Racialized Interactions in the Law School Classroom: Pedagogical Approaches to Creating a Safe Learning Environment

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Introduction

In summer 2016 I served as the director of the CLEO summer institute.[1] While racial violence was erupting in the country, I faced my own dilemma on how to deal with tension about race in the learning environment.[2] When I brought forty-four CLEO students to the county courthouse to watch sentencing hearings, one student spoke out to the attorneys, saying she felt that a black defendant was being mistreated. The public defender was taking questions from the students after the sentence had been pronounced and before the defendant was escorted out of the room. It made the public defender look insensitive, and she seemed unfazed by the lengthy sentence the defendant received. The student stood up and reprimanded the public defender. As a guest of the court, I was mortified at this student's actions, yet I also understood her perspective. I felt torn and did not know whether I should chastise her for speaking out or support her for standing up for what she perceived as an injustice.[3] Ultimately, I decided to speak with the student one on one about the issue, as opposed to working through the issue with the

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1. The Council on Legal Education Opportunity (CLEO) is an organization that works to expand legal education opportunities for minority and low-income students. The CLEO summer institute is a six-week program preparing minority and low-income students for law school. The CLEO website can be found at https://cleoinc.org/programs/pre-law-summer-institute/.

2. Philando Castile and Alton Sterling were shot and killed by police and five police officers were killed by a sniper in Dallas, all within one week. *See* Sewell Chan, *Shootings in Dallas, Minnesota and Baton Rouge: What We Know*, N.Y. TIMES (July 8, 2016), https://www.nytimes.com/2016/07/09/us/dallas-attacks-what-we-know-baton-rouge-minnesota.html.

3. *See* Katrina Miriam Wyman, *Is There a Moral Justification for Redressing Historical Injustices?*, 61 VAND. L. REV. 127, 134 (2008) (Injustice can be defined as actions authorized by government or corporations that involve violations of fundamental human rights, including discrimination based on race, religion, or ethnicity).

entire group as a teaching moment. If I could have done it over, I would have pursued the latter choice.

These dilemmas frequently happen within the law school setting because of the nature of law and how it intersects with society.[4] It is inevitable and important that racial issues be discussed in classrooms, particularly when considering our purpose of training future lawyers who will serve on the front lines.[5] Be it affirmative action, *Terry* stops, freedom of expression,[6] or discussions of disproportionate incarceration, these topics come up frequently within the law school curriculum. However, navigating these topics can seem like a minefield for most. Issues evoking tension and microaggressions can pop up unexpectedly, despite the lengths to which a professor plans the delivery of the material. This article will define racialized interactions and psychological safety within the classroom and discuss typical professor responses. It will also explore best practices and practical tools for professors to help students navigate and learn from these interactions while maintaining psychological safety. It will conclude with my own reflection on my practices in the classroom and provide examples from which others can learn.

Intersection of Law and Race

Law in the United States, whether explicitly or implicitly, serves as a race-based system of rights and privileges.[7] Historically race was explicit in our legal system; it dictated who could be a citizen, who had the right to contract or be protected by laws, and who had the right to vote.[8] Specifically, in cases such as *Dred Scott v. Sandford*, white supremacy over black people was articulated and made the law of the land. All branches of government—and all aspects of the law in the eighteenth and nineteenth centuries and the first part of the

4. *See* Anastasia M. Boles, *Seeking Inclusion from the Inside Out: Towards a Paradigm of Culturally Proficient Legal Education*, 11 CHARLESTON L. REV. 209, 221-22 (2017) (discussing the vandalism at Harvard Law School in which black tape was put across the portraits of black tenured law faculty, how race intersects with law, and how cultural competency should be a part of the law school curriculum and skill development).

5. *See* Carolyn Copps Hartley & Carrie J. Petrucci, *Practicing Culturally Competent Therapeutic Jurisprudence: A Collaboration between Social Work and Law*, 14 WASH. U. J.L. & POL'Y 133, 171-73 (2004) (describing a cultural competency education model that could be effective for law schools); *see* Carwina Weng, *Multicultural Lawyering: Teaching Psychology to Develop Cultural Self-Awareness*, 11 CLINICAL L. REV. 369, 403 (2005) (describing a framework to teach law students to develop self-awareness, which initiates multicultural lawyering competence).

6. The NFL *take-a-knee* protests have resulted in many racialized interactions within classrooms recently. *See* Debbie Truong, Sarah Larimer & Susan Svrluga, Georgetown Law students and faculty protest speech by Attorney General Jeff Sessions, THE WASHINGTON POST, September 26, 2018, https://www.washingtonpost.com/news/grade-point/wp/2017/09/26/georgetown-law-students-plan-to-protest-jeff-sessionss-speech/?utm_term=.43bba122b966.

7. *See* F. Michael Higginbotham, RACE LAW: CASES, COMMENTARY, AND QUESTIONS 4 (4th ed. 2015) (discussing the values and prejudices that shape law, and the history of State v. Mann, 13 N.C. 263 (1829)).

8. *Id.*

twentieth—promoted white supremacy as the foundation of the United States structure.[9] Since the abolition of segregation and the civil rights movement, our cultural and legal systems have adopted colorblind methods of operation in which race and color are not acknowledged.[10] Merely ignoring color serves to perpetuate whiteness as the norm, and the impact of law on nonwhites is readily noticeable. Despite laws not being discriminatory on their face anymore (de jure), such as past practices of redlining[11] or segregating schools,[12] race is still implicit in the impact of the law in terms of the way law functions (de facto), primarily through enforcement.[13] Some law school courses that seem benign when it comes to race still have racial undercurrents within the laws of the cases themselves and in the manner in which they are applied.[14] Race enters the legal academic setting through racialized facts, history, and classroom dynamics. The reality is that race is endemic to all cases, as all people have a race, including whites. Therefore, race is not just an issue for those who are nonwhite. This article, in analyzing best practices for navigating racialized interactions within the classroom, operates under a critical race theory premise that racism is normal and endemic within our society, and it permeates all aspects of our culture, including law.[15]

9. *See* Margalynne J. Armstrong & Stephanie M. Wildman, *Teaching Race/Teaching Whiteness: Transforming Colorblindness to Color Insight*, 86 N.C. L. Rev. 635, 646-47 (2008) (discussing how whiteness was established as the societal norm through landmark cases and how white supremacy was the law of the land).

10. Justin Desautels-Stein, *Race as a Legal Concept*, 2 Colum. J. Race & L. 1, 31 (2012) (discussing how neoliberalism brought about the colorblind nature of law).

11. Redlining was/is a discriminatory practice of denying financial services or raising prices in an area based on the racial makeup of that neighborhood. *See* Willy E. Rice, *Race, Gender, "Redlining," and the Discriminatory Access to Loans, Credit, and Insurance: An Historical and Empirical Analysis of Consumers Who Sued Lenders and Insurers in Federal and State Courts, 1950-1995*, 33 San Diego L. Rev. 583, 687 (1996) (giving an overview of the practice of redlining).

12. *See* Plessy v. Ferguson, 163 U.S. 537, 559 (1896) (declaring segregation the law of the land); *see also* Brown v. Bd. of Educ. of Topeka, 347 U.S. 483, 495 (1954) (finding separate but equal unconstitutional).

13. *See* Michelle Alexander, The New Jim Crow: Mass Incarceration in the Age of Colorblindness (2012) (unveiling the way in which seemingly neutral laws have alarming disparate impact on people of color); *see* Amy Laura Cahn, *Our "Rights Are Not Cast in Stone": Post-Katrina Environmental "Red-Lining" and the Need for a Broad-Based Human Right Lawyering Movement*, 12 U. Pa. J.L. & Soc. Change 37, 39-40 (2009) (describing how property risk assessment after Hurricane Katrina rated areas differently for black and lower-class neighborhoods, essentially invoking redlining principles from the past).

14. *See id.*

15. First developed by Derrick Bell, Alan Freeman, and other scholars, as a response to critical legal studies (CRT), CRT emphasized that in order to understand oppression, the stories, experiences, and history of the oppressed must be examined. *See* Tara J. Yosso, *Whose Culture Has Capital? A Critical Race Theory Discussion of Community Cultural Wealth*, 8 Race, Ethnicity & Educ. 69 (2005). Specifically, Litowitz suggests, "Racism is 'normal' in our society. Racist assumptions about minorities pervade our mind-set and are reinforced in the media and popular culture. Race is encoded not merely in our laws, but in our cultural symbols . . . ." Douglas E. Litowitz, *Some Critical Thoughts on Critical Race Theory*, 72 Notre Dame L. Rev. 503,

Racialized Interactions

Improperly navigated racialized interactions diminish psychological safety for all students, but in particular for students of color. These interactions can include explicit conversations that deal with race, but also implicit discussions that may invoke the complexity of race.[16] When students experience these incidents or any interactions that negotiate the complexities of race, the common reaction is powerful emotion.[17] These emotions are amplified when students do not feel that they are valued within the conversation. For example, when issues arise in class of the police's use of force toward African-Americans, Deferred Action for Childhood Arrival, and immigration, the complexity of stereotypes, inferiority, criminalization of minorities, inequities, and privilege are some of the unspoken forces that shape the interaction. Students of any ethnicity may shut down because of the overwhelming emotion they feel, or they may feel fear because they do not perceive their identity or perspective to be valued within the environment.[18] Similarly, students may react with anger and sharp words because their perceptions are being challenged or because their privileges are being revealed. In their basic form, racialized interactions consist of unequal power and privilege relationships; they reveal differences in perspectives, can be found offensive to others, may display prejudices and biases, and can elicit an emotional response.[19]

An example would be an overtly racial interaction that is commonly understood by the entire class. Sabrina, a law student in the Northeast, described her experience with racialized interactions in her criminal law class. She explained:

> The one thing that stands out to me is that my second semester is when we took Crim law and it was the same semester that the Trayvon Martin incident took place. I was literally the only black person in my section in Crim law, I think it was made up of maybe two or three sections combined, but I was the only black student in the class. I sat front row, and I kind of like became the voice for African Americans everywhere. And the professor didn't quite know how to moderate that conversation.
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> I mean he didn't really know how to moderate it. He would be like "well that's an interesting perspective." It was kind of like he already had his mind made up about his course, because he's been studying this for numerous years, and listening to material for a long time. It was kind of like he didn't really care

506 (1997).

16. *See* Paul C. Taylor, Race: A Philosophical Introduction 5-6 (2d ed. 2013) (discussing how race talk is expressive, interpretive, and all around us).

17. *See* Derald Wing Sue, *Race Talk: The Psychology of Racial Dialogues*, 68 Am. Psychol. 663, 664-65 (2013).

18. This is particularly true if the students come from underrepresented groups.

19. *See* Derald Wing Sue et al., *Racial Microaggressions and Difficult Dialogues on Race in the Classroom*, 15 Cultural Diversity & Ethnic Minority Psychol. 183, 184 (2009).

> about that aspect of that. It was more like he had an answer in mind that he wanted to hear from students, and mine was not it.[20]

In this example, the death of Trayvon Martin evoked the complexities of race, but so did the fact that only one student of color was present in the classroom. This type of interaction and discussion had numerous levels of racialized interaction that were compounded by the class demographics.

Additionally, a racialized incident could be implicit, such as students snickering when a student of color speaks, or a professor of color receiving pushback from students about her qualifications. As pointed out in the article *Race and the Core Curriculum in Legal Education*,[21] the property case *Johnson v. M'Intosh* brings up a host of racial issues about land obtained from Native American people as opposed to grants from the English government.[22] It is foreseeable that this type of case could bring up comments about Native Americans, and students could comment on the racial hierarchy that existed for people of color, including Native Americans.

In both the Trayvon Martin and property examples, the students and the entire classroom are negotiating the complexities of race. The Trayvon Martin incident is explicit, and was probably expected by the professor, despite the student's evaluation that he was not prepared for the conversation surrounding race. In the property example, a professor may or may not be prepared to navigate a racialized interaction, particularly since the racialized interactions can come in endless forms and dynamics, thus making them difficult to navigate. A host of issues could be brought up, such as someone expressing the view that conquered people have no right to their land. Adversely, a student could comment on the vast history of white supremacy. These types of racialized interactions necessitate professor readiness for navigating issues on a moment's notice.

A 2009 study conducted by Sue found that the typical reactions for students during racialized interactions include fear, anxiety, anger, defensiveness, sadness, crying, leaving the classroom, and withdrawing from the class.[23] Another study by Sue explored how students of color experienced racialized incidents in the classroom. Sue's study found that the participants struggled with a cognitive dilemma of whether or not to speak up during these

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20. Erin Lain, *A Phenomenological Case Study: The Law School Environment as Experienced by Academically Dismissed Black and Latina/o Law Students* 104 (2015) (on file with author).

21. *See* Frances Lee Ansley, *Race and the Core Curriculum in Legal Education*, 79 Calif. L. Rev. 1512, 1513-20 (1991) (arguing that race should be a central focus in law school curriculum).

22. *Id.* at 1522. In *Johnson* the Court found in favor of the litigant, who had title through grants from the English crown as opposed to those who had received a grant from the Illinois and Piankeshaw nations. *See* Johnson v. M'Intosh, 21 U.S. 543, 590 (1823). The Court, with Justice Marshall writing the opinion, decided that the titles received from the government were superior to titles received from native tribes. Most notably the opinion refers to the native tribes as "fierce savages." *See id.*

23. Derald Wing Sue et al., *How White Faculty Perceive and React to Difficult Dialogues on Race*, 37 Counseling Psychologist 1090, 1098-1101 (2009).

interactions; they felt their integrity being attacked, they were fearful of the consequences of the conversation, and they were exhausted at having to deal with microaggressions.[24] When these interactions are effectively navigated, they can improve racial harmony, racial literacy, communication, and learning.[25] When they are ineffectively navigated, they can affect the mental health of all students,[26] perpetuate stereotypes, produce the stereotype threat effect[27] and lower productivity and academic performance,[28] and lessen empathy and compassion for others.[29]

When students experience high emotional responses during a racialized interaction within the classroom, elements of fight, flight, or freeze response are triggered that stem from our threat coping mechanism. For different individuals, being faced with a highly charged topic—such as race within the classroom—may evoke symptoms of escape, such as flight or freeze, or a defensive response, such as fight.[30] Within the classroom, these three basic response systems could result in different behaviors. The fight response may

24. *See* Sue et al., *supra* note 19 at 187. Microaggression is a term used to describe small acts of intolerance. Derald Wing Sue, MICROAGGRESSIONS IN EVERYDAY LIFE: RACE, GENDER, AND SEXUAL ORIENTATION 5 (2010) They can be defined as "the brief and commonplace daily verbal, behavioral, and environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative racial, gender, sexual-orientation, and religious slights and insults to the target person or group." *Id.* (For example, a woman changing sides of the street as she is walking to avoid oncoming black men would be a microaggression.)

25. *See* Sue, *supra* note 17, at 664. Additionally, Sue suggests that successful racialized dialogues can limit fear of differences and can increase compassion in students. *Id.*

26. *See* Derald Wing Sue et al., *Racial Microaggressions in the Life Experience of Black Americans*, 39 PROF. PSYCHOL.: RES. & PRAC. 329, 330 (2008).

27. Stereotype threat is the social-psychological impact on a person from negative stereotypes, which typically manifests in heightened stress. *See* Claude M. Steele, Steven J. Spencer & Joshua Aronson, *Contending with Group Image: The Psychology of Stereotype and Social Identity Threat*, 34 ADVANCES IN EXPERIMENTAL SOC. PSYCHOL. 379 (2002). This stress can affect a student's performance. *See id.* The typical illustration of stereotype threat is women performing worse on math exams when faced with the stereotype that women are bad at math. *See id.*

28. *See* Erin C. Lain, *Experiences of Academically Dismissed Black and Latino Law Students: Stereotype Threat, Fight or Flight Coping Mechanisms, Isolation and Feelings of Systemic Betrayal,* 45 J.L. & EDUC. 279 (2016) (finding that black and Latino students who were academically dismissed from law school experienced a lack of safety in their environment that contributed to their academic performance); Jessica Salvatore & Nicole J. Shelton, *Cognitive Costs of Exposure to Racial Prejudice*, 18 PSYCHOL. SCI. 810 (2007) (finding that black subjects experienced the greatest cognitive impairment when they saw ambiguous evidence of prejudice, whereas white subjects experienced the greatest cognitive impairment when they saw blatant evidence of prejudice.).

29. *See* Lisa B. Spanierman, V. Paul Poteat, Amanda M. Beer & Patrick Ian Armstrong, *Psychosocial Costs of Racism to Whites: Exploring Patterns Through Cluster Analysis,* 53 J. COUNSELING PSYCHOL. 434 (2006) (discussing the relationship between unempathetic/unaware and insensitive/afraid clusters with lower awareness).

30. *See* D. Caroline Blanchard et al., *Human Defensive Behaviors to Threat Scenarios Show Parallels to Fear- and Anxiety-Related Defense Patterns of Non-Human Mammals*, 25 NEUROSCIENCE & BIOBEHAVIORAL REVS. 761 (2001) (review of defensive behaviors).

manifest in monopolizing the classroom dialogue, a raised voice, reddened face, or even crying. The flight and freeze response may result in students getting up to leave the room, withdrawing from the conversation, or not finding the words to articulate thoughts. The professor will need to be prepared to navigate and support these types of emotional reactions to create a successful and productive learning experience while navigating racialized dialogues.[31]

Psychological Safety

Scholars have long discussed the hostility of the law school classroom for minority students; often the sense of feeling unwelcome in the law school stems from not feeling safe.[32] As first articulated by Strange and Banning in their book *Educating by Design*, safety and inclusion serve as the first in a hierarchy of needs for a student to succeed in their educational pursuits.[33] Feeling safe goes beyond physical aspects; safety also refers to the emotional and psychological security of the student. The theory of psychological safety, from the organizational psychology field, addresses how a person negotiates risks within a group setting.[34] Further defined in the learning environment, psychological safety is "the sense that one's identity, perspectives, and contributions are valuable, despite the experience or possibility of discomfort or harm within a learning setting."[35] Psychological safety allows students to be open to learning without a sense of vulnerability. When safety is lacking, students invoke defense mechanisms that monopolize the students' cognitive energy.[36] Thus, they spend much of their energy coping rather than learning. Furthermore, studies show that hostile environments that attack the psychological safety of students

31.   Danielle J. Maack, Erin Buchanan & John Young, *Development and Psychometric Investigation of an Inventory to Assess Fight, Flight, and Freeze Tendencies: The Fight, Flight, Freeze Questionnaire*, 44 Cognitive Behav. Therapy 117 (2014) (describing the fight, flight, freeze phenomenon and providing a validated tool to measure the response).

32.   *See* Walter R. Allen & Daniel Solorzano, *Affirmative Action, Educational Equity and Campus Racial Climate: A Case Study of the University of Michigan Law School*, 12 Berkeley La Raza L.J. 237, 238 (2001) ("studies of law schools reveal that women and students of color often experience these environments as hostile—they often feel alienated, isolated, devalued and attacked"); Katherine Y. Barnes, *Is Affirmative Action Responsible for the Achievement Gap Between Black and White Law Students?*, 101 Nw. U. L. Rev. 1759, 1761-62 (2007) (suggesting that the hostile learning environment affects minority student performance); Meera E. Deo, *Two Sides of a Coin: Safe Space & Segregation in Race/Ethnic-Specific Law Student Organizations*, 42 Wash. U. J.L. & Pol'y 83, 123 (2013) (discussing the need for affinity groups to create a safe space within the law school environment for minority students because the wider culture is not safe).

33.   C. Carney Strange & James H. Banning, Educating by Design: Creating Campus Learning Environments that Work (Ursula Delworth et al. eds., 2001).

34.   *See* Erica Gabrielle Foldy, Peter Rivard & Tamara R. Buckley, *Power, Safety, and Learning in Racially Diverse Groups*, 8 Acad. of Mgmt. Learning & Educ. 25, 26 (2009).

35.   Jasmine D. Williams, Ashley N. Woodson & Tanner LeBaron Wallace, *"Can We Say the N-word?: Exploring Psychological Safety During Race Talk*, 13(1) Res. Hum. Dev. 15, 18 (2016).

36.   *See* Sue, *supra* note 17 at 663-72 (discussing the nature of racialized incidents and the common reactions among white faculty and students and faculty and students of color).

can contribute to poor academic performance among minority students.[37] While professors are negotiating racialized interactions within the law school setting, psychological safety of students should be their ultimate goal.

Another definition of safety within the educational setting is an environment free from humiliation. Callan describes this as "dignity safe," in which being humbled is acceptable but being humiliated is not.[38] In his analysis, being humbled is akin to suffering a setback but does not rise to the level of the student questioning her worth or whether she belongs, which is how Callan defines humiliation. This notion helps to distinguish safety within the classroom from unreasonably hurt feelings.[39] Effective teaching requires acknowledgment of our history and stratification in our society, which leads to various groups being prone to humiliation or feeling worthless. When racialized interactions take place within the classroom, 400 years of history along with current inequities are compounding the sense of safety experienced by students in the discussion. As such, the professor, being aware of the issues of safety arising, may want to quickly navigate away from the topic to protect vulnerable students. However, that strategy rarely protects psychological safety of the student because of a lack of resolution and the reality that students know that others have hurtful views or do not understand privilege or oppression. One core component of psychological safety is feeling valued, or not feeling worthless or excluded. Knowing that a professor will help the class safely navigate racial interactions provides more sense of belonging and worth than having a professor cut off conversation to hide potentially humiliating comments.

A lack of psychological safety can harm all students, but students of color can be adversely affected on a more significant level.[40] Several scholars suggest that factors that lead to a lack of safety, including direct discrimination, stereotype threat, microaggressions, and racial unevenness, can result in diminished performance or academic dismissal from law school.[41] These phenomena destroy safety, preoccupy a student with coping rather than learning, and

37. *See* John F. Dovidio, *On the Nature of Contemporary Prejudice: The Third Wave*, 57 J. Soc. Issues 829, 844 (2001) (discussing how prejudice and aversive racism affects performance); *see* Salvatore, *supra* note 28 at 810-15 (finding that black participants experienced impairment when faced with ambiguous prejudice).

38. *See* Eamonn Callan, *Education in Safe and Unsafe Spaces*, 24 Phil. Inquiry Educ. 64 (2016).

39. *See id.* Often, the dialogue about safety on campus diverges into a discussion about how sensitive students are these days, but thinking in terms of humiliating versus humbling helps define a version of safety that can be understood and adopted by most.

40. *See* Lain, *supra* note 28.

41. *See* Barnes, *supra* note 32 (discussing the impact of race-based barriers on law school achievement among students of color); Jonathan Feingold & Doug Souza, *Measuring the Racial Unevenness of Law School,* 15 Berkeley J. Afr.-Am. L. & Pol'y 71, 72 (2013) (discussing the racial unevenness, or the presence of burdens on individual solely because of race, that exists for some students in law school); Kevin R. Johnson & Angela Onwuachi-Willig, *Cry Me a River: The Limits of "A Systemic Analysis of Affirmative Action in American Law Schools,"* 7 Berkeley Afr.-Am. L. & Pol'y 1, 17 (2005) (discussing the hostile environment faced by minority students in law school and how it may adversely affect academic performance).

interfere with their cognitive process. Without maintaining an environment in which students are free from humiliation and feel their identity and perspectives are valued, professors can put students at a high risk of struggling so much that they will not be able to obtain a juris doctorate. The consequences from this struggle are a homogeneous profession, for which the legal field has already been criticized.[42] Maintaining a psychologically unsafe environment that disproportionately affects students of color further perpetuates systemic issues of race that provide a better opportunity for those in the majority to become lawyers. Additionally, being a lawyer provides a position of power to those who hold the title, and when the profession maintains an unbalanced number of whites, then it further stratifies our country based on race.

Professor Reactions to Racialized Interactions

A study conducted by Pasque found commonplace and ineffective ways in which professors respond to racialized interactions and microaggressions in the classroom. These practices included failing to recognize the interactions, avoiding the conflict, and controlling the situation. Most professors range from *not recognizing* to *controlling* throughout a course, or even throughout a particular class session. Each of these teaching techniques results in various power dynamics and allows for more or less psychological safety and learning within the environment.

Not Recognizing Racialized Interactions

Within the Pasque study, a section of the faculty reported that they never experienced racialized interactions within their classrooms.[43] Faculty who taught classes in fields of study that did not overtly intersect with race, such as science or math, most frequently reported no issues with racialized interactions. Those who teach in the transactional fields of law, such as business association or contracts, also may not recall racialized interactions within the classroom. However, the understanding that our culture is inherently racialized suggests that there may be more hidden racialized interactions within the classroom than faculty may recognize.[44] For example, in the most benign classroom discussion about a topic not explicitly about race, a racialized interaction can occur when the comments of a minority student are discredited and ridiculed by others. Not picking up on these interactions results from a host of reasons, including

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42.   *See* Deborah L. Rhode, *Law Is the Least Diverse Profession in the Nation. And Lawyers Aren't Doing Enough to Change That.*, Wash. Post (May 27, 2015), https://www.washingtonpost.com/posteverything/wp/2015/05/27/law-is-the-least-diverse-profession-in-the-nation-and-lawyers-arent-doing-enough-to-change-that/?utm_term=.4ff843464557.

43.   *See* Penny A. Pasque et al., *Pedagogical Approaches to Student Racial Conflict in the Classroom,* 6 J. Diversity Higher Educ. 1, 6 (2013).

44.   Critical race theory examines society and culture through race, law, and power. *See* Yosso, *supra* note 15, at 69-70. This theory suggests that racism is pervasive throughout social structures and focuses on a social justice outcome. *See id.*

the societal norm of colorblindness.[45] This norm dictates that we should not see color and evaluate people only on their intrinsic nature. Colorblindness is a strategy to appear unbiased but results in the lack of attribution of race when it may be an underlying factor.[46] The Pasque study suggested that some faculty recognized differences of opinions or conflicts but were not willing to attribute these interactions to race.[47] Within the law school context, when students are encouraged to argue either side, and interactions are inherently adversarial, it lends itself to interactions that evoke race without being explicit.[48]

Implicit racialized interactions in the classroom often extend from microaggressions or everyday, commonplace acts of intolerance.[49] Depending on the professor's racial identity development, these occurrences may go unnoticed.[50] The identity development of both white and nonwhite professors shapes how they see the world. Additionally, social cognition theory suggests that all individuals have biases, prejudices, and stereotypes, and that these are often formed at a very early age.[51] Racial identity development suggests that we all fall on a spectrum of cultural beliefs in relation to our race. For people of color, the spectrum ranges from adhering to or upholding the cultural majority to understanding oppression and seeing themselves as actors to combat it. For white people, the spectrum ranges from colorblind mentality to embracing stereotypes of other racial groups to understanding and combating oppression. When faculty are in beginning stages of their cultural identity, when they do not understand structural racial hierarchies or unconsciously believe that the predominant white culture is superior, they may not recognize racialized interactions within the classroom, especially if the topic being

45. *See* Evan P. Apfelbaum et al., *Seeing Race and Seeming Racist? Evaluating Strategic Colorblindness in Social Interaction*, 95 J. PERSONALITY & SOC. PSYCHOL. 918, 918-19 (2008) (discussing colorblindness as a norm and studying when colorblind tactics are used as a method to not appear prejudice).

46. *Id.*

47. *See* Pasque et al., *supra* note 43 at 6-7.

48. *See* Susan Sturm & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515, 523 (2007) (describing the hierarchical nature of law school).

49. *See* Sue et al., *supra* note 23 at 1092.

50. *See* Derald Wing Sue & David Sue, COUNSELING THE CULTURALLY DIVERSE: THEORY AND PRACTICE 376-86, 407-21 (7th ed. 2016) Theories of Racial/Cultural Identity Development provide an understanding about how individuals think about and relate to their race. *Id.* These models suggest that we do not all understand ourselves as cultural beings in the same way. *Id.* In earlier stages, individuals either idealize the majority or see the world through a 'colorblind' lens. *Id.* In later stages, individuals can uphold their ethnic group and feel anger towards others. *Id.* Finally, in the most advanced stages, individuals can recognize their membership in an ethnic group put position themselves as individuals and members of humanity. *Id.* In this stage, individuals will also recognize and fight to combat oppression of others. *Id.*

51. *See* Andrea A. Curcio, *Addressing Barriers to Cultural Sensibility Learning: Lessons from Social Cognition Theory*, 15 NEV. L.J. 537, 545-46 (2015).

discussed is seemingly race-neutral. For example, if no one will sit by a Latina or African-American student on the first day of class, this may go unnoticed by a professor who is in the colorblind stage of racial identity development. Among the white majority in the room, choosing a seat to sit in may seem facially neutral, but for the student of color, this is a racialized incident.

Avoiding or Minimizing Racialized Interactions

Avoiding and minimizing racialized interaction within the classroom is a common response among professors, but this strategy provides little cultivation of psychological safety, and it can be harmful because it provides no learning opportunity.[52] In the Pasque study, professors recognized when race was playing a role in an interaction, but they reported not wanting to spend time on arguments when it did not pertain to the class topic, not knowing how to navigate the experience, or not feeling comfortable with the emotions that would result in trying to deconstruct the interaction.[53]

The tendency to avoid interactions largely results from anxiety about losing control and feeling uncomfortable. When confronted with a racialized interaction, a professor who attempts to effectively teach through the moment runs the risk of appearing racist,[54] realizing her own biases or prejudices,[55] or confronting her own privilege.[56] A professor who is navigating a conversation about racial disparities within the criminal justice system and allows the conversation to continue after a student suggests disproportionally more black and brown people are incarcerated because those groups have a violent disposition risks having students attribute the bias or bigoted statements to the professor. Similarly, the professor may start to become aware of her own privileges if she has never considered these issues before, or she may realize her biases if she finds herself agreeing with the student's comment.

These possibilities put the professor in an extremely vulnerable position; thus, the professor may feel avoidance is the better alternative. The problem with avoiding or minimizing for these reasons means that the comfort of the professor is being valued over the learning of the students. Particularly in the field of law, in which students need a significant amount of cultural competency to be successful in practice, the comfort level of the professor should not play a role.[57] Doing so would be akin to a professor not covering

52.   *See* Pasque et al., *supra* note 43, at 7-8.

53.   *Id.*

54.   *See* Sue, *supra* note 17, at 664.

55.   *See* John F. Dovidio et al., *Implicit and Explicit Prejudice and Interracial Interaction*, 82 J. Personality & Soc. Psychol. 62 (2002) (discussing how whites perceive their implicit and explicit actions in relation to their biases, as perceived by others).

56.   *See* Spanierman et al., *supra* note 29, at 438-40 (discussing findings in a study that suggests that when confronted with privilege, those whites fall into various ranges of empathic reactions (e.g., sadness and anger); white guilt; and white fear (e.g., of other races).

57.   *See* Beverly I. Moran, *Disappearing Act: The Lack of Values Training in Legal Education—A Case for*

the rule against perpetuities because she was uncomfortable with the topic, despite its being tested on the bar exam.

In addition to avoidance, failing to provide students with a necessary learning experience also legitimizes the racialized interaction. When the professor redirects the conversation, uttered sentiments left without explanation leave those affected by the sentiments wondering if the professor agrees. It also pushes the reactive dialogue outside of the classroom, where a professor cannot moderate or manage the balance of power and perspectives of students.

Controlling Racialized Interactions

In the Pasque study, faculty also respond to racialized interactions by using their authority to stop or correct conversations. This type of response often takes the form of a monologue, chastisement of the initiating student, or changing the subject.[58] As with avoidance, the faculty who reacts to racialized interactions in a controlling way is largely acting out of fear. If the faculty member's authoritarian response manifests in a lecture to students, the result is essentially the same as with avoidance. Students construct their own narratives and dialogues about the incident outside of the classroom without guidance.[59] The authoritarian lecture likely does not change the mind of the aggressors in the situation because they were not able to analyze the interaction and hear different perspectives. Similarly, those who feel victimized by the interaction can also feel further stigma as a result of the professor's need to rescue and rehabilitate the class with his or her authority, much as being the teacher's pet produces a need to be protected.[60]

Studies show that when individuals of color experience racism, either directly or vicariously, significant psychological symptoms occur. These include anxiety, depression, and hostility, in addition to feelings of hopelessness and lower self-esteem.[61] Similarly, although whites directly benefit from systemic racism, research has shown that they also experience a psychological cost.[62]

Cultural Competency, 38 S.U. L. Rev. 1 (2010) (arguing for cultural competency to be a focus in legal education and outlining barriers to incorporating cultural competency into the curriculum and pedagogy).

58. *See* Pasque et al., *supra* note 43, at 8-9.

59. *See* Sue et al., *supra* note 19, at 187-89.

60. "[W]e don't have that opportunity to grow and challenge ourselves because we're looked at as ethnic." *Id.* at 188.

61. *See* Patton O. Garriott et al., *Individual Differences in the Impact of Vicarious Racism: African American Students React to the George Zimmerman Trial*, 23 Cultural Diversity & Ethnic Minority Psychol. 174 (2017) (exploring how components of racial identity intensify negative psychological reactions to an incident of vicarious racism); Vanessa M. Nyborg & John F. Curry, *The Impact of Perceived Racism: Psychological Symptoms Among African American Boys*, 32 J. Clinical Child Adolescent Psychol. 258, 258-66 (2003) (studying the external symptoms of racism on African-American boys).

62. *See* Patton O. Garriott, Keisha M. Love & Kenneth M. Tyler, *Anti-Black Racism, Self-Esteem, and the Adjustment of White Students in Higher Education*, 1 J. Diversity Higher Educ. 45 (2008)

Fear, anxiety and lower self-esteem can result from both holding racist views and witnessing racism among whites.[63] To mediate these tangible results from racial interactions in the classroom that perpetuate racism, time and space must be provided for students to navigate these complex issues. When the conversation is cut off, the interaction likely remains one of a racist, bigoted, or biased nature, thus invoking the psychological results that have been demonstrated in studies.[64]

The impulse of faculty to cut off dialogue before it gets out of control or before someone gets offended also stems from a peripheral knowledge that students need psychological safety within the classroom.[65] A professor may feel that control is the best way to protect students from hurtful dialogue and to promote cultural competency. However, to prepare them for the profession of law, in which lawyers experience a range of racialized interactions within their practice, a professor who helps to guide students through these interactions will provide a better learning experience than cutting off the conversation. Teaching through these interactions provides a framework for how students can use these skills in their professional careers.

Best Pedagogical Approaches

Various studies explore the most effective ways to navigate racialized interactions while maintaining psychological safety and promoting learning.[66] In addition to receiving training, studies show that faculty who demonstrate attunement, authenticity, and power-sharing generate the most effective class dialogues about race.[67] These three techniques require that the professor give adequate time to these conversations so that students have the ability to learn through the experience. Rushing through these interactions results in stopping the conversation in the highly emotional phase without transitioning to the phase of analysis of different perceptions. Although professors may feel pressured to cover content, allowing for racialized interactions to be fully deconstructed can promote learning in other areas of the class.[68]

(exploring the negative impact racism toward blacks has on whites).

63. *See* Diane J. Goodman, Promoting Diversity and Social Justice: Educating People from Privileged Groups 84-100 (2011) (discussing the cost of oppression for those in the majority).

64. *See* Garriott et al., *supra* note 61; *see* Nyborg & Curry, *supra* note 62.

65. *See* Sue et al., *supra* note 23, at 1100.

66. *See id.*; Sue et al., *supra* note 19; Sue, *supra* note 17; Pasque et al., *supra* note 43; Williams, *supra* note 35.

67. *See* Chris Linder, Jessica C. Harris, Evette L. Allen & Bryan Hubain, *Building Inclusive Pedagogy: Recommendations from a National Study of Students of Color in Higher Education and Student Affairs Graduate Programs*, 48 Equity & Excellence Educ. 178 (2015) (finding that to build racially inclusive classrooms, authenticity, vulnerability, and validation must be present); Williams, *supra* note 36.

68. *See Supra* note 33 (describing the need for safety as the first hierarchy of need).

While some may argue that covering content is essential, there will always be areas of the law that cannot be covered and that students will need to learn on their own for the bar exam or practice. Part of the duty of legal education is to provide students with the skills to be successful attorneys.[69] This includes analysis, writing, and reasoning skills, but it also includes emotional intelligence and cultural competency skills. Without a knowledge of how systemic oppression and racism shape structures in this country, including the law, students will go on to be lawyers who simply take the system at face value instead of critically evaluating and improving it. Similarly, to work with clients of diverse backgrounds, cultural understanding and examining one's own biases, prejudices, and privileges are crucial to being a successful counselor.[70] Using these techniques to successfully navigate racialized interactions in the classroom will give students a sense of psychological safety. This will, in turn, promote belonging and learning and will help students develop their cultural competency. This is a critical skill for professors to develop and is equal to helping students understand subject matter jurisdiction or the restrictive covenants. Helping students navigate racialized interactions and helping them to understand the world around them will make them better lawyers.

Attunement

Identifying when a racialized interaction is occurring and understanding that there are likely multiple perceptions in the room allow the professor to facilitate the discussion. Attunement refers to the professor's ability to understand the varying lived experiences of the students.[71] Being aware of these perceptions allows the professor to direct the students to consider different views and, thus, begin the learning process. Attunement does not mean calling on minority students to provide alternative perspectives, as that would diminish psychological safety by exploiting students.[72] Attunement requires the professor to notice implicit interactions, pause the course content, and redirect the dialogue to allow for multiple perspectives to be shared or for the professor herself to share differing views.

Knowing the students in the class helps with professor attunement. Avoiding stereotyped assumptions about the students and their realities allows a professor to identify when an interaction can result in a lack of psychological safety.[73] Awareness of students' backgrounds—where they are from, what their goals are, and what is important to them—provides the

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69.   Law school is about skill-building.

70.   *Id.*

71.   *See* Williams et al., *supra* note 36, at 19-20; *see* Jonas Aspelin, *Beneath the Surface of Classroom Interaction: Reflections on the Microworld of Education*, 9 Soc. Psychol. Educ. 227, 230-31 (2006) (discussing misunderstanding/understanding and respect/lack of respect dynamic between professors and students).

72.   *See* Pasque et al., *supra* note 43, at 12.

73.   *Id.*

knowledge to see beyond a student's skin color or dress. For example, knowing that a student's religious background is Islam or Judaism helps a professor to be attuned to the varying perspectives in the classroom. Frequently, professors are attuned to student comprehension of a topic in their course. Blank stares, a lack of questions when the material is difficult, or furrowing of the students' brows suggests lack of understanding. Knowing the students' backgrounds, in conjunction with being attuned to varying perceptions and noticing body language, can assist a professor in redirecting the class conversation to address racialized interactions.

Attunement requires a level of cultural competency on the professor's part that brings her out of her own socio-cultural identity. In summer 2016, one of the professors teaching in the CLEO summer institute commented that she realized that she used pictures and references to only white people in her PowerPoints and examples. Teaching a room of more than forty students of color helped her to expand her attunement and to recognize cultural issues in her own teaching. Law professors have to keep up on the latest updates in their area of law, but there is also a need to keep up with cultural awareness. This type of awareness comes from diversity trainings that are held by many institutions, but it also comes from being aware of how race and oppression intersect the area of law in which a professor teaches. In an article on teaching race and whiteness, Armstrong and Wildman use the following illustration to demonstrate how easy race becomes part of the conversation and how developing attunement is necessary.

> [T]he professor probed reasons for the plaintiff's involvement. "She was poor; she was probably homeless," said one student. A man in the first row raised his hand and offered in a helpful spirit, "she was probably [B]lack."[74]

This interaction could have taken place in any course offered in law school, not just those that lend themselves to racial dialogues, such as constitutional law or criminal law. Attunement on the part of the professor requires a level of understanding to avoid inviting guesswork at the identity of the plaintiff in this situation, thus invoking a host of stereotypes that could serve as microaggression. In this situation, a student challenged the individual who said, "she was probably Black;" however, that may not always happen. It is the professor's responsibility to have a level of awareness of racialized interactions in the classroom, whether or not students bring it up and whether or not students of color are in the classroom. This awareness can come only from diligently studying issues of systemic oppression and racism within our society.

Authenticity

Being transparent and positioning oneself as a fellow thinker and contributor to the classroom community not only reduce burdens on professors, but allow

74.   Armstrong & Wildman, *supra* note 9, at 653.

for students to be authentic in sharing their perceptions.[75] Authenticity involves professors' verbally acknowledging that they are cultural beings with biases and privileges.[76] Not only does acknowledging these aspects of self free professors from having to pretend they are superhuman, but it provides a vulnerability to the conversation that allows for others to share.[77] For example, a white female professor telling students "I have certain privileges that shape my worldview, so it is important for us to hear many perspectives" not only liberates the teacher but allows the students to think about how their own identities shape their perspectives.[78]

The law school environment is based on an intense hierarchy that places the professor as the holder of knowledge.[79] Often the nature of class discussions within the law school environment serves to test the students' knowledge and understanding of the material, rather than a co-construction of knowledge among everyone in the room.[80] In the law school learning environment, authority is valued more than inclusion, as demonstrated by the way the professor tests the students' knowledge through the Socratic method. Rarely does a professor share her path to understanding a concept, so students maintain a false perception that the professor is all-knowing and always has been that way. In this type of environment, a professor who admits uncertainty or discloses her positioning as a cultural being changes the dynamics of the classroom and places herself on the same level of learning as the students. Although this is often foreign to the law school norm, it is the only way to navigate the intense conversations surrounding the complexities of race within our culture.

Authenticity allows professors to share when the conversation has entered an uncomfortable zone. Instead of relying on a minority student to point out a racialized interaction, a professor can, and should, take on the role of expressing discomfort. This further allows for dialogue to take place in a psychologically safe environment, because students can maintain their roles as valued members of the community without pointing out sources of pain and frustration in the class. For example, in reaction to a student vocalizing that there is inherent criminality to African-American people, a professor can

75.   *See* Williams et al., *supra* note 35, at 19-20.

76.   *See* Gale Young, *Dealing with Difficult Classroom Dialogue*, *in* Teaching Gender and Multicultural Awareness: Resources for the Psychology Classroom 347, 351-52 (Phyllis Bronstein & Katheryn Quina eds., 2003) (discussing how a successful dialogue includes students and instructors acknowledging their vulnerability and disclosing their own defense mechanisms, stereotyping behavior, and positioning in culture).

77.   *See* Sue et al., *supra* note 19, at 189.

78.   *Id.*

79.   *See* Robert P. Schuwerk, *The Law Professor as Fiduciary: What Duties Do We Owe to Our Students*, 45 S. Tex. L. Rev. 753, 769-70 (2004) (discussing hierarchical method of teaching in law school).

80.   *See id.*

pause the conversation, state that the comment made her feel uncomfortable, and further the conversation as needed.

Vulnerability feels unnatural to a professor, particularly in the legal field, because professors and students maintain an expert/novice relationship; the nature of class discussion emphasizes this dynamic, with the professor weaving together students' answers to create class instruction.[81] Authenticity allows students to see the professor as a human and opens professors up to critique and ridicule.[82] Most likely, if professors are attuned and authentic during racialized interactions, they may be accused of pushing a biased opinion.[83] However, allowing for a plurality of perspectives, including the professor's own perspective, and explaining that cultural competence is a necessary skill of all lawyers will help to combat those opinions. Stressing the importance of students' understanding the nuances of race in our society and tying this understanding to good lawyering will help students understand the reason for having in-depth conversations when racialized interactions occur within the classroom. Similarly, if the professor does not allow for the deconstruction of a racialized interaction, students can also accuse the professor of allowing or promoting racism or biases.[84] Authenticity and providing time for dialogue will help students to recognize the complexity of these issues and, hopefully, students will acknowledge that political or racial biases are inherent in everyone.

Power-Sharing

To promote learning and psychological safety, recognizing power and the ability to redistribute it plays a key role in effectively navigating a racialized interaction.[85] Teachers are often aware when one student monopolizes class discussion and time and usually are able to shift power around to other students to engage all students in learning. The sharing of power during a racialized incident is similar in that the professor needs to be aware of the power structures within the classroom and needs to use her own power to evenly distribute class time to varying perspectives. Dlamini defines power-

81.	*See* Schuwerk, *supra* note 79 (discussing law school power dynamic within the classroom).

82.	*See* Eileen O'Brien, *"I Could Hear You If You Would Just Calm Down": Challenging Eurocentric Classroom Norms Through Passionate Discussions of Racial Oppression*, *in* Identifying Race and Transforming Whiteness in the Classroom 68, 70 (Virginia Lea & Judy Helfand eds., 2006) (discussing the role of emotion and humanness helps create an inclusive classroom).

83.	*See* Antoinette Sedillo López, *Making and Breaking Habits: Teaching (and Learning) Cultural Context, Self-Awareness, and Intercultural Communication through Case Supervision in a Client-Service Legal Clinic*, 28 Wash. U. J.L. & Pol'y 37, 42-43 (2008) (discussing students viewing professors as pushing an agenda until the students encounter a cultural difference in specific cases); Ben Zimmer, *Roots of the 'Safe Space' Controversy*, Wall St. J. (Nov. 13, 2015), http://www.wsj.com/articles/roots-of-the-safe-space-controversy-1447429433 (discussing the backlash against safe spaces).

84.	*See* Pasque et al., *supra* note 43, at 6.

85.	*See* Williams et al., *supra* note 35, at 19-20.

sharing as the empowerment of students to be responsible for their learning.[86] Shifting power also entails being aware of the societal structure present within the classroom. Students with particular identities are provided more power than others in a room, thus a professor should be aware if certain students are being talked over or are not being allowed to contribute.[87]

Often when a racialized interaction occurs in the classroom, strong emotions are emitted; some will be silent, others outspoken.[88] It is the professor's role to distribute power as evenly as possible so all students can take place in learning and make meaning out of the interaction. Although a professor's first reaction may be to cut off dialogue to control the outspoken person or actor, as previously mentioned, this does not provide a learning opportunity.[89] It simply forces students to deal with the racialized interaction outside of the classroom in a noncontrolled environment.[90] Professors need to use their platform to limit the power of one or a few individuals and spread power to others in the room.[91] Similarly, if no one is providing an alternative view that supports understanding of racial oppression within our culture and systems, it is the responsibility of the professor to provide that view.[92]

Professors' roles in a racialized interaction primarily require them to control the process of the dialogue. If one student begins to speak out and monopolize the conversation, it is important for the professor to help the students to begin to think about their own perceptions and exploring others' perceptions. This promotes psychological safety because it allows all students to feel that they are valued even if they are uncomfortable.[93] For example, if a student makes a statement that the professor identifies as racialized, the professor can stop and say, "Something about what you said made me a little uncomfortable," or "I think we need to explore that issue in more depth." Then the professor can ask students to take a few moments to jot down their thoughts on what was said, allowing each student to catch up on the cognitive processing that the initiating student already conducted. Finally, the professor can allow for students to share their differing perspectives, which allows power to be shared throughout the class, as in the collaborative-learning technique Think/Pair/ Share.[94] Power-sharing is one of the essential components of the process of

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86.   S. Nombuso Dlamini, *From the Other Side of the Desk: Notes on Teaching About Race when Racialised*, 5 RACE, ETHNICITY & EDUC. 51, 58 (2002).

87.   *See* Foldy, Rivard & Buckley, *supra* note 34, at 26.

88.   *See* Sue, *supra* note 18.

89.   *See* Williams et al., *supra* note 35, at 19-20.

90.   In my experience, this usually takes place on social media and has the potential to turn into bullying.

91.   *See* Williams et al., *supra* note 35, at 19-20.

92.   *Id.*

93.   *Id.*

94.   Think/Pair/Share is a three-step process in which students are asked to think through

deconstructing racialized interactions. Without the professor's effectively facilitating the conversation, the dialogue can spin out of control, with one student dominating the conversation, and emotions can run too high for students to learn.[95]

Regulating and Supporting Emotions

While using the attunement, authenticity, and power-sharing techniques to navigate racialized interactions and maintain psychological safety in the classroom, the professor is responsible for supporting students' emotions. Studies show that high-emotion work[96] and stress[97] can affect students' cognitive abilities. However, professor support can mediate this impact through the use of specific techniques. For the interaction to be successful, professors need to help students navigate their stress and emotions to allow essential learning to happen. Ways in which professors decode (listen) and encode (respond) directly affect emotions within a highly charged racialized incident. Emotional response theory suggests that effective decoding, encoding, immediacy, and clarity skills result in positive emotional experiences [98] and emotional change.[99] Immediacy includes such decoding behaviors as eye contact and body language.[100] Clarity involves the encoding skills of using examples, descriptions, and explanations to help student understanding.[101] Effective decoding and encoding strategies have an impact on student stress and emotion and need to be the primary concern of the professor in navigating a racialized incident.[102]

Two studies by Titsworth et al found that the teacher emotional response that had the most impact on lessening negative emotions and heightening positive student emotions was communication competence, including decoding

the problem or issue on their own, pair with people around them to discuss and compare thoughts, and then finally share with the class as a whole. *See* Debora L. Threedy & Aaron Dewald, *Re-Conceptualizing Doctrinal Teaching: Blending Online Videos with In-Class Problem-Solving*, 64 J. Legal Educ. 605, 620-21 (2015).

95. *See* Sue, *supra* note 17, at 664.

96. Emotion work is defined as the active management of emotional displays. *See* Joseph P. Mazer et al., *The Dark Side of Emotion in the Classroom: Emotional Processes as Mediators of Teacher Communication Behaviors and Student Negative Emotion*s, 63 Comm. Educ. 149 (2014).

97. *See* Todd David Peterson & Elizabeth Waters Peterson *Stemming the Tide of Law Student Depression: What Law Schools Need to Learn from the Science of Positive Psychology*, 9 Yale J. Health Pol'y L. & Ethics 357, 398 (2009) (discussing the impact of stress and depression on learning).

98. *See* Mazer et al., *supra* note 96; Scott Titsworth et al., *The Bright Side of Emotion in the Classroom: Do Teachers' Behaviors Predict Students' Enjoyment, Hope, and Pride?*, 62 Comm. Educ. 191 (2013).

99. *See* Susanne M. Jones & John G. Wirtz, *How "Does" the Comforting Process Work? An Empirical Test of an Appraisal-Based Model of Comforting*, 32 Human Comm. Res. 217 (2006).

100. *Id.*

101. *See* Titsworth et al., *supra* note 98, at 195.

102. *See* Scott Titsworth, Margaret M. Quinlan & Joseph P. Mazer, *Emotion in Teaching and Learning: Development and Validation of the Classroom Emotions Scale*, 59 Comm. Educ. 431, 431-52 (2010).

and encoding skills.[103] These types of skills include close and active-listening techniques and explaining concepts in a way that is accessible. Similarly, teacher immediacy has been shown to have an impact on students' feelings about the class, in addition to providing credibility to teachers. Successful immediacy skills include making eye contact with students who are speaking, making appropriate facial expressions, and moving freely. Finally, clarity assists in providing emotional support to students. Teacher clarity in communication has been shown to assist students with their perception of well-being[104] and provide a higher level of affinity for the coursework.[105] This includes providing examples and making connections among points of information. When navigating a racialized interaction in the classroom, professors must focus on emotionally supporting students by using nonverbal immediacy skills to invite conversation and help students feel at ease. Using body language that cuts off dialogue, such as not making eye contact or being stiff and rigid, will not help the emotional aspects of the discussion. It is also important that professors focus on communication competency skills such as encoding and decoding the situation. Active-listening techniques, by which the professor helps the conversation by actively listening and providing supportive language to continue the conversation, are essential. Using language that demeans, cuts off, or humiliates students will not support the conversation or the emotions of the students. Finally, being clear in the concepts being expressed and helping students to make connections is essential to support emotions. It is also important that the professor makes it clear that emotions are normal and important in difficult conversations. All of these emotional-support techniques will assist in helping the class navigate the racialized interactions.

Effective communication skills to help regulate student emotion work and stress, align with the attunement principle, by acknowledging heightened feelings students are having. This can be achieved through immediacy, which provides a level of approachability to the situation through the professor's body language.[106] Similarly, authenticity requires the professor provide clarity of thorough examples, self-disclosure, and descriptions while navigating the interaction. This level of authenticity provides interpersonal closeness, which helps to lessen psychological differences between the professor and the students and is also shown to regulate emotion.[107] Finally, in helping students to pause their thoughts through writing and sharing, the professor is helping

103.   *See* Mazer et al., *supra* note 96; Titsworth et al., *supra* note 98.

104.   *See* Michaela Gläser-Zikuda & Stefan Fuss, *Impact of Teacher Competencies on Student Emotions: A Multi-Method Approach*, 47 Int'l J. Educ. Res. 136 (2008).

105.   *See* Scott Titsworth & Joseph P. Mazer, *Clarity in Teaching and Learning: Conundrums, Consequences, and Opportunities*, *in* The SAGE Handbook of Communication and Instruction 241 (Deanna L. Fassett & John T. Warren eds., 2010).

106.   *Id.*

107.   *See* Jones & Wirtz, *supra* note 99, at 219-22.

them to navigate their stress and emotion. Reflective writing has been shown to help reduce emotional stress.[108]

Implementing Attunement, Authenticity, and Power-Sharing

Implementing the attunement, authenticity, and power-sharing strategies for exploring systems of race and oppression within our society, either intentionally or accidentally, requires great attention to human relationships and interactions. Attunement requires the professor to be aware of not only the interaction in the room, but also issues of marginalization, history, and oppression. Although legal educators have long stuck to the core-curriculum canon, there is growing evidence that exploring race as it intersects with society and law is necessary.[109] Similarly, sharing an authentic perception is necessary to frame the conversation surrounding a racialized interaction. This may come unnaturally, as law professors are not used to discussing their own biases or cultural positioning within society. However, without this disclosure and framework, the discussion will likely remain superficial and may not maintain psychological safety; therefore, students will not have the tools to explore race within our society, because they will not naturally evaluate their own cultural positioning. Additionally, the professor's primary role in helping the class to navigate a racialized interaction is to be aware of and manage the power structures in the room. This includes bringing out quiet voices and managing persistent voices. Using collaborative-learning techniques is one effective way to manage this type of dialogue and interaction. Attunement, authenticity, and power-sharing not only allow students to maintain their feeling of value in the classroom, but also help to support and regulate emotions that can impede learning.

Conclusion

When faced with a racialized interaction during the CLEO summer institute, I reacted by avoiding and minimizing the interaction. I took the student out in the hallway of the courthouse and talked to her about her outburst and asked if she was OK. I did not follow up with the remaining forty-three students in the program. I feared that although I am a biracial woman, the students would

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108. *See* James W. Pennebaker & Joshua M. Smyth, Opening Up by Writing It down: How Expressive Writing Improves Health and Eases Emotional Pain (2016) (summarizing writing techniques to reduce stress); James W. Pennebaker et al., *Disclosure of Traumas and Immune Function: Health Implications for Psychotherapy*, 56 J. Consulting & Clinical Psychol. 239 (1988) (a study instructed fifty healthy students to write about either traumatic or stressful experiences; six weeks after the writing sessions, students reported improved health and mood).

109. Several scholars urge the legal academy to infuse the race and cultural-competency outcomes into education because of the growing disparities based on race that are affected or exacerbated by the law. *See, e.g.*, Ansley, *supra* note 21; Boles, *supra* note 4; Blake D. Morant, *The Relevance of Race and Disparity in Discussions of Contract Law*, 31 New Eng. L. Rev. 889 (1997); Cheryl L. Wade, *Attempting to Discuss Race in Business and Corporate Law Courses and Seminars*, 77 St. John's L. Rev. 901 (2003).

see me as racist for warning the student about her behavior in the court. I also wondered if my reaction and thoughts in response to the student were in some way racist or biased. The students reported back to me that they stayed up all night discussing the courthouse incident. In hindsight, providing a structured conversation after the courthouse visit would have promoted more learning.

In that situation, I did not show my vulnerability because I was fearful about how the students would perceive me. I prioritized my own feelings and insecurities over their learning, which resulted in a lost opportunity. Although a discussion at the courthouse in the moment would not have been possible, taking time out in the next day's class to hold a space for dialogue would have served the students better than leaving them without a forum for discussion. Sharing my vulnerability would have been risky, but it would have helped students understand how difficult these issues are within our world and how they need to be aware of structures in our country that perpetuate systemic oppression. Although the conversation would have been difficult to navigate, using my role as professor to share power among the students would have promoted more learning than after-hours conversations that did not include everyone. Since the 2016 CLEO summer institute, I have had other opportunities to navigate racialized incidents in the classroom, and although it will always be tough, using the attunement, authenticity, and power-sharing technique has helped to promote student learning and growth.

Recognizing our inherent tendencies within racialized interaction is important so that self-protection does not take precedence over student learning. If your natural reaction is to avoid or control, recognize that the least amount of learning comes from those two reactive techniques. Being attuned to the dynamics of the classroom and your students, being transparent about your privileges and biases, and sharing power throughout the classroom setting provides an environment that allows students to begin to understand the complexities of race within our society, which is essential to being an effective lawyer.