

# Remote Learning in Law School During the Pandemic: A Canadian Survey

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*The COVID-19 pandemic has reshaped the Canadian debate regarding best practices in incorporating technology into legal education. Canadian educators have now had the chance to reflect on online pedagogy and look beyond the pandemic when we consider how technology will continue to shape legal pedagogy in the future. To this end, the authors conducted a national survey of law students aimed at better understanding the online learning experience, overall satisfaction levels with their legal education, and to thoroughly assess whether students are satisfied with an online legal education. This article presents the result of that survey. The data show that interactivity matters to students and the overall preference is for in-person learning. Analyzing the various delivery models, our study further suggests that students prefer weekly uploaded video lectures over audio only content, and power points were felt to be essential to online learning. We further learned that videoconferencing was the preferred mode of remote learning, with Zoom being the preferred platform.*

*This paper also sheds light on student preferences in modes of evaluation: students noting dissatisfaction with the traditional law school evaluative instruments weighted heavily at the end of a course. It was also noted that pass/fail grading during the pandemic divided the students nearly equally in terms of preference. Perhaps surprisingly for law students, our data also suggest students were not particularly concerned about their privacy in an online teaching environment. Finally, and in tune with the current social focus, improving the mental health of students was a serious issue for respondents.*

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## I. Introduction

Discussions pertaining to the merits of online learning within law school pedagogy are rich and nuanced, especially within the United States, Australia, and England.<sup>1</sup> In the United States, the move towards embracing online learning as a pedagogical tool was, to some, a necessary step in the age of declining numbers of law applicants and law schools shuttering their doors.<sup>2</sup> Other jurisdictions have fully embraced online legal teaching; England is home to one of the more well-known massive open online courses (“MOOCs”) in legal education.<sup>3</sup> However, the Canadian perspective on this topic is not as fulsome, as law schools in Canada have largely been reluctant to use online learning in a meaningful or systematic way. In the ten years prior to the

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interactions and aims to lead positive policy changes to improve equality and fairness in the criminal justice system.

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- 1 See generally Jennifer Ireland, “Blended Learning in Intellectual Property: The Best of Both Worlds” (2018) 18:1 *Legal Education Review* 139; Anne Hewitt, “Can You Learn to Lawyer Online? A Blended Learning Environment Case Study” (2015) 49:1 *The Law Teacher* 92; Anne Hewitt & Mathew Stubbs, “Supporting Law Students’ Skills Development Online — A Strategy to Improve Skills and Reduce Student Stress?” (2017) 25:1 *Research in Learning Technology* 1786 (for the Australian perspective).
- 2 See generally Michele R Pistone & Michael B Horn, “Disrupting Law School: How Disruptive Innovation Will Revolutionize the Legal World” (2016), online (pdf): *Christensen Institute* <[www.christenseninstitute.org/wp-content/uploads/2016/03/Disrupting-law-school.pdf](http://www.christenseninstitute.org/wp-content/uploads/2016/03/Disrupting-law-school.pdf)>; Max Huffman, “Online Learning Grows Up—And Heads to Law School” (2015) 49:1 *Indiana Law Review* 57.
- 3 See “Home Webpage”, online: *The Open University* <[www.openuniversity.edu/](http://www.openuniversity.edu/)>.

COVID-19 pandemic, some Canadian legal educators had implemented, or seriously considered, adopting various forms of online learning into law school curricula, with these learning modalities being touted as an adequate, if not superior, replacement to the traditional delivery method.<sup>4</sup> However, much like the American Bar Association's restriction on how many hours can be dedicated to online learning in an accredited curriculum in the United States,<sup>5</sup> the Federation of Law Societies of Canada ("FLS"), had (prior to the COVID-19 pandemic) severely limited the amount of online distance or remote learning hours a law school can utilize in Canada.<sup>6</sup> This FLS policy has, of course, not been strictly enforced during the pandemic. Public health orders to prevent the spread of COVID-19 forced all law classes online in early 2020. The entire 2020-2021 law school academic year was delivered online in Canada.<sup>7</sup>

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- 4 See generally Peter Sankoff & Craig Forcese, "The Flipped Law Classroom: Retooling the Classroom to Support Active Teaching and Learning" (2015) 2015:1 *Canadian Legal Education Annual Review* 119; Peter Sankoff, "Taking the Instruction of Law Outside the Lecture Hall: How the Flipped Classroom Can Make Learning More Productive and Enjoyable (for Professors and Students)" (2014) 51:4 *Alberta Law Review* 891; Mary J Shariff et al, "Academic Innovation Committee on the JD Curriculum: Consultation Paper" (2016) 39:2 *Manitoba Law Journal* 241 at 351; Philip Preville, "Why Don't More Law Professors Flip Their Classrooms?" (31 March 2017), online (blog): *Top Hat* <[tophat.com/blog/flipped-classroom-law/](http://tophat.com/blog/flipped-classroom-law/)>.
- 5 See memorandum from Pamela Lysaght to Maureen O'Rourke (22 January 2018), online (pdf): *American Bar Association* <[www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/council\\_reports\\_and\\_resolutions/February2018CouncilOpenSessionMaterials/C1\\_src\\_memo\\_re\\_standard\\_306.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/February2018CouncilOpenSessionMaterials/C1_src_memo_re_standard_306.pdf)>; Abigail Cahak, "Beyond Brick-and-Mortar: How (Cautiously) Embracing Internet Law Schools Can Help Bridge the Legal Access Gap" (2012) 2012:2 *Journal of Law, Technology & Policy* 495 at 506; Nina A Kohn, "Online Learning and the Future of Legal Education" (2020) 70:1 *Syracuse Law Review* 1 at 4.
- 6 See "National Requirement" (1 January 2018), c (1.2), online (pdf): *Federation of Law Societies of Canada* <[flsc.ca/wp-content/uploads/2018/01/National-Requirement-Jan-2018-FIN.pdf](http://flsc.ca/wp-content/uploads/2018/01/National-Requirement-Jan-2018-FIN.pdf)>.
- 7 See Aidan Macnab, "How COVID-19 is Forcing Canadian Law Schools to Transition to Online Learning" (23 March 2020) *Canadian Lawyer Magazine*.

While much has been written about the experiences of legal academics and their motivations and desires to develop, change, or maintain their online pedagogical methods, comparatively little research exists on the impact of these shifts on law school students and whether they have improved the learning experience or overall satisfaction levels with their legal education. In this way, the disruptions of the COVID-19 pandemic to traditional law school teaching modalities proved an excellent opportunity to examine the perspectives of Canadian law school students on the transition to online learning, and to thoroughly assess whether students feel they can be successful in online centered law school education.

The authors therefore aim to provide an overview of the evolution of, and adaptation to, online learning within law schools in Canada from 2010 to 2020. We discuss the perspective of law school educators and then review the existing literature on student perspectives on online law school education. We then present new survey data on the experiences of Canadian law school students during the COVID-19 pandemic.

## **II. Online Learning in Law School: The Last Ten Years**

With the increasing availability and societal reliance on technology, legal educators have been concerned that the traditional method of teaching law school is ill-equipped to adequately deliver quality education to changing learning habits of millennial students.<sup>8</sup> As the ubiquity of laptops and social media have transformed the classroom,<sup>9</sup> some educators have embraced technology in their law school courses in an effort to shift away from traditional

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8 See generally George J Shailini, "Teaching the Smartphone Generation: How Cognitive Science Can Improve Learning in Law School" (2013) 66:1 Maine Law Review 163.

9 See *ibid* at 164; Sankoff, *supra* note 4 at 893; Nikos Harris, "The Risks of Technology in the Law Classroom: Why the Next Great Development in Legal Education Might Be Going Low-Tech" (2018) 51:3 UBC Law Review 773 at 778.

teaching methods that do not capture the attention span of millennial audiences to the same degree as they once did.<sup>10</sup> The limitations and shortcomings of traditional delivery methods, such as the Langdellian Case Method and the Socratic Method,<sup>11</sup> are not novel debates in legal pedagogy.<sup>12</sup> However, educators have warned that these traditional methods have amplified millennial disconnection in the law classroom.<sup>13</sup> Peter Sankoff, Craig Forcese and Steven Penney have noted that laptop use in law classrooms provided students with more distractions than ever before.<sup>14</sup> These professors were left with the undesirable task of competing for their students' attention while using the

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10 See Sankoff, *ibid*; see Preville, *supra* note 4.

11 The Case Method, much like its progenitor, the scientific method, uses inductive reasoning in its approach. In the context of a law classroom, this is achieved by asking the students to read judicial decisions on their own to extract the legal principles and come to a general conclusion about the law. See Russell L Weaver, "Langdell's Legacy: Living with the Case Method" (1991) 36:3 Villanova Law Review 517 at 527. The case method is often supplemented by professor-led lectures or with the Socratic method to elicit professor-student interaction. The Socratic method accomplishes this through a series of questions posed by the professor which inevitably lead his or her students to the answer. See Joseph A Dickinson, "Understanding the Socratic Method in Law School Teaching After the Carnegie Foundation's Educating Lawyers" (2009) 31:1 Western New England Law Review 97 at 105.

12 This ongoing debate often focuses on the overuse of these traditional methods to the detriment of other key skills a law student requires in their educational development. See Shariff et al, *supra* note 4 at 315; Dickinson, *supra* note 11 at 98.

13 See Frances E Chapman, "A Conversation About Canadian Legal Education: Lakehead University and Dialogue Pedagogy" (2020) 21:1 Western Michigan University Cooley Journal of Practical & Clinical Law 1 at 16; Dale Dewhurst, "The Case Method, Law School Learning Outcomes and Distance Education" (2012) 6:1 Canadian Legal Education Annual Review 59 at 60; Sankoff, *supra* note 4 at 893; Richard Jochelson & David Ireland, "Law Students' Response to Innovation: A Study of Perspectives in Respect of Digital Knowledge Transmission, Flipped Classrooms, Video Capsules and Other Means of Classroom Dissemination" (2018) 41:1 Manitoba Law Journal 131 at 138.

14 See Sankoff, *supra* note 4 at 893; Preville, *supra* note 4.

traditional methods of teaching law.<sup>15</sup> For years, scholars have written about ways to recalibrate pedagogical approaches in legal education through blended classrooms,<sup>16</sup> such as the flipped delivery model.<sup>17</sup> Under this model, students receive a combination of in-person and asynchronous lessons,<sup>18</sup> which some suggest are better suited for millennial learning habits.<sup>19</sup> Indeed, Sankoff, Forcese and Penney have all adopted the flipped classroom method in order to mitigate the growing disconnection in the live lecture hall.<sup>20</sup> This has generated some debate and criticism of the merits of a technological revolution within legal education and whether displacing the traditional model will lead to undesirable outcomes.<sup>21</sup>

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15 Sankoff, *ibid.*

16 See Ireland, *supra* note 1 at 140, who defines blended learning as a “teaching method that blends online and offline elements”. Blended learning is used interchangeably with hybrid learning as both terms involve some combination of online and in-person learning within a curriculum.

17 See Sankoff, *supra* note 4 at 899, where the “term ‘flipped classroom’ refers to the idea that the traditional classroom is being flipped on its head with the lecture portion of the class conducted online, in a way that allows students to spend classroom time interacting with each other and the professor”.

18 Synchronous and asynchronous learning styles are predicated on whether the students engage with course material concurrently or separately. For example, a traditional in-class lecture, where students engage with the course material at the same time, is considered a synchronous learning method; whereas, a weekly video lecture, to be watched by students on their own time, is an asynchronous learning method. See Marcia L Williams, Kenneth Paprock & Barbara Covington, *Distance Learning: The Essential Guide* (London: Sage Publications, 2001) at 71.

19 See Sankoff & Forcese, *supra* note 4; Preville, *supra* note 4; Harris, *supra* note 9 at 797; Gerald F Hess, “Blended Courses in Law School: The Best of Online and Face-to-Face Learning” (2013) 45:1 *McGeorge Law Review* 51 at 59.

20 See Sankoff & Forcese, *ibid* at 8; see Preville, *ibid.*

21 See Sankoff & Forcese, *ibid* at 4; Frank A Pasquale, “Synergy and Tradition: The Unity of Research, Service, and Teaching Legal Education” (2015) 40:1 *Journal of the Legal Profession* 25 at 28; Eric S Janus, “The ‘Worst Idea Ever!’—Lessons from One Law School’s Pioneering Embrace of Online Learning Methods” (2020) 70:13 *Syracuse Law Review* 13 at 26.

Legal educators have employed many different online platforms over the years in order to supplement traditional methods of teaching law.<sup>22</sup> In 2012, Dale Dewhurst posited that programs such as Moodle can facilitate the ability to provide feedback to students and monitor progress much more efficiently and consistently than the traditional case method offered in person.<sup>23</sup> Dewhurst argued that using platforms such as Moodle (similar to Blackboard and D2L), or AutoTutor,<sup>24</sup> can “replicate learning outcomes of the case method”.<sup>25</sup> Dewhurst noted that students’ ability to answer questions and receive feedback through the online platform could also mitigate some of the anxieties students have reported experiencing when speaking in person.<sup>26</sup> Moreover, Dewhurst argued that videoconferencing could replicate the in-person environment by dividing up the larger class sizes into more manageable smaller sections.<sup>27</sup> A smaller group setting, he hypothesized, would encourage students to contribute to discussions because of the less intimidating size of the classes.<sup>28</sup> This would also alleviate some of the anxiety and stress that students experience within law school classrooms which prevent many from actively participating in the discussions spurred on by the case method format.<sup>29</sup> He correctly anticipated

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22 See Shariff et al, *supra* note 4 at 351 (“[t]echnology such as *iclicker*, wikis, backchannel chats, online meeting rooms, Google docs, video editing and commenting tools, online videos, interactive surveys and questionnaires, *PowerPoint*, Twitter, Skype, Facebook, texting, Google Drive, online dispute resolution and closed information systems such as *D2L* ... may be used effectively when used thoughtfully and deliberately and with proper preparation, training and support”).

23 See Dewhurst, *supra* note 13 at 64; “Home Webpage”, online: *Moodle* <moodle.org>.

24 Dewhurst, *ibid*; “Adult Education Research Group”, online: *AutoTutor* <adulted.autotutor.org>.

25 Dewhurst, *ibid* at 66.

26 *Ibid*; Sankoff, *supra* note 4 at 895.

27 See Dewhurst, *ibid* at 67.

28 *Ibid*.

29 *Ibid* at 69.

what has become a commonality in the Zoom-university lecture style where educators have had the functionality of Zoom breakout rooms at their disposal.<sup>30</sup> These synchronous sessions, Dewhurst continued, could be recorded, providing students with the flexibility to view the classes later in the week.<sup>31</sup> Since 2012, many universities have adopted tools that bear a resemblance to Moodle to track students' progress and provide feedback, though, prior to 2020, few had used them as extensively as Dewhurst.<sup>32</sup>

Even though online learning has not grown exponentially in Canada compared to other jurisdictions, the past ten years have seen a growing contingent of legal educators that have implemented online learning into their courses. One of the most vocal proponents of online learning in Canada has been Professor Peter Sankoff. Sankoff implemented a flipped model into his evidence class at the University of Alberta nearly a decade ago, as he observed that the traditional method "fails to excite either professor or student".<sup>33</sup> He provided his evidence class with asynchronous lectures in order to free up class time for problem-solving tutorials.<sup>34</sup> The asynchronous portion had the students watch video "capsules" lasting anywhere from 10-20 minutes per video and providing students with lessons on the "basic principles" of the week's module.<sup>35</sup> Although the workload was "resource intensive" for Sankoff, the course was successfully shifting his students' attention away from their laptops and into an active and engaged discussion of the weekly problems.<sup>36</sup> Professor

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30 For a discussion regarding breakout rooms, see "Enabling Breakout Rooms", online: Zoom <[support.zoom.us/hc/en-us/articles/206476093-Enabling-breakout-rooms](https://support.zoom.us/hc/en-us/articles/206476093-Enabling-breakout-rooms)>.

31 See Dewhurst, *supra* note 13 at 68.

32 See e.g. "Introducing UMLearn" (5 May 2015) *UM Today News*; Chris Sorenson, "Quercus? U of T's New Learning Hub and Four Other New Things for the Academic Year" (27 August 2018) *U of T News*.

33 See Sankoff, *supra* note 4 at 893.

34 *Ibid* at 896.

35 *Ibid* at 898.

36 See *ibid* at 897.

Craig Forcese at the University of Ottawa is another pioneer of the flipped delivery model in Canadian legal education.<sup>37</sup> His own foray into this pedagogical approach was spurred on by lackluster student performance on exams and the solution to his problem came in the form of a flipped Administrative Law classroom.<sup>38</sup>

Much like Sankoff, Forcese provided his students with pre-recorded lectures for them to watch prior to their regular in-person class time.<sup>39</sup> This maintained the “narrative” style delivery found in his lectures and, much like Sankoff’s course, freed up class time for problem-solving tutorials.<sup>40</sup> Both Sankoff and Forcese credit the success of this model to the “active learning” that takes place during the face-to-face portion of the class.<sup>41</sup> Forcese emphasizes that “[if] you have a passive teaching style for part of the class, and then you expect to segue into an active teaching style, it’s virtually impossible”.<sup>42</sup> Sankoff agrees with this problem plaguing law classes and he mitigates it by going “feet-first into a problem” to “extract what we need from that problem”. This way, the students

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37 For a sample of Professor Forcese’s videos, see Craig Forcese, “Lecture Modules Used as Part of Administrative Law (Forcese)”, online: *Craig Forcese* <[www.craigforcese.com/administrative-law-1](http://www.craigforcese.com/administrative-law-1)>.

38 See Sankoff & Forcese, *supra* note 4 at 10.

39 *Ibid.*

40 *Ibid.*

41 See Sankoff & Forcese, *supra* note 4 at 3, who state that active learning involves “peer assisted” and “problem-based learning approaches”. See also Harold S Barrows, “Problem-Based Learning in Medicine and Beyond: A Brief Overview” (1996) 68 *New Directions for Teaching and Learning* 3 at 5–6, whose six “characteristics” are adopted by Sankoff and Forcese as learning goals in their problem-based learning styles:

[1] Learning is Student-Centred[; 2] Learning Occurs in Small Student Groups[; 3] Teachers are Facilitators or Guides[; 4] Problems Form the Organizing Focus and Stimulus for Learning[; 5] Problems Are a Vehicle for the Development of Clinical Problem-Solving Skills[; 6] New Information is Acquired Through Self-Directed Learning.

42 Sankoff & Forcese, *ibid* at 12.

are “active from the get-go, they expect the activity”.<sup>43</sup> Sankoff and Forcese’s foray into flipped classrooms reiterates the point that asynchronous lectures provide students with the flexibility to consume the lectures at a time when they are ready to learn.<sup>44</sup>

Flipped and blended learning formats show promise in the field of legal education, and some pre-pandemic studies suggested that students’ appeared to have mostly embraced the forward-thinking approach by educators. However, some pre-pandemic feedback from students and faculty also indicated that any technology inserted into a curriculum should not become the focal point.<sup>45</sup> In a pre-pandemic survey of first year Robson Hall law students at the University of Manitoba, most of the students expected some form of technology to be used in their classrooms but were less enthusiastic about “complete online learning environments”.<sup>46</sup> This sentiment was echoed by the pre-pandemic perception of MOOCs and law schools that completely removed the brick-and-mortar component out of their core curriculum.<sup>47</sup> Even subtle adjustments to the traditional method have brought about some resistance from students in the field: Sankoff, for example, has noted that eliminating the live lecture component in a course can lead to unforeseen issues.<sup>48</sup> Responses in course

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43 *Ibid* at 11.

44 See generally Sankoff, *supra* note 4; Sankoff & Forcese, *supra* note 4.

45 See Jochelson & Ireland, *supra* note 13 at 151. See also Janus, *supra* note 21 at 14; Shariff et al, *supra* note 4 at 351; Dyane L O’Leary, “Flipped out, Plugged in, and Wired up: Fostering Success for Students with ADHD in the New Digital Law School” (2017) 45:2 *Capital University Law Review* 289 at 290.

46 See Jochelson & Ireland, *ibid* at 146.

47 See Pasquale, *supra* note 21 at 26; Janus, *supra* note 21 at 26; Emma Jones, “Connectivity, Socialisation and Identity Formation: Exploring Mental Well-Being in Online Distance Learning Law Students” in Rachael Field & Caroline Strevens, eds, *Educating for Well-Being in Law: Positive Professional Identities and Practice* (London: Routledge, 2019) 103 (“[a]lthough there is a lack of data on this, there has been suggestions that distance learning does not allow students the same accesses to legal culture” at 112).

48 See Sankoff, *supra* note 4 at 898.

evaluations for Sankoff's evidence class revealed that "several students felt unequipped to contribute properly to the problem-solving process because they did not feel they possessed a strong grasp of basic concepts before jumping into a discussion of the problems".<sup>49</sup> Moreover, a 2010 study of 96 law students' preferences for either "online, hybrid, or traditional learning" showed that the majority preferred the traditional method to "non-traditional" learning options.<sup>50</sup> This is reflective of the conservative approach that is generally found in law school faculties and their student bodies.<sup>51</sup> Although it has been argued that blended learning is flexible enough to accommodate several different learning styles,<sup>52</sup> an expectation of better overall student performance may be met with disappointment. Data out of an American study comparing performance results from two separate streams of a legal research class, one with live lectures and the other, a self-paced online module, found little-to-no statistical difference in the performance of the classes.<sup>53</sup> Another course comparison from the United States found that a Civil Procedure class at the University of Memphis showed no improvements in student performance when switching from the traditional method to a flipped classroom.<sup>54</sup>

In the past ten years, there have been voices within the corpus of relevant pedagogical literature that seek to justify the use of technology in law schools to

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49 *Ibid* at 897.

50 See Daniel P Auld, "Linkages Between Motivation, Self-Efficacy, Self-Regulated Learning and Preferences for Traditional Learning Environments or Those With an Online Component" (2010) 2:2 *Digital Culture & Education* 128 at 133.

51 See Jochelson & Ireland, *supra* note 13 at 137.

52 See Hess, *supra* note 19 at 59; Hewitt, *supra* note 1.

53 See Jane Bahnson & Lucy Olejnikova, "Are Recorded Lectures Better than Live Lectures for Teaching Students Legal Research?" (2017) 109:2 *Law Library Journal* 187 at 201.

54 See Katharine T Schaffzin, "Learning Outcomes in a Flipped Classroom: A Comparison of Civil Procedure II Test Scores Between Students in a Traditional Class and a Flipped Class" (2016) 46:3 *University of Memphis Law Review* 661 at 672.

better prepare students for the adoption of technology in the legal profession.<sup>55</sup> Legal educators, Martha Simmons and Darin Thompson, have used online platforms to teach students “online dispute resolution” (“ODR”), and modelled the use of online platforms in real world mediations between parties.<sup>56</sup> They argue that movements in legal pedagogy that seek to ban laptop use in classrooms are a counterintuitive measure that ignores the “technological ubiquity” of our age and believe that “Canadian law schools are well positioned to introduce ODR into the legal curriculum, even if only through experimental pilot projects”.<sup>57</sup> The students in the pilot project were led through a “blind-bid”, text-based and video mediation process.<sup>58</sup> Overall the educators were satisfied with the level of experiential learning that was attained during the ODR pilot project.<sup>59</sup> Students did have trouble with video mediation due to participating students being in different time zones or having technical issues with videoconferencing platforms. Despite this, Simmons and Thompson are optimistic that some of the challenges they faced, such as technical glitches, even issues with student participation, could be avoided with partial tweaks to the

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55 See Martha E Simmons & Darin Thompson, “The Internet as a Site of Legal Collaboration Across Continents and Time Zones: Using Online Dispute Resolution as a Tool for Student Learning” (2017) 34:1 Windsor Yearbook of Access to Justice 222 at 225; see also Hess, *supra* note 19 at 59.

56 Simmons & Thompson, *ibid* at 224. ODR refers to a wide range of processes that use information communication technologies to facilitate dispute resolution. It can encompass a variety of methods and media, with a common feature being that parties are not required to share the same physical space to arrive at resolution. Consistent with the ‘online’ aspect of ODR, most of its processes are facilitated through the Internet. Some forms of ODR rely on human intervention, while others are automated. ODR can range from the simple day-to-day negotiations via e-mail to complex multi-party video mediations.

57 *Ibid* at 228.

58 *Ibid* at 236. The project participants hailed from the Osgoode Hall Law School at York University in Toronto, Ontario, the University of Victoria in British Columbia and the University of Leicester in England.

59 *Ibid* at 241.

project.<sup>60</sup> The ODR pilot project ultimately highlights a growing desire for legal educators to embrace more experiential learning environments to better prepare students for the real world, which, online learning could facilitate to some degree.<sup>61</sup> As such, the recent move to virtual courtrooms during the COVID-19 pandemic has seen law programs adapt to the changing legal environment in real time by dedicating classes to experiential learning modules that give students the opportunity to engage with the legal profession through real-world technology.<sup>62</sup>

As the past ten years indicate, there are several dominant pedagogical approaches to online learning in law school and many proponents of some form of technology occupying space that would normally be reserved for in-person learning. Prior to the pandemic, Canadian pedagogy in this area was limited to a few early adopters of the flipped classroom model and experiential learning. The COVID-19 pandemic has reshaped the Canadian debate regarding best practices when incorporating technology into legal education, as Canadian educators have had a chance to pause and reflect on pedagogy in the pandemic and have also started looking beyond the pandemic to consider how the lessons learned can shape legal pedagogy in the future.

### **III. Law School Pedagogy in the Pandemic**

The COVID-19 pandemic forced university campuses to move all of their courses online in Canada, and the legal profession was forced to do the same.<sup>63</sup> There is a growing body of pandemic-related literature on legal pedagogy developing in the United States, primarily proposing “best practice” methods

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60 *Ibid.*

61 See Jochelson & Ireland, *supra* note 13 at 137; see Harris, *supra* note 9 at 798.

62 See Aidan Macnab, “U of T Trial Advocacy Course Preparing Students for Virtual Courtrooms” (2 December 2020) *Law Times*.

63 See *e.g.* Kathleen Harris, “Supreme Court Goes Zoom: Court to Start Virtual Hearing During Pandemic Closure” (3 June 2020) *CBC*.

for online learning.<sup>64</sup> In fact, data highlight the need for protocol that will facilitate a swift transition to online learning during a large-scale disruptive event like the COVID-19 pandemic.<sup>65</sup> Student survey data out of Texas Tech University Faculty of Law generated many interesting responses regarding the transition to online learning in March 2020. Professor Victoria Sutton used an online survey to assess the “attitudes and obstacles experienced in the COVID-19 transition”.<sup>66</sup> All full-time students were given the opportunity to participate in the survey for two weeks at the start of May, shortly after final exams were completed.<sup>67</sup> Students were provided with “five choices on a qualitative Likert scale of best to worst” to gauge whether students had a positive or negative perception of online classes after the spring 2020 transition.<sup>68</sup> This was undertaken with the objective to “assess the effect of the lack of time to properly design online courses”.<sup>69</sup> Approximately half of the students selected the most neutral statement “that online courses were ‘not [their] first choice for taking law courses’”;<sup>70</sup> 36 percent of the students had a negative response (“I am less inclined to take online courses” or “[o]nline courses were a bad experience”); and 11.6 percent felt positive about online learning after the transition (“I am

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64 See Seth C Oranburg, “Distance Education in the Time of Coronavirus: Quick and Easy Strategies for Professors” (2020) Duquesne School of Law Research Paper No 2020/2 ; Yvonne M Dutton & Margaret Ryznar, “Law School Pedagogy Post-Pandemic: Harnessing the Benefits of Online Teaching” (2020) Journal of Legal Education, online: *Social Sciences Research Network* <ssrn.com/abstract=3717987> [forthcoming]; Nina A Kohn, “Teaching Law Online: A Guide for Faculty” (2020) Journal of Legal Education, online: *Social Sciences Research Network* <ssrn.com/abstract=3648536> [forthcoming].

65 See generally Victoria Sutton, “Law Students’ Attitudes About Their Experience in the COVID-19 Transition to Online Learning” (2020) Texas Tech University School of Law Research Paper, online: *Social Sciences Research Network* <papers.ssrn.com/sol3/papers.cfm?abstract\_id=3665712>.

66 *Ibid* at 2.

67 *Ibid*.

68 *Ibid* at 3.

69 *Ibid*.

70 *Ibid* at 4.

more inclined to take online courses” or “[o]nline courses are my preferred way of learning”).<sup>71</sup> About 38 percent of students agreed or strongly agreed that their “satisfaction” with online classes “improved from day to day and week to week;”<sup>72</sup> however, this response was tempered by the fact that 32 percent of the students either disagreed or strongly disagreed.<sup>73</sup> In addition to the Likert-scale questions, 40 percent of respondents indicated they had “unreliable Internet,”<sup>74</sup> and over three quarters of the students felt “isolated from friends, family and classmates.”<sup>75</sup>

A year later, Sutton sent out another survey, revisiting with students in May 2021 to see if there were any attitudinal shifts in the students’ perception of online school.<sup>76</sup> In the follow-up, the return rate for the e-mail survey was much higher than the first (42.7 percent of all law students at Texas Tech participated compared to 26 percent in the May 2020 survey).<sup>77</sup> In 2021, students had “a more favourable outlook on online courses” compared to 2020. There was an 8.4 percent increase in positive responses to online learning in law school (“I am more inclined to take online courses” or “[o]nline courses are my preferred way of learning”).<sup>78</sup> On the other end of the spectrum, there was a 5.7 percent increase in negative responses (“I am less inclined to take online courses” or “[o]nline courses were a bad experience”).<sup>79</sup> Indeed, student responses moved

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71 *Ibid.*

72 *Ibid.*

73 *Ibid* at 5.

74 *Ibid* at 2.

75 *Ibid* at 3.

76 See generally Victoria Sutton, “Perceptions of Online Learning and COVID-19 Countermeasures Among Law Students in a One-Year Follow-up Study” (2021) Texas Tech University School of Law Research Paper 1 at 1, online: *Social Sciences Research Network* <[papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3865262](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3865262)>.

77 *Ibid* at 1.

78 *Ibid* at 3.

79 *Ibid.*

slightly closer to the poles in 2021 as neutral responses dropped by about 14 percent when compared to the previous survey (48 percent down to 34 percent), suggesting that some students' opinions of online legal education may have crystallized as the school year progressed.<sup>80</sup> Moreover, the perception of online law school was markedly different between 1L, 2L and 3L students when the data above were adjusted to show differences in responses between the groups.<sup>81</sup> The data showed that 1Ls preferred the online delivery method significantly more than their upper-year peers, as not a single 3L student stated that online classes "are [their] preferred way of learning law".<sup>82</sup> Interestingly, thirty percent of the 2L students stated that "[o]nline courses were a bad experience" and that they "would not want to repeat" online learning, whereas just under 20 percent of the 1Ls also felt the same way.<sup>83</sup>

Whether online learning will continue in law schools post-pandemic is yet unknown, but it certainly seems probable that some elements of online learning may remain in a post-pandemic world. Dean Heather Gerken of Yale Law School admits that some pedagogical approaches developed during the pandemic will continue:

I expect the changes in law school pedagogy to stick. That is not to say that classes will remain online when the pandemic subsides. But the pandemic led to many collective conversations about pedagogy. We have all thought a great deal harder about structuring class discussions, adapting to different learning styles, varying the pace of class, and conveying information in new and engaging ways. We discovered that flipped classrooms can sometimes work, and that they are certainly superior for the training sessions supplied by academic affairs, career development offices, and the like. Finally, the regular introduction of visitors was for some an act of desperation—an effort to make

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80 *Ibid.*

81 *Ibid.*

82 *Ibid.*

83 *Ibid.*

yet another Zoom class feel livelier. But it made us realize that technology gives us a means of bringing the world into our classrooms.<sup>84</sup>

Gerken's sanguine reflection on a year where learning was restricted to online methods of delivery is echoed by some faculty members across Canada in their own reflections on the precarious year faced by legal educators.

Many law faculties and legal educators in Canada have shared some of the adjustments that they have had to make to their law classes during the pandemic. Some law schools have adjusted their curricula to include courses that teach trial advocacy skills for online videoconferencing.<sup>85</sup> The course at the University of Calgary, for example, will “cover electronic filing and service of documents, electronic discovery and exchange of documents, pre-trial questioning of parties and witnesses using virtual technology and electronic hearing/trial”.<sup>86</sup> Tenille Brown at Lakehead University Faculty of Law added “walking tours” to her property classes, along with assignments that encourage and facilitate groupwork,<sup>87</sup> while Blair Major at Thompson Rivers University Faculty of Law found that a “bare-bones” teaching of his administrative class, followed by a review of this material, could foster a more in-depth discussion once the nuts and bolts start to make sense to the students.<sup>88</sup> The summer of 2020 provided some professors with the opportunity to test out different technological tools at their disposal such as “discussion forums” and “in-class polls and quizzes” in an attempt to find the optimal delivery method of course

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84 Heather K Gerken, “Will Legal Education Change Post-2020?” (2021) 119:6 Michigan Law Review 1059 at 1062.

85 See Macnab, *supra* note 62; Zena Olijnyk, “University Calgary Law School E-Litigation Course Points to a Future of Conducting Law Virtually” (20 November 2020) *Canadian Lawyer*.

86 Olijnyk, *ibid.*

87 See Tenille E Brown, “Thought of a Newly Appointed Assistant Professor: Learning About Place in the Time of the Pandemic” (2020) 25:4 Lex Electronica 60 at 61.

88 See Blair A Major, “Making Something New: Legal Education in a Pandemic” (2020) 25:4 Lex Electronica 93 at 95.

material to keep students actively engaged while learning the law online.<sup>89</sup> However, some professors expected more from students in spite of the challenges that were faced during the pandemic, to the dismay of their colleagues.<sup>90</sup> This led to harsher grading of exams due to the increased time allotment during finals.<sup>91</sup>

On the other end of the spectrum, legal educators have called for pedagogical reform after having ample time to reflect on the traditional learning methods that are ingrained into faculties across Canada.<sup>92</sup> Along with the 100 percent final exam, numerical grades are being scrutinized by law school professors, who are questioning their usefulness.<sup>93</sup> During the pandemic, many schools moved away from numerical grading to a pass/fail or credit/no credit evaluation model when schools initially moved online to finish the winter semester. Gemma Smyth reports that some faculty members seemed to embrace this model while some students felt that the pass/fail system was “opaque”.<sup>94</sup> The University of New Brunswick Faculty of Law instituted a “hybrid approach” which combined the traditional numerical grading model with the pass/fail model, which some found to be a problematic solution to exceptional circumstances.<sup>95</sup>

The common refrain is that COVID-19 forced educators to reassess their delivery methods. Moreover, educators are seeking to make classes universally

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89 See Nicole O’Byrne & Alden Spencer, “Leaving the Classroom Behind? Lessons Learned from Designing an Online Law and Film Webinar Series” (2020) 25:4 *Lex Electronica* 104 at 106.

90 *Ibid.*

91 *Ibid.*

92 See Jeffrey Meyers, “Accommodate Us All Please: A Case Against the Status Quo” (2020) 25:4 *Lex Electronica* 54 at 58; Major, *supra* note 88 at 97.

93 See *ibid.* See also Gemma Smyth, “Law School Assessment Revisited” (2020) 25:4 *Lex Electronica* 134 at 135.

94 See Smyth, *ibid* at 136.

95 See Jason MacLean, “How Not to Think in an Emergency” (2020) 25:4 *Lex Electronica* 140 at 142.

accessible to all students.<sup>96</sup> Some professors believe that the pandemic shutdown and transition online created an opportunity to “build back better” and provide an equitable pedagogical curriculum for every law student.<sup>97</sup> According to Anne Lavesque, this could be accomplished by implementing “universal design” into legal curricula.<sup>98</sup> Lavesque explains that “universal design means considering ‘the differences between students and differences that characterize groups of individuals when making design choices to avoid creating barriers’”.<sup>99</sup> Ruby Dhand echoes Lavesque’s recommendation insisting that “[o]ften, the primary barrier to inclusion and accessibility for law students with disabilities is attitudinal”.<sup>100</sup>

Despite the tumultuous transition from in-person learning to strict online delivery of legal education, educators were able to leave the pandemic tumult with fresh perspectives on the future of legal pedagogy. Part IV will provide the students’ perspective in this dialogue centred around legal education online. The next section will look at a 2021 survey conducted out of the University of Manitoba Faculty of Law (Robson Hall) which asked students a variety of questions related to their experiences with online learning during the COVID-19 pandemic.

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96 Anne Lavesque, “Universal Design in Legal Education in a Time of COVID-19” (2020) 25:4 *Lex Electronica* 168 at 169, citing “Guidelines on Accessible Education” (28 September 2004) at 9, online (pdf): *Ontario Human Rights Commission* <[www.ohrc.on.ca/sites/default/files/attachments/Guidelines\\_on\\_accessible\\_education.pdf](http://www.ohrc.on.ca/sites/default/files/attachments/Guidelines_on_accessible_education.pdf)>. See also Ruby Dhand, “The Covid-19 Pandemic: Accommodations and Legal Education” (2020) 25:4 *Lex Electronica* 175 at 179.

97 Lavesque, *ibid* at 173.

98 *Ibid* at 169.

99 *Ibid* [footnotes omitted].

100 Dhand, *supra* note 96 at 176.

#### **IV. Summary of the Online Law Student Survey**

Comparatively, this survey, and the surveys conducted by Jochelson and Ireland at Robson Hall in 2020 and by Sutton at Texas Tech in 2020 and 2021, had similar objectives. The aim was to assess law students' perception of online learning, and the ways in which the transition to online learning impacted these students. The surveys teased out the fluctuating attitudes of law students as the COVID-19 pandemic progressed, worsened, and subsequently affected an entire school year. While the students at Texas Tech did not have a significant majority preferring either online or in-person delivery models after a full year of distance learning,<sup>101</sup> the goal of our study is to determine how students in Canadian law schools in 2021 felt about their experiences and to see if they had a stronger preference for one delivery mode over the others. This paper provides an analysis of the quantitative data received from the survey and compares the responses received by year of law school attended, to determine whether there were statistically significant relationships between a student's perspective on remote learning and their most recent year of law school attended. While our goal was to let the data guide the analysis without prejudging or expecting any specific answer, we did hypothesize that first-year students would have less difficulty overall in transitioning to the online environment. This hypothesis was based on the fact that first-year students would be less familiar with the rigors of law school and would not have experienced an in-person legal environment, whereas third-year law students would have had the most in-person law school experience and would have more difficulty transitioning.

An anonymous 88-question, online survey was created to understand how Canadian law school students felt about remote learning; the transition to online courses; their experiences with different types of online delivery formats; their views on interaction with peers and instructors; assessment types; and support received during remote learning. No incentives were provided for participation and all students were advised that participation in the survey was voluntary. The survey questions dealt with a range of issues, including the students' "thoughts

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101 Sutton, *supra* note 76 at 3.

on the move to online learning”; the type of asynchronous lectures and technology preferred; the evaluation methods that should be implemented for online learning; questions about mental health, accessibility, financial costs; and concerns about “experiential and practical work” during the 2020-2021 school year. The survey was conducted on a 5-point Likert scale where students were given a statement and asked to select either *strongly disagree* (1), *disagree*, *neutral*, *agree*, or *strongly agree* (5). Additional open-ended response questions were asked of the students but are not included for the purpose of this paper. The survey was made accessible on the Manitoba Law Student Association website and students across Canada were provided access to the survey via a link in an email to their law school email address (when their administration agreed to pass on the link), beginning on February 23, 2021. Simultaneously, the links were distributed through Facebook and Twitter posts that used the hashtags #CNDLawSchool and #Covid19. Completed surveys were received beginning February 23, 2021 and ending on April 12, 2021 by students who had experienced a full year of classes online.<sup>102</sup> 422 responses were obtained from students attending 13 different Canadian law schools, in addition to one student response from a U.S. law school, which was excluded for the purposes of this analysis. There are currently 3916 law students in Canada, so our survey has captured approximately 10 percent of Canadian law students.<sup>103</sup>

The law school with the largest number of participants was Robson Hall at the University of Manitoba (“UM”), with just over a third of respondents attending (35.96%), while many responses were also recorded from the University of Calgary (“UC”) (17.47%) and the University of Alberta (“UA”) (13.36%). Several responses were also recorded from the University of New Brunswick (“UNB”) (8.56%), Dalhousie (“DAL”) (6.85%), Thompson Rivers University (“TRU”) (5.48%), the University of Western Ontario (“UWO”)

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102 Olijnyk, *supra* note 85.

103 Bernise Carolino, “Canadian Law Schools Added 316 Students and 35 Tenured Faculty Over Five Years, Says FLSC Update” (28 November 2019) *Law Times*.

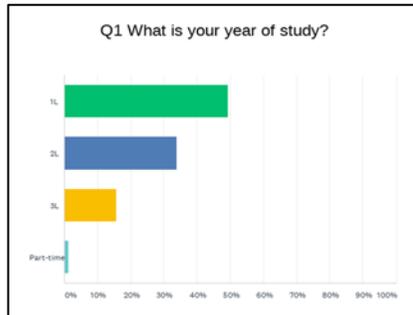
(5.14%), and the University of Saskatchewan (“USASK”) (2.74%). The remaining schools (York University, University of Ottawa, Lakehead University, McGill University and Queen’s University) accounted for less than 2 percent each:

**Table 1**

Participants by School	
Robson Hall at the University of Manitoba	35.96%
University of Calgary	17.47%
University of Alberta	13.36%
University of New Brunswick	8.56%
Dalhousie	6.85%
University of Saskatchewan	2.74%
York University, University of Ottawa, Lakehead University, McGill University and Queen’s University	2% (each)

The students were asked to identify what year of law school they were in during the 2020-2021 school year (1L, 2L or 3L) and whether they were part time or full time. No other demographic information on the students was obtained due to limitations placed by the University ethics office. Only five students of 422 reported attending law school part-time (1.18%), while 98.82 percent reported they attended full time. Graph 1 indicates that 50 percent of survey respondents were in 1L, 34.21 percent were in 2L and 15.79 percent were in 3L.

## Graph 1



The remaining 87 questions asked of survey respondents were divided into seven categories: general ideas about law school online (13 questions); teaching format (16 questions); preferred interfaces (7 questions); level of interaction (10 questions); evaluation (16 questions); accessibility (11 questions); and resources and mental health needs (14 questions). Each category had a mix of closed ended 5-point Likert scale questions, which required students to respond to a declarative statement by selecting, from left to right: “*strongly disagree*” (1), “*disagree*” (2), “*neutral*” (3), “*agree*” (4) and “*strongly agree*” (5) and open-ended response questions, which allowed students to elaborate on their experiences and provide suggestions for improvement more fully.

In order to analyze the different survey questions, and to determine whether the students’ year of law school had any effect on their responses, a cross-tabulation (crosstab) was conducted. This method is particularly useful for this study as it provides a table depicting the relationship between two categorical variables, as were examined here. We then used Pearson’s Chi Square with the standard 0.05 confidence level to determine statistical significance — meaning that if statistical significance is achieved, then there is a less than five percent chance the relationship observed is due to sampling error.

## V. Discussion and Results

### A. General Ideas About Law School Online

Overall, the survey revealed that students seemed to strongly favour in-person delivery methods over online learning, and did not have high levels of confidence in professors' abilities to transition to an online model, or in their own ability to maintain the standards they had set for themselves. Seven out of 12 Likert-scale questions achieved statistical significance at a 95 percent confidence level ( $p = 0.05$ ). The questions achieving statistical significance were "I am confident with my professors' abilities to develop an online law school format"; "[i]t is essential that my online classes have a participation component"; "I would prefer to have all lectures uploaded as early as possible so I can watch them at my convenience"; "I would prefer to have lectures uploaded weekly"; "I prefer online seminars to in person seminars"; "[i]t is essential that my online classes have interactivity with my professors"; and "[i]t is essential that my online classes have interactivity with my peers". These results are represented below in Table 2:

**Table 2**

Variables	Total Mean	Mean 1L	Mean 2L	Mean 3L	Min	Max	Statistically Significant P = .05
I can learn effectively in an online format	2.91	2.99	2.85	2.74	1	5	No
I am confident in my abilities to keep up with online law school	2.98	3.01	2.95	2.94	1	5	No
I am confident in my professor's abilities to develop online law school	2.89	3.04	2.84	2.43	1	5	Yes
I prefer online lectures to in person lectures	2.15	2.19	2.07	2.00	1	5	No

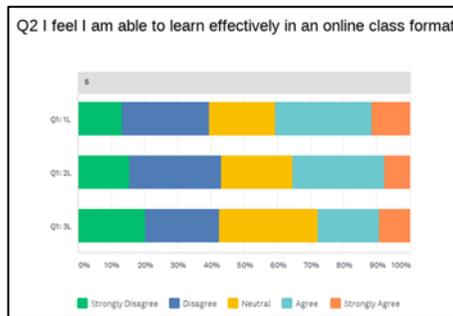
I prefer online seminars to in person seminars	2.13	2.13	2.08	2.07	1	5	Yes
It is essential that my online classes have interactivity with professors	3.84	3.97	3.67	3.78	1	5	Yes
It is essential that my online classes have interactivity with peers	3.57	3.82	3.28	3.48	1	5	Yes
It is essential that my online classes have a participation component	2.69	2.95	2.38	2.60	1	5	Yes
I would prefer to have all lectures uploaded as early as possible so I can watch them at my convenience	3.87	3.93	3.71	4.04	1	5	Yes
I would prefer to have lectures uploaded weekly	3.28	3.29	3.22	3.43	1	5	Yes
If all lectures were uploaded at the beginning of the semester, I feel confident that I could stay up to date	3.13	3.16	3.03	3.19	1	5	No
If all lectures were uploaded weekly, I feel confident that I could stay up to date	3.58	3.57	3.50	3.78	1	5	No

Students were split as to whether they felt they were able to learn effectively in the online format. 41.09 percent of students disagreed or strongly disagreed with the statement “I feel I am able to learn effectively in an online format”,

while 37.30 percent of students agreed or strongly agreed and 21.62 percent of students were neutral.

When broken down by year of law school currently attended, 3L students were the most likely to strongly disagree with the statement (20.37%, to 15.38% in 2L, and 13.19% in 1L), or to be neutral (29.63%, compared to 21.54% of 2L and 19.78% 3L) (Graph 2). 1L students were the most likely to agree, or strongly agree with the statement (40.66%, compared to 35.38% of 2L and 27.78% of 3L). The weighted average of this question also declined by year of law school, reaching 2.99 for 1L, 2.85 for 2L and 2.74 for 3L, though the results were not statistically significant.

**Graph 2**



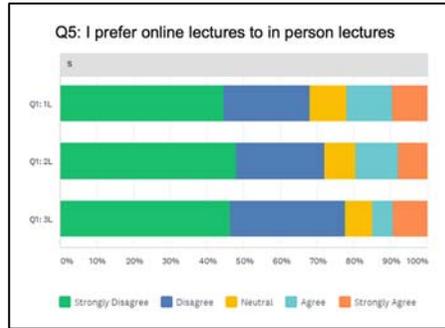
Students strongly preferred in-person lectures, with just over 70 percent of students disagreeing or strongly disagreeing that they preferred online lectures or seminars to in-person ones, which supports some of the pre-pandemic data that law students prefer in-person classes over online classes.<sup>104</sup> As can be seen below in Graph 3, this effect was more pronounced in upper-level students, with 77.78 percent of third year students indicating they disagreed or strongly disagreed, compared to 72.09 percent of second year and 68.14 percent of first year students, though this difference did not achieve statistical significance. The

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104 See Auld, *supra* note 50.

weighted average also declined, indicating more disagreement with the statement by year of law school attended (1L = 2.19, 2L = 2.07 and 3L = 2.00).

Graph 3

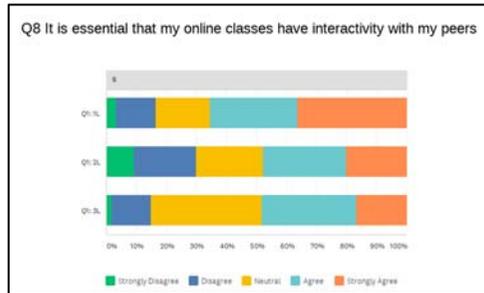


Students also answered “I am confident in my abilities to keep up with an online law school format” in the affirmative more frequently the earlier they were in their law school career, though the results were not statistically significant.

When asked to indicate whether they “prefer online seminars to in-person seminars”, close to 69 percent of the students that answered either disagreed or strongly disagreed. Students thought interactivity with professors was highly important, as 65 percent agreed or strongly agreed with the question “it is essential that my online classes should have interactivity with my professors”, while only 13 percent of students disagreed or strongly disagreed.

However, students tended to value interactivity with their peers slightly less (56%). Graph 4 shows us that this was particularly true for 2L and 3L students but not for 1L students, who had a strong preference for interactivity with peers. This was statistically significant.

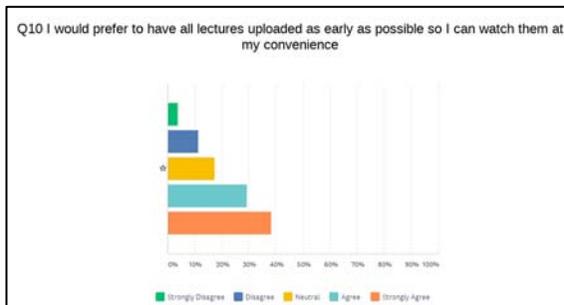
**Graph 4**



Interestingly, students did not consider a participation component to be an essential aspect of online learning within law school (over 50% either disagreed or strongly disagreed). This tends to go against professors’ expectations of creating a participatory environment to make up for the lack of available face-to-face interaction.

Graph 5 shows student responses to the asynchronous component of their online courses had mixed results. It was clear that students preferred to have “all lectures uploaded as early as possible so [they] can watch them at [their] convenience” (67% either agreed or strongly agreed). This speaks to the flexibility that asynchronous lectures can provide students which has been observed by educators in the field.<sup>105</sup>

**Graph 5**

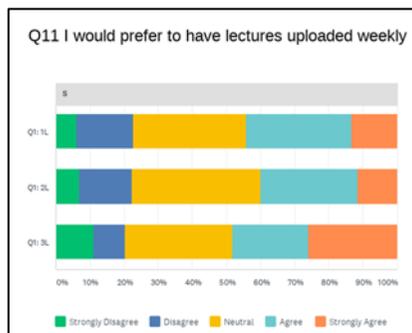



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105 See Sankoff, *supra* note 4 at 902.

Surprisingly, only 43 percent of students felt that they could keep up with the asynchronous material if they were all uploaded at the beginning of the semester, hinting that too much flexibility could be troublesome for some students. However, students agreed that if the lectures were uploaded weekly, they would feel “confident” that they would “stay up to date” with them, even though only 43 percent of the students agreed that they generally prefer weekly uploads, while 35 percent were neutral. When broken down by year, 3L students were significantly more volatile as 25.93 percent strongly agreed with having all lectures uploaded weekly (a statistically significantly higher amount than their 1L and 2L peers) but were also most likely to strongly disagree with having lectures uploaded weekly (11.11% compared to 6.92% for 2L and 6.08% for 3L) (Graph 6).

Graph 6

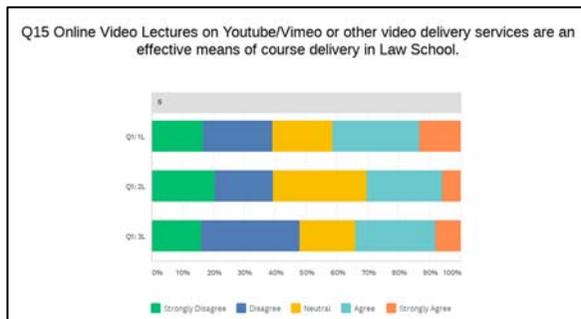


## B. Questions About Lecture Format

Technology was an important component to the online delivery of legal education for Canadian law schools in the past year. Educators had many tools available to them as they geared their law classes and syllabi for a full year of online learning. There was no overwhelming majority when asked to comment on whether “YouTube/Vimeo or other video delivery services are an effective means of course delivery in Law School” (37% disagreed/strongly disagreed, 23% remained neutral, and close to 27% agreed/strongly agreed). When broken down by year of law school attended, 2L students were the most likely to

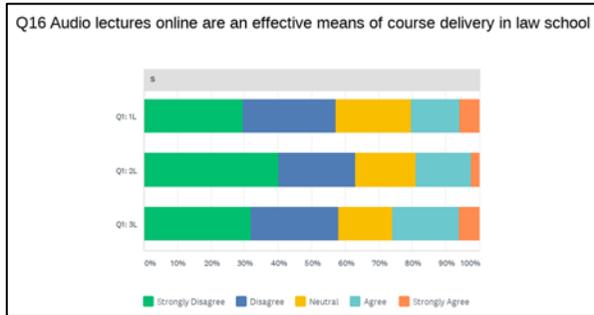
strongly disagree that online lecture videos are an effective means of course delivery and 3L students were most likely to disagree with the statement entirely with more than 47 percent (Graph 7). No cohort expressed more than 45 percent (1L) agreement with online video lectures being an effective means of course delivery. The difference between the level of strong agreement reached statistical significance between 1L (13.22%) and 2L (5.74%) students.

### Graph 7



Students did clearly prefer a video method to an audio one, as 59 percent of the students disagreed or strongly disagreed that “[a]udio lectures online are an effective means of course delivery in law school”. This was particularly pronounced for 2L students, as more than 40 percent strongly disagreed with the statement, in addition to 22.95 percent disagreeing — the largest cohort of disagreement within any year. 3L students were the most favourable to audio lectures with 26 percent agreeing or strongly agreeing that they were effective, as can be seen in Graph 8.

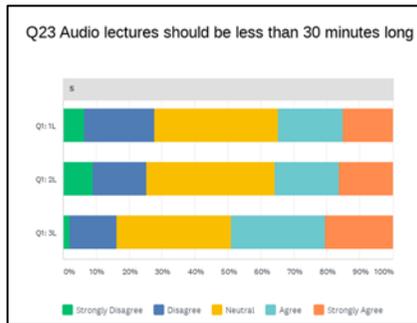
### Graph 8



Podcasts were also viewed unfavourably and had nearly identical responses to audio lectures. However, statistical significance was achieved between 1L and 2L students in the category of strongly disagree (27.91% to 40.16%, respectively) and disagree (29.65% to 18.03% respectively).

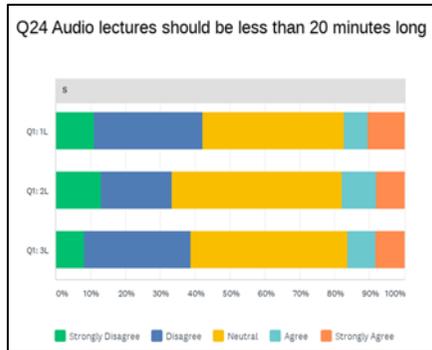
Narrated PowerPoints received mixed reviews but were preferred slightly (mean of 3) over audio lectures and podcasts (mean of 2.9). The differences between year of school attended was not statistically significant. The June 2021 survey indicates that a pedagogical approach that incorporates a visual component for asynchronous lectures will likely be more effective than any type of audio recording on its own. Students of all levels consistently agreed that audio recordings on all platforms should be “kept to less than 50 minutes long”. However, students were more apt to be neutral regarding keeping recordings shorter than 30 (Graph 9), with the caveat that 3L students were more likely to strongly agree with keeping audio recordings to under 30 minutes than their 1L or 2L peers, though the difference was not statistically significant.

Graph 9



Most students in all levels were also neutral about audio lectures being shorter than 20 minutes long (Graph 10), though 1L students disagreed with the statement significantly more than their 2L peers (11.49% to 3.25%), a result which did achieve statistical significance at the  $p=.05$  confidence level.

Graph 10



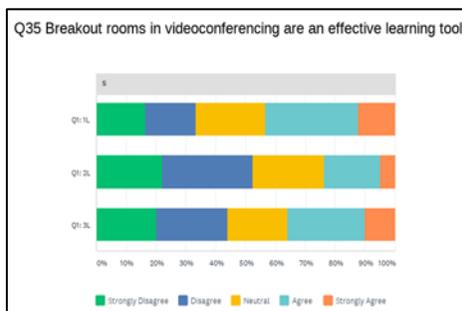
### C. Questions About Videoconferencing

When asked about whether videoconferencing is an “effective means of course delivery in law school”, close to 47 percent of the respondents either agreed or strongly agreed. There was little difference between the year of law school attended, though 3L students were the least likely to agree or strongly agree with the statement.

When asked which video platform they preferred, over 61 percent of students preferred Zoom over other videoconferencing platforms. 1L students were the most likely to agree or strongly agree with Zoom being their preferred platform while 2L students were the least likely to agree, with the results being statistically significant (3.51% of 1L students disagreed, while 11.48% of 2L students disagreed). Students in all years disliked Microsoft Teams (though 3L students were slightly more likely to prefer this platform compared to their peers, a result failing to achieve statistical significance) and greatly disapproved of Cisco Webex, with less than 2 percent agreeing or strongly agreeing that it was the best platform for online course delivery.

With regard to “Breakout Rooms” being an “effective learning tool”, 41 percent of students that answered disagreed or strongly disagreed with this statement, while 23 percent were neutral, and 36 percent of students agreed or strongly agreed. As can be seen in Graph 11, the results here varied significantly by year as 1L students were far more receptive to breakout rooms than their 2L or 3L peers. This result achieved statistical significance on the disagree, agree and strongly agree variables respectively. 2L students were the least likely to believe breakout rooms were an effective learning tool, with only 23.78 percent of students agreeing or strongly agreeing.

**Graph 11**



The trend of statistical significance continued as students were asked whether “breakout rooms should be used extensively for class discussions” with 54 percent disagreeing or strongly disagreeing and 22 percent falling in the

neutral category. Once again, 2L students were the least likely to see value in using breakout rooms, as 34.71 percent strongly disagreed, compared to 21.05 percent of their more favourable 1L peers, and only 10.74 percent agreed, compared to 22.81 percent of 1L students.

When asked if breakout rooms should be abolished altogether, 37 percent of students ultimately disagreed or strongly disagreed that breakout rooms should not be used at all in classrooms with close to 33 percent agreeing. Breaking from the previous pattern, 3L students were the most likely to desire the abolishment of breakout rooms, though the results were not statistically significant with 44 percent of students agreeing or strongly agreeing, compared to 41.8 percent of 2L and 33.33 percent of 1L students.

These responses suggest that breakout rooms may have a place within the online classroom but should not be used as a central focus outside of perhaps in first year, echoing the 2016 report from the Academic Innovation Committee out of the University of Manitoba above.<sup>106</sup>

## **D. Questions About Distance and Remote Learning**

Unsurprisingly, 80 percent of students disagreed that they would be comfortable learning the course material with the syllabus, readings and posted class notes but without videoconferencing and video lectures, with 1L students feeling the least comfortable, and 3L students feeling the most comfortable, though the results were not statistically significant aside from a large difference in neutral feelings between 1L (3.59%) and 2L (9.32%) students.

More than 75 percent of the students that responded felt that videos of some type, whether live or recorded, are an essential component to learning the law online and would react negatively if they were not used as a pedagogical tool. 2L students reacted most negatively and least neutrally, and 3L students reacted the least negatively and the most neutrally, results that achieved statistical significance. This reaffirms the findings above that a visual component is likely to be valued highly by students taking online courses. The survey also found

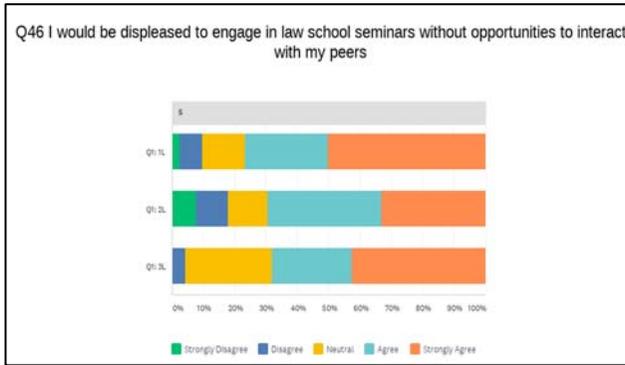
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106 Shariff et al, *supra* note 4.

that students seem to value PowerPoints much more than podcasts or audio lectures and would react less negatively if the latter two were discontinued as teaching tools. There were not statistically significant differences between the different cohorts. This demonstrates that a blended model for online law school classes that incorporates videoconferencing, video lectures, podcasts and PowerPoints would be significantly preferable to students.

When asked about their perspectives on interaction with others, 83 percent of all students agreed or strongly agreed that opportunities to interact with professors were important to them and there was little difference between the cohorts. Interaction with peers was also rated as highly important, although slightly less so (4.0 for peers, compared to 4.3 with professors). In this area there were numerous differences between cohorts as only 4.26 percent of 3L students disagreed that they would be displeased with no opportunity for interaction with peers and no 3L students strongly disagreed with that question (Graph 12). This is in comparison with a combined 17.8 percent disagreement or strong disagreement for 2L students and 9.55 percent disagreement in 1L students. 3Ls were the most likely to be neutral on peer engagement. Both results achieved statistical significance. Overall, 1L students were the most likely to agree or strongly agree with the statement, though this difference was not statistically significant.

**Graph 12**

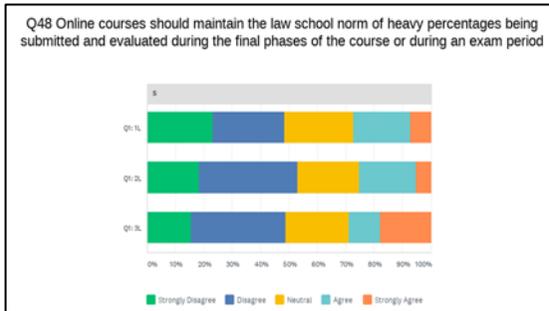


It is quite clear that students highly value the socialization that occurs within law school and would prefer to nurture this aspect of law school as much as possible while online. In the original 2020 survey (which occurred early in the pandemic), the importance of interaction was rated much lower (3.3/5 for peer interaction compared to 4.0 for interaction with professors), possibly suggesting a shift in students’ priorities as the pandemic has progressed.

**E. Evaluation**

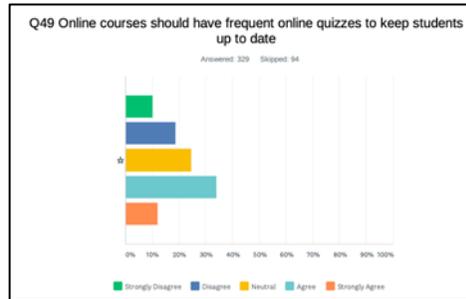
There were several questions on the topic of law school evaluation methods during online learning. Students expressed mild disagreement with the idea that “[o]nline courses should maintain the law school norm of heavy percentages of evaluation occurring within the final phase of the course/during the exam period” (2.7/5). In Graph 13 we see 3L students were the most in favour of keeping the traditional assessment model with 17.78 percent of students strongly agreeing with the statement; a statistically significant difference from both 2L (5.22%) and 1L (7.27%). This is likely due to 3L students feeling more comfortable with this assessment method, due to more frequent exposure and less negative anticipation.

### Graph 13

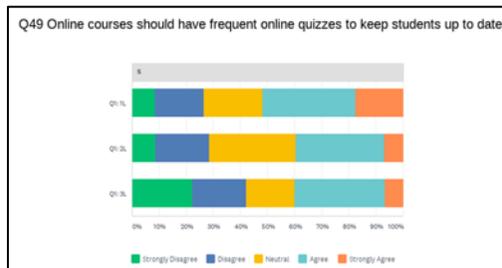


Graph 14a speaks to the fact students seemed more open to the idea of “frequent online quizzes to keep students up to date” (46% either agreed or strongly agreed with only 29% disagreeing or strongly disagreeing). 3L students, continuing the pattern from previous questions, were statistically significantly, the most likely to strongly disagree with this idea (22.22%) compared to 8.62 percent of 2Ls and 8.43 percent of 1Ls (Graph 14b). This trend reverses for the “strongly agree” category, where 17.47 percent of 1L students supported frequent online quizzes, compared to 6.90 percent and 6.67 percent for 2Ls and 3Ls respectively. The data indicates that close to half of the students surveyed — and more than half of first-year and second-year students — may have been worried about staying on track during the lengthy school year of online classes and would have embraced low-stakes evaluation methods from the educator to stay on track. In fact, 55 percent of the students that answered would be open to these quizzes being counted toward their final grade, again with the majority of these being first-year and second-year students.

## Graph 14a



## Graph 14b



There seems to be very little positive support toward courses that are predominantly evaluated through final essays or exams as only 10 percent of the students that answered this question either agreed or strongly agreed with this suggestion. Close to 46 percent of students would ultimately prefer a mix of “written, or online quizzes including a host of other options like ‘essays, memoranda, multiple choice, true false [*sic*], and/or matching exercises’”. This, however, comes with a caveat as 35 percent of the responses were neutral, which was consistent across all cohorts. On the topic of attendance and participation, students seem to favour less stringent rules. 55 percent of students that responded either disagree or strongly disagree that attendance and participation should be mandatory within law school classes online, a result that was similar across all years. A similar number of students also disagree or strongly disagree that attendance and participation should be “part of the marks for online

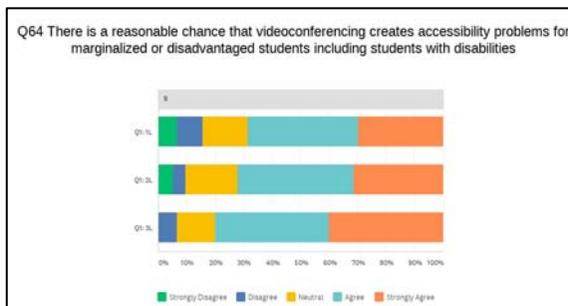
courses”, though 3L students were least likely to desire participation or attendance grades, though the result did not achieve statistical significance.

A pass/fail evaluative method had close to an equal distribution as 39 percent of the students either disagreed or strongly disagreed while 41 percent agreed or strongly agreed (21 percent felt neutral) that the method should be implemented into law school curricula while online. Students slightly leaned closer to disagreeing with a permanent move to the pass/fail grading scheme or an option for students to choose between the traditional grading method and pass/fail, but none of the questions about pass/fail grading achieved any statistically significant differences between cohorts.

### F. Accessibility Issues

Students overwhelmingly agreed with statements saying that there was a reasonable chance that videoconferencing and video lectures created “accessibility problems for marginalized or disadvantaged students including students with disabilities” (with students slightly more concerned about videoconferencing — 3.9/5 compared to 3.7/5 for video lectures). As can be seen in Graph 15, these results demonstrated a statistically significant difference between cohorts, as 3L students were the most concerned regarding these issues.

Graph 15



Students also believed podcasts and traditional distance tools such as posted PowerPoints, syllabi, and readings to be problematic (3.6/5 and 3.5/5

respectively), with 3L students again being statistically significantly the most likely to agree that both created accessibility concerns.

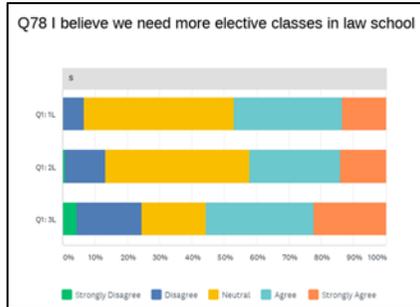
In terms of evaluation, students believed there was a reasonable chance that online quizzes and exams created accessibility problems (3.8/5 for both) with 3L students again demonstrating the most concerns on these topics (both achieved statistical significance). Online take home assignments and podcasts were thought to bring fewer accessibility issues, rating a neutral 3/5, and 1L students were statistically significantly far more likely to disagree with these statements than their 2L or 3L peers. Required participation marks were also expected by students to cause accessibility problems (3.6/5).

Although some students worried about privacy issues in online courses, the general body was not particularly concerned (2.6/5). Students had a neutral response when asked if they were concerned “what others may see or hear during online videoconferencing (3.1/5), with 3L students disagreeing or strongly disagreeing most frequently (46.67% compared to 35.65% of 2L students and 39.39% of 1Ls).

## **G. General Questions About Law School**

Most students agreed that they were satisfied with the selection of mandatory courses required in law school (3.1/5), with few students desiring more mandatory classes in law school (2.4/5). Indeed, the data suggests that it is not the doctrinal courses that are at issue but that it is the workload that may be exacerbating anxiety amongst the student body. Most students were neutral (42%) about the statement “I believe we need more elective classes in law school”, although overall students agreed with the sentiment (3.5/5). Graph 16 outlines that 3L students were the least likely to be neutral and the most likely to support the introduction of more elective courses in law school, though there was more polarization as more 3L students also strongly disagreed with the statement. All results for this question showed a statistically significant difference from each other.

### Graph 16



Mental health was another topic covered by the survey and students’ responses and comments provided a clear picture that online learning can have a serious effect on students’ well-being. Student comments revealed that many struggled daily with their mental health and emphasized that online learning in conjunction with the isolation that students experienced exacerbated this daily struggle. 70 percent of the students that answered felt that online classes had “a detrimental effect” on their mental health, with 48 percent of students strongly agreeing. This was again, most frequently seen in 3L students as more than 82 percent agreed or strongly agreed with the statement — a statistically significant difference from their 2L and 1L peers.

Other important comments from students addressed the financial implications of law school and the workload that is expected of students online. Many students were displeased with the cost of tuition for online learning as they found that the quality of learning and teaching online was not comparable to in-person learning methods. Several students were displeased with paying for campus services that were not being used because of the COVID-19 mandates, including Moot Court (2.9/5), and the library (3.4/5). Furthermore, a strong majority of students responded that they were unable to maintain their “hobbies and interests” during the school year highlighting the nexus between assigned workload, hobbies and interests, and overall mental health.

## **H. Summary of Results**

The results we have shared in this paper are subject to a major caveat. All students answered during the pandemic lockdown in Canada. Undoubtedly the results are influenced by the context of engaging in remote learning while being unable to spend significant time outside of one's domicile.

During the heart of the pandemic, our results show that interactivity matters to students, though forced participation is not their preference. Mainly, despite a 1L adaptability towards remote learning, student preferences lean towards in-person learning. Students favoured weekly uploaded video content. Across each year of study, students favoured in-person learning opportunities. Video lectures in asynchronous format did not rate strongly for student preferences but did rate more strongly than various audio options. PowerPoints were felt to be essential. Videoconferencing was the preferred mode of remote learning, and indeed seen as essential, while Zoom was the preferred platform. Breakout rooms were a useful tool for students although just as many students did not prefer these fora. Certainly, the use of breakout rooms for extensive discussion was not countenanced by the majority. Professor interaction was an aspect of law school that seemed germane to most students as was peer interaction.

Evaluation results echo previous findings, that students find evaluative instruments weighted heavily at the end of a course to be unappealing, and though no one form of evaluation, including participation grades, were popular, mixed mode evaluation throughout a year is preferred, although many students remain neutral on questions of evaluation. Pass/fail grading during pandemic learning divided the students nearly equally in terms of preferences.

Accessibility issues were seen in nearly all questions that pertained to modes of remote law teaching, and students were surprisingly not as concerned about privacy as many in the legal teaching community may have feared. Mental health, unsurprisingly, was a serious issue for students. It remains to be seen if some of these issues abate as society opens up even as some distance learning may continue.

## **VI. Conclusion**

It has been a fraught year for law educators and students. The pivot to online learning was sudden and work intensive for all parties. The reactions collected during the heart of the pandemic reflect a largely dissatisfied student body, struggling with mental health challenges, during a once in a lifetime world crisis. The students desire in-person learning and they desire the interactivity of law school. Perhaps, as society returns to some semblance of normalcy, these learning preferences will abate.

Educators can take note, though, that it is possible to use remote tools to augment whatever state of play becomes routine in our new normal. The use of Zoom and the fostering of online interactivity may still play a relevant role when an instructor is travelling, at home with a cold or when bringing in guest speakers from across the world. Issues pertaining to mental health and accessibility will not entirely recede as we transition back to the in-person classroom. The anxiety and punitive nature of heavy end-of-term evaluation will likely remain.

The lessons learned may affect how we engage in office hours or small-group meetings going forward. Videoconferencing may provide us with effective supplemental or alternative teaching as we move forward. Law remains a human discipline, where people matter, where interaction matters and where in-person learning is preferred. It is for a different study to evaluate whether remote or in-person modes of instruction lead to better learning outcomes. Regardless of how one interprets our results, the pandemic law instruction season was difficult for students. More studies will be needed to assess how remote technologies will assist during the return to normal as we emerge from pandemic learning.