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The Next Steps of a Formation-of-Student-Professional Identity Social Movement: Building Bridges Among the Three Key Stakeholders - Faculty and Staff, Students, and Legal Employers and Clients

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FOREWORD

THE NEXT STEPS OF A FORMATION-OF-STUDENT-PROFESSIONAL IDENTITY SOCIAL MOVEMENT: BUILDING BRIDGES AMONG THE THREE KEY STAKEHOLDERS— FACULTY AND STAFF, STUDENTS, AND LEGAL EMPLOYERS AND CLIENTS

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INTRODUCTION

The major challenge for this symposium on next steps for the formation-of-student-professional-identity social movement is how to substantially increase the number of law students nationally who experience required professional-identity curriculum. A foundational question is what are the elements of student professional identity that such a curriculum is fostering? There are substantial common themes in definitions of student professional identity in the articles in this symposium. For example William Sullivan writes, “The third apprenticeship is concerned with providing entrants to the field effective ways to engage and make their own the ethical standards, social roles, and responsibilities of the profession, grounded in the profession’s fundamental purposes.”¹ Lou Bilonis borrows a definition from medical education that professional identity is “a representation of self, achieved in stages over time, during which the characteristics, values, and norms of the medical [or legal] profession are internalized, resulting in an individual thinking, acting, and feeling like a physician [or lawyer].”² The Bilonis and Hamilton articles recommend that the formation of professional identity entails the student’s acceptance and internalization of a responsibility (1) for his or her continuing development toward excellence at all of the competencies of the profession, and (2) to others whom the stu-

1. William M. Sullivan, *After Ten Years: The Carnegie Report and Contemporary Legal Education*, 14 U. ST. THOMAS L.J. 331, 334 (2018).

2. Louis D. Bilonis, *Bringing Purposefulness to the American Law School’s Support of Professional Identity Formation*, 14 U. ST. THOMAS L.J. 480, 483 (2018).

dent will serve as a professional including clients, colleagues, and the legal system.³

Part I synthesizes themes from the nine articles in the symposium that discuss the process over the last twenty-five years of creating a framework to understand the formation of student professional identity. Part II synthesizes themes from the four articles in the symposium that advocate “going where they are” and building bridges among the three key stakeholders (faculty/staff, students, and legal employers/clients) to foster the formation of each student’s professional identity. Part III synthesizes existing scholarship in general, including this symposium, to articulate the most effective strategies to achieve the goal of increasing the number of students nationally who experience required professional-identity curriculum.

I. FROM MACCRATE IN 1992 TO TODAY—CREATING A FRAMEWORK TO UNDERSTAND THE FORMATION OF STUDENT PROFESSIONAL IDENTITY

Bryan Garth’s article, *The Elusive ‘High Road’ for Lawyers: Teaching Professional Responsibility in a Shifting Context*, notes that the ABA’s 1992 MacCrate Report articulated four fundamental lawyering values essential in the education of skilled and ethical lawyers: (1) competence; (2) striving to promote justice, fairness, and morality; (3) striving to improve the profession; and (4) professional self-development.⁴ Garth observes that the MacCrate Report is consistent with most of the professional writing about legal ethics in concentrating on exhortation that students and lawyers take “the high road” rather than “the low road” of shortcuts with respect to the four values above.⁵ The formula for teaching the high road to students and lawyers, Garth comments, “is still not easy to grasp.”⁶ However one approach is “to help students recognize the advantages as well as the difficulties of being an ‘entrepreneur for the high ground’ in whatever practice [the student] finds [herself].”⁷

Paula Schaefer’s article, *Building on the Professionalism Foundation of Best Practices for Legal Education*, focuses on the five values emphasized in the book *Best Practices for Legal Education*, published in 2007. The five values are: (1) a commitment to justice; (2) respect for the rule of law; (3) honor, integrity, fair play, truthfulness, and candor; (4) sensitivity and effectiveness with diverse clients and cross-cultural competency; and

3. *Id.*; Neil Hamilton, *Professional-Identity/Professional-Formation/Professionalism Learning Outcomes: What Can We Learn About Assessment from Medical Education?*, 14 U. ST. THOMAS L.J. 357, 364–366 (2018).

4. Bryant G. Garth, *The Elusive “High Road” for Lawyers: Teaching Professional Responsibility in a Shifting Context*, 14 U. ST. THOMAS L.J. 305, 307 (2018).

5. *Id.* at 305–308.

6. *Id.* at 309.

7. *Id.* at 319.

(5) nurturing quality of life.⁸ These values should be taught pervasively through all three years of law school, and law professors should have a greater awareness of themselves as role models for these values.⁹

William Sullivan, lead author on *Educating Lawyers: Preparation for the Practice of Law* published in 2007, notes in his article, *After Ten Years: The Carnegie Report and Contemporary Legal Education*, that in medical education, “[t]he core idea is that learning to be a physician is a gradual movement from the role of an outsider, an observer of professional activity, through stages of growth and knowledge and skill toward the center of the action engaged in by the professional community.”¹⁰ “The key insight that the identity formation framing highlights, then, is that learning to practice medicine is always, implicitly or explicitly, also a process of learning to *be* a physician.”¹¹ With respect to how to foster growth in a student’s professional identity, Sullivan observes that the Carnegie Report, noting again the experience of medical education, “stressed that the aim of professional formation could be most effectively achieved when ideas were explored in relation to students’ experience of taking on the responsibilities inherent in the profession’s various roles.”¹²

Sullivan emphasizes that a social movement to recast legal education must achieve three goals. “First, . . . successful change requires the wide dispersion of a new, catalytic reframing of the goals of professional preparation, including an articulation of the overarching goals,” and this reframing has to gain broad adherence within the field.¹³ Second, this reframing must include concretely formulated models of organization and practice that are perceived as practically realizable by a significant and active cross-section of educators in the profession.¹⁴ Third, and “[m]ost crucially, these educational models . . . become persuasive only as they receive expression in exemplary centers of educational reform” that “demonstrate[] the capacity of the new model to produce better-prepared physicians [lawyers].”¹⁵ “At moments of change, such exemplary centers provide rallying points and demonstration sites for the new vision. And this vision must be carried beyond the exemplary center by core groups of faculty, dispersed over a range of institutions, who form a constituency for innovation.”¹⁶

Drs. Eric Holmboe and Robert Englander, in their article *What Can the Legal Profession Learn from the Medical Profession About the Next Steps*,

8. Paula Schaefer, *Building on the Professionalism Foundation of Best Practices for Legal Education*, 14 U. ST. THOMAS L.J. 320, 322 (2018).

9. *Id.* at 322–323, 326.

10. Sullivan, *supra* note 1, at 340.

11. *Id.*

12. *Id.* at 335.

13. *Id.* at 343–344.

14. *Id.*

15. *Id.*

16. Sullivan, *supra* note 1, at 344.

note that medical educators are re-conceptualizing their approach to educational design.¹⁷ “The early models emphasized building a curriculum, usually through expert consensus, that focused on linking educational objectives to meaningful assessment.”¹⁸ In the earlier model, the faculty designed the curriculum, and the curriculum drove assessment. Faculty disseminated information to students.¹⁹ Too often, Holmboe and Englander observe, the educational objectives sat idle, and the actual focus of medical education and assessment was predominantly medical knowledge with a failure to address the other competencies vital to clinical practice. “In essence, medical education’s approach to assessment was ‘if you’re really smart cognitively, you’ll be fine.’”²⁰

The medical education community eventually realized the over-emphasis on cognitive skills is insufficient to meet patient and population needs. . . . [T]he medical education enterprise must start with the health and healthcare needs of the systems and the population served. The critical competencies (i.e. physician individual abilities) flow from those needs and must align with both clinical and educational outcomes.²¹

This new model called competency-based education is a substantial change from the earlier time-based model that emphasized the number of hours of instruction a student receives. Competency-based education requires faculty to “think critically about what is it learners need to be able to *do* . . . at each stage of their career. Medical educators began to ask what continuous professional development needs to look like for those coming out of residency and fellowship.”²² Essentially, in competency-based education, the emphasis shifts from the teacher as the driving force disseminating information to the learner being the primary driver of his or her own education.²³ The learner must become more self-directed.²⁴

Medical education has now defined the core competencies needed to serve patients and the healthcare needs of the system, and has figured out how the learner should proceed through a series of developmental stages on each competency. The curriculum and assessment then facilitate each student’s developmental progression on the core competencies.²⁵

17. Eric Holmboe & Robert Englander, *What Can the Legal Profession Learn from the Medical Profession About the Next Steps*, 14 U. ST. THOMAS L.J. 345–347 (2018).

18. *Id.*

19. *Id.* at 348.

20. *Id.* at 347.

21. *Id.* These patient and system needs change over time and education must make adjustments to meet the new needs. *Id.*

22. *Id.* at 348.

23. Holmboe & Englander, *supra* note 17, at 348.

24. *Id.*

25. *Id.* at 350–352.

Building on the Holmboe and Englander themes above, Neil Hamilton in *Professional-Identity/Professional-Formation/Professionalism Learning Outcomes: What Can We Learn About Assessment from Medical Education?* goes into more detail about “lessons learned” from medical education’s fifteen years of additional experience with competency-based education in comparison with legal education. It is possible to synthesize two major themes from the forty-nine law schools that had posted learning outcomes as of January 20, 2017, stating values beyond the minimum required by ABA Standard 302(c). A FIRST CLEAR THEME is that the meaning of the competency of “the exercise of proper professional and ethical responsibilities to clients and the legal system” can be further defined by asking students to demonstrate understanding and integration of pro-active self-evaluation and professional development toward excellence at the competencies needed to serve clients and the legal system.²⁶ As explained earlier, this first clear learning outcome of demonstrating self-directed learning is foundational for competency-based education. A SECOND CLEAR THEME is that law schools adopting learning outcomes like (1) pro bono service to the disadvantaged, (2) professionalism/high ethical standards, and (3) teamwork are essentially asking each student to demonstrate continuing growth over time from high short-term self-interest and low responsibility to others that would most likely have been the case earlier in life toward an internalized deep responsibility and service to clients, colleagues, and the legal system. The values and skills numbered 1–3 above build on and flow from an internalized deep responsibility and service to others that is applied specifically to clients, colleagues, and the legal system.²⁷

26. Hamilton, *supra* note 3, at 363. This is self-directed learning defined as “a process in which individuals take the initiative, with or without the help of others, in diagnosing their learning needs, formulating learning goals, identifying the human and material resources for learning, choosing and implementing appropriate learning strategies, and evaluating learning outcomes.” MALCOLM KNOWLES, *SELF-DIRECTED LEARNING: A GUIDE FOR LEARNERS AND TEACHERS* 18 (1975). See also, Michael Hunter Schwartz, *Teaching Law Students to Be Self-Regulated Learners*, 2003 MICH. ST. DCL L. REV. 447 (2003). Self-directed learning builds on a foundation of ongoing self-evaluation.

27. Hamilton, *supra* note 3, at 363–364. Note that the two foundational professional-identity competencies in terms of student development are also emphasized by the Carnegie Reports. William Sullivan, the co-director of all five Carnegie Foundation for the Advancement of Teaching studies of higher education for the professions, believes that the “chief formative challenge” for higher education in the professions is to help each student entering a profession to change from thinking like a student where he or she learns and applies routine techniques to solve well-structured problems toward the acceptance and internalization of responsibility to others (particularly the person served) and for the student’s own pro-active development toward excellence as a practitioner at all of the competencies of the profession. William M. Sullivan, *Foreword to TEACHING MEDICAL PROFESSIONALISM*, at xi, xv (Richard Creuss et al. eds., 2009). Each client or patient needs to trust that her lawyer or physician is dedicated above all else to care for her with all of the professional’s ability. See *id.* at ix.

Similarly, in the Carnegie Foundation’s study of medical education, *Educating Physicians*, the authors conclude that “The physician we envision has, first and foremost, a deep sense of commitment and responsibility to patients, colleagues, institutions, society, and self, and an unfail-

One key change in medical education emphasized by Hamilton is that learners in a competency-based system “must be active agents co-guiding both the curricular experiences and assessment activities.”²⁸ This means that “Learners must learn to be self-directed in seeking assessment and feedback.”²⁹ Learners should ideally:

1. Be both introduced to the overall competency-based education curriculum at the beginning and engaged in dialogue about the overall program on an ongoing basis;
2. Actively seek out assessment and feedback on an ongoing basis;
3. Perform regular self-evaluations together with feedback from external sources;
4. Direct and perform some of their own assessments such as seeking out direct observation of the learner by an experienced professional and creating portfolios of evidence regarding specific competencies; and
5. Develop personal learning plans that students revisit and revise at least twice a year.³⁰

Susan Brooks in *Fostering Wholehearted Lawyers: Practical Guidance for Supporting Law Students’ Professional Identity Formation* reflects on the past twenty-five years since the MacCrate Report. She organizes her reflection around two main themes: (1) all legal educators can contribute to student professional identity formation if we approach our work “as a humanistic enterprise and become more intentional about our teaching,” and (2) “we can begin by adopting and modeling effective communication principles and practices to support law students’ professional identity formation inside and outside of our classrooms.”³¹

Brooks emphasizes the central importance of helping students to develop relational competencies, which she calls helping students to become “wholehearted lawyers.”³² Brooks emphasis on fostering student relational competencies matches up with the second clear theme in many law schools’ learning outcomes discussed above that asks each student “to demonstrate continuing growth over time from high short-term self-interest and low responsibility to others that would most likely have been the case earlier in life toward an internalized deep responsibility and service to clients, col-

ing aspiration to perform better and serve with excellence. Such commitment and responsibility involve habitual searching for improvement in all domains . . . and a willingness to invest the effort to strategize and enact such improvements.” MOLLY COOKE ET AL., *EDUCATING PHYSICIANS: A CALL FOR REFORM OF MEDICAL SCHOOL AND RESIDENCY* 41 (2010).

28. ERIC HOLMBOE ET AL., *THE MILESTONES GUIDEBOOK* 6 (2016), <https://www.acgme.org/Portals/0/MilestonesGuidebook.pdf>.

29. *Id.* at 16.

30. *Id.*

31. Susan L. Brooks, *Fostering Wholehearted Lawyers: Practical Guidance for Supporting Law Students’ Professional Identity Formation*, 14 U. ST. THOMAS L.J. 412–416 (2018).

32. *Id.* at 423, 432.

leagues and the legal system.”³³ Brooks’ analysis also matches up with the Natt Gantt and Benjamin Madison article discussed later in Section II.B of this article. The Gantt/Madison article urges legal educators to go where the students are developmentally to help the earlier-stage students connect the dots to understand that a student committed to continuing professional development of relational competencies is demonstrating the competencies that clients and legal employers want. Diagram 1, Helping Students Connect the Dots, in Section II.B gives a visual outline of this process.

Brooks points out the risk that using enlightened self-interest reasons (connecting the relational competencies to both the competencies that legal employers and clients want and students’ goal of meaningful employment) may lead this social movement to become “completely instrumentalized.”³⁴ Of course many legal educators, including career services staff, may also be motivated out of self-interest to foster student relational competencies in order to improve a law school’s employment outcomes. Brooks identifies a significant concern for this social movement.

My experience is that the later-stage faculty, staff, and students drawn to this movement understand that the relational competencies that are foundational for a wholehearted lawyer all have stages of development. I believe that with self-awareness, faculty and staff can both: (1) go where the earlier-stage students are and engage them with enlightened self-interest arguments to grow toward later stages of relational competencies; and (2) not become too instrumental. Faculty and staff should also remember that in order to serve others with the competencies of a wholehearted lawyer, each student does need meaningful employment. So if a significant proportion of our graduates do not achieve meaningful post-graduation employment, we should ask ourselves if we really are helping them or the society.

Brooks strongly emphasizes the importance of experiential education to foster each student’s relational competencies.³⁵ She provides a number of strong suggestions on how to teach these relational competencies.³⁶

Danny DeWalt walks through *Practical Lessons Learned While Building a Required Course for Professional Identity Formation*. Three of the most important lessons are: (1) one-on-one coaching relationships are the most effective strategy for professional formation to build trust and student openness to new ideas about professional identity; (2) the first six weeks of each semester in the 1L year are the periods when students are most open to a professional-identity curriculum; and (3) students respond well to a high-structure engagement around the theme that each student must take ownership of both the student’s law school experience and search for meaningful employment (move toward later stages of self-directed learning).

33. See *supra* text accompanying note 27.

34. Brooks, *supra* note 31, at 323.

35. *Id.* at 420–426.

36. *Id.* at 423–432.

Barbara Glesner Fines presents a creative curriculum and assessment in her article, *Picturing Professionals: The Emergence of a Lawyer's Identity*. She notes that students

also hold pre-existing perceptions about what it means to be a professional. The challenge of formation is to socialize students into a shared professional identity and to help students to integrate their own personal identity into that new professional identification. To assess student progress on this formation and integration of a professional identity, one must understand the student's current preconceptions about themselves and their profession.³⁷

She recommends using an assignment on the first day of Professional Responsibility asking each student to draw (and hand in anonymously) a picture of a professional. She uses the document camera to show the class the drawings and engage in dialogue about what they mean about professional identity.³⁸ This exercise fits within an overall framework of repeated opportunities for each student to reflect on the responsibilities of the profession.³⁹

II. "GOING WHERE THEY ARE" TO GET "BUY IN" TO MORE PURPOSEFUL SUPPORT IN THE CURRICULUM AND CULTURE FOR THE TWO PROFESSIONAL-IDENTITY COMPETENCIES

The three main stakeholders for the social movement are: (1) faculty and staff; (2) the students; and (3) legal employers and clients. A first principle of effective curriculum to foster student development toward later stages of the two professional-identity competencies is "to go where they are" and engage each student at the student's current developmental stage.⁴⁰ This principle of "going where they are" seems highly applicable to the challenge of building bridges among the three major stakeholders. Since the faculty and staff at individual law schools create the curriculum and culture that students experience, the goal of maximizing the number of students nationally who experience effective legal education that fosters the formation of each student's professional identity can be best reached by maximizing the number of schools committed to a required curriculum focused on the two professional identity competencies. We thus consider faculty and staff first.

37. Barbara Glesner Fines, *Picturing Professionals: The Emergence of a Lawyer's Identity*, 14 U. ST. THOMAS L.J. 437, 441 (2018).

38. *Id.* at 446.

39. *Id.*

40. Neil Hamilton & Verna Monson, *Legal Education's Ethical Challenge: Empirical Research on How Most Effectively to Foster Each Student's Professional Formation (Professionalism)*, 9 U. ST. THOMAS L.J. 325, 374 (2011).

A. “Going Where Faculty and Staff Are” and Getting “Buy in” to Required Professional-Identity Curriculum

Jerry Organ’s article, *Is There Sufficient Human Resource Capacity to Support Robust Professional Identity Formation Learning Outcomes?*, analyzes where law faculty are in terms of capacity to implement the learning outcomes that are foundational to this social movement. Organ emphasizes a number of changes in the last ten years since the publication of *Educating Lawyers* that contribute to increasing these faculty and staff capacities:

1. The 2014 accreditation changes to require competency-based education;
2. The increasing data available on the competencies that clients and legal employers want;
3. The increase in the number of faculty committed to experiential education; and
4. The increase in interest and emphasis at many law schools on employment outcomes.

Organ explores the reasons why faculty members may become early innovators, early adopters, early or late majority participants, or laggards who may have hostility to the concept of professional identity formation.⁴¹ The article outlines next steps to respond to faculty interests and concerns and to build toward wider “buy in” for student professional identity formation. Some of Professor Organ’s steps to build wider buy in for this social movement are emphasized again later in this article. Professor Organ and I wrote our articles independently but have some similar long term strategies for the social movement.

Lou Bilionis, in his article *Bringing Purposefulness to the American Law School’s Support of Professional Identity Formation*, goes where faculty and staff are to provide “a meditation on the ways of thinking—if you will, the habits of mind—that can help the law school proceed purposefully in its support of the formation of professional identity.”⁴² Bilionis walks through a number of major factors law faculty and staff should consider as they build on the current strengths of legal education regarding the cognitive competencies of thinking like a lawyer and some of the practical competencies like legal research and writing to include the two major professional-identity competencies.⁴³

Bilionis adds that faculty and staff have a responsibility to be more purposeful in helping each student to develop to later stages of the two foundational professional-identity competencies.⁴⁴ He makes important ob-

41. Jerome M. Organ, *Is There Sufficient Human Resource Capacity to Support Robust Professional Identity Formation Learning Outcomes?*, 14 U. ST. THOMAS L.J. 458, 471–476 (2018).

42. Bilionis *supra* note 2, at 482.

43. *Id.* at 485–487.

44. *Id.* at 482, 490.

servations about how faculty and staff should carry out this responsibility including: (1) focusing on both important transition/stress points in a student's matriculation and also developmental experiences outside of the formal curriculum as critical times in student professional identity-formation;⁴⁵ (2) the foundational importance that the student grow toward later stages of self-directed learning;⁴⁶ and (3) the centrality of one-on-one coaching⁴⁷ and curating the student experiences in a progression of developmental engagements.⁴⁸

Other articles mentioned in the previous section are also very relevant to the challenge of going where "faculty and staff are" and getting "buy in" to required professional-identity curriculum. The Holmboe and Englander article discussed how the earlier time-based model of a curriculum emphasized the number of hours of instruction a student receives. The new competency-based education model requires medical faculty to "think critically about what is it learners need to be able to *do* . . . at each stage of their career. Medical educators began to ask what continuous professional development needs to look like for those coming out of residency and fellowship." "The early models emphasized building a curriculum, usually through expert consensus, that focused on linking educational objectives to meaningful assessment."⁴⁹ Many law faculty and staff still understand legal education in terms of the earlier time-based model where the faculty believe they are the experts on the competencies that students need; faculty build curriculum and then assessment around this expert judgment without asking clients and legal employers what competencies they actually need.

Competency-based education (where legal education is headed over the next twenty years if the ABA's 2014 changes in the accreditation standards are taken seriously) asks the faculty and staff to understand and define the competencies that clients and the legal system need and then to do backward planning to define learning outcomes, benchmark models to define the stages of development for each learning outcome competency, curriculum, and assessments so that the graduates develop and demonstrate the needed competencies. As Appendix C to the Hamilton article indicates, we currently have limited data on the competencies that clients want, and we have better, but still developing, data on the competencies that practicing lawyers and judges think are important for law graduates.⁵⁰ We have some data on the competencies that legal employers are assessing for early-career lawyers, and some data on the competencies that legal employers consider important in hiring a lawyer. We assume that since legal employers are

45. *Id.* at 484, 490.

46. *Id.* at 487.

47. *Id.* at 492–493.

48. Bilonis *supra* note 2, at 492–493.

49. Holmboe & Englander, *supra* note 17, at 347.

50. Hamilton, *supra* note 3, at 407–409.

responsive to client needs, the competencies legal employers are assessing and considering in hiring must reflect client needs to a substantial degree. These data sets indicate that legal employers do want lawyers who have grown to later stages with respect to the two foundational professional-identity competencies.

The ABA's 2014 changes to the accreditation standards ask faculty and staff to consider the competencies needed to serve clients and the legal system but do not require the two foundational professional-identity competencies. As a result, getting "buy in" to these two competencies in the required curriculum is going to be challenging. For example, there are groups of faculty and staff nationally who have been experimenting for some years with elective curriculum that focuses on these two competencies. One sub-group was principally interested in fostering student professionalism and internalization of the ideals and core values of the profession (Carnegie's third apprenticeship). Another sub-group was concerned particularly about the poor quality of work and poor work habits of some students and fostering a stronger work ethic and standards of excellence. Another sub-group's chief concern has been student well-being and substance abuse. A fourth sub-group has been experimenting with elective curriculum to foster leadership skills. We could call these four sub-groups "the choir" with respect to curricular changes that emphasize the two foundational professional-identity competencies. However, this "choir" of sub-groups (with the exception of a few law schools) was not able to make significant changes in the required curriculum regarding these two competencies.

There is substantial inertia and resistance to change in the required curriculum in many law schools. Lawyers and professors are among the most change resistant groups, and the legal academy combines both. This leads to a strong operating principle "if it is not broken, why fix it?" For change from the existing model of the required curriculum to occur, there must be **VERY STRONG** reasons at the level of "a burning need" or "some part of the house is on fire."

There is evidence that a significant and increasing number of law faculty and staff now see a burning need to change the required curriculum to include engagements that focus on the two foundational professional-identity competencies. Over the last eight years, the market for legal education "broke" in terms of employment of graduates, applications, discount rates, distressed budgets, lower entering student credentials, and lower bar passage rates for the large majority of the 200 law schools. This has created a burning need for many schools to consider change. Many more faculty and staff are open to new ideas, particularly ideas that would improve bar passage and employment metrics and thus ultimately improve applications. This presents the most promising major opportunity to expand beyond the choir because students who grow toward later stages of the two foundational professional-identity competencies will have much higher probabili-

ties of good bar passage and meaningful employment outcomes. This creates a powerful enlightened self-interest reason to make changes in the required curriculum.

This meaningful employment/bar passage challenge combined with the original concerns of “the choir” are currently driving a major change in the required 1L curriculum to include curriculum to foster each student’s professional development. At least thirty law schools currently require this type of 1L curriculum, and many more are considering it.⁵¹ In terms of actual change in the lived experience of law students on the two professional identity competencies, this rapid growth of 1L professional development curriculum is substantially the most promising opportunity for this social movement. With respect to the Rogers Diffusion of Innovation Curve, in a very short time, the diffusion of required 1L professional development curriculum has moved to the early adopters threshold of about fifteen percent of the market of 200 law schools with every indication of rapid continuing growth through the early majority of adopters.

One major challenge for the social movement is how messaging regarding the value of required curriculum on the two professional-identity competencies is received. A significant subset of faculty and staff may be troubled by an enlightened self-interest argument made to students that committing to grow toward later stages regarding the two foundational professional-identity competencies will help the student increase probabilities of bar passage and meaningful employment. What these faculty and staff “hear” or interpret is that the social movement is just about instrumental goals associated with “jobs training” when they believe legal education is about far higher purposes than just jobs training. It is very important to demonstrate the very substantial degree to which the competencies that legal employers and clients want match up with the faculty’s own professional ideals expressed in the faculty’s learning outcomes. In addition, the whole concept of stage-development models inherent in competency-based education is new to legal education. In explaining why an enlightened self-interest argument to students is necessary, we must show faculty and staff the stage-development models for each of these professional-identity competencies and explain how we must initially engage the early-stage students where they are at the earlier stages of development and will, out of enlightened self-interest, take initial step toward later stages of each professional-identity competency.

51. Jerome M. Organ, *First-Year Courses/Programs Focused on Professional Development and Professional Identity Formation: Many Flowers Are Blooming*, PD Q., Aug. 2017, at 24.

B. “Going Where the Students Are” and Getting “Buy in” to a Curriculum Fostering the Two Professional-Identity Competencies

Natt Gantt and Benjamin Madison in their article *Self-Directedness and Professional Formation: Connecting Two Critical Concepts in Legal Education* provide excellent data to help faculty and staff “go where the students are” with respect to the students’ goals and to help students understand that the two professional-identity competencies help the students achieve their goals. Gantt and Madison report on the results of surveys of 1L students at five different law schools asking “what are the professional goals you would like to achieve by six months after graduation?” The two most important goals were “bar passage” and “meaningful employment” with “trustworthy reputation” and “sufficient income to meet loan obligations and a satisfactory living” ranked somewhat lower but also between critically important and important.⁵²

Gantt and Madison also stress the importance of self-directed learning with respect to the formation of a professional identity.⁵³ They note that law practice requires continuous professional development to meet client needs in changing markets.⁵⁴ They also report data from surveys of 1L students at six different law schools indicating that approximately forty-four percent of the 1L students are self-assessing at earlier stages of development regarding self-directed learning.⁵⁵ They analyze why forty-four percent on a self-assessment like this has to substantially understate the actual proportion of 1L students at earlier stages of self-directedness.⁵⁶ Gantt and Madison emphasize the value of a structured curriculum like the ROADMAP together with one-on-one coaching to foster student growth toward later stages of self-directedness.⁵⁷

The students’ principal goals are bar passage and meaningful post-graduate employment. Our social movement has to help students connect the dots to understand that the two foundational professional-identity competencies are highly valued by legal employers of all types (framed in the language of employers) discussed in Section C below, and that self-directed learning in particular will help the student with bar passage. The students also need much more help than we had earlier thought to connect the dots about the continuing development of their strongest competencies (that fit with the competencies legal employers want) from the student’s exper-

52. Larry O. Natt Gantt, II & Benjamin V. Madison, III, *Self-Directedness and Professional Formation: Connecting Two Critical Concepts in Legal Education*, 14 U. ST. THOMAS L.J. 498, 503–504 (2018).

53. *Id.* at 508–510.

54. *Id.* at 509.

55. *See id.* at 504–505.

56. *Id.* at 506–508.

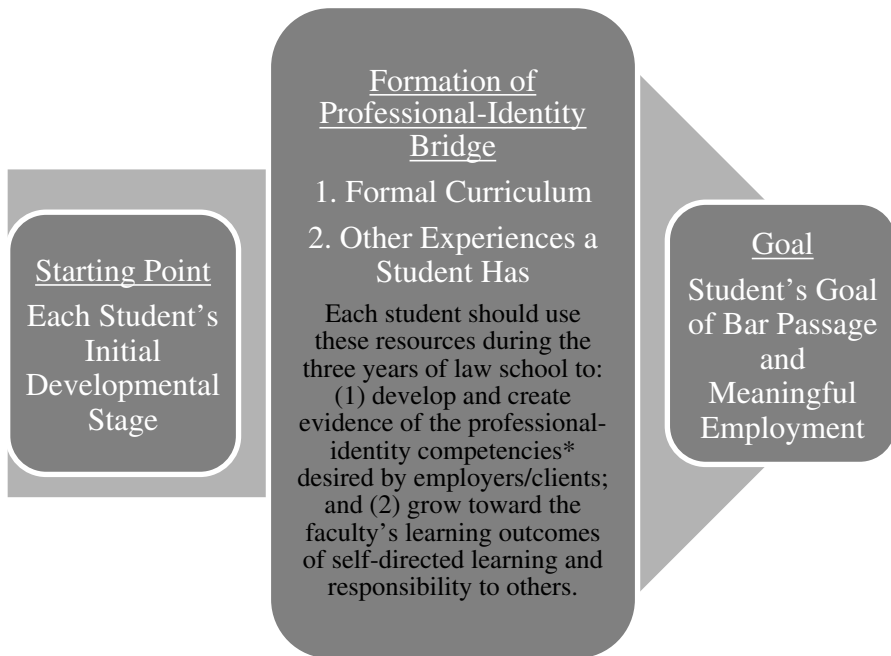
57. *Id.* at 516–525.

iences before law school combined with all the student’s experiences during law school (in and beyond the formal curriculum). They need much more help than we had earlier thought in terms of persuasive advocacy (with good evidence) to tell their story of value effectively to potential employers.

Note that faculty in particular are acculturated into a model where they assume that if the faculty models and presents a much later stage of development on the professional-identity competencies, each student will somehow connect all the dots to grow from early developmental stage where the student is toward that much later stage of development. Many students need substantial help to connect these dots.

Diagram 1 below shows the overall message that faculty and staff must send to help each student “connect the dots.”

DIAGRAM 1 “HELPING STUDENTS CONNECT THE DOTS”



* The professional formation competencies that legal employers and clients want are: trustworthiness/integrity, good judgment, initiative and commitment to professional development, dedication and responsiveness to clients, commitment to the firm/department and its goals and values, ongoing solicitation of feedback and reflection, adherence to ethical codes, and the ability to build strong work and team relationships.

C. *“Going Where the Legal Employers” Are and Getting “Buy in” to a Curriculum Fostering the Two Professional-Identity Competencies*

Appendix C of Hamilton’s article in this symposium has the existing data on the competencies that legal employers and clients want. We are

gathering increasing data on the competencies that practicing lawyers and judges think that new lawyers need and that legal employers are considering in assessing new lawyers and in hiring new lawyers. Legal employers clearly want new lawyers who are growing toward later stages of the two professional-identity competencies. In addition, law schools historically have not given good, reliable evidence to employers about each student's stage of development on these competencies. As a law school improves the quality of its curriculum and assessments and can provide good, reliable evidence, legal employers will benefit by considering these competencies in the decision to hire that law school's graduates.

III. EFFECTIVE CURRICULUM, CULTURE AND ASSESSMENTS TO FOSTER EACH STUDENT'S GROWTH TOWARD LATER STAGES OF THE TWO FOUNDATIONAL PROFESSIONAL-IDENTITY COMPETENCIES

A. *What Principles Can Guide the Social Movement in Terms of Curriculum and Assessment?*

Analyzing what we can learn from scholarship on (1) higher education in other disciplines, particularly medical education, (2) moral psychology, and (3) self-directed/self-regulated learning, we have been building a framework of twenty-one principles to guide the development of the most effective curriculum, culture and assessments to foster each student's growth toward later stages of development on the two foundational professional-identity competencies.⁵⁸

Four research windows on effective curriculum for the two professional-identity learning outcomes largely agree that an effective curriculum (including assessments) should:

1. Take into account that students are at different developmental stages of growth and engage each student at the student's present developmental stage—Go Where They Are;
2. Provide repeated opportunities for reflection on the responsibilities of the profession and the habit of reflective self-assessment in general;
3. Emphasize experiential learning, feedback on the student's performance, and reflection; and
4. Emphasize coaching.

In addition, one research window suggests the following curricular engagements to foster each student's growth toward the two professional-identity learning outcomes:

58. Twelve of the general principles here appeared first in Neil Hamilton, *Formation-of-an-Ethical-Professional-Identity (Professionalism) Learning Outcome and E-Portfolio Formative Assessments*, 48 U. PAC. L. REV. 847, 856–859 (2017).

5. Experiences that create cognitive dissonance/optimal conflict with the student's current developmental stage on either of the ethical professional-identity learning outcomes;
6. Instruction that helps the student understand how new knowledge is building on the student's prior knowledge and competencies (student's existing narrative);
7. Instruction that helps each student understand how the professional formation curriculum assists the student to achieve his or her goals;
8. Instruction that helps each student understand and implement SPECIFIC steps to grow toward later stages of development; and
9. Curricular design that gives careful consideration to impact on student well-being and student motivation.

Research on what we can learn from medical education's fifteen additional years of experience with competency-based education (outlined in the Hamilton article in this symposium) adds several principles:

10. Create a stage development model (benchmarks) for the two professional identity competencies (and sub-competencies);
11. Create a progression of curricular modules and assessments to foster each student's growth toward the next stage of development on each competency;
12. Consider written individualized learning plans and student portfolios combined with coaching as effective formative assessments;
13. Focus the professional identity curriculum including assessments on high risk and transition periods for the students and include guided reflection with a coach;
14. Consider the substantial influence of the hidden curriculum on students' experience with the two professional-identity competencies; and
15. Focus on seeing faculty and staff as co-educators in a "whole-building" curriculum and culture fostering each student's growth.

Medical education research also adds additional principles to guide the creation and implementation of assessments on professional-identity learning outcomes:

16. Validity and reliability of the assessment, especially if a summative, high stakes assessment;
17. Importance of direct observation of student performance/conduct and multi-source feedback based on observation;
18. Social desirability bias of self-assessments;
19. Clear value of assessment evident to legal employers and students;

20. Probability of “buy in” regarding assessment by students and faculty/staff; and
21. Total cost of assessment (out-of-pocket and time) minimal.

B. Bridging Between and Among the Three Principal Stakeholder Groups to Achieve the Goal of Fostering Formation of the Student Professional Identity Competencies for as Many Students as Possible

A useful way to understand how to most effectively achieve the goal of fostering the formation of the two professional-identity competencies for as many students as possible is that this social movement serves as a bridge between and among the three main stakeholders: faculty/staff; students; and legal employers. We “go where they are” with respect to engaging each stakeholder on the two professional-identity competencies which includes helping each stakeholder understand how the other two stakeholders view these competencies. Some members of each stakeholder group are already in the choir, but many members of each stakeholder group will respond most favorably at the outset to an enlightened self-interest argument that student growth toward later stages of the two professional identity competencies is highly in that stakeholder group’s enlightened self-interest.

C. Most Effective Strategic Projects to Build the Social Movement

The goal is to use the human and financial resources we have available to maximize the number of law students nationally who experience effective legal education fostering each student’s growth toward later stages of the two foundational professional identity competencies. While a general increase in the number of law faculty and staff nationally who are committed to purposefully support each student’s growth toward these competencies is good, this goal will be most effectively realized by maximizing the number of schools committed to a required curriculum and a culture focused on these two competencies.

1. Summer Workshops Since 2013

The original concept of the Holloran Center summer workshops came from the Carnegie Foundation’s use of workshops to create a new field of the scholarship of teaching and from the Chicago School of Economics strategy of using workshops to promote successfully their paradigm of law and economics. Lee Shulman from Carnegie thought that if we had active core groups of faculty at thirty law schools committed to professional identity formation of students, we would have a field. Bill Sullivan agreed. Note that the thirty law school metric (out of 200) does also fit with the Rogers Diffusion of Innovation Curve that somewhere around fifteen percent of a market is the end of the early adopters phase and the beginning of the early majority phase.

The summer workshops are what Lou Billionis has called a “school-centric” strategy. At the present time, Professor Organ and I believe twenty-two law schools of the thirty-five that have sent teams to the workshops have an active core group of faculty and staff. We did not define any specific goal with respect to specific initiatives that the active groups would undertake, leaving the strategies to the teams from individual schools to define during the workshops. We have not yet made a survey of what specific initiatives have been undertaken, but we are in the process of doing such a survey.

2. *Working Groups on Five Professional Identity Learning Outcomes*

Professor Organ and I organized this law journal symposium/workshop on February 17–18, 2017 on *The Next Steps of a Professional Formation Social Movement* with thirteen speakers/authors. Twenty-four law schools that had sent teams to one of our summer workshops sent someone to attend this symposium/workshop. Out of the workshop discussions, we organized working groups on five learning outcomes: self-directed learning; professionalism; teamwork; cross-cultural; and integrity. Again, the language of the different stakeholders varies somewhat but these five learning outcomes (from our survey of adopted learning outcomes) are closely related to the two foundational professional identity competencies. The working groups are creating benchmark (stage development) models and formative (and summative) assessments for each learning outcome. These models and assessments meet William Sullivan’s call for concretely formulated models that are practically realizable.

3. *The Fast-Growing Movement Toward Required 1L Curriculum on Professional Development*

On May 22–23, 2017, Professor Organ and I organized a gathering with representatives of law schools that already have a required 1L professional development curriculum or are considering such a curriculum. Twenty of the thirty schools that have such a curriculum sent a representative and twenty of the schools considering such a curriculum sent a representative. We put the syllabi/course descriptions from twenty-three of these schools on our website.

As discussed earlier, it was a great surprise that thirty law schools now have a required curriculum and many more are considering such a curriculum. There is great variation among the approaches and clearly there is interest in learning what is the most effective curriculum for this new approach. The interest in this new curriculum cuts across traditional faculty and staff lines of responsibility.

This rapid movement toward required 1L professional development courses is principally being driven by faculty/staff/administration enlightened self-interest concerns in terms of the link between graduates' bar passage and meaningful employment outcomes and applications. This is the burning need that many law schools must address. There is also an interest among the highest ranked law schools about the well-being of graduates who find themselves in a very poor "fit" with their initial employment (which we can also address), but this is not a burning need.

This rapid change toward required professional development curriculum is the most promising next step to build on the original workshop objective that energized core teams at individual schools would be able to create change in the required curriculum. The schools that have adopted a required 1L professional development curriculum have already taken this first step.

The question is how do we most effectively increase the number of schools with required professional development curriculum in the 1L year? Can the 2L and 3L years then build on the 1L year to include a progression of professional development modules? How do we influence these curricula to emphasize the two professional identity competencies? These questions lead to several project ideas below.

The summer workshops to foster the development of active core groups at individual law schools, the support for the new professional development courses, and the working groups are answering William Sullivan's call for the wide dispersion of a new, catalytic reframing of the goals of professional preparation, including an articulation of the overarching goals, and this reframing has to gain broad adherence within the field.

4. *A Signature Pedagogy/Curriculum*

Lou Bilionis has emphasized the need for a "signature pedagogy" or "signature curriculum" that provides modules of curriculum and assessment for these courses to help motivated faculty self-adopt. What do successful curricular modules look like SPECIFICALLY?

We have developed the twenty-one principles to guide curriculum and assessment for the two professional identity competencies, and we have developed the ROADMAP⁵⁹ curriculum which meets all these principles. It is a signature curriculum. The ROADMAP curriculum is most effective at going where the early stage students are and helping them connect the dots on how the professional identity learning outcomes and curriculum help the student toward meaningful employment. We have data that students using a self-assessment report substantial movement to later stages of self-directed learning using the ROADMAP curriculum. This curriculum also meets Wil-

59. NEIL W. HAMILTON, ROADMAP: THE LAW STUDENT'S GUIDE TO MEANINGFUL EMPLOYMENT (2d. ed. 2018).

liam Sullivan's call for a concretely formulated model that is practically realizable. We have also developed thirty questions in a progression of curricular engagements over the 1L, 2L, and 3L years that a student should answer before graduation.

5. *Moving Beyond the "School-Centric" Steps of the Workshops and the Focus on Schools with Required Professional Development Curriculum to Reach Out to Organized National Groups of Other Stakeholders Like NALP, the Sitting Dean Group, the Lawyering Skills Faculty, the Clinical Faculty, or Other Groups*

A number of members of organizations like NALP, the sitting dean and associate dean groups, the lawyering skills faculty, and the clinical faculty have become involved in this social movement. Our hope is that these people could work collectively within the various organized groups to increase the momentum of the social movement. Our ultimate hope would be that with enough effective seed planting in any stakeholder group, that group would make something happen in the required curriculum.

6. *Demonstrating that Law Graduates Who Experience Required Professional-Identity Curriculum Are Better Prepared to Meet the Needs of Clients, Employers, and the Legal System*

It is challenging to meet William Sullivan's call to create exemplary centers of educational reform that demonstrate the capacity of the new model to produce better prepared lawyers. The working groups discussed above are developing both stage development models (benchmarks) and assessments on key professional-identity competencies. Over time, we will also develop signature curriculum and assessment modules. The assessments will provide evidence to demonstrate that students are at later stages of development regarding the professional-identity competencies. Since these are the competencies that legal employers and clients say they want, student development in a signature curriculum should result in lawyers who are better-prepared to serve the needs of clients, legal employers, and the legal system. This type of student development should also result in improved bar passage and meaningful employment outcomes for students.