

10-1-2012

Mission: Impossible, Mission: Accomplished or Mission: Underway? A Survey and Analysis of Current Trends in Professionalism Education in American Law Schools

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**MISSION: IMPOSSIBLE, MISSION:
ACCOMPLISHED OR MISSION: UNDERWAY?¹
A SURVEY AND ANALYSIS OF CURRENT TRENDS
IN PROFESSIONALISM EDUCATION IN
AMERICAN LAW SCHOOLS**

Alison Donahue Kehner and Mary Ann Robinson²

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¹ The *Mission: Impossible* reference in the title comes from a television show, and a series of major motion pictures bearing the same name. *Mission: Impossible* (CBS 1966-1973) (ABC 1988-1990) (television series); MISSION: IMPOSSIBLE (Paramount 1996, 2000, 2006, 2011) (motion picture series); Mission: Impossible [TV Series] Synopsis, FANDANGO.COM, http://www.fandango.com/mission:impossible%5Btvseries%5D_v175187/plotsummary (last visited Sept. 1, 2012).

The plot involved a team of highly trained agents called the Impossible Mission Force, or the “IMF,” who fought and defeated evil wrongdoers each week using a variety of tools, “psychological manipulation” and “elaborate ruses.” *Mission: Impossible* (1966), TVRAGE.COM, <http://www.tvrage.com/Mission-Impossible> (last visited Sept. 1, 2012). The parallels between the IMF and those of us committed to professionalism instruction were too ironic to ignore.

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I. INTRODUCTION

The prevailing sense among legal educators, members of the bench and bar, and the public that we serve is that law schools have an obligation to produce “practice-ready” professionals by graduation.³ Put differently, when our students walk across the stage at commencement, they need to know not only how to “think like a lawyer,” but also how to “act like a lawyer[.]”⁴ But “acting like a lawyer” goes beyond mastery of basic legal skills such as drafting documents and interviewing witnesses, and it commands more than just compliance with the Rules of Professional

³ Press Release, ABA, Hulett H. Askew, ABA Consultant on Legal Educ., *ABA Survey Highlights Changes in Law School Curricula* (July 5, 2012), <http://www.abanow.org/2012/07/aba-survey-highlights-changes-in-law-school-curricula> (“The survey responses [by law schools] reveal a renewed commitment by law schools to review and revise their curricula to produce practice-ready professionals.”); see also Margaret Martin Barry, *Practice Ready: Are We There Yet?*, 32 B.C. J.L. & SOC. JUST. 247, 247 (2012) (“The assertion that law schools aim to graduate practice ready lawyers lies at the heart of the debate about the role of legal education in preparing students for the profession.”). Askew’s comments address the ABA’s recent comprehensive study of law school curricula. ABA SEC. LEGAL EDUC. ADMIN., *A SURVEY OF LAW SCHOOL CURRICULA: 2002–2010* 13 (Catherine L. Carpenter ed., 2010), http://abanow.org/wordpress/wp-content/files_flutter/1341346391LawSchoolCurriculaSurveyExecSummary.pdf [hereinafter ABA SURVEY OF LAW SCHOOL CURRICULA].

⁴ Nicola A. Boothe-Perry, *Professionalism’s Triple E Query: Is Legal Academia Enhancing, Eluding, or Evading Professionalism?*, 55 LOY. L. REV. 517, 538 (2009).

Conduct. It requires law graduates to exhibit “professionalism”—that is, students must graduate with a sense of their own professional identity that will guide them to conduct themselves in a manner that conforms to the customs, values, and mores of the legal profession.⁵

Given the market forces and decline in the on-the-job training model for new law hires,⁶ law schools are increasing their efforts to include professionalism education in the law school experience.⁷ Students learn by example, and legal educators have an obligation to make sure that our students do not resort to watching re-runs of popular lawyer television shows to develop a sense of professional identity. While some of the earlier literature on the subject questioned the wisdom of the legal academy’s involvement in teaching professionalism,⁸ the current and predominant view

⁵ Our view that professionalism embodies an appreciation of the customs and values of our profession and an internalization of those traits to form one’s professional identity is grounded in the recent, prevailing views on this topic. See, e.g., WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 4, 19 (2007) [hereinafter CARNEGIE REPORT] (discussing the need for a “reawakening of professional élan” and observing that law school is the place “where the profession puts its defining values and exemplars on display, where future practitioners can begin both to assume and critically examine their future identities”); *id.* at 9 (recommending integration of professionalism instruction throughout the curriculum because ethical and social issues pervade the law school experience); see also Nicola A. Boothe-Perry, *Enforcement of Law Schools’ Non-Academic Honor Codes: A Necessary Step Towards Professionalism?*, 89 NEB. L. REV. 635, 636 (2011) (describing professionalism as the “appropriate standards necessary to preserve the spirit of the law and the profession” and arguing that law schools have a duty to teach students how to “develop attitudes and dispositions consistent with professionalism”); Richard A. Matasar, *The Two Professionalisms of Legal Education*, 15 NOTRE DAME J.L. ETHICS & PUB. POL’Y 99, 115 n.13 (2001) (describing professionalism as embodying a lawyer’s own sense of professional values that shape his or her identity). There are many ways to describe what “professionalism” embodies, as explored *infra* at note 56.

⁶ ABA SURVEY OF LAW SCHOOL CURRICULA, *supra* note 3, at 14 (noting that “since the [ABA’s] 2002 survey of law school curricula, law schools have faced a changing legal job market amid an economic downturn”); Patrick E. Longan, *Teaching Professionalism*, 60 MERCER L. REV. 659, 660 (2009) (noting that “lawyering skills” were once “learned on the job” but recently practitioners urged law schools to teach skills necessary for law practice).

⁷ We define “professionalism education” in the survey that we conducted in connection with this Article, as follows:

As we use the phrase “professionalism education,” we are referencing any course work or extracurricular programs or initiatives that are aimed, in whole or in part, at identifying and teaching traits, habits, and appropriate behaviors to which law students can aspire in forming their professional identities. Generally speaking, professionalism education seeks to teach students the core “values” of a legal professional, often going beyond the traditional legal ethics course and placing a broader focus on providing instruction on the customs and mores of the legal profession.

⁸ Some members of the legal academy and practitioners are more skeptical that traits such as civility and competence can be “taught” during law school and beyond; some believe that if those traits were not developed earlier, there is no way to reverse the lack of moral compass. See e.g., William T. Braithwaite, Commentary, *Hearts and Minds: Can Professionalism Be Taught?*, 76-SEP A.B.A. J. 70, 70 (1990) (suggesting that “not very much” can be done to teach professionalism in law school because “the chief elements of professionalism—upright character, proper work habits and genuine good manners—already have been mostly shaped by the time students begin law school”); see also Janet Stidman Eveleth, *Teaching Ethics: Professionalism Course Showcases Ethics -- Realities of Law Practice*, 44-APR MD. B.J. 42, 44 (2011) (quoting attorneys who opine that you cannot “teach professional behavior” exclusively in a one-day course post-law school because behavior is “hard wired” before puberty[.]” and taught “at home” early on, but that such efforts must continue to instill the notion that unprofessional behavior has negative consequences); Douglas S. Lang, *The Role of Law Professors: A Critical Force in Shaping Integrity and Professionalism*, 42 S. TEX. L. REV. 509, 512–13, nn.14, 16 (2001) (citing

has shifted.⁹ Now, more than any other time in the history of legal education, law faculties are embracing the view that it is our job to identify the prevailing customs, values, and habits expected of members of our profession, and to assist students in forming their professional identities.¹⁰

As a matter of cognitive and social development, it makes sense for law schools to be at the forefront of teaching our students matters of professional values. After all, law students cannot be expected to have a complete understanding of the customs, values, and norms of our profession when they enter law school, and they certainly have not thought about how to conform their behavior to those norms once they pass the bar and practice law.¹¹ Moreover, empirical evidence supports the view that professionalism education in law school is not a waste of time and effort; a person's character is molded and changed beyond the teenage formative years, based on one's experience and reflection.¹²

At the authors' law school, Widener University School of Law–Delaware, we have a number of extra-curricular programs and initiatives where professionalism issues are explored in an intentional way with our students. The most prominent of these initiatives is Professional

materials suggesting that law school need not teach professionalism because many believe that values cannot be taught in law school since values are already set when students reach law school).

⁹ See ABA SURVEY OF LAW SCHOOL CURRICULA, *supra* note 3, at 14 (stating that the increased commitment to professionalism education first reported in 2002 “remain[s] firmly in place,” as demonstrated by the results of the 2010 survey).

¹⁰ Donna Chin et al., *One Response to the Decline of Civility in the Legal Profession: Teaching Professionalism in Legal Research and Writing*, 51 RUTGERS L.J. 889, 895 (1999) (noting that legal writing academicians can and should do their part to instill professional values in law students in the legal writing classroom); Lang, *supra* note 8, at 509 (“Law professors are in a critical position to make a difference by instructing law students about values, honesty, integrity and professionalism.”); Longan, *supra* note 6, at 661–62 (noting that “[l]aw schools have responded to the call for professionalism education” from the American Bar Association in a number of ways); Margaret Z. Johns, *Teaching Professional Responsibility and Professionalism in Legal Writing*, 40 J. LEGAL EDUC. 501, 508 (1990) (arguing that legal writing professors should incorporate professionalism lessons in their classes to show students that professionalism “is concrete and practical”).

¹¹ Chin, *supra* note 10, at 889 (noting that individuals begin the process of learning basics of professionalism and civility from our parents, and that attorneys are first exposed to professionalism in law school).

¹² Empirical evidence confirms that in some instances, moral reasoning, moral identity and moral motivation is not fully formed until law school. Neil Hamilton, *Answering the Skeptics on Fostering Ethical and Professional Formation (Professionalism)*, 20 THE PROF. LAWYER 3 (2011) (looking at empirical research suggesting that moral judgment is developing in undergraduate school, but for many, is not completely formed until law school and beyond); Beth D. Cohen, *Helping Students Develop a More Humanistic Philosophy of Lawyering*, 12 LEGAL WRITING 145 (2006) (“When students begin their legal education, they also begin to develop their professional habits and skills.”); Lang, *supra* note 8, at 512 (noting that incoming law students are “blank pages upon which professors can imprint professionalism”); see also Deborah L. Rhode, *CLEPR's 40th Anniversary: Papers and Speeches from the AALS-ABA-CLEA Celebration of CLEPR: Legal Ethics in Legal Education*, 16 CLINICAL L. REV. 43, 47 (2009) (“Recent psychological research indicates that significant changes occur during early adulthood in people's basic strategies for dealing with moral issues, and that well designed curricula can assist the developmental process.”). Indeed, Professor Weresh writes that, while professional identity formation begins in law school, it continues as the novice lawyer enters practice and becomes influenced by his or her peers and/or more seasoned members of the profession. Melissa Weresh, *I'll Start Walking Your Way, You Start Walking Mine: Sociological Perspectives on Professional Identity Development and Influence of Generational Differences*, 61 S.C. L. REV. 337, 345 (2009).

Development Day, during which classes are suspended and members of the faculty, bench, and bar speak to the entire student body of the law school about topics relating to formation of one's professional identity.¹³

The impetus for this article stemmed from our involvement in Professional Development Day at Widener, and our efforts to keep the content of that program interesting, relevant and beneficial to our students. To that end, we began researching other schools' professionalism education efforts. We learned through that process that, while most agree that we need to instill a sense of professionalism and a desire to develop their own professional identity, there are myriad ways to go about doing it. With nearly 200 ABA accredited law schools in the United States as of this writing, there are as many different approaches to teaching professionalism as there are definitions of the "elusive" term professionalism education itself.¹⁴

It was at that point that we realized that as "learner-centered" legal educators, we all share a common desire to optimize student learning and reflection about the values and customs of our profession.¹⁵ While several institutional authors have collected information on the topic of professionalism training in law school,¹⁶ and many authors wrote about their own initiatives in the area, there was a dearth of scholarly literature identifying and assessing predominant trends in professionalism education in the post-Carnegie era.¹⁷ With that realization, "our mission—should we

¹³ Widener Law's Professional Development Day is detailed *infra* Part III.B.2.b.ii.

¹⁴ Brathwaite, *supra* note 8, at 70 ("[W]hatever consensus the profession once had, say 50 years ago, on the meaning of professionalism has been eroded somewhat.")

¹⁵ ROY STUCKEY ET AL., CLINICAL LEG. EDUC. ASS'N, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP 3 (2007) [hereinafter BEST PRACTICES] ("It is time for legal educators . . . to reevaluate our assumptions about the roles and methods of law schools and to explore new ways of conceptualizing and delivering learner-centered legal education.")

¹⁶ See, e.g., ABA Standing Comm. on Professionalism, *Report on a Survey of Law School Professionalism Programs* iv (Mar. 2006) (reporting results of professionalism education survey conducted in February 2005); *Legal Education & Training*, NELSON MULLINS RILEY & SCARBOROUGH CTR. FOR PROFESSIONALISM AT U. OF S.C. SCH. OF LAW, <http://professionalism.law.sc.edu/legaeducation.php> (providing summaries of noteworthy law school curricular and extra-curricular programs aimed at teaching professionalism traits and habits) (last visited Aug. 8, 2012). See also ABA SURVEY OF LAW SCHOOL CURRICULA, *supra* note 3, at 14 (law schools have "an increased commitment to professionalism"). The Executive Summary of the ABA Survey is available at http://apps.americanbar.org/abastore/products/books/abstracts/5290104%20exec%20summary_abs.pdf (last visited Sept. 3, 2012).

¹⁷ This reference to the "Post-Carnegie Report" era is to one of the two influential studies on legal education released in 2007 by the Carnegie Foundation for the Advancement of Teaching. The first was *Educating Lawyers: Preparation for the Practice of Law*. See CARNEGIE REPORT, *supra* note 5. The second study released in 2007 was conducted by Roy Stuckey and others and published by the Clinical Legal Education Association. See BEST PRACTICES, *supra* note 15. The *Carnegie Report* and *Best Practices* have had a substantial impact on law school curricular reform. Importantly, both call for increased emphasis on professional skills and professionalism in the curriculum. ABA SURVEY OF LAW SCHOOL CURRICULA, *supra* note 3, at 13 (noting that "[m]uch has happened since the publication of the 2002 Survey to shape the conversation about legal education" and citing the *Carnegie Report* and *Best Practices*). For a detailed discussion of the *Carnegie Report* and *Best Practices*, see *infra* Part II.C.

choose to accept it”¹⁸—was clear.

Our mission in this Article is to synthesize the available information and to identify recent trends in professionalism education. We also seek to identify common characteristics of effective professionalism instruction to provide guidance on how to design innovative professionalism instruction. Part II of this Article describes the origins and development of the professionalism education movement in American law schools. Part III of this Article first explains our methods for collecting information about trends in professionalism education in American law schools. It then identifies and summarizes the predominant trends, and provides examples of noteworthy programs or initiatives. Part IV concludes by describing our method for assessing successful programs and identifying the characteristics of effective professionalism instruction.

II. THE ORIGINS AND DEVELOPMENT OF PROFESSIONALISM EDUCATION IN LAW SCHOOL

A. 1970s–1980s: A Time of Perceived Ethical and Moral Decline

While ethics and professionalism are distinct but related ideas, the push for professionalism education can trace its roots back to the advent of the Professional Responsibility Course. Indeed, the history of the professionalism movement is best understood in light of the factual and political context that preceded it. The post-Watergate era ushered in a negative public perception of attorneys. The perceived lack of ethical and moral compass of those attorneys involved in the scandal led to the ABA mandating in 1974 that accredited schools “require for all students . . . instruction in the duties and responsibilities of the legal profession.”¹⁹

While the mandate to include formal ethics instruction was a step in the right direction in terms of addressing professional norms in law school, it was viewed by many as insufficient to address the larger problem of a lack of professionalism in the practicing bar. In the 1980s, members of the Bar and the legal academy began to lament this perceived lack of professionalism.²⁰ The ABA was at the forefront of the movement towards taking a hard look at the law profession. The prevalent view was that many were “moving away from the principles of professionalism,”²¹ although

¹⁸ This phrase is a tongue-in-cheek reference to the opening sequence of *Mission: Impossible*. Each week, the show opened with an IMF team member listening to a tape recording that opened with some version of the following phrase: “Your mission, should you choose to accept it . . .” *Series Revival: “Mission: Impossible” and “Mission: Impossible,”* THOM HOLBROOK’S CROSSOVERS & SPIN OFFS PAGES, <http://www.poobala.com/missionimpossible.html> (last visited Sept. 15, 2012).

¹⁹ Rhode, *supra* note 12, at 46 (quoting Section of Legal Educ. and Admissions to Bar, Am. Bar. Ass’n, Standards for the Approval of Law Schools, Standard 302(a)(iii) (1974)) (alteration in original).

²⁰ See Boothe-Perry, *supra* note 4, at 538–39.

²¹ Boothe-Perry, *supra* note 4, at 539.

many were uncertain why it was happening, and how to fix the problem.²²

The ABA formed a Commission on Professionalism in response to those concerns.²³ In 1986, the ABA's Commission on Professionalism issued a report under the direction of then-President Justin Stanley, entitled "*In the Spirit of Public Service: A Blueprint for the Rekindling of Lawyer Professionalism.*"²⁴ The Report encouraged an integrative approach to teaching ethics and professional values, calling on law schools to "weave ethical and professional issues into courses in both substantive and procedural fields."²⁵

B. 1990s: The MacCrate Report and Emphasis on Developing Lawyering Skills and Students' Sense of "Professional Identity"

The push for education on skills and values of the legal profession came to a head in 1992, when the ABA's Section on Legal Education and Admissions to the Bar issued a report entitled "*An Educational Continuum Report of the Task Force on Law Schools and the Profession: Narrowing the Gap.*"²⁶ This "MacCrate Report" (named after its Chairman, Robert MacCrate, Esq.) sought to identify the essential skills and values lawyers must possess.²⁷ It identified ten fundamental skills and four professional values that law schools should strive to develop. While the *MacCrate Report's* impact on legal education normally is discussed in terms of its impact on the increase of clinical and skills-based learning opportunities,²⁸ the Report also plants the seeds for professionalism education beyond the application of the rules of ethics. The professional values identified as essential were: (1) strive to provide competent representation; (2) strive to

²² Steven H. Goldberg, *Bringing The Practice to the Classroom: An Approach to the Professionalism Problem*, 50 J. LEGAL EDUC. 414, 414 (2000). Professor Bratman suggests that the early focus on the need for formalized professionalism education in law school seems to have been based more on staving off the "commercialism" of the profession and less on instilling certain habits or character traits to law students and lawyers. Ben Bratman, *Toward a Deeper Understanding of Professionalism: Learning to Write and Writing to Learn During the First Two Weeks of Law School*, 32 J. LEGAL PROF. 115, 117 (2008) (noting that "[e]mbedded in the very premise of the Commission's report is the notion that professionalism is the opposite of commercialism"). Other accounts suggest that even early on, some framed the concern for increased focus on professionalism education as requiring instruction and reflection on the kinds of "traits" and "attitudes" that are required of lawyers. See Dean Donald Burnett, *The Pathway of Professionalism: The First Day of Law School at the University of Idaho*, 52 THE ADVOCATE 17, 17 (Feb. 2009) ("Have we really tried in law school to determine what skills, what attitudes, what character traits, what quality of mind are required of lawyers?") (quoting Robert MacCrate, *Foreword to BEST PRACTICES*, *supra* note 15, at vii).

²³ Boothe-Perry, *supra* note 4, at 538–39.

²⁴ Goldberg, *supra* note 22, at 415.

²⁵ Bratman, *supra* note 22, at 121 (quoting "*In the Spirit of Public Service: A Blueprint for the Rekindling of Lawyer Professionalism*, 1986 REP. OF THE COMM'N ON PROFESSIONALISM TO THE BOARD OF GOVERNORS AND THE HOUSE OF DELEGATES OF THE ABA, 112 F.R.D. 243, 263 (1986)).

²⁶ A.B.A. SEC. OF LEGAL EDUC. & ADMIS. TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM (1992) [hereinafter MACCRATE REPORT].

²⁷ See Boothe-Perry, *supra* note 4, at 539.

²⁸ Longan, *supra* note 6, at 660 ("After the MacCrate Report of the early 1990s, law schools made even greater efforts to include skills training of various sorts in their curricula.").

promote justice; (3) strive to improve the profession; and (4) strive to develop a sense of professional identity.²⁹

Thereafter, the ABA similarly called on law schools to include instruction that fostered students' development of a sense of professional identity. In 1996, the Professionalism Committee of the ABA's Section of Legal Education and Admissions to the Bar issued a report providing several suggestions to foster a sense of professionalism in law schools, including adopting methods to teach professionalism in a pervasive way across the curriculum.³⁰ Several local and state bar association initiatives followed, ranging from creating professionalism committees, professionalism commissions, or "Professionalism Centers"³¹ aimed at enhancing lawyer professionalism, enacting professionalism codes³² to guide lawyers on the customs of the practicing bar, and creating mandatory CLE courses that addressed norms and values of the profession.³³

On the heels of the *MacCrate Report* and the ABA's call for increased attention to professionalism issues, the American Association of Law Schools ("AALS") responded. The AALS annual meeting set a professionalism agenda for the plenary session of the 1999 meeting.³⁴

²⁹ See MacCrate Report, *supra* note 26. The ten essential skills identified in the MacCrate Report were: (1) problem solving; (2) legal analysis and reasoning; (3) legal research; (4) factual investigation; (5) communication; (6) counseling; (7) negotiation; (8) litigation and ADR resolution; (9) organization and management of legal work; and (10) identifying and resolving legal issues. See id.; Melissa H. Weresh, *Fostering A Respect for Our Students, Our Specialty and the Legal Profession: Introducing Ethics and Professionalism in the Legal Writing Curriculum*, 21 TOURO L. REV. 427, 432-33 (2005) (citing MACCRATE REPORT).

³⁰ Goldberg, *supra* note 22, at 416 (quoting THE ABA SEC. LEGAL EDUC. AND ADMIS. TO THE BAR, REPORT OF THE PROFESSIONALISM COMM.: TEACHING AND LEARNING PROFESSIONALISM 1 (1996)). Other suggestions ranged from adopting recruiting methods for law professors that would ensure that new hires would serve as role models, to having law book publishers incorporate professionalism and ethics issues in casebooks and instructional materials. Boothe-Perry, *supra* note 4, at 550 n.178.

³¹ One prime example is the New Jersey Center on Professionalism, which was created as a joint initiative by the New Jersey State Bar Association, New Jersey judiciary and three New Jersey law schools in the mid-1990s. The Center's mission was to address a perceived decline in professional values among current members of the bar and law students. Chin, *supra* note 10, at 895.

³² For a complete list of the professionalism codes enacted by various states and counties see *Professionalism Codes, ABA CTR. FOR PROF. RESPONSIBILITY*, http://www.americanbar.org/groups/professional_responsibility/committees_commissions/standingcommitteeonprofessionalism2/professionalism_codes.html (last visited Sept. 5, 2012).

³³ See Eveleth, *supra* note 8, at 42-45 (discussing the Maryland State Bar Association's *Professionalism Beyond Ethics* course). The course was first required in May 1992, in a response to perceived lack of professionalism among Maryland attorneys (as determined by a survey). *Id.* The Court of Appeals of Maryland made it a required course of all newly admitted members of the bar, and as of March/April 2011, two thirds of Maryland's attorneys had taken the course. *Id.* The course is taught by volunteer members of the bench and bar, and the topics cover everyday dilemmas faced by lawyers regarding ethics, civility and competence. *Id.* It uses several different teaching methods, including video vignettes, small group discussions, lectures and client simulations to explore the various aspects of professionalism. *Id.*

³⁴ Goldberg, *supra* note 22, at 416. Deborah L. Rhode served as the president of AALS in 1999. *Id.* Professor Rhode is a Professional Responsibility professor who has long advocated for a pervasive method of teaching ethics and professional responsibility. *E.g.*, Deborah L. Rhode, *Teaching Legal Ethics*, 51 ST. LOUIS U. L.J. 1043, 1054 (2007); Deborah L. Rhode, *Legal Education: Professional Interests and Public Values*, 34 IND. L. REV. 23, 42 (2000) ("Professional responsibility needs to be integrated into the core curriculum, not isolated in a specialized course or trotted out on ceremonial

Although there had not been a wholesale commitment to increased professionalism training up to that point, the twentieth century closed with law schools much closer to accepting, to a far greater degree than before, their role in teaching values of our profession and fostering the development of students' professional identity.

C. Professionalism Education in the Twenty-First Century: Carnegie Report and Best Practices for Legal Education Decry Legal Education's Failure to Foster the Third Apprenticeship

Many scholars have suggested that as of the millennium, little had been done to increase meaningful professionalism education in American law schools.³⁵ In 2007, two influential studies, in no uncertain terms, criticized the current law school educational model and called for law schools to increase focus on instruction in professional values.³⁶ Following a two-year study of legal education, The Carnegie Foundation for the Advancement of Teaching issued a report that, among other things, criticized law schools for focusing too heavily on the case dialogue method at the expense of instruction on the values of the profession and the students' professional identity. The authors of the *Carnegie Report* divide the necessary competencies for becoming a lawyer into "three apprenticeships": (1) the cognitive apprenticeship; (2) the practical apprenticeship; and (3) the professional (ethical and social) apprenticeship.³⁷

occasions."); Deborah L. Rhode, *Into the Valley of Ethics: Professional Responsibility and Educational Reform*, 58 J. & CONTEMP. PROBS. 139, 143, 148 (1995) (arguing for an integrated approach where the ethical and moral issues arising in cases studying doctrinal subjects are discussed within the context of the subject matter being studied); *see generally* Deborah L. Rhode, *Ethics by the Pervasive Method*, 42 J. OF LEGAL EDUC. 31 (1992). Beyond instruction on ethical and moral issues that fall within the ambit of professional responsibility classes, Professor Rhode also has advocated for a similar pervasive method of teaching the broader values at the cornerstone of our profession. *See* Deborah L. Rhode, *Lawyers and Leadership*, 20 NO. 3 PROF. LAW. 1, 14–15 (2010) (stating that law schools must integrate leadership teaching throughout the curriculum; identifying qualities of good leadership as including values (integrity, honesty, trust, an ethic of service); personal skills (self-awareness, self-control, self-direction); interpersonal skills (social awareness, empathy, persuasion, conflict management)); Deborah L. Rhode, *The Professional Responsibilities of Professional Schools*, 49 J. LEGAL EDUC. 24, 26 (1999) (arguing that professionalism issues "receive little systematic attention" in law schools, and that law schools must create cultures that espouse the "core values" of the profession). Professor Rhodes's integrative approach foreshadowed the recommendations of the *Carnegie Report* and *Best Practices*. *See infra*, Part II.C.

³⁵ Bratman, *supra* note 22, at 121 ("By recent accounts, most law schools and law professors have failed to heed the Stanley Commission's 'call' to weave professionalism issues into substantive and procedural courses."); Cohen, *supra* note 12, at 145 ("Helping students to develop an accessible and practical philosophy of lawyering, while also assisting in the forging of their professional identities and their place in society as professionals, is a valuable, yet often neglected aspect of . . . legal education . . ."); Goldberg, *supra* note 22, at 414–15 ("The faculties responsible for law school curricula have not thought much about professionalism, have not agreed about the existence or the nature of the problem when they have thought about it, and would have little idea of what to do if they could agree."); Lang, *supra* note 8, at 511 ("One of the significant barriers which I see to achieving higher levels of professionalism is that law school instruction does not emphasize honesty, values and professionalism.").

³⁶ Robert MacCrate, *Foreword to BEST PRACTICES*, *supra* note 15, at viii ("The central message in both BEST PRACTICES and in the contemporaneous Carnegie report is that law schools should . . . give much greater attention to instruction in professionalism.").

³⁷ CARNEGIE REPORT, *supra* note 5, at 27–29.

The Report concluded that as to the first apprenticeship, law schools do a good job of teaching doctrine and analysis. However, as to the second, and in particular, the third apprenticeship, the *Carnegie Report* concluded that law schools fall short of teaching professional identity and moral competency.³⁸ The *Carnegie Report* called on legal educators to reform current inadequacies, and to “offer an integrated three-part curriculum”:

1. The teaching of legal doctrine and analysis, which provides the basis for professional growth
2. Introduction to the several facets of practice included under the rubric of lawyering, leading to acting with responsibility for clients
3. A theoretical and practical emphasis on inculcation of the identity, values, and dispositions consonant with the fundamental purposes of the legal profession.³⁹

The Report suggests that without emphasis and development of all three apprenticeships throughout the entire law school curriculum, legal education fails to prepare students adequately for the practice of law.⁴⁰ To put it differently, in the view of the authors of these two influential reports, our graduating students walking across the stage are not “practice ready.”

In a similar vein, in 2007, the Clinical Legal Education Association issued a report entitled *Best Practices in Legal Education* (“*Best Practices*”), which echoed the concerns of the *Carnegie Report* that law students are graduating without an adequate sense of professionalism.⁴¹

Thus, the *Carnegie Report* and *Best Practices* both called for law schools to include more opportunities for students to reflect on the values, behaviors, attitudes, expectations, and ethical requirements of a lawyer.⁴² Both studies suggested that piecemeal discussion of professional values, what the *Carnegie Report* termed an “additive” approach, was ineffective.⁴³ Instead, professionalism should be taught pervasively throughout law school and modeled by faculty.⁴⁴

³⁸ CARNEGIE REPORT, *supra* note 5, at 188 (Law schools fail “to complement the focus on skill in legal analysis with effective support for developing ethical and social dimensions of the profession. Students need opportunities to learn about, reflect on, and practice the responsibilities of legal professionals.”); *see also* Longan, *supra* note 6, at 662.

³⁹ CARNEGIE REPORT, *supra* note 5, at 194.

⁴⁰ Burnett, *supra* note 22, at 17.

⁴¹ Bratman, *supra* note 22, at 121 (citing BEST PRACTICES, *supra* note 15, at 32–36); *see also* Robert MacCrate, *Foreword* to BEST PRACTICES, *supra* note 15, at viii.

⁴² Bratman, *supra* note 22, at 121 (stating that *Carnegie Report* specifically recommends that law schools offer integrated curricula that include “opportunities to wrestle with the issues of professionalism,” and noting that *Best Practices* similarly recommends that law schools provide “pervasive professionalism instruction and role modeling throughout all three years of law school”).

⁴³ BEST PRACTICES, *supra* note 15, at 286–87; CARNEGIE REPORT, *supra* note 5, at 58.

⁴⁴ Longan, *supra* note 6, at 664 & n.25 (discussing *Carnegie Report*).

To be sure, the *Carnegie Report* and *Best Practices* called upon American law schools to make it part of their institutional “mission” to develop their own sense of the values, customs and habits of our profession, and inculcate students with a sense of what the term “professionalism” requires of them.⁴⁵ In the words of Robert MacCrate, both works set the stage for an “historic opportunity to advance legal education.”⁴⁶ What follows is our attempt to synthesize the trends and assess legal educators’ varied responses to the call.

III. OUR MISSION: A SURVEY AND SYNTHESIS OF TRENDS IN PROFESSIONALISM EDUCATION

Our mission was to determine how law schools were responding to the most recent call to educate our students on professionalism—those values, habits, and traits necessary to be a civil, competent member of the profession. We had some sense of the various initiatives from conversations with others involved in professionalism education and from our work on the Professional Development Day Faculty Committee at Widener-Delaware. But to give the complete picture, we knew we needed more information.

To accomplish our mission, we collected information from three sources. First, we collected and reviewed the relevant scholarly literature on the current state of professionalism education. Second, we canvassed law school websites for any information that demonstrated how each particular school was responding to the *Carnegie Report’s* and *Best Practices’* call to foster the professional identity development of their students. Finally, and perhaps most relevant to our analysis, we constructed and distributed a survey to our legal writing colleagues.

A. *The Survey Structure and Methodology*⁴⁷

With permission from its web-editors, we distributed our survey via the Legal Writing Listserv, LRWPROF-L, in the summer of 2011.⁴⁸ Addressing the survey to this group seemed logical because legal writing professors are often on the cutting edge of professionalism education.⁴⁹ Not

⁴⁵ Matasar, *supra* note 5, at 101–02 (“Professionalism is Personal. Every legal organization must define its ethos. Every lawyer within the organization must learn the ethos, get with the program, or move elsewhere to another organization more congenial to his or her personal sense of lawyering.”). Dean Matasar opines that a law school must define the knowledge and values it believes critical to education and lawyering and impart upon students “a way of assessing the practices they will encounter as young lawyers.” *Id.* at 102.

⁴⁶ Robert MacCrate, *Foreword to BEST PRACTICES*, *supra* note 15, at viii.

⁴⁷ The survey is reproduced in its entirety *infra* Appendix A.

⁴⁸ *Legal Writing Listservs*, LEGAL WRITING INSTITUTE, http://lwionline.org/mailling_lists.html (last visited Sept. 24, 2012). “The listserv is a closed discussion list intended to provide a forum in which scholars and teachers of legal writing can discuss topics in their field. Started in 1994 . . . , it now has approximately 1,300 subscribers.” *Id.*

⁴⁹ See Weresh, *supra* note 29, at 435; David I.C. Thompson, *Teaching Formation of Professional Identity*, LAW SCHOOL 2.0 (July 24, 2012, 1:46 PM), <http://www.lawschool2.org/ls2/2012/07/formation->

surprisingly, our legal writing colleagues did not disappoint.⁵⁰ We received forty-eight responses to our request to complete the survey, from representatives of forty different law schools.⁵¹ As a follow-up to the survey responses, we interviewed twenty-nine survey-responders who had indicated their willingness to be interviewed in their survey responses.

We designed the survey with three concepts in mind. First, we included a definition of professionalism education so as to ensure that we received information relevant to the type of instruction we hoped to study. We also included our definition because it became clear that there was a lack of consensus on what the term “professionalism” encompasses.⁵² Thus, to avoid the respondents imposing their own, possibly disparate, views of the term,⁵³ the survey opened with the following definition of “professionalism education”:

As we use the phrase “professionalism education,” we are referencing any course work or extracurricular programs or initiatives that are aimed, in whole or in part, at identifying

of-professional-identity.html (arguing that legal writing professors should adapt their pedagogy in the coming years to explicitly include lessons regarding formation of professional identity, and noting that LRW professors already teach these lessons, albeit perhaps not in an “intentional” way).

⁵⁰ We want to express our deep gratitude to our legal writing colleagues from other schools, and other faculty within the larger legal education community who participated in our survey. We are particularly indebted to those with whom we conducted follow-up telephonic interviews, many of whom took time from their summer pursuits to talk with us. We gained invaluable insight through the survey and interviews, and quickly realized that the input from these resources was the cornerstone of our project.

⁵¹ Legal Writing Professors from the following schools completed the survey: American University's Washington College of Law; Boston University School of Law; Bowen School of Law, UALR; California Western School of Law; Capital University Law School; Chapman University School of Law; Cleveland–Marshall College of Law; DePaul University College of Law; Drake University Law School; Drexel University Earle Mack School of Law; Emory University School of Law; Hamline University School of Law; IIT Chicago-Kent College of Law; John Marshall Law School; Lewis & Clark Law School; Loyola Law School Los Angeles; Mercer Law School; Mississippi College School of Law; Northern Illinois University College of Law; Northwestern University School of Law; Pacific McGeorge School of Law; Rutgers School of Law–Camden; Sandra Day O'Connor College of Law–Arizona State University; Temple University Beasley School of Law; Santa Clara University School of Law; Southern Illinois University School of Law; Southwestern Law School; University of Denver Sturm College of Law; University of Detroit Mercy Law School; University of Miami School of Law; University of Mississippi School of Law; University of New Hampshire School of Law; University of Oregon School of Law; University of Pennsylvania Law School; University of Tennessee College of Law; University of Southern California Gould School of Law; Villanova University School of Law; Widener University School of Law, Delaware; Widener University School of Law, Harrisburg, PA; Whittier Law School.

⁵² See Boothe-Perry, *supra* note 4, at 524–25, 528–29 (noting the divergence of opinion on the meaning of professionalism among judges, bar associations and law professors, and opining that the definition changes based on person's own personal beliefs and experiences); Bratman, *supra* note 22, at 117 (stating that “[t]here certainly is no shortage of . . . efforts to define lawyer professionalism”) (alteration in original); Goldberg, *supra* note 22, at 416 (“It is not at all clear . . . that practitioners and academics have the same thing in mind when they talk about professionalism.”).

⁵³ We first realized we needed to define professionalism when we asked several colleagues if they would beta test the survey before we launched it. Professor Kathryn Stanchi, of Temple University, Beasley School of Law, was one of the first to respond and offer insight. She raised the point that if the survey did not define professionalism, the respondents might impose their own definitions of the term, which might affect the results. Email from Kathryn Stanchi, Prof. of Law, Temple Univ. Beasley Sch. of Law, to Alison Donahue Kehner, Assistant Prof. of Leg. Writing, Widener Univ. Sch. of Law, (on file with author) (Aug. 26, 2010) (requesting assistance with survey).

and teaching traits, habits, and appropriate behaviors to which law students can aspire in forming their professional identities. Generally speaking, professionalism education seeks to teach students the core "values" of a legal professional, often going beyond the traditional legal ethics course and placing a broader focus on providing instruction on the customs and mores of the legal profession.⁵⁴

We wanted to be clear that our focus was on initiatives or coursework addressing matters beyond the ethical and moral issues covered by the rules of ethics.⁵⁵ In our minds, the "harder" or perhaps more "fuzzy" professionalism lessons to teach involve behaviors that are not necessarily regulated by the Rules of Professional Responsibility, but nonetheless implicate the values and customs of the profession.⁵⁶

⁵⁴ In crafting this definition, we looked to the *Carnegie Report* and *Best Practices* for guidance, as well as Professor Melissa Weresh's work in this field. Professor Weresh defines professionalism as follows:

Professionalism as used herein will be considered conformity with the expectations of peers or voluntary conformity with legally unenforceable standards, as well as conformity with the rules of ethics. Expectations may be based upon ethical or professional obligations set forth in professional responsibility codes and oaths or more informal expectations that arise from commonly held notions of acceptable behavior within the practice. New lawyers must learn what these expectations are and must learn to adapt to them as they enter the community of professionals.

Weresh, *supra* note 12, at 345 (internal quotations omitted); *see also* MELISSA H. WERESH, LEGAL WRITING: ETHICAL AND PROFESSIONAL CONSIDERATIONS 5 (2006) ("For the purposes of this report, professionalism includes not only civility among members of the bench and bar, but also competence, integrity, respect for the rule of law, [participation in pro bono and community service,] and conduct by members of the legal profession that exceeds the minimum ethical requirements.") (alteration in original); CARNEGIE REPORT, *supra* note 5, at 8 (calling on legal educators to "foster exploration and assumption of the identity, values and dispositions consonant with the fundamental purposes of the legal profession"); BEST PRACTICES, *supra* note 15, at 115–16 (discussing professionalism as involving commitment to justice, respect for the rule of law, integrity, fair play, truthfulness and candor, sensitivity and effectiveness with colleagues and clients, and nurturing quality of life).

⁵⁵ Boothe-Perry, *supra* note 4, at 540 ("Professionalism is a much broader concept than ethics. . . . [It] includes not only civility among members of the bench and bar, but also competence, integrity, respect for the rule of law, participation in pro bono and community service, and conduct . . . that exceeds minimum ethical requirements.") (quoting CONFERENCE OF THE CHIEF JUSTICES, A NATIONAL ACTION PLAN ON LAWYER CONDUCT AND PROFESSIONALISM 3 (1999)) (alteration in original); Bratman, *supra* note 22, at 116 n.7 ("Most individuals would agree that lawyer 'professionalism' involves obligations beyond compliance with the various ethical rules governing lawyers."); Julie A. Oseid, *It Happened to Me: Sharing Personal Value Dilemmas to Teach Professionalism and Ethics*, 12 LEGAL WRITING 105, 107 (2006) (characterizing "real-life struggles" of a practicing attorney as "value dilemmas" and explaining that "[n]ot all value dilemmas can be solved by the ABA's Model Rules of Professional Conduct" because many involve choices that do not involve ethics rules). Examples of such value dilemmas provided in Professor Oseid's article include noticing a mistake in an appellate brief already filed, deciding how much to bill for a particular task, determining how to resolve conflict between personal and professional commitments. *Id.* at 120–21.

⁵⁶ We recognize that arguably, our definition is oversimplified in at least two ways (although neither seems to have impacted the nature or quality of our responses). First, our definition of "professionalism education" blends a distinction that other academics in our field identify as the difference between teaching "[p]rofessionalism" and teaching formation of "[p]rofessional [i]dentity." *See* E. Scott Fruehwald, *The Two Faces of Teaching Professionalism*, LEGAL SKILLS PROF. BLOG, (Feb. 13, 2012), http://lawprofessors/typepad/com/legal_skills/2012/02 (quoting David Thomson, *Teaching Professional Identity with Skills and Values Texts*, LAW SCH. 2.0 (Jan. 21, 2012, 2:48 PM)),

Second, our survey asked about all types of professionalism education (both in the form of for-credit classroom work and extra-curricular type programs). We asked about first-year instruction on professionalism, including orientation and discussions in the Legal Research and Writing (“LRW”) classroom. We also sought information concerning any upper-level coursework devoted to exploring issues of professionalism or professional identity. The upper-level coursework question asked whether professionalism or professional identity issues were taught in a stand-alone course, as part of the professional responsibility course, as part of the clinical or externship experience, or embedded in other doctrinal coursework. We then asked about extra-curricular seminars or presentations that explore these concepts.⁵⁷

Finally, we left an open-ended question at the end so that we could follow up with in-person telephonic interviews to get more details about the instruction described in the survey. We also hoped to gather information about the assessment of the success of initiatives.

In the survey, the follow-up interviews, and our review of the print and online resources, we identified several distinctive approaches that law schools have taken toward teaching professionalism. These approaches include the following: (1) making a broad institutional commitment to professionalism education; (2) addressing professionalism in extra-curricular programs, including 1L orientation programs; (3) integrating the

<http://www.lawschool2.org/lis2/2012/01/teaching-professional-identity-with-skills-values-discovery.html>. Professors Fruehwald and Thompson agree that teaching “*professionalism* relat[es] to behaviors such as timeliness, thoroughness, respect towards opposing counsel and judges, and responding to clients in a timely fashion,” and opine that teaching “professional identity” requires students to consider their “own decisions about those behaviors . . . as well as a sense of *duty* as an officer of the court and *responsibility* as part of a system in our society that is engaged in upholding the rule of law.” *Id.*; see also David Thomson, *Teaching Formation of Professional Identity*, LAW SCH. 2.0 (July 24, 2012, 1:46 PM), <http://www.lawschool2.org/lis2/2012/07/formation-of-professional-identity.html> (also addressing the distinction and discussing how to create opportunities for students to consider and be graded on issues relating to formation of professional identity in first year legal writing class). For purposes of simplicity in administering the survey, we decided that we wanted to gather information relating to both concepts, and we use the terms “professionalism and professional identity” interchangeably.

Second, we recognize our definition does not reference the public servant aspect of professionalism instruction. *E.g.*, Bratman, *supra* note 22, at 116 (arguing persuasively that professionalism instruction must teach students that it requires a “commitment to public service that distinguishes professionals from business people”). Nonetheless, our definition does reference the “values” and “mores” of our profession, and in doing so, it encompasses the fundamental values and mores such as respect for the rule of law and the lawyer’s role in service to the public. Timothy P. Terrell, *A Tour of the Whine Country: The Challenge of Extending the Tenets of Lawyer Professionalism to Law Professors and Law Students*, 34 WASHBURN L.J. 1, 16–18 (1994) (proposing six fundamental values within lawyer professionalism: (1) an ethic of excellence; (2) an ethic of integrity; (3) a respect for the system and rule of law; (4) a respect for other lawyers and their work (i.e., their social utility); (5) a commitment to accountability; and (6) a responsibility for adequate distribution of legal services); see also Weresh, *supra* note 55, at 5 (book’s definition of professionalism includes “respect for the rule of law [participation in pro bono and community service]”) (alteration in original).

⁵⁷ Denise Platfoot Lacey, *Embedding Professionalism into Legal Education*, 18 J. L. BUS. & ETHICS 41, 45–46 (2012) (including many of these examples of professionalism training occurring in American law schools, and criticizing those approaches that are “additive” rather than pervasive efforts across the curriculum).

teaching of professionalism into existing classes, particularly in legal writing courses; and (4) creating separate for-credit classes dealing with professionalism issues or carving out a designated portion of existing classes to specifically teach about professionalism.⁵⁸

B. Reporting the Results: Identifiable Trends

1. Broad Institutional Commitment to Professionalism Education

There are a number of different ways that schools demonstrate an overarching commitment to professionalism education. One example is Loyola Law School in Los Angeles, where “ethics and professionalism have been important for a long time.”⁵⁹ Loyola references its overall commitment to professionalism in its mission statement,⁶⁰ has a mandatory *pro bono* requirement, and an expanded ethics class with a separate professionalism component.⁶¹ Several schools explicitly include professionalism tenets as part of their institutional learning objectives or outcomes.⁶² With this kind

⁵⁸ While we asked specifically about professionalism instruction in the clinical experience, we received little information on the nature of the instruction in that area. This is likely for at least two reasons. First, most of the survey responders were legal writing professors, not clinical professors. While there may be overlap in some cases, it was not the predominant trend among those with whom we spoke. Second, given the nature of the clinical experience, it seems obvious that issues of professionalism and professional identity are taught as they arise in the representation that the clinic student undertakes. Thus, because clinical offerings provide an obvious forum for discussion and grappling with professionalism issues, there is not much room for debate on the matter. “Clinics are an obvious area where skills and values can be developed.” “Legal clinics have been termed a ‘key component’ in meeting the skills and values components of a well-rounded legal education.” Jerry R. Foxhoven, *Beyond Grading: Assessing Student Readiness to Practice Law*, 16 CLINICAL L. REV. 335, 340 (2010).

⁵⁹ Telephone interview with Arnold Siegel, Clinical Professor of Law and Dir. of Legal Writing and Ethical Lawyering Programs, Loyola Law Sch. L.A. (May 14, 2012).

⁶⁰ Loyola lists as one its responsibilities to “[s]eek to educate men and women who will be leaders of both the legal profession and society, demonstrating in their practice of law and public service the highest standards of personal integrity, professional ethics and a deep concern for social justice” *Mission Statement*, LOYOLA LAW SCH., <http://www.lls.edu/about/mission.html> (last visited Sept. 15, 2012).

⁶¹ See *infra* text accompanying footnotes 147–48.

⁶² See, e.g., *Catalog 2012-2013*, EARLE MACK SCH. OF LAW AT DREXEL UNIV., <http://catalog.drexel.edu/graduate/earlemackschooloflaw/> (last visited Sept. 15, 2012) (listing “commitment to professionalism” as one of the educational objectives of the school according to the online 2012-13 Course Catalog). In connection with adopting law school wide learning outcomes, the law faculty at Hamline University School of Law identified three goals and related learning outcomes. Here is #3:

- GOAL #3 (PROFESSIONALISM): Develop the personal attributes, attitudes, and practices befitting an honorable and respected profession. HUSL graduates should be able to . . .
1. Acquire the knowledge and skills required to competently represent one’s clients
 2. Articulate the roles lawyers play in promoting justice, improving the legal profession, and serving the community
 3. Exercise professional decorum consistent with a lawyer’s professional responsibilities and leadership roles
 4. Reflect on one’s own work and professional development
 5. Engage in effective time management

of broad institutional support, professionalism education can be integrated into all courses across the curriculum. For example, the Earle Mack School of Law at Drexel University was founded on the idea that theory and practice would be combined across the curriculum.⁶³ This commitment includes integrating instruction related to skills as well as professionalism into doctrinal courses.⁶⁴ Other schools have created separate professionalism centers that create stand-alone programming and assist with infusing professionalism instruction throughout the curriculum.⁶⁵ Asking

Hamline University School of Law Learning Outcomes Assessment Three-Year Plan 7, HAMLINE UNIV. SCH. OF LAW, <http://www.law.du.edu/documents/assessment-conference/Sandeen-Getting-Buy-In-From-Your-Colleagues.pdf> (last visited Dec. 30, 2012). See also *Learning Outcomes*, MCGEORGE SCH. OF LAW, http://www.mcgeorge.edu/Students/Academics/Learning_Outcomes.htm (last visited Sept. 15, 2012) (Student Learning Outcome #7 is: "Demonstrate professional judgment and professionalism through conduct consistent with the legal profession's values and standards."); *Curriculum*, GONZAGA UNIV. SCH. OF LAW, <http://www.law.gonzaga.edu/Academic-Program/curriculum/default.asp> (last visited Sept. 5, 2102) (learning outcomes, which state that "[s]tudents will develop an understanding of what it means to be a member of a learned profession, and will be exposed to the ethical values that contribute to the enhancement of the legal profession and reflect Gonzaga's mission of social justice and concern for all"). In a similar vein, University of St. Thomas School of Law identifies "Professional Formation" as a specific "value attribute." The website states that value attributes are intended to work with the "mission and vision of the school." *Points of Pride*, UNIV. OF ST. THOMAS SCH. OF LAW, <http://www.stthomas.edu/law/missionvision/pointsofpride/> (last visited Sept. 15, 2012).

⁶³ *Where Theory and Practice Converge*, EARLE MACK SCH. OF LAW, <http://earlemacklaw.drexel.edu/academics/> (last visited Sept. 15, 2012). Another recently accredited ABA law school claiming a foundation based on inculcating lawyer skills and values is Elon University School of Law. Elon's Leadership Program is an addition to the traditional law school curriculum, and is designed to explore issues of professionalism and professional identity framed as education in how to become "lawyer-leaders." *Leadership Program*, ELON UNIV. SCH. OF LAW, <http://www.elon.edu/e-web/law/leadership/> (last visited Sept. 15, 2012). During a two-week winter term each year of law school, the Program focuses on different aspects of developing students' professional identities. The first year course teaches the skill of self assessment, and the course "emphasizes habits and traits that will help them develop as professionals." *The First-Year Experience*, ELON UNIV. SCH. OF LAW, <http://www.elon.edu/e-web/law/leadership/firstyear.xhtml> (last visited Sept. 15, 2012). The second year course requires students to work in teams and engage in non-profit or government work for real clients. *The Second-Year Experience*, ELON UNIV. SCH. OF LAW, <http://www.elon.edu/e-web/law/leadership/secondyear.xhtml> (last visited Sept. 15, 2012). The third year requires each student to participate in a capstone experience, where students apply the skills and knowledge developed in the first two years in an initiative of their selection that benefits the profession or community. *The Third-Year Experience*, ELON UNIV. SCH. OF LAW, <http://www.elon.edu/e-web/law/leadership/thirdyear.xhtml> (Sept. 15, 2012). The leadership brochure describes each year of study, and can be found at <http://www.elon.edu/e-web/law/leadership/>.

⁶⁴ Telephone Interview with Lisa McElroy, Assoc. Professor of Law, Earle Mack Sch. of Law at Drexel Univ. (June 27, 2012).

⁶⁵ For example, the University of Pennsylvania Law School's Center on Professionalism offers numerous skills-based intensive opportunities to students. See *Center on Professionalism*, UNIV. PA. LAW SCH., <https://www.law.upenn.edu/careers/professionalism/> (last visited Sept. 15, 2012). Several offerings are available during spring break week. Survey Response from Elizabeth K. McManus, Assoc. Dir. for Prof'l. Dev., Univ. of Pa. Law Sch. (July 13, 2012, 10:33 AM) (on file with author). Helping to instill professional values undergirds all of the Center's programming. E-mail from Elizabeth K. McManus, Assoc. Dir. for Prof. Dev., Univ. of Pa. Law Sch. to Mary Ann Robinson, Assistant Legal Methods Prof., Widener Univ. Sch. of Law (July 17, 2012, 4:31 PM EDT) (on file with author). "The Law School has worked to infuse professionalism training throughout the curriculum. We address professional expectations and behaviors, ethics and values, and the skills of a successful lawyer." Survey Response from Anne Kringel, Senior Lecturer and Legal Writing Dir., Univ. of Pa. Law Sch. (June 7, 2012, 12:01 PM). "Mercer [University School of Law] has the Center for Professionalism and Ethics. As part of that program, ethics is infused across the curriculum, so each course is intended to incorporate issues of ethics and professionalism." Survey Response from Karen Sneddon, Assoc. Prof. of Law, Mercer Univ. Sch. of Law (Apr. 30, 2012, 5:36 AM). As a result of the programming (especially the 1L

both professors and students to evaluate the extent to which ethics and professionalism are incorporated into each class is another approach to fostering a school-wide commitment to professionalism education.⁶⁶

Other schools demonstrate institutional commitment to professionalism instruction by engaging in wholesale study and revision of their curricula with the goal of increasing students' engagement with professionalism issues. One example of this approach is seen in the curricular changes made by the faculty at Gonzaga University School of Law in 2009. The school's website describes the curriculum as "emphasiz[ing] skills training and professionalism from the first semester of law school."⁶⁷ Significant changes to increase professional skills education include changing the first-year curriculum to include for-credit "skills and professionalism labs" associated with two first-year courses: Torts and Contracts.⁶⁸ The 2L curriculum added additional credits to the LRW curriculum to build on the work done in the first-year LRW classroom as well as the Skills and Professionalism Labs. Finally, all third-year students are required to participate in externships or clinics to develop their

program described *infra* notes 160, 162 and accompanying text) students have a common foundation in ethics and professionalism that all faculty can take advantage of and build on in their classes. Telephone Interview with Karen Sneddon, Assoc. Prof. of Law, Mercer Univ. Sch. of Law (July 5, 2012). It is intended to be like writing across the curriculum—professors can take advantage of opportunities to talk about ethics and professionalism in each doctrinal subject area. *Id.* Other examples of law schools with Professionalism Centers include, but are not limited to, the following: Florida International University, see *A Welcome Message from the Dean*, FIU, <http://law.fiu.edu/current-students/orientation/> ("We are committed to graduating leaders in the legal profession in all dimensions—academics, practical competence, and ethical integrity.") (last visited Sept. 13, 2012); University of South Carolina, see NELSON MULLINS RILEY & SCARBOROUGH CENTER ON PROFESSIONALISM AT THE UNIV. OF S.C. SCH. OF LAW, <http://professionalism.law.sc.edu/> (last visited Sept. 13, 2012); Thomas M. Cooley Law School, see *About the Center for Ethics, Service, and Professionalism*, THOMAS M. COOLEY L. SCH., <http://www.cooley.edu/ethics/about.html> (last visited Sept. 13, 2012) (winner of the ABA's Gambrell award in 2006 after adopting its Professionalism Plan); Wake Forest University, see *Orientation for New Students Emphasizes Professionalism*, WAKE FOREST U. SCH. OF LAW, <http://news.law.wfu.edu/2004/07/orientation-for-new-students-emphasizes-professionalism/> (last visited Sept. 13, 2012) (winner of the ABA's Gambrell Award in 2004). The website for National Institute For Teaching Ethics and Professionalism ("NIFTEP") names the following seven law schools as members of its consortium having centers on ethics and professionalism: Fordham University; The Mercer University School of Law; University of South Carolina; Stanford; Georgia State University; University of St. Thomas School of Law; and Maurer School of Law at Indiana University-Bloomington. See *National Institute for Teaching Ethics and Professionalism*, GA. ST. U. C. OF LAW, <http://law.gsu.edu/niftep/> (last visited Sept. 14, 2012). NIFTEP's purpose is, in part, to hold workshops bringing together lawyers and academics which "involve[s] teaching legal ethics and promoting professionalism." *NIFTEP Workshops*, GA. ST. U. C. OF LAW, <http://law.gsu.edu/niftep/> (last visited Sept. 14, 2012).

⁶⁶ Telephone interview with Karen McDonald Henning, Assistant Professor of Legal Research and Writing, Univ. of Detroit Mercy Law Sch. (June 21, 2012). For example, University of Detroit Mercy Law School faculty members have been working on increasing the emphasis on professionalism. In evaluations that students complete about faculty, students evaluate whether the professor "raised ethical issues of practice" in class. In professors' self-evaluations, they must answer how they implemented professional ethics in class. *Id.*

⁶⁷ *Curriculum*, GONZAGA UNIV. SCH. OF LAW, <http://www.law.gonzaga.edu/Academic-Program/curriculum/default.asp> (last visited Sept. 15, 2012).

⁶⁸ *FAQ*, GONZAGA UNIV. SCH. OF LAW, http://www.law.gonzaga.edu/Admissions/why_Gonzaga/FAQ.asp (lat Sept. 15, 2012).

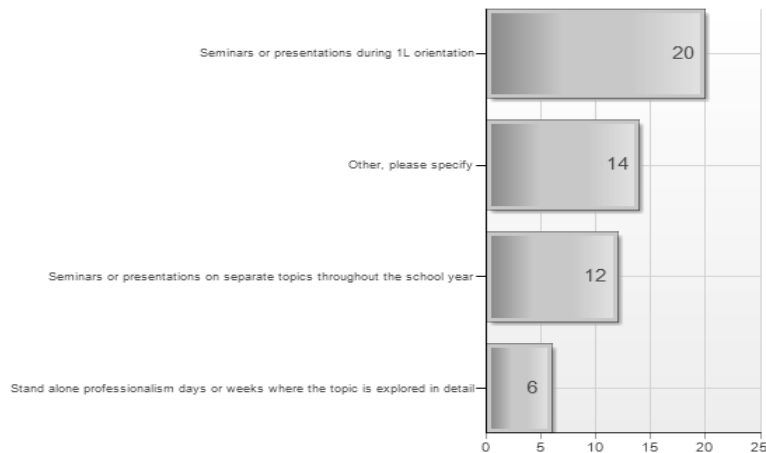
professional values and identity in dealing with real clients.⁶⁹

Schools that have wide-ranging programming, such as Drake University Law School and Mercer Law School, will be discussed in subsequent sections dealing with the specific features of their programs.⁷⁰

2. Extra-curricular Programs Focused on Professionalism Instruction

According to our survey results, many schools have extracurricular programs dealing with professionalism. Thirty of our survey responders answered “yes” to the question asking, “Does your school have any separate extra-curricular programs or initiatives focused on professionalism instruction?” As the chart below demonstrates, there is a variety of extra-curricular programs and initiatives, but most include professionalism instruction as part of 1L orientation.

What form do these extra-curricular programs or initiatives take? (Please select as many as apply.)



a. Professionalism Instruction as Part of 1L Orientation

Orientation programs for incoming law students contain a range of different kinds of programming. One common approach involves having

⁶⁹ See Earl Martin & Gerard Hess, *Developing a Skills and Professionalism Curriculum – Process and Product*, 41 U. TOL. L. REV. 327, 342 (2010) (for a complete description of the curricular reforms at Gonzaga, see entire article).

⁷⁰ In 2008, Drake received the ABA’s E. Smythe Gambrell Professionalism Award for their wide-reaching programming. Mercer received the same award in 1996 for the “Woodruff Curriculum.” For a description of the origins of the award, criteria for selection, and a list of current and past recipients (with descriptions of their programs), see *Awards, CTR. FOR PROF’L RESPONSIBILITY*, http://www.americanbar.org/groups/professional_responsibility/initiatives_awards.html (last visited Sept. 15, 2012).

incoming students take an oath to mark their entry into the profession.⁷¹ One good example is the oath used by most law schools in Illinois:⁷²

As I begin the study of law, I acknowledge and accept the privileges and responsibilities inherent in becoming a lawyer, and the high standards and ideals that accompany such an undertaking.

Accordingly, I pledge that I will at all times conduct myself with the dignity befitting an advocate and counselor in a learned profession.

I commit myself to service without prejudice, integrity

⁷¹ Based on survey results, schools that include a professionalism oath as part of 1L orientation include the following: Chicago-Kent College of Law; California Western School of Law; DePaul University College of Law; Emory University School of Law; Hamline University School of Law; John Marshall Law School; Mississippi College School of Law; Northern Illinois University College of Law; Northwestern University School of Law; Temple University Beasley School of Law; Southern Illinois University School of Law; Southwestern Law School; University of New Hampshire School of Law; Widener University School of Law, Delaware; Widener University School of Law, Harrisburg, PA. The trend toward incorporating a professionalism oath or pledge in law school orientation programs is evidenced by a review of websites of several law schools. Boothe-Perry, *supra* note 4, at 556 & n.212 (reporting Florida A&M students take oaths during orientation). A representative sampling of the websites consulted includes the following: *Orientation*, CAPITAL UNIV. LAW SCH., http://law.fiu.edu/wp-content/uploads/2011/12/Capital_University_Orientation_Schedule_2011.pdf (last visited Sept. 2, 2012) (2011 orientation schedule lists “Professionalism Oath and Presentation of the Gavels”); *July Packet 2012-2013*, UNIV. OF IDAHO COLL. OF LAW, <http://www.uidaho.edu/law/students/admittedstudents/julypacket> (last visited Sept. 2, 2012) (2012 orientation information states each incoming student must sign the “Honor Code Signature Book,” a tradition dating back to 1936); *Dean Logan’s Blog: Orientation 2010*, ROGER WILLIAMS UNIV. SCH. OF LAW, <http://law.rwu.edu/blog/Orientation-2010-0> (last visited Sept. 2, 2012) (2011 Professionalism Oath administered by Chief Justice of Rhode Island Supreme); SUFFOLK UNIV. LAW SCH., http://law.fiu.edu/wp-content/uploads/2011/12/Suffolk_Law_Orientation_Schedule_2011.pdf (last visited Sept. 2, 2012) (all students take “Oath of Professionalism”); *Fall 2011 New Student Training Schedule*, WILLIAM H. BOWEN SCH. OF LAW (Aug. 4, 2011), http://law.fiu.edu/wp-content/uploads/2011/12/UALR_New_Student_Training_Schedule_2011_FT_Division.pdf (orientation materials); *Oath of Professionalism*, UNIV. OF DAYTON SCH. OF LAW, http://www.udayton.edu/law/students/professionalism_oath.php (last visited Sept. 2, 2012); *2012 JD First-Year Orientation Schedule*, UNIV. OF SAN DIEGO SCH. OF LAW, http://law.fiu.edu/wp-content/uploads/2011/12/University_of_San_Diego_2011_Orientation_Schedule.pdf (last visited Sept. 5, 2012) (2011 orientation schedule); *Fall Orientation Week*, UNIV. OF MICH. LAW SCH., http://law.fiu.edu/wp-content/uploads/2012/01/orientation_program_fallupdated.pdf (last visited Sept. 2, 2012) (2011 orientation schedule lists a “Commitment to Integrity” Ceremony”); *JD New Student Orientation*, UNIV. OF N. H. SCH. OF LAW, <http://law.unh.edu/orientation/jd> (last visited Sept. 5, 2012) (2012 orientation schedule includes Professionalism Oath); *Fall 2012 Orientation Week Schedule of Activities*, UNIV. OF LA VERNE COLL. OF LAW, <http://law.laverne.edu/wp-content/uploads/2010/02/COLORIENTATION-WEEK-Fall-2012-Schedule-of-Activities-August-6-20121.pdf> 2012 (last visited Sept. 2, 2012) (2012 orientation schedule include Professionalism Oath); *Introduction to Law Week*, WILLIAM S. BOYD SCH. OF LAW, http://law.fiu.edu/wp-content/uploads/2012/01/Intro_to_Law_2011_DAY_8-1-11.pdf (last visited Sept. 2, 2012) (2011 orientation schedule includes Professionalism Oath); *First Week Information and Schedule for Fall 2012 Incoming Students*, WASHBURN UNIV. SCH. OF LAW, <http://washburnlaw.edu/students/firstweek/index.php#firstweek> (last visited Sept. 2, 2012) (2012 orientation schedule include Professionalism Oath).

⁷² “The [Illinois Supreme Court] Professionalism Commission conducts professionalism programs for law students in Illinois. During law school orientation, a Supreme Court or Appellate Court Justice welcomes Illinois law students to the profession and administers a Pledge of Professionalism to mark the beginning of the students’ career in the law.” *Orientation*, SUPREME COURT OF ILL. COMM’N ON PROFESSIONALISM, http://ilscpc.org/lawschools/lawschools_index.htm (last visited Sept. 2, 2012) (follow the “Orientation” hyperlink; then follow the “Pledge of Professionalism” hyperlink).

without compromise, and the diligent performance of my duties with the utmost good faith.

I acknowledge that I will be a zealous advocate, but will act with courtesy and cooperation toward others, and I will at all times behave in a professional manner.

I will remember that my responsibilities to the legal profession permeate my actions both as a student of the law and, thereafter, as a member of the bar.

I accept my new status as a legal professional, and will approach my colleagues and adversaries alike with the same integrity, professionalism and civility, which I expect from them.

This pledge I take freely and upon my honor.⁷³

Oaths taken at orientation are generally aspirational in nature, and at least one scholar has noted that the “[a]dministration of these oaths is . . . a positive start to reshaping the minds of incoming first year law students.”⁷⁴ Thus, taking the oath helps new students mark their transition from being merely students to being pre-professionals. Fostering the understanding that their professional reputations and professional identities begin to be formed as soon as students enter law school is one important goal of this kind of oath.⁷⁵ Other schools’ oaths have similar aspirational characteristics that often reference the school’s code of conduct and reinforce the idea that entry into the profession begins immediately.⁷⁶ At California Western School of

⁷³ *Collaboration*, SUPREME COURT OF ILL. COMMISSION ON PROFESSIONALISM., http://ilscop.org/lawschools/lawschools_index.htm (last visited Sept. 17, 2012).

⁷⁴ Boothe-Perry, *supra* note 4, at 556.

⁷⁵ Telephone Interview with Adrienne Brungess, Assoc. Professor of Lawyering Skills, Pacific McGeorge Sch. of Law (Nov. 21, 2012); Telephone Interview with Sophie Sparrow, Professor of Law, Univ. of N.H. Sch. of Law (July 2, 2012).

⁷⁶ *E.g.*, E-mail from Adrienne Brungess, Assoc. Professor of Lawyering Skills, Pacific McGeorge Sch. of Law, to Mary Ann Robinson, Assistant Legal Methods Professor, Widener Univ. Sch. of Law (June 21, 2012, 6:33 PM EDT). At Pacific McGeorge, an alumni judge swears in the students on the first day of orientation using the following oath:

As I enter into the legal profession and begin my legal studies at Pacific McGeorge, I pledge to act with the utmost good faith and integrity. I will study diligently, commit myself to honest performance on every assignment and examination, and uphold the Pacific McGeorge Code of Student Responsibility at all times.

I will interact with colleagues and adversaries alike with honesty, professionalism and civility. I will seek opportunities to provide leadership and benefit to my community and will on every occasion behave in ways that reflect positively on me, my law school, and the legal profession.

This I pledge freely and upon my honor.

Id.

At Widener University School of Law, students are also sworn in by an alumni judge and recite the following pledge:

I, _____, as a student entering Widener University School of Law, understand that I am joining an academic community and embarking on a professional career.

Law, the oath students take at orientation is administered again to alumni on the day they are sworn into the bar, reminding them of the values they will be expected to uphold as professionals.⁷⁷

Another common approach to introducing professionalism concepts during orientation is through seminars or group presentations.⁷⁸ Presenters are frequently judges or lawyers.⁷⁹ In Idaho, Illinois, and Georgia, the law

I gratefully acknowledge the privileges inherent in becoming a lawyer and willingly accept the responsibilities that accompany those privileges and are entrusted to me by the bench, the bar and the public.

I promise to do my utmost to live up to the high ideals of my chosen profession and to uphold the highest standards of academic honesty and ethical practice throughout my training and the remainder of my professional life. I will remember that my actions reflect not only upon myself, but upon Widener University School of Law and the legal profession.

To strengthen the law school community, I will conduct myself with dignity and civility and will treat all of my colleagues—students, staff and faculty—with kindness and respect.

I will be a person of principle, compassion, strength and courage. I will recognize my weaknesses and strengths and strive to develop the character that is expected of a lawyer and that will earn the respect of my clients, my colleagues, my family and myself.

I commit to conduct my academic, professional and personal life to honor the values and standards that are expressed in the Widener University School of Law Honor Code and are shared by the legal profession.

I so affirm.

WIDENER UNIVERSITY SCHOOL OF LAW STUDENT HANDBOOK, WIDENER UNIV. SCH. OF LAW (2011), available at <http://law.widener.edu/CampusLife/AdvisingandCounseling/OfficeofStudentAffairsDelaware/StudentHandbook.aspx>.

⁷⁷ Telephone Interview with Roberta Thyfault, Legal Writing Professor, Cal. W. Sch. of Law (June 7, 2012).

⁷⁸ See *supra* chart of survey responses Part III.B.2. In addition, orientation materials posted on several law school websites refer to presentations on professionalism topics during orientation. For a representative sampling, see *Orientation Schedule 2012*, EARLE MACK SCH. OF LAW DREXEL UNIV., <http://www.earlemacklaw.drexel.edu/studentLife/studentAffairs/Orientation/Schedule/> (last visited on Sept. 2, 2012) (2012 orientation schedule discusses “Professionalism: Honor Code” and “Work-Life Balance”); *Summer Orientation 2011*, DUKE UNIV. SCH. OF LAW, <http://law.duke.edu/students/orientation/summer2011> (last visited Sept. 17, 2012) (2011 orientation schedule addresses professionalism topics such as “Serve the Community,” “Embody Integrity: The Honor Code,” and “Practice Professionalism”); Letter from A. James Elliot, Assoc. Dean, Sarah Shalf, Admin. Professor, Emory Univ. Sch. of Law, to Emory Law Student (July 19, 2012), available at http://www.law.emory.edu/fileadmin/Admissions/Professionalism_Program.pdf (“Professionalism Program” begins during orientation); *Graduate and International Student Orientation*, FORDHAM UNIV. SCH. OF LAW, http://law.fordham.edu/assets/LLMProgram/fall_2012_LLM_Orientation_Schedule_INTL.pdf (last visited Sept. 17, 2012) (2012 Orientation Schedule addresses “Professional Development”); *Orientation Schedule*, GONZAGA UNIV. SCH. OF LAW, http://www.law.gonzaga.edu/Admissions/2012-orientation/orientation_schedule.asp (last visited Sept. 17, 2012) (2012 Itinerary lists the following lecture: “Introduction to Legal Profession and Ethics”); STANFORD LAW SCH., http://law.fiu.edu/wp-content/uploads/2011/12/Stanford_Law_School_Orientation_Schedule.pdf (last visited Sept. 2, 2012) (2011 Orientation Schedule lists “Professionalism” as a topic, and is “a short address ... on entering the legal profession”); *2012 JD First-Year Orientation Schedule*, UNIV. OF SAN DIEGO SCH. OF LAW, <http://www.sandiego.edu/law/current/orientation/schedule.php> (last visited Sept. 17, 2012) (identifying lunchtime presentation in which speaker discusses how to succeed in law school and in the legal profession).

⁷⁹ For example, at Widener Law’s orientation, the President of the Alumni Association and an alumni judge welcome students and discuss professionalism.

schools' orientation programs are coordinated with the bench and bar.⁸⁰ For example, at Mercer Law School in Georgia, "students participate in a half-day seminar. Lawyers and judges come to facilitate small group discussions of hypotheticals that the students have reviewed ahead of time. These hypotheticals address issues facing law students and lawyers. On occasion, a faculty member will also serve as a facilitator."⁸¹ In Illinois, the Supreme Court Commission on Professionalism helps coordinate lawyers and judges to serve as facilitators for small group discussions of professionalism issues. At DePaul University College of Law, the students all gather together after these small group discussions for administration of the oath,⁸² while at Southern Illinois University School of Law, these discussions have moved from orientation to a semester-long class dealing with professionalism issues.⁸³ The Southern Illinois oath is administered at Homecoming, with family members invited, similar to the "white coat" ceremony for medical students.⁸⁴

These types of programs follow similar patterns of plenary-type presentations and, in many cases, smaller breakout sessions or workshops.⁸⁵

⁸⁰ See Burnett, *supra* note 22, at 18–19 (explaining collaboration between University of Idaho and the Idaho State Bar since 2003); SUPREME COURT OF ILL. COMM'N ON PROFESSIONALISM, *supra* notes 72–73 and accompanying text; see also Avarita L. Hanson, *Law School Professionalism Orientations, Continuing Georgia's Tradition*, 12 GA. B.J. 62 (2006) (describing the orientation programs at Georgia's five law schools (University of Georgia, Mercer University School of Law, Georgia State University College of Law, Atlanta's John Marshall Law School, Emory University School of Law) as being partnerships between the schools and the State Bar Committee on Professionalism and the Chief Justice's Commission on Professionalism).

⁸¹ Survey Response from Karen Sneddon, Assoc. Professor of Law, Mercer Univ. Sch. of Law (Apr. 30, 2012) (on file with author).

⁸² Telephone Interview with Susan Thrower, Assoc. Professor of Law and Dir., Legal Analysis, Research, & Commc'n, DePaul Univ. Coll. of Law (June 12, 2012).

⁸³ Telephone Interview with Sue Liemer, Assoc. Professor of Law and Dir. of Lawyering Skills, S. Ill. Univ. Sch. of Law (June 8, 2012). See also *infra* text accompanying notes 168–71 for more about this class.

⁸⁴ Telephone Interview with Sue Liemer, Assoc. Professor of Law and Dir. of Lawyering Skills, S. Ill. Univ. Sch. of Law (June 8, 2012).

⁸⁵ Information from several law school websites confirmed the trend of utilizing small group discussion of professionalism issues during orientation. See, e.g., *New Student Orientation*, ELON UNIV. SCH. OF LAW, <http://www.elon.edu/e-web/law/students/orientation/schedule.xhtml> (last visited Sept. 17, 2012) (noting break-out sessions on professionalism in orientation schedule); Douglas E. Ray & Heather S. Karns, *Developing the Professional*, UNIV. OF TOLEDO COLL. OF LAW OFFICE OF PROF'L DEV., <http://law.utoledo.edu/students/career/pdf/ProfDevProgs.pdf> (last visited Sept. 17, 2012) (reporting that orientation focuses students on "the values and expectations of the profession" from the first day, and students meet in small groups with alumni and judges to discuss ethical issues and professional expectations); Memorandum from Anna P. Bierman, Dir. of Career Planning and Placement, Fla. Int'l Univ. Coll. of Law, to All first year students (July 9, 2012), available at <http://law.fiu.edu/wp-content/uploads/2012/07/Ana-Bierman-Final-welcome-letter.pdf> (small groups work together to consider ethical and professional dilemmas faced in law school and law practice, and participants explain how they would respond based on their values and judgment as a member of society, not one trained in law); *Orientation 2012*, SETON HALL UNIV. SCH. OF LAW 2, <http://law.shu.edu/ProspectiveStudents/New/upload/orientation-schedule.pdf> (last visited Sept. 17, 2012) (2012 Orientation Schedule lists these topics: "Becoming a Professional: Your Legal Career Starts Today" and "Creating a Legacy: Standards of Professionalism for the Attorney-to-Be"); *July Packet 2012-2013*, UNIV. OF IDAHO COLL. OF LAW, available at <http://www.uidaho.edu/law/students/admittedstudents/julypacket> (last visited Sept. 17, 2012) (breakout session part of orientation); *First Week Information and Schedule for Fall 2012 Incoming Students*,

Speakers and workshop facilitators are often alumni, some of whom are judges, as well as deans, administrators, or faculty members.⁸⁶ Workshops focus on situations that might arise in law school or in practice, and students brainstorm about ways to handle these situations.⁸⁷

Treating orientation as an ongoing process throughout the 1L year is not unusual. At Emory Law School, the students, faculty, and attorneys who participated in workshops at orientation meet again in January for “a general program followed by break out groups to discuss hypotheticals . . . focusing on ethical and professionalism issues the students might face as summer associates or new lawyers.”⁸⁸ Both sessions are mandatory, and students’ completion of these workshops is noted on their transcripts.⁸⁹ Drake Law School’s professionalism programming during orientation is pervasive and ongoing throughout the first year, although it has been pared down recently due to students’ complaints that it was too time-consuming.⁹⁰ The program includes an orientation lecture series, tours of the Iowa Judicial Building, conducted by Iowa Supreme Court members, and the Iowa State Capitol, led by state legislators.⁹¹ Finally, Drake’s program is distinguished by its First-Year Trial Practicum (“FYTP”). This week-long immersion in an *actual* jury trial, held during the students’ second semester, reinforces the foundation laid by the prior components of the first year orientation

WASHBURN UNIV. SCH. OF LAW, <http://washburnlaw.edu/students/firstweek/index.php#firstweek> (last visited Sept. 17, 2012) (“Professionalism and the Honor Code” and “Professionalism & Social Media” are topics listed as small group presentations during 1L orientation 2012); *see also* Burnett, *supra* note 22, at 18 (plenary discussion followed by breakout sessions with hypotheticals).

⁸⁶ Telephone Interview with Sophie Sparrow, Professor of Law, Univ. of N. H. Sch. of Law (July 2, 2012); Telephone Interview with Mary Trevor, Assoc. Professor & Dir., Legal Research & Writing Dept., Hamline Univ. Sch. of Law (June 20, 2012); Telephone Interview with Debra Austin, Lawyering Process Professor, Univ. of Denver Sturm Coll. of Law (June 19, 2012); Telephone Interview with Kelley Mauerma, Assoc. Professor of Legal Writing, Whittier Law Sch. (June 11, 2012); Telephone Interview with Nancy Schultz, Professor, Chapman Univ. Sch. of Law (June 18, 2012); Telephone Interview with David Raeker-Jordan, Assistant Legal Methods Professor, Widener Univ. Sch. of Law, Harrisburg, PA (May 3, 2012).

⁸⁷ Telephone Interview with Steve Johansen, Professor of Law, Lewis & Clark Law Sch. (June 20, 2012); Telephone Interview with Susan Thrower, Assoc. Prof. of Law and Dir., Legal Analysis, Research, & Comm’n, DePaul Univ. Coll. of Law (June 12, 2012); Telephone Interview with Tracy Turner, Dir. of the Legal Analysis, Writing and Skills Program and Professor of Legal Analysis, Writing and Skills, Sw. Law Sch. (June 21, 2012); Telephone Interview with Karen Sneddon, Assoc. Professor of Law, Mercer Univ. Sch. of Law (July 5, 2012); Telephone Interview with Janette Pratt, retired from Emory Univ. Sch. of Law (July 18, 2012); *see generally* Hanson, *supra* note 80.

⁸⁸ Survey Response from Janette Pratt, retired from Emory Univ. Sch. of Law (on file with author).

⁸⁹ Telephone Interview with Janette Pratt, retired from Emory Univ. Sch. of Law (July 19, 2012); *see also* Letter from A. James Elliot, Assoc. Dean, Sarah Shalf, Admin. Professor, Emory University School of Law, to Emory Law Student (July 19, 2012), *available at* http://www.law.emory.edu/fileadmin/Admissions/Professionalism_Program.pdf (describing Professionalism Program).

⁹⁰ Telephone Interview with Melissa Weresh, Dir. of Legal Writing and Professor of Law, Drake Univ. Law Sch. (July 10, 2012).

⁹¹ For a description of the topics covered during orientation week and continuing orientation throughout the 1L year, *see* Timothy S. Eckley, *Drake University Law School Lauded for Integrated Ethics and Professionalism Curriculum*, 92 JUDICATURE 167, 167 (2009).

program.⁹²

b. Teaching Professionalism Through Other Extra-curricular Programs or Initiatives

Of the thirty survey responders that indicated their schools had extra-curricular programs or initiatives dealing with professionalism, twelve said there were seminars or presentations throughout the school year, six said their schools held stand-alone professionalism days or weeks where professionalism was explored in detail, and fourteen said their schools held other kinds of extra-curricular professionalism programming.

i. Seminars or Presentations Throughout the Year

The professionalism seminars or presentations run the gamut from mandatory sessions, particularly for 1Ls,⁹³ to optional programs for any interested students. One example of a mandatory 1L program is at Northern Illinois University College of Law, which received a donation from alumni to create a professionalism series.⁹⁴ Newly launched in the Fall of 2011, here is the description from *Northern Notes, Alumni Newsletter of the Northern Illinois University College of Law*:

The new program will further integrate professionalism into the law school curriculum, in response to the growing recognition that law students (and lawyers) need more guidance in professionalism to further the highest values of the profession. The program will consist of five lectures featuring nationally recognized legal practitioners and scholars discussing cutting-edge issues.

Several lectures will be followed by a “Continue the Conversation” dinner or reception, where practitioners-facilitators will engage with first-year students in small groups to encourage discussion on the issues presented in the lecture. Students will benefit from hearing the

⁹² Melissa Weresh, *An Integrated Approach to Teaching Ethics and Professionalism*, 18 NO. 2 PROF. LAW 25, 25–26 (2007) (describing Drake’s program in detail).

⁹³ Telephone Interview with Mary Trevor, Dir. of Legal Research & Writing, Hamline Univ. Sch. of Law (June 20, 2012). One mandatory post-orientation 1L program is at Hamline University School of Law, where 1Ls learn about professional communications (both in email and otherwise), as well as resumé preparation and other professionalism topics in presentations throughout the year. *Id.*; cf. *infra* notes 97–98 and accompanying text for a description of ongoing 1L orientation programs, rather than mandatory post-orientation programs.

⁹⁴ *College of Law Launches New Professionalism Series for First-Year Students*, N. NOTES (N. Ill. Univ. Coll. of Law), Fall 2011, available at <http://niu.edu/law/calendar/publications/NNotes/NNotes%20Fall%202011.pdf> (“Introduction to the Legal Profession: History, Culture, and Values” is a new and innovative program created for first-year students. This program is being funded through the generosity of Cheryl (‘78) and Michael Murer, whose dedication to professionalism is infused throughout the series.”).

perspectives of practitioners who understand these issues of professionalism and have grappled with applying them in practice.⁹⁵

Illinois law schools also benefit from the support of the Illinois Supreme Court Commission on Professionalism because “[l]aw school faculty work in partnership with the Commission to create educational seminars and workshops for students, faculty and alumni. These programs often feature discussions on professionalism, ethics, civility, diversity and inclusion, and wellness with leading members of the bench and bar.”⁹⁶

Other optional programs are held at several schools, like Lewis & Clark Law School, where students can sign up to attend roundtable luncheons with members of the legal community to discuss an issue related to professionalism.⁹⁷ Whittier Law School also offers panel presentations and guest speakers, some of whom address professionalism issues.⁹⁸

ii. Stand-Alone Professionalism Days or Weeks

A few schools carve out separate days for specialized programming about professionalism. That is the approach taken at both campuses of Widener University School of Law where regular classes are canceled for the day, and students attend seminars or presentations about professionalism. On Widener’s campus in Harrisburg, Pennsylvania, the program is organized like a professional conference.⁹⁹ The program

⁹⁵ *Id.*

The first lecture, held on Wednesday, September 7, addressed attorney-client confidentiality issues in general and took an in-depth look into the nationally publicized and highly controversial Alton Logan case. Subjects of the subsequent lectures will include representing the unpopular client, featuring Professor Randall T. Coyne, The University of Oklahoma College of Law; moral consciousness and effective advocacy, featuring Professor Geoffrey Hazard, University of California Hastings Law School; panel on ethical danger zones, moderated by Professor David Taylor, NIU Law; and the program will conclude featuring Cherilyn Murer (‘78).

Id. In addition, the series covered some basics of professionalism, like presenting oneself in a professional manner and business etiquette. Telephone Interview with Meredith Stange, Instructor & Academic Support Coordinator, N. Ill. Univ. Coll. of Law (July 3, 2012).

⁹⁶ *Collaboration*, SUPREME COURT OF ILL. COMM’N ON PROFESSIONALISM, http://ilscop.org/lawschools/lawschools_index.htm (last visited Sept. 17, 2012). John Marshall Law School is an example of one Illinois school that participates in this program. See *Burke Professionalism Series Focus on Reputation*, JOHN MARSHALL LAW SCH. (Mar. 25, 2012), <http://news.jmls.edu/2012/03/burke-professionalism-series-focuses-on-reputation/> (describing the Illinois Supreme Court Justice Anne Burke Professionalism Series).

⁹⁷ Telephone Interview with Steve Johansen, Professor of Law, Lewis & Clark Law Sch. (June 20, 2012).

⁹⁸ Telephone Interview with Kelley Mauerman, Assoc. Professor of Legal Writing, Whittier Law Sch. (June 11, 2012).

⁹⁹ Telephone Interview with David Raeker-Jordan, Assistant Legal Methods Professor, Widener Univ. Sch. of Law, Harrisburg, PA (May 3, 2012); Telephone interview with Jennifer Lear, formerly Visiting Legal Methods Professor, Widener Univ. Sch. of Law, Harrisburg, PA, now visiting at the George Washington University Law School (June 19, 2012); E-mail from Ann Fruth, Assoc. Legal Methods Professor & Dir., Academic Support Program, Widener Univ. Sch. of Law to Mary Ann

includes sessions of interest to students at various stages of developing their professional identities. One group of sessions introduces students to the profession's social norms, conventions, etiquette expectations, and ethics. To assist students in selecting a practice area, another group of sessions provides information about the typical day of a practitioner in different practice areas. Other sessions provide practical advice to help students make effective choices during their time in law school. Additionally, several sessions frankly discuss the financial realities of law students and lawyers. Students are required to attend three hours of programming. Upper-level students are free to choose the sessions that they will attend; first-year students are required to attend two sessions specifically planned for them¹⁰⁰ and are free to attend an additional session of their choice.

On Widener's Delaware campus, the structure of the day is focused around programming that addresses three concepts identified by the planning committee as integral to Widener's mission as a law school: (1) success in law school; (2) success on the bar exam; and (3) success in law practice. Students are required to attend and participate. The day is structured in a mock CLE format, where the student must attend a plenary session, and then can choose a small-group session on a topic of his or her choice. All members of the faculty are asked to participate, either in planning the programming (which is tasked to a faculty committee) or participating in the panel discussions. Many alumni participate as panelists.

University of Detroit Mercy School of Law participates in a "Professionalism in Action" program in partnership with the State Bar of Michigan.¹⁰¹ This is a mandatory one-half day program pairing lawyers and judges with small groups of 1Ls. Together they do case studies in small groups after an address by a keynote speaker. In some years, Professionalism in Action has been held as a separate program in January; other years it has been an extension of 1L orientation.

The University of Pennsylvania Law School holds a

Robinson, Assistant Legal Methods Professor, Widener Univ. Sch. of Law (July 31, 2012, 12:24 PM EDT).

¹⁰⁰ The sessions required of first-year students are entitled "Understanding Bar Admissions" and "Preparing for Success in Law School." In Understanding Bar Admissions, the Executive Director of the Pennsylvania Board of Law Examiners provides an introduction to the Bar Exam and an overview of the application process. The Preparing for Success session is led by a faculty member who has published a book on taking law school exams. See *Professional Development Day*, WIDENER UNIV. SCH. OF LAW, <http://law.widener.edu/Gateway/CurrentStudents/HarrisburgStudents/AcademicResources/ProfessionalismDay.aspx> (last visited Sept. 17, 2012) (follow "Professional Development Day Session Blurbs" hyperlink); JOHN C. DERNBACH, *WRITING ESSAY EXAMS TO SUCCEED IN LAW SCHOOL (NOT JUST TO SURVIVE)* (3d ed. 2010).

¹⁰¹ Telephone Interview with Karen McDonald Henning, Assistant Professor of Legal Research and Writing, Univ. of Detroit Mercy Law Sch. (June 21, 2012). This program is held in various forms at other Michigan law schools as well. See Charles R. Toy, *State Bar Professionalism in Action Orientation Program*, MICH. B.J. 18, 18 (Feb. 2010), available at <http://www.michbar.org/journal/pdf/pdf4article1645.pdf> (last visited Sept. 4, 2012).

Professionalism Day each September to introduce students to the Center for Professionalism.¹⁰² There is a keynote speaker who talks about how professional qualities are key to practice.¹⁰³ 1Ls are also assigned to small groups of twelve to thirteen students (called “cohorts”), and each group has a practitioner-mentor and a law school administrator-mentor. The groups continue to meet “throughout the year to discuss building their professional skill set, coping with law school, and other professionalism topics.”¹⁰⁴

iii. Other Extra-curricular Programs or Initiatives

Some schools use existing extra-curricular activities as opportunities to emphasize professionalism, while others create new programs. At Chapman University School of Law, students who participate in interscholastic competition teams, like trial advocacy and moot court, have earned a reputation for professionalism due to the emphasis their program places on its importance, including preparation, decorum, and following the rules.¹⁰⁵ There is an ongoing national conversation about professionalism among those who coach mock trial teams, and proposed model rules are in development.¹⁰⁶

The Professionalism Centers described earlier¹⁰⁷ create new programming for students. For example, at Mercer Law School, in addition to creating a course for 1Ls,¹⁰⁸ the Center has hosted symposia, created teaching videos, and is working on an oral history project to collect the histories of Georgia lawyers and judges.¹⁰⁹ In addition, Mercer hosts an annual national moot court competition on Legal Ethics and Professionalism.¹¹⁰ Further professionalism programming comes from the career services office,¹¹¹ which has presentations about dress and etiquette,

¹⁰² Survey Response from Anne Kringel, Senior Lecturer and Legal Writing Dir., Univ. of Pa. Law Sch. (on file with author).

¹⁰³ Telephone Interview with Elizabeth K. McManus, Assoc. Dir. for Prof'l Dev., Univ. of Pa. Law Sch. (July 17, 2012).

¹⁰⁴ Telephone Interview with Anne Kringel, Senior Lecturer and Legal Writing Dir., Univ. of Pa. Law Sch. (June 26, 2012).

¹⁰⁵ Telephone Interview with Nancy Schultz, Professor, Chapman Univ. Sch. of Law (June 18, 2012).

¹⁰⁶ These model rules drafted by Edward Ohlbaum, Dir. of Trial Advocacy & Clinical Legal Educ., and Professor of Law, Temple Univ. Beasley Sch. of Law, a copy of which is on file with the author.

¹⁰⁷ See *supra* note 65 and accompanying text. For a link to a list of other similar centers across the country, see *Related Organization – Other Center*, NELSON, MULLINS, RILEY & SCARBOROUGH CENTER ON PROFESSIONALISM, <http://professionalism.law.sc.edu/organizations.php?id=17> (last visited Sept. 3, 2012). The website list includes centers that are affiliated with bar organizations as well as law schools, and includes centers appearing to particularly focus on ethics issues rather than broader professionalism issues.

¹⁰⁸ See *infra* text accompanying note 160.

¹⁰⁹ See *Center for Legal Ethics and Professionalism*, MERCER UNIV. SCH. OF LAW, <http://www.law.mercer.edu/academics/clep> (last visited Sept. 17, 2012).

¹¹⁰ See *2012 Legal Ethics and Professionalism Moot Courts Competition*, MERCER UNIV. SCH. OF LAW, <http://www.law.mercer.edu/academics/mercerleap> (last visited Sept. 5, 2012).

¹¹¹ Telephone Interview with Mary Trevor, Dir. of Legal Research and Writing, Hamline Univ. Sch. of Law (June 20, 2012). The career services offices at many schools conduct workshops related to

and the SBA, which sponsors a networking event with local attorneys.¹¹²

While providing professionalism education to the University of South Carolina Law School is one aspect of its work, there is a much broader mission at the Nelson Mullins Riley & Scarborough Center on Professionalism at the University of South Carolina School of Law. Founded in 1999 with a gift to the Law School from the law firm bearing its name, the Center's purpose is "to promote the ideals of professionalism in the practice of law and the operation of the judicial system by serving as a resource in the research and dissemination of information and ideas, as well as developing and promoting initiatives that further those ideals."¹¹³ In addition to its involvement in professionalism education at the Law School,¹¹⁴ the Center seeks to foster the sharing of ideas, and further development of professionalism education for the academy as well as members of the bench and bar. The Center hosts a national professionalism website which collects helpful information on key professionalism initiatives across the country, as well as links to other helpful documents and websites.¹¹⁵

Mentoring programs are also common law school initiatives for instructing about professionalism. Some programs are optional to law students, while other schools require their students to participate. For example, at Lewis & Clark Law School, 1Ls are paired with recent graduates. There are a few organized events for all the participants throughout the year, and the mentoring pairs also meet individually.¹¹⁶ At

professionalism, including appropriate dress, networking ideas, and professional communication. *Id.* The mandatory workshops at Hamline described at note 93 *supra* are conducted primarily by the career services staff. *Id.* Similar workshops are conducted at the University of Toledo School of Law. See Douglas E. Ray & Heather S. Karns, *Developing the Professional*, UNIV. OF TOLEDO COLL. OF LAW OFFICE OF PROF'L DEV., <http://law.utoledo.edu/students/career/pdf/ProfDevProgs.pdf> (last visited Sept. 17, 2012) (stating that "Office of Professional Development" (as part of Career Services) offers seminars on topics including professional demeanor, business etiquette, effective presentation skills, networking skills). The Career Services Office at the University of Oregon School of Law has created a new mandatory 1L course entitled "Professionalism Seminar." See *infra* text accompanying notes 166–67. At William and Mary School of Law, the Career Services Office includes a statement of Student Professionalism that 1Ls must sign and return. It addresses mainly professionalism in the job search process, but also requires students to "[e]xhibit courtesy, respect, and professionalism in dealing with my classmates, alumni, networking contacts, law school personnel, and employers and their staff members." *Statement of Student Professionalism*, WM. & MARY LAW SCH., <http://law.wm.edu/careerservices/currentstudents/studentstatement/index.php> (last visited Sept. 17, 2012).

¹¹² Telephone Interview with Karen Sneddon, Assoc. Professor of Law, Mercer Univ. Sch. of Law (July 5, 2012).

¹¹³ See NELSON MULLINS RILEY & SCARBOROUGH CENTER ON PROFESSIONALISM AT THE UNIV. OF S.C. SCH. OF LAW, <http://professionalism.law.sc.edu/> (last visited Sept. 17, 2012).

¹¹⁴ According to the website, the Center sponsored three professionalism seminars for 1L students at the Law School during the 2010-11 academic year. *Fall Professionalism Seminars*, NELSON MULLINS RILEY & SCARBOROUGH CENTER ON PROFESSIONALISM AT THE UNIV. OF S.C. SCH. OF LAW, <http://professionalism.law.sc.edu/seminars/> (last visited Sept. 17, 2012).

¹¹⁵ The Center won the E. Smythe Gambrell Professionalism Award in 2003.

¹¹⁶ Telephone Interview with Steve Johansen, Professor of Law, Lewis & Clark Law Sch. (June 20, 2012). Mentoring programs are also part of the Professionalism Seminar at the University of Oregon

Gonzaga, all 2L and 3L students are required to participate in externship or clinic experiences as a graduation requirement.¹¹⁷

At the University of St. Thomas, during each year of law school, each student is paired with a mentor and required to participate in an externship. Students are paired with volunteer members of the bench and bar; as of this writing, there were 550 mentors involved in the program. The students are provided with a checklist of requirements to complete before the year ends, ranging from recording meetings with mentors, logging hours spent with mentors, describing activities performed, providing “debriefing” summaries of their experiences, and completing an evaluation of the program. In addition to the externship experience, 1L students are required to attend large lecture-type sessions to prepare them for their fieldwork. 2L and 3L students have a small-section classroom component in addition to their mentoring experience, where students and faculty discuss professionalism issues that range from building and maintaining mentoring relationships, navigating difficult professional situations, and effective communication.¹¹⁸

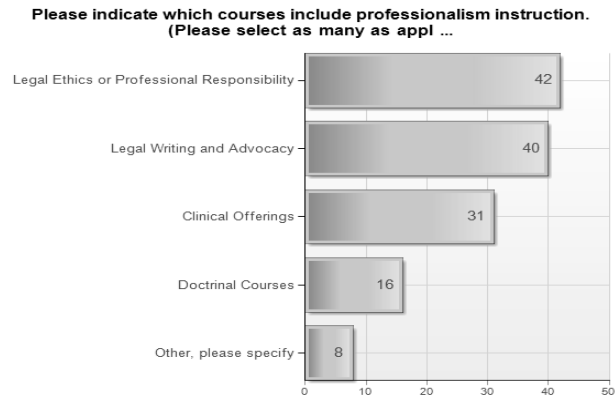
3. Integrating the Teaching of Professionalism into Existing Classes

As the chart below illustrates, our survey revealed that professionalism instruction is frequently integrated into several existing classes.

School of Law, *see infra* notes 166–67 and accompanying text, and the 1L cohort groups at Penn Law, *see supra* notes 102–04 and accompanying text. Another example is Widener Law School that has an optional mentoring program pairing volunteer alumni, practitioners, and judges with first year law students. *Student and Alumni Mentoring*, WIDENER LAW, <http://law.widener.edu/CampusLife/CareerDevelopment/StudentandAlumniMentoring.aspx> (last visited Sept. 17, 2012). Also, Thomas M. Cooley Law School’s Professional Development and mentoring program, which is based on the concept of “episodic mentoring”—short interactions with multiple practitioners over the course of the students’ law school experience. *Professional Development and Mentoring*, THOMAS M. COOLEY LAW SCH., <http://www.cooley.edu/ethics/programs.html> (last visited Sept. 17, 2012). A complete description of Thomas M. Cooley’s Professionalism Plan is outlined in AMY TIMMER & NELSON MILLER, REFLECTIONS OF A LAWYER’S SOUL: INSTITUTIONAL EXPERIENCE OF PROFESSIONALISM AT THOMAS COOLEY LAW SCHOOL (2008). *See also* THE THOMAS M. COOLEY SCHOOL OF LAW, CREATING A CULTURE OF PROFESSIONALISM IN LAW SCHOOL: THE THOMAS COOLEY EXPERIENCE 34, THOMAS M. COOLEY SCH. OF LAW, *available at* <http://www.cooley.edu/overview/brochures/theplan.pdf> (last visited Sept. 17, 2012) (describing Cooley’s efforts and success in implementing plan).

¹¹⁷ Hess, *supra* note 69, at 341.

¹¹⁸ *About the Program*, ST. THOMAS SCH. OF LAW, <http://www.stthomas.edu/law/currentstudents/mentorexternship/abouttheprogram/> (last visited Sept. 17, 2012) (describing the St. Thomas School of Law mentoring program). The St. Thomas Mentor/Externship Program received the Gambrell Award in 2005. *Id.*; *see also* Neil Hamilton & Lisa Montpetit Brabbit, *Fostering Professionalism through Mentoring*, 57 J. LEGAL EDUC. 102, 103 (2007) (describing the program and theoretical basis for using mentoring relationship to assist students in forming professional identity).



The connection to the traditional Legal Ethics or Professional Responsibility class is obvious since professionalism and ethics are closely intertwined, and the survey answers confirmed that connection. Several redesigned ethics programs that address professionalism explicitly are described below in section b. Nearly as many survey respondents said that professionalism is part of the Legal Writing and Advocacy curriculum.¹¹⁹ Legal writing and professionalism education will be discussed first.

a. Integrating Professionalism Instruction in Legal Writing Courses

Most legal writing programs have always incorporated professionalism as part of their instruction because of the nature of the material being taught.¹²⁰ For example, problems are set in actual practical context just by virtue of work-product being produced, such as office memos, briefs, and client letters.¹²¹ Students must do everything with care and produce written products that are polished and professional in appearance because that is what is required for these products in law offices and courts. Thus, these professionalism aspects of written communication

¹¹⁹ Perhaps this result is unsurprising given that the survey was distributed to those who teach legal writing. But the connections between legal writing and professionalism education are also well-established. See Weresh, *supra* note 29, at 428.

¹²⁰ E.g., Bratman, *supra* note 22, at 121–22 (“For many years, legal writing professors have advocated using the mandatory first-year legal writing course as a venue for conveying the meaning and importance of professionalism.”); Nancy M. Maurer & Linda Fitts Mischler, *Introduction to Lawyering: Teaching First-Year Students to Think like Professionals*, 44 J. LEGAL EDUC. 96, 98–99 (1994) (describing the pilot program at Albany Law School that began in the fall of 1991 that integrated ethics and professionalism in the legal writing curriculum by using a single simulated case to practice multiple skills and identify professionalism issues); Johns, *supra* note 10, at 501 (arguing that professional and ethical issues should be taught in the legal writing classroom and stating that she has taught professionalism in her skills class for several years). There is a substantial body of scholarship explaining the reasons why professionalism and LRW are a good “fit.” Chin, *supra* note 10, at 896; Weresh, *supra* note 29, at 435; Cohen, *supra* note 12, at 147; Maurer & Mischler, *supra* note 120.

¹²¹ Telephone Interview with Anne Kringel, Senior Lecturer and Legal Writing Dir., Univ. of Pa. Law Sch. (June 26, 2012).

are usually emphasized along with acquisition of the skills.¹²²

Basic tenets of professionalism, such as following rules for formatting and timely submissions, are emphasized in most legal writing courses. Deadlines are important in the working world, so they are important in the legal writing classroom as well. Legal writing professors often impose onerous penalties for late submission of writing assignments and draw explicit connections to practice by emphasizing courts' refusals to accept late-filed documents and malpractice claims that result.¹²³ In addition, it is becoming more common in the legal writing classroom to articulate specific professionalism expectations and assess mastery of these expectations through "professionalism points" that comprise part of the final grade.¹²⁴ Although exact requirements vary, professionalism in the legal writing classroom usually includes expectations of civility (in class, in dealing with library and clerical staff in the law school, and in e-mail

¹²² *Id.*; Survey Response from Meredith Stange, Instructor & Academic Support Coordinator, N. Ill. Univ. Coll. of Law (July, 25, 2011) ("As part of the Legal Writing program, there are discussions about professionalism and its importance. We stress this in terms of client interaction, the importance of completing work on time, editing work before presenting it to a partner or client, etc.") (on file with author); Telephone Interview with Arnold Siegel, Clinical Professor of Law and Dir. of Legal Writing and Ethical Lawyering Programs, Loyola Law Sch. L.A. (May 14, 2012) ("Everything you write impacts your reputation and your credibility as a lawyer."). The Legal Writing faculty at Villanova Law School initiated a partnership with practicing attorneys to help inform curricular innovations which incorporate professionalism training. Survey Response from Christine Mooney, Assoc. Dean & Dir. of Legal Writing Programs, Villanova Univ. Sch. of Law (Sept. 30, 2011) ("In Legal Writing, many of the curricular changes we made are a direct result of our discussions with our practice group. Email assignments, requirement to keep time sheets for major assignments and 'partner/associate' meetings in the professor's office are a few examples of additions we've made.") (on file with author).

¹²³ Telephone Interview with Christopher Seaman, formerly at IIT Chicago-Kent Coll. of Law, now Assistant Professor of Law, Washington & Lee Univ. Sch. of Law (July 2, 2012); Telephone Interview with Elizabeth Frost, Legal Research & Writing Professor, Univ. of Or. School of Law (June 18, 2012); Telephone Interview with Judith Rosenbaum, Clinical Professor of Law & Dir. of Comm'n Initiatives (July 2, 2012); Telephone Interview with Sophie Sparrow, Professor of Law, Univ. of N. H. Sch. of Law (July 2, 2012); Telephone Interview with Meredith Stange, Instructor & Academic Support Coordinator, N. Ill. Univ. Coll. of Law (July 3, 2012). At Widener, late penalties for legal writing assignments result in a 5% score deduction for each half day a major assignment is late. Timely work product is not only a professionalism consideration, but an ethical obligation as well under the lawyer's duty of diligence. MODEL RULES OF PROF'L CONDUCT R. 1.3 (2011).

¹²⁴ See Survey Response from Ellen Belfer, Lecturer in Law, Univ. of Miami Sch. of Law (on file with author); Telephone Interview with Meredith Stange, Instructor & Academic Support Coordinator, N. Ill. Univ. Coll. of Law (July 3, 2012); Telephone Interview with Susan Thrower, Assoc. Professor of Law and Dir., Legal Analysis, Research, & Comm'n, DePaul Univ. Coll. of Law (June 12, 2012); Telephone Interview with Christine Mooney, Assoc. Dean & Dir. of Legal Writing Programs, Villanova Univ. Sch. of Law (June 14, 2012); Telephone Interview with Debra Austin, Lawyering Process Professor, Univ. of Denver Sturm Coll. of Law (June 19, 2012); Telephone Interview with Mary Trevor, Assoc. Professor & Dir., Legal Research & Writing Dep't, Hamline Univ. Sch. of Law (June 20, 2012); Telephone Interview with Karen McDonald Henning, Assistant Professor of Legal Research and Writing, Univ. of Detroit Mercy Law Sch. (June 21, 2012); Telephone Interview with Adrienne Brungess, Assoc. Professor of Lawyering Skills, Pacific McGeorge Sch. of Law (June 21, 2012); Telephone Interview with Elizabeth Frost, Legal Research & Writing Professor, Univ. of Or. Sch. of Law (June 18, 2012); Telephone Interview with Meredith Aden, formerly Dir. of Legal Writing at Univ. of Miss. Sch. of Law, now Dir. of Legal Writing at William & Mary Law Sch. (June 25, 2012); Telephone Interview with Judith Rosenbaum, Clinical Professor of Law & Dir. of Comm'n Initiatives (July 2, 2012); Telephone Interview with Sophie Sparrow, Professor of Law, Univ. of N. H. Sch. of Law (July 2, 2012); Telephone Interview with Lisa McElroy, Assoc. Professor of Law, Earle Mack Sch. of Law at Drexel Univ. (June 27, 2012).

communications), meaningful participation in classroom discussions and group work, timeliness (in arriving for class and conferences as well as in assignment submission), good efforts on ungraded work, and appropriate use of technology in the classroom (no web-surfing, emailing, or texting during class).¹²⁵

Electronic communication, including professional e-mail and use of social networking sites, has become a point of emphasis in many programs. At Drake Law School, a workshop addressing both of these has been part of the ongoing 1L orientation program,¹²⁶ but will now be part of the legal writing program.¹²⁷ The lessons are described below:

Students are provided with a realistic, but fictitious, email exchange between junior and senior members of a law firm. In the exchange there are exaggerated as well as subtle

¹²⁵ *Id.* Some professors provide that students have the points at the beginning of the semester and can lose them through unprofessional conduct. Here is an example of one such provision:

Professionalism Points (10 points). Conducting one's self in a professional manner is essential to a successful career as an attorney, and students are expected to display this conduct in this class. Professional conduct includes, but is not limited to: arriving on time to class and conferences; remaining in the classroom for the entire class period; coming to classes and conferences prepared; completing required exercises and submissions; actively participating in class, research and citation exercises, and any other group assignments; treating classmates with respect; and attending workshops, when needed, to develop required skills. Students begin the semester with ten professionalism points for their conduct in class and in conferences. They may lose some or all of the points for conduct that is, in Professor Henning's judgment, inconsistent with professional expectations.

E-mail from Karen McDonald Henning, Assistant Professor of Legal Research and Writing, Univ. of Detroit Mercy Law Sch. to Mary Ann Robinson, Assistant Legal Methods Professor, Widener Univ. Sch. of Law (June 21, 2012, 11:21 PM EDT) (quoting excerpt from Karen McDonald Henning's syllabus attachment) (on file with author). In Ellen Belfer's legal writing class, students must be proactive to earn the entire 10% of their grade allocated to professionalism /class participation. Here is the description of "Professionalism" from Professor Belfer's syllabus:

1. Attend all meetings (e.g., classes and conferences) and be punctual; 2. Prepare for classes by completing all reading and writing assignments; 3. Participate actively in classroom discussions, out-of-class activities, and group work; 4. Complete and submit all assignments by the established deadline; 5. Proofread and edit documents to ensure compliance with the required format, word limits, rules of citation, etc.; 6. Show respect and civility when giving and receiving feedback or otherwise communicating with me, the library faculty, and fellow students; 7. Make a good faith effort and follow the directions on all assignments, whether graded or ungraded; and 8. Use laptops, cell phones, and other devices only if and when permitted.

Survey Response from Ellen Belfer, Lecturer in Law, Univ. of Miami Sch. of Law (June 14, 2012) (on file with author); Telephone Interview with Ellen Belber, Lecturer in Law, Univ. of Miami Sch. of Law (June 14, 2012). Sophie Sparrow states that:

In Legal Writing courses, students have been awarded "professional points" as part of their grade. This is usually 5-20% of the course grade and includes timely submission of ungraded work, collaboration with peers, engagement in class, learning from feedback, helping classmates, being on time, being respectful, and otherwise acting like a professional.

Survey Response from Sophie Sparrow, Professor of Law, Univ. of N. H. Sch. of Law (July 26, 2011) (on file with author).

¹²⁶ Weresh, *supra* note 92, at 26.

¹²⁷ Telephone Interview with Melissa Weresh, Dir. of Legal Writing and Professor of Law, Drake Univ. Law Sch. (July 10, 2012).

lapses in professionalism. The students are able to identify the lapses and question how those lapses impact the lawyer's credibility. The students then review the social networking sites of the email exchange members. Once again, the students are asked to identify the type of information posted on those sites which, while not rising to the level of an ethical violation, is unprofessional. In the context of a practice setting they are able to translate how those lapses in professionalism impact the credibility and efficacy of advocates. Extrapolating those effects to their credibility in law school vis-à-vis their peers and professors is similarly transparent.¹²⁸

Other schools include e-mail assignments or specific instruction in constructing an appropriate e-mail as part of the strategy to help instruct students in the importance of professionalism in electronic communications.¹²⁹

Connecting professionalism considerations directly to the documents that students are working on is another approach in the legal writing classroom. Perhaps the most notable example of this is Melissa Weresh's book, *Legal Writing: Ethical and Professional Considerations*, 2d ed. (LexisNexis 2009), which:

[T]racks the types of documents typically produced in a first-year legal writing course. The book identifies ethical rules and professional concerns which pertain to the particular type of document and introduces cases illustrating how the rules should influence lawyers' behavior when preparing and submitting documents. It also contains notes designed to reinforce students'

¹²⁸ Weresh, *supra* note 92, at 26. For a video to use to foster a discussion of professionalism and social networking sites, see *Professionalism 2: Social Networking*, WOLTERS KLUWERS, <http://www.readyforpractice.com/Videos/ProfessionalismVideos.aspx> (last visited Sept. 17, 2012) (follow "Professionalism 2: Social Networking" hyperlink).

¹²⁹ See, e.g., Survey Response from Christine Mooney, Assoc. Dean & Dir. of Legal Writing Programs, Villanova Univ. Sch. of Law (Sept. 30, 2011) (saying Villanova includes an email assignment) (on file with author); Survey Response from Tracy Turner, Dir. of Legal Analysis, Writing, & Skills, Sw. Law Sch. (June 21, 2012) (on file with author); see generally Tracy Turner, *E-Mail Etiquette in the Business World*, 18 PERSP. TEACHING LEGAL RESEARCH AND WRITING 18 (Fall 2009). Professor Mary Trevor at Hamline University School of Law includes specific instructions in her syllabus that all emails must include a salutation and a subject line. She also coordinates with Career Services on professional email communication. Telephone Interview with Mary Trevor, Assoc. Professor & Dir., Legal Research & Writing Dept., Hamline Univ. Sch. of Law (June 20, 2012); Telephone Interview with Kelley Mauerman, Assoc. Professor of Legal Writing, Whittier Law Sch. (June 11, 2012) (stating professional email communication is also part of the 1L legal writing curriculum at Whittier Law School). At the authors' school, Widener Law-Delaware, we teach a unit on professional email in our spring semester of the first year writing course. In Legal Methods II, we require students to submit an email status report on their research for the appellate brief assignment. We grade the email and offer feedback on the tone and substance of their emails. See Legal Methods II syllabii (on file with authors).

understanding of how the rules should impact them as they communicate professionally in writing.¹³⁰

Thus, when students learn to write a document, they also learn about the relevant rules and professionalism expectations.¹³¹

Another approach to making these connections explicit for students is through the use of examples and hypothetical situations to tell a story that students can relate to on a personal level.¹³² The authors of this article have created a video setting out a hypothetical situation¹³³ that can be used when teaching appellate advocacy to illustrate an advocate's duty of candor to the tribunal.¹³⁴ Using this video in connection with teaching appellate advocacy can help foster a discussion about what it means to be obligated to disclose adverse legal authority to a court and how ignoring that obligation may have negative consequences in the "real world," both for the attorney's reputation and for the outcome for the client.¹³⁵

Incorporating the ethical or professional issues into the fact pattern or subject of a research and writing assignment is another approach used in the legal writing classroom. This approach can take many forms. For example, assignments may involve attorney malpractice claims or ethical

¹³⁰ See *LexisNexis Store*, LEXISNEXIS, <http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&prodId=58298> (last visited Sept. 18, 2012) (describing Professor Weresh's book).

¹³¹ Bratman, *supra* note 22, at 122 (noting that author teaches his legal writing students ethical rules governing legal communication); Johns, *supra* note 10, at 505 (describing how she raised issues involving ethical violations and norms of professional courtesy via the demand letter writing assignment, and discussed the tension between thoroughly researching issues and time constraints and economic burdens of law practice via the open memo assignment).

¹³² E.g., Oseid, *supra* note 55, at 107 (describing the use of hypotheticals to teach professionalism). There, she describes her approach to teaching "value dilemmas"—i.e., "life situations that activate your conscience and require you to choose one action over another." *Id.* She presents those dilemmas to students in a multiple choice format, fostering discussion among class about possible options. *Id.* She listed any applicable rules of ethics (if available) and revealed her actual reaction—what she did in practice when faced with the problem. *Id.* She then discussed other possible reactions and identified the professionalism issues raised by the problem, i.e., guard your reputation for honesty; consider and get input from mentor when faced with difficult dilemma. See generally *id.* at 126–30.

¹³³ This video is one of several dealing with professionalism issues that were funded in part by a teaching grant from ALWD and are available for anyone's use on the Legal Methods page of Widener Law School's website. *Professionalism in Law School and Law Practice: Three Case Studies*, WIDENER LAW SCH., <http://law.widener.edu/Academics/LegalMethods/ProfessionalismVideos.aspx> (last visited Sept. 5, 2012). Anyone is welcome to use this video and it is available at no charge. Additional videos on professionalism issues are also available for free on Aspen Publisher's new website. *Videos*, WOLTERS KLUWERS, <http://www.readyforpractice.com/Videos.aspx> (last visited Sept. 5, 2012).

¹³⁴ MODEL RULES OF PROF'L CONDUCT R. 3.3 (2012).

¹³⁵ Storytelling is an effective way to teach ethics and professionalism concepts, because students are more likely to identify themselves with a character in a story than if they read the same material in a judicial opinion. See Oseid, *supra* note 55, at 106–07. We saw videos as an opportunity to grab students' attention and discuss habits and character traits that were required of students in our class and lawyers. We have heard from several schools that use it in their professionalism instruction, including Whittier Law School. Telephone Interview with Kelley Mauerma, Assoc. Professor of Legal Writing, Whittier Law Sch. (June 11, 2012).

issues.¹³⁶ Tying the fact pattern to prior misconduct that may affect bar admission gets students' attention.¹³⁷ Other aspects of professionalism, including the lawyer's role as public servant,¹³⁸ and the lawyer's role in promoting social justice,¹³⁹ can be explored via the subject matter of the assignments selected. Embedding these considerations in the assignments themselves ensures that students learn concepts that are at the core of our professional values.

Some professors include separate tests or assignments that address ethical or professionalism standards. One common example of this is a test measuring citation skills.¹⁴⁰ Another kind of assignment could measure students' understanding of their school's honor code provisions and plagiarism standards, as well as the importance of following statutory and local court rules with respect to timeliness of document filings, accurate formatting, etc.¹⁴¹

Survey results confirm that classroom exercises are another tool for teaching about professionalism.¹⁴² Professor Jean Sbarge at Widener Law School has created an engaging exercise through a series of "Professional at Work" cards to use in the classroom. These cards feature real-life professionalism dilemmas and offer students an opportunity to be active

¹³⁶ Telephone Interview with Arnold Siegel, Clinical Professor of Law and Dir. of Legal Writing and Ethical Lawyering Programs, Loyola Law Sch. L.A. (May 14, 2012); Telephone interview with Tracy Turner, Dir. of the Legal Analysis, Writing and Skills Program and Professor of Legal Analysis, Writing and Skills, Sw. Law Sch. (June 21, 2012); Telephone Interview with Steve Johansen, Professor of Law, Lewis & Clark Law Sch. (June 20, 2012).

¹³⁷ Telephone Interview with Judith Rosenbaum, Clinical Professor of Law & Dir. of Comm'n Initiatives (July 2, 2012).

¹³⁸ See, e.g., Bratman, note 22, at 124, 128. In his closed universe writing assignment, Professor Bratman asked students to write a memorandum analyzing the differences between a "business" and a "profession" under the applicable zoning ordinance. The mock client was a lawyer running an office in a residential zoning district that permitted professional offices but prohibited other types of "businesses" in the area. In determining that the law office was permitted under the ordinance, students had to apply reasoning from precedent defining "profession" based on the specialized and continued training of those involved, and the public-service oriented nature of the endeavor. *Id.* at 127-28. Thus, the central reasoning of the case precedent hammered home the point of the exercise: to teach students about the professional attributes of lawyers generally. *Id.*

¹³⁹ E.g., Cohen, *supra* note 12, at 151 (advocating for legal writing professors to consider using problems that inject social justice issues into curriculum).

¹⁴⁰ At Widener-Delaware, there is a professionalism presentation exam as part of the 1L legal writing course, testing students' mastery of citation form and proofreading skills. Meredith Stange draws an explicit connection for her students between sloppy citations and sloppy thinking. She recounts a partner's criticism of poor citations in a memo making him wary of trusting the substantive content when he could not trust the citations. Telephone Interview with Meredith Stange, Instructor & Academic Support Coordinator, N. Ill. Univ. Coll. of Law (July 3, 2012).

¹⁴¹ Survey Response from Susan Thrower, Assoc. Professor of Law and Dir., Legal Analysis, Research, & Comm'n, DePaul Univ. Coll. of Law (July 27, 2011) (on file with author).

¹⁴² In addition, Professor Beth Cohen's article argues that legal writing professors should consider incorporating exercises outside the adversarial model to teach students about other problem-solving methods beyond the litigation context. She concludes that incorporating negotiation, letter writing, and interviewing and counseling exercises can have a positive impact on professional identity development because they provide a more realistic assessment of lawyers' problem-solving skills, permit collaborative work, and also provide an opportunity to consider the impact of options and resolutions on those involved. Cohen, *supra* note 12, at 152-53.

learners by stepping into the shoes of someone facing real-life professionalism problems. One set of cards includes the professionalism dilemma, and the corresponding set includes the real-life professionalism lapse or professional response. Each card brings up several important professionalism concepts.¹⁴³ Christopher Seaman has created exercises based on Illinois Rules of Conduct; he gives students scenarios which they discuss in small groups and report back to the larger group, identifying what rules are implicated and making suggestions for handling the scenarios.¹⁴⁴ At Southwestern Law School, the 1L legal writing course includes a video with clips of professors, alumni, judges, and attorneys (identified by name and position in the video) who discuss various professionalism issues, like level of preparation a supervisor expects before a meeting, how to treat staff, how to fit into life of the office, and responsiveness to assignments and client's needs. Before viewing the video, students are polled about professionalism expectations; after viewing the video, they write reflection papers about how their impressions have changed.¹⁴⁵ Professor Debra Austin at University of Denver's Sturm College of Law uses an exercise that connects her class's identified learning outcomes with actual associate evaluations. She highlights the connections between professionalism in the evaluations and the professionalism expectations in her legal writing course.¹⁴⁶

Thus, through various approaches, the connection between professionalism expectations in practice and professionalism expectations in the legal writing classroom is an ongoing and explicit theme that many who teach legal writing emphasize early and often.

b. Carving Out a Separate Portion of the Traditional Ethics or Professional Responsibility Class to Teach Professionalism

The connection between the material covered in Professional Responsibility and professionalism topics is obvious. Given that there may be conduct that does not violate the ethics rules *per se* but is nevertheless unprofessional, many of the professionalism topics explored in other classes

¹⁴³ The authors are familiar with these cards because Professor Sbarge is their colleague and has shared the cards not only with her Widener colleagues, but with others at several professional conferences.

¹⁴⁴ Telephone Interview with Christopher Seaman, formerly at IIT Chicago-Kent Coll. of Law, now Assistant Professor of Law, Washington & Lee Univ. Sch. of Law (July 2, 2012).

¹⁴⁵ Survey Response from Tracy Turner, Dir. of the Legal Analysis, Writing and Skills Program and Professor of Legal Analysis, Writing and Skills, Sw. Law Sch. (June 21, 2012) (on file with author); Telephone Interview with Tracy Turner, Dir. of the Legal Analysis, Writing and Skills Program and Professor of Legal Analysis, Writing and Skills, Sw. Law Sch. (June 21, 2012) (on file with author). Southwestern's video was developed by Anahid Gharakhanian, Vice Dean for Academic Affairs, Director of the Externship Program and Professor of Legal Analysis, Writing & Skills.

¹⁴⁶ Telephone Interview with Debra Austin, Lawyering Process Professor, Univ. of Denver Sturm Coll. of Law (June 19, 2012); E-mail from Debra Austin to Mary Ann Robinson, Assistant Legal Methods Professor, Widener Univ. Sch. of Law (June 19, 2012, 6:01 PM EDT) (on file with author).

can come up in Professional Responsibility. Several schools have revamped their ethics or professional responsibility classes to include explicit instruction about professionalism. For example, at Loyola Law School in Los Angeles, the legal ethics course “includes a major emphasis on interviewing and counseling and learning to deal professionally with clients.”¹⁴⁷ Thus, the course is designed not only to help students acquire the skills for interviewing and counseling, but also to learn how to assume the professional role, such as interacting appropriately with clients and approaching the issues with the understanding that it is the client’s problem, and the client needs to be satisfied with the outcome. The school hires actors to portray the clients, and students work in pairs. There are alternative possible resolutions to each problem, including settlement or litigation, and students are evaluated on their interview (which is recorded), as well as a memo to the senior partner and a letter to the client.¹⁴⁸

The 2L students at California Western School of Law take a two-semester required course called STEPPS (Skills Training for Ethical and Preventative Practice and career Satisfaction), which has a component for teaching the professional responsibility rules to a large group of students, and small “law office” sections that emphasize skills acquisition, values, and professionalism.¹⁴⁹ This course, which is described in detail in a recent *Perspectives* article,¹⁵⁰ combines the “substantive rules of professional responsibility with practical training in legal skills such as interviewing, counseling, legal research, drafting, and negotiation. The STEPPS Program also covers issues of preventive lawyering, professionalism, career satisfaction, business etiquette, and networking.”¹⁵¹

When students take the required professional responsibility class at Emory Law School, they participate in a program called Values in Practice.¹⁵² Students write short essays on one of the core values identified in Emory’s Professional Conduct Code: excellence, integrity, respect, or service.¹⁵³ In the essays, students describe their observations of how one of these values was demonstrated or was lacking when they were in practice over the summer (or in other settings). Some essays are selected for in-class

¹⁴⁷ Survey Response from Arnold Siegel, Clinical Professor of Law and Dir. of Legal Writing and Ethical Lawyering Programs, Loyola Law Sch. L. A. (May 14, 2012) (on file with author).

¹⁴⁸ Telephone Interview with Arnold Siegel, Clinical Professor of Law and Dir. of Legal Writing and Ethical Lawyering Programs, Loyola Law Sch. L. A. (May 14, 2012).

¹⁴⁹ Telephone Interview with Roberta Thyfault, Legal Writing Professor, Cal. W. Sch. of Law (June 7, 2012).

¹⁵⁰ Timothy Casey & Kathryn Fehrman, *Making Lawyers Out of Law Students: Shifting the Locus of Authority*, 20 *PERSP.* 96 (Winter/Spring 2012).

¹⁵¹ *Id.* at 98.

¹⁵² Survey Response from Janette Pratt, retired from Emory Univ. Sch. of Law (on file with author); Telephone Interview with Janette Pratt, retired from Emory Univ. Sch. of Law (July 18, 2012).

¹⁵³ See generally EMORY UNIV. SCHOOL OF LAW, PROFESSIONAL CONDUCT CODE (2000), available at http://www.law.emory.edu/fileadmin/registrar/SP10-professional_conduct_code.pdf.

presentation.¹⁵⁴

By expanding the material covered in the mandatory ethics or professional responsibility courses, these schools have made choices to emphasize the importance of professionalism to all students.

c. Integrating Professionalism Instruction in Other Courses

Several survey responders commented on ways that professionalism instruction is incorporated into courses other than legal writing or ethics and professional responsibility. Skills courses, such as negotiations and contract drafting, provide frequent opportunities for professionalism instruction.¹⁵⁵ But other courses can also address professionalism.¹⁵⁶

Sophie Sparrow at the University of New Hampshire School of Law uses team-based learning in her Torts, Remedies, and Writing for Practice classes.¹⁵⁷ The teams identify their own professionalism priorities and

¹⁵⁴ Professor Pratt tried to make this a high energy class, treating the student presenters as game show contestants, invited to “Come on down!” to present their papers. Telephone Interview with Janette Pratt, retired from Emory Univ. Sch. of Law (July 18, 2012).

¹⁵⁵ Survey Response from Karen McDonald Henning, Assistant Professor of Legal Research and Writing, Univ. of Detroit Mercy Law Sch. (June 21, 2012) (on file with author); Survey Response from Adrienne Brungess, Assoc. Professor of Lawyering Skills, Pacific McGeorge Sch. of Law (July 28, 2011) (stating that “[l]awyering and advocacy courses as well as negotiations courses include instruction on professionalism in practice including appropriate tone, effective communication, honesty in work product, etc.”) (on file with author).

¹⁵⁶ For example, Gonzaga’s 1L Professionalism Labs are associated with Torts class in the fall semester, and Contracts class in the spring semester. For a discussion of Gonzaga’s curricular innovations, see *supra* note 69 and accompanying text.

¹⁵⁷ Here are excerpts from Professor Sparrow’s Remedies syllabus:

This course uses the strategy of team-based learning. . . .

Teams mimic the professional environment and develop essential lawyering skills. In practice, you will frequently be working with others – lawyers, clients, consultants, and assistants, in effectively serving your clients. Many studies have shown that, across all disciplines, the ability to work well with others is more important to success than intellectual expertise. Team-based learning develops the skills and values necessary to practice law, while also allowing you to apply class materials and get immediate feedback on your analysis.

In this course you will be working in teams of 4-7 students; these teams will last the entire semester. Teams will be assigned on the first day of class - with some modifications for class composition. Each team is expected to work together effectively and efficiently; each team member is responsible for achieving these goals.

Team-based learning has two major components: individual out-of-class preparation and in-class teamwork focusing on applying the materials prepared out-of-class on quizzes or class exercises. You will form small, diverse teams at the beginning of the course. Teams will develop and refine team contribution guidelines, and assess how well each member of the team contributes at various points in the semester.

. . . .

Team contribution points are allocated by team members to their colleagues to assess the contribution from each team member. The points are based on each team member’s assessment of the others’ participation, contribution, respect for team member, flexibility, and any other factors identified by the team.

Email from Sophie Sparrow, Professor of Law, Univ. of N.H. Sch. of Law to Mary Ann Robinson, Assistant Legal Methods Professor, Widener Univ. Sch. of Law (July 25, 2012, 6:07 PM EDT) (quoting Sophie Sparrow’s syllabus attached to email) (on file with author).

submit scores for their teammates. Here is how Professor Sparrow describes this approach:

In sections of Torts and Remedies and Writing for Practice, students earn ~15-20% of their grade based on their contributions to their teams (they are placed in diverse permanent teams for the entire course). Each team identifies the attributes they seek from their teammate over the course of the semester—teams typically identify things like treating others with respect, each contributing to team discussions, being civil in disagreements, communicating honestly and directly about problems, seeking clarification when teammates don't understand them, apologizing when they are wrong, not dominating discussion, having a sense of humor, being flexible, being prepared, and being on time.¹⁵⁸

Professor Sparrow identifies assessment as one of the hardest parts about professionalism education. Having students collaborate and be accountable to each other is one way to do this in a large class.¹⁵⁹

4. Creating Separate For-Credit Classes to Teach Professionalism

Many schools have created separate courses to teach about professionalism issues, some of which have been developed as part of the work of professionalism centers. These courses are designed to introduce students to the realities of practice, to some of the skills students will need to succeed in practice, and sometimes to information that will aid them in their job searches. Even in the courses aimed primarily at skills acquisition or job-seeking, explicit connections are drawn to professionalism.

Among the courses that introduce students to the profession is Mercer Law School's course, "The Legal Profession,"¹⁶⁰ created by Mercer's very active Center for Professionalism and Ethics.¹⁶¹ Among other things, the 1L students in this required three-credit course participate in weekly

¹⁵⁸ Survey Response from Sophie Sparrow, Professor of Law, Univ. of N.H. Sch. of Law (July 26, 2011) (on file with author).

¹⁵⁹ *Id.* For more information about team-based learning in law, see *Team-Based Learning in Law*, INSTITUTE FOR LAW TEACHING AND LEARNING, <http://lawteaching.org/teaching/teambasedlearning/index.php> (last visited Sept. 18, 2012).

¹⁶⁰ Patrick E. Longan, *Teaching Professionalism*, 60 MERCER L. REV. 659, 659–64 (2009) (describes course in detail). Professor Longan has received several awards for his development of this course. See *First Year Course on Professionalism*, MERCER UNIV. SCH. OF LAW, <http://www.law.mercer.edu/academics/clep/education> (last visited Sept. 18, 2012).

¹⁶¹ Telephone Interview with Karen Sneddon, Assoc. Professor of Law, Mercer Univ. Sch. of Law (July 5, 2012); Survey Response from Karen Sneddon, Assoc. Professor of Law, Mercer Univ. Sch. of Law (Apr. 30, 2012) (on file with author).

[s]mall group discussions about case studies involving situations in which lawyers have made, or must make, difficult judgments about issues of professionalism. The students continue these discussions in weekly blogs for their small groups. The course also includes a series of interviews with practicing lawyers and judges at which the students learn about various career paths in the law and the challenges and rewards that come as part of those paths.¹⁶²

Some other courses designed to introduce students to the profession also have a strong professionalism component.¹⁶³ At the University of New Hampshire School of Law, in a course called “The Legal Profession,” 1Ls can learn about the profession and hear many different things related to professionalism, including the importance of civility and good judgment, as well as getting a fuller sense of what it means to enter a profession:¹⁶⁴

The course meets every other week and is structured around eight in-class interviews with practicing lawyers working in a wide variety of settings. The in-class interviews will introduce students to the widely varied skills and traits that make lawyers successful in particular practice settings. We will ask our interviewees what skills they use regularly in their practices; what audiences they must please as they navigate their careers; what challenges they face; what they enjoy about their work; and how their work interacts with their values, if it does? [sic] For the final project, each student will interview a lawyer selected by the faculty who practices in a setting of interest to that student and write a paper detailing what they learned.¹⁶⁵

The University of Oregon is instituting a mandatory “Professional Development Seminar” for 1Ls beginning in the 2012–2013 academic year.¹⁶⁶ The course grew out of an optional seminar offered in 2011–2012, and the students who took it found it to be so valuable that they suggested it

¹⁶² *First Year Course on Professionalism*, MERCER UNIV. SCH. OF LAW, <http://www.law.mercer.edu/academics/clep/education> (last visited Sept. 17, 2012).

¹⁶³ E.g., James D. Gordon III, *Religiously Affiliated Law Schools, Values and Professionalism*, 59 J. LEGAL EDUC. 151, 154 (2009). The article describes a first-year half-credit elective course on professional identity called “Professional Seminar” at Brigham Young University Law School. Three-quarters of the first-year students take the seminar. The seminar “integrates religious and moral values into a model of legal professionalism, and discusses legal education, the legal system, law practice, and the role of lawyers in society.” *Id.*

¹⁶⁴ Telephone Interview with Sophie Sparrow, Professor of Law, Univ. of N.H. Sch., of Law (July 2, 2012). Participation in this course is voluntary and is currently capped at one-third of the entering class. *Id.*

¹⁶⁵ *The Legal Profession*, UNIV. OF N.H. SCH. OF LAW, <http://law.unh.edu/courses/the-legal-profession/551> (last visited Sept. 18, 2012).

¹⁶⁶ Telephone Interview with Rebekah Hanley, Assistant Dean, Ctr. for Career Planning & Prof'l Dev., Univ. of Or. Sch. of Law (June 25, 2012).

be mandatory. Although the seminar is aimed primarily at job-seeking, it also has a strong professionalism component, including an aspect of “introduction to the profession”—understanding the array of career paths as well as professional norms and expectations.¹⁶⁷

Southern Illinois University School of Law turned a series of award-winning professionalism workshops¹⁶⁸ into a year-long required course for 1Ls.¹⁶⁹ The course helps students understand what it means to be a professional through a series of speakers who are practitioners in different legal fields. Students also learn about how to best present themselves to potential employers through resume writing, interviewing techniques, and learning about professional dress.¹⁷⁰ One requirement of the course is that students spend a day shadowing an attorney and write a reflection paper about what they learned from the experience.¹⁷¹

Several schools have courses specifically designed to bridge the gap between theory and practice. The Sandra Day O'Connor College of Law at Arizona State University even names its required 1L seminar “Bridging the Gap: Pathways to Success in Law School and the Profession”:

The goal of the seminar is to develop early in a law student's legal career a critical context for evaluating social and ethical issues and concerns that might otherwise be neglected in a curriculum that focuses seriatim on substantive legal doctrines and process. Issues of professionalism, legal ethics, and the lawyer's role in a diverse society will be stressed.¹⁷²

Similarly, the University of Detroit Mercy School of Law has “Law Firm Program” courses that “bridge the gap between legal theory and practice. Students handle simulated legal transactions as though they were in a law

¹⁶⁷ *Id.*; see also *Course Catalog*, UNIV. OF OR. SCH. OF LAW, <http://law.uoregon.edu/academics/catalog/1163/> (last visited Sept. 17, 2012).

¹⁶⁸ The workshops “have received both national recognition (the American Bar Association's E. Smythe Gambrell Professionalism Award in 2003-2004) and statewide recognition (the Illinois Supreme Court's Commission on Professionalism replicated our Induction Ceremony at other Illinois law schools).” *Professional Development Program*, S. ILL. UNIV. SCH. OF LAW, <http://www.law.siu.edu/Current%20Students/professional.php> (last visited Sept. 18, 2012).

¹⁶⁹ Telephone Interview with Sue Liemer, Assoc. Professor of Law and Dir. of Lawyering Skills, S. Ill. Univ. Sch. of Law (June 18, 2012). See also *Southern Illinois University School of Law Course Descriptions*, S. ILL. UNIV. SCH. OF LAW (July 19, 2012), available at <http://www.law.siu.edu/Current%20Students/PDF/CourseDescriptions.pdf>.

¹⁷⁰ Telephone Interview with Mark Brittingham, Clinical Assistant Professor, S. Ill. Univ. Sch. of Law (June 11, 2012).

¹⁷¹ *Id.*

¹⁷² *First Year Required Courses*, SANDRA DAY O'CONNOR COLL. OF LAW, ARIZ. ST. UNIV., <http://www.law.asu.edu/currentstudents/CurrentStudents/Academics/JurisDoctorCurriculum/FirstYearRequiredCourses.aspx> (last visited Sept. 18, 2012).

firm or corporate legal department.”¹⁷³ In addition, all students must participate in clinics, where professionalism is implicit as a part of fulfilling the clinical requirement.¹⁷⁴ At Northwestern Law School, 1Ls must participate in a two-day class called “Lawyer as Problem Solver,”¹⁷⁵ which emphasizes practical skills with an embedded professionalism component.¹⁷⁶ At the Earle Mack School of Law at Drexel University, the gap between theory and skills is effectively bridged through the school’s well-developed co-op program in which nearly all students participate.¹⁷⁷ As part of the co-op experience, students take the “Lawyering Practice Seminar” which “focuses on learning from experiences, both in the co-op and in later professional practice. Students will study the roles being played by lawyers and the institutions where lawyers work. They will discuss their fieldwork experiences, make formal class presentations, and listen to practicing attorneys.”¹⁷⁸

The University of Pennsylvania Law School’s Center on Professionalism offers a variety of skills-based programming, much of which serves as a specific introduction to the practical aspects of the working world and the professionalism expectations of practice.¹⁷⁹ Elizabeth K. McManus, Associate Director for Professional Development, gives as an example a course she co-teaches called “Client Leverage and Law Firm Management.” This seminar “focuses on in-class discussion and hands-on exercises. This course seeks to provide students an understanding of the business aspects of the practice of law, with a specific concentration

¹⁷³ *UDM Law Students Learn through Experimental Education*, UNIV. OF DETROIT MERCY SCH. OF LAW, <http://www.law.udmercy.edu/index.php/aboutusmain/experiential-learning> (last visited Sept. 18, 2012).

¹⁷⁴ Telephone Interview with Karen McDonald Henning, Assistant Professor of Legal Research and Writing, Univ. of Detroit Mercy Sch. of Law (June 21, 2012); see also Charlotte Alexander, *Learning to be Lawyers: Professional Identity and the Law School Curriculum*, 70 MD. L. REV. 465, 467–69 (2011) (describing her upper-level “Fundamentals of Law” course content as follows: “The course combined instruction on lawyering skills, law practice management, and ethical decision making while also giving students a structured framework within which to reflect on their own developing identities as lawyers). Professor Alexander’s class permits first-year students an opportunity to explore professional identity concepts through fieldwork observations and classroom components in a simulated externship class. *Id.* at 480.

¹⁷⁵ *Lawyer as Problem Solver*, NW. UNIV. LAW SCH., <http://www.law.northwestern.edu/problemsolver/> (last visited Sept. 18, 2012).

¹⁷⁶ Telephone Interview with Judith Rosenbaum, Clinical Professor of Law & Dir. of Comm’n Initiatives, Nw. Univ. Law Sch. (July 2, 2012). See also *Prospective Students*, TEMPLE UNIV. BEASLEY SCH. OF LAW, http://www.law.temple.edu/Pages/Admitted/Admitted_Core_Courses.aspx (describing mandatory 1L class entitled “Introduction to Transactional Skills”) (last visited Sept. 17, 2012). Professor Susan DeJarnatt says that while this course is primarily about skills, the “professionalism connection is obvious.” Telephone Interview with Susan DeJarnatt, Professor of Law, Temple Univ. Beasley Sch. of Law (June 11, 2012).

¹⁷⁷ Telephone Interview with Lisa McElroy, Assoc. Professor of Law, Earle Mack Sch. of Law at Drexel Univ. (June 27, 2012).

¹⁷⁸ *Earle Mack School of Law Course Catalog*, EARLE MACK SCH. OF LAW AT DREXEL UNIV., <http://earlemacklaw.drexel.edu/academics/offerings/> (last visited Sept. 17, 2012).

¹⁷⁹ *Center on Professionalism*, UNIV. OF PA. LAW SCH., <https://www.la.upenn.edu/careers/professionalism/> (last visited Sept. 18, 2012).

on client demands and client service.”¹⁸⁰

These kinds of courses demonstrate how broad the concept of professionalism education is, but all seem designed to address the second and third competencies identified in the *Carnegie Report*.¹⁸¹

IV. OUR OBSERVATIONS AND CONCLUSIONS: MEASURING SUCCESS AND IDENTIFYING TRAITS OF SUCCESSFUL PROFESSIONALISM INSTRUCTION

The work we completed in this Article confirmed several of our initial impressions that we had based on our own experiences at Widener. First, many law schools have answered the call in the *Carnegie Report* and *Best Practices* to teach students about professionalism. In this sense, our “mission” as legal educators, as it has been defined by those studies, is well “underway.” The predominant view among legal educators is no longer that students can learn professional values by osmosis or on the job training. We have to teach it in law school.

Moreover, there is no “one size fits all” approach to teaching students the habits and traits that embody one’s sense of professional identity. Rather, there are many approaches to the issue, and each law school must make decisions about how best to incorporate professionalism education into its unique culture and circumstances. We cannot point to one approach or teaching method as “the most successful” at teaching professionalism; it seems that there are many effective ways to do it. It is an impossible “mission” to identify the “magic bullet” that targets the concerns addressed in the *Carnegie Report* and *Best Practices*. Nonetheless, it is possible to identify the traits of a successful professionalism initiative, regardless of the form it takes.

We conclude that, despite the varied approaches we described in Part III, we are able to distill several common traits that successful professionalism initiatives share. In this sense, we have “accomplished” what we described as our “mission” at the outset: we wanted to identify common themes of successful professionalism initiatives to guide us in designing our own coursework and extra-curricular programming at Widener. We believed (and rightly so, as it turned out), that by collecting, organizing, and synthesizing the various institutional and individual approaches to the *Carnegie Report*’s concerns, common themes would emerge that inform how professionalism instruction should be designed to maximize the chance for positive impact on our students and to implement the recommendations in the *Carnegie Report* and *Best Practices*.

¹⁸⁰ Survey Response from Elizabeth K. McManus, Assoc. Dir. for Prof’l Dev., Univ. of Pa. Law Sch. (July 13, 2012) (on file with author).

¹⁸¹ See *supra* text accompanying note 39.

This section first describes how we reached our conclusion that the various trends in professionalism education that we described in Part III are, in fact, targeting the concerns expressed in the *Carnegie Report*, albeit in different ways. This section then concludes by identifying the common characteristics of successful professionalism initiatives, with the hope that these traits will inform future endeavors to teach professionalism both in and out of the classroom.

A. Success Is Measured Best by Those Who Observe It Firsthand

We have concluded, based on our interviews and review of the scholarship, that the trends we describe in Part III have had a positive impact on students' development of professionalism habits. We recognize, of course, that as Sophie Sparrow aptly notes, "assessment is one of the hardest parts about professionalism education."¹⁸² How can we ever really know if what schools are doing is imparting to students a greater sense of professional identity or instilling the habits and traits of a professional? It is a thorny issue. Given that the term professionalism itself is somewhat elusive, and the concepts we are exploring are more about intangible values and attitudes and less about applying ethics rules, success is hard to measure in precise terms.

These realities caused the authors to struggle with how to assess effectiveness. We searched for concrete measures of success to evaluate whether our collective efforts are having an impact. Then, we thought about how we go about evaluating our own efforts at Widener. In doing so, we call on our own experiences with our students and our observations about their behavior. We use various tools to teach professionalism concepts in the context of the legal writing classroom, and there has been a two-campus institutional effort at Widener to teach professionalism concepts on a larger scale during Professional Development Day.¹⁸³ Based on these experiences over a number of years, we think that on the whole, our students have a greater sense of the values and habits that our profession demands of us, and are thinking more deeply about how to form their own professional identity. For example, with the videos that we created to teach various professionalism concepts, we have observed that our students are more aware of our expectations because we have given them a framework within

¹⁸² See *supra* text accompanying note 159; see also Bratman, *supra* note 22, at 135 (observing that "the impact of the assignment on the students' understanding of the professional identity of lawyers might not be ascertainable," but that the assignment assuredly got the students' thinking about the lawyer's role as primarily that of a public servant).

¹⁸³ See *supra* Part III.B.2.b.ii for a discussion of Widener's programming; see *supra* notes 129, 133, 140, & 143 for a discussion of Widener's legal writing class. Widener also offers students clinical and externship opportunities where students confront professionalism issues in the context of real cases and clients. We also offer many opportunities to develop professional traits and habits by way of presentations by the Career Development Office and Office of Student Affairs.

which they can judge their own actions.¹⁸⁴ In terms of professional identity formation, we are encouraged to observe our students expressly thinking about lawyers they have met during Professional Development Day as role models that exemplify the skills and values that they hope to emulate. By any yardstick, these are measures of success.

We realized after we thought about our own work that the best evidence we have to assess the success of these initiatives comes from the front lines: it is the anecdotal impressions about our students' development from those of us who make it our "mission" to teach professionalism.¹⁸⁵ In other words, the initiatives described in this Article continue to exist because legal educators observe them making a difference in their daily interactions with students. If educators did not see an appreciable, positive influence on students' attitudes, behaviors, and habits, would they continue to expend valuable time and resources with little to no return on their investment? We think not. This is especially so given the many demands placed on legal educators today and the realities of the current recessionary climate.¹⁸⁶

We cannot point to data that establishes one program or one teaching idea as "the best," or the most effective at imparting

¹⁸⁴ For example, one of our professionalism videos addresses the issue of failure to disclose potentially damaging but not necessarily "directly adverse" authority. This vignette has been very helpful for students as a point of reference during conferences. Students often will say, "I don't want to make the same mistake that Natalie [the attorney in the video] made." Another vignette follows George, a law student who arrives at a conference for his closed memo with a pile of cases and no thoughts on how to organize the material. Students often have said that they "don't want to be a George," so they come to our offices more prepared and after having grappled with the issue on their own.

¹⁸⁵ The information we gathered supports the conclusion that our colleagues, on the whole, find their students more involved and engaged in professionalism issues because of the efforts in the classroom, and the institutional efforts at their schools. Professors' observations are a critical tool for assessment. For example, Professor Weresh observed that when Drake's orientation program no longer covered professional email etiquette, there was a decline in the professional nature of student emails. Therefore, professional emails are now covered in the Legal Writing course. The information in the scholarship similarly supports our conclusions that professors' impressions are a valuable assessment tool. *E.g.*, Longan, *supra* note 6, at 699 (noting that the purpose of the course is to ensure that "next generation of lawyers will practice with professionalism" and that the course components have been changed to reflect professors' assessment of how deeply students are reflecting on professional identity); Bratman, *supra* note 22, at 135 (noting that assessment of the assignment's effectiveness is difficult, but that it forced students to think about the lawyer's role as a professional to a greater degree than before; the author offered ideas on how to build on assignment for future years). Professors' impressions, in turn, are informed by students' responses, as well as alumni and practitioners' feedback. Students' assessment certainly bears some relevance here, given that the greater the student "buy in," the more likely that students will pay attention to the message being delivered. Alexander, *supra* note 174, at 470–77 (concluding that fieldwork component of Fundamentals of Law Practice class was valuable based, in part, on fact that students' responded favorably to fieldwork component); *cf.* Telephone Interview with Melissa Weresh, Dir. of Legal Writing and Professor of Law, Drake Univ. Law Sch. (July 10, 2012) (noting that Drake's professionalism programming was pared down due to students' complaints that it was too time-consuming).

¹⁸⁶ While legal academics may view themselves as insulated from the business aspects of running a law school, the realities of budgetary constraints necessarily play a role in the degree to which law schools respond to calls for reform. *See* Matasar, *supra* note 5, at 103–04 (noting that law schools have to account for all costs "fiscal and political—of adopting curricular flavors of the day[;]" "I believe that the rhetoric and practice of educating lawyers must be sensitive to the business of running schools").

professionalism on the students. We do not need to. We trust our colleagues' assessment that they are, in tangible ways, successful in imparting the values and skills that are envisioned in the *Carnegie Report*. Instead, we strive in the next section to identify criteria for success that can be applied by educators in creating and implementing future teaching ideas and program innovations.

B. Common Characteristics of Effective Professionalism Instruction

From the various trends in professionalism instruction we described in Part III, several themes emerge. Interestingly, these characteristics are seen in both initiatives undertaken at the micro-level (such as specific exercises or teaching tools, or requiring incoming students to take an oath of professionalism) and at the macro-level (such as curricular reform or the formation of the many professionalism centers described above). Yet, despite the divergent approaches, it is possible to describe four commonalities among the initiatives undertaken that successfully implement the goals of the second and third parts of the *Carnegie Report* recommendations. When designing a course or exercise, or building a program of instruction, these four characteristics are worthy of consideration.

1. Institutional Commitment to Creating a Culture of Professionalism

Successful law school initiatives to teach professionalism more often than not are a part of a larger, institutional commitment to developing and fostering a culture of professionalism that pervades the entire law school experience.¹⁸⁷ Such a commitment is critical regardless of the breadth of the project; whether faculty are revamping the curriculum, developing school-wide programming, or engaging in smaller-scale initiatives such as classes devoted to exploring professional identity or classroom exercises, an institutional commitment to the cause increases the likelihood of success.¹⁸⁸

Each law school, as an institution, has to develop its own sense of professionalism—its own “ethos”—to which it demands students, faculty, and administration ascribe.¹⁸⁹ Many law schools discussed in Part III demonstrate commitment to professionalism education, albeit demonstrating

¹⁸⁷ Boothe-Perry, *supra* note 4, at 554 (observing that, to be successful in fostering professionalism among students, professionalism must be of interest and value to the law school as an institution).

¹⁸⁸ Even at this small-scale level, such innovations are more likely valued and supported when there is a larger commitment to teaching professionalism.

¹⁸⁹ Matasar, *supra* note 5, at 101–02 (“We [the law school and its leaders] must take personal responsibility: first, to assure that our schools provide their own special brand of training for every student; second, to give students a sense of what professionalism entails; and third, to give students a way of assessing the practices they will encounter as young lawyers.”).

that commitment in varied ways.¹⁹⁰ Support for these initiatives at every level of the law school (and in several contexts)¹⁹¹ sends the message to students that the school embraces its role in educating its students about professionalism, and that the formation of professional identity is a three-year process of which everyone is a part.¹⁹² This message is critical to success.

Based on current initiatives described in Part III, the programs that have maximized the benefit of their institutional commitment share three characteristics. First, there is some degree of centralization of effort and coordination among faculty. Second, faculty and administrators buy into the idea that professionalism education is valuable and embrace their status as role models of professional behavior. Third, professionalism concepts are infused throughout the law school experience.

First, programs that centralize professionalism initiatives provide a framework for coordinating the law school's institutional commitment to the cause. One obvious example of such centralization is the professionalism centers described in Part III;¹⁹³ other centralization efforts can take the form of a faculty committee or sub-group of faculty dedicated to teaching professional values both in the classroom and in extra-curricular measures.¹⁹⁴ Centralization ensures that at nearly every level, students and faculty have a sense of what others throughout the law school are doing to teach professionalism. It provides faculty with a way to share what they are doing in the classroom to teach professionalism, and allows students to see how professionalism issues can arise in various contexts. Centralization also ensures that the teaching methods, coursework, and extra-curricular activities that take place throughout the school at various points share a common language, and do not send unnecessarily repetitive or conflicting messages. Finally, centralization also serves as quality assurance that all of the efforts are consistent with the institution's own ethos of

¹⁹⁰ See *supra* notes and text accompanying Part III.B.1 (noting that institutional support can be demonstrated in several ways, including forming professionalism centers, engaging in curricular reforms, including professionalism instruction as part of the school's mission statement or learning outcomes).

¹⁹¹ Support in this context can run the gamut of possibilities: the Dean's reference to professional ideals in her opening remarks at 1L orientation, large-scale curricular reforms, or specific professionalism exercises used in classroom.

¹⁹² It is often the case that efforts to teach professionalism in the classroom are part of a larger-scale institutional effort to create a culture of professionalism. See, e.g., Longan, *supra* note 6, at 659 (discussing his "Legal Profession" course, in which students explore through various methods, formation of professional identity). This course is part of the larger-scale professionalism initiative at Mercer led by the Professionalism Center. For a discussion of the various initiatives coming from the Center, see *supra* text accompanying notes 109–10.

¹⁹³ E.g., *supra* note 65 and accompanying text (discussing Mercer Law's Center, University of South Carolina's Center and others).

¹⁹⁴ For example, at Widener Law's Delaware Campus, a faculty committee comprised of legal writing, doctrinal and clinical faculty, as well as administrators such as the Director of Career Services, plan the programming and also participate in the small group presentations and large lectures. The group is able to share ideas and information about what efforts are underway in their respective coursework and planned activities.

professionalism.¹⁹⁵

Second, institutional commitments to professionalism are made stronger by faculty and administration who model the traits and values that we aspire to instill in our students. Faculty buy-in is essential to any successful professionalism initiative.¹⁹⁶ Faculty involvement in public service, respect for the rule of law, and exhibiting habits such as competence, professional demeanor, and timeliness, to name a few, are ways we teach students our institutional ethos. Faculty involvement in extra-curricular activities such as volunteer work, mentoring opportunities, and professional development seminars send a powerful message to students that these are worthwhile endeavors.¹⁹⁷ Also, faculty buy-in ensures that when a professionalism lesson arises naturally in the classroom dialogue on another issue (as such lessons often do in real life), faculty seize the “teachable moment” in an informed, constructive, and realistic way.¹⁹⁸

Finally, institutional commitment to professionalism ensures the infusion of professional identity instruction throughout the curriculum.¹⁹⁹ It requires faculty to engage in dialogue and requires them to work together to achieve the institution’s goals. This “pervasive” method of instruction—the opposite of a piecemeal discussion of professional values in, for example, only one course—is a central recommendation of the *Carnegie Report*.²⁰⁰ Scholars have commented that the concepts of professionalism are most effectively addressed (and incorporated into students’ behavioral norms) when they are integrated in all coursework (doctrinal and experiential) during the entire three years of law school. This suggests an approach that begins in the first year of law school (and in many law schools, on the first day of law school orientation) and continues through the third year.

Successful professionalism initiatives are those in which the work being done in the classroom and elsewhere is valued by the institution as a whole.

¹⁹⁵ Matasar, *supra* note 5, at 114 (“[S]chools should adopt an overall theme for their programs, setting forth expectations about what students should learn.”).

¹⁹⁶ *Cf.* Rhode, *supra* note 12, at 55 (arguing that all faculty must embrace a level of commitment to ethics instruction that will be apparent to the students and eschew former models where faculty suggested, in sub-text, that “[e]thics is taught in the second year” only).

¹⁹⁷ For example, at Widener Law’s Professional Development Day, all faculty are expected to attend and participate in some aspect of the programming.

¹⁹⁸ Therese Maynard, *Teaching Professionalism: The Lawyer as a Professional*, 34 GA. L. REV. 895, 922 (2000) (noting that “[d]rawing from the model of parenting,” professors should “seize the moment” to teach professionalism as the opportunity arises during classroom dialogue”); *see also* Chin *supra* note 10, at 897 (noting that in legal writing courses, the level of close interaction between professors and students provides opportunities for professors to model acceptable professional norms and behavior in their assessment of student work).

¹⁹⁹ *See supra* note 63 and accompanying text in Part II (discussing Earle Mack School of Law at Drexel’s founding on the idea that theory and practice would be combined across the curriculum, demonstrating institutional support for professionalism education).

²⁰⁰ *See supra* text accompanying notes 43 & 44 (discussing *Carnegie Report* recommendations).

2. Involvement of Members of Bench and Bar as a Complement to Faculty Instruction

Successful programs and initiatives also share a common theme of involving, in varying degrees, members of the bench and bar to instill professionalism through instruction and dialogue. Our interviews with survey respondents, as well as our review of the literature, confirm that students are more likely to engage in deep reflection about professionalism issues when practitioners are involved in the instruction. As one scholar put it, students “connect in a powerful way” when they discuss difficult professional identity issues “with engaging models” in practice.²⁰¹ This fact is not surprising; the practitioner’s point of view and references to “real life” dilemmas and value choices they have faced resonates with students in a way that dialogue with faculty alone simply does not.

Each of these initiatives taps into the reality that contact with practicing attorneys helps students connect to the profession. Practitioners’ involvement with the law school provides students with role models that will inform their reflection on what it means to be a lawyer.²⁰² Moreover, those attorneys involved in professionalism instruction are modeling for students an important aspect of professional identity—that of service and “giving back” to the profession. These connections help students identify the key habits and traits of attorneys, and help them determine the kind of lawyer they will strive to be once they begin their careers.

This approach of partnering with alumni, bench and bar to teach professionalism concepts is a theme that runs throughout the programs and initiatives described in Part III, albeit the level and type of involvement varies. For example, on a larger scale, some of the broader institutional initiatives have been funded by alumni and practitioners who recognize and value the importance of professional identity formation, and hope to impart that upon students at their alma mater.²⁰³ But in a way that is more apparent to students, practitioners are almost uniformly involved in extra-curricular initiatives such as 1L orientation, small group discussions and ongoing seminars and presentations throughout the year that address professionalism concepts.²⁰⁴ Going even further, orientation activities are a coordinated

²⁰¹ See, e.g., Alexander, *supra* note 174, at 477 (observing that students reflected on professional identity issues in a much deeper way as a result of their fieldwork with practicing attorneys) (quoting *Carnegie Report*’s discussion of the benefits of experiential learning); Boothe-Perry, *supra* note 4, at 553 (encouraging law faculty to share the esteemed placed behind the lectern with visiting members of the bar to engage students and improve student learning).

²⁰² Longan, *supra* note 6, at 697.

²⁰³ See *supra* Part III.B.2.b.i (discussing Northern Illinois University College of Law’s professionalism series funded by donations by alumni); see also *supra* Part III.B.2.b.iii (describing the Nelson Mullins Riley & Scarborough Center on Professionalism at the University of South Carolina School of Law, founded with a gift from a law firm).

²⁰⁴ See *supra* Part III.B.2.a–b (discussing various 1L orientation programs, continuing orientation and additional programming for upper-class students).

effort between the law schools and the bench and bar in Georgia, Illinois and Idaho, demonstrating an ongoing institutional commitment between the law schools and local bar.²⁰⁵

Mentoring programs such as those at Lewis & Clark Law School, Gonzaga and University of St. Thomas also depend on the involvement of alumni, practitioners, and members of the judiciary.²⁰⁶ Mentors serve as role models for future generations of lawyers. Also, classes devoted to exploring issues of professional identity, such as Professor Longan's 1L "Legal Profession" class at Mercer, Professor Alexander's "Fundamentals of Law" class, and Emory's "Values in Practice" program to name a few, have a component that requires students to connect with practicing lawyers and reflect on the professionalism issues that arose during the experience.²⁰⁷ And even on a small-scale level, in-class exercises such as the one created by Professor Jean Sbarge at Widener Law often depend on input and consultation with practitioners.²⁰⁸ Academicians who tap into the wealth of real-life dilemmas and responses of those in practice often get fruitful results for in-class discussion.

Involvement of the bench and bar in virtually every type of professionalism instruction makes sense; in a very obvious way, practitioners supply the necessary real-world context to explore the elusive topic of professionalism.

3. Intentional Instruction in Professionalism

Intentionality is a feature of many successful approaches to teaching professionalism. By identifying that professionalism is an important goal of the school, of the course, or of the individual exercise or assignment, the importance of professionalism can be communicated to students directly.²⁰⁹

Intentionality may be best demonstrated by the professionalism centers and institutional commitments described in section B1 above, where the school's administration or faculty commitment to professionalism education can help create broad buy-in by both students and professors.²¹⁰ Devoting the considerable amounts of time, attention, and other resources, including financial resources, necessary to create or revamp curriculum or create a center devoted to professionalism sends an obvious and powerful message about professionalism's importance to both the immediate law

²⁰⁵ See *supra* notes 72, 80 and accompanying text.

²⁰⁶ See *supra* Part III.B.2.b.iii.

²⁰⁷ See *supra* Part III.B.3-4.

²⁰⁸ See *supra* Part III.B.3.

²⁰⁹ E.g., Goldberg, *supra* note 22, at 423 (explaining that course description explicitly describes focus of course so students' expectations are set).

²¹⁰ See *supra* text accompanying note 65.

school community and the legal education community at large.²¹¹ But intentionality is widely present elsewhere as well.

Orientation programs often set the tone.²¹² Having students take professionalism oaths at orientation helps identify for them that attaining a professional identity and a positive professional reputation are important goals.²¹³ Other orientation programs that introduce students to members of the profession, especially in small group settings, can also emphasize and clarify for students that they are now entering a profession, not just continuing their schooling.²¹⁴ Creating orientation programs that include introductions to professionalism concepts and considerations brings professionalism into focus as an important goal for students as early as possible.²¹⁵

Other approaches can also highlight the importance of professionalism for students by being explicit about connections to professionalism. One example is including the teaching of professionalism as part of the course evaluations.²¹⁶ Professor Karen McDonald Henning noted the importance of being explicit about professionalism lessons in the classroom, commenting that students gave her higher scores in this category when she specifically identified her lessons as being about professional and ethical considerations.²¹⁷

The creation of separate courses with a professionalism focus²¹⁸ shines a unique light on professionalism, making the school's intention to instruct about professionalism issues and its commitment to this kind of education obvious to students. Building a bridge between students and the profession is often the stated goal of these kinds of courses.²¹⁹

Drawing explicit connections between expectations of student

²¹¹ One measure of the reputational impact of these initiatives can be found in the schools that have been honored with the ABA's E. Smythe Gambrell Professionalism Award. See *Archive Award Recipients*, ABA, http://www.americanbar.org/groups/professional_responsibility/committees_commissions/standingcommitteeonprofessionalism2/prevwinners1/archiveawardrecipients.html (last visited Sept. 18, 2012).

²¹² See generally Eckley, *supra* note 91, at 167 (discussing Drake University Law School's orientation program which emphasizes in many ways, professional identity formation).

²¹³ See *supra* text accompanying notes 71–77; Weresh, *supra* note 12, at 384 (noting that professionalism oaths “appear[] to facilitate the formative development of a professional identity”).

²¹⁴ See *supra* text accompanying notes 78–92.

²¹⁵ The prevailing argument among those in the legal academy that study and write on the topic of professionalism is that it should be discussed and simulated early and often throughout the entire law school experience. Boothe-Perry, *supra* note 4, at 542.

²¹⁶ Telephone interview with Karen McDonald Henning, Assistant Professor of Legal Research and Writing, Univ. of Detroit Mercy Law Sch. (June 21, 2012).

²¹⁷ Survey Response from Karen McDonald Henning, Assistant Professor of Legal Research and Writing, Univ. of Detroit Mercy Sch. of Law (June 21, 2012) (on file with author).

²¹⁸ See *supra* Part III.B.4.

²¹⁹ See *id.*

behavior and professional behavior is also important.²²⁰ Thus, the legal writing professor's insistence on timely submissions and correct citations can help instill a sense of professionalism if these requirements are connected to the realities of practice, where malpractice claims can be the result of missed deadlines, and sloppy citations can call the writer's capabilities into question.²²¹ And exercises that help students distinguish professional behavior from professional lapses, like Professor Jean Sbarge's "Professional at Work" cards²²² or other various opportunities for discussing professionalism hypotheticals,²²³ also demonstrate an intentional approach that emphasizes for students the importance of professionalism.

Along with being transparent, being intentional about teaching professionalism also includes engaging students' interest.²²⁴ Thus, innovative teaching techniques using cards,²²⁵ games,²²⁶ videos,²²⁷ small group discussion,²²⁸ simulations, and outside speakers²²⁹ can be especially effective at grabbing students' attention and engaging their interest.²³⁰

Often students will express appreciation for activities that include tastes of the "real world."²³¹ Even where this kind of professionalism instruction does not resonate immediately, students returning from internships and even alumni will express appreciation for the professionalism instruction offered.²³²

²²⁰ See generally Weresh, *supra* note 92 (describing text used in Drake's Legal Writing Program that is designed specifically to teach students professional and ethical considerations in the context of the documents being prepared in the course).

²²¹ See *supra* text and accompanying notes 122–23, 140.

²²² See *supra* text accompanying notes 143.

²²³ See *supra* text accompanying notes 81–89, 133–35.

²²⁴ Boothe-Perry, *supra* note 4, at 553.

²²⁵ See *supra* text accompanying note 143.

²²⁶ See *supra* note 154.

²²⁷ See *supra* text accompanying notes 133–35, 145; see also Goldberg, *supra* note 22, at 422 (noting benefits of using excerpts from the television show *The Practice* to engage students in material, and observing that "the early episodes of *The Practice* [are] perfect vehicles for thinking about, discussing, and beginning to understand professionalism").

²²⁸ See *supra* text accompanying notes 96, 104, 149, 161–62.

²²⁹ See, e.g., *supra* text accompanying notes 86, 91, 178; see also Alexander, *supra* note 174, at 476–77 (noting that client simulations and fieldwork reports aided students in exploring deeply their own "identity and purpose" as developing lawyers); Boothe-Perry, *supra* note 4, at 553 (encouraging the use of outside speakers to enhance student engagement in material).

²³⁰ Telephone Interview with Steve Johansen, Professor of Law, Lewis & Clark Law Sch. (June 20, 2012). Professor Steve Johansen observes that "Students are thirsty for what happens in practice and find it valuable to hear real lawyers telling them how it is." *Id.* Professor Tracy Turner reports that the video they use as described in the text accompanying note 145 is well-received because students know they will encounter these issues in practice. Telephone Interview with Tracy Turner, Dir. of the Legal Analysis, Writing and Skills Program and Professor of Legal Analysis, Writing and Skills, Sw. Law Sch. (June 21, 2012).

²³¹ *Id.*

²³² See *supra* text accompanying notes 149–51 (explaining that Professor Roberta Thyfault reports that students returning from internships express appreciation for the STEPPs program at California Western School of Law); Telephone Interview with Roberta Thyfault, Legal Writing Professor, Cal. W. Sch. of Law (June 7, 2012). As for alumni, Professor Sophie Sparrow reports that "[p]ractitioners are excited to hear that professionalism is important and a focus of student learning in a number of courses.

On the flip-side of engendering appreciation, intentionality also forestalls student complaints. As Professor Sophie Sparrow observes, in response to student feedback:

[T]hose of us who teach professionalism spend more time during the course, especially at the beginning, explaining what this is and how it matters now and for their futures. Feedback from practitioners and other law faculty has inspired us to be more explicit and make professionalism a more significant part of the course.²³³

Thus, by being explicit or intentional, both students and practitioners see the value of professionalism instruction in law school.

Perhaps the highest compliment for intentionality comes through Professor Janette Pratt who reports that students at Emory say they are glad to be at an institution that discusses and addresses ethical and professionalism issues.²³⁴

4. Incentives for Students

Even if students do not initially appreciate intentional professionalism instruction, there are ways to incentivize their participation and acceptance. As the old adage goes, “people pay attention to what you inspect, not what you expect.” Thus, there is a greater incentive for students to take professionalism seriously when it is “inspected” or assessed. There are several ways to approach assessment. Many stand-alone professionalism courses have grades, and can require students to learn specific skills that can be assessed, or to learn more generally about aspects of professional identity, and professional development that students report about in reflection papers, class presentations, or discussions.²³⁵

Including professionalism points as part of the final grade computation in many legal writing classes is becoming a common way to insure that professionalism lessons are being internalized.²³⁶ This kind of accountability for behavior and professional presentation of written work assures that students must consider professionalism tenets if they are to receive the best grades. A similar approach is to assess particular skills associated with professionalism, such as including a graded exam on

Practitioners being interviewed in the Legal Profession course all say they ‘wish I had this course when I was in law school.’” Survey Response from Sophie Sparrow, Professor of Law, U. of N.H. Sch. of Law (July 26, 2011) (on file with author).

²³³ Survey response from Sophie Sparrow, Professor of Law, Univ. of N.H. Sch. of Law (July 26, 2011) (on file with author).

²³⁴ Telephone Interview with Janette Pratt, retired from Emory Univ. Sch. of Law (July 18, 2012).

²³⁵ See generally *supra* the courses described in Section III.B.4; Longan, *supra* note 6, at 698 (discussing assignments and assessment methods used in his Legal Profession course).

²³⁶ See *supra* text accompanying notes 124–25.

citations²³⁷ or e-mail communication.²³⁸

Making students accountable to one another for their professionalism (or lack thereof) is an interesting approach taken by Professor Sophie Sparrow as part of team-based learning in all the courses she teaches.²³⁹ This accountability between students within the teams requires adherence to the professionalism standards that the team members have identified as important. Professor Sparrow observes that one of the hardest parts of being a professional is maintaining your professionalism when there is conflict. By being allowed to work out any internal conflicts within their teams, the students learn to deal with conflict in a professional manner.²⁴⁰

Another approach to accountability is to have the students draft their own classroom professionalism code, or adopt a code or professionalism covenant provided by their professor.²⁴¹ Student-drafted codes or classroom-wide covenants can increase the students' sense of community in that they are all making promises to one another. This can lead to a more respectful and collegial class.²⁴²

Incentives can take other forms apart from assessment or accountability. One example is the benefit of developing professional relationships through mentoring activities and other opportunities to meet professionals who are in practice.

Thus, offering opportunities for interaction with those in practice, using graded assessments, or creating a method to assure a sense of accountability to one another can incentivize students to take professionalism instruction seriously. These incentives can help achieve the buy-in we as educators have come to realize is so important.

V. MISSION POST-SCRIPT

By incorporating these four traits for success, law school initiatives can help future lawyers aspire to, and achieve, the standards set forth in the following affirmation of professionalism:

I . . . understand that I am joining an academic community

²³⁷ See *supra* text and accompanying note 140.

²³⁸ See *supra* text accompanying notes 126–29.

²³⁹ See *supra* notes 157–59 and accompanying text.

²⁴⁰ Telephone Interview with Sophie Sparrow, Professor of Law, Univ. of N.H. Sch. of Law (July 2, 2012).

²⁴¹ Telephone Interview with Karen McDonald Henning, Assistant Professor of Legal Research and Writing, Univ. of Detroit Mercy Sch. of Law (June 21, 2012) (stating she asks students to sign a professionalism covenant in which they are promising one another to abide by certain professionalism standards). Several professors at Widener, including the authors, have asked students to draft professionalism codes in their LRW classes.

²⁴² *Id.*

and embarking on a professional career. I gratefully acknowledge the privileges inherent in becoming a lawyer and willingly accept the responsibilities that accompany those privileges and are entrusted to me by the bench, the bar and public.

I promise to do my utmost to live up to the high ideals of my chosen profession and to uphold the highest standards of academic honesty and ethical practice throughout my training and the remainder of my professional life.²⁴³

History and experience teach us that inculcating these values, customs, and mores is a worthy mission.

²⁴³ Excerpted from Widener Law School's Affirmation of Professionalism. *See supra* note 76.

APPENDIX A
PROFESSIONALISM IN LEGAL EDUCATION SURVEY 2011
(SURVEY CREATED USING ZOOMERANG)

Page 1 - Question 1 - Yes or No

Does your school have any programs, courses, or other initiatives in place to educate students about professionalism issues or raise students' awareness of professionalism issues? These could be freestanding programs or courses, or they could be part of a program (like 1L Orientation) or a course (like LRW) primarily devoted to other material.
If yes, please answer questions 2 through 14. If no, please go to question 12.

Yes
No

Page 1 - Question 2 - Yes or No

Is professionalism instruction part of your school's course work? If yes, please answer question 3. If no, please go to question 5.

Yes
No

Page 1 - Question 3 - Choice - Multiple Answers (Bullets)

Please indicate which courses include professionalism instruction.
(Please select as many as apply.)

Legal Ethics or Professional Responsibility
Legal Writing and Advocacy
Doctrinal Courses
Clinical Offerings
Other, please specify

Page 1 - Question 4 - Open Ended - Comments Box

To the extent that you are familiar with the content and format of professionalism instruction in any courses at your school, please include a description below.

Page 1 - Question 5 - Yes or No

Does your school have any separate extra-curricular programs or initiatives focused on professionalism instruction? If yes, please answer question 6. If no, please go to question 8.

Yes

No

Page 1 - Question 6 - Choice - Multiple Answers (Bullets)

What form do these extra-curricular programs or initiatives take? (Please select as many as apply.)

- Seminars or presentations on separate topics throughout the school year
- Stand alone professionalism days or weeks where the topic is explored in detail
- Seminars or presentations during 1L orientation
- Other, please specify

Page 1 - Question 7 - Open Ended - Comments Box

Please describe the content and format of the programs or initiatives referenced in Question 6. Specifically, what sorts of professionalism topics are covered, and in what format (i.e., panel discussions, exercises, client simulations)? Also, which faculty members participate (i.e., LRW, clinicians, doctrinal faculty)?

Page 1 - Question 8 - Yes or No

Have you received any feedback on the professionalism instruction in your school's course work or on the extra-curricular programs or initiatives your school has undertaken? If yes, please answer question 9. If not, please go to question 12.

Yes

No

Page 1 - Question 9 - Choice - Multiple Answers (Bullets)

Which of the following groups have provided feedback? (Please select as many as apply.)

- Faculty
- Students
- Practitioners
- Alumni
- Other, please specify

Page 1 - Question 10 - Open Ended - Comments Box

Your description of the positive and negative feedback received about specific aspects of the courses or programs would be very helpful to our research. Please describe any feedback below.

Page 1 - Question 11 - Open Ended - Comments Box

Have any aspects of the courses or the extra-curricular programs or initiatives been changed because of the feedback described in the previous question? If so, please describe what changes were made. If no, please skip this question and go to question 12.

Page 1 - Question 12 - Open Ended - Comments Box

If there is anything else you would like to add about your experience with professionalism education or your school's professionalism initiatives, please use the following space for these additional comments.

Page 1 - Question 13 - Open Ended - Comments Box [Mandatory]

Please provide the name and location of your law school below. (This information is necessary so we can determine how many different schools have responded. We will not reveal which answers came from which schools without your permission.)

Page 1 - Question 14 - Name and Address (General)

May we contact you with follow-up questions? If yes, thank you. Please provide the best way to contact you below. If no, thank you for your time.

Name
Law School
Address 1
Address 2
City/Town
State/Province
Zip/Postal Code
Country
Email Address

Thank You Page

Standard

Screen Out Page

Standard

Over Quota Page

Standard

Survey Closed Page

Standard