

LEADING THE WAY: THE POWER OF PROFESSIONAL IDENTITY
FORMATION FOR LAWYERS

Kellye Y. Testy* & Zachariah J. DeMeola**

Introduction.....	116
I. Defining Professional Identity Formation	119
A. Professional Identify Formation, Rules of Professional Responsibility, and Professionalism	119
B. Professional Identity Formation Components.....	122
1. Self-Awareness.....	122
2. Self-Direction	124
3. Socialization	124
4. Intentionality and Purpose.....	125
II. A Brief Background: From Professional Responsibility to Professional Identity Formation.....	128
A. Watergate and the Call for Ethics in Legal Education.....	130
B. Challenges to Ethics and Professional Responsibility in Law School.....	131
C. MacCrate Report	133
D. Carnegie Report	135
E. Empirical Research: Lawyer Effectiveness Factors and Foundations for Practice.....	136
III. Professional Identity Formation: Uniquely Suited to Today’s Students.....	138
A. Diversity of Student Population: Diversity of Perspectives and Experiences.....	139
B. Student Motivation: Seeking a Purpose and Helping Others	140
C. Mental Health and Well-Being	142
D. A Generation Primed for Professional Identity Formation	143

* President and Chief Executive Officer, Law School Admission Council.

** Senior Director of Strategic Initiatives, Law School Admission Council.

IV. The Power of Student Self-Determination and Autonomy.....	145
A. Aligning Personal and Professional Values to Avoid Drift and Alienation	146
B. Self-Determination and the Obligation to Promote a Justice System that Provides Equal Access and Eliminates Bias, Discrimination, and Racism in the Law.....	149
V. Professional Identity Formation as Foundational for Leadership Development.....	152
Conclusion: A Cultural Shift in the Making	154

INTRODUCTION

Leadership naturally finds its way into the hands of lawyers.¹ The trust that others must place in lawyers to represent and defend their interests confers a sense of authority and responsibility, making leadership an inherent aspect of a lawyer's professional identity. Beyond their individual clients and causes, lawyers are also entrusted with the responsibility of self-governance, and in that sense are leaders for the rule of law as the cornerstone of our democracy. Whether they take it upon themselves or not, leadership is ascribed to lawyers by the very nature of their profession.

The lawyer's position of authority and trust comes with a certain set of responsibilities, expectations, and obligations. When lawyers prioritize personal gain over their professional responsibility, it can lead to unethical conduct or even exploitation of vulnerable individuals or communities—all of which tarnishes the reputation of the legal profession, undermines the integrity of the legal system, and erodes public trust and confidence in the fairness and impartiality of the law.

Consequently, law schools bear an important responsibility as the institutions responsible for educating and training lawyers. Whether law schools know it or not, they are educating and training the next generation of leaders. Each new lawyer is destined to eventually be in a place where others will rely on them—on their sagacity, on their fidelity, and on their values and competencies.

Legal educators must bring this fact into focus. They must examine what it takes to be a principled leader in today's world. It requires more than

critical thinking and analytical ability—though classically trained lawyers have both in abundance. It takes careful examination of values and duty. It takes a greater sense of purpose to accompany legal skills and professional competencies. It takes character to be a good lawyer.² And it takes character to be a good leader.³

Fortunately, students are hungry for authentic and impactful leadership. Today's law students are the most racially diverse in history, and many are coming to our law schools as first-generation college students. They bring a multitude of experience with them. But there is a tie that binds many of them, characteristic of a generation coming of age in a time of unprecedented transformation and an intricate interplay of technological advancements, societal shifts, and global interconnectedness. Students come to law school with a strong desire to help others and to affect social justice. These motivations have always brought students to law school, but recent data suggests that younger generations are trending away from other motivations—things like high income or prestige—and towards a deep-rooted desire for meaningful work.⁴ These students do not shy from the responsibility of being a lawyer-leader. They embrace it.

The turbulence of modern times and the motivation of incoming law students highlight the need for values alignment and careful, intentional professional identity formation for future lawyers. Professional identity formation—the process through which law students develop a sense of professional self and adopt the values and attitudes integral to the legal profession—offers a powerful way forward for legal education and the profession.⁵ This transformative journey is essential for enabling students to navigate moral quandaries, understand the nuances of professional conduct, and develop the resilience and ethical reasoning necessary to confront challenging situations. Professional identity formation is not just the

²See ALLI GERKMAN & LOGAN CORNETT, FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT 5 (2016), https://iaals.du.edu/sites/default/files/documents/publications/foundations_for_practice_whole_lawyer_character_quotient.pdf [hereinafter Gerkman & Cornett, *Character Quotient*].

³See, e.g., R. Lisle Baker, *Character and Fitness for Leadership: Educating Lawyers for Compassion and Courage as Well as Brains—The Wizard of Oz Was Right*, 14 TENN. J. L. & POL'Y 287, 290–92 (2020); Elizabeth M. Fraley & Leah Witcher Jackson Teague, *Where the Rubber Hits the Road: How Do Law Schools Demonstrate a Commitment to Training Leaders?*, 14 TENN. J. L. & POL'Y 375, 386–87 (2020).

⁴Eli Wald & Russell G. Pearce, *Being Good Lawyers: A Relational Approach to Law Practice*, 29 GEO. J. LEGAL ETHICS 601, 644–45 (2016).

⁵*Id.* at 636.

accumulation of legal expertise, but also the cultivation of traits such as integrity, empathy, cultural competence, and a commitment to equal justice.⁶

Integral to professional identity formation is self-determination, empowered through self-directed learning, self-awareness, and socialization. Professional identity formation has the potential to create a culture that emphasizes that any student can cultivate, grow, and internalize their own professional identity. The central message is, “you,” the student, can be “you,” the lawyer, no matter how challenging; forging an authentic path rooted in your personal professional identity is the key to being the best lawyer you can be. Unlocking this potential has great implications for many of the lingering challenges in legal education, including student well-being, career satisfaction, and inequities experienced by minoritized and first-generation college students.

It also speaks directly to developing foundational leadership abilities. At its core, self-determination refers to the ability to make choices, set goals, and take ownership of one’s actions.⁷ For aspiring leaders, this quality acts as a cornerstone, fostering a sense of autonomy and initiative crucial for effective leadership. Additionally, self-determination encourages continuous growth and learning, essential components of effective leadership. Leaders who are self-determined often exhibit a growth mindset, embracing challenges as opportunities for development rather than setbacks. And self-determination fuels intrinsic motivation, a powerful force that propels leaders toward their objectives.

This article explores professional identity formation and why it is needed for better lawyers and better leaders. First, we distinguish professional identity formation from the ethics, professional responsibility and professionalism that came before it and explore the different elements of professional identity formation, how they work individually, and their collective synergy. Then we look to historical context to understand why professional identity formation is needed now. Finally, we look to the future by first exploring current students’ major motivations and obstacles. We then propose that professional identity formation’s ability to instill a strong sense of self determination, based on a well-developed sense of self-awareness, will

⁶Mary Walsh Fitzpatrick & Rosemary Queenan, *Professional Identity Formation, Leadership and Exploration of Self*, 89 UMKC L. REV. 539, 545–46 (2021).

⁷Dawn A. Rowe et al., *A Delphi Study to Operationalize Evidence-Based Predictors in Secondary Transition*, 38 CAREER DEV. & TRANSITION FOR EXCEPTIONAL INDIVIDUALS 113, 116 (2014).

be a well-tailored and powerful way forward for the coming generation of lawyer-leaders our world will need.

I. DEFINING PROFESSIONAL IDENTITY FORMATION

In February 2022, the American Bar Association Council for Legal Education and Admissions to the Bar (ABA Council)—the national accreditor of law schools—amended Accreditation Standard 303 to require law schools to “provide substantial opportunities to students for the development of a professional identity.”⁸ These opportunities must include “intentional exploration of the values, guiding principles, and well-being practices considered foundational to successful legal practice.”⁹ Specifically included as values are “the importance of cross-cultural competency to professionally responsible representation and the obligation of lawyers to promote a justice system that provides equal access and eliminates bias, discrimination and racism in the law.”¹⁰

Although new to accreditation standards for law school, law schools had been inculcating a professional identity all along (whether they knew it or not), but not necessarily always a healthy or ethical one. A community of legal educators had for years been working hard to change that dynamic, exploring professional identity formation and how best to integrate it into legal education. But it wasn’t until professional identity formation became an accreditation requirement that law schools broadly faced the challenge of incorporating it into their programs and unpacking the ABA Council’s definition into concrete action, opportunity, and curricula.¹¹

A. *Professional Identify Formation, Rules of Professional Responsibility, and Professionalism*

When the ABA Council required professional identity formation in law school curriculum, many educators did not clearly understand what distinguished it from the legal profession’s already existing code of professional ethical rules, which the ABA already required every law school

⁸ ABA STANDARDS AND RULES OF PROC. FOR APPROVAL OF L. SCHS., Standard 303(b)(3), 18 (AM. BAR ASS’N 2022–2023).

⁹ *Id.* at 19.

¹⁰ *Id.*

¹¹ See generally Harmony Decosimo, *A Taxonomy of Professional Identity Formation*, 67 ST. LOUIS U. L.J. 1 (2022).

to teach, or the general concept of professionalism.¹² Even today, there is some confusion within law school that professional identity formation is concerned with resume writing or professional civility.

Although the concepts are related, professional identity formation and professionalism are not interchangeable. Professional identity formation is necessarily personal and involves self-exploration to achieve the level of self-awareness necessary to identify and map personal and professional values.¹³ It challenges students to engage the fundamentals of who they are, what they want the world to be, and their role in, and responsibility for, creating both.¹⁴ Professional responsibility relates to ethical rules, such as the duties of independent judgment or keeping client confidentiality, and professional standards, such as civility or timeliness.¹⁵ Historically, professionalism focuses on the outward conduct the legal profession desires its members to

¹² See, e.g., David I. C. Thomson, “Teaching” Formation of Professional Identity, 27 REGENT U. L. REV. 303, 310 (2015) (noting some of the confusion around the concept of professional identity formation (*Comparing* Martin J. Katz, *Teaching Professional Identity in Law School*, COLO. LAW. 45, 45 (explaining that professional identity includes “more than simply ethics or professionalism—or even both together”), with Donald Burnett, *A Pathway of Professionalism—The First Day of Law School at the University of Idaho*, ADVOCATE, Feb. 2009, at 17, 18 (using the words “professional identity” and “professionalism” synonymously)).

¹³ *Id.* at 317 (noting that professional identity formation is personal to each student, exploring what each student believes in, the kind of person they want to be, and eventually the kind of lawyer they want to be); Daisy Hurst Floyd, *Practical Wisdom: Reimagining Legal Education*, 10 U. ST. THOMAS L.J. 195, 201–02 (2012).

¹⁴ PATRICK EMERY LONGAN ET AL., THE FORMATION OF PROFESSIONAL IDENTITY, THE PATH FROM STUDENT TO LAWYER 3–4 (2020).

¹⁵ *Id.* at 2 (noting that civility is a core value of the legal profession but there is no rule for it in the model rules); Patrick E. Longan et al., *Law School and Professional Identity Formation*, GA. BAR J. Dec. 2019, at 62, 63 (noting that professional responsibility courses focus on the model rules of conduct and the consequences for violating them); NEIL HAMILTON, PROFESSIONALISM CLEARLY DEFINED 9–10 (Univ. St. Thomas, Working Paper No. 07-30, 2008), <http://papers.ssrn.com/abstract=1015396> (defining professionalism as “high competence and civility within the practicing bar,” or a set of core values defined by professional standards created by the ABA, a commitment to client-oriented service or public service, or respect for the people the community of lawyers serve.); LARRY O. NATT GANTT, II & BENJAMIN V. MADISON III, TEACHING KNOWLEDGE, SKILLS, AND VALUES OF PROFESSIONAL IDENTIFY FORMATION 253 (Teaching the Newly Essential Knowledge, Skills, and Values in a Changing World, Working Paper 2015), https://scholarship.law.columbia.edu/faculty_scholarship/1920 (defining lawyer professionalism as adherence to standards or norms of conduct beyond those required by ethical rules).

exhibit without also requiring reflection on why such conduct is likely to be consistent with an individual's own value system.¹⁶

Another major distinction between professional responsibility and professional identity formation is the motivation to act. Professional responsibility and professionalism historically rely on an external influence, such as a bar association or judge, to communicate how one "should" act.¹⁷ Professional identity formation relies on motivation to act due to internalized standards—the belief that a particular action should be taken because it is consistent with one's values.¹⁸ A key problem professional identity formation addresses is that law schools have not always done a great job teaching ethical decision-making and judgment, especially when the needs of an individual client conflict with a broader systemic or societal value.¹⁹ And, while professionalism norms provide a minimum standard of behavior that reflects historical values, some of the underlying values may be antiquated or include undesirable values the profession ought to reexamine.²⁰

In this way, professional identity formation is like character-based or virtue ethics, such as Aristotle's *Nicomachean Ethics*, which focuses on the determination of what makes a person, or character, good rather than what makes an action good.²¹ In practice, professional identity involves personal decisions of where an attorney will apply the practical judgement they have developed through professional identity formation to decide how to resolve complex ethical matters not easily resolved by Rules of Professional Conduct or rules of civility. Returning to Aristotle's *Ethics*, Aristotle viewed practical wisdom as the cardinal virtue implicit in other virtues, including courage,

¹⁶Benjamin V. Madison III, *Professional Identity and Professionalism*, 24 A.B.A. PROF. LAWYER, Nov. 2019, at 16, 17; Eduardo R.C. Capulong et al., *Antiracism, Reflection, and Professional Identity*, 18 HASTINGS RACE & POVERTY L.J. 3, 8 (2021).

¹⁷Benjamin V. Madison, III & Larry O. Natt Gnat, II, *The Emperor Has No Clothes, But Does Anyone Really Care? How Law Schools are Failing to Develop Students' Professional Identity and Practical Judgment*, 27 REGENT U. L. REV. 339, 344–45 (2014).

¹⁸*Id.* (“[Professionalism’s] focus historically has been on the outward conduct the legal profession desires its members to exhibit.”).

¹⁹Fitzpatrick & Queenan, *supra* note 6, at 542.

²⁰*See, e.g.*, Leah Goodridge, *Professionalism as a Racial Construct*, 69 UCLA L. REV. DISC. (LAW MEETS WORLD) 38 (2022) (examining professionalism as a standard with a set of beliefs about how one should operate in the workplace that works to subjugate people of color in the legal profession).

²¹*See generally* ARISTOTLE, *THE NICOMACHEAN ETHICS OF ARISTOTLE* 1 (F.H. Peters trans., 5th ed. 1893).

self-control, fairness, gentleness, loyalty, friendliness, and honesty.²² Aristotle emphasized that to be wise one must know how to employ these virtues “practically” in human affairs. Good judgment required a combination of intellectual and moral considerations, and the same could be said of professional identity formation.²³

B. Professional Identity Formation Components

Although there is no standard catalogue of all the components that make up professional identity formation in law school, over the years the professional identity formation community has identified specific themes, competencies, and pedagogy that form a consistent substantive core.²⁴ These themes are foundational to any successful professional identity formation program, and the interrelationship between them offers insight into understanding how to foster professional identity formation in law students.

1. Self-Awareness

Fundamental to professional identity formation is fostering self-awareness among students as to their values, strengths, weaknesses, boundaries, preferences, and spheres of control. Professional identity formation requires self-reflection as a process for self-directed development, which guides a student’s continual growth.²⁵ Self-reflection is understood as

²²*Id.* at 193.

²³See Patrick E. Longan et al., *A Virtue Ethics Approach to Professional Identity: Lessons for the First Year and Beyond*, 89 UMKC L. REV. 645, 646 (discussing how a virtue ethics approach helps to answer the three biggest questions of professional identity teaching (1) What kind of professional identity should a law student or lawyer seek to develop? (2) Why should anyone undertake the effort necessary to do so? (3) How does one go about deploying such an identity in real-world complex situations?).

²⁴See Susan L. Brooks, *Fostering Wholehearted Lawyers: Practical Guidance for Supporting Law Students’ Professional Identity Formation*, 14 U. ST. THOMAS L.J. 412, 413–16 (2018) (identifying some of the major early contributors who defined many of the core components of professional identity formation); see also Megan Bess, *Transitions Unexplored: A Proposal for Professional Identity Formation Following the First Year*, 29 CLINICAL L. REV. 1, 4–7 (2022) (same); Capulong et al., *supra* note 16, at 8 (recognizing Professors Neil Hamilton and Jerry Organ, co-directors at the Holloran Center at the University of St. Thomas School of Law, as leaders in the professional identity formation movement, and summarizing the reach of their workshops across law schools); see generally Harmony Decosimo, *A Taxonomy of Professional Identity Formation*, 67 ST. LOUIS U. L.J. 1 (2022).

²⁵Neil W. Hamilton, *The Foundational Skill of Reflection in the Formation of a Professional Identity*, 12 ST. MARY’S J. ON LEGAL MALPRACTICE & ETHICS 254 (2022) (focusing on and

an iterative effort, defined by a cycle of action, feedback, analysis, and reaction.²⁶ The process enables students to track their progress, identify relative strengths and weaknesses, evaluate optimal learning styles, set realistic goals, and act based on those goals. Professional identity formation also requires self-reflection on ethical issues and a method for reaching a practical judgment between competing standards, which, in turn, requires exploration and understanding values like integrity, honesty, courage, fairness, justice, and truth.²⁷ Thus, individual alignment of personal values with professional values is important and leads to passion for the work and satisfaction in the role of a lawyer.²⁸ Self-reflection can be taught and coached throughout law school, but it is most effective when students can encounter key transition moments in their professional identity formation, and those moments are most likely found in experiencing the practice of law, whether through internships, other job opportunities, externships, clinical courses, or even simulated practice.²⁹ This principle of self-awareness, and the next principle of self-direction that follows, are not a part of traditional legal education, and have historically been left for the student to address on their own with little or no explicit support from the law school.

collecting empirical studies of the skill of reflection as one of the most effective curricular strategies to foster student growth); Thomson, *supra* note 12, at 318–22.

²⁶See, e.g., Jane H. Aiken, *Striving to Teach “Justice, Fairness, and Morality”*, 4 CLINICAL L. REV. 1, 26 (1997) (discussing the process of reflection and reorientation involving student examination of their own life experiences); Quoc D. Nguyen et al., *What is Reflection? A Conceptual Analysis of Major Definitions and a Proposal for A Five-Component Model*, 48 MED. EDUC. 1176, 1182 (2014) (a systematic review of the most cited medical education papers on reflection in the period 2008 to 2012 defined reflection as “the process of engaging the self in attentive, critical, exploratory, and iterative interactions with one’s thoughts and actions, and their underlying conceptual frame, with a view to changing them”).

²⁷Timothy Casey, *Reflective Practice in Legal Education: The Stages of Reflection*, 20 CLINICAL L. REV. 317, 320–21 (2014) (proposing a method for incorporating reflection into legal education to improve the development of professional judgment); see also Carwina Weng, *Multicultural Lawyering: Teaching Psychology to Develop Cultural Self-Awareness*, 11 CLINICAL L. REV. 369, 372 (2005) (arguing that cultural self-awareness is the key to multicultural competence).

²⁸Patrick Longan, *Developing Professional Identity by Aligning Personal Values and Professional Life and Following the Four Steps of Discernment: Using a Distinguished Judge’s Life as a Guide*, HOLLORAN CTR. PRO. IDENTITY IMPLEMENTATION BLOG (Dec. 15, 2022), <https://blogs.stthomas.edu/holloran-center/developing-professional-identity-by-aligning-personal-values-and-professional-life-and-following-the-four-steps-of-discernment-using-a-distinguished-judges-life-as-a-guide/>.

²⁹Bess, *supra* note 24, at 11–15.

Health and well-being are other key components of self-awareness. Balancing a personal life with a professional life needs to be a priority and learning how to cope with disappointment and stress in a healthy manner, developing self-compassion, and taking care of oneself all offer a bedrock for long-term growth, maturity, satisfaction, and resilience. Purpose is also a key part of mental health—knowing and living to one’s purpose helps with well-being and professional identity formation. Taken as a whole, self-reflection, value alignment, and health and well-being also form a stronger basis for emotional intelligence, self-confidence, drive, and motivation in the journey ahead.

2. Self-Direction

Professional identity formation also requires opportunities for students to develop into lifelong learners.³⁰ Feedback and formative assessment, in addition to developing self-direction, diligence, and growth mindset, all factor into the ability to gauge one’s development and continuous pursuit of excellence.³¹ Included here is the importance of organizing and managing one’s own work, self-development, and continued professional development.³² Other critical facets of self-direction are adaptability regarding unforeseen, ambiguous, or changing circumstances; the ability to deal with setbacks; and the ability to take initiative.³³

3. Socialization

Professional identity formation is a socialization process, influenced by a wide variety of experiences, many of which have little to do with direct

³⁰NEIL W. HAMILTON & LOUIS D. BILIONIS, LAW STUDENT PROFESSIONAL DEVELOPMENT AND FORMATION, BRIDGING LAW SCHOOL, STUDENT, AND EMPLOYER GOALS 35 (2022) (Among competencies, the capacity for self-direction (sometimes addressed as self-directed learning, self-regulated learning, self-awareness, or leadership-of-self) occupies a crucial place because so much else turns on it.).

³¹Neil Hamilton, *Leadership of Self: Each Student Taking Ownership Over Continuous Professional Development/Self-Directed Learning*, 58 SANTA CLARA L. REV. 567, 578–79 (2019) (discussing self-directed learning and self-regulated learning); Louis D. Bilonis, *Bringing Purposefulness to the American Law School’s Support of Professional Identity Formation*, 14 U. ST. THOMAS L.J. 480, 496 (2018).

³²Hamilton, *supra* note 31, at 580.

³³Albert Bandura, *On the Functional Properties of Perceived Self-Efficacy Revisited*, 38 J. OF MGMT. 9, 24 (2012).

interaction with professors.³⁴ Seeking and obtaining summer and then post-graduation employment, internships or part-time employment, and diverse extracurricular activities all contribute to professional identity formation in different ways thus reinforcing the need for schools to support, adopt, and model effective communication principles and practices to support law students' professional identity formation inside and outside the classroom.³⁵ Relational skills, cultural competency, and mutual connection with others all spring from these opportunities and from being grounded in the principals of self-awareness and self-direction. Crucial to effective socialization are the abilities to recognize one's own lack of objectivity and the value of other perspectives, develop empathy, and understand human behavior, in addition to developing and understanding different communication styles, leadership abilities, and teamwork. Consequently, experiential education opportunities are particularly helpful in supporting professional identity formation.³⁶ Socialization efforts should avoid imposing a top-down approach of dictating to students their identity; rather, emphasizing greater self-determination is vital to forming one's professional identity.

4. Intentionality and Purpose

The process of becoming an effective, ethical, and fulfilled lawyer is complex, developmental, and intentional—it does not happen automatically. Law school has historically placed much greater emphasis on analytical thinking than it does the values and attitudes that are foundational to the lawyer's role in society. Even when accreditation standards required schools teach ethics and rules of professional responsibility, professional identity formation was much more of a by-product to be hoped for than an explicit objective.³⁷ Without intentional guidance, student professional identity is

³⁴HAMILTON & BILIONIS, *supra* note 30, at 38 (noting that what law faculty do is important, but formation of professional identity is a socialization process affected by numerous other experiences such as internships or part-time employment and extracurricular activities in the proximity of people who influence the experience other than the student's professors, including career counselors, interviewing employers, moot court judges, lawyers in a student's summer workplace or externship placement, attorneys invited to participate in brown bag lunches, formal and informal mentors, and peers).

³⁵Because students have professional formation experiences throughout the law school, the school's opportunities to support students in their formation run across the enterprise. *Id.* at 43.

³⁶See Aiken, *supra* note 26, at 10 ("Discussion of justice is not sufficient. I suggest that the best way to teach about justice is to create opportunities for students to exercise judgment.").

³⁷Bilionis, *supra* note 31, at 480–81.

more likely to be formed through other influences, including the hidden curriculum of law school, which encompasses the unwritten, implicit lessons and norms that students absorb beyond the formal curriculum.³⁸

The hidden curriculum in law school also often includes the reinforcement of certain values, behaviors, and assumptions that perpetuate inequity within the legal education system.³⁹ This hidden curriculum may inadvertently emphasize competitiveness, elitism, and a narrow definition of success tied to grades, prestigious clerkships, or law firm positions. It may also reflect the historical exclusion of people of color from legal education and practice and favor students with certain socio-economic backgrounds, access to networks, and prior exposure to legal environments, thereby disadvantaging those from marginalized communities or underprivileged backgrounds.⁴⁰ This perpetuates a cycle where students who do not conform to these implicit norms may feel excluded or discouraged, leading to an uneven playing field that contributes to the persistence of inequity within the legal profession.

For example, as students are trained to “think like a lawyer,” they may also learn to dismiss contextual considerations of case analysis, including fairness, morality, and social consequences.⁴¹ Moreover, the lack of resources historically dedicated to ethics courses communicates a relative lack of importance for the topic.⁴² The overall lack of a value set or moral underpinning in lawyer formation and development may lead students to experience a transition from entering their legal studies fueled by a strong sense of justice and a desire to uphold fairness and equity within society to

³⁸David M. Moss, *The Hidden Curriculum of Legal Education: Toward a Holistic Model for Reform*, 2013 J. DISP. RESOL. 19, 22–23 (2013) (arguing law schools should engage in careful curriculum mapping to unpack hidden messages and to allow for law professors to convey clear and concise messages about lawyering and value in terms of learning in law school).

³⁹Hannah R. Arterian, *The Hidden Curriculum*, 40 U. TOL. L.R. 279, 283–87 (including specific illustrations of how the hidden curriculum presents itself in law school); *see generally* Amy C. Gaudion, *Exploring Race and Racism in the Law School Curriculum: An Administrator’s View on Adopting an Antiracist Curriculum*, 23 RUTGERS RACE & L. REV. 131 (2021) (illustrating an example of designing explicitly antiracist curriculum).

⁴⁰*See* Capulong et al., *supra* note 16, at 5–6 (identifying that even professional identity formation is in danger of enforcing a particular racial norm if it does not intentionally address race and racism).

⁴¹WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 141–42 (2007).

⁴²*See* Aiken, *supra* note 26, at 9 (discussing the low priority law school curriculum puts on teaching “values”).

that of a values agnostic, game-oriented view, making them more susceptible to unscrupulous behavior or career dissatisfaction.⁴³

Professional identity formation requires that law schools focus with intention on key components and where those components are taught and learned.⁴⁴ Schools should develop and foster opportunities for formation with purpose, focusing on creating space and providing the guidance and tools for students to cultivate individual formation.⁴⁵ In fact, there are many aspects of professional identity formation that law schools and professors may be fostering without having a clear understanding that they are doing so, which could be harnessed and integrated with purpose for greater impact on student learning.⁴⁶ Mapping which components are being taught and where they are being taught allows a school to identify gaps and fill them.⁴⁷ Similarly, schools need to meet students where they are in their learning journey and support them in becoming more self-directed and motivated for their own professional identity formation.

A strengths orientation that focuses on the abilities incoming students have beyond traditional legal skills is a good place to start encouraging a growth-oriented, optimistic mindset. Each student needs to have the opportunity to identify the competencies they bring with them and the areas

⁴³ SULLIVAN ET AL., *supra* note 41, at 141–42 (discussing how the “shadow pedagogy” leads students to worry that the profession itself lacks ethical substance).

⁴⁴ Bilionis, *supra* note 31, at 492. The Carnegie Report called on law schools to prioritize professional identity formation, and to integrate all three apprenticeships into courses throughout law school curriculum. To achieve this balance, legal educators would have to do more than shuffle the existing pieces. A fully realized third apprenticeship would span the pre-professional-employment period of a student’s development as a lawyer, including experiences inside and outside the law school enriched by coaching and reflection.

⁴⁵ See Timothy W. Floyd & Kendall L. Kerew, *Marking the Path from Law Student to Lawyer: Using Field Placement Courses to Facilitate the Deliberate Exploration of Professional Identity and Purpose*, 68 MERCER L. REV. 767, 770 (2017) (discussing opportunities externships provide to facilitate professional identity formation and provide strategies for overcoming the challenge of student resistance).

⁴⁶ HAMILTON & BILIONIS, *supra* note 30, at 41 (calling on teachers to curate and coach in law school by staging the experiences and environments that will promote professional identity development, connecting them conceptually to one another in an intelligently sequenced fashion, and guiding students through them with a framework that helps the students understand their own development through the process).

⁴⁷ See, e.g., Larry Cunningham, *Assessing the Hidden Curriculum*, LAW SCHOOL ASSESSMENT (Feb. 28, 2017), <https://lawschoolassessment.org/2017/02/> (noting that there are opportunities for professional identity formation in career development offices, externships, clinics, and alumni interactions).

in which they need development. Students can then move to experiences that challenge them to apply these skills and see clearly how they will relate to their effectiveness as lawyers.⁴⁸ The process has great potential to positively impact students who are minoritized because it values their identities, experiences, and skills.

II. A BRIEF BACKGROUND: FROM PROFESSIONAL RESPONSIBILITY TO PROFESSIONAL IDENTITY FORMATION

Unfortunately, intentionality is often the most overlooked aspect of professional identity formation. Schools may be tempted to check boxes to meet accreditation standards, overlooking the need to connect different aspects of law school, including classes, clinics and externships, summer employment, and extracurricular activities.⁴⁹ But history shows that intentionality may be the most vital aspect of an effective professional identity formation program.⁵⁰ Moreover, there is historical precedent for exactly why effective professional identity formation is critical now.⁵¹

The legal education's evolution around ethics and professional responsibility, the precursors to professional identity formation, begins with lawyers prioritizing personal gain or self-interest over ethical and legal responsibilities during the Watergate scandal of the 1970s.⁵² These dangers are not left to history—they are acutely felt today. Lawyers involved in the Trump administration have raised significant concerns about their impact on

⁴⁸Relatedly, the Carnegie Report also criticized legal education for having an underdeveloped state of assessment when compared to other professional fields, calling on law schools to pay more attention to formative assessment in addition to the traditional summative assessments (i.e., grades based solely on one exam at the end of a semester). SULLIVAN ET AL., *supra* note 41, at 188–89.

⁴⁹In addition, law schools place themselves in a structural disadvantage by approaching improvement incrementally rather than pursuing educational development in an integrated manner. This manifests itself in treating major components of legal education in an additive way by adding new requirements to the curriculum with the assumption that increasing emphasis on the practical and ethical-social apprenticeships will necessarily come at the cost of the cognitive apprenticeship. The result is a ceiling on how much the practical and ethical-socio apprenticeships can ever be strengthened, limited to the point at which they begin to encroach on the cognitive. The inherent assumption in this dynamic is that the cognitive apprenticeship is sufficient by itself, while the practical and ethical-socio are at best adjuncts to the first. *Id.* at 189–90.

⁵⁰Diana Toubassi et al., *Professional Identity Formation: Linking Meaning to Well-Being*, 28 SPRINGER NATURE-PMC COVID-19 COLLECTION 305 (2022).

⁵¹Jesse Wegman, *Trump's Lawyers Should Have Known Better*, N.Y. TIMES (Oct. 27, 2023), <https://www.nytimes.com/2023/10/27/opinion/trump-lawyers.html>.

⁵²*Id.*

democracy, accountability, and the rule of law.⁵³ The role of lawyers in disparaging the integrity of the federal election system has renewed calls for stronger ethical foundations among practitioners.⁵⁴

At the same time, the legal profession faces historical upheaval of its own. Systemic racial inequity is endemic in the pipeline for training, licensing, and advancing lawyers, resulting in the legal profession remaining one of the least diverse in the United States.⁵⁵ Reforming the framework to allow people from a wide variety of backgrounds to find their own paths to success within the profession is of paramount importance if these systemic issues are to be addressed. Also critical is the panoply of issues that raise questions of whether lawyers are meeting their obligations to society. There is a persistent and deepening access to justice crisis that prevents everyday people from getting help for their legal problems.⁵⁶ Furthermore, public perception about the integrity of the U.S. Supreme Court and the justice system is at a low point.⁵⁷

Understanding how our profession arrived at this moment in history is key to understanding how to be more purposeful in what we do next.

⁵³ *Id.*

⁵⁴ *Id.*; George Conway et al., *The Trump Threat Is Growing. Lawyers Must Rise to Meet This Moment.*, N.Y. TIMES (Nov. 21, 2023), https://www.nytimes.com/2023/11/21/opinion/trump-lawyers-constitution-democracy.html?unlocked_article_code=1.AU0_Tqa.VIFCZlvG0Tx0&smid=nytcare-ios-share&referringSource=articleShare; see, e.g., Valerie Strauss, *More Than 160 Law Deans Denounce Attempted Insurrection and Effort to Decertify Election – But Don't Name Names*, WASH. POST (Jan. 12, 2021), <https://www.washingtonpost.com/education/2021/01/12/157-law-deans-denounce-attempted-insurrection-effort-decertify-election-dont-name-names/>; UCLA SCHOOL OF LAW, *Law Deans Joint Statement on the 2020 Election and Events at the Capitol* (Jan. 12, 2021), <https://law.ucla.edu/news/law-deans-joint-statement-2020-election-and-events-capitol> (recognizing “with dismay and sorrow that some lawyers challenged the outcome of the election with claims that they did not support with facts or evidence”).

⁵⁵ Zachariah DeMeola, *The Legal Profession's Leaky Pipeline is Leaving Black Americans Behind*, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. (Oct. 1, 2020), <https://iaals.du.edu/blog/legal-profession-s-leaky-pipeline-leaving-black-americans-behind>.

⁵⁶ Rebecca L. Sandefur, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. IRVINE L. REV. 753, 755 (2021); Zachariah DeMeola, *Justice Gap Demands Look at New Legal Services Model*, LAW360 (Sept. 17, 2021, 5:14 PM), <https://www.law360.com/articles/1422816/justice-gap-demands-look-at-new-legal-service-models>; Ralph Baxter, *Dereliction of Duty: State-Bar Inaction in Response to America's Access-to-Justice Crisis*, 132 YALE L.J. 228, 229–30 (2022).

⁵⁷ Katy Lin & Carroll Doherty, *Favorable Views of Supreme Court Fall to Historic Low*, PEW RESEARCH CENTER (July 21, 2023), <https://www.pewresearch.org/short-reads/2023/07/21/favorable-views-of-supreme-court-fall-to-historic-low/>.

A. *Watergate and the Call for Ethics in Legal Education*

Over the past five decades, law schools have struggled with how to instill in students the values and attitudes integral to the legal profession.⁵⁸ The cornerstone of that foundation took hold in the mid-1970s, when the Watergate Scandal spurred the ABA Council to act and, for the first time, require law schools provide instruction on ethics and professional responsibility.⁵⁹ The Watergate Scandal hit the legal profession like a shockwave, amplified in the public eye by the prominent role played by so many lawyers. Watergate ultimately implicated sixty-nine people in the scandal, of whom twenty-one were lawyers, including President Nixon, two attorneys general, two White House counsel, an assistant attorney general and more than a dozen other high-level members of the Nixon administration.⁶⁰ Thus, in the summer of 1974, addressing the threat of a crisis in public trust and confidence in the moral integrity of lawyers, the ABA required law schools teach a course on professional responsibility.⁶¹

Legal educators initially resisted the backlash, questioning whether classes on ethics could even make a difference and noting that law schools were already teaching ethics and professional responsibility.⁶² Before the

⁵⁸ See Floyd & Kerew, *supra* note 45, at 768–69.

⁵⁹ Wegman, *supra* note 51.

⁶⁰ Mark Hansen, *1965-1974: Watergate and the Rise of Legal Ethics*, ABA BAR J. (Jan. 1, 2015, 5:10 AM), https://www.abajournal.com/magazine/article/1965_1974_watergate_and_the_rise_of_legal_ethics.

⁶¹ William P. Barrett, *Law Schools Stress Ethics*, N.Y. TIMES (Sept. 22, 1974), <https://www.nytimes.com/1974/09/22/archives/law-schools-stress-ethics-ethics-emphasized-by-schools-of-law-a-job.html>. This new accreditation requirement would shortly be followed by a series of new and revised ABA Model Codes of Professional Responsibility and the eventual development of the Multistate Professional Responsibility Exam. See Arnold Rochvarg, *Enron, Watergate and the Regulation of the Legal Profession*, 43 WASHBURN L.J. 61, 66–71 (discussing the ABA’s model code reforms in reaction to Watergate); see generally Paul T. Hayden, *Putting Ethics to the (National Standardized) Test: Tracing the Origins of the MPRE*, 71 FORDHAM L. REV. 1299 (2003) (discussing the history of the MPRE). The current standard requires that “[a] law school shall establish learning outcomes that shall, at a minimum, include competency in . . . [e]xercise of proper professional and ethical responsibilities to clients and the legal system.” STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS *Standard 302(c), Learning Outcomes*, 17 (AM. BAR ASS’N 2023–2024).

⁶² Mary C. Daly et al., *Contextualizing Professional Responsibility: A New Curriculum for a New Century*, 58 L. & CONTEMP. PROBS. 193, 195 (1995) (“As one prominent law school dean commented, ‘I resent it. I resent the imposition of the bar, telling us *how* to do it.’”); Donald T. Weckstein, *Watergate and the Law Schools*, 12 SAN DIEGO L. REV. 261, 264 (1975) (summarizing the percentage of law schools offering courses in legal ethics and professional responsibility in

new accreditation standard took hold, the prevailing attitude on ethics and professional responsibility instruction was that there was no need to dedicate space or curriculum to them—they would incidentally be covered in the context of other teachings.⁶³ This “pervasive teaching” approach may not have penetrated far or wide into law school curriculum. In one survey from the late 1950s, students reported only thirty-six non-ethics courses out of thousands of curricular offerings that introduced ethical issues into the discussion.⁶⁴ And although it is true that many law schools supplemented this approach with a variety of professional responsibility offerings, these programs notoriously lacked depth and rigor, with neither students nor faculty taking them seriously.⁶⁵ As Columbia professor Charles Frankel wrote, the shock of Watergate was not due to any new knowledge discovered through the scandal, but, as he put it, “the old knowledge it made impossible any longer to suppress from consciousness . . . [bringing] to the surface a condition of ethical malaise and confusion within the legal profession of such long standing that it can well be called chronic—a condition of which many have been cognizant, and not the least the leaders of the legal profession itself.”⁶⁶

B. Challenges to Ethics and Professional Responsibility in Law School

Change had come. Even while University of San Diego Law School Dean Donald Weckstein lamented that the hopes of this new change “rest upon two erroneous assumptions: (1) Law schools do not teach ethics; (2) It would

1962–63 and 1967–68); Deborah L. Rhode, *Ethics by the Pervasive Method*, 42 J. LEGAL EDUC. 31, 39 (1992) (noting opposition among academic administrators to required ethics courses).

⁶³Rhode, *supra* note 62, at 35–36.

⁶⁴*See id.* (noting the limitations of “incidental instructions” that were supposed to form a pervasive method of teaching ethics and professional responsibility).

⁶⁵*See id.* at 36 (noting that “[e]thics courses were generally treated as academic intruders, ordeals jointly endured by inexperienced faculty and restive students.”); Lawrence A. Dubin, *Professionalism Among Lawyers: The Law School’s Role*, 68 MICH. B.J. 850, 851 (1989) (recalling the academic futility of attending classes related to legal ethics); Daly et al., *supra* note 62 at 194–95 (1995); James E. Moliterno, *An Analysis of Ethics Teaching in Law Schools: Replacing Lost Benefits of the Apprentice System in the Academic Atmosphere*, 60 WM. & MARY FAC. PUBL’S 83, 83 (1991); *see* Warren E. Burger, *The Role of the Law School in the Teaching of Legal Ethics and Professional Responsibility*, 29 CLEV. ST. L. REV. 377, 389–90 (1980) (Chief Justice Burger summarizes the failing of legal education when it came to ethics and professional standards.).

⁶⁶Charles Frankel, *Review of Code of Professional Responsibility by American Bar Association*, 43 U. CHI. L. REV. 874, 874 (1976).

make a difference if they did,” he also acknowledged that any reorientation of legal education must begin by answering the critical question, “What are the values and attitudes that a lawyer should possess?”⁶⁷ In the years that followed, though, the scope of professional responsibility courses was limited. The framework for many of these courses often involved focusing on rote exploration of rules and cases coupled with abstract concepts.⁶⁸ Often lacking from this instruction was a framework to contextualize the kind of significant ethical dilemmas that might present themselves in practice and establish a greater and more meaningful understanding of values and attitudes.⁶⁹ The Multistate Professional Responsibility Examination (MPRE) had the effect of conflating ethics with bar preparation, which may have further “trivialized” the subject matter in law school by emphasizing rules learning versus problem solving or context.⁷⁰

While the ABA’s Model Rules of Professional Conduct offered students some guidance about values a lawyer should have, the framework was built around external conduct, rather than internal beliefs or standards.⁷¹ Incentive for the conduct based on these values was structured in a disciplinary way, coupling the professional ethics learned with formal consequences of wrongdoing, such as disbarment.⁷² Outward conduct and norms not explicitly covered in the rules, such as civility, would also be addressed under the rubric of professionalism.⁷³ Overall, these courses taught students how to “act”

⁶⁷Weckstein, *supra* note 62, at 264, 268.

⁶⁸Michael E. Wolfson, *Professional Responsibility as a Lawyering Skill*, 58 L. & CONTEMP. PROBS. 297, 297 (1995); *see* Rhode, *supra* note 62, at 48 (calling on professional responsibility instruction to not only prepare students to address moral dilemmas but also to provide guidance on the structural conditions that create or exacerbate those dilemmas).

⁶⁹Wolfson, *supra* note 689, at 297–98; *see also* Daly et. al, *supra* note 62, at 193 (noting that more “contextual courses bring a sense of immediacy and coherence to professional responsibility that too often is missing from the traditional survey courses in which practice and substantive-law settings change from page to page”).

⁷⁰Rhode, *supra* note 62, at 41.

⁷¹Longan et al., *supra* note 15, at 62–63.

⁷²*Id.* (noting that professional responsibility courses focus on the model rules of conduct and the consequences for violating them); Madison, *supra* note 17, at 344–45 (“[P]rofessionalism historically has been on the outward conduct the legal profession desires its members to exhibit.”).

⁷³HAMILTON, *supra* note 15, at 5 (defining professionalism as “high competence and civility within the practicing bar,” or a set of core values defined by professional standards created by the ABA, a commitment to client-oriented service or public service, or respect for the people the community of lawyers serves); GANTT II & MADISON, *supra* note 15, at 253 (defining lawyer professionalism as adherence to standards or norms of conduct beyond those required by ethical

appropriately, often for fear of punishment, but did not provide much guidance on how to internalize those same values or how to settle conflicts among inconsistent values.

Moreover, professional responsibility teachers often faced a two-prong challenge: many faculty perceived these classes as lacking intellectual legitimacy and doctrinal content, relegating them to a lower status and priority in the curricula, and many students failed to see the usefulness of the material, making them apathetic or even hostile.⁷⁴ Most institutions committed minimal time to the ethics course requirements, staffing them with reluctant, rotating junior faculty or lecturers.⁷⁵ In 1992, Stanford Law Professor and legal ethics scholar Deborah Rhode revealed a general failure to integrate an ethical perspective into other course material when she found a median coverage of only 1.4% of the total pages in each of 138 books covering fourteen subject areas addressed professional responsibility issues.⁷⁶

C. MacCrate Report

While the general approach to teaching ethics and professional responsibility across law schools after the Watergate era was often limited, many ethics and professional responsibility teachers saw the potential for these courses and rose to the challenge. In the early 1990s, a community of educators examined the problems with the current system and offered solutions for the future, including socializing students into the profession by examining the role of lawyers, teaching to the values reflected in that role, and integrating more professional responsibility guidance and content throughout the curriculum.⁷⁷

rules); LONGAN ET AL., *supra* note 14, at 2 (noting that civility is a core value of the legal profession but there is no rule for it in the model rules).

⁷⁴Wolfson, *supra* note 68, at 297–99 (characterizing these courses as the “step-child of law school curricula”); Daly et al., *supra* note 62, at 193 (noting a twenty-one year struggle for the curricula to establish “intellectual legitimacy” within law school); Rhode, *supra* note 62, at 40 (characterizing professional responsibility as the “dog of the law school [curriculum] — hard to teach, disappointing to take, and often presented to vacant seats and vacant minds”); Moliterno, *supra* note 65, at 93–98.

⁷⁵Rhode, *supra* note 62, at 40.

⁷⁶*Id.* at 41.

⁷⁷*Id.* at 54 (more comprehensive curriculum); see Moliterno, *supra* note 65, at 93–98 (advocating for socializing into the profession and simulations and live clinical experience); see Daly et al., *supra* note 62, at 196 (audiovisual materials).

Around the same time, the American Bar Association's Task Force on Law Schools and the Profession published the 1992 "Law Schools and the Profession: Narrowing the Gap" report, subsequently named after its chair, Robert MacCrate (the "MacCrate Report").⁷⁸ The MacCrate Report was the product of a panel of practicing lawyers and legal educators convened in 1989 by the ABA Council to identify the skills and values essential to lawyers and to bring teaching of lawyering skills and professional values into the mainstream of legal education.⁷⁹ By doing so, law schools would better prepare students to participate effectively in the legal profession, closing a perceived gap between what schools provided and what graduating students needed both in terms of skills training and values.⁸⁰

The MacCrate Report's major contribution to legal education was to promote practice-oriented and "skills" curriculum.⁸¹ This led to expanded growth in experiential education, including a combination of externships, clinics, and classroom-based activities, and clinical and externship programs in law schools.⁸² However, law schools generally overlooked the "values" portion of the report.⁸³ So, spurred to action by the MacCrate Report, legal education developed a richer environment for skills development in practical settings. But many of the problems with ethics and professional responsibility persisted, and the deeper examination of the fundamental values and how to provide education and guidance for them by and large remained on the

⁷⁸E. Eugene Clark, *Legal Education and Professional Development – An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap*, (Illinois: American Bar Association 1992), LEGAL EDUC. REV., Jan. 1. 1993, at 1.

⁷⁹Robert MacCrate, *Preparing Lawyers to Participate Effectively in the Legal Profession*, 44 J. LEGAL EDUC. 89, 90–91 (1994).

⁸⁰*Id.* at 92–93; *see also* Clark, *supra* note 78, at 7–10 (the MacCrate Report identified ten skills fundamental to good lawyering: (1) Problem Solving, (2) Legal Analysis, (3) Legal Research, (4) Factual Investigation, (5) Communication, (6) Counseling, (7) Negotiation, (8) Litigation and Alternative Dispute-Resolution Procedures, (9) Organization and Management of Legal Work, (10) Recognizing and Resolving Ethical Dilemmas).

⁸¹Thomson, *supra* note 12, at 306–07.

⁸²*See* Wallace Loh, *Introduction: The MacCrate Report—Heuristic or Prescriptive?*, 69 WASH. L. REV. 505, 514–15 (1994); *see also* Bryant G. Garth, *From MacCrate to Carnegie: Very Different Movements for Curricular Reform*, 17 J. LEGAL WRITING INST. 261, 264 (2011).

⁸³Thomson, *supra* note 12, at 306–07 (2015); Russell G. Pearce, *MacCrate's Missed Opportunity: The MacCrate Report's Failure to Advance Professional Values*, 23 PACE L. REV. 575 (2003).

periphery of law school curricula.⁸⁴ It was not until the 2007 Carnegie Foundation report, “Educating Lawyers: Preparation for the Profession of Law” (“Carnegie Report”), that law schools would reexamine how legal education approached values fundamental to the legal profession and to the role of lawyers in society.⁸⁵

D. Carnegie Report

The Carnegie Report was part of a series of comparative studies examining how the medical, clergy, engineering, and legal professions educate students and prepare them to enter their respective professions.⁸⁶ The report identified three elements necessary for effective legal education and training: the cognitive, practice, and identity and purpose apprenticeships.⁸⁷ The cognitive and practice apprenticeships encompass skills that go into “thinking” and “doing” like a lawyer.⁸⁸ The third apprenticeship encompasses the professional identity formation and sense of purpose, emphasizing additional competencies that get at “being” a lawyer.⁸⁹

The Carnegie Report concluded that law schools were strongest in the cognitive apprenticeship and students received excellent instruction in developing analytical skills through traditional doctrinal curriculum.⁹⁰ It also noted that law schools were doing more since the MacCrate Report with the practice apprenticeship to develop students’ practical lawyering skills but had

⁸⁴ Aiken, *supra* note 26, at 6–10 (discussing the low priority law school curriculum puts on teaching “values”).

⁸⁵ See generally SULLIVAN ET AL., *supra* note 41.

⁸⁶ *Id.* at 15; see also Neil Hamilton, *Fostering Professional Formation (Professionalism): Lessons from the Carnegie Foundation’s Five Studies on Educating Professionals*, 45 CREIGHTON L. REV. 763, 765 (2012).

⁸⁷ SULLIVAN ET AL., *supra* note 41, at 28.

⁸⁸ *Id.*

⁸⁹ *Id.* The Carnegie Report introduced the concept to legal education, but by that time it was already being developed as a complex and transformational process of internalizing the medical profession’s core values and beliefs in medical school. 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, 357 (2018); Neil Hamilton, *The Major Transitions in Professional formation and Development from Being a Student to Being a Lawyer Present Opportunities to Benefit the Students and the Law School*, 73 BAYLOR L. REV. 139, 150 (2021); Bilionis, *supra* note 31, at 483 (citing William Sullivan, *Foreword to RICHARD CREUSS ET AL., TEACHING MEDICAL PROFESSIONALISM* at ix, xii (Richard Creuss et al. eds. 2d ed. 2016)).

⁹⁰ SULLIVAN ET AL., *supra* note 41, at 185–86.

much more work to do.⁹¹ Legal education's glaring deficiency was the identity and purpose apprenticeship and in teaching ethical-social competencies. The Carnegie Report's greatest criticism revolved around the lack of intentional development in identity and purpose for law students.⁹²

And for good reason. The Carnegie Report criticized law school curriculum for keeping doctrine and skills separate and isolated from one another and called for binding all three apprenticeships in an integrated fashion, using professional identity formation as the binding agent: "The third element of the framework—professional identity—joins the first two elements and is, we believe, the catalyst for an integrated legal education."⁹³ This kind of integration retained law school's strong tradition in the cognitive apprenticeship, but also offered better skills training, deeper engagement with professional responsibility and ethics, and a richer and more contextual and reflective formative process for students to learn, improve, and develop.

Without it, legal education was at risk of unintentionally leading students to unsatisfying career paths and an increased likelihood they might engage in unprofessional conduct. "Insofar as law schools choose not to place ethical-social values within the inner circle of their highest esteem and most central preoccupation, and insofar as they fail to make systematic efforts to educate toward a central moral tradition of lawyering, legal education may inadvertently contribute to the demoralization of the legal profession and its loss of a moral compass"⁹⁴ Professional identity formation was the keystone to the reform legal education needed.

E. Empirical Research: Lawyer Effectiveness Factors and Foundations for Practice

Two major studies supported the recommendations in both the MacCrate and Carnegie Reports and played a prominent role in identifying competencies and abilities that are fundamental to professional identity formation. In 2008, "Identification, Development, and Validation of Predictors for Successful Lawyering," commonly known as the "Schultz-Zedek" report, interviewed hundreds of lawyers, law faculty, law students, judges, and some clients to predict professional effectiveness and to assess those qualities for admission to law school that, combined with the LSAT

⁹¹*Id.* at 93.

⁹²*Id.* at 14.

⁹³*Id.* at 14, 27–29.

⁹⁴*Id.* at 140.

and Index Score (calculated based on LSAT score and undergraduate GPA), would enable law schools to select prospective lawyers based on both academic and professional capacities.⁹⁵ Of the twenty-six lawyer effectiveness factors the study identified, arguably seven (about twenty-seven percent) are skills that would fall into the traditional focus on analytical ability taught in law school.⁹⁶ Factors such as self-development, the ability to see the world through the eyes of others, stress management, and passion and engagement confirmed legal education needed to widen its focus.

Similarly, in 2016 the Institute for the Advancement of the American Legal System (IAALS) published its “Foundations for Practice” reports, the products of a study that identified specific legal skills, professional competencies, and characteristics that new lawyers needed upon graduation from law school to be successful lawyers.⁹⁷ IAALS expanded upon the Shultz-Zedek work through a national survey, using the data collected from over 24,000 lawyers in all fifty states, to indicate—for specific types of organization, specialties, or departments—whether different legal skills, professional competencies, and characteristics are necessary immediately out of law school, can be acquired over time, are advantageous (but not necessary), or are not relevant.⁹⁸ Foundations for Practice identified seventy-six skills, competencies, and characteristics necessary for new graduates that were consistent and definitive across all demographics.⁹⁹ Like the Schultz-Zedek report, sixteen of the Foundations for Practice (about twenty-one percent) arguably fit into the category of traditional legal education.¹⁰⁰

⁹⁵MARJORIE M. SHULTZ & SHELDON ZEDECK, IDENTIFICATION, DEVELOPMENT, AND VALIDATION OF PREDICTORS FOR SUCCESSFUL LAWYERING 15 (2008).

⁹⁶See *id.* at 26–27 (The seven are analysis and reasoning, problem solving, researching the law, fact finding, influencing and advocating, questioning and interviewing, and writing.).

⁹⁷GERKMAN & CORNETT, CHARACTER QUOTIENT, *supra* note 2; ALLI GERKMAN & LOGAN CORNETT, FOUNDATIONS FOR PRACTICE: HIRING THE WHOLE LAWYER – EXPERIENCE MATTERS 1 (2017), <https://iaals.du.edu/publications/foundations-practice-hiring-whole-lawyer-experience-matters> [hereinafter GERKMAN & CORNETT, EXPERIENCE MATTERS].

⁹⁸GERKMAN & CORNETT, CHARACTER QUOTIENT, *supra* note 2.

⁹⁹Zachariah DeMeola, *The Whole Lawyer: Consistent Across All Workplaces*, IAALS BLOG (Mar. 8, 2018), <https://iaals.du.edu/blog/whole-lawyer-consistent-across-all-workplaces>.

¹⁰⁰See GERKMAN & CORNETT, CHARACTER QUOTIENT, *supra* note 2 (Among the sixteen foundations are effectively research the law; identify relevant facts, legal issues, and informational gaps or discrepancies; critically evaluate arguments; effectively use techniques of legal reasoning and argument; maintain core knowledge of substantive and procedural law in the relevant focus area(s); keep information confidential; understand and apply legal privilege concepts; show loyalty and dedication to the firm or organization and its clients or stakeholders.).

Moreover, respondents identified seventy-six percent of characteristics (things like integrity, work ethic, common sense, and resilience) as necessary right out of law school, as compared to forty-six percent of professional competencies (like arriving on time, listening attentively, and teamwork) and forty percent of legal skills (like legal research, issue spotting, and legal analysis).¹⁰¹ Bolstering the Carnegie Report's call for integrating identity and purpose into the cognitive and practical aspects of legal education, Foundations for Practice asserted that "successful lawyers are not merely legal technicians, nor are they merely cognitive powerhouses," but are "successful when they come to the job with a much broader blend of legal skills, professional competencies, and characteristics that comprise the whole lawyer."¹⁰² IAALS subsequently built an instructional design guide around its Foundations for Practice project, which provides step-by-step guidance on how to design courses with learning in mind, including dozens of examples of different types of assessment, model rubrics, and model learning objectives.¹⁰³

III. PROFESSIONAL IDENTITY FORMATION: UNIQUELY SUITED TO TODAY'S STUDENTS

In place now are the critical pieces of infrastructure needed for law schools to embrace professional identity formation—a common theory, best practices, accreditation standards, and a burgeoning community of educators and student support professionals. This is all very encouraging, but what makes professional identity formation truly suited to our times is its uncanny ability to meet our current generation of law students where they are in their own development.

Often, we think about law students in one dimension—that they experience education through one lens or one identity, or in some cases their identities don't play a role in how they learn at all. But research is clear that who you are impacts how you learn. And meeting law students where they

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ See Zachariah DeMeola et al., *Foundations Instructional Design Guide*, INST. FOR ADVANCEMENT AM. LEGAL SYS. (Apr. 2021), https://iaals.du.edu/sites/default/files/documents/publications/foundations_instructional_design_guide.pdf. Others have also provided guidance on assessment for a wide variety of critical competencies and abilities that evidence suggest students need to develop while in law school. See, e.g., *Holloran Competency Milestones*, HOLLORAN CTR., <https://law.stthomas.edu/about/centers-institutes/holloran-center/competency-milestones/> (last visited Jan. 5, 2024).

are in their professional journey is fundamental to professional identity formation because individual experiences, perspectives, and aspirations significantly shape professional identity. When we look at the available evidence to understand better who is entering law school today, we can see more clearly that law students are in a place that makes them particularly eager for—and in many cases in need of—the development offered by professional identity formation.¹⁰⁴

A. Diversity of Student Population: Diversity of Perspectives and Experiences

The first thing to note about today's law students is the breadth of diversity among them. The incoming first-year class of 2023 is the most racially and ethnically diverse law school class in history.¹⁰⁵ 40.2% of the incoming class of 2023 identify as students of color, a 1.2 percentage point increase over last year's record 39% and up from 35.3% in 2019.¹⁰⁶ Taking a closer look at the data, we know that 24.2% of the class are first generation college graduates.¹⁰⁷ And when we take a more holistic understanding of intersectional identities, the first-generation college graduates in the first-year 2023 class are more likely to be students from racially/ethnically minoritized groups than white.¹⁰⁸ Students of color are almost two times more likely to be first-generation college graduates than their white peers in the 2023 incoming class.¹⁰⁹

This generation of students is accustomed to seeing increasing racial diversity not only at a nationwide level but also within American families—with many more newlyweds marrying members of a different ethnic or racial group.¹¹⁰ Today's students have much more exposure to different cultures through technology and their own social circles. Living, working, and

¹⁰⁴DeMeola, et al., *supra* note 103.

¹⁰⁵James Leipold, *Incoming Class of 2023 Is the Most Diverse Ever, But More Work Remains*, LSAC (Dec. 15, 2023), <https://www.lsac.org/blog/incoming-class-2023-most-diverse-ever-more-work-remains>.

¹⁰⁶*Id.*

¹⁰⁷*Id.*

¹⁰⁸James Leipold, *Incoming Class of 2023 Is the Most Diverse Ever, But More Work Remains*, LSAC (Dec. 15, 2023), <https://www.lsac.org/blog/incoming-class-2023-most-diverse-ever-more-work-remains>.

¹⁰⁹*Id.*

¹¹⁰Richard Alba et al., *The Myth of a Majority-Minority America*, ATLANTIC (June 13, 2021), <https://www.theatlantic.com/ideas/archive/2021/06/myth-majority-minority-america/619190/>.

learning among people who are different from them is less likely to be surprising than it is expected.¹¹¹ And this generation is not afraid to speak up and challenge prejudice and racism.¹¹²

Indeed, the increasingly diverse law school student population today signals that students are coming to law school with various perspectives, lived experiences, and educational experiences. Many of the experiences students bring with them include individual struggles, sometimes influenced by major upheavals in recent times that have torn at the fabric of economic, political, and social institutions.¹¹³ This is reflected in two key points about today's incoming students—student motivation for going to law school and the burgeoning crisis in mental health and well-being among today's students.

B. Student Motivation: Seeking a Purpose and Helping Others

It is not surprising that legal education today is viewed by many as a vehicle through which to bring about change. Based on LSAC data collected from the Post-LSAT Questionnaire (PLQ) and the Matriculant Surveys, test takers and first-year law students consistently reported that two of the most influential factors for their interest in a career in law include that it will allow them to be helpful to others and it will allow them to advocate for social justice.¹¹⁴ In the 2022 LSAC Matriculant survey, respondents were asked to rank up to five factors that influenced their decision to pursue law. Overall, the desire to be helpful to others, intellectual curiosity, and the expectation of earning a high income, were most often ranked among the top three motivating factors.¹¹⁵ Across all demographic and academic groupings in 2022, being helpful to others and intellectual curiosity were always ranked most often as one of the top three motivating factors. Current LSAC data collection is also indicating that the top three reasons prospective law

¹¹¹COREY SEEMILLER & MEGHAN GRACE, GENERATION Z GOES TO COLLEGE 37–40 (2016).

¹¹²Dominic-Madori Davis, *The Action Generation: How Gen Z Really Feels About Race, Equality, and its Role in the Historic George Floyd Protests, based on a Survey of 39,000 Young Americans*, BUS. INSIDER (June 10, 2020), <https://www.businessinsider.com/how-gen-z-feels-about-george-floyd-protests-2020-6> (Seventy-seven percent of Gen Zers participated in Black Lives Matter protests following the death of George Floyd and sixty-two percent were willing to be arrested in support of equality for Black Americans.).

¹¹³*Id.*

¹¹⁴LSAC's Post-LSAT Questionnaire (PLQ) data and LSAC's Matriculant Surveys data. This research is ongoing at LSAC, and these insights are currently exclusively published in this article.

¹¹⁵LSAC Law School Choice Brief Series: The 2022 Matriculant Survey (forthcoming 2024).

students cite as their reason for wanting a legal education are as follows: to advance social justice, to help people, and to develop new skills.¹¹⁶ These results are consistent with other studies that examine the motivations of law students¹¹⁷ and with evidence suggesting that many in Generation Z are motivated to seek meaningful work and more willing to take action to achieve justice and equality.¹¹⁸

In fact, in recent years first-year law students have reported that they have a clear idea of why they want to go to law school, formed over many years.¹¹⁹ Based on the 2022 Matriculant Survey, almost half of the first-year law students in 2022 first thought about attending law school prior to college and more than one in four prior to high school.¹²⁰ In 2022, first-year law students, especially those from historically marginalized and minoritized groups, began thinking about attending law school as early as elementary school.¹²¹ For example, about one in four respondents identifying as Black first contemplated law school in elementary school.¹²² Considering that Black Americans experience a disproportionately high frequency of encounters with police, it is not surprising that Black youth would begin to think about how they can change the legal landscape of their communities earlier than others.¹²³

¹¹⁶LSAC's 2023-2024 Post-LSAT Questionnaire (PLQ) data and LSAC's 2023 Matriculant Survey data. This research is ongoing at LSAC and these insights are currently exclusively published in this article.

¹¹⁷ASS'N AM. L. SCHS. & GALLUP, BEFORE THE JD: UNDERGRADUATE VIEWS ON LAW SCHOOL 17 (2018) (finding top reasons for going to law school are a pathway to a career in politics, government, or public service, "passion for and high interest in the type of work," "opportunities to be helpful to others or be useful to society/giving back," and to "advocate for social change"); see 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, 503–04 (2018) (most important goals to enrolled 1L students were bar passage and meaningful employment, followed by sufficient income to meet loan obligations, a satisfactory living, and a trustworthy reputation).

¹¹⁸SEEMILLER & GRACE, *supra* note 111, at 143; Tiffany D. Atkins, *#ForTheCulture: Generation Z and the Future of Legal Education*, 26 MICH. J. RACE & L. 115, 133 (2020) (Compared to Millennials, more Gen Zers believe that it is important to "help others in difficulty" and make a worthy contribution to society.).

¹¹⁹LSAC, *supra* note 115.

¹²⁰*Id.*

¹²¹*Id.*

¹²²*Id.*

¹²³See Anne McGlynn-Wright et al., *The Usual, Racialized, Suspects: The Consequence of Police Contacts with Black and White Youth on Adult Arrest*, 69 SOC. PROBS., 299 (2022) (Black

C. Mental Health and Well-Being

Despite strong motivation to become lawyers as a means of helping others and being agents of social change, students' ability to succeed in legal education is challenged by internal turmoil. Students are in the midst of a health and well-being crisis that begins before they enter law school and is often compounded by their experience in law school.¹²⁴ Generally speaking, students born from 1995–2010 (Generation Z) are more prone to feelings of insecurity and anxiety than their predecessors.¹²⁵ Recent studies also show that significantly more students are coming to law school with mental and emotional health challenges, including increased likelihood of depression and anxiety increase in those needing help for an emotional or mental health problem and students dealing with trauma and PTSD.¹²⁶ When they get to law school, many students encounter mental and emotional health issues after they enter law school, including anxiety, depression, and disrupted sleep.¹²⁷ The often overwhelming volume of information, the pressure to excel in a competitive environment, and the uncertainty of future career paths can create a sense of being adrift in a sea of possibilities and uncertainties. This environment amplifies the feeling of “drift” many students experience away from personal values and toward the professional self, which brings with it additional anxiety. The experience has long fed into feelings of inadequacy

adults who had police encounters as youths and adolescents are eleven times greater odds of being arrested than white adults with the same history of police encounters.); Meret S. Hofer et al., *An Examination of the Influence of Procedurally Just Strategies on Legal Cynicism Among Urban Youth Experiencing Police Contact*, 48 J. CMTY. PSYCH., 104 (2020) (It is more common for minor infractions committed by adolescents, as opposed to adults, to result in police-initiated contact that lead to higher levels of legal cynicism.).

¹²⁴Laura P. Graham, *Generation Z Goes to Law School: Teaching and Reaching Law Students in the Post Millennial Generation*, 41 U. ARK. LITTLE ROCK L. REV. 29, 43 (2018).

¹²⁵*Id.* at 42–43 (summarizing social conditions that exacerbate feelings of insecurity and anxiety among people born from 1995–2010).

¹²⁶David Jaffe et al., *“It’s Okay to Not Be Okay”: The 2021 Survey of Law Student Well-Being*, 60 U. LOUISVILLE L. REV. 441, 463–64, 484 (2022) (finding that between 2014 and 2021 among respondents twice as many students had a mental health diagnosis, with depression increased from 18% to 33% and anxiety from 21% to 40%, with over 80% of respondents reporting having experienced some form of prior trauma with roughly 70% of respondents having answered yes to having experienced two or more types of trauma).

¹²⁷Jessica R. Blaemire, *ANALYSIS: Well-Being in Law School – Law Students Aren’t OK*, BLOOMBERG L. (Feb. 3, 2023), <https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-well-being-in-law-school-law-students-arent-ok> (finding a majority of law school respondents reported experiencing anxiety (77%), disrupted sleep (71%), and depression (51%)).

and self-doubt among students. In fact, mental well-being for many students in law school is also closely tied to feelings of belonging and imposter syndrome, which disproportionately affecting minoritized students and first-generation college students¹²⁸ and directly impacts students' performance and education satisfaction outcomes.¹²⁹

D. A Generation Primed for Professional Identity Formation

Taken together, this evidence suggests students born roughly between 1995 and 2010 generally bring shared characteristics to law school that reflect the circumstances surrounding their growth and entrance into adulthood. Many are technologically savvy, diverse, globally minded, critical of tradition, motivated by making a difference for others (and less motivated by competition with others), inclusive, vocal (i.e., speak openly on social justice issues), and anxious or insecure.¹³⁰ These characteristics make for a good fit for professional identity formation, which, as an academic development, is one of the most apt to speak to this new generation of law students and offer them the tools they need to succeed.

Professional identity formation stresses that educators be intentional about meeting students where they are in their development to provide assistance tailored to support the next step.¹³¹ How faculty and staff engage with students, what they provide, and when they provide can and will have an impact on their educational and professional outcomes.¹³² We are seeing more students whose decision to apply to law school is influenced by experiences with the justice system and by a desire to make a difference and

¹²⁸Elizabeth Bodamer, *Do I Belong Here? Examining Perceived Experiences of Bias, Stereotype Concerns, and Sense of Belonging in U.S. Law Schools*, 69 J. LEGAL EDUC. 455, 456–57, 477 (2020); 2020 ANNUAL SURVEY RESULTS: DIVERSITY & EXCLUSION, LAW SCH. SURV. STUDENT ENGAGEMENT 9–10 (2020), <https://lssse.indiana.edu/wp-content/uploads/2020/09/Diversity-and-Exclusion-Final-9.29.20.pdf>.

¹²⁹Victor D. Qunitanilla, *Guest Post: A LSSSE Collaboration on the Role of Belonging in Law School Experience and Performance*, LAW SCH. SURV. STUDENT ENGAGEMENT (Jan. 25, 2019), <https://lssse.indiana.edu/blog/role-of-belonging-in-law-school-experience-and-performance/>.

¹³⁰SEEMILLER & GRACE, *supra* note 111, at 37–40; Atkins, *supra* note 118, at 120.

¹³¹HAMILTON & BILIONIS, *supra* note 30, at 41–42.

¹³²Robert Minarcin, *Ok Boomer—The Approaching DiZruption of Legal Education by Generation Z*, 39 QUINNIPIAC L. REV. 29, 50–51 (2020) (noting that today's students are more likely to flourish under more interactive and engagement teaching methods).

respond to the social justice issues of the times.¹³³ Thus, law schools should be mindful that it will be important to keep new students connected to meaningful study and work—the reasons many of them enrolled in law school in the first place.

Law school's competitive design (class ranking, curve-based grades, etc.) is often at odds with what is motivating so many new students to want to be lawyers (helping others, making a difference), and professional identity formation offers educators the space to include more collaborative educational opportunities to address this gap.¹³⁴

In addition, by the time prospective law students are ready to apply, they have already been thinking about a legal career for years, even as long as a decade. Resources, including both formal law school information and informal information (personal experiences and testimonials), are widely available to prospective students through a variety of online venues. Students are starting law school increasingly aware of what they want and what is possible to expect. This dynamic further emphasizes that one of the challenges for professional identity formation is addressing students that come to school with a variety of inconsistent knowledge and awareness. Students of the past may have been uninitiated, but the students of today might need myth-busting, clarification, and advancement of knowledge they already possess—something professional identity formation is also well-suited to do.

Professional identity formation also requires that students learn about mental health and well-being if they are to continue—with agency—along a path of excellence. Professional identity formation reinforces positive mental health & well-being by helping students align their personal and professional values, which has been shown to be one of the strongest determinants of long-term lawyer well-being.¹³⁵ And, professional identity formation has the

¹³³ See ASS'N AM. L. SCHS. & GALLUP, *supra* note 117, at 17 (finding top reasons for going to law school are a pathway to a career in politics, government, or public service, “passion for and high interest in the type of work,” “opportunities to be helpful to others or be useful to society/giving back,” and to “advocate for social change”).

¹³⁴ Graham, *supra* note 124, at 40; see also Atkins, *supra* note 118, at 136–37 (citing COREY SEEMILLER & MEGHAN GRACE, GENERATION Z GOES TO COLLEGE 30–32 (2016) (discussing how sharing programs like Uber and Airbnb, where value is earned based on an individual's willingness to share their personal assets, such as a vehicle or home, is a norm for Gen Zers)).

¹³⁵ Anne Brafford, *Self-Determination Theory: A Proven, Science-Based Approach for Fostering Lawyer Well-Being*, ASPIRE 1, 6 (Jan. 2022), https://lawyerwellbeing.net/wp-content/uploads/2022/06/1-Brafford_SDT-CLE_1-14-21.pdf.

potential to help students feel they belong in law school, empower students to become the kind of lawyer that reflects their self and values, and inform students about the choices available to them throughout law school. A more self-aware and informed student can direct their focus on employment opportunities and trajectories that fit the student, reducing the likelihood a student will experience “drift” away from their values and motivation, and avoid feelings of fraudulence and dissatisfaction. All these aspects of professional identity formation increase student confidence and reduce anxiety and uncertainty.

While professional identity formation can speak to the many characteristics we see in law students today, it also empowers the student to exercise self-determination and autonomy in a way that gets at the heart of the psychological friction students are likely to experience without professional identity formation, and it offers a critical foundation for leadership development in legal education. Indeed, because self-determination plays a critical role in harnessing professional identity formation’s ability to reach and empower students, it merits closer attention and focus.

IV. THE POWER OF STUDENT SELF-DETERMINATION AND AUTONOMY

Professional identity formation starts with the proposition that an investment in a student’s self and values can propel them forward, regardless of that student’s background.¹³⁶ The process teaches students that being a lawyer is so much more than just being smart or checking boxes on a variety of prestige factors (such as class rank, law school rank, etc.). It also enables the student to use personal and professional values as intrinsic motivation to drive action. Formation is a process that helps students be more self-aware and self-directed toward defining their professional identity. The effect is a stronger sense of autonomy and self-determination motivated by a sense of purpose and authentic identity.¹³⁷

Because of its emphasis on student autonomy and self-determination, professional identity formation offers instruction and guidance on how to develop the very abilities that empower students to perform at their highest capacity, including growth mindset and health and wellbeing practices,

¹³⁶See generally *id.* at 4–6.

¹³⁷HAMILTON & BILIONIS, *supra* note 30, at 14 (“Autonomy is considered the most important of the three basic psychological needs since people must have a well-defined sense of self and express their core values in daily life to function in a consistent way.”)

which build a student's internal resilience, adaptability, and confidence in their abilities and identity. Students with these abilities have stronger foundations for success academically and professionally in externships, clinics, competitions, and even the bar exam.¹³⁸ They also develop the abilities that facilitate self-awareness and agency, so that students are making informed decisions and being as intentional as possible about their professional identity, instead of unconsciously drifting into an unfulfilling career path or an alienating experience as they enter the legal profession.

A. *Aligning Personal and Professional Values to Avoid Drift and Alienation*

Professional identity formation is anchored in an “intentional exploration of the values, guiding principles, and well-being practices considered foundational to successful legal practice.”¹³⁹ Specifically included as values are “the importance of cross-cultural competency to professionally responsible representation and the obligation of lawyers to promote a justice system that provides equal access and eliminates bias, discrimination and racism in the law.”¹⁴⁰ This framework defines the specific values that delineate the formation of professional identity in terms of equity and anti-racism, directing it towards just and equitable outcomes and inviting all—including people who have faced systemic and structural barriers to legal education—to develop as lawyers.¹⁴¹ Professional identity formation is also anchored more generally in values, guiding principles, and well-being practices foundational to successful legal practice, making it flexible enough accommodate a variety of student backgrounds and motivations and a variety of different educational programs for law schools.¹⁴² It creates space for

¹³⁸ *Id.* (citing Kennon M. Sheldon & Lawrence S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory*, 33 PERSONALITY AND SOC. PSYCH. BULL., 883, 884 (2007) (Self-determination's positive outcomes include (1) higher self-determined career motivation, (2) higher well-being, and (3) higher academic performance.)).

¹³⁹ ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 19 (2023) (Interpretation 303-5).

¹⁴⁰ *Id.* (Interpretation 303-6).

¹⁴¹ Neil Hamilton & Louis Bilionis, *Fostering Law Student Professional Identity in a Time of Instability and Strife* (326), LEGAL EVOLUTION (Aug. 28, 2022), <https://www.legalevolution.org/2022/08/fostering-law-student-professional-identity-in-a-time-of-instability-and-strife-326/>.

¹⁴² The professional identity formation community has identified several specific values and guiding principles in addition to cross-cultural competency and the obligation of lawyers to promote

personal values to overlap the professional and for alternative perspectives within the legal profession without foreclosing the preference of any law student to continue down a more traditional path.

Integral to this framework is a reexamination of lawyer identity. The historical conception of lawyer identity, informed by concepts of professionalism and the rules of professional conduct, requires a clear boundary between personal values and the professional self.¹⁴³ This bifurcation of values is intended as framework to support an objective lawyer that seeks what is best for the client, regardless of the lawyer's personal views.¹⁴⁴ But this traditional view has been criticized as “bleached out professionalism” and “thin professional identity.”¹⁴⁵ Critics claim that this “bright line” presents conflicting message to students while they are negotiating their professional identities—that law is a calling with great civic and personal importance, but that law is also rooted in norms of apolitical neutral partisanship and strong separation between personal values and professional behavior.¹⁴⁶ This criticism is supported by a long line of qualitative research, which indicates that students are trained to “think like a lawyer,” and as part of that process they also learn to eschew moral, political, and other contextual aspects of case analysis.¹⁴⁷ Many students experience a

a justice system that provides equal access and eliminates bias, discrimination, and racism in the law. *See, e.g.*, Capulong et al., *supra* note 16, at 9 (summarizing other works that identify diversity, commitment to others, responsibility to others, respect for others, integrity, pro bono service, basic good judgment, resilience, leadership, commitment to the highest ethical standards, and development of a personal code of ethics/moral core); *see also* PATRICK EMERY LONGAN ET AL., THE FORMATION OF PROFESSIONAL IDENTITY: THE PATH FROM STUDENT TO LAWYER 5–8 (2019) (identifying the virtues of competence, fidelity to the client, fidelity to the law, public spiritedness, and the virtue of civility); HAMILTON & BILIONIS, *supra* note 30, (complying with the ethics of duty, fostering in oneself and other lawyers the ethics of aspiration, develop and be guided by personal conscience, develop independent professional judgment).

¹⁴³David B. Wilkins, *Identities and Roles: Race, Recognition, and Professional Responsibility*, 57 MD. L. REV. 1502, 1504–06 (1998).

¹⁴⁴*Id.*

¹⁴⁵John Bliss, *Divided Selves: Professional Role Distancing Among Law Students and New Lawyers in a Period of Market Crisis*, 42 LAW & SOC. INQUIRY 855, 860 (2017); Sanford Levinson, *Identifying the Jewish Lawyer: Reflections on the Construction of Professional Identity*, 14 CARDOZO L. REV. 1577, 1578–79 (1993); Norman Spaulding, *Reinterpreting Professional Identity*, 74 U. COLO. L. REV. 1, 7 (2003).

¹⁴⁶SULLIVAN ET AL., *supra* note 41, at 57–58, 187–88.

¹⁴⁷John Bliss, *The Professional Identity Formation of Lawyers – How Does Becoming a Lawyer Change You?*, THE PRACTICE (Mar./Apr. 2016), <https://clp.law.harvard.edu/knowledge-hub/magazine/issues/the-professional-identity-of-lawyers/the-professional-identity-formation-of->

transition from a justice-oriented perspective of the legal system to that of a game-oriented view—the embodiment of the lawyer as a “hired gun.”¹⁴⁸

Indeed, the dominant empirical view now holds that traditional bifurcation contributes to student alienation.¹⁴⁹ Bifurcated values contribute to a common experience among students of “drifting” away from public-interest career commitments and moving from being motivated by public interest to being driven by zealous advocacy for one’s client, regardless of the client’s cause.¹⁵⁰

A professional identity that separates one’s work role from one’s political, racial, family, and gender roles tends to dampen enthusiasm for civic engagement in the profession.¹⁵¹ Professional education could redefine who a person is in the deepest sense, pushing them away from developing and acting upon their own vision and guiding ideas. As Anne Colby, one of the Carnegie Report authors, wrote in a separate article “unless this rigorous thinking is directed toward some committed purpose, it can lead to relativism or cynicism—or at least to a narrowly instrumental orientation.”¹⁵² These problems add up to a legal education system that not only fails to cultivate

lawyers/; Bliss, *supra* note 145, at 860–62 (listing a variety of studies); Rhonda V. Magee, *Legal Education and the Formation of Professional Identity: A Critical Spirtuo-Humanistic—“Humanity Consciousness”—Perspective*, 31 N.Y.U. REV. L. & SOC. CHANGE 467, 468–71 (2007) (summarizing relevant studies).

¹⁴⁸Aiken, *supra* note 26, at 6–10 (discussing the low priority law school curriculum puts on teaching “values” and how many law professors “urge students to approach the law with a studied detachment to rid themselves of the emotion and personal experiences that may color their approach to a problem,” concluding that “[w]e are actively training students to divorce themselves from issues relating to justice, fairness and morality”).

¹⁴⁹Bliss, *supra* note 145, at 860–62 (listing a variety of studies by dominant and minority views).

¹⁵⁰*Id.*; Zachary Newman & Salena Copeland, *Does “Public Interest Drift” Exacerbate the “Justice Gap”?*, 58 U.S.F. L. REV. F. 9, 10 (2023).

¹⁵¹See David Thunder, *Can a Good Person Be a Lawyer?*, 20 NOTRE DAME J.L. ETHICS & PUB. POL’Y 313, 316 (2014) (referring to a “bifurcation of a lawyer’s practical reasoning into two compartments: on one hand, the ‘ethical’ compartment, which concerns his pursuit of good and right conduct all things considered, and on the other, the “professional” compartment, which concerns the furthering of his client’s legal purposes, whatever they may be, and however objectionable they may seem from an ethical standpoint”); Lawrence S. Krieger, *Human Nature as a New Guiding Philosophy for Legal Education and the Profession*, 47 WASHBURN L.J. 247, 265–66 (2008); Newman & Copeland, *supra* note 150, at 13 (discussing how public interest drift affects the justice gap and access to justice).

¹⁵²Thomson, *supra* note 12, at 311 (quoting ANNE COLBY, ET AL., *RETHINKING UNDERGRADUATE BUSINESS EDUCATION* 79 (2011)).

professional ethical identity and practical judgment—it unintentionally results in students being more likely to engage in unprofessional conduct, to be prone to personal dissatisfaction, and to exercise poor judgment in practice.

In fact, many law students experience a drift in their professional identity between the first and second year of law school, shifting away from a preference to integrate their personal and professional selves.¹⁵³ Drifting students share a view that the self-narratives they present in job interviews were markedly different from their “true” self, and many drifting students resort to deception to hide who they are in job interviews.¹⁵⁴ Drifting students are plagued with concerns about fraudulence and often experience protracted psychological and moral distancing at a job where they work long hours can be expected to face substantial internal conflicts.¹⁵⁵ The traditional conception of lawyer identity, which holds that personal viewpoints are irrelevant to being a good lawyer, seems to offer little consolation.¹⁵⁶

Alternatively, lawyers who align and integrate their personal values with their professional self-seek to find in their practice an opportunity to lead an unalienated professional life, driven by an effort to find something to believe in.¹⁵⁷ By examining and mapping the overlays between personal and professional values, students are more apt to develop practical and ethical judgment and more likely to exercise agency in navigating questions at the root of career satisfaction, making them less likely to fall prey to the “drift” experience and more likely to direct their professional path intentionally.

B. Self-Determination and the Obligation to Promote a Justice System that Provides Equal Access and Eliminates Bias, Discrimination, and Racism in the Law

All of this has important equity, inclusion, and belonging implications that go to the heart of the obligation of lawyers to promote a justice system that provides equal access and eliminates bias, discrimination, and racism in the law. The process of critically examining personal values in relation to professional values addresses other critical issues, including socio-economic quandaries surrounding who can or should be a lawyer. Many of the same

¹⁵³ Bliss, *supra* note 145, at 857.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.* at 881.

¹⁵⁷ *Id.* at 861.

competencies necessary for effective self-reflection, value alignment, and the practical judgment development are also relevant to enabling students to question and challenge the status quo intentionally with the ability to judge risk and reward. Professional identity formation can help students to exercise critical thought and make informed decisions about existing norms in the profession, the benefits and costs of conforming to those norms, whether those norms validate or perpetuate bias in the profession, and how best to navigate these issues with the least number of negative implications for a lawyer, clients, and other stakeholders. There is value in recognizing the inherent realities of the practice of law embedded in these norms, but many students also see norms in the profession that they do not inherently value and should, therefore, be given room to improve upon them.¹⁵⁸

Grappling with these questions highlights for many that not only is the traditional concept of bifurcated values ill equipped at providing answers, but it may very well be responsible for sustaining structural inequity. The drifting experience is not limited to women or people of color, but these groups seem to be systemically subject to greater degrees of alienation the more they conform to the bifurcated values model.¹⁵⁹ Studies consistently show a traumatic and alienating “identity dissonance” among women and students of color as they transition into the profession.¹⁶⁰ In contrast, white men (particularly those with moderate political views) experience professional socialization with much more ease.¹⁶¹ Indeed, lawyers with professional motivations rooted in racial, gender, political, religious, community, and family roles tend to gravitate more towards the integrated values framework.¹⁶² Moreover, a variety of circumstances may make it difficult for these students to bifurcate professional identity from personal values in the first place.

¹⁵⁸LONGAN ET AL., *supra* note 142, at 1 (noting that “traditional values of the legal profession do not forbid all forms of rebellion and nonconformity” and that “lawyers are expected to challenge authority and the status quo”).

¹⁵⁹Atinuke Adediran & Shaun Ossei-Owusu, *The Racial Reckoning of Public Interest Law*, 12 CAL. L. REV. 1, 11 (2021).

¹⁶⁰Bliss, *supra* note 145, at 161; CARRIE YANG COSTELLO, PROFESSIONAL IDENTITY CRISIS: RACE, CLASS, GENDER AND SUCCESS AT PROFESSIONAL SCHOOLS 3 (2006) (arguing that women and people of color underperform in professional schools due to “identity dissonance,” the clash between their personal identity and gendered and raced norms of professional identity); YUNG-YI DIANA PAN, INCIDENTAL RACIALIZATION: PERFORMATIVE ASSIMILATION IN LAW SCHOOL (1st ed. 2017) (racialization occurs alongside professional socialization).

¹⁶¹Bliss, *supra* note 145, at 862.

¹⁶²*Id.* at 868.

For example, women face heightened levels of work-family conflict and greater penalties for having children.¹⁶³ A bifurcated view is more likely to lead a woman to frame her choices as being between family and professional identity. Similarly, traditional views of professionalism, which closely align with the bifurcated view, act as a racial construct that operates to stifle the professional development of people of color.¹⁶⁴ Professionalism encompasses communication style, interpersonal skills, appearance, how well a person adheres to the standards of their field and employer, and efficacy at the job. Standards are grounded in a set of beliefs that are meant to control appearance, like a person's hair or lipstick color, in addition to behavior and how a person reacts to and navigates professional situations.¹⁶⁵

Many of these standards immediately exclude a variety of people, including low income and people of color, unless they conform. Another concrete example is code-switching, or adjusting one's style of speech, appearance, behavior, and expression in ways that will optimize the comfort of others in exchange for fair treatment, quality service, and employment opportunities.¹⁶⁶ Code-switching comes with social and psychological repercussions, such as depleted cognitive resources that hinders performance and reduction of authentic self-expression, which contributes to burnout.¹⁶⁷

Moreover, lawyers have been taught that thinking like a lawyer means putting all emotions aside.¹⁶⁸ Many argue that divesting of emotion for the sake of legal reasoning in and of itself is an exercise of privilege.¹⁶⁹ The "reasonable person" standard, taught to all law students in their doctrinal courses as the basis for gauging behavior in legal analysis, is supposedly a

¹⁶³Jane R. Bambauer & Tauhidur Rahman, *The Quiet Resignation: Why Do So Many Female Lawyers Abandon Their Careers?*, 10 U.C. IRVINE L. REV. 799, 829–44 (2020); Paula Patton, *Women Lawyers, Their Status, Influence, and Retention*, 11 WM. & MARY J. WOMEN & L. 173, 181 (2005).

¹⁶⁴Leah Goodridge, *Professionalism as a Racial Construct*, 69 UCLA L. REV. DISCOURSE 38, 41 (2022); Drake Baer, *Professionalism is a Bias-Making Machine that Needs to End. Here's How to Dismantle It.*, BUSINESS INSIDER (Mar. 26, 2022, 7:30 AM), <https://www.businessinsider.com/professionalism-is-a-bias-making-machine-how-to-dismantle-it-2022-3>.

¹⁶⁵Aysa Gray, *The Bias of 'Professionalism' Standards*, STAN. SOC. INNOVATION REV. (June 4, 2019), https://ssir.org/articles/entry/the_bias_of_professionalism_standards.

¹⁶⁶Courtney L. McCluney et al., *The Costs of Code-Switching*, HARV. BUS. REV. (Nov. 15, 2019), <https://hbr.org/2019/11/the-costs-of-codeswitching>.

¹⁶⁷*Id.*

¹⁶⁸Capulong et al., *supra* note 16, at 14.

¹⁶⁹*See id.* at 6.

raceless and genderless blank slate. But stripping identity from the reasonable person likely means that whiteness becomes the default norm and lens which legal advocates look through.¹⁷⁰ One of the effects is that attorneys who represent people of color everyday still feel they do not have license to talk about race.¹⁷¹ This is a systemic reflection of how legal practice functions in a largely colorblind fashion, often to the detriment of people of color. All of this is exacerbated by the bifurcated view, which promotes traditional professionalism norms over the personal values of the individual.

Professional identity formation allows our educators and students to address these issues with intention, which offers an immense boon in the way of self-determination. The definition of professional identity that results from a process that addresses these inconsistencies and challenges is based on who an individual is; what kind of a lawyer, person, and leader that individual wants to be; what limitations the individual must face; what defines the world around that person (including impediments to making the changes an individual wants to realize); and how best the individual can navigate this framework. Many students will authentically seek corporate careers or value traditional norms of professionalism; others will seek public interest careers and seek to reform professional norms that are antiquated or that perpetuate systemic inequity. All can benefit from having instruction, coaching, and guidance that gives them agency in the face of pressures for conformity, so that they may experience more control in their careers and development.

V. PROFESSIONAL IDENTITY FORMATION AS FOUNDATIONAL FOR LEADERSHIP DEVELOPMENT

As it relates to leadership development, the emphasis professional identity formation places on self-determination and autonomy encourages students to reflect on their roles as future leaders, fostering a sense of purpose and guiding them toward aligning personal values with their professional identities. This overlap encourages students to explore diverse leadership styles, understand the impact of their decisions on communities, and comprehend the ethical dimensions of legal practice, thereby shaping a well-

¹⁷⁰Goodridge, *supra* note 164, at 50–51.

¹⁷¹*Id.* at 52.

rounded professional identity that prioritizes integrity, service, and effective leadership in the legal field.¹⁷²

A strong sense of self-determination and self-direction begins with self-awareness.¹⁷³ A leader's ability to comprehend their strengths, weaknesses, values, and emotions fosters authenticity and empathy and enables leaders to acknowledge their limitations and seek growth opportunities, creating a culture of continuous improvement within their team.¹⁷⁴ Moreover, self-aware leaders are better equipped to manage their emotions, navigate conflicts, and make sound judgments, enhancing their capacity to inspire and motivate others.¹⁷⁵ By understanding themselves deeply, leaders can establish trust, relate to their team members, and adapt their leadership style to suit diverse situations, ultimately driving organizational success through clarity, vision, and a cohesive team dynamic.¹⁷⁶

When individuals possess a strong sense of self-determination, they are more inclined to take risks, make decisions confidently, and persist in the face of challenges.¹⁷⁷ These attributes are essential for leaders as they navigate complex situations, inspire others, and drive meaningful change. Moreover, self-determination fuels intrinsic motivation, a powerful force that propels leaders toward their objectives. Leaders who are internally motivated tend to exhibit higher levels of dedication, passion, and resilience in their pursuits.¹⁷⁸ By setting their own goals and actively working towards them, individuals cultivate a deeper connection to their aspirations. This innate drive not only sustains their commitment but also sets an example for others to follow. A leader's ability to motivate and influence their team is greatly enhanced when they authentically embody self-determination, serving as a

¹⁷² See Deborah L. Rhode, *Leadership in Law*, 69 STAN. L. REV. 1603, 1628 (2017) ("The best leaders 'are exquisitely sensitive to the impact they are having on others' and able to adjust their styles accordingly.").

¹⁷³ *Id.* at 1611–12 ("Of all the qualities important for leadership, the most critical is self-knowledge . . . self-awareness is the primary characteristic that distinguishes successful leaders; it provides the foundation for professional development and correspondingly promotes organizational performance."); Louis D. Bilonis, *Law School Leadership and Leadership Development for Developing Lawyers*, 58 SANTA CLARA L. REV. 601, 603 n.2 (2018).

¹⁷⁴ See Hamilton, *supra* note 31, at 572–74 (summarizing four different studies, all confirming that self-knowledge and self-awareness of strengths and weaknesses and a deep commitment to continuous professional development toward excellence are foundational for leadership ability).

¹⁷⁵ *See id.*

¹⁷⁶ *Id.* at 572–74.

¹⁷⁷ Bandura, *supra* note 33, at 24.

¹⁷⁸ See Rhode, *supra* note 173, at 1641.

guiding light that inspires others to embrace their goals and pursue excellence.¹⁷⁹ Self-determination fuels self-understanding and growth, intimacy with others, helping others, and being in and building community.¹⁸⁰

Additionally, self-determination encourages continuous growth and learning, essential components of effective leadership. Leaders who are self-determined often exhibit a growth mindset, embracing challenges as opportunities for development rather than setbacks.¹⁸¹ They actively seek out new skills, experiences, and knowledge, constantly evolving and adapting to changing circumstances.¹⁸² This adaptive capacity is invaluable in leadership roles where agility and the ability to navigate uncertainty are paramount. By fostering self-determination, aspiring leaders equip themselves with the resilience and adaptability needed to thrive in dynamic environments, ensuring sustained personal and professional growth.

CONCLUSION: A CULTURAL SHIFT IN THE MAKING

The intersection between leadership development and professional identity formation within law schools forms a compelling nexus, offering students a comprehensive framework to evolve as ethical, effective, and empathetic leaders. Indeed, many of the professional identity components are also foundational to leadership pedagogy.¹⁸³ When developed in the context of professional identity formation, leadership in law schools is not merely about honing management skills, but also about cultivating a deep understanding of personal values, ethical decision-making, and a sense of social responsibility. Taken together, they form a symbiotic relationship with deeper significance and application, leading some to rightly conclude that leadership is a foundational part of professional identity in lawyers.¹⁸⁴

¹⁷⁹See generally *id.* at 1638, 1664–65 (providing examples of role models and their impact on leadership qualities of others).

¹⁸⁰Lawrence Krieger, *The Most Ethical of People, the Least Ethical of People: Proposing Self-Determination Theory to Measure Professional Character Formation*, 9 U. ST. THOMAS L.J. 168, 171–72 (2011).

¹⁸¹*Id.*

¹⁸²*Id.* at 175; Rhode, *supra* note 1723, at 1634.

¹⁸³Mary Walsh Fitzpatrick & Rosemary Queenan, *Professional Identity Formation, Leadership and Exploration of Self*, 89 UMKC L. REV. 539, 539 (2021).

¹⁸⁴Leah Teague, *supra* note 1, at 171 (concluding that leadership is a part of professional identity in lawyers); see also Bilionis, *supra* note 173, at 617 (Professionalism, wellness, professional development, professional identity formation, and leadership development initiatives are complementary, mutually reinforcing means to instill in students a personal responsibility

2024]

PROFESSIONAL IDENTITY FORMATION

155

Law schools that embrace professional identity formation as a critical component of legal education can elevate their outcomes and contributions to the legal profession and society. Professional identity formation is suited to address the desire for meaningful work and the psychological friction that today's law students often encounter when expectations fail to meet reality, making it not just an indispensable feature of modern legal education, but uniquely suited to address the challenges of our times.

continuing development toward excellence at all of the competencies of the profession and a personal responsibility to others whom one serves as a professional, including clients, colleagues, and society.).