AI-Supported_Academic_Advising_Exploring_ChatGPT's_Current_State_and_Future_Potential_toward_Student_Empowerment#full-text [https://perma.cc/X2D6-AKNA].

may want to invest in the development of customized GAI tutoring modules addressing recurring issues like brief writing, exam preparation, or legal citation procedures. For example, GAI may assist in one-on-one tutoring by quickly researching questions that arise or generating potential exam issues and answers for review.⁵⁷ This enhances real-time support and will revolutionize legal education. Multiple students could independently practice and receive feedback in a manner not possible with individualized personal attention by a person. Utilizing a portal built on best practices in ASP, a model can be deployed that will act as a force multiplier for the programs and allow exponentially more assistance to be given. The training data already exists in the many books, handouts, presentations, other materials, aids, and institution-specific troves that would allow for a deliberate data set to be trained on.⁵⁸

Academic support departments are well-positioned to pilot innovative uses of GAI. As such, academic support professionals should play a leading role in partnering with administration, other faculty, and students to develop balanced regulatory frameworks through pilot programs and surveys of learner experiences. With care and deliberation, the right models can optimize the benefits of GAI while preserving the interpersonal nature of support services. How schools develop policies around student access, reliance, and use of GAI-supported work will significantly shape learning outcomes and assessment validity. Clear policies governing attribution, reliance, proctoring, and remediation of AI-generated work products will be critical.⁵⁹ A lack of coherent governance rules risks undermining educational outcomes and, even presumptively, the development of cognitive skills needed to think, write, and evaluate critically⁶⁰—often referred to as “thinking like a lawyer.”⁶¹

A better understanding can be had through an analysis of preliminary and emerging policies in law schools nationally. Identifying which recommendations make sense locally in an attempt to guide law schools seeking to modernize instructional methods responsibly, without

⁵⁷ Jonathan H. Choi et al., *ChatGPT Goes to Law School*, 71 J. LEGAL EDUC. 387, 396–67 (2022); Ajevski et al., *supra* note 5, at 361.

⁵⁸ See generally, e.g., ALEX SCHIMEL, LAW SCHOOL EXAMS: A GUIDE TO BETTER GRADES (2d ed. 2012); NANCY B. RAPOPORT & JEFFREY D. VAN NIEL, LAW SCHOOL SURVIVAL MANUAL, FROM LSAT TO BAR EXAM (2010); RICHARD MICHAEL FISCHL & JEREMY PAUL, GETTING TO MAYBE: HOW TO EXCEL ON LAW SCHOOL EXAMS (1st ed. 1999); HERBERT N. RAMY, SUCCEEDING IN LAW SCHOOL (2d ed. 2010).

⁵⁹ See Ajevski et al., *supra* note 5, at 364.

⁶⁰ Michel-Villarreal et al., *supra* note 49, at 2; Tom Farrelly & Nick Baker, *Generative Artificial Intelligence: Implications and Considerations for Higher Education Practice*, EDUC. SCIS. Nov. 4, 2023, at 1, 9, https://www.researchgate.net/publication/375367308_Generative_Artificial_Intelligence_Implications_and_Considerations_for_Higher_Education_Practice [<https://perma.cc/U5F5-M8RG>].

⁶¹ Chelsea Baldwin, *Bad Therapy: Conceptualizing the Teaching of "Thinking Like a Lawyer" as Cognitive Behavioral Therapy*, 55 ST. MARY'S L.J. 917, 940 (2024).

compromising academic rigor or the authentic assessment of competencies, will vary. Lessons from early adopter institutions will also prove invaluable for other programs in navigating governance complexities dealing with and integrating the reality of increasing use and reliance on GAI. Responding thoughtfully and as comprehensively as possible to a rapidly changing technology, particularly in an environment not particularly known for quick changes or interventions,⁶² is going to be difficult. In the end, though, there will need to be a metamorphosis for the profession, such that lawyers sixty years from now will not recognize many of the approaches and methods attorneys use today, in the same way that today's practitioners would have difficulty identifying with how lawyers practiced in 1964.⁶³

In Part II, this article aims to open the discussion around prudent educational governance of artificial intelligence integration within legal education. The first section examines a sample of emerging AI policies implemented at the institutional level. It analyzes and compares guidelines established by pioneering law schools regarding student access, attribution requirements, parameters for reliance on AI-generated work, oversight mechanisms, and more. Common themes and divergent approaches to regulation are identified and discussed. There is also a focus on faculty governance, which plays a pivotal role in balancing opportunities and risks. Faculty governance in law schools is an added wrench in the policy-making process that is not prevalent in other higher education institutions.

The intimate role the law faculty, both as a whole and individually, plays in deciding how to respond to the issues that GAI presents is a unique element that must be considered and proactively addressed. An analysis of the decision-making processes by which schools establish GAI policies is critical. A better understanding may be possible by considering how various models have approached matters like curricular integration and ensuring proper oversight to maximize benefits and uphold academic rigor. An exploration of the ranking system created is discussed and presented. The lack of a singular accepted approach understates the enormity and complexity of the issue.

Part III dives into the many considerations inherent in incorporating GAI policies. These represent an overlapping layering of issues that warrant thorough examination. This section, therefore, explores several ethical dimensions raised, including implications for valid skills assessment and academic standards if over-reliance is permitted. Issues surrounding integrity and plagiarism concerns, transparency, potential disclosure obligations, and ensuring equitable access across diverse student populations will also be

⁶² Pierce & Goutos, *supra* note 34, at 471; see Martineau & Turner, *supra* note 7, at 33-34.

⁶³ Noonan, *supra* note 45, at 5.

probed. This section is a direct link to issues that need consideration when law schools are considering generating GAI policies.

Drawing from analyses of real-world examples, the final section proposes recommended best practices and offers a preliminary framework for governance. Suggestions aim to provide a starting point for navigating complex, multifaceted issues surrounding GAI, educational mission, academic integrity, and the realities of the shifting ways attorneys practice law. Pulling sample policy points from a wide variety of law schools to emulate, this section will also synthesize key takeaways, emphasizing the need for prudent, evidence-based policies to be developed through open and ongoing stakeholder engagement. Overall, the Article strives to advance thoughtful consideration of governance models to safely and responsibly respond to perhaps the most impactful emerging technologies since the internet. Looking ahead, other articles and researchers surely need to explore the potential implications for the future of legal education as AI capabilities progress, evolve, and leap in capability. How might pedagogy evolve and what new skills may need emphasizing? These forward-looking implications are important to contemplate but are for other scholars to consider at another time.

II. OVERVIEW OF GAI POLICIES IN LAW SCHOOLS

A. Law School Policy Creation and Faculty Governance

With this new era of legal education in front of us, and with accessible GAI technologies at both students' and educators' fingertips, comes the need for guardrails to foster and support innovation while protecting academic integrity.⁶⁴ Naturally, the first thing that comes to mind when creating GAI policies is a prohibitive plan to combat plagiarism and other forms of academic dishonesty.⁶⁵ While this is certainly a notable goal and worthy of

⁶⁴ See *Task Force on Law and Artificial Intelligence: Addressing the Legal Challenges of AI*, *supra* note 26. Without question, GAI is transforming and revolutionizing the traditional landscape of academia and practice. While institutions are actively monitoring the impact of GAI in legal education, so is the American Bar Association (ABA). The ABA has recognized the importance of integration of these technologies into legal training, modernizing legal education practices, all with the focus on preparing students for the inevitable tech-focused future.

⁶⁵ Noor Akbari, *The AI Cheating Crisis: Education Needs Its Anti-Doping Movement*, EDUC. WK. (Feb. 28, 2024), <https://www.edweek.org/technology/opinion-the-ai-cheating-crisis-education-needs-its-anti-doping-movement/2024/02> [<https://perma.cc/KSE8-9S5Y>]. Since the launch of OpenAI's ChatGPT and other large language models (LLMs), a significant focus in higher education has been on combating academic dishonesty related to the use of such programs. Many educators are comparing the use of LLMs like ChatGPT to steroids. This comparison, analogous to global athletic cheating scandals, underscores the significant risk posed when individuals create an unfair advantage using performance-enhancing resources. The pressure on athletes mirrors the pressure on students to resort to unethical means to remain competitive in higher education.

consideration during policy development and implementation, many other factors should be considered when drafting such policies. For example, one of the most valuable starting points is considering an institution's core principles and identifying all stakeholders. Examples of common and shared core principles would include inclusivity, equity, privacy, and security.

Inclusivity would encourage developing policies that ensure accessibility and equal access to new GAI tools for all students and faculty. Equity would promote fair opportunities and outcomes for all members of the institution's community while actively monitoring the impact of such integration on different student demographics.⁶⁶ Privacy would protect information and data associated with all users, most notably students.⁶⁷ Lastly, security concerns would primarily monitor the integrity and confidentiality of the data it is collecting.⁶⁸ This would require regular audits of AI systems for vulnerabilities and training on how data sets should be entered into these systems.

Further, as policies are being developed and implemented, those creating such rules and regulations should actively solicit feedback from all potential stakeholders. This would include, but is certainly not limited to, students, faculty, administrative staff, IT professionals, and other professional organizations. Inclusion in this process will increase transparency and trust, resulting in smoother policy implementation. In addition, this approach ensures that diverse perspectives are considered, and all needs are met. Lastly, this approach can preventatively identify potential challenges while ensuring that new policies are realistic and achievable.

Governance in education, particularly early childhood, primary, and secondary education, has seen a tangled web of power, influence, and change.⁶⁹ Yet, meaningful accountability for who is making and is therefore responsible for policy creation and outcomes is still missing.⁷⁰ This foundation, in part, makes it interesting to observe how governance occurs in

⁶⁶ Alison Griffin, *Can Higher Ed Institutions Prevent a Long-Term AI Digital Divide?*, FORBES (April 9, 2024, 1:34 PM), <https://www.forbes.com/sites/alisongriffin/2024/04/09/can-higher-ed-institutions-prevent-a-long-term-ai-digital-divide/> [<https://perma.cc/N258-HNTR>]. The integration of any technology or resource requires focus and commitment to inclusivity and equity. A digital divide exists in higher education and the rise of GAI could further exacerbate this inequity.

⁶⁷ MIGUEL A. CARDONA ET AL., ARTIFICIAL INTELLIGENCE AND THE FUTURE OF TEACHING AND LEARNING, U.S. DEP'T EDUC., OFF. EDUC. TECH. 8 (2023), <https://www2.ed.gov/documents/ai-report/ai-report.pdf> [<https://perma.cc/H8SJ-BWYJ>]. Artificial Intelligence outputs are based on historical data and the data they are trained on by the user. As a result, student information haphazardly entered into it may not cooperate with institutional policy and ultimately lead to noncompliance with federal student privacy laws, most notably the Family Education Rights and Privacy Act (FERPA).

⁶⁸ Amy Winograd, *Loose-Lipped Large Language Models Spill Your Secrets: The Privacy Implications of Large Language Models*, 36 HARV. J.L. & TECH. 615, 628 (2023).

⁶⁹ NOEL EPSTEIN, *Introduction: Who Should Be in Charge of Our Schools?*, in WHO'S IN CHARGE HERE?: THE TANGLED WEB OF SCHOOL GOVERNANCE AND POLICY 1 (2004).

⁷⁰ *Id.* at 2–3.

law schools and the unique procedures for policy creation.⁷¹ Law schools exist worldwide; however, for our purposes, the discussion is based on American ABA-approved schools. One of the defining questions about any law school is whether it is in the business of producing academics or professionals.⁷²

Law schools are an exciting example of governance. They tend to possess committees that oversee a tremendous amount of the decision-making that impacts how the institution operates.⁷³ These committees comprise full-time faculty members and cover many focus areas, with groups either appointed by the dean, elected by the full-time faculty, or a combination of both. committees consider issues such as curriculum requirements and changes, admissions standards, grading policies, and so on. Law school accreditation standards also emphasize substantial faculty participation in governance matters.⁷⁴ Many law schools have additional committees focused on appointments, promotions and tenure, community service, student success, and more. These committees play a significant role in critical functions needed to sustain a law school, such as recruiting new and evaluating existing faculty members.

Faculty governance aims to give faculty a meaningful role in decisions that impact their work and academic environment.⁷⁵ The faculty, as a body, provides expertise and consultation, while the administration handles implementation.⁷⁶ Ensuring a culture of accountability is vital so that reforms can be data-driven and the role of professors and the school can be enhanced.⁷⁷ Specifically in law schools, faculty committees are typically involved in discussions around new technology-related or innovations-related policies. For example, if a law school considers integrating an AI tool into the curriculum, the faculty would provide input on how it aligns or

⁷¹ CAREL STOLKER, *RETHINKING THE LAW SCHOOL* 394 (2014) (defining governance as “the internal structure, organisation and management of academic institutions, generally carried out by a governing board, the university president (executive head) with administrative staff, faculty senates, academic deans, department chairs and sometimes some form of organisation for student representation”). In U.S.-based law schools, new policy generation is usually a collaborative process between faculty committees and the Dean/administration. This approach allows different perspectives to be heard. Final approval typically requires a majority faculty vote in favor as well, though general deference to committee recommendations is an unspoken etiquette.

⁷² *See id.* at 114–16. Most claim to be focused on professional preparation or, for our purposes, making practice-ready attorneys. However, unlike other professional schools such as medicine, law schools are generally not meaningfully and widely engaged in the practice of law for students.

⁷³ Susan P. Liemer, *The Hierarchy of Law School Faculty Meetings: Who Votes?*, 73 UMKC L. REV. 351, 351 (2004).

⁷⁴ *See, e.g.*, ABA STANDARDS & RULES OF PROC. FOR APPROVAL OF L. SCHS. 2023–2024 32 (Erin Winters, ed., 2023).

⁷⁵ Liemer, *supra* note 73, at 381.

⁷⁶ *Id.* at 365.

⁷⁷ DAVID M. MOSS & DEBRA MOSS CURTIS, *REFORMING LEGAL EDUCATION: LAW SCHOOLS AT THE CROSSROADS* 1 (David M. Moss & Debra Moss Curtis eds., 2012).

conflicts with their educational standards and its potential pedagogical value. They may also propose pilot programs or help establish assessment metrics. These concerns and positions are presented and debated before the faculty at pre-scheduled meetings, where vigorous intellectual debate is encouraged. The goal is to balance innovation with academic freedom and standards.

Issues like freedom of expression, academic freedom, and shared governance between faculty and administrators are important background principles that law school governance aims to uphold.⁷⁸ The 1940 Statement of Principles on Academic Freedom and Tenure helps define these standards.⁷⁹ The American Association of University Professors publishes guidance on faculty participation in college and university governance.⁸⁰ Their statements provide context on how governance is developed and general best practices for higher education.⁸¹ Several key factors and considerations emerge once all stakeholders and institutional principles have been identified. Most institutions begin to focus on determining whether they wish to create permissive language or guidelines that openly encourage and promote the use of these tools or if they choose to take a more prohibitive stance. The latter would reflect a more strict and restrictive use of GAI.

B. Review and Comparison of Policies from Various Law Schools

The purpose of this section is to review and compare institutional GAI policies across the country, primarily using the factor analysis detailed below. With the intent to shed light on growing trends in GAI governance while highlighting best practices of institutions, a comparative dive into policies helps illuminate underlying concerns. In this analysis, all law school GAI policies are canvassed, and it becomes immediately apparent that specific policies are noteworthy. It must be noted that policies are tremendously diverse, as core principles and missions influence the drafting of policies, resulting in a considerable spectrum of what goes into each policy.

Policies range from comprehensive approaches in governance to no set policy at all. To better analyze the various considerations in policy formation, aspects such as prohibitiveness, permissiveness, educational integration,

⁷⁸ Liemer, *supra* note 73, at 374.

⁷⁹ See generally AM. ASS'N OF UNIV. PROFESSORS, 1940 STATEMENT OF PRINCIPLES ON ACADEMIC FREEDOM AND TENURE (1970), <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure> [https://perma.cc/JTF6-3XGC].

⁸⁰ See, e.g., Hans-Joerg Tiede, *Assessing Faculty Participation in Governance*, AM. ASS'N OF UNIV. PROFESSORS, <https://www.aaup.org/article/assessing-faculty-participation-governance> [https://perma.cc/5VG9-T2N8]; see also *AAUP Shared Governance Assessment Tool*, AM. ASS'N OF UNIV. PROFESSORS (2021), https://www.aaup.org/sites/default/files/AAUP_Shared_Governance_Assessment_Tool.pdf [https://perma.cc/77JE-52VG].

⁸¹ See Tiede, *supra* note 80.

transparency and accountability, and depth need to be isolated and measured. These factors are particularly crucial for several reasons. Prohibitiveness and permissiveness determine the extent to which policies restrict or allow the use of GAI technologies. Prohibitiveness helps ensure that AI usage does not undermine academic integrity concerns or lead to additional ethical misuses. Meanwhile, permissiveness fosters and encourages innovations by allowing students to explore AI technologies' potential. Educational integration reflects how well AI tools are incorporated, or encouraged to be incorporated, into the curriculum. Proper integration ensures students learn about AI's potential and gain the practical experience of using these tools. Educational integration promotes a deeper understanding of AI's capabilities and limitations, which can be seen as crucial for future legal professionals, where AI is becoming increasingly relevant and integrated.

Transparency and accountability should be seen as essential for maintaining trust and clarity in how AI policies should be applied and enforced. Transparency ensures all stakeholders, which includes students, faculty, and staff, understand the rules and rationale behind them. This should be reflected in clear guidelines for how students report or cite usage of GAI. Accountability mechanisms ensure that policies are applied and monitored fairly and equitably. This fosters a sense of fairness and trust by opening up channels of communication between those designing and implementing policies and those students who may use these technologies.

Lastly, depth indicates the general comprehensiveness of the governing policies. A deep, thorough, well-developed policy provides clarity while leaving little room for ambiguity. This level of clarity prevents misunderstandings, ensures that students know what is expected of them, and covers various scenarios and potential misuses while providing a robust, flexible framework to adapt to new developments within this realm. A comprehensive review of all ABA-accredited law schools is conducted to measure the current status of GAI governance measures. The initial focus was on assessing the levels of prohibitiveness and permissiveness. To avoid binary measurements, rubrics were created based on a sliding scale to comprehensively assess these several factors.

1. Prohibitiveness

The following rubric is used to determine prohibitiveness ratings:

0: No mention of restrictions on GAI usage.

1: Mention of GAI restrictions, but extremely limited in scope or detail.

2: Some basic restrictions introduced/outlined.

3: Moderate restrictions covering general academic activities (policy may allow exceptions).

4: Strong restrictions with few exceptions, covering a wide range of all academic activities.

5: A very strict, general prohibition against all GAI usage.

While canvassing institutional policies, it becomes immediately apparent that most institutions adopted and deployed generally prohibitive policies. Further, in their advisory letters and policies, many institutions noted that this response was attributable to the rapid growth and usage of LLMs, and the need for such blanket prohibitive use policies was due to administrations and faculty needing more time to explore these technological capabilities in greater detail.⁸²

The adoption of prohibitive policies can serve several purposes. First, it acts as a preventative measure to mitigate risks associated with inappropriate use of artificial intelligence. These risks include academic integrity violations, acts that would violate rules of ethics in the later practice of law, and other misuses. Through the implementation of prohibitive policies, institutions aim to prevent activity that would otherwise compromise educational standards or lead to honing skills that would be deemed unethical in the later practice of law.

These policies, while prohibitive, often include language suggesting review, reevaluation, and revision of existing policies. This level of flexibility allows schools with a prohibitive stance at the outset to adjust policies as GAI capabilities evolve. This practice and adaptive approach firmly establish a present stance while committing to maintaining a balance between academic integrity concerns and future innovation.

2. Permissiveness

The following rubric is used to determine permissiveness ratings:

0: No allowance for GAI use under any circumstances.

1: Limited GAI usage allowed, permitted under rare or very specific conditions.

2: Some use of GAI is allowed, usually with explicit instructor approval.

3: GAI use is permitted under defined conditions; the institution guides acceptable practices.

4: Broad permission for GAI use, detailed guidance, and encouragement for educational purposes provided.

⁸² While Beasley School of Law has not adopted a specific policy for its program of legal education, the University has adopted a prohibitive stance, stating that “the use of generative AI tools is prohibited for students unless an instructor explicitly grants permission,” Ctr. for the Advancement of Teaching, *A Faculty Guide to AI*, TEMPLE UNIV. (Dec. 19, 2024), <https://teaching.temple.edu/faculty-guide-ai> [https://perma.cc/VE98-WRM2].

5: Full encouragement of GAI usage, often accompanied by comprehensive support and resources.

Institutions displaying high permissiveness ratings actively encourage the usage of LLMs and GAI platforms in various forms. While nearly all allow instructors the ability to limit usage of GAI, similar to how most institutions with high prohibitiveness ratings allow instructors to permit usage in their respective classrooms, some policies and guidance memos adopt a permissive stance by encouraging the usage of GAI, outlining the best practices, and highlighting the transformative power this tool currently has and will continue to have in legal education.⁸³

The permissive adoption of GAI policies in legal education is largely driven by the recognition of potential paired with the attempt to enhance the learning experience for Juris Doctor candidates. Many institutions view GAI as more than a mere supplemental tool; instead, it is a component that has the potential to transform modern instruction methods. Schools encouraging the use of GAI often cite how such usage can provide personalized learning opportunities, instant feedback, and simulated learning experiences.⁸⁴

Institutions with moderate to high permissive policies often provide educational resources for both faculty and students.⁸⁵ These resources

⁸³ The University of Southern California Gould School of Law's policy and student handbook is not readily accessible to members outside the community; however, the University's Committee on Information Services released the "Instructor Guidelines for Student Use of Generative Artificial Intelligence for Academic Work," which recommends that "all USC schools, academic departments, and instructors" adopt guidelines including, "encourage USC students to explore generative artificial intelligence (AI), using these new tools to create, analyze, and evaluate new concepts and ideas that inspire them to generate their own academic work." Comm. on Info. Servs., *Instructor Guidelines for Student Use of Generative Artificial Intelligence for Academic Work*, UNIV. S. CAL. (Feb. 13, 2023), <https://academicsenate.usc.edu/wp-content/uploads/sites/6/2023/02/CIS-Generative-AI-Guidelines-20230214.pdf> [<https://perma.cc/CU8G-SJYF>].

⁸⁴ See, e.g., *id.*

⁸⁵ See, e.g., *Teaching with Generative AI*, N.Y.U. (Feb. 19, 2025), <https://www.nyu.edu/faculty/teaching-and-learning-resources/teaching-with-generative-tools.html> [<https://perma.cc/4VCE-GRVC>]. While New York University School of Law has not adopted a specific policy, the university has released a list of advisory updates, including a curated list of AI resources intended to assist members of the academic community. These resources are mainly targeted at faculty, offering guidance on enhancing teaching and learning with the assistance of GAI, but also include best practices to help students navigate the effective and ethical use of these tools. The University of Georgia has taken a similar approach. See Ctr. for Teaching & Learning, *Generative AI for Instructors*, UNIV. GA. (Aug. 16, 2024), <https://ctl.uga.edu/teaching-resources/digital-learning-tools/generative-ai-for-instructors/> [<https://perma.cc/UFE7-AHLX>]. While the law school has not adopted a GAI policy, general institutional advisory letters and resources have been created to assist faculty. See *id.* The University of Colorado Boulder, through the Center for Teaching & Learning, has released a resource titled "Teaching & Learning in the Age of AI," which provides resources for educators and students with a distinct, student-focused approach. Additionally, the establishment of an AI Steering Committee and a Community of Practice highlights the university's commitment to fostering the responsible use of AI through future on-campus and virtual events. See Ctr. for Teaching & Learning, *Teaching & Learning in the Age of AI*, UNIV. COLO. BOULDER, <https://www.colorado.edu/center/teaching-learning/teaching-resources/teaching->

typically include current access to workshops, best practices information,⁸⁶ guidelines, and commitments to ongoing training and future support. To successfully propose and enforce permissive guidelines for GAI usage, institutions must engage in continuous evaluation mechanisms to refine approaches as GAI evolves. Staying caught up with and ahead of emerging trends in this realm is necessary to continue promoting academic growth and upholding institutional principles and values. Unlike the other factors considered, the permissiveness and prohibitiveness measurements had the largest inverse correlation, as one would imagine. Those with a generally higher prohibitiveness score displayed a lower permissiveness rating.

Some of the highest scores for institutions that prohibited the use of GAI were due to concerns about the inability to monitor GAI usage, the need to protect academic integrity, or the need to cease all usage until the school studied the impacts of such technologies on learning.⁸⁷ Alternatively, schools with higher permissiveness ratings acknowledge GAI as a tool for faculty and students alike. Many of these institutions highlight how faculty can use GAI in course development while simultaneously implementing education initiatives to train students on the proper and ethical usage of these platforms.

While reviewing permissiveness and prohibitiveness is a good starting point, it is not comprehensive. Further analysis is needed to define the delineation between policies and to better understand how institutions are responding to this evolving landscape, with the goal of finding and implementing novel approaches that are institutionally sensitive and appropriate. From this vantage point, three additional categories are identified as being worthy of exploration: educational integration, transparency and accountability, and depth of policy. In total, when

learning-age-ai [<https://perma.cc/QWJ3-PHUD>]; see also Off. of the Vice Chancellor for IT & Chief Info. Officer, *AI Efforts on Campus*, UNIV. COLO. BOULDER, <https://www.colorado.edu/information-technology/ai-cu-boulder/ai-efforts-campus> [<https://perma.cc/7AWF-GJF8>].

⁸⁶ See *Guidance for Working with Generative AI ("GenAI") in Your Studies*, UNIV. EDINBURGH (Nov. 1, 2024), <https://information-services.ed.ac.uk/computing/comms-and-collab/elm/guidance-for-working-with-generative-ai> [<https://perma.cc/4SAX-X4ZL>]. The University of Edinburgh has published its "Golden Rules for GenAI Use," which, while tailored to its students, are noteworthy for all. These rules provide ethical and practical best practices for interacting with and utilizing such resources. They encourage the use of Generative AI (GenAI) as a learning aid while avoiding pitfalls related to academic integrity and misconduct. For example, the Golden Rules highlight the importance of learning from GenAI interactions rather than copy-pasting outputs, crediting the use of GenAI tools, protecting personal data, and verifying the factual accuracy of GenAI outputs, among other considerations.

⁸⁷ Loyola University Chicago School of Law possesses a generally prohibitive policy in their student handbook. However, in the open letter from the provost titled "Statement on Academic Integrity and Use of Artificial Intelligence," the provost acknowledges the need to monitor the rapidly growing tool that is artificial intelligence, "[w]e have much to learn regarding the benefits of tools such as ChatGPT or Google's Bard. Let us all make sure we are learning and sharing best practices and not allowing AI to do the learning for us." Off. of the Provost, *Statement on Academic Integrity and Use of Artificial Intelligence*, LOYOLA UNIV. CHI. (Aug. 2024), <https://www.luc.edu/academicaffairs/homenews/statementonacademicintegrityanduseofartificialintelligence.shtml> [<https://perma.cc/UD33-NA8P>].

analyzing GAI policies across the country, five primary factors are used and measured to determine how schools are responding to these emerging tools.

3. Educational Integration

The following rubric is used to assess educational integration:

0: No recognition of GAI's potential as a resource.

1: Minimal mention of GAI's role in education.

2: Policy recognizes the potential of GAI as an educational tool and some initial steps toward integration.

3: Moderate integration of GAI into educational practices; some examples and guidelines provided.

4: Strong integration, and use encouraged in teaching and learning.

5: Comprehensive and innovative integration of GAI.

Educational integration is defined as the extent to which GAI is incorporated into pedagogical practices. Institutions with high ratings for educational integration often share a greater degree of permissiveness. Permissiveness rarely comes without structure and guidance, all of which allow deviation in the form of academic freedom. While an institution may encourage the use of these tools through policies or administrative advisory memos, academic freedom allows instructors to generally structure their courses and teaching methods as they see fit.⁸⁸ These directives highlight the inevitability of GAI as a tool that is the new norm and is directly intertwined with our daily lives.

The rationale behind such policies often serves to accomplish many goals. First, it acknowledges the reality that GAI is here. This includes its presence in the current and future practice of law. The integration of this resource into legal education allows students to gain hands-on experience and become accustomed to using these tools in a controlled environment. In addition, this early exposure allows students to explore appropriate uses of GAI and, arguably more importantly, to gain knowledge of the inappropriate uses of such a resource. Educational integration ensures that students can operate in

⁸⁸ See, e.g., Off. of the Provost, *Guidelines for Using Generative Artificial Intelligence at the George Washington University*, GEO. WASH. UNIV. (Apr. 2023), <https://provost.gwu.edu/sites/g/files/zaxdzs5926/files/2023-04/generative-artificial-intelligence-guidelines-april-2023.pdf> [<https://perma.cc/V6PM-F6EL>] (“The Office of the Provost encourages the entire University community to embrace these technologies through creative uses and applications. Faculty are invited to make thoughtful use of GAI tools in their teaching and research. Used properly, GAI tools can enhance the design of lessons, assignments, and assessments. Our students will use GAI tools for the rest of their lives. There are many productive ways in which they might use them as students, consistent with stated course policies and objectives. Examples include: brainstorming ideas; summarizing and translating content; explaining new concepts to aid comprehension; generating counter-arguments; suggesting titles; debugging code; gathering sources; and formatting references.”).

a safe and controlled environment where they may leverage these tools effectively while adhering to ethical guidelines and standards.

Legal education's broader goals, such as experiential learning exercises, client counseling, enhancing research practices, and developing real-world problem-solving skills, can be simulated and practiced using such tools if properly integrated into legal curricula. For example, GAI can be used to simulate real-world legal scenarios on demand, provide instant feedback on tasks, and serve as an on-demand tutor in substantive areas of the law. Ultimately, these applications can make legal education more engaging, instantaneous, and personalized if harnessed correctly. Educational integration of GAI reflects a forward-thinking approach that equips students with the tools, skills, and knowledge needed to thrive in this digital age that is among us. By creating a permissive environment that encourages the use of GAI and inspires its integration into the classroom, future attorneys may be more proficient with such technology while also being mindful of its implications.

4. Transparency and Accountability

The following rubric is used to assess transparency and accountability:

0: No policies or guidelines related to transparency or accountability in GAI use.

1: Minimal mention of the need for transparency or accountability of GAI usage.

2: Some basic guidelines for the transparent usage of GAI.

3: Moderate detail on how to maintain transparent usage and accountability.

4: Strong policies requiring detailed disclosure of GAI usage.

5: Comprehensive and clear policies with thorough guidelines or procedures ensuring transparent GAI usage.

Transparency and accountability are the extent to which GAI policies ensure clear and responsible GAI usage. Transparency and accountability ratings have a direct correlation with institutional policies that are both permissive and prohibitive. Transparency from an administrative perspective is also a necessary component during the policy creation stage. This element is vital for building trust and soliciting viewpoints from all stakeholders. By openly communicating the current status of AI, objectives, impacts of these tools, and principles that institutions wish to uphold, institutions must create a sense of inclusion among students, faculty, staff, and administration. Soliciting this feedback from diverse groups not only enriches the development process, but also effectively sets the tone that the integration of

GAI will require transparency and open channels of communication from the outset of GAI usage in the classroom.

Institutions with governing rules permitting the use of GAI platforms typically have guidelines that require open and transparent usage of these tools.⁸⁹ Even many institutions with generally prohibitive policies will still allow instructor variance from the institutional guides.⁹⁰ Even here, if instructors grant such a deviation, transparent usage needs to still be mandated. This requirement ensures deviations are well-documented and communicated, maintaining accountability.⁹¹

Transparency and accountability should be considered during the policy creation stage and encouraged in the integration of GAI policies. By prioritizing these principles, institutions can build trust among stakeholders, leading to well-rounded and inclusive policies that are easy to follow and enforce, and ultimately reflect the collective interest and values of the greater educational community. This creates a natural springboard into requiring transparency and accountability for students using GAI tools. By fostering this environment of trust and integrity at the outset, students may learn to use these tools responsibly and ethically, mirroring the standards that will be expected of them in the practice of law.

5. Depth of Policy

The following rubric is used to assess depth of policy:

0: No detailed policy or guidelines provided.

1: Very basic or vague policy details.

⁸⁹ See, e.g., *School of Law Policy on Student Use of Generative Artificial Intelligence Tools* (“*Gen AI Tools*”), UNIV. N.C. SCH. L. (Aug. 2023), <https://law.unc.edu/wp-content/uploads/2023/08/Generative-AI-Policy-for-Law-Courses-2023Aug15.pdf> [<https://perma.cc/TG2W-GSXL>]. The University of North Carolina School of Law’s policy includes detailed documentation requirements for when GAI is being utilized for “generating ideas or questions, finding paper topics, and assisting research.” The documentation requirements are outlined in a template for the students to use to disclose such usage, which includes reporting the GAI tool used, purpose of using GAI, prompts or queries inputted, use of the outputs, and conversation link.

⁹⁰ See, e.g., APPALACHIAN SCH. OF L., 2023–2024 CATALOG & STUDENT HANDBOOK 6–4 (2023), <https://www.asl.edu/wp-content/uploads/2024/04/2023-2024-Student-Catalog-and-Handbook-041824.pdf> [<https://perma.cc/F7U6-XGS5>]. Appalachian School of Law, which possesses a very prohibitive GAI policy, still allows for instructor deviation. The policy states, “Students are strictly prohibited from using generative artificial intelligence . . . in connection with graded or required course work, unless expressly permitted by their instructor.”

⁹¹ See e.g., ANTONIN SCALIA L. SCH., GEORGE MASON UNIV., ACADEMIC REGULATIONS (JURIS DOCTOR STUDENTS) 26 (2024), https://www.law.gmu.edu/assets/files/academics/academic_regulations.pdf?ver=29aug2023.pdf [<https://perma.cc/N3RX-573M>]. Antonin Scalia School of Law has adopted a generally prohibitive stance on GAI usage but allows for instructor deviation. However, those instructors allowing such usage must still require students to “specify in writing the course parameters of allowable use and disclosure expectations.” The policy further states that “[i]nstructors may require students to disclose the GAI outputs relied upon, and further show exactly how and where those outputs were used in the academic work.”

- 2: *Some depth with limited examples or unclear guidelines.*
- 3: *Moderate depth, providing a fair level of detail. The policy may include some examples or scenarios.*
- 4: *Detailed policy with clear guidelines, examples, and scenarios.*
- 5: *Comprehensive and detailed policy, encompassing a wide range of scenarios, full explanations, and extensive guidance.*

Lastly, depth of policy is the measure of the overall comprehensiveness and detail of the policy under review. The depth of policy is essential as it measures the overall comprehensiveness of a given policy. A policy with significant depth offers clear and actionable guidance, helping ensure all stakeholders understand and know what is expected of them. This approach is vital for effectively integrating GAI into legal education or, for those with a more prohibitive stance, keeping it out. Policies that lack depth may leave gaps in understanding by creating ambiguities and other issues with interpretation. This will ultimately lead to inconsistent practices and potential purposeful or inadvertent misuse. By prioritizing depth in policy creation, institutions can foster a more consistent and effective GAI culture, ensuring students and educators are well-informed and well-equipped to navigate this new horizon.

While many institutions have noteworthy rankings for the other factors mentioned above, some achieved high rankings with little overall depth and guidance. Some institutions, likely for good reasons such as giving the administration or the appropriate committee more time to properly survey the evolving GAI landscape, have implemented a blanket prohibition on the use of GAI.⁹² While this results in a very prohibitive approach, little depth and guidance are provided.⁹³ Since the goal is to identify notable policies, it remains important to distinguish those that exemplify the factors mentioned above by providing an element of depth, thereby offering additional direction for schools attempting to accomplish similar goals.

C. Model Policies for GAI in Legal Education

A list of noteworthy schools in each category is provided below for institutions interested in drafting or modifying existing policies. These policies are sometimes directly at the law school level, and other times they come from the parent university and serve as a starting point. Depending on the driving forces at your institution and the principles you wish to uphold,

⁹² See, e.g., Ctr. for the Advancement of Teaching, *supra* note 82. Temple has implemented strict measures regarding generative AI usage, which include a general university-wide prohibition against the use of such technology.

⁹³ See *id.*

these examples can guide the development of comprehensive and effective AI policies.

1. Prohibitiveness

Harvard's policy is a strong model for prohibitiveness as it delineates boundaries and serves the mission of maintaining high standards of academic integrity.⁹⁴ This policy is effective because it illustrates the clear stance on the use of AI, leaving little room for ambiguity in its attempt to prevent academic dishonesty.

*In general, in completing coursework and exams, one may rely on and engage with artificial intelligence applications (including ChatGPT and other generative artificial intelligence tools, including ones embedded in other software and services, such as Microsoft Office's Co-Pilot) in the same way in which one may rely on and engage with: (a) other persons and (b) non-artificial intelligence technologies. Thus, if a student uses an artificial intelligence application in a manner or to an extent that would constitute plagiarism if the student were engaging with another human or technology, such use is prohibited. By contrast, if a student uses an artificial intelligence application in a manner or to an extent that would constitute appropriate research conduct if the student were consulting with another person or using a non-AI application, such use is permitted.*⁹⁵

Antonin Scalia Law School's policy also serves as an excellent model for prohibitiveness, largely due to its comprehensive and detailed approach to clearly defining limitations on GAI usage.⁹⁶ Further, the policy specifically highlights various scenarios in which GAI may not be used.⁹⁷ While the policy grants some instructor deviation from the institutional policy, GAI may not be used under any circumstances in required courses—an interesting addition intended to hone in on vital skill development at the outset of the program.⁹⁸

The use of GAI in drafting or writing coursework, including papers and reaction papers, is prohibited unless expressly identified in writing

⁹⁴ See HARV. L. SCH., 2024–2025 HANDBOOK OF ACADEMIC POLICIES 73–75 (2024–2025), https://hls.harvard.edu/wp-content/uploads/2022/07/HLS_HAP.pdf [<https://perma.cc/5MWV-M7UR>].

⁹⁵ *Id.* at 74 (emphasis added).

⁹⁶ See ANTONIN SCALIA L. SCH., GEORGE MASON UNIV., *supra* note 91, at 26.

⁹⁷ *See id.*

⁹⁸ *Id.*

by the instructor as an appropriate resource for the work in the instructor's course The use of GAI in preparing to write or writing exam answers is prohibited unless expressly identified in writing by the instructor as an appropriate resource for the exam in the instructor's course In no instance are instructors allowed to permit any use of GAI . . . in the Law School's required courses Any midterms or exams in these courses must be given in a closed-internet format If not expressly identified as permissible in writing by the instructor, any use of GAI will be considered academic dishonesty involving cheating in violation of the University's Academic Standards.⁹⁹

2. Permissiveness

The University of North Carolina School of Law's policy does contain a default prohibition against GAI usage for submitted work, but the policy may serve as a model for permissiveness as it shows how GAI may be used for academic support, research, and when instructors grant permission to utilize such tools.¹⁰⁰ This approach strikes a balance between restriction and flexibility, all while providing guidelines to encourage responsible usage.¹⁰¹ This approach provides a framework where AI is encouraged to the extent that it enriches the students' learning experiences but maintains accountability for the originality of their work.¹⁰²

[I]f you, as a student, permissibly use Gen AI Tools, then: (1) Let AI help you think, not think for you. (2) Use Gen AI Tools responsibly and ethically, respecting privacy and intellectual property. (3) You're fully accountable for all your work. Gen AI Tools can invent facts and sources ("hallucinate"), and any errors count as your errors. If you can't verify, delete. (4) Document your Gen AI Tool use as your professor directs. (5) Your professors have authority to give course-specific guidelines. (6) Don't submit confidential information to Gen AI Tools.¹⁰³

The University of Chicago School of Law's policy encourages ethical and responsible use of GAI tools, which is why it has been highlighted as a model policy for permissiveness.¹⁰⁴ The institution acknowledges the revolutionary

⁹⁹ *Id.* (emphasis added).

¹⁰⁰ UNIV. N.C. SCH. L., *supra* note 89.

¹⁰¹ *See id.*

¹⁰² *See id.*

¹⁰³ *Id.* (emphasis added).

¹⁰⁴ *See* Info. Tech. Servs., *Generative Artificial Intelligence (AI) Guidance at UChicago*, UNIV. OF CHI., (Feb. 12, 2024) [https://uchicago.service-now.com/it\[https://perma.cc/6CNK-R7UE\]](https://uchicago.service-now.com/it[https://perma.cc/6CNK-R7UE]).

potential of these tools but encourages education and training on their use.¹⁰⁵ This allows both faculty and students to explore AI responsibly and ethically. The University of Chicago's GAI Guidance site includes tools and educational modules that the University vetted.¹⁰⁶ These resources explain how certain GAI tools, add-ons, and other AI platforms may be used to protect privacy, academic integrity, and security.¹⁰⁷ This policy shows how institutions may adopt a generally permissive policy without opening the figurative floodgates, simultaneously maintaining control over the ethical use of AI while encouraging innovation.

*Generative artificial intelligence (AI) tools offer many capabilities and efficiencies that can greatly enhance our work Below are some guidelines on using and procuring generative AI tools such as OpenAI's ChatGPT, Microsoft's Bing, and Google's Gemini (formerly Bard). Please note that these guidelines are not a new University policy, but are extensions of existing University policies.*¹⁰⁸

3. Educational Integration

The University of Southern California Gould School of Law's policy should serve as a model policy for educational integration, as it actively takes a stance that encourages the incorporation of GAI into pedagogical practices.¹⁰⁹ This policy encourages instructors to harness GAI tools to create a more enriching and modernized learning environment for students.¹¹⁰ While adoption is ultimately left up to individual instructors, this policy exemplifies how an institution wishes to integrate GAI into its program of legal education.¹¹¹ By encouraging faculty to adopt such technologies and providing educational opportunities, the institution can develop a level of cohesiveness that encourages campus-wide integration. This approach ensures that GAI tools are innovative and forward-thinking while showing a firm commitment to academic integrity and digital literacy.

Instructors should encourage USC students to explore generative artificial intelligence (AI), using these new tools to create, analyze, and evaluate new concepts and ideas that inspire them to generate their

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* (emphasis added).

¹⁰⁹ Comm. on Info. Servs., *supra* note 83.

¹¹⁰ *Id.*

¹¹¹ *Id.*

*own academic work We suggest that generative AI is simply the newest addition to USC's digital literacy tools.*¹¹²

The University of Iowa College of Law has not yet adopted a policy regarding the use of tools such as GAI, but the overarching University has provided a guidance memorandum to faculty and instructors regarding how educators may integrate such technology into their respective courses, while simultaneously maintaining the University's mission.¹¹³ This guidance was drafted by the University of Iowa's Office of Executive President and Provost.¹¹⁴

4. Transparency and Accountability

An example of a policy that can serve as a model for transparency and accountability, setting forth expectations for faculty and students, can be found at the University of Nevada, Las Vegas.¹¹⁵ This policy sets forth clear guidelines that emphasize the importance of ethical use of GAI technology while opening up streams of dialogue between all parties impacted by the rise of AI.¹¹⁶ The policy largely focuses on proper applications and limitations, and connects the use, or improper use, of GAI to the broader expectations outlined in their code of academic integrity.¹¹⁷

When incorporating AI technologies into courses, instructors are encouraged to provide clear guidance to students on the proper application and limitations of these tools. Instructors may also actively engage students in discussions about the societal implications of AI, including potential biases, ethical considerations, and privacy concerns. University anti-plagiarism resources, Turnitin and iThenticate, are evolving and adapting to help students, educators, and institutions address AI writing and challenges related to AI-generated text. Transparency and accountability are expected with the use of

¹¹² *Id.* (emphasis added).

¹¹³ Off. of Exec. Vice President & Provost, *Tips, Guidance, and Resources for Instructors to Adapt to AI in the Classroom*, UNIV. OF IOWA (Aug. 7, 2023), <https://provost.uiowa.edu/news/2023/08/tips-guidance-and-resources-instructors-adapt-ai-classroom> [<https://perma.cc/ME2K-G4W8>].

¹¹⁴ *Id.*

¹¹⁵ KIMBERLY A. BARCHARD, UNIV. OF NEV., LAS VEGAS, PSY 496/498: INTERACTIVE MEASUREMENT GROUP SYLLABUS, <https://barchard.faculty.unlv.edu/psy-496-498/> [<https://perma.cc/ZFB3-4NRT>] (providing greater detail under the "Artificial Intelligence and Generative AI" heading); see also UNIV. OF NEV., LAS VEGAS, UNIV. POLICIES FOR ALL INSTRUCTORS, ARTIFICIAL INTELLIGENCE AND GENERATIVE AI, <https://www.unlv.edu/policies/instructors> [<https://perma.cc/C658-MBEJ>].

¹¹⁶ BARCHARD, *supra* note 115.

¹¹⁷ *Id.*

*generative AI, just as we require appropriate citations and references for any sources used in classroom work, research, or academic writing. Improper use of generative AI is a form of academic dishonesty as outlined by the university Student Academic Misconduct Policy. We will offer workshops and share additional resources on this evolving topic in the coming academic year.*¹¹⁸

By requiring instructors to provide clear guidance, and discussing GAI's societal implications, the policy creators ensured that students are well-informed and ethically aware of how they must conduct themselves at the institution and in the practice of law. In addition, the promise of educational opportunities, such as workshops, highlights the long-term commitment to maintaining clear and open streams of communication between all stakeholders. This comprehensive approach carefully balances and maintains transparency, accountability, and integrity while aligning itself with the principles of ethics and academic honesty.

The University of California, Los Angeles (UCLA) School of Law's policy should serve as a model for transparency and accountability. UCLA's policy sets forth expectations for faculty and students.¹¹⁹ However, this particular policy is emphasized for how it requires transparency from students utilizing these tools.¹²⁰

Students caught cheating on examinations or papers, committing plagiarism or submitting work which is a "multiple submission" . . . or submitting written work drafted or edited in any way by an artificial intelligence (AI) content generator (including but not limited to OpenAI's ChatGPT, Microsoft's Bing AI Chatbot, and Google's Bard), without the prior and explicit approval by the instructor, are subject to University disciplinary proceedings pursuant to the UCLA Student Conduct Code. In the event that the instructor grants approval to use AI content generators in drafting or editing submitted written work, unless the instructor explicitly states otherwise, the student must

¹¹⁸ *Id.* (emphasis added).

¹¹⁹ *Academic Standards and Related Procedures – J.D.*, UCLA SCH. LAW, <https://libguides.law.ucla.edu/academicstandardsjd> [<https://perma.cc/U563-75R7>] (Feb. 5, 2025) (accessible under the "Standards of Student Conduct and Student Discipline" tab).

¹²⁰ *Id.*

*disclose the name of the AI content generator used and the prompts given to the AI that produced the draft or edited content.*¹²¹

5. Depth

Depth is inherently connected with all factors considered. Many policies displayed high levels of depth and comprehensiveness, even when created to uphold different institutional missions and principles. At a minimum, GAI policies should provide clear guidelines. Those exemplary policies in this realm include detailed and clear expectations for faculty members and students. This includes student scenarios, explanations, educational opportunities, and overall extensive guidance. These elements, while not comprehensive, ensure that those policies are well understood, well implemented, and flexible so that all stakeholders are equally able to navigate GAI responsibly and ethically.

We recognize that generative AI (e.g., ChatGPT) is a rapidly changing environment that is creating both new opportunities and challenges for higher education. This page, ChatGPT: Helpful Information and Resources for Instructors, was produced by a university working group . . . as a guide for our campus community . . . Instructors, should they choose, may integrate Generative AI thoughtfully into their teaching practices, assessments, and class discussions to foster an environment that promotes ethical and responsible use of this new technology and familiarization with its opportunities and challenges. When incorporating AI technologies into courses, instructors are encouraged to provide clear guidance to students on the proper application and limitations of these tools. Instructors may also actively engage students in discussions about the societal implications of AI, including potential biases, ethical considerations, and privacy concerns . . . University anti-plagiarism resources, Turnitin and iThenticate, are evolving and adapting to help students, educators, and institutions address AI writing and challenges related to AI-generated text. Transparency and accountability are expected with the use of generative AI, just as we require appropriate citations and references for any sources used in classroom work, research, or academic writing. Improper use of generative AI is a form of academic dishonesty as outlined by the university Student Academic Misconduct Policy. We will offer

¹²¹ *Id.* (emphasis added).

*workshops and share additional resources on this evolving topic in the coming academic year.*¹²²

Interestingly, this is an example from a professor at the main campus, while there is a more concise policy for the law school.¹²³ The William S. Boyd School of Law has a more prohibitive but still relatively deep policy.¹²⁴ While it leans more toward the discretion of the individual professor, it does give examples of both programs that fall into the definition and samples of where its use is a clear violation.¹²⁵

*Use of generative artificial intelligence (such as Chat GPT, Bing Chat, Bard, Microsoft CoPilot, Lexis+ AI or Westlaw Precision) to compose any graded or other submitted law coursework (including, but not limited to, course assignments, papers, exams, presentations, competition briefs/arguments, and law review notes) is prohibited except to the extent expressly permitted by the professor of that class or faculty advisor for that activity. If in doubt about permissible use, the student should seek clarification from the relevant professor or faculty advisor before relying on the technology. Violations of this rule on generative artificial intelligence will be treated in the same way as violations of the Boyd Honor Code prohibition on plagiarism, as described in Part IV (A) (2) above.*¹²⁶

Case Western Reserve University (CWRU) has published an AI & Academic Writing page that covers an incredibly broad range of examples on proper and prohibited uses of such technology in higher education, aimed at educating both instructors and faculty.¹²⁷ However, CWRU School of Law has adopted and implemented a policy that goes beyond the resources offered by the broader University and displays a notable level of depth and comprehensiveness in regard to governance. While moderately prohibitive,

¹²² BARCHARD, *supra* note 115 (emphasis added).

¹²³ *Id.*; See WILLIAM S. BOYD SCH. L., UNIV. NEV., LAS VEGAS, STUDENT POLICY HANDBOOK 27 (2024) (on file with authors).

¹²⁴ See WILLIAM S. BOYD SCH. L., UNIV. NEV., LAS VEGAS, *supra* note 123.

¹²⁵ *See id.*

¹²⁶ *Id.* (emphasis added).

¹²⁷ See Case W. Rsrv. Univ., *AI & Academic Writing*, WRITING@CWRU, <https://case.edu/writing/resources/ai-academic-writing> [<https://perma.cc/KP2P-P97S>]. This page includes educational resources and best practices for faculty and students, which includes AI Composing Tools & Academic Integrity, Sample Syllabus Language about AI Tools, and AI Detection Services.

this policy addresses various scenarios and provides clear guides regarding how and when such technology may be utilized.¹²⁸

***During an exam,** students shall not submit a prompt to AI or use information obtained from another person's prompt to AI that was submitted during an examination. Nor may students use devices on which locking software is not installed (if otherwise required to use computer-locking software on an exam) in order to circumvent the prohibition on the use of AI. Students are allowed, however, to rely on information or material that was generated by AI prior to the start of their exam. The Academic Dean may authorize examination accommodations that employ AI. For purposes of the general exam prohibition on AI, AI does not include applications that suggest corrections for spelling and grammar and all components of any examination software required or provided by the law school.*

AI Work and Assignment Policy

For purposes of rules addressing plagiarism in work submitted in any course, the Law School considers text generated by AI as if it had been written by a person other than the student.

Faculty Discretion

Faculty may modify these default rules by providing written notice in the syllabus before the end of the first week of classes.

Creative AI Instruction

Faculty are encouraged to utilize AI deliberately in their instruction and in thoughtful and creative ways that may enhance students' learning and prepare them for legal practice. Faculty should delineate clearly when and how students may employ AI in their study.

Final Exam Modality: *The default rule for final exam modality is in-person. Exams will either be closed-book exams or open-book with access only to hardcopy materials and no access to digital copies, computer hard drives, or the Internet.*

Faculty Discretion on Exams

Faculty may choose to adopt other exam modalities, including in-person but unlocked (providing limited access to the Internet) or remote exams. However, faculty must demonstrate to the Academic

¹²⁸ See CASE W. RSRV. UNIV. SCH. LAW, 2023-2024 STUDENT HANDBOOK 36–37 (2024) (emphasis added), <https://case.edu/law/sites/default/files/2024-02/2023-2024%20Student%20Handbook%20FINAL%20%2023%202024.pdf> [<https://perma.cc/QE49-SYQG>].

Dean for Academic Affairs how the alternative modality does not jeopardize integrity and fairness through the potential use of AI.

Remote Exams

*To the extent that any exams are remote, the exams should be administered via Canvas and HonorLock. Faculty should design their exams with considerations about how to deter AI use. The Honorlock authentication process may entail taking a picture of the student, submission of ID, and scan of the student's room. Honorlock will record the exam session by webcam, as well as record the student's screen. Honorlock also has an integrity algorithm that can detect search-engine use.*¹²⁹

III. UNDERLYING CONSIDERATIONS

When looking to address GAI in law and how legal education should respond, specifically intending to generate policies, there is a seemingly never-ending list of concerns to take into consideration. However, a recurring group appears time and again, and it is important to acknowledge and tackle these. First, it should be noted that this list is far from exhaustive, and these are only the tip of the proverbial iceberg. As time, the capabilities of the technology, and the breadth of its adoption all expand, new concerns not currently contemplated yet are sure to appear.

A. Academic Integrity and Ethics Concerns

Hallucinations are a considerable problem with this technology.¹³⁰

Concerns about the ethical implications of this tool in the practice of law are varied. They include the impact on the confidentiality of client information and communication, and the need for proper supervision of attorney use of GAI.¹³¹ Within the realm of generating written documents

¹²⁹ *Id.* (emphasis added).

¹³⁰ Dahl et al., *supra* note 14, *passim*; Varun Magesh et al., Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools 1 (June 6, 2024) (unpublished manuscript) (on file with arXiv) [https://perma.cc/8XEE-85DX] (“These systems promise to perform complex legal tasks, but their adoption remains hindered by a critical flaw: their tendency to generate incorrect or misleading information, a phenomenon generally known as ‘hallucination.’”).

¹³¹ Mark C. Palmer, *The Rise of ChatGPT: Ethical Considerations for Legal Professionals*, 2CIVILITY (May 12, 2023), <https://www.2civility.org/ethical-considerations-for-chat-gpt-for-legal-professionals/> [https://perma.cc/TTD2-ETXT]; see also ABA Comm. on Ethics & Pro. Resp., Formal Op. 512 (2024) (discussing GAI tools) (“Model Rules 5.1 and 5.3 address the ethical duties of lawyers charged with managerial and supervisory responsibilities and set forth those lawyers’ responsibilities with regard to the firm, subordinate lawyers, and nonlawyers. Managerial lawyers must create effective measures to ensure that all lawyers in the firm conform to the rules of professional conduct, and supervisory lawyers must

and even for research, there is fear of a rise in malpractice and a significant negative impact on due process.¹³² However, with the positive impact these tools can bring, such as the democratization of access to the law, there are concerns about the possibility of an uptick in the unauthorized practice of law.¹³³ The potential for people to lean heavily on GAI and feel that they can do the work without running afoul of these rules will create challenges to enforcement and potentially require a clarification or rewriting of the unauthorized practice of law rules.¹³⁴ Additionally, relying on the outputs of some commonly used models is riddled with problems, particularly when results are used for verifiable questions about court cases.¹³⁵ It is unclear the exact prevalence of use amongst attorneys, as survey data is already old and limited in scope, but what has been clear is that it is being used and will only become more widespread with time.¹³⁶ Perhaps one of the most vulnerable groups that hallucinations would impact is the very people who need the most protection, the pro se litigant and other similarly situated petitioners who lack the training and resources of attorneys.¹³⁷

One of the underlying questions to consider is when it comes to the purpose attorneys play in society, how do we define that? It is an important starting point because it leads to the relevant question for our purposes: Is the utilization of GAI helping or hurting that purpose?¹³⁸ For practicing attorneys, the idea that they would simply ignore this new technology is not only foolhardy, but it may also bring them into conflict with the Model Rules of Professional Conduct.¹³⁹ Integrity and ethics are not siloed to the actual

supervise subordinate lawyers and nonlawyer assistants to ensure that subordinate lawyers and nonlawyer assistants conform to the rules. These responsibilities have implications for the use of GAI tools by lawyers and nonlawyers.” (citations omitted)).

¹³² See Andrew Perlman, *The Implications of ChatGPT for Legal Services and Society*, 30 MICH. TECH. L. REV., 1, 17–18 (2024). See also Joseph Anderson, *AI and the Legal Puzzle: Filling Gaps, But Missing Pieces*, 75 MERCER L. REV. 1521, 1546 (2024).

¹³³ See Jayne R. Reardon, *Can Bots Commit UPL?*, PRACT. L. INST. (May 4, 2023), [https://plus.pli.edu/Details/Details?fq=id%3A\(382171-ATL2\)#ID0E5G](https://plus.pli.edu/Details/Details?fq=id%3A(382171-ATL2)#ID0E5G) [<https://perma.cc/MP88-XWXB>]; see also Derek A. Denckla, *Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters*, 67 FORDHAM L. REV. 2581, 2581 (1999).

¹³⁴ Reardon, *supra* note 133, at 2599.

¹³⁵ See Dahl et al., *supra* note 14, at 66 (“Our findings reveal the widespread occurrence of legal hallucinations: when asked a direct, verifiable question about a randomly selected federal court case, LLMs hallucinate between 58% (ChatGPT 4) and 88% (Llama 2) of the time.”).

¹³⁶ See LEXISNEXIS, *GENERATIVE AI & THE LEGAL PROFESSION 2023 SURVEY REPORT 3* (2023), https://www.lexisnexis.com/pdf/ln_generative_ai_report.pdf [<https://perma.cc/JG5Y-MDMK>]. See generally Darla Wynon Kite-Jackson, *2023 Artificial Intelligence (AI) TechReport*, A.B.A. (Jan. 15, 2024), https://www.americanbar.org/groups/law_practice/resources/tech-report/2023/2023-artificial-intelligence-ai-techreport/ [<https://perma.cc/9HVE-RSU9>].

¹³⁷ Dahl et al., *supra* note 14, at 82.

¹³⁸ Raymond H. Brescia, *What’s a Lawyer For? Artificial Intelligence and Third-Wave Lawyering*, 51 FLA. STATE L. REV. 543, 595 (2024).

¹³⁹ MODEL RULES OF PRO. CONDUCT r. 1.1 cmt. 8 (AM. BAR ASS’N 2012) (“To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the

practice of law; they also show up when we think about difficult concepts such as plagiarism, fair use, copyright, trademark, and even the creation of scholarly works.¹⁴⁰ Thinking through these ideas is not a simple task, and “reasonable minds can differ,”¹⁴¹ but there are common sense approaches that can be used as a starting framework.¹⁴² The real-world impact that this tool can have is immense.¹⁴³ It has already been shown that these GAI models cannot only pass the Bar Exam, but also the Multistate Professional Responsibility Exam.¹⁴⁴ This performance, while at first glance impressive, says more about the futility of keeping a minimum competency barrier to practice in the form of the Bar Exam than it does about the “genius” of GAI.¹⁴⁵ Like any new technology, there is also the possibility that the results and capabilities have been oversold in the name of hype.¹⁴⁶ There is tremendous potential here to augment, improve, and take the practice of law into a new, uncharted area. It is possible to manage risks, maintain ethical requirements, and still keep the practice of law at the same high standard society expects.¹⁴⁷

Rules and training in law school are so important precisely because of these concerns about misuse in the practice of law.¹⁴⁸ Before becoming

benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.”).

¹⁴⁰ Michael L. Smith, *Language Models, Plagiarism, and Legal Writing*, 22 U.N.H. L. REV. 361, 361 (2024) (“I argue that those urging the incorporation of language models into legal writing education leave out a key technique employed by lawyers across the country: plagiarism. Attorneys have copied from each other, secondary sources, and themselves for decades.”).

¹⁴¹ Linda Ross Meyer, *When Reasonable Minds Differ*, 71 N.Y.U. L. REV. 1467, 1480 (1996).

¹⁴² See generally Bill Tomlinson et al., *ChatGPT and Works Scholarly: Best Practices and Legal Pitfalls in Writing with AI*, 76 SMU L. REV. F. 108 (2023).

¹⁴³ CHIEF JUSTICE JOHN G. ROBERTS, 2023 YEAR-END REPORT ON THE FEDERAL JUDICIARY 5 (2023) (“[N]ow we face the latest technological frontier: artificial intelligence (AI) . . . Law professors report with both awe and angst that AI apparently can earn Bs on law school assignments and even pass the bar exam. Legal research may soon be unimaginable without it. AI obviously has great potential to dramatically increase access to key information for lawyers and non-lawyers alike. But just as obviously it risks invading privacy interests and dehumanizing the law.”).

¹⁴⁴ See Bob Ambrogio, *Generative AI, Having Already Passed the Bar Exam, Now Passes the Legal Ethics Exam*, LAW SITES (Nov. 16, 2023), <https://www.lawnext.com/2023/11/generative-ai-having-already-passed-the-bar-exam-now-passes-the-legal-ethics-exam.html> [<https://perma.cc/7YN8-ZAHV>]; see also Daniel Martin Katz et al., *GPT-4 Passes the Bar Exam*, PHIL. TRANSACTIONS ROYAL SOC’Y A, Mar. 15, 2023, at 1 *passim*.

¹⁴⁵ See Gutowski, *supra* note 38, at 323.

¹⁴⁶ See generally Eric Martinez, *Re-evaluating GPT-4’s Bar Exam Performance*, A.I. & L., March 30, 2024, at 1, <https://link.springer.com/article/10.1007/s10506-024-09396-9#citeas> [<https://perma.cc/N3JQ-VCTM>]; see also Ben Turner, *GPT-4 Didn’t Ace the Bar Exam After All, MITT Research Suggests – It Didn’t Even Break the 70th Percentile*, LIVESCIENCE (May 31, 2024), <https://www.livescience.com/technology/artificial-intelligence/gpt-4-didnt-ace-the-bar-exam-after-all-mitt-research-suggests-it-barely-passed> [<https://perma.cc/ZKL4-AHH9>].

¹⁴⁷ Pierce & Goutos, *supra* note 34, at 510–16.

¹⁴⁸ See generally Nicky Andrews, *Experts Caution Law School to Be Wary of ChatGPT Other AIs*, GOV’T TECH. (May 20, 2024), <https://www.govtech.com/education/higher-ed/experts-caution-law-schools-to-be-wary-of-chatgpt-other-ais> [<https://perma.cc/6M9P-YPYN>].

attorneys and being impacted by all the potential issues mentioned above, these people first have to have been students. The use of these systems by students in law school comes with additional concerns and considerations to understand.¹⁴⁹ With this in mind, the importance and impact law schools will play in navigating the potential hazards becomes clear. By discussing topics like potential bias, inaccuracy, or lack of ability to explain outputs, law schools can help students thoughtfully evaluate GAI assistance rather than blindly accepting results. Similarly, understanding limitations can influence and hopefully prevent cases of overreliance, promote critical assessment of GAI contributions, and mitigate bias.¹⁵⁰ Debating ethical issues around GAI accountability, transparency, and the appropriate human role in decision-making prepares students to grapple with challenges that will only increase as technology advances.¹⁵¹ Rather than fearing discussion of risks, framing AI ethics as an opportunity to develop prudent judgment serves students well.

Perhaps nothing is higher on the list of fears for professors and administrators than the worry about how this technology will impact academic integrity.¹⁵² Maintaining fairness, equity, and the ability to administer traditional exams in this new normal means creative solutions are needed.¹⁵³ In a weird twist of fate, the models and tools that are so feared may be a great starting point to help navigate solutions.¹⁵⁴ While GAI can help a student with a traditional essay format, particularly take-home assignments, it struggles considerably with problem-based questions that utilize professor-created rules and facts.¹⁵⁵ The GAI can create passing assignment responses that are otherwise undetectable and indistinguishable from student-created responses.¹⁵⁶ This means that schools have to be incredibly mindful and careful with how policies are written and even more cautious before they accuse a student of violating said policy.¹⁵⁷ Many

¹⁴⁹ Johnson & Shen, *supra* note 23, at 42; Regalia, *supra* note 14, at 251; Smith, *supra* note 140, at 372–74.

¹⁵⁰ See generally Jake Karr & Jason Schultz, *The Legal Imitation Game: Generative AI's Incompatibility with Clinical Legal Education*, 92 FORDHAM L. REV. 1867 (2024). Generative AI, built on existing data and models, tends to reinforce existing biases and power structures rather than challenge them. Its use in legal education might inadvertently support the status quo rather than foster the critical, transformative thinking necessary for justice advocacy.

¹⁵¹ See generally Michel-Villarreal et al., *supra* note 49; see generally Choi et al., *supra* note 57; see generally Ajevski et al., *supra* note 5.

¹⁵² See Smith, *supra* note 140; Mark L. Shope, *Best Practices for Disclosure and Citation When Using Artificial Intelligence Tools*, 112 GEO. L.J. ONLINE 1, 21 (2023), <https://www.highpoint.edu/law/files/2023/08/Best-Practices-for-Disclosure-and-Citation-When-Using-Artificial.pdf> [<https://perma.cc/9Z3E-SYNW>]; Kocon et al., *supra* note 19, at 3; Farrelly & Baker, *supra* note 60, at 1; Ajevski et al., *supra* note 5, at 360.

¹⁵³ Ryznar, *supra* note 2, at 311.

¹⁵⁴ See *id.* at 322.

¹⁵⁵ Hargreaves, *supra* note 14, at 92.

¹⁵⁶ *Id.* at 81–83.

¹⁵⁷ Farrelly & Baker, *supra* note 60, at 3–4.

concerns around GAI usage are not limited to law schools, and a wiser net of impacted persons and concerns are visible at the university education level.¹⁵⁸ In particular, for the law student and eventual lawyer to know that they are not calling their ethics or integrity into question with GAI use, the rules of the game must be crystal clear. However, some are confident that this is all being blown out of proportion, and the concerns are not as widespread as originally thought.¹⁵⁹ Time will tell.

B. Permissive vs. Prohibited Use Approach

“A solution of prevention or denial is no solution at all.”¹⁶⁰ - Stuart Hargreaves

“It’s a fool’s game to ban it entirely.”¹⁶¹ - Polk Wagner

Instead of worrying about student errant utilization and misuse, the onus should fall onto the professor and the institution to ensure the students are properly exposed and trained on proper use.¹⁶² Some policies could aim to enhance the authenticity of assessments by encouraging formative assessment practices, incorporating performance elements, and designing assignments that are not easily completed using GAI. This approach helps ensure that assessments reflect students’ genuine abilities and understanding. Seemingly leading the charge to adoption and utilization for students are Legal Research and Writing (LRW) professors, who know what some of us refuse to accept¹⁶³: This technology is here today, and it can no longer be ignored.¹⁶⁴ However, particularly when attempting to engage in legal research outside of a specialized model, within a few tries, it becomes evident

¹⁵⁸ Beth McMurtrie, *Professors Ask: Are We Just Grading Robots?*, CHRON. OF HIGHER EDUC. (June 13, 2024), https://www.chronicle.com/article/professors-ask-are-we-just-grading-robots?utm_campaign=che-social&utm_content=20240614&utm_medium=o-soc&utm_source=li [https://perma.cc/7UZF-LZ74] (“The difference in attitudes among faculty members probably depends in part on their responsibilities in the classroom. Teaching a large general-education or introductory course comes with a different set of goals and challenges than teaching an upper-level seminar. A STEM professor may encourage students to use AI to polish their writing if that helps them better articulate scientific concepts. But a humanities professor might balk, since clear and coherent writing is central to mastering the discipline. Differing approaches may also depend on rank: Tenured professors who teach fewer classes have the ability to explore and experiment with AI tools in the way that a busy adjunct does not.”).

¹⁵⁹ Natasha Singer, *Cheating Fears Over Chatbots Were Overblown, New Research Suggests*, N.Y. TIMES (Dec. 13, 2023), <https://www.nytimes.com/2023/12/13/technology/chatbot-cheating-schools-students.html> [https://perma.cc/Y2E8-4WLW].

¹⁶⁰ See Hargreaves, *supra* note 14, at 69 (stated in the abstract).

¹⁶¹ Olivia Cohen, *ChatGPT on Campus: Law Schools Wrestle with Emerging AI Tools*, BL (Aug. 11, 2023, 5:01 AM), <https://news.bloomberglaw.com/business-and-practice/chatgpt-on-campus-law-schools-wrestle-with-emerging-ai-tools> [https://perma.cc/M6LA-SYHU].

¹⁶² Hargreaves, *supra* note 14, at 92–93.

¹⁶³ See generally Johnson & Shen, *supra* note 23, at 35–39.

¹⁶⁴ See Regalia, *supra* note 14, at 200; see also Martineau & Turner, *supra* note 7, at 34.

quickly that the algorithm regularly generates non-existent statutes and even completely makes up cases.¹⁶⁵

The list of pros and cons to using any of these GAI tools to support law school student research is long.¹⁶⁶ However, even with valid concerns, that does not mean its use cannot be effectively utilized by students.¹⁶⁷ When done correctly, GAI can be a powerful tool that expands the ability and depth of output for the user.¹⁶⁸ An absence of clear rules about utilization leaves not only students, but faculty, in a state of confusion and anxiety.¹⁶⁹ However, when professors teach students about the capabilities, proper uses, and where to find the appropriate AI program to use, effective utilization is the natural result.¹⁷⁰ Transparency is also important for academic integrity.¹⁷¹ Disclosing the specific AI tool used gives instructors insight into the sources of information and analysis. It allows them to properly assess the students' comprehension rather than just evaluate the tool itself. Transparency discourages attempts to obscure AI assistance and pass it off as unaided work.¹⁷² The integration and widely adopted use of GAI is inevitable and arguably necessary.¹⁷³ Professors' awareness of how much impact and influence its use has had on submitted content can be a particularly useful piece of information when assessing learning outcomes.

Formative practices, like feedback on draft work and low-stakes assignments, give a fuller picture of learning and writing style over time.¹⁷⁴ Performance elements like oral arguments introduce variables that GAI

¹⁶⁵ A test of any of the platforms will show quickly how they are not to be trusted when it comes to cases. While some are improving and providing hyperlinks to the sources, they are still not foolproof, or even close to being so. The reality remains that these GAI tools are not good tools for case searching in the traditional sense, and they may never be.

¹⁶⁶ See *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/> [https://perma.cc/XJW2-FNMJ].

¹⁶⁷ Stephanie Francis Ward, *Some Law Schools Already are Using ChatGPT to Teach Legal Research and Writing*, A.B.A. J. (June 1, 2023, 3:15 AM), <https://www.abajournal.com/magazine/article/some-law-schools-already-are-using-chatgpt-to-teach-legal-research-and-writing> [https://perma.cc/P2QW-BTUX].

¹⁶⁸ See generally Daniel Schwarcz & Jonathan H. Choi, *AI Tools for Lawyers: A Practical Guide*, 108 MINN. L. REV. HEADNOTES 1 (2023).

¹⁶⁹ Malik et al., *supra* note 19, at 73, 75.

¹⁷⁰ David S. Kemp, *ChatGPT is Notoriously Bad at Legal Research. So Let's Use it to Teach Legal Research*, VERDICT (Sept. 9, 2023), <https://verdict.justia.com/2023/09/09/chatgpt-is-notoriously-bad-at-legal-research-so-lets-use-it-to-teach-legal-research> [https://perma.cc/VTG3-7HXQ].

¹⁷¹ See INT'L CTR. FOR ACAD. INTEGRITY, *THE FUNDAMENTAL VALUES OF ACADEMIC INTEGRITY*, (T. Fishman ed., 2nd ed. 2018), https://www.chapman.edu/academics/academic-integrity/_files/the-fundamental-values-of-academic-integrity.pdf [https://perma.cc/JZ5Z-8RUF].

¹⁷² Shope, *supra* note 152, at 21.

¹⁷³ Brescia, *supra* note 4, at 508–10; Kathrin Eidenmuller et al., *Expanding the Shadow of the Law: Designing Efficient Judicial Dispute Resolution Systems in a Digital World—An Empirical Investigation*, 29 HARV. NEGOT. L. REV. 1, 42–43 (2024).

¹⁷⁴ See Christy K. Boscardin et al., *ChatGPT and Generative Artificial Intelligence for Medical Education: Potential Impact and Opportunity*, 99 ACAD. MED. 22, 25 (2024); see also Hargreaves, *supra* note 14, at 90.

cannot easily replicate.¹⁷⁵ Redesigned assignments not easily completed solely through GAI, such as those requiring nuanced legal analysis, multi-step problem-solving, or those based entirely on professor-generated facts and rules, allow assessments to more authentically gauge a student's mastery of higher-level competencies.¹⁷⁶ Undoubtedly, students will also benefit from diverse assessments that prepare them for real-world legal practice demands beyond what current technology can replicate.

Educating students on appropriate contexts, such as using GAI as a potential starting point for further research rather than a replacement, guides them to use GAI to enhance rather than undermine learning. With appropriate precautions and guardrails, GAI becomes a tool students can wield responsibly, discerningly, and for enhanced legal education. These policies cultivate principles of responsible innovation by taking a nuanced, education-focused approach that addresses both promise and peril. Educational institutions should position students to critically engage emerging technologies, like GAI, as future lawyers charged with upholding ethical standards. Additionally, there is a significant need for more studies based on empirical evidence to better understand the impact that the perception of widespread adoption can have on institutions of higher education.¹⁷⁷ There is an opportunity to embrace these tools to help innovate in teaching and learning positions, and truly across an institution. There are many considerations when creating policies, but all should be carefully constructed with adaptability and clear definitional starting points, and always ensure clarity and buy-in from stakeholders.¹⁷⁸

C. Faculty Impact, Disclosure, Citations, and Alternative Requirements

GAI's use in administrative tasks, pedagogical approaches, ensuring accessibility and learning outcomes, and generalized decision support are

¹⁷⁵ See Hargreaves, *supra* note 14, at 80.

¹⁷⁶ Ajevski et al., *supra* note 5, at 362–63.

¹⁷⁷ Michael-Villarreal et al., *supra* note 49, at 2; Chan & Hu, *supra* note 10, at 5.

¹⁷⁸ See Gutowski & Hurley, *supra* note 11, at 4; see also Ryznar, *supra* note 2, at 308. Policies should be adaptable and regularly updated to address new technological developments and potential abuses of AI tools. Drafters should think clearly and carefully about adjusting and responding to changes in technological abilities and adoption. They must clearly outline the acceptable use of AI tools in coursework and exams, distinguishing between supportive tools (like spell-checkers) and those that undermine academic integrity (like using GAI for generating complete answers). Ensuring clarity and communication by maintaining clear guidelines and open communication between faculty, students, and administration to foster understanding and adherence to academic standards will be necessary. Finally, collaborative efforts in policymaking and implementation are crucial to ensure that AI is used ethically and responsibly in educational settings.

additional positive impactors this technology is capable of.¹⁷⁹ Academic integrity is a core value of legal education.¹⁸⁰ Law schools may wish to implement policies restricting AI tools for academic work to ensure students develop their legal research, analysis, and writing abilities. It should be clear at this point that GAI can be a useful tool; however, outright reliance on it to produce academic work risks undermining the learning process, among other concerns.¹⁸¹ Students need to engage in independent and original thought. GAI risks students passively accepting outputs without critically evaluating sources or developing their legal reasoning. Similarly, grading is meant to assess individual student comprehension and skills,¹⁸² not how well an AI system can regurgitate information. Overreliance has the potential to compromise the assessment of a given student's abilities. The implications are considerable, particularly since the practice of law demands the ability to conduct independent legal analysis and advocacy.¹⁸³ Relying too heavily on GAI during law school can lead to students being underprepared for the significant amount of independent work and critical judgment that competent legal practice requires.¹⁸⁴

Policies must recognize the need for professorial guidance and discretion in allowing or restricting the use of GAI tools based on the requirements and outcome goals of law courses. Allowing instructors to make context-specific determinations on appropriate GAI use empowers them to tailor decisions to varying course needs. By way of example, an instructor may permit limited GAI assistance with legal research but prohibit its use on writing assignments if advanced legal analysis is the focus of the assessment. Professors across disciplines, not only in law, are best positioned to identify if and how GAI could potentially undermine authentic demonstration of the competencies being developed and evaluated in their class.¹⁸⁵ Their expertise helps ensure policies do not inadvertently compromise academic standards or student learning. At the same time, discretion requires instructors to approach these

¹⁷⁹ See Babu George & Ontario Wooden, *Managing the Strategic Transformation of Higher Education Through Artificial Intelligence*, ADMIN. SCIS., Aug. 29, 2023, at 1, 12–13, <https://www.mdpi.com/2076-3387/13/9/196> [<https://perma.cc/C38A-QVK9>]. The authors utilize examples of HBCUs as an avenue to explore the potential impacts of adopting these technology-led changes.

¹⁸⁰ See Smith, *supra* note 140, at 365.

¹⁸¹ Ajevski et al., *supra* note 5, at 361–62; see generally Rupert Macey-Dare, *How ChatGPT and Generative AI Systems Will Revolutionize Legal Services and the Legal Profession* (Feb. 22, 2023) (unpublished manuscript) (accessible via SSRN https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4366749 [<https://perma.cc/ZZW9-RTEG>]).

¹⁸² See Chan & Hu, *supra* note 10, at 2–3; see also Eidenmuller et al., *supra* note 173, at 37.

¹⁸³ See Damien Riehl, *We Need to Talk about ChatGPT: A Lawyer's Introduction to the Exploding Field of AI and Large Language Models*, 80 BENCH & BAR MINN. 26, 27 (2023); see also Ajevski et al., *supra* note 5, at 357.

¹⁸⁴ See Karr & Schultz, *supra* note 150, at 1869, 1877, 1879 (explaining that GAI is not a sufficient tool to teach all skills needed by practitioners).

¹⁸⁵ See Boscardin et al., *supra* note 174, at 23–26.

issues thoughtfully, with student learning and integrity as priorities. Transparency on expectations continues to promote accountability. Instructor discretion allows policies to cultivate responsible and discerning use of AI tools tailored to individual course contexts. Overall, instructor judgment must appropriately balance innovation, assessment, and standards. This brings to the forefront the concern about technological competence in legal education, not only for students but also for professors.¹⁸⁶ This is crucial since there is an unmistakable duty to maintain technological competence, and the use of GAI falls under this duty.¹⁸⁷

Law schools must ensure technological competence for their students.¹⁸⁸ This is not a new idea and should not be seen as a radical position, given how legal education has gone through similar inflection points with technology in the past. The need to ensure graduates are practice-ready is at the heart of what legal education should do.¹⁸⁹ The impact that GAI will have on legal education and, as a direct result, the faculty who have to teach students, is something that cannot be ignored any longer.¹⁹⁰ There is a gap between what is possible with technology and what traditional professors are doing, and this divide needs to be bridged.¹⁹¹ Not only will the incorporation of teaching GAI competency be the basic starting point for legal educators as time passes, but it should also be embedded and utilized for teaching.¹⁹² This notion expands beyond legal education and is being embraced in other higher educational silos in fields such as medicine.¹⁹³ It should also be considered

¹⁸⁶ Brescia, *supra* note 4, at 507; *see also* Pierce & Goutos, *supra* note 34, at 480–81 (discussing new state bar “guidelines regarding a lawyer’s duty of technological competence”).

¹⁸⁷ ABA Comm. on Ethics & Pro. Resp., Formal Op. 512 (2024) (“Lawyers using GAI tools have a duty of competence, including maintaining relevant technological competence, which requires an understanding of the evolving nature of GAI. In using GAI tools, lawyers also have other relevant ethical duties, such as those relating to confidentiality, communication with a client, meritorious claims and contentions, candor toward the tribunal, supervisory responsibilities regarding others in the law office using the technology and those outside the law office providing GAI services, and charging reasonable fees. With the ever-evolving use of technology by lawyers and courts, lawyers must be vigilant in complying with the Rules of Professional Conduct to ensure that lawyers are adhering to their ethical responsibilities and that clients are protected.”).

¹⁸⁸ Brescia, *supra* note 4, at 507.

¹⁸⁹ *See id.* at 537.

¹⁹⁰ Rachelle Holmes Perkins, *AI Now*, 97 TEMP. L. REV. 227 (2025), <https://plus.lexis.com/document/index?crd=7f8ba902-74df-4c62-98a7-e4b8f1018a35&pdpermalink=e6d716d2-85f4-4b9f-80a9-be3d834c4e9e&pdmfid=1530671&pdisurlapi=true#/document/691a7c7b-a601-468d-a57f-888a212efeb6> [<https://perma.cc/LU5N-LKXW>]. (“[A]ll law professors have an inescapable duty to understand generative artificial intelligence. This obligation stems from the pivotal role faculty play on three distinct but interconnected dimensions: pedagogy, scholarship, and governance. No law faculty are exempt from this mandate. All are entrusted with responsibilities that intersect with at least one, if not all three dimensions, whether they are teaching, research, clinical, or administrative faculty. It is also not dependent on whether professors are inclined, or disinclined, to integrate artificial intelligence into their own courses or scholarship.”).

¹⁹¹ *See generally* Thomas et al., *supra* note 16.

¹⁹² Ajevski et al., *supra* note 5, at 363.

¹⁹³ Boscardin et al., *supra* note 174.

the position of some that, while potentially useful in various legal contexts, GAI is not compatible with what clinical education is trying to achieve and should, therefore, not be utilized with students.¹⁹⁴

With all the potential for abuse and the many valid concerns, what should be the default policy about disclosure, citation, and other requirements when students, faculty, or practitioners use GAI? Understandably, accountability is crucial in both legal education and the legal profession. One solution that is repeated is having students document how and when they used GAI tools.¹⁹⁵ Some believe that any time these tools are used, regardless of the level of utilization of the final output, it must be disclosed as a starting point.¹⁹⁶ The thought process is that this may help ensure they remain accountable for the work product.¹⁹⁷ Students would not be able to pass off AI-generated work as their own and would also need to acknowledge the tool's involvement. At some point, likely in the relatively near future, GAI will be so integrated into education tools that disclosure will be as pointless as mentioning that a student referenced a search engine for a project. That reality is not yet here but will require further tweaking of approaches when the time comes.

There is also a discussion of how citations in scholarly works and class assignments should look and when they are appropriate.¹⁹⁸ Although a lot of the policy reasoning behind these citation approaches revolves around community norms and underlying policy rationale,¹⁹⁹ there is no consensus about the best approach or how to deal with many impacted areas of education.²⁰⁰ Several strategies are being discussed and approaches considered, but all of them need to start with embracing GAI rather than pretending it either does not exist, is not a problem, or will go away.²⁰¹ A one-size-fits-all approach risks being too broad or too narrow to support

¹⁹⁴ Karr & Schultz, *supra* note 150, at 1869. Clinical legal education aims to prepare students for real-world legal practice by developing their skills in client interaction, critical thinking, and ethical decision-making. Generative AI tools, which are designed to mimic human responses rather than generate original thought or understanding, do not effectively contribute to these educational objectives. The technology cannot teach students the underlying principles of lawyering, such as legal analysis, ethical considerations, and the nuanced application of legal doctrines, which are crucial for practice readiness.

¹⁹⁵ See generally Smith, *supra* note 140, at 361 (explaining the risk of potential plagiarism); see UNIV. N.C. SCH. L., *supra* note 89; see ANTONIN SCALIA L. SCH., *supra* note 91.

¹⁹⁶ See Farrelly & Baker, *supra* note 60, at 8; see *School of Law Policy on Student Use of Generative Artificial Intelligence Tools*, *supra* note 89.

¹⁹⁷ See, e.g., UNIV. N.C. SCH. L., *supra* note 89 (providing a form for students to to disclose their GAI usage to their professors for academic integrity and accountability purposes).

¹⁹⁸ Shope, *supra* note 152, *passim*.

¹⁹⁹ See *id.* at 5.

²⁰⁰ See Malik et al., *supra* note 19, at 69.

²⁰¹ See Tianchong Wang, *Navigating Generative AI (ChatGPT) in Higher Education: Opportunities and Challenges*, in SMART LEARNING FOR A SUSTAINABLE SOCIETY: PROCEEDINGS OF THE 7TH INTERNATIONAL CONFERENCE ON SMART LEARNING ENVIRONMENTS 215, 221 (Chutiporn Anutariya et al. eds., 2023).

educational goals. The problems of these technologies in education are global in scale. Perhaps by exploring what institutions around the world are doing to respond, unique and creative approaches can be examined.²⁰²

Creating and implementing GAI policy in legal education will be complicated.²⁰³ However, other institutions of higher education focused on research understand that clear guidelines are necessary.²⁰⁴ While there is a large percentage of schools that are dealing with GAI head-on, there are still real issues.²⁰⁵ For example, when asking faculty to revise their pedagogical approach in response to the new landscape, this can cause considerable pushback and, understandably, can be overwhelming.²⁰⁶

In the practical context, a failure to cite utilization can lead to situations where hallucinated content is present, undiscovered by the submitting attorney, and results in sanctions or, worse, sanctions by the court.²⁰⁷ As a result of the growing uptick in this, some judges have created policies for their courtrooms regarding the use of GAI.²⁰⁸ Beyond the punitive and reactive policymaking in courts, there is the potential to rely on and create new tools that help ensure justice, access to records, and enhanced dispute resolution, among other benefits.²⁰⁹ It is undeniable that legal practice is being transformed in front of our eyes.²¹⁰ There is even thoughtful research about policy recommendations surrounding the admissibility of AI “expert”

²⁰² See generally Chan & Hu, *supra* note 10 at 6–9.

²⁰³ See Malik et al., *supra* note 19, at 69; Martineau & Turner, *supra* note 7, at 32.

²⁰⁴ McDonald et al., *supra* note 10, at 2.

²⁰⁵ TASK FORCE ON L. & A.I., A.B.A., AI AND LEGAL EDUCATION SURVEY RESULTS 2024 1 (2024), https://www.americanbar.org/content/dam/aba/administrative/office_president/task-force-on-law-and-artificial-intelligence/2024-ai-legal-ed-survey.pdf [https://perma.cc/VC8R-KPZZ]. It must be noted that this survey was only responded to by 29 schools, or roughly 15% of all ABA-approved law schools. While it provides some insights, it can hardly be known if the responses are representative of the rest or even a majority of law schools. While exploring the policies available nationally, there does seem to be a trend toward more permissive use as of late, but it is not clear why. See Bob Ambrogi, *Recent Reports of Law Schools' AI Adoption Have Been Greatly Exaggerated*, LAW SITES (July 2, 2024), <https://www.lawnext.com/2024/07/recent-reports-of-law-schools-ai-adoption-have-been-greatly-exaggerated.html> [https://perma.cc/YAL7-S76Y].

²⁰⁶ See TASK FORCE ON L. & A.I., A.B.A., *supra* note 205, at 12–14.

²⁰⁷ E.g., Benjamin Weiser, *Here's What Happens When Your Lawyer Uses ChatGPT*, N.Y. TIMES (May 27, 2023), <https://www.nytimes.com/2023/05/27/nyregion/aviana-airline-lawsuit-chatgpt.html> [https://perma.cc/D5F3-8WL8].

²⁰⁸ Grossman et al., *supra* note 37, at 69; *Litigation, Comparison Table – Federal Court Judicial Standing Orders on Artificial Intelligence*, BL, <https://www.bloomberglaw.com/external/document/XCN3LDG000000/litigation-comparison-table-federal-court-judicial-standing-orde> [https://perma.cc/8JFF-F8EF].

²⁰⁹ Eidenmuller et al., *supra* note 173, at 4, 42.

²¹⁰ Jeff Neal, *The Legal Profession in 2024: AI*, HARV. L. TODAY (Feb. 14, 2024), <https://hls.harvard.edu/today/harvard-law-expert-explains-how-ai-may-transform-the-legal-profession-in-2024/> [https://perma.cc/DT5G-ND65].

testimony.²¹¹ Some judges have even used it in decision-making and encouraged its wider use.²¹²

IV. RECOMMENDATIONS

A. Potential Impact of GAI Policies on Legal Education

Opportunity exists with the integration of GAI across legal education to meaningfully and significantly enhance learning opportunities and outcomes. This can come through additional capacity to provide additional personalized feedback, enhance student engagement, and even improve legal research and writing skills. Policies governing usage must align with each law school's core principles and institutional vision. How this will be implemented will vary greatly from one institution to another; however, with open communication and an eye towards shared experiences, practices that work and those that do not will emerge relatively quickly.

There continue to be ethical considerations with GAI. However, this topic is not exclusive or even primary to this newer technology. Similarly, concerns over plagiarism and academic integrity are recurring themes in higher education and will be valid concerns moving forward, regardless of the integration of prohibition. However, what is critical from the legal education position is to ensure that students are adequately prepared for practice as attorneys. This will require law schools to take the reins in training and ensuring that students are properly informed. It also means that law school faculty will need to similarly lead by example and, as such, be properly trained. With an eye toward mindful and purposeful GAI adoption, the possibilities for teachers and students alike are tremendous and have the potential to truly be transformative for the better.

²¹¹ See generally Andrew W. Jurs & Scott DeVito, *Machines Like Me: A Proposal on the Admissibility of Artificially Intelligent Expert Testimony*, 51 PEPP. L. REV. 591 (2024).

²¹² E.g., Stephanie Wilkins, *11th Circuit Judge Uses ChatGPT in Deciding Appeal, Encourages Others to Consider It*, ALM LAW.COM (June 4, 2024, 3:52 PM), https://www.law.com/2024/06/04/11th-circuit-judge-uses-chatgpt-in-deciding-appeal-encourages-others-to-consider-it/?cmp_share&slreturn=20240527165710 [<https://perma.cc/GMQ7-Z2N9>] (“Here’s the proposal, which I suspect many will reflexively condemn as heresy, but which I promise to unpack if given the chance: Those, like me, who believe that ‘ordinary meaning’ is the foundational rule for the evaluation of legal texts should consider—consider—whether and how AI-powered large language models like OpenAI’s ChatGPT, Google’s Gemini, and Anthropic’s Claude might—might—inform the interpretive analysis. There, having thought the unthinkable, I’ve said the unsayable.”).

B. Recommendations for Law Schools and Faculty

Reasonable minds can disagree.²¹³ However, having clear guidelines and expectations is foundational. Regardless of an institution's position, the corresponding guidelines must be clear and comprehensive. This will go a long way to protect legal education and those who are ultimately working towards serving the public as attorneys. Another undeniable aspect that schools cannot overlook in the creation of policies for GAI is the need to fully involve all stakeholders. Involving stakeholders serves many purposes, including preventing major pushback, and allowing all voices to be heard and all perspectives to be considered. Engaging with these individuals and collective groups will ensure that policies are well-rounded and adequately consider all perspectives.

Additionally, there is an important need to ensure that policymakers are well-informed before creating rules that substantially impact the educational environment. Considerations such as impact, enforceability, and the ability to adapt to future changes that are sure to arrive, are all critical considerations. An extension of that is to ensure there is proactive and adequate education and training for all stakeholders. This is particularly important for students and faculty. There needs to be a concerted effort to prioritize an emphasis on staying up to date. Governance must be flexible. AI is changing daily. To govern the usage of these tools, policies must be flexible.

V. CONCLUSION

Policy generation for GAI in legal educational institutions is not a one-time event. The development and refinement of these policies must be ongoing and periodically revisited to protect integrity, while harnessing innovation by leveraging new technology to enhance the broader student experience. There is a need for ongoing and periodic policy reviews to ensure institutions are keeping pace with the times and, inevitably, upgrades and changes yet to come. The authors hope that this article will be a call to action and a widespread commitment to integrity. There should be proactive adoption of policies, and an ongoing effort to refine them, such that there is a continuous focus on enhancing learning, teaching, and ultimately protecting the broader landscape of legal education and the practice of law. Schools should not wait for the American Bar Association to dictate policy, but should be sharing information and working collaboratively to self-regulate and support the wider Academy.

²¹³ See Meyer, *supra* note 141.