

## Ten Principles to Inform Curriculum Development

In Chapter 2, we introduced a framework of purposefulness to guide law schools in their efforts to help each student understand, accept, and internalize the four PD&F goals:

- Ownership of continuous professional development toward excellence at the major competencies that clients, employers, and the legal system need;
- a deep responsibility and service orientation to others, especially the client;
- a client-centered, problem-solving approach and good judgment that ground the student's responsibility and service to the client; and
- well-being practices.

The purposefulness framework offered in Chapter 2 can assist faculty, staff, and administrators at any law school, including a school adhering to the most traditional practices of American legal education. Many signs suggest, however, that competency-based education will take hold in legal education as it has in other areas of education. We therefore set out in Chapter 3 what a purposefulness framework would look like in law schools that adopt a robust competency-based approach. Medical education already has traveled far with such an approach, and Chapter 3 drew from our peers in medicine for knowledge and practices to emulate. Importantly, those lessons and practices also can inform and shape the initiatives that law schools might take even while not subscribing to a competency-based approach.

We now turn in this and the next chapter to the practical business of doing good work in your law school. We are presupposing that our readers are faculty, staff, and administrators who want their law school to have a purposeful, effective, well-conceived, and well-developed program supporting students in the pursuit of their PD&F goals. We presuppose that progress

will take time. Some schools might blueprint comprehensive initiatives at the outset, but most will proceed incrementally.

Whether one is at the drawing board devising a complete program or instead looking to create only a solid pilot project focusing on a small aspect of a select PD&F goal, *getting started and proceeding in a purposeful fashion is the most important thing*. And regardless of the scope of your particular undertaking, there are concrete principles that you can keep in mind to strengthen your work and keep it headed toward the development – in the fullness of time – of a solidly built PD&F curriculum. We see ten such principles, and they are set out in this chapter. We maintain the practical focus in Chapter 5 and draw into view the realities of trying to bring about this kind of change in the law school. We are optimistic that it can be done and offer nine practical suggestions in Chapter 5 for your consideration.

The ten principles that we will explore in this chapter are synthesized from the literature that casts light on professional identity formation and its support: (1) the five Carnegie Foundation for the Advancement of Teaching studies of higher education for the professions, (2) scholarship on higher education generally, (3) work in moral psychology, and (4) the literature on medical education's increased attention to professional identity formation.<sup>1</sup> For convenience, let us state all ten principles:

### **Principle 1 Milestone Models Are Powerful Tools**

*A Milestone Model can significantly strengthen efforts to support student pursuit of a PD&F goal. Work toward agreement on a model should be encouraged.*

<sup>1</sup> These ten principles have been developed in a series of articles listed here. Neil Hamilton & Jerome Organ, *Thirty Reflection Questions to Help Each Law Student Find Meaningful Employment and Develop an Integrated Professional Identity (Professional Formation)*, 83 TENN. L. REV. 843, 868–75 (2016); Neil Hamilton, *Off-The-Shelf Formative Assessments to Help Each Law Student Develop Toward a Professional Formation/Professional Identity Learning Outcome of an Internalized Commitment to the Student's Own Development*, 68 MERCER L. REV. 687, 691–701 (2017); Neil Hamilton, *Formation-of-an-Ethical-Professional Identity (Professionalism) Learning Outcomes and E-Portfolio Formative Assessments*, 48 U. PAC. L. REV. 847, 856–59 (2017); Neil Hamilton, *Professional-Identity/Professional-Formation/Professionalism Learning Outcomes: What Can We Learn About Assessment From Medical Education?* 14 U. ST. THOMAS L. J. 357, 374–88 (2018) [hereinafter, *Medical Education*]; Neil Hamilton, *The Next Steps of a Formation-Of-Student-Professional-Identity Social Movement: Building Bridges Among the Three Key Stakeholders – Faculty and Staff, Students, and Legal Employers and Clients*, 14 U. ST. THOMAS L. J. 285, 299–301 (2018); Neil Hamilton & Jerome Organ, *Learning Outcomes that Law Schools Have Adopted: Seizing the Opportunity to Help Students, Clients, Legal Employers, and the Law School*, 69 J. LEGAL EDUC. (forthcoming 2021).

**Principle 2 Sequenced Progressions of Curriculum and Assessment Modules Are Powerful Tools**

*A sequenced progression of supported experiences, with corresponding assessments, enables effective, purposeful pursuit of a PD&F goal. Work toward development of a progression should be encouraged.*

**Principle 3 Go Where They Are**

*Students are at differing developmental stages of growth on any particular goal. Each student needs to be engaged at the student's actual stage of development.*

**Principle 4 Reflection and Self-Assessment Are Powerful Tools**

*Repeated opportunities for guided reflection and guided self-assessment foster a student's growth to the next stage on any PD&F goal. Try to provide them.*

**Principle 5 Mentoring and Coaching Are Powerful Tools to Be Combined**

*Continuous one-on-one mentoring and coaching is the most effective pedagogy to foster each student's guided reflection and guided self-assessment. Try to provide it.*

**Principle 6 Major Transitions Are Pivotal to Development – and Major Opportunities for Support**

*Coaching to foster guided reflection and guided self-assessment can be especially effective at points when the student experiences a major transition on the path from being a student to being a lawyer. Pay special attention to major transitions.*

**Principle 7 Connect Professional Development and Formation to the Student Personally**

*Assist each student to see how new knowledge, skills, and capacities relating to PD&F goals are building on the student's existing knowledge, skills, and capacities and are helping the student achieve the student's postgraduation bar passage and meaningful employment goals.*

**Principle 8 Think Very Differently about Assessment on PD&F Goals**

*Combine guided self-assessment with direct observation and multi-source feedback and assessment by faculty and staff.*

**Principle 9 Student Portfolios Can Help Students Progress**

*Consider calling upon each student to create a personal portfolio on any one of the four PD&F goals, including an individualized learning plan to develop to the next level of growth.*

**Principle 10 Program Assessment on PD&F Goals Becomes Clear and Manageable if Principles 1 through 9 Are Heeded and Implemented**

*Progress on Principles 1 through 9, and particularly on Principles 1, 2, 4, 5, 8, and 9, will substantially support program assessment as required by ABA Accreditation Standard 315.*

These ten principles may seem daunting, particularly to people new to thinking about professional identity formation support. We urge you to *not* consider them rules that must be followed, or steps that must be taken. Do not let aspirations toward perfection become the enemy of the good. As you undertake your work, draw on the principles to the extent that they are helpful to you. In time and with accrued experience, the value of the principles likely will become increasingly apparent, and the principles themselves something of second nature to your thinking. *Let them guide you, not govern you.*

4.1 PRINCIPLE 1 MILESTONE MODELS ARE POWERFUL TOOLS

*A Milestone Model can significantly strengthen efforts to support student pursuit of a PD&F goal. Work toward agreement on a model should be encouraged.*

Efforts to support students in the development of a competency can profit greatly from a Milestone Model, as Chapter 3 explained. A principal challenge for faculty and staff with respect to the PD&F goals is that, unlike a traditional learning outcome like legal analysis, the faculty and staff do not have a clear shared understanding to define the level of competence a student must achieve and the stages of development to get there. A good Milestone Model draws the particular competency at issue and its stages of development into view, enabling more purposeful and effective work at every step by everyone involved. A law school's work toward reaching reasonable agreement on a Milestone Model on *any* PD&F goal it adopts will return immediate dividends with better realization of the goal. Longer-term dividends are in the offing too. The school can build on its experience in reaching agreement on a first Milestone Model to establish models for other PD&F goals. Simply put, a Milestone Model is a powerful tool for ensuring purposefulness.

Nearly all law schools already have taken the first step toward a Milestone Model. In keeping with ABA accreditation standards, faculty and staff must establish learning outcomes for the school. A critical next step – getting those outcomes in top shape for use in a Milestone Model – is easier than it might seem. In defining, reviewing, and revising learning outcomes for the law

school, faculty and staff should keep abreast of the best empirical evidence defining the knowledge, skills, and capacities a new lawyer must develop to meet the needs of clients, legal employers, and the legal system. Appendix A to Chapter 1 has the most current data, and the Foundational Competencies Model presented in Figure 1 in Chapter 1 synthesizes all these data into a framework students can visualize and understand, structured on the four foundational PD&F goals.<sup>2</sup>

The next step toward a Milestone Model is to embrace the idea that a student begins development of professional competencies in law school and progresses in stages of development on these same competencies well into professional life after law school. The idea is well depicted in Figure 5, which shows the competency alignment model that the Holloran Center has developed.

In simplest terms, a Milestone Model for a particular competency details what it means for the student or lawyer to be “at” the various respective stages of development depicted in Figure 5.

From this point on, devising a Milestone Model depends greatly on the particular competency; what progressive development toward mastery of the particular competency entails; and how the student’s progress through stages can be fostered, evidenced, and assessed. With stages carefully identified, the school can better consider how student movement from stage to stage can be supported with experiences, coaching, reflection, and assessment.

Note that the Milestone Model associated with any PD&F goal can be aligned well with the models that legal employers are using to assess their lawyers on the same competency. The school’s learning outcomes and curriculum thus will meet employer and client needs, and students will be able to communicate their value to potential employers using the employers’ language.

What might Milestone Models for each of the four PD&F goals look like? Examples are presented and explained in Appendix B. We encourage readers to examine them. They will give the reader a good sense of what Milestones can look like in legal education. They can be followed or adapted and can serve as inspiration for other models. Even if your school is not ready to take

<sup>2</sup> Schools may wish to consider an alternative synthesized framework as well. The Institute for the Advancement of the American Legal System, based on its 2016 study of 24,137 lawyers’ responses to the question of what competencies are “necessary in the short term” for law graduates, has synthesized five learning outcomes. IAALS, FOUNDATIONS INSTRUCTIONAL DESIGN GUIDE (2021), [https://iaals.du.edu/sites/default/files/documents/publications/foundations\\_instructional\\_design\\_guide.pdf](https://iaals.du.edu/sites/default/files/documents/publications/foundations_instructional_design_guide.pdf) [hereinafter IAALS INSTRUCTIONAL DESIGN GUIDE]. The IAALS INSTRUCTIONAL DESIGN GUIDE also emphasizes the importance of developing clear and unambiguous definitions and descriptions for each learning outcome and each competency. *Id.* at 7, 18–20.

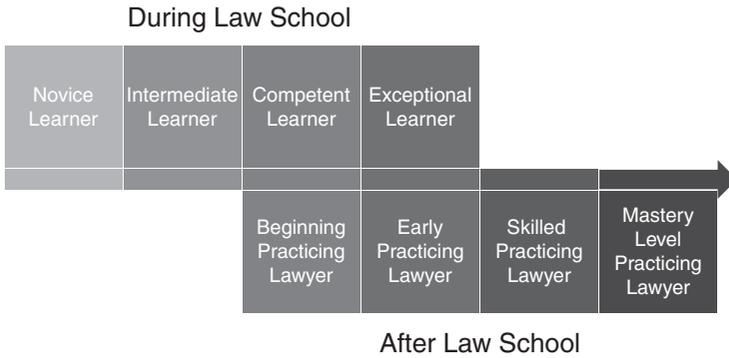


FIGURE 5 Holloran competency alignment model showing the stages of development of learning outcome competencies: A continuum from entry into law school throughout a career<sup>3</sup>

such steps, familiarity with these examples can help inform and advance discussions within the law school about how to best support and assess student development.

#### 4.2 PRINCIPLE 2 SEQUENCED PROGRESSIONS OF CURRICULUM AND ASSESSMENT MODULES ARE POWERFUL TOOLS

*A sequenced progression of supported experiences, with corresponding assessments, enables effective, purposeful pursuit of a PD&F goal. Work toward development of a progression should be encouraged.*

Milestone Models make clear that each student is going to be at a novice, intermediate, competent, or exceptional learner stage on a particular PD&F goal. The law school's faculty and staff want to help each student grow to the next stage of development. Suppose the PD&F goal at issue is one that the school has set as an institutional learning outcome – more than 30 percent of all law schools, for example, have adopted an institutional learning outcome on self-directed learning. Efficient and effective support for the student's

<sup>3</sup> This continuum/alignment model, developed by Neil Hamilton and Jerry Organ, builds on the Dreyfus and Dreyfus Model of development from novice to expert. See generally Stuart Dreyfus, *The Five-Stage Model of Adult Skill Acquisition*, 24 BULL. SCIENCE, TECH. & SOC. 177–81 (No. 3, 2004). In the model depicted in Figure 5, a “competent learner” is ready to take the bar examination and begin the practice of law after passing the exam.

progress means offering the experiences, coaching, feedback, opportunities for reflection, knowledge, and information that are targeted to help the student progress to each successive stage. Well-conceived curriculum and assessment modules do just that. Devising good modules requires a wide-angle view of the student's experiences, as many important steps in a student's formation of professional identity occur outside the traditional classroom curriculum – in cocurricular and extracurricular activities, in engagements with career services, and in summer and other outside experiences. Faculty and staff should work together as co-educators in a whole building approach as outlined in Chapter 2 so that each student experiences a sequenced and coordinated progression of curriculum and assessment modules that foster the student's growth to the next stage. In our example, faculty and staff might coordinate their efforts over time to build curriculum modules – identified experiences and the supporting pedagogy and assessment modules focusing on self-directed learning throughout the three years of law school.

A way to begin is by mapping the existing required curriculum to identify modules that currently offer experiences that foster (and assess, or could assess) student growth regarding the goal. Are the modules coordinated and building on each other? Are there gaps in a logical sequence of modules to foster each student's growth? Over time, adjustments and additions can be made to develop a coordinated progression with no significant gaps.

It is important to note that while each competency has its own stages of development, the competencies also build on one another. Some competencies form the building blocks for the development of other competencies. Figure 2 in Chapter 2 outlines this progression of competencies. Figure 2 provides guidance on how to structure a curriculum to foster each student's competencies in Group 1, then Group 2, then Group 3, then Group 4, and then Group 5. To be sure, flexibility and creativity will be rewarded in this work, and efficiencies can be captured. Because competencies build on one another, more than one competency can be the focus of a particular module.

#### 4.3 PRINCIPLE 3 GO WHERE THEY ARE

*Students are at differing developmental stages of growth on any particular goal. Each student needs to be engaged at the student's actual stage of development.*

Considering each student's developmental stage on a particular competency and engaging the student at the appropriate stage are emphasized in the

Carnegie studies of higher education in the profession,<sup>4</sup> scholarship on moral psychology,<sup>5</sup> scholarship on how learning works in higher education,<sup>6</sup> and scholarship on medical education.<sup>7</sup> We emphasized the same point when setting out the core components of competency-based legal education in the preceding chapter (Table 13 in Chapter 3). Teaching must be individualized to the learner, based on the abilities required to progress to the next stage of learning.

The authors and others have been experimenting with teaching to help students toward PD&F goals in both the elective and the required curriculum for many years. Elective courses on these goals draw “the choir” from the student body who are very interested in personal and professional growth toward later stages of development on these outcomes. Designing elective PD&F courses is challenging, but the authors have had outstanding favorable student responses to these courses.

Designing a *required* PD&F course is far more challenging because students present a much broader spectrum of developmental stages. Keeping with our previous example of a school that is focusing on the goal of self-directed learning, for instance, earlier-stage students on self-directed learning tend to be passive and are unlikely to take courses that create cognitive dissonance around ownership of professional development or the integration of responsibility to others. A school that sets self-directed learning as an institutional learning outcome sensibly will conclude that a required course is necessary to reach these early-stage students. The authors’ experience, however, is that instructors who intentionally create cognitive dissonance in a required course to foster growth toward PD&F goals are going to get some student pushback.

The breakthrough thinking in recent years has been to “go where they are.” This means designing curriculum that reflects stage-appropriate engagement for each student. Experimentation is required, packaged and delivered with a great deal of humility, and followed by responsive adjustments. A common mistake has been to create engagements that appeal to students at later stages of development but do not appeal to earlier-stage students. This can be the case, for instance, when mentoring is employed. Mentoring a student on PD&F goals can be very powerful, and later-stage students tend to utilize mentoring well. Earlier-stage students, however, stay too passive to benefit as

<sup>4</sup> See Hamilton & Organ, *Thirty Reflection Questions*, *supra* note 1, at 868.

<sup>5</sup> See *id.* at 869.

<sup>6</sup> See *id.* at 870.

<sup>7</sup> See *id.* at 871.

greatly from the mentoring. Experience suggests that one-on-one coaching in the required curriculum is more effective for these more passive students than mentoring alone – a point explored further in Principle 5.

The principle of “going where they are” has further valuable implications, pointing the way to how to encourage greater student engagement with all their PD&F goals and the school’s efforts to support their development. The experience of the authors suggests that many students in required courses need much more help than expected “to connect the dots” – to see the relationships between their goal of meaningful employment, the competencies that legal employers and clients want, the faculty’s PD&F goals set in learning outcomes, and the actual curriculum. One study, for example, reports that 50 percent to 60 percent of the first-year and second-year students surveyed were self-assessing at one of the two earlier stages of self-directed learning.<sup>8</sup> Many also may need much more help in creating a narrative of strong competencies that legal employers and clients want. The enlightened interest of the student marks an entry point for the law school’s PD&F support work. The curriculum should help each student understand clearly how progressing in the development of PD&F goals will help the student attain the goal of meaningful postgraduation employment – and how the curriculum and assessment modules employed by the school serve that end each step of the way. Discussion in Chapter 5 will address how to build bridges that connect PD&F goals and their curriculum and assessments to the enlightened self-interest of students, and other stakeholders as well.

#### 4.4 PRINCIPLE 4 REFLECTION AND SELF-ASSESSMENT ARE POWERFUL TOOLS

*Repeated opportunities for guided reflection and guided self-assessment foster a student’s growth to the next stage on any PD&F goal. Try to provide them.*

The five Carnegie studies of higher education for the professions call out the importance of “fostering each student’s habit of actively seeking feedback, dialogue on the tough ethical calls, and reflection.”<sup>9</sup> Scholarship in moral psychology also emphasizes fostering each student’s reflective judgment and providing repeated opportunities for reflective self-assessment through the

<sup>8</sup> See Larry Natt Gantt II & Benjamin Madison III, *Self-Directedness and Professional Formation: Two Critical Concepts in Legal Education*, 14 U. ST. THOMAS L. J. 498, 504–08 (2018).

<sup>9</sup> See Hamilton & Organ, *Thirty Reflection Questions*, *supra* note 1, at 868.

curriculum.<sup>10</sup> The professionalism award winners in the Minnesota bar in Neil Hamilton and Verna Monson’s study of exemplary lawyers emphasized the importance of the habit of ongoing reflection and learning in their career-long development toward later stages of all four PD&F goals.<sup>11</sup> Medical education research similarly underscores the importance of fostering each student’s habit of reflection on experiences.<sup>12</sup> The Council of the ABA Section of Legal Education and Admissions recent revisions to Standard 303 emphasize that “[b]ecause developing a professional identity requires reflection and growth over time, students should have frequent opportunities during each year of law school and in a variety of courses and co-curricular and professional development activities.”<sup>13</sup>

Reflection and self-assessment are powerful tools that should figure prominently in a student’s development through the stages of any PD&F goal. Indeed, the competency to reflect and self-assess is itself a foundational professional skill, as illustrated in Tables 19 and 20 in Appendix B. There the reader will find Milestone Models for each of the first two PD&F goals. Both include the foundational sub-competency of reflection. In assessing, for instance, a student’s development toward Goal 1 – ownership over the student’s continuous professional development (self-directedness) – the model calls for assessing whether the student “seeks experiences to develop competencies and meet articulated goals and seeks and incorporates feedback received during the experiences” and “uses reflective practice to reflect on performance, contemplate lessons learned, identify how to apply lessons learned to improve in the future, and applies those lessons.”

Defining the sub-competencies of reflection is challenging because it is a complex construct and there has been a lack of consensus on its definition.<sup>14</sup> The strongest definition in a professional context comes from medical education in a paper authored by Dr. Quoc Nguyen and others.<sup>15</sup> It is helpful to introduce that definition here to illustrate how to begin thinking about supporting reflection and self-assessment. Based on a systematic review of

<sup>10</sup> See *id.* at 869.

<sup>11</sup> Neil Hamilton & Verna Monson, *Ethical Professional (Trans)Formation: Themes from Interviews About Professionalism with Exemplary Lawyers*, 52 SANTA CLARA L. REV. 921, 949, 957 (2012).

<sup>12</sup> See *Medical Education*, *supra* note 1, at 381.

<sup>13</sup> *Interpretation 303-5*, <https://www.americanbar.org/content/dam/aba/images/news/2022/02/mid-year-hod-resolutions/300.pdf>.

<sup>14</sup> See Jane Uygun et al., *A Best Evidence in Medical Education Systemic Review to Determine the Most Effective Teaching Methods That Develop Reflection in Medical Students*, 41 MED. TEACH. 3 (No. 1, 2019) (calling out that the Nguyen definition is the strongest).

<sup>15</sup> See *id.*

the most cited papers on reflection in the period 2008 to 2012, the authors defined reflection as “the process of engaging the self in attentive, critical, exploratory, and iterative interactions with one’s thoughts and actions, and their underlying conceptual frame, with a view to changing them.”<sup>16</sup> This conceptual model of reflection has two extrinsic elements<sup>17</sup> and four core sub-competencies.<sup>18</sup> The first extrinsic element is an experience that triggers a reflective thinking process.<sup>19</sup> The second extrinsic element is the timing of the reflection. In the vast majority of definitions of reflection, the timing occurs after the experience, but Nguyen and coauthors believe reflection should occur before, during, and after the experience.<sup>20</sup>

The four core sub-competencies (or steps) of a reflective thinking process are (1) to identify specific thoughts and actions the person is thinking about; (2) to think about the thoughts and actions attentively and critically, in an exploratory and iterative fashion; (3) to become aware of the conscious or unconscious conceptual framework(s) that underlie the person’s thoughts and actions; and (4) to have a purpose of changing the self in terms of the person’s conscious or unconscious conceptual framework.<sup>21</sup> The curriculum should provide multiple opportunities for students to develop the habit of engaging in this reflective thinking process.<sup>22</sup> Appendix D for Chapter 4, has both a Milestone Model on the competency of reflection and a Milestone Model to grade an individual reflection assignment.

Students benefit greatly from coaching to guide this reflective thinking process. The findings of a meta-study of empirical research on teaching interactions in medical education emphasizes that “it is important for students to receive some assistance in navigating the complexity of reflection, and students benefit from learning about reflection through introductions, guidelines to writing, and receiving feedback on their work.”<sup>23</sup> The literature also points to the role of a mentor/coach as essential for scaffolding medical

<sup>16</sup> Quoc D. Nguyen et al., *What Is Reflection? A Conceptual Analysis of Major Definitions and a Proposal for a Five-Component Model*, 48 *MED. EDUC.* 1176, 1182 (2014).

<sup>17</sup> See *id.* at 1184.

<sup>18</sup> See *id.* at 1182. Nguyen et al. include a fifth core sub-competency called “having a view on the change itself” that picks up the continuing process of how an envisioned change can be changed further with a continuing process of reflection. *Id.* To keep the model proposed here simpler, this fifth sub-competency is not included.

<sup>19</sup> *Id.* at 1184.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 1181–82.

<sup>22</sup> See *Medical Education*, *supra* note 1, at 381.

<sup>23</sup> See Uyger et al., *supra* note 14, at 13.

students' reflections.<sup>24</sup> We turn to the importance of mentoring and coaching next, as it is embraced in our fifth principle.

#### 4.5 PRINCIPLE 5 MENTORING AND COACHING ARE POWERFUL TOOLS TO BE COMBINED

*Continuous one-on-one mentoring and coaching is the most effective pedagogy to foster each student's guided reflection and guided self-assessment. Try to provide it.*<sup>25</sup>

Guided reflection and guided self-assessment are critical contributors to a student's successful progressive growth on any PD&F goal. The growth process will entail numerous experiences – including professionally authentic experiences that can be particularly valuable – occurring in a coordinated sequence of modules that rationalize the student's stage development toward the goal. What pedagogy best supports the student's guided reflection and guided self-assessment throughout that progression? A one-on-one continuous mentoring/coaching model stands out as most conducive to effective support. This model affords additional benefits that law school faculty and staff will find attractive; we will address those benefits later. First, we will explore what the literature tells us about mentoring and coaching. Many who enter the work of supporting law student professional-identity formation will take on the role of a mentor or coach, perhaps even without knowing it. Awareness of what it means to take on those roles, and to do them well, will prove useful. An individualized one-on-one continuous mentoring/coaching model to provide guided student reflection and assessment is supported by leading scholars. Ida Abbott, a scholar on mentoring in the legal profession, points out that the lines between mentoring and coaching are fluid because both roles “provide individualized and personal support by a trusted advisor.”<sup>26</sup> She also notes that “[a]s coaching becomes more popular, boundaries between mentoring and coaching will blur and overlap.”<sup>27</sup> Regarding mentoring, earlier scholarly literature spoke of a “career mentoring function” that directly aided the

<sup>24</sup> Salah E. Kassab et al., *Construct Validity of an Instrument for Assessment of Reflective Writing-Based Portfolios of Medical Students*, 11 ADV. MED. EDUC. PRACT. 397, 399 (2020).

<sup>25</sup> This discussion of Principle 5 is taken from a forthcoming article. See Neil Hamilton, *Mentor/Coach: The Most Effective Curriculum to Foster Each Student's Professional Development and Formation*, 17 U. ST. THOMAS L. J. (forthcoming 2022) (available at <http://ssrn.com/abstract=3747309>).

<sup>26</sup> IDA ABBOTT, *THE LAWYER'S GUIDE TO MENTORING* 41 (2d ed. 2018).

<sup>27</sup> *Id.* at 38.

protégé's career advancement.<sup>28</sup> Taking a historical perspective, Abbott has defined mentoring to be "a relationship-based process that helps individuals learn, grow and achieve high levels of professional success and fulfillment,"<sup>29</sup> adding "[m]entoring occurs when a more experienced and trusted lawyer takes an interest in an individual's career development and success."<sup>30</sup> Mentors have relevant work and career experience, provide career and psychological support, and can create or directly affect career-enhancing opportunities.<sup>31</sup>

Regarding coaching, Abbott explains that coaches help individuals "uncover personal and professional goals, develop a plan to achieve those goals, and provide ongoing support while the plan is implemented."<sup>32</sup> Coaches are trained to "listen, ask powerful questions, serve as a sounding board, motivate and hold accountable the people they work with";<sup>33</sup> "[c]oaches do not need to be lawyers (although they often are) because coaching employs a process where they are not offering advice or conveying substantive information."<sup>34</sup> Coaches help lawyers create plans and develop strategies for career advancement.<sup>35</sup> In Abbott's analysis, "[a] major advantage that mentors have over coaches in law firms concerns career advancement."<sup>36</sup> Abbott compares mentoring and coaching in Table 15.

John Whitmore, author of the first book on workplace coaching,<sup>37</sup> defines coaching as "unlocking people's potential to increase their own performance. It is helping them to learn rather than teaching them."<sup>38</sup> Coaching supports people "to clarify their purpose and vision, achieve their goals, and reach their potential."<sup>39</sup> Whitmore believes mentoring is more about sharing expertise and passing down knowledge with some guidance.<sup>40</sup>

Coaching focuses on developing a student's self-understanding and discernment of purpose, vision, and goals, and the student's self-direction as manifested in the creation and implementation of a plan to achieve the student's

<sup>28</sup> Neil Hamilton & Lisa Brabbit, *Fostering Professionalism Through Mentoring*, 57 J. LEGAL EDUC. 102, 107 (2007).

<sup>29</sup> Ida Abbott consulting website. (Last visited August 10, 2020, <https://idaabbott.com/mentoring/>).

<sup>30</sup> IDA ABBOTT, *LAWYER'S PROFESSIONAL DEVELOPMENT* 212 (2012).

<sup>31</sup> Abbott, *supra* note 26, at 42–43.

<sup>32</sup> *Id.* at 42.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 42–43.

<sup>35</sup> *Id.* at 43.

<sup>36</sup> *Id.* at 44.

<sup>37</sup> JOHN WHITMORE, *COACHING FOR PERFORMANCE* 1 (5th ed., 2017).

<sup>38</sup> *Id.* at 248.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 14, 249.

TABLE 15 *Comparison of mentors and coaches*<sup>41</sup>

	Mentor	Coach
Primary function	Career support, psychological support	Goal achievement, performance
Focus	Professional development	Functional improvement, results
Audience	All lawyers	High-potential and underperforming lawyers
Attributes	Willing/able to model, advise, support, transfer knowledge	Trained in coaching techniques
Level of intensity	Moderate	Moderate
Level of trust required	Moderate–high	Moderate

vision and goals. Mentoring emphasizes relationship-based career support for students by mentors with relevant work and career experience who use their own experience, insight, and advice to help mentees learn and progress.

Consideration of two of our PD&F goals will illustrate the value of coaching *and* mentoring. To grow to the next level of the first PD&F goal – ownership of continuous professional development toward excellence at the major competencies that clients, employers, and the legal system need – a student needs coaching situated in the context of the student’s own path in the legal market and the student’s own development. The student also needs mentoring that helps the student become more familiar with the legal market and how to navigate within it toward success in a career. To grow to the next level of the second PD&F goal – a deep responsibility and service orientation to others, especially the client – a student needs mentoring that illuminates how professional skills are used to forge and maintain relationships with clients that serve the clients’ needs. Yet each student also needs coaching to develop and implement a plan to achieve the needed growth to the next level.

Abbott emphasizes that mentors must themselves have proven legal skills and ownership over continuous professional development to be effective.<sup>42</sup> Mentors facilitate a mentee’s learning by helping mentees process what they are observing and experiencing and then apply what the mentees have learned to different circumstances.<sup>43</sup> Mentors actively listen to their mentees, show

<sup>41</sup> Abbott, *supra* note 26, at 42.

<sup>42</sup> *Id.* at 94.

<sup>43</sup> *Id.*

empathy,<sup>44</sup> and give meaningful feedback.<sup>45</sup> They build mentee confidence<sup>46</sup> and counsel on career development and career advancement issues.<sup>47</sup>

Workplace coaching is still an emerging profession.<sup>48</sup> There is very little legal scholarship on coaching<sup>49</sup> even though larger law firms are increasingly using coaching to help individual lawyers learn specific professional skills.<sup>50</sup> There is, however, some scholarship about the most important competencies for professional coaching generally. The International Coaching Federation (ICF) has accredited more than 30,000 professional coaches worldwide.<sup>51</sup> ICF released an updated Coaching Core Competencies Model in October 2019 based on evidence collected from more than 1,300 professional coaches.<sup>52</sup> The ICF identifies eight core professional coach competencies. The professional coach

1. Demonstrates ethical practice including confidentiality;
2. embodies a coaching mindset including ongoing reflective practice and ongoing development as a coach;
3. establishes and maintains clear agreements for the overall coaching engagement with the client;
4. cultivates trust and safety with the client including understanding and respecting the client's context and identity and support, empathy, and concern for the client;
5. maintains presence including being fully present with and responsive to the client;
6. listens actively;
7. evokes client awareness, insight, and learning by using tools such as powerful questioning, silence, metaphor, or analogy; and

<sup>44</sup> *Id.* at 99.

<sup>45</sup> *Id.* at 94–95.

<sup>46</sup> *Id.* at 96–97.

<sup>47</sup> *Id.* at 99.

<sup>48</sup> E. de Haan, *A Systematic Review of Qualitative Studies in Workplace and Executive Coaching: The Emergence of a Body of Research*, 71 CONSULTING PSYCH. J.: PRAC. & RSCH. 227, 228 (2019), <https://doi.org/10.1037/cpb0000144>.

<sup>49</sup> One recent article has addressed the issue. See Susan R. Jones, *The Case for Leadership Coaching in Law Schools: A New Way to Support Professional Identity Formation*, 48 HOFSTRA L. REV. (2020) (advocating coaching to foster law student leadership skills).

<sup>50</sup> Nicholas Jelfs-Jelf, *How Are Law Firms Using Coaching?*, <https://www.linkedin.com/pulse/how-law-firms-using-coaching-nicholas-jelfs-jelf/> (noting a survey of Am Law 200 firms where 123 firms reported they are using coaching).

<sup>51</sup> *International Coaching Federation*, [https://en.wikipedia.org/wiki/International\\_Coaching\\_Federation](https://en.wikipedia.org/wiki/International_Coaching_Federation).

<sup>52</sup> *Updated ICF Core Competencies*, Oct. 2019, [https://coachfederation.org/app/uploads/2020/07/RevisedCompetencyModel\\_July2020.pdf](https://coachfederation.org/app/uploads/2020/07/RevisedCompetencyModel_July2020.pdf).

8. facilitates client growth by transforming learning and insight into goals and action.<sup>53</sup>

John Whitmore's model of workplace coaching, advanced in his ground-breaking book now in its fifth edition, has been influential. Whitmore argues that "by and large, [coaches] subscribe to a common set of principles."<sup>54</sup> He lists three fundamental skills of coaching:

1. Asking powerful open questions to raise the coachee's awareness and responsibility.<sup>55</sup>
  - a. "Awareness" includes:
    - (i) awareness of self – understanding why you do what you do;
    - (ii) awareness of others – knowing other people's strengths, interferences, and motivations; and
    - (iii) awareness of the organization – aligning individual, team, and organizational goals.<sup>56</sup>
  - b. "Responsibility" is taking ownership of the coachee's own development and high performance, and committing to action.<sup>57</sup>
2. Listening well.<sup>58</sup> Whitmore defines listening well as active listening and includes a table of active listening sub-competencies.<sup>59</sup>
3. Following the GROW model with respect to the sequence of questions.<sup>60</sup>
  - Goal-setting for the session as well as the short and long term (What do you want?);
  - Reality checking to explore the current situation (Where are you now? And what blocks your path?);
  - Options and alternative strategies or courses of action (What could you do?); and
  - What is to be done, when, by whom, and the will to do it (What will you do?).<sup>61</sup>

<sup>53</sup> *Id.*

<sup>54</sup> Whitmore, *supra* note 37, at 2.

<sup>55</sup> *Id.* at 41–43. Whitmore includes specific powerful open questions at pages 81–88.

<sup>56</sup> *Id.* at 41–42.

<sup>57</sup> *Id.* at 252, 73.

<sup>58</sup> *Id.* at 43.

<sup>59</sup> *Id.* at 93.

<sup>60</sup> *Id.* at 43, 96.

<sup>61</sup> *Id.* at 96, 58. Goal Setting is explored further at pages 102–14; What Is Reality is explored further at page 125; What Options Do You Have is explored further at pages 126–32; What Will You Do? is explored further at page 152.

Whitmore emphasizes that the key to using the GROW model is to spend sufficient time asking questions exploring goals “until the coachee sees a goal that is both inspirational and stretching to them, and then to move flexibly through the sequence according to [the coach’s] intuition, revising the goal if needed.”<sup>62</sup> Whitmore also emphasizes asking open questions that generate awareness and responsibility. While coaching is not all about asking questions, that is the single most important skill to master for a novice coach.<sup>63</sup> Whitmore provides a “Coaching Question Toolkit” containing questions that experienced coaches have found consistently helpful in coaching:<sup>64</sup> “The golden rule is to be clear and brief. Sometimes the most powerful questions lead to a long silence so the coach should not feel the need to jump in with another question if there is a long pause.”<sup>65</sup>

The ICF core coaching competencies, the Whitmore fundamental coaching skills, and Abbott’s mentoring skills emphasize similar foundational skills. We draw from and elaborate upon them in Table 16 to offer a list of foundational competencies for the mentor/coach in the law student context.

Empirical evidence shows that coaching in a 45- to 60-minute interview to promote student reflection with respect to self-directed learning is effective and can have an important and lasting impact on a student.<sup>66</sup> In a study of 102 undergraduates (with a mean age of 21), a trained interviewer conducted a one-on-one in-person interview designed to promote reflection about the

TABLE 16 *Foundational competencies for a law student mentor/coach*

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1. Actively listening to understand both where the student is developmentally and what are the student’s goals;
  2. Asking powerful open questions to foster the student’s guided reflection and guided self-assessment and raise the student’s awareness and responsibility;
  3. Facilitating student growth toward later stages of the PD&F goals by transforming learning (especially learning in authentic professional experiences) and insight into clear and realistic goals, options, and action;<sup>67</sup> and
  4. Understanding and respecting the student’s context and identity and providing support, empathy, and concern for the student.
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<sup>62</sup> *Id.* at 100.

<sup>63</sup> *Id.* at 254.

<sup>64</sup> *Id.* at 254–61.

<sup>65</sup> *Id.* at 254.

<sup>66</sup> See Matthew J. Bundick, *The Benefits of Reflecting on and Discussing Purpose in Life in Emerging Adulthood*, 132 NEW DIRECTIONS YOUTH DEV. 89, 93 (2011).

<sup>67</sup> See Whitmore, *supra* note 37, at 43, 96.

student's purpose in life, core values, and most important life goals. The study included a pretest and a posttest nine months later to assess the impact of the interview.<sup>68</sup> On average, the coaching engagement led to benefits for student goal-directedness toward life purpose nine months later.<sup>69</sup> The author of the study suggests that these coaching conversations are “a triggering event [that] would impel an emerging adult, who is likely in this stage of life to be predisposed to identity exploration, to reflect on life beyond the interview in considering his or her life path.”<sup>70</sup> In general, individualizing students' learning experiences, so the student can practice rather than just observe, and combining those individualized experiences with an instructor who provides continuous feedback to the student has been associated with more learning benefits than large group training with respect to self-directed learning.<sup>71</sup>

The students' ultimate goals are to pass the bar and find meaningful postgraduation employment. A mentor who has relevant work and career experience will have credibility with the students regarding the students' goals. An experienced mentor/coach using the foundational competencies for law student coaching in Table 16 can foster each student's growth toward later stages of the PD&F goals while helping the students achieve their goals.

It should be clear that the mentor/coach is putting Principle 3 into action by “going where they are” and engaging each student at the student's present developmental stage. The mentor/coach is also observing Principle 4 by providing repeated opportunities, particularly at major transitions as discussed in the next principle, for guided reflection and guided self-assessment to foster each student's growth to the next stage of a PD&F goal. The mentor/coach can help each student with self-assessment on the relevant Milestone Model for a particular learning outcome (contributing to fulfillment of Principle 1) and provide outside observer assessment concerning a student's stage of development. The mentor coach can help each student create and implement a plan to move through a coordinated progression of modules to foster the student's growth to the next level (contributing to fulfillment of Principle 2).

At the outset of our discussion of this principle, we noted that a model of synthesized mentoring and coaching offers additional benefits to the law school and its students. Many law schools today are undertaking diversity, equity, and inclusion (DEI) initiatives and student well-being initiatives. Positive student experiences with coaches and mentors can contribute to the goals of those

<sup>68</sup> Bundick, *supra* note 66, at 93.

<sup>69</sup> *Id.* at 97–98.

<sup>70</sup> *Id.* at 98.

<sup>71</sup> See Ryan Brydges et al., *Self-Regulated Learning in Simulation-Based Training: A Systematic Review and Meta-Analysis*, 49 *MED. EDUC.* 368, 369–70, 372, 374 (2015).

initiatives. Recent empirical research on student well-being and DEI emphasizes the importance of “psychologically attuned interventions [that] emphasize a person-by-situation approach that is neither person-centric nor fully context-centric. In this approach, personal factors (e.g., law student social identities, such as race, gender, or social class) interact with societal stereotypes and environmental cues to shape thoughts, feelings, and behavior.”<sup>72</sup> The aim of these psychologically attuned interventions is to alter people’s process of making meaning and sense about themselves to change the interactions between people and contexts over time.<sup>73</sup> For example, “social-belonging interventions facilitate beliefs that may help students’ sense of belonging and psychological safety in the face of challenges.”<sup>74</sup> Growth mindset interventions change people’s process of making meaning with respect to one’s own and others’ abilities and potential to grow.<sup>75</sup> Individualized coaching will also foster student performance and well-being. Self-Determination Theory research shows that providing autonomy support to students where the teacher conveys understanding of the student and provides the student with choices increases the student’s ability to perform maximally, to fulfill psychological needs, and to experience well-being.<sup>76</sup>

#### 4.6 PRINCIPLE 6 MAJOR TRANSITIONS ARE PIVOTAL TO DEVELOPMENT – AND MAJOR OPPORTUNITIES FOR SUPPORT

*Coaching to foster guided reflection and guided self-assessment can be especially effective at points when the student experiences a major transition on the path from being a student to being a lawyer. Pay special attention to major transitions.*

Fostering each student’s guided reflection particularly at major transitions during law school is very important.<sup>77</sup> Each law student experiences significant transitions where the student is growing, step by step, from being a novice

<sup>72</sup> Victor D. Quintanilla & Sam Erman, *Mindsets in Legal Education*, 69 J. LEGAL EDUC. 412, 431 (2020).

<sup>73</sup> *Id.* at 433. The article explains the particular vulnerabilities of students from disadvantaged groups regarding social belonging at pages 422–25.

<sup>74</sup> *Id.* at 435.

<sup>75</sup> *Id.*, at 425–27.

<sup>76</sup> Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. 554, 582 (2015).

<sup>77</sup> Some of the discussion here on Principle 6 is taken from Neil Hamilton, *The Major Transitions in Professional Formation and Development from Being a Student to Being a Lawyer Present Opportunities to Benefit the Students and the Law School*, 73 BAYLOR L. REV. 139 (2021).

outsider with a stance of being an observer ultimately to join a community of practice as an insider to the profession.

There is a distinction between the situational changes a law student experiences and the significant transitions of law school. During law school, each student experiences a number of situational changes like physically moving to a new city to attend law school or starting a new class or a new year of law school. A significant transition, however, is a psychological inner reorientation and self-definition that the student must go through to incorporate the situational changes into a new understanding of professional life's developmental process.<sup>78</sup> It is clear that the major periods of inner reorientation and self-definition for a law student are exceptional opportunities for the law faculty and staff to foster student growth toward later stages of the school's learning outcomes.

Research on medical education emphasizes that a new entrant to a profession like medicine is growing, step by step, from being an outsider with a stance of an observer to joining a new group or "community of practice" as an insider in a profession.<sup>79</sup> Medical professors Lockyer, de Groot, and Silver explain:

Generally, transitions are critically intense learning periods associated with a limited time in which a major change occurs and that change results in a transformation. During transitions, people re-form their way-of-being and their identity in fundamental ways. Thus, transitions represent a process which involves a fundamental reexamination of one's self, even if the processing occurs at a largely unconscious level. In transition periods, people enter into new groups or "communities of practice." This involves adopting shared, tacit understandings, developing competence in the skilled pursuit of the practice, and assuming a common outlook on the nature of the work and its context.<sup>80</sup>

<sup>78</sup> WILLIAM BRIDGES, *TRANSITIONS: MAKING SENSE OF LIFE'S CHANGES* xii, 81, 105–75 (2d ed. 2004).

<sup>79</sup> See Louis D. Bilonis, *Bringing Purposefulness to the American Law School's Support of Professional Identity Formation*, 14 U. ST. THOMAS L. J. 480, 484 (2018) (citing William M. Sullivan, *Foreword to TEACHING MEDICAL PROFESSIONALISM: SUPPORTING THE DEVELOPMENT OF A PROFESSIONAL IDENTITY* ix, xii (Richard L. Cruess et al. eds., 2d ed. 2016) [hereinafter *TEACHING MEDICAL PROFESSIONALISM*]).

<sup>80</sup> Jocelyn Lockyer et al., *Professional Identity Formation: The Practicing Physician, and Continuing Professional Development*, in *TEACHING MEDICAL PROFESSIONALISM* *supra* note 79, at 186, 188. Dr. Robert Sternszus notes that "[p]rofessional identity results from a series of identity transformations that occur primarily during period of transition." Robert Sternszus, *Developing a Professional Identity: A Learner's Perspective*, in *id.* at 26, 31.

These transitions are often characterized by anxiety, stress, and risk for the developing professional.<sup>81</sup> As medical professor Sternszus observes, “The literature supports the notion that transitions in medical education are both highly stressful and inadequately supported.”<sup>82</sup>

A 2018 meta-analysis reviewed seventy articles on medical transitions to synthesize the evidence and provide guidance for medical education.<sup>83</sup> The focus on transitions and their importance is apparent. The authors found that the strongest empirical evidence asked medical faculties

1. To provide learning opportunities at transitions that include authentic (real-life or mimicking real-life) professional experiences that build progressively toward an understanding of principles. The authenticity of the learning becomes increasingly important as the learners become more independent.<sup>84</sup>

Moderate to strong recommendations (i.e., supported by solid evidence from one or more papers plus the consensus of the authors of the article) were for medical faculties

2. To encourage progressive incremental independence by offering a sliding scale of decreasing supervision alongside demonstrating increasing trust in the student;<sup>85</sup>
3. to apply concepts of graduated responsibility to nonclinical as well as clinical domains of training, such as leadership and responsibility;<sup>86</sup>
4. to make trainees aware of the psychological impact of actual responsibility including the process of their own professional formation as they move up each level of training;<sup>87</sup>

<sup>81</sup> Richard L. Cruess et al., *Reframing Medical Education to Support Professional Identity Formation*, 89 *ACAD. MED.* 1146, 1147 (2014); Sternszus, *supra* note 80, at 33 (“Transitions represent some of the most challenging times for medical trainees.”); Lynn V. Monrouxe, *Theoretical Insights into the Nature and Nurture of Professional Identities*, in *TEACHING MEDICAL PROFESSIONALISM*, *supra* note 79, at 37, 43.

<sup>82</sup> Sternszus, *supra* note 80, at 30.

<sup>83</sup> S. Yardley et al., *The Do’s, Don’t and Don’t Knows of Supporting Transition to More Independent Practice*, 7 *PERSP. MED EDUC.* 8 (2018).

<sup>84</sup> *Id.* at 14. A study of the University of New Hampshire Law School’s Daniel Webster Scholars Program concluded that two factors drive the accelerated development of competencies by the students in the program: (1) contexts that simulated practice and (2) opportunities for reflection and formative assessment. See INSTITUTE FOR THE ADVANCEMENT OF THE AMERICAN LEGAL SYSTEM, *AHEAD OF THE CURVE: TURNING LAW STUDENTS INTO LAWYERS* 14, 24 (2015), <https://iaals.du.edu/publications/ahead-curve-turning-law-students-lawyers>.

<sup>85</sup> Yardly, *supra* note 83, at 17–18.

<sup>86</sup> *Id.* at 18.

<sup>87</sup> *Id.*

5. to establish a mentorship program with local champions to provide feedback to develop learners' competence and confidence (supported reflection and discussion are important in the process of becoming an independent practitioner);<sup>88</sup> and
6. to seek to aid the development of resilience and independence.<sup>89</sup>

How do law students themselves assess the important transitions in their journey from novice to competent learner/beginning practicing lawyer with respect to PD&F goals? To start answering this question, coauthor Professor Hamilton developed a Qualtrics survey for law students at the University of St. Thomas School of Law in September of the 2L year asking them to reflect on the transitions of the 1L year and the summer between the 1L and the 2L years.<sup>90</sup> The survey focused on transitions regarding ownership over continuous professional development (the stages are set forth in Table 19 in Appendix B). At St. Thomas, all 2Ls take Professional Responsibility in the 2L year, and sixty-two of the sixty-two students present in Hamilton's Professional Responsibility class on September 6, 2018, filled out the survey. The survey question was: "In the context of the self-directed learning stage development model [in Table 19], what is the impact of each experience in this survey on your transition from thinking and acting like a student to thinking and acting like a junior lawyer?" The respondent could choose among the following: no impact, some impact, moderate impact, substantial impact, and great impact. There also was an opportunity for respondents to add additional experiences that were significant with respect to the survey question, but none of the added experiences was mentioned by more than a single respondent. Table 17 indicates the experiences that had the greatest impact.

Table 17 makes clear that 2L students reflecting on the major transitions in the 1L year and the summer following the 1L year rate professionally authentic experiences (those that are real-life or mimic the real-life work of a lawyer) as having the greatest impact on their growth toward later stages of ownership of their own continuous professional development. A very high proportion of students rated their most impactful experience in summer employment (59 percent) and paid or unpaid summer employment generally (52 percent) as having a great impact on their transition from thinking and acting like a student to thinking and acting like a junior lawyer. The third most impactful

<sup>88</sup> *Id.* at 19–20.

<sup>89</sup> *Id.* at 20.

<sup>90</sup> The University of St. Thomas Institutional Review Board approved of this project 112166–1 on September 14, 2017. The survey is available at [https://stthomas.az1.qualtrics.com/jfe/form/SV\\_4MVFsoLh0jFA4br](https://stthomas.az1.qualtrics.com/jfe/form/SV_4MVFsoLh0jFA4br).

TABLE 17 *Experiences in the 1L year and the following summer that 50 percent or more of the students thought had a great, substantial, or moderate impact on their transition from thinking and acting like a student to thinking and acting like a junior lawyer with respect to ownership over continuous professional development*

Other Experiences	Percentage of the Students Answering Great, Substantial, or Moderate Impact
Summer Employment: most impactful experience	89% (with 59% responding great impact)
Paid or unpaid summer employment experience	87% (with 52% responding great impact)
Receiving graded memo from Lawyering Skills	87% (with 19% responding great impact)
Final Examination Period (Fall Semester)	87% (with 16% responding great impact)
Mentor Externship: most impactful experience	85% (with 19% responding great impact)
Job Search for the Summer	82% (with 14% responding great impact)
First Week of Classes	81% (with 11% responding great impact)
Final Examination Period (Spring Semester)	77% (with 19% responding great impact)
Oral Arguments for Lawyering Skills II	76% (with 14% responding great impact)
Fall Midterms	76% (with 10% responding great impact)
First CLE/Networking Events with Lawyers	71% (with 10% responding great impact)
First Time Being Cold-Called in Class	70% (with 13% responding great impact)
Spring Midterms	67% (with 4% responding great impact)
Mentor Externship Experiences Generally	64% (with 16% responding great impact)
Spring Semester Final Grades	63% (with 27% responding great impact)
Roadmap Coaching	60% (with 9% responding great impact)
Roadmap Written Assignment	60% (with 4% responding great impact)
First Career and Professional Development (CPD) Meeting	58% (with 2% responding great impact)
Orientation	58% (with 3% responding great impact)
Fall Semester Grades	55% (with 13% responding great impact)

experience was receiving back the first graded memorandum in their lawyering skills course (with 19 percent responding great impact), and the fifth most impactful experience was in a mentored externship<sup>91</sup> (19 percent responding great impact). These, too, are professionally authentic experiences.

<sup>91</sup> The University of St. Thomas School of Law has a required Mentor Externship where each student has an assigned mentor in the practicing bar in each year of law school.

Paid or unpaid summer employment experience after the 1L year is a singularly important professionally authentic transition. Summer employment is outside of the formal curriculum, but the law school can and should provide some coaching and guided reflection for each student about the summer employment transition experience. It seems far too rich an opportunity to squander.

The major takeaway from Table 17 is that law schools should provide some curricular support at several significant transitions where students may also experience substantial stress, including particularly

1. Immediately after the summer employment experience;
2. immediately after major professionally authentic experiences like the first graded memorandum or an oral argument in a lawyering skills course; and
3. immediately after students receive fall semester grades and are considering summer employment.

There is a major need for further survey research on students in all three years of law school to identify more clearly the major transitions they experience. The authors' best practical judgment on the major transitions in the 2L and 3L years is in Appendix C.

#### 4.7 PRINCIPLE 7 CONNECT PROFESSIONAL DEVELOPMENT AND FORMATION TO THE STUDENT PERSONALLY

*Assist each student to see how new knowledge, skills, and capacities relating to PD&F goals are building on the student's existing knowledge, skills, and capacities and are helping the student achieve the student's postgraduation bar passage and meaningful employment goals.*

Adult learning theory emphasizes two themes that are important for faculty and staff seeking to support law students in the formation of professional identity:

- (1) Students are more motivated to learn if they can see that the subjects are relevant to their goals;<sup>92</sup> and
- (2) students learn most effectively when they are able to connect new knowledge and skills to prior knowledge and skills.<sup>93</sup>

<sup>92</sup> SUSAN AMBROSE ET AL., *HOW LEARNING WORKS: SEVEN RESEARCH-BASED PRINCIPLES FOR SMART TEACHING* 68–69, 74–75 (2010).

<sup>93</sup> *Id.* at 15–16, 33, 83.

Students will better pursue their PD&F goals if they see how those goals connect to their own abilities and aspirations, and students need assistance to see those connections. Providing that assistance will heighten engagement and strengthen learning, and that is reason enough to undertake the effort. The “hidden curriculum” features of the typical law school environment only underscore the importance of providing assistance to students. Students often interpret the strong emphasis traditionally placed on the cognitive competencies associated with “thinking like a lawyer” as a signal that competencies having to do with professional identity formation are a low priority. The signal, though unintended, is an impediment to motivation and engagement with respect to PD&F goals.

How to make the needed connection? Understanding the personal goals of law students is essential, and there are good data. The 2018 Association of American Law Schools (AALS) report, *Before the JD: Undergraduate Views on Law School*, is the first large-scale, national study to examine what factors contribute to an undergraduate student’s decision to go to law school.<sup>94</sup> The AALS study is based on responses from 22,189 undergraduate students from twenty-five four-year institutions and 2,727 law students from forty-four law schools.<sup>95</sup> The survey asked the undergraduates, “How important are each of these characteristics to you when thinking about selecting a career?” The top three characteristics that undergraduate students considering law school thought were “extremely important” are

1. Potential for career advancement (selected by 62 percent of the respondents);
2. opportunities to be helpful to others or useful to society/giving back (selected by 54 percent of the respondents); and
3. ability to have a work-life balance (selected by 50 percent of the respondents).

Overall, a synthesis of the AALS data indicates the most important goal of undergraduate students considering law school is meaningful postgraduation employment with the potential for career advancement that “fits” the passion, motivating interests, and strengths of the student and offers a service career that is both helpful to others and has some work/life balance. A 2017 empirical study of enrolled 1L students in five law schools is consistent with this synthesis. The study asked, “What are the professional goals you would like to

<sup>94</sup> ASSOCIATION OF AMERICAN LAW SCHOOLS, *BEFORE THE JD: UNDERGRADUATE VIEWS ON LAW SCHOOL* 43 (2018).

<sup>95</sup> *Id.* at 5.

achieve by six months after graduation?” The two most important goals were bar passage and meaningful employment, followed by sufficient income to meet loan obligations and a satisfactory living.<sup>96</sup>

Drawing on twenty years of empirical research on emerging adults in the age range 18 to 29, James Arnett finds that there is a very strong American consensus that becoming an adult means becoming self-sufficient, learning to stand alone as an independent person.<sup>97</sup> Three criteria are at the heart of emerging adults’ view of the self-sufficiency required for adulthood: (1) taking responsibility for yourself, (2) making independent decisions, and (3) becoming financially independent.<sup>98</sup>

The curriculum on the four PD&F goals needs repeatedly to connect the dots so that each student sees that growing to a later stage on one of these learning outcomes helps the student reach their postgraduation goals. Chapter 1 outlined these benefits. Each student will need coaching on how to communicate in the language legal employers use for these competencies. The Foundational Competencies Model in Figure 1 of Chapter 1 provides these vocabularies.

The curriculum on the four PD&F goals also should repeatedly help each student understand how the student is building on earlier knowledge, skills, and capacities. A student’s growth on the four goals occurs in the context of the student’s preexisting stage of development on ownership over the student’s own continuous development (self-directed learning), responsibility and service orientation to others, and creative problem solving and good judgment. For example, many law students have substantial earlier experience with teamwork/collaboration or work requiring a service orientation. The curriculum – including mentoring and coaching – should focus on the intersection between the learner’s preexisting stage of development on these outcomes and the developmental stages the student must demonstrate to grow toward the level of competence of a practicing lawyer.

#### 4.8 PRINCIPLE 8 THINK VERY DIFFERENTLY ABOUT ASSESSMENT ON PD&F GOALS

*Combine guided self-assessment with direct observation and multi-source feedback and assessment by faculty and staff.*

Assessment to foster each student’s growth toward later stages of development on each of the four PD&F goals is going to be different from the

<sup>96</sup> Gantt & Madison, *supra* note 8, at 503–04.

<sup>97</sup> JEFFREY ARNETT, *EMERGING ADULTHOOD* 313 (2d ed. 2015).

<sup>98</sup> *Id.*

straightforward reliance on written examinations or papers common in law school classes. Those methods have some place, but they are not geared principally to the task at hand. ABA accreditation standard 314 requires a law school to use both formative<sup>99</sup> and summative<sup>100</sup> assessment methods in its program of legal education to measure and improve student learning and provide meaningful feedback to students.<sup>101</sup> With those accreditation requirements in mind, we outline here practicable strategies for assessments on PD&F goals.

Lessons from competency-based medical education (CBME) are especially instructive here. The reader is advised to remember, however, that medical education has been in the business of purposeful support of professional identity formation for many years. Legal education is just embarking on its journey. We look here at assessment in medical education for illumination and its power of suggestion. It invites one to see how the assessment might be structured and conducted as legal education evolves in its support of PD&F goals.

In Chapter 3, we presented Table 12 that compared CBME to the traditional time-based (number of exposure hours) medical education that resembles traditional legal education. As Table 12 notes, assessment in a well-conceived competency-based educational model should include not just written exams and papers but also multiple assessment measures employing assessment tools that are “authentic” in the sense that they are or mimic actual professional work. Both formative and summative assessment will be needed. And the parties participating in the assessment process will be more numerous and varied. As explored in Chapter 2, both faculty and staff – in a “whole building” approach – are important observers of each student’s development with respect to the four PD&F goals. They thus can contribute to the assessment process.

To draw assessment of PD&F goals into clearer view, a key initial step is to look at the modules currently in the curriculum that foster student growth regarding any of the goals. Our Principle 1, you will recall, encourages the

<sup>99</sup> *Standard 314. Assessment of Student Learning, Interpretation 314–1, 2021-2022 Standards and Rules of Procedure for Approval of Law Schools, A.B.A. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR [hereinafter ABA Standards].* Formative assessment methods are measurements at different points during a particular course or at different points over the span of a student’s education that provide meaningful feedback to improve student learning.

<sup>100</sup> *Id.* Summative assessment methods are measurements at the culmination of a particular course or at the culmination of any part of a student’s legal education that measure the degree of student learning.

<sup>101</sup> *Standard 314. Assessment of Student Learning, ABA Standards, supra* note 99.

faculty and staff to envision progress along any PD&F goal as a process of stage development marked by the attainment of measurable Milestones. Principle 2 encourages faculty and staff to strive for curriculum and assessment modules that are coordinated and build on each other progressively. How does the current curriculum look? Does it present a linear progression of curriculum and assessment modules to foster student growth toward later stages of development of the particular goal? Are there gaps?

Another key initial step is to next ask in which modules faculty and staff will be able to actually observe each student and make informed judgments about the student's stage of development on a particular goal. With that step done, you have identified significant opportunities for assessment.

Note that the assessment contemplated here is *direct observation of students in authentic (real-life or mimicking real-life) professional experiences*. In CBME, this kind of direct observation is mandatory for the reliable and valid assessment of PD&F competencies,<sup>102</sup> and we see no reason for disregarding that principle when considering PD&F goals in legal education. The direct observation contemplated here is considered a form of workplace-based assessment, with a student's day-to-day work in an authentic professional experience observed and assessed. It is an assessment strategy that looks not only for what a student knows cognitively but also for whether a student "shows how" in a simulation or what a student "does" in a practice setting.<sup>103</sup>

Multi-source feedback, widely used in CBME and also referred to as a "360-degree" assessment,<sup>104</sup> "is an assessment that is completed by multiple persons within a learner's sphere of influence. Multi-rater assessments in CBME are ideally completed by other students, peers, nurses, faculty supervisors, patients, families and the residents themselves."<sup>105</sup> Different respondents focus on the characteristics of the student or physician that they can assess; patients, for example, are not expected to assess clinical expertise.<sup>106</sup>

<sup>102</sup> See Jennifer Kogan & Eric Holmboe, *Direct Observation*, in ERIC HOLMBOE ET AL., *EVALUATION OF CLINICAL COMPETENCE* 61 (2d ed. 2018).

<sup>103</sup> See G. E. Miller, *The Assessment of Clinical Skills/Competence/Performance*, 65 *ACAD. MED.* 63–67 (No. 9, 1990).

<sup>104</sup> Ahmed Al Ansari et al., *The Construct and Criterion Validity of the Multi-Source Feedback Process to Assess Physician Performance: A Meta-Analysis*, 5 *ADVANCES IN MED. EDUC. & PRAC.* 39 (2014).

<sup>105</sup> Linda Snell, *Supporting Professionalism and Professional Identity Formation at the Postgraduate Level*, in *TEACHING MEDICAL PROFESSIONALISM*, *supra* note 79, at 248, 254 (2016).

<sup>106</sup> Tyrone Donnon et al., *The Reliability, Validity, and Feasibility of Multisource Feedback Physician Assessment: A Systematic Review*, 89 *ACAD. MED.* 1 (2014).

High-quality assessment will use rating scales, evaluation forms, and the aggregation of multiple data points.<sup>107</sup> To provide reliability and validity, multiple assessors using multiple methods are required. Good observational assessment requires broad sampling across different encounters.<sup>108</sup> Together with rating scales and evaluation forms, narrative feedback also is very useful as feedback to the student.<sup>109</sup>

A meta-analysis of the multi-source feedback process to assess physician performance<sup>110</sup> emphasizes that multi-source feedback “has been shown to be a unique form of evaluation that provides more valuable information than any single feedback source. [Multi-source feedback] has gained widespread acceptance both for formative and summative assessment of professionals, and is seen as a trigger for reflecting on where changes in practice are required.”<sup>111</sup> In addition, “[Multi-source feedback] has been shown to enhance changes in clinical performance, communication skills, professionalism, teamwork, productivity, and building trusting relationships with patients.”<sup>112</sup> A second meta-analysis of multi-source feedback also concludes that it is reliable, valid, and feasible.<sup>113</sup>

CBME assessment of observable behaviors also includes recording all instances of unprofessional conduct, for example, when a learner does not meet the requirements of the student conduct code or the profession’s code.<sup>114</sup> All University of Texas system medical schools, for instance, have developed some mechanism for identifying and recording student lapses in professionalism and engaging the student to reflect on the lapses.<sup>115</sup>

How might the foregoing CBME assessment approach translate to legal education? Each law student might be required, for instance, to complete a regular self-assessment using a Milestone Model of the student’s stage of

<sup>107</sup> John J. Norcini & Judy A. Shea, *Assessment of Professionalism and Progress in the Development of a Professional Identity*, in *TEACHING MEDICAL PROFESSIONALISM*, *supra* note 79, at 155, 162.

<sup>108</sup> *Id.* at 162–63.

<sup>109</sup> Al Ansari et al., *supra* note 104, at 42.

<sup>110</sup> The meta-analysis included 35 studies. The sample size of the studies ranges from 6 plastic surgery residents to 577 pediatric residents who had been assessed using multi-source feedback with as few as 1.2 patients and 2.6 medical colleagues to as many as 47.3 patients completing forms per student. *Id.*

<sup>111</sup> *Id.* at 39.

<sup>112</sup> *Id.* at 49.

<sup>113</sup> Donnon et al., *supra* note 106, at 5.

<sup>114</sup> Norcini & Shea, *supra* note 108 at 162.

<sup>115</sup> Mark Holden et al., *Developing and Implementing an Undergraduate Curriculum*, in *TEACHING MEDICAL PROFESSIONALISM*, *supra* note 79 at 231, 239–40.

development on one or more of the four PD&F goals – especially after a significant authentic professional experience (in keeping with Principle 6). The student could be required to have good supporting evidence before selecting a stage of development. The burden might be placed on each student to seek out assessments, especially by direct observation by faculty and staff. Faculty and staff could use a relevant Milestone Model to assess the student’s stage of development. The law school’s curriculum and culture would encourage each student actively to seek experiences and assessments and feedback – and to reflect on the feedback to determine how to grow to the next level of development. Table 18 indicates opportunities for direct observations of students on the four PD&F goals that exist in the typical law school.

A long-term mentor/coach relationship is going to provide strong longitudinal observations and feedback. As discussed earlier in Principle 5, if each student meets regularly with a mentor/coach, the mentor/coach can facilitate guided reflection and guided self-assessment, including comparing the student’s self-assessment with the observations and assessments of faculty and staff. The coach then helps the student decide on the next action steps to grow to the next level on a competency. The coach can also provide an assessment using the relevant Milestone Model.

TABLE 18 *Law school faculty and staff observing students on any of the four PD&F goals (especially in authentic professional experiences)*

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All full-time and adjunct faculty supervising student projects that mimic real-life lawyer work like memos, presentations, briefs, and drafting legal documents, and including research assistant work
Experiential faculty like those teaching a clinic, lawyering skills, externships, simulations like negotiation, ADR, or trial advocacy
All staff assisting in the clinics or experiences
Supervisors of competitions like Moot Court, Negotiation, or ADR
Clients (in clinical settings)
Career services staff
Academic support and student services staff
Librarians working with students on projects
Student peers in work for credit or in student organizations on a competency like teamwork/collaboration
Mentor/coaches

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#### 4.9 PRINCIPLE 9 STUDENT PORTFOLIOS CAN HELP STUDENTS PROGRESS

*Consider calling upon each student to create a personal portfolio on any one of the four PD&F goals, including an individualized learning plan to develop to the next level of growth.*<sup>116</sup>

Comparing traditional time-based (number of exposure hours) legal education with competency-based legal education, Table 12 in Chapter 3 makes clear that the “driving force for the process” in competency-based education for each student’s growth toward later stages of a goal shifts from the teacher to the student. Portfolios created and managed by the student help execute the shift. The student carries the burden to gather and demonstrate credible evidence that the student is growing to the next level on a competency. Portfolios are a very promising tool for empowering a student to be the driving force in the student’s development.

A portfolio is a “purposeful collection of student work that demonstrates the student’s efforts and progress in selected domains.”<sup>117</sup> In addition, “[p]ortfolios are recommended for capturing the combined assessments [for a student] and providing a longitudinal perspective.”<sup>118</sup> Drs. Holden, Buck, and Luk note that “[t]he aggregation of information into a portfolio would provide longitudinal perspective allowing for a broader view of students’ developmental trajectory not readily available from more narrow or discrete pieces of information.”<sup>119</sup> An E-Portfolio is simply a digital repository for the purposeful collection of the student’s work in one place. It enables each student, working with faculty and staff, to “create evidence of learning in creative ways that are not possible with typical paper-based methods. For example, E-Portfolios enable learners to demonstrate, reflect upon, and easily share scholarly and other work products using graphics, video, web links, and presentations.”<sup>120</sup>

<sup>116</sup> Some of the material in this section is taken from Neil Hamilton, *Formation-of-an-Ethical-Professional Identity (Professionalism) Learning Outcomes and E-Portfolio Formative Assessments*, 48 U. PAC. L. REV. 847–73 (2017).

<sup>117</sup> Yvonne Steinert, *Educational Theory and Strategies to Support Professionalism and Professional Identity Formation*, in TEACHING MEDICAL PROFESSIONALISM, *supra* note 79, at 68, 78 (quoting Adrina L. Kalet et al., *Promoting Professional Development Portfolio: Successes, Joys, and Frustrations*, 82 ACAD. MED. 1068 (2007)).

<sup>118</sup> Holden et al., *supra* note 115, at 236.

<sup>119</sup> *Id.* at 237.

<sup>120</sup> Laurie Posey et al., *Developing a Pathway for an Institution Wide ePortfolio Program*, 5 INT’L J. E-PORTFOLIO 75, 75 (2015).

A medical education survey indicates the potential benefits of portfolios. By 2016, more than 45 percent of the medical schools in the United States were using student portfolios, with 72 percent of those using a longitudinal, competency-based portfolio strategy.<sup>121</sup> Eighty percent of students and 69 percent of faculty agreed that portfolios engage students. Ninety-seven percent of the faculty respondents agreed that there is room for improvement with respect to the use of portfolios.<sup>122</sup> A systemic review of all the empirical evidence on the education effects of using portfolios found that “the ‘higher quality’ studies identified by the authors suggest benefits to student reflection and self-awareness knowledge and understanding (including the integration of theory and practice) and preparedness for postgraduate training in which the keeping of a portfolio and engagement in reflective practice are increasingly important.”<sup>123</sup> To avoid student, faculty, and staff burnout, it is important to limit portfolios to no more than a few competencies that are the most important for the school.<sup>124</sup>

An E-Portfolio curricular strategy applied by a law school to the student’s stages of development for teamwork or team leadership, for example, would require each student to collect evidence that demonstrates later-stage development of this competency. The student then selects the most credible and persuasive evidence that the student has achieved a particular stage of development. The student carries the burden to demonstrate that they are at a competent learner stage on teamwork or team leadership. The student therefore would need to contemplate what is the most persuasive evidence for audiences such as law faculty and staff, as well as audiences such as legal employers in the student’s areas of employment interest. The student then reflects on what the student needs to do to grow to the next stage of development regarding that competency and how to develop credible evidence of that growth. The student creates an individualized learning plan containing action items to grow to the next level, including authentic professional experiences and identification of the needed direct observations by faculty and staff.

Portfolios offer additional benefits than can merit noting. A portfolio approach to assessment

<sup>121</sup> Jason Chertoff et al., *Status of Portfolios in Undergraduate Medical Education in the LCME Accredited US Medical School*, 38 *MED. TEACH.* 886, 889 (2016).

<sup>122</sup> *Id.*

<sup>123</sup> Sharon Buckley et al., *The Educational Effects of Portfolios on Undergraduate Student Learning: A Best Evidence Medical Education (BEME) Systematic Review*, 31 *MED. TEACH.* 282, 293 (2009).

<sup>124</sup> J. Donald Boudreau, *The Evolution of an Undergraduate Medical Program on Professionalism and Identity Formation*, in *TEACHING MEDICAL PROFESSIONALISM*, *supra* note 79, at 217, 226 (2016).

1. Provides a central location where all the observations from different stakeholders about a student's performance regarding a competency are collected;
2. produces a collection of the student's own on-going reflection into a longitudinal file;
3. assists mentoring and coaching, as the mentor/coach reviews a student's portfolio on a given competency to provide feedback (and these mentor/coach observations, in turn, should be included in the portfolio); and
4. regularizes the student's development of a written individualized learning plan that is revised regularly based on new experiences, feedback, and further reflection. The student is collecting the most persuasive evidence of later stage development on particular competencies.

4.10 PRINCIPLE 10 PROGRAM ASSESSMENT ON PD&F GOALS  
BECOMES CLEAR AND MANAGEABLE IF PRINCIPLES 1 THROUGH 9  
ARE HEEDED AND IMPLEMENTED

*Progress on Principles 1 through 9, and particularly on Principles 1, 2, 4, 5, 8, and 9, will substantially support program assessment as required by ABA Accreditation Standard 315.*

In time – exactly when will depend on how quickly law school and university accreditors move – a law school will be required to undertake program assessment on each institutional learning outcome that includes a PD&F goal to satisfy accreditation requirements.<sup>125</sup> A law school that puts Principles 1 through 9 into effective action – and particularly Principles 1, 2, 4, 5, 8, and 9 – will be creating a foundation for effective program assessment on any of the PD&F goals.

ABA Standard 315 currently requires “ongoing evaluation of the law school’s program of legal education, learning outcomes, and assessment methods” and provides that the faculty “shall use the results of this evaluation to determine degree of student attainment of competency in the learning outcomes and to make appropriate changes to improve the curriculum.”<sup>126</sup> ABA Interpretation 315–1 provides a number of examples of program evaluation methods

<sup>125</sup> See Standard 315. *Evaluation of Program of Legal Education Learning Outcomes, and Assessment Methods*, ABA Standards, *supra* note 99.

<sup>126</sup> *Id.*

including: review of the records the law school maintains to measure individual student achievement pursuant to Standard 314;<sup>127</sup> evaluation of student learning portfolios; student evaluation of the sufficiency of their education; student performance in capstone courses or other courses that appropriately assess a variety of skills and knowledge; bar exam passage rates; placement rates; surveys of attorneys, judges, and alumni; and assessment of student performance by judges, attorneys, or law professors from other schools.<sup>128</sup>

For law schools that are within a university, the accreditation standards that the university must meet will differentiate between direct and indirect assessments and will require some direct assessment (also called direct measures) of student performance of a learning outcome competency. For example, the Council for Higher Education Accreditation now requires direct measures of student learning:

Evidence of student learning outcomes can take many forms, but should involve direct examination of student performance – either for individual students or a representative sample of students. Examples of the types of direct-measure evidence that might be used appropriately in accreditation settings include (but are not limited to):

- faculty-designed comprehensive capstone examinations and assignments;
- performance on licensing or other external examinations;
- professionally judged performances or demonstrations of abilities in context;
- portfolios of student work compiled over time; and
- samples of representative student work generated in response to typical course assignments.<sup>129</sup>

<sup>127</sup> ABA accreditation standard 314 requires a law school to use both formative and summative assessment methods in its program of legal education to measure and improve student learning and provide meaningful feedback to students. *Standard 314. Assessment of Student Learning, ABA Standards, supra* note 99.

<sup>128</sup> See Standard 315, *Interpretation 315–1, ABA Standards, supra* note 99.

<sup>129</sup> Council for Higher Education Accreditation, *Statement of Mutual Responsibilities for Student Learning Outcomes: Accreditation, Institutions, and Programs* 5 (2003). To give another example, the Higher Learning Commission, one of six regional institutional accreditors in the United States, accredits degree-granting post-secondary educational institutions in the North Central region, which includes nineteen states. The Higher Learning Commission requires universities (including the law schools within a university) to demonstrate “documents and reports using direct measures for the assessment of student learning.” Higher Learning Commission, *Providing Evidence for the Criteria for Accreditation*, [https://download.hlcommission.org/ProvidingEvidence2020\\_INF.pdf](https://download.hlcommission.org/ProvidingEvidence2020_INF.pdf)

A key point about program assessment for a law school to understand going forward is that the current ABA Standard 315 on program assessment is probably less demanding than the accreditation standards of the university of which the law school is a part. While ABA Standard 315 includes student evaluation of the sufficiency of their education (an indirect measure), the university standards will require at least one if not two direct measures on a PD&F goal in a law school's institutional learning outcomes. It would be efficient to plan ultimately to meet the university's standards.

A law school considering program assessment on any of the PD&F goals will benefit greatly from having a Milestone Model on the PD&F goal the school has incorporated in its learning outcomes, as contemplated by Principle 1. The law school can define the level of development that the school expects a target percentage of its students to achieve by graduation. Then the school can define the most practicable, least costly, and most efficient direct measure to assess whether the target percentage of students achieved that level of development. Implementation of Principle 2, which suggests a sequenced progression of modules in the curriculum for a PD&F goal, will provide a curriculum map of where best to assess student. Following Principles 4 and 5 will have each student writing guided reflections observed by a mentor/coach that can serve as direct measures of development on a PD&F goal. Principle 8 (on thinking differently about assessment) emphasizes the importance of direct observations of students performing a PD&F competency by faculty and staff including adjuncts, mentors, and coaches who observe student performance. These observers can assess each student's stage of development using a Milestone Model. Principle 9 suggests consideration of portfolios, with the burden placed on each student to gather evidence demonstrating that the student has achieved the required level of development on a Milestone Model.

The development of practicable and efficient direct measures is an excellent area for cooperation among groups of law schools that have adopted any of the same PD&F goals.

## APPENDIX B

## Milestone Models for All Four PD&amp;F Goals

What would a Milestone Model for each of the four PD&F goals look like? Milestones for each are analyzed here. A Holloran Center working group created the Milestone Model for goal 1, and the authors created the Milestone Models for goals 2–4.

1 MILESTONE MODEL FOR GOAL 1 – OWNERSHIP OF CONTINUOUS PROFESSIONAL DEVELOPMENT TOWARD EXCELLENCE AT THE MAJOR COMPETENCIES THAT CLIENTS, EMPLOYERS, AND THE LEGAL SYSTEM NEED

Since 2017, the Holloran Center has organized working groups to create Milestone Models on the most common learning outcomes the law schools are adopting that relate to the four PD&F goals. The consensus of these expert panels creates some content validity for the models. As of June 2020, 33 percent of the 186 law schools that posted their learning outcomes had adopted a learning outcome related to self-directedness, self-regulatedness, or ownership over the student's own development learning outcome.<sup>1</sup> Table 19 is the current Holloran Center Milestone Model on ownership over the student's own development/self-directed learning. Note that this Milestone Model matches up both with Goal 1 – ownership of continuous professional development toward excellence at the major competencies that clients, employers, and the legal system need – and with the right side of the Foundational Competencies Model discussed in Figure 1 in Chapter 1 (the competencies that clients and employers want).<sup>2</sup>

The Holloran Center is developing Milestone Models on other competencies related to a student's ownership of their continuous professional

<sup>1</sup> These data are available on the Holloran Center website. <https://www.stthomas.edu/holloran/left/learningoutcomesandprofessionaldevelopment/learningoutcomesdatabase/>

<sup>2</sup> The Holloran Center Working Group on Self-Directed Learning created this model. The members are Kendall Kerew (chair), Rupa Bandari, Susan Fine, Neil Hamilton, and Benjamin Madison. This model is a synthesis of the data available from large-firm competency models and the American Association of Colleges and Universities rubric on life-long learning. For the law firm models, see NEIL W. HAMILTON, *ROADMAP: THE LAW STUDENT'S GUIDE TO MEANINGFUL EMPLOYMENT* 63–69 (2d. ed. 2018) (hereinafter *ROADMAP*). For the AAC&U model, see American Association of Colleges and Universities, *Foundations and Skills for Lifelong Learning VALUE Rubric* (2009), [www.aacu.org/value/rubrics/lifelong-learning](http://www.aacu.org/value/rubrics/lifelong-learning).

TABLE 19 Holloran Center Milestone Model on assessment of student's ownership of continuous professional development (self-directedness)

Sub-competencies of Ownership/Self-Directedness	Novice Learner (Level 1)	Intermediate Learner (Level 2)	Competent Learner (Level 3)	Exceptional Learner (Level 4)
<b>1. Self-Assesses and Identifies Strengths and Areas for Growth</b> <i>Understands full range of lawyering competencies and diagnoses learning needs</i>	RARELY demonstrates understanding of full range of lawyering competencies and diagnoses learning needs	SOMETIMES demonstrates understanding of full range of lawyering competencies and diagnoses learning needs	OFTEN demonstrates understanding of full range of lawyering competencies and diagnoses learning needs	CONSISTENTLY demonstrates understanding of full range of lawyering competencies and diagnoses learning needs
<b>2. Articulates Goals and Follows a Plan</b> <i>Implements a written professional development plan reflecting goals that are specific, measurable, achievable, relevant, and time bound<sup>3</sup></i>	RARELY creates and implements a written professional development plan reflecting goals that are specific, measurable, achievable, relevant and time-bound	SOMETIMES creates and implements a written professional development plan reflecting goals that are specific, measurable, achievable, relevant and time-bound	OFTEN creates and implements a written professional development plan reflecting goals that are specific, measurable, achievable, relevant and time-bound	CONSISTENTLY creates and implements a written professional development plan reflecting goals that are specific, measurable, achievable, relevant and time-bound
<b>3. Acquires and Learns from Experience</b> <i>Seeks experiences to develop competencies and meet articulated goals and seeks and incorporates feedback received during the experiences</i>	RARELY seeks experiences or seeks and incorporates feedback received during the experiences	SOMETIMES seeks experiences and seeks and incorporates feedback received during the experiences	OFTEN seeks experiences and seeks and incorporates feedback received during the experiences	CONSISTENTLY seeks experiences and seeks and incorporates feedback received during the experiences

3 Goals that exhibit these factors are referred to as SMART Goals: Specific – clear goals including what, why, and how; Measurable – including a clear method for evaluation of progress; Achievable – including obstacles and realistic solutions; Relevant – including connection to core values; and Time-bound – including a clear timeline of steps.

	RARELY	SOMETIMES	OFTEN	CONSISTENTLY
<b>4. Reflects and Applies Lessons Learned</b>				
<i>Uses reflective practice<sup>4</sup> to reflect on performance, contemplate lessons learned, identify how to apply lessons learned to improve in the future, and applies those lessons</i>	uses reflective practice to reflect on performance, contemplate lessons learned, identify how to apply lessons learned to improve in the future, and applies those lessons	uses reflective practice to reflect on performance, contemplate lessons learned, identify how to apply lessons learned to improve in the future, and applies those lessons	uses reflective practice to reflect on performance, contemplate lessons learned, identify how to apply lessons learned to improve in the future, and applies those lessons	uses reflective practice to reflect on performance, contemplate lessons learned, identify how to apply lessons learned to improve in the future, and applies those lessons

<sup>4</sup> See the discussion of reflection at Principle 5 of this Chapter 4 *supra*.

development including (1) grit and resilience, (2) growth mindset, and (3) self-awareness. These will be available on the center's website in spring 2022.<sup>5</sup>

## 2 MILESTONE MODEL FOR GOAL 2 – A DEEP RESPONSIBILITY AND SERVICE ORIENTATION TO OTHERS, ESPECIALLY THE CLIENT

A Milestone Model for Goal 2 – a deep responsibility and service orientation to others, especially the client – is trying to capture the stages of development of a fiduciary disposition or fiduciary mindset, using “fiduciary” in the general meaning of being founded on trustworthiness.<sup>6</sup> Deep care for the client is the principal foundation for client trust in the individual lawyer and the profession itself.<sup>7</sup> Each law student and new lawyer must learn to internalize a responsibility to put both the client's and the legal system's interests before the lawyer's self-interest (minimally as required by the law of lawyering and aspirationally as reflected in the core values and ideals of the profession).

Unlike with Goal 1, law schools have not generally been adopting learning outcomes with language that specifically emphasizes deep responsibility and service orientation to others, especially the client. However, significant numbers of law schools have been adopting learning outcomes that, at their foundation, rest upon a deep responsibility and service orientation to others. For example, of the 186 law schools that had posted learning outcomes by June 2020:

- Thirty-eight percent include a learning outcome on understanding the value of providing pro bono service to the disadvantaged;
- Thirty-three percent include a learning outcome on teamwork/collaboration;
- Twenty-seven percent include a cross-cultural competency learning outcome;
- Twenty-seven percent include a version of a professionalism or high ethical standards learning outcome (which related to trustworthiness in relationships);
- Fifteen percent include a learning outcome on integrity (which also relates to trustworthiness in relationships);

<sup>5</sup> <https://www.stthomas.edu/hollorancenter/hollorancompetencymilestones/>

<sup>6</sup> See William M. Sullivan, *Foreword* to *TEACHING MEDICAL PROFESSIONALISM: SUPPORTING THE DEVELOPMENT OF A PROFESSIONAL IDENTITY ix* (Richard L. Cruess et al. eds., 2d ed. 2016) [hereinafter *TEACHING MEDICAL PROFESSIONALISM*]; William Sullivan, *Align Preparation with Practice*, 85 N.Y. ST. B.A. J. (No. 7 Sept. 2013) at 41–43 (where he introduces the concept of fiduciary disposition). See also *supra* page 6 (discussing fiduciary mindset).

<sup>7</sup> Sullivan, *Foreword* to *TEACHING MEDICAL PROFESSIONALISM*, *supra* note 6, at xi, xv.

- Thirteen percent include a learning outcome on interviewing, counseling, or both;
- Twelve percent include a learning outcome on active listening;
- Six percent include a learning outcome on respect for others;
- Six percent include a learning outcome on leadership; and
- Five percent include a learning outcome on client-centered problem solving.

The Holloran Center has Milestone Models posted on teamwork/collaboration, team leadership, cultural competency, honoring commitments, and integrity<sup>8</sup> and has working groups developing Milestone Models on pro bono activity, active listening, leadership, and professional communication. There is not yet a working group creating a Milestone Model specifically on Goal 2, but the model will look like that in Table 20.

The sub-competencies of Table 20's Milestone Model on Goal 2 are at an abstract level and thus challenging for faculty and staff to observe and assess. Practically speaking, faculty and staff could observe and assess competencies like commitment to pro bono service, cultural competency, teamwork/collaboration, team leadership, and active listening, which reflect a student's responsibility and service to others and are in language that clients and employers understand and value.

### 3 MILESTONE MODEL FOR GOAL 3 – A CLIENT-CENTERED PROBLEM-SOLVING APPROACH AND GOOD JUDGMENT THAT GROUND EACH STUDENT'S RESPONSIBILITY AND SERVICE TO THE CLIENT

A Milestone Model for Goal 3 – a client-centered problem-solving approach and good judgment that ground each student's responsibility and service to the client – goes beyond ABA Standard 302's minimum requirement that each law school shall establish learning outcomes that include the competency of "legal analysis and reasoning" and "problem-solving."<sup>9</sup>

Many legal educators define legal analysis and reasoning and problem solving to include some version of the IRAC formulation familiar to law students – Issue correctly identified from facts, Rule correctly identified and explained, Application providing a well-reasoned discussion relating the facts

<sup>8</sup> <https://www.stthomas.edu/hollorancenter/hollorancompetencymilestones/>

<sup>9</sup> *Standard 302. Learning Outcomes, 2021-2022 Standards and Rules of Procedure for Approval of Law Schools*, A.B.A. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR.

TABLE 20 Milestone Model on assessment of student's stage of development on a deep responsibility and service orientation to others, especially the client

Sub-competencies of Internalized Deep Responsibility and Service to Others	Novice Learner (Level 1)	Intermediate Learner (Level 2)	Competent Learner (Level 3)	Exceptional Learner (Level 4)
1. Reflects on and can explain own principles/core values on responsibilities and service to others	RARELY reflects on own principles and values on responsibilities and service to others	SOMETIMES reflects on own principles and values on responsibilities and service to others	OFTEN reflects on own principles and values on responsibilities and service to others	CONSISTENTLY reflects on own principles and values on responsibilities and service to others
2. Seeks experiences involving responsibilities to others on matters important to them and reflects on experiences	RARELY seeks experiences involving responsibilities to others on matters important to them and reflects on experiences	SOMETIMES seeks experiences involving responsibilities to others on matters important to them and reflects on experiences	OFTEN seeks experiences involving responsibilities to others on matters important to them and reflects on experiences	CONSISTENTLY seeks experiences involving responsibilities to others on matters important to them and reflects on experiences
3. Seeks understanding of law of lawyering regarding responsibilities and service to client and others	RARELY seeks understanding of law of lawyering regarding responsibilities and service to client and others	SOMETIMES seeks understanding of law of lawyering regarding responsibilities and service to client and others	OFTEN seeks understanding of law of lawyering regarding responsibilities and service to client and others	CONSISTENTLY seeks understanding of law of lawyering regarding responsibilities and service to client and others

4. Recognizes law of lawyering issues in the most common experiential situations involving responsibilities to clients or others and is able to analyze and manage such issues	RARELY recognizes law of lawyering issues in the most common experiential situations involving responsibilities to clients or others and is able to analyze and manage such issues	SOMETIMES recognizes law of lawyering issues in the most common experiential situations involving responsibilities to clients or others and is able to analyze and manage such issues	OFTEN recognizes law of lawyering issues in the most common experiential situations involving responsibilities to clients or others and is able to analyze and manage such issues	CONSISTENTLY recognizes law of lawyering issues in the most common experiential situations involving responsibilities to clients or others and is able to analyze and manage such issues
5. Seeks understanding of profession's ideals and core values regarding responsibilities to client and others	RARELY seeks understanding of profession's ideals and core values regarding responsibilities to client and others	SOMETIMES seeks understanding of profession's ideals and core values regarding responsibilities to client and others	OFTEN seeks understanding of profession's ideals and core values regarding responsibilities to client and others	CONSISTENTLY seeks understanding of profession's ideals and core values regarding responsibilities to client and others
6. Seeks experience and reflects on experience to integrate law of lawyering and profession's ideals and core values regarding responsibilities to client and others into own first principles/core values	RARELY seeks experience and reflects on experience to integrate law of lawyering and profession's ideals and core values regarding responsibilities to client and others into own first principles/core values	SOMETIMES seeks experience and reflects on experience to integrate law of lawyering and profession's ideals and core values regarding responsibilities to client and others into own first principles/core values	OFTEN seeks experience and reflects on experience to integrate law of lawyering and profession's ideals and core values regarding responsibilities to client and others into own first principles/core values	CONSISTENTLY seeks experience and reflects on experience to integrate law of lawyering and profession's ideals and core values regarding responsibilities to client and others into own first principles/core values

to the rules, and Conclusion explained logically convincingly.<sup>10</sup> A later-stage IRAC skill is foundational for legal analysis and reasoning and problem-solving, but Goal 3's "client-centered problem-solving and good judgment" involve additional skills beyond IRAC. Those competencies include deeply understanding the client's context (and where applicable, business), values, and preferences. Client-centered problem solving and good judgment also involve career-long habits of (1) trying to understand legal issues in broader contexts and (2) seeking challenging professional experiences and reflecting on them to continually improve.<sup>11</sup> As is illustrated in Figure 2 in Chapter 2, client-centered problem solving is a compound competency in Group 4. It builds on two foundational PD&F goals (Group 1), technical legal skills (Group 2), and basic individual and relational building block competencies (Group 3).

Client-centered problem solving and good judgment can borrow from the concept of coproduction in the delivery of health services. Coproduction of a service in a physician/patient (or lawyer/client) relationship is based on (1) the service provider's deep understanding of the patient's (or client's) context, (2) effective communication, (3) deeper understanding of one another's expertise and values, (4) more cultivation of shared goals, and (5) more mutuality in responsibility and accountability for performance.<sup>12</sup>

Table 21 provides a Milestone Model on client-centered problem solving and good judgment that is adapted from the American Association of Colleges and Universities Problem-Solving Value Rubric.<sup>13</sup> Building on a version of legal analysis and reasoning like IRAC, client-centered problem solving and good judgment involve a process of partnering with the client to define the

<sup>10</sup> See Kelley Burton, *Using a Legal Reasoning Grid and Criterion-Referenced Assessment Rubric on IRAC (Issue, Rule, Application, and Conclusion)*, 10 J. LEARNING DESIGN (No. 2 2017) (providing a stage development model on IRAC), [www.jld.edu.au/article/view/229/283.html](http://www.jld.edu.au/article/view/229/283.html)

<sup>11</sup> See PATRICK E. LONGAN, DAISY H. FLOYD & TIMOTHY W. FLOYD, *THE FORMATION OF PROFESSIONAL IDENTITY: THE PATH FROM STUDENT TO LAWYER* 106–11 (2020).

<sup>12</sup> Maren Batalden et al, *Coproduction of Health Care*, 25 BMJ QUAL. S. F. 509, 511 (2016). ROADMAP, *supra* note 2, at 8. Jordan Furlong writes, "[l]aw firms should think of their clients ... as 'co-producers' ... answering some their own questions and solving some of their own problems, but doing so alongside their other providers, in tandem and ideally in collaboration." JORDAN FURLONG, *LAW IS A BUYER'S MARKET: BUILDING A CLIENT-FIRST LAW FIRM* 129–30 (2017). Law firms and clients, as co-providers, are partners and colleagues in the quest to achieve the client's objectives. *Id.*

<sup>13</sup> See American Association of Colleges and Universities, *Problem-Solving VALUE Rubric*, <https://www.aacu.org/value/rubrics/problem-solving>.

The VALUE rubrics were developed by teams of faculty experts representing colleges and universities across the United States through a process that examined many existing campus rubrics and related documents for each learning outcome and incorporated additional feedback from faculty. The rubrics articulate fundamental criteria for each learning outcome, with performance descriptors demonstrating progressively more sophisticated levels of attainment.

TABLE 21 Milestone Model on client-centered problem solving and good judgment

Sub-competencies of Client-Centered Problem Solving/Good Judgment	Novice Learner (Level 1)	Intermediate Learner (Level 2)	Competent Learner (Level 3)	Exceptional Learner (Level 4)
1. Seeks Deep Understanding of Client's Context (Business), Values, and Preferences	RARELY seeks deep understanding of client's context (business), values and preferences RARELY demonstrates active listening with client	SOMETIMES seeks deep understanding of client's context (business), values, and preferences SOMETIMES demonstrates active listening with client	OFTEN seeks deep understanding of client's context (business), values, and preferences OFTEN demonstrates active listening with client	CONSISTENTLY seeks deep understanding of client's context (business), values, and preferences CONSISTENTLY demonstrates active listening with client
2. Partnering with the Client, Defines Problem	RARELY demonstrates an ability to partner with the client to construct a complete problem statement with the relevant contextual factors	SOMETIMES demonstrates the ability to partner with the client to construct a complete problem statement with relevant contextual factors	OFTEN demonstrates the ability to partner with the client to construct a complete problem statement with relevant contextual factors	CONSISTENTLY demonstrates the ability to partner with the client to construct a complete problem statement with all relevant contextual factors
3. Partnering with the Client, Identifies Strategies and Proposes Solutions	RARELY identifies a strategy and proposes a clear solution for solving the problem	SOMETIMES identifies a strategy and proposes a solution that is "off the shelf" rather than individually designed to address the specific contextual factors of the problem	OFTEN identifies multiple strategies and proposes one or more solutions that indicate comprehension of the problem; solutions are sensitive to contextual factors	CONSISTENTLY identifies multiple strategies and proposes one or more solutions/hypotheses that indicate a deep comprehension of the problem; solutions are sensitive to contextual factors

TABLE 21 (continued)

Sub-competencies of Client-Centered Problem Solving/Good Judgment	Novice Learner (Level 1)	Intermediate Learner (Level 2)	Competent Learner (Level 3)	Exceptional Learner (Level 4)
4- Partnering with the Client, Helps Client Evaluate Potential Solutions	RARELY goes beyond superficial evaluation of solutions (for example, contains cursory, surface-level explanation) in terms of the history of the problem, logic/reasoning, feasibility of solution, and impacts of solution	SOMETIMES goes beyond superficial evaluation of solutions but evaluation is brief (for example, explanation lacks depth) in terms of the history of the problem, logic/reasoning, feasibility of solution, and impacts of solution	OFTEN evaluation of solutions is adequate (for example, contains thorough explanation) in terms of the history of the problem, logic/reasoning, feasibility of solution, and impacts of solution	CONSISTENTLY evaluation of solutions is deep and elegant (for example, contains thorough and insightful explanation) and is deep and thorough in terms of the history of problem, logic/reasoning, feasibility of solution, and impacts of solution
5- Assists Client in Implementing Solution	RARELY implements the client's solution in a manner that directly addresses the problem statement	SOMETIMES implements the client's solution in a manner that directly addresses the problem statement	OFTEN implements the client's solution in a manner that directly addresses the problem statement	CONSISTENTLY implements the client's solution in a manner that directly addresses the problem statement

problem, identify strategies, propose solutions, evaluate the potential solutions, and assist in implementing the solutions.

#### 4 MILESTONE MODEL FOR GOAL 4 – WELL-BEING PRACTICES

A Milestone Model for Goal 4 – well-being practices – can build on Self-Determination Theory’s (SDT) three basic psychological needs and the four intrinsic values that Krieger and Sheldon have identified as contributing to student and lawyer well-being discussed in Chapter 1. The three basic psychological SDT needs are (1) autonomy (to feel in control of the person’s own goals and behaviors), (2) competence (to feel the person has the needed skills to be successful), and (3) relatedness (to experience a sense of belonging or attachment to other people). SDT also identifies four intrinsic values that mirror the three basic psychological needs and lead to behaviors that fulfill the three basic needs and thus promote well-being. The four intrinsic values are (1) self-understanding/growth (the importance of learning and personal growth), (2) intimacy with others (the importance of trusting close relationship with others), (3) helping others (improving others’ lives, especially those in need), and (4) being in and building community (improving society).

Note that Figure 2 in Chapter 2 identifies well-being practices as a competency in Group 3 – Basic Individual and Relational Building Block Competencies – that is building on the two foundational learning outcomes discussed earlier: Goal 1 is internalizing ownership of continuous professional development toward excellence and Goal 2 is internalizing deep responsibilities and service to others, especially the client. SDT’s psychological need for “competence” and the intrinsic value of learning and personal growth is realized if a student grows to later stages of Goal 1. SDT’s psychological need for “relatedness” and the three intrinsic values of (1) trusting close relationships, (2) helping others, and (3) being in and building community are animated by a person’s growth toward later stages of Goal 2, internalizing deep responsibilities and service to others, especially the client, and Goal 3, client-centered problem solving.

Table 22 provides a Milestone Model for well-being practices.<sup>14</sup>

<sup>14</sup> The scholarship on SDT has not yet created a stage development rubric that uses an SDT framework. Email to Neil Hamilton from Larry Krieger, April 6, 2021 (on file with the authors).

TABLE 22 Milestone Model on well-being practices

Sub-competencies of Well-Being Practices	Novice Learner (Level 1)	Intermediate Learner (Level 2)	Competent Learner (Level 3)	Exceptional Learner (Level 4)
<b>1. Autonomy</b> <i>To feel in control of the person's own goals and behaviors</i>	RARELY recognizes the importance of autonomy	SOMETIMES recognizes the importance of autonomy and can list resources available to increase autonomy	OFTEN recognizes the importance of autonomy and with assistance creates a plan to increase autonomy	CONSISTENTLY recognizes the importance of autonomy and independently has created a plan to increase autonomy
<b>2. Competence</b> <i>To feel the person has the needed skills to be successful</i>	See Table 19 outlining the sub-competencies of ownership over the student's own professional development.			
<b>3. Relatedness</b> <i>To experience a sense of belonging and attachment to other people</i>	RARELY recognizes the importance of relatedness	SOMETIMES recognizes the importance of relatedness and can list resources available to increase relatedness	OFTEN recognizes the importance of relatedness and with assistance creates a plan to increase relatedness	CONSISTENTLY recognizes the importance of relatedness and independently has created a plan to increase relatedness

APPENDIX C

Further Research Needed on the Major Transitions for Law Students

Further research on the major transitions experienced by law students needs to be undertaken. The survey data in Table 17 in Chapter 4 focused on major transitions as they relate to the first of our four PD&F goals. To complete study of major transitions and their effect on that goal, the next step is to replicate this survey of rising 2Ls at other law schools and compare the results to these data. In addition, legal educators need a similar survey of the transitions in the 2L and 3L years. Table 23 lists transitions that the authors believe should be included in a survey after the summer between the 2L and the 3L years, and in a survey at the end of the 3L year. The entire process of study might then be replicated to assess major transitions that affect a student’s development on the remaining three PD&F goals that are central to the formation of a law student’s professional identity.

TABLE 23 *Transitions on ownership over a student’s continuous professional development that should be included in a survey after the summer between the 2L and the 3L years, and a survey at the end of the 3L year*

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1.	All professionally authentic experiences (real-life or mimicking real-life)
a.	All work experiences, paid or unpaid, especially the summer work experiences
b.	All simulation experiences
c.	All clinic experiences
d.	Externship experiences
2.	Other experiences more indirectly related to a lawyer’s work
a.	Search for summer employment in the summer between the 2L and 3L years
b.	Search for postgraduation employment
c.	Leadership experience in student organizations
d.	Fall and spring final examination periods and grades
e.	Bar application
f.	Upper-level writing requirement
g.	Pro bono or volunteer hours requirements
h.	Experiences with Career and Professional Development Office

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**APPENDIX D**

Milestone Model on Reflection and Reflection Writing  
Assignment Grading Template  
The authors created this Milestone Model and Grading  
Template.

ASSESSMENT OF A STUDENT'S SKILL OF REFLECTION BASED ON  
A NUMBER OF EXPERIENCES WHERE THE STUDENT DID  
INDIVIDUAL REFLECTION WRITING ASSIGNMENTS

The skill of reflection is an ongoing cycle of careful examination of specific thoughts and actions from a student's own perspective and the perspective of others with a goal of informing and improving the student's insight and practice in future experiences.<sup>1</sup> This Milestone can be used to assess a student's overall skill of reflection over time based on, for example, a portfolio of individual reflection writing assignments.

<sup>1</sup> See Quoc D. Nguyen et al., *What Is Reflection? A Conceptual Analysis of Major Definitions and a Proposal for a Five-Component Model*, 48 *MED. EDUC.* 1176, 1189 (2014); Lawrence Grierson et al., *The Reliability Characteristics of the REFLECT Rubric for Assessing Reflective Capacity through Expressive Writing Assignments*, 9 *PERSPECT. MED. EDUC.* 281 (2020); Tony Marshall, *The Concept of Reflection: A Systematic Review and Thematic Synthesis across Professional Contexts*, 20 *REFLECTIVE PRAC.* 396, 411 (2019). Lindsey Gustafson made very useful suggestions on an earlier draft of this Milestone Model.

Sub-competencies of Reflection	Novice Learner (Level 1)	Intermediate Learner (Level 2)	Competent Learner (Level 3)	Exceptional Learner (Level 4)
1. In every reflection, the student identifies the specific thoughts and actions the student is examining relevant to the assignment.	RARELY identifies specific thoughts and actions the student is examining.	SOMETIMES identifies the specific thoughts and actions the student is examining.	OFTEN identifies the specific thoughts and actions the student is examining.	CONSISTENTLY identifies the specific thoughts and actions the student is examining.
2. The student carefully examines specific thoughts and actions from the student's own perspective and the perspective of others. <sup>2</sup>	RARELY carefully examines specific thoughts and actions from the student's own perspective and the perspectives of others.	SOMETIMES carefully examines specific thoughts and actions from the student's own perspective and the perspectives of others.	OFTEN carefully examines specific thoughts and actions from the student's own perspective and the perspectives of others.	CONSISTENTLY carefully examines specific thoughts and actions from the student's own perspective and the perspectives of others.
3. Shows awareness of the student's own conceptual framework(s) (e.g., the motivations, intentions, beliefs, premises, and values) that underlie the thoughts and actions. <sup>3</sup>	RARELY shows awareness of the student's own conceptual framework that underlies the thoughts and actions.	SOMETIMES shows awareness of the student's own conceptual framework that underlies the thoughts and actions.	OFTEN shows awareness of the student's own conceptual framework that underlies the thoughts and actions.	CONSISTENTLY shows awareness of the student's own conceptual framework that underlies the thoughts and actions.

<sup>2</sup> Note that there are three measurables here: the student's perspective, the perspectives of others, and careful examination of both.

<sup>3</sup> For example, is the conceptual framework principally motivating the student's thoughts and actions focused on rule compliance, rewards and recognition, compliance with social norms and expectations, internal values, or awareness of gaps in the student's current conceptual framework. This is based on constructive-developmental theory. See Neil Hamilton & Verna Monson, *Ethical Professional Transformation: Themes from Interviews About Professionalism with Exemplary Lawyers*, 52 SANTA CLARA L. REV. 921, 937 (2012).

(continued)

Sub-competencies of Reflection	Novice Learner (Level 1)	Intermediate Learner (Level 2)	Competent Learner (Level 3)	Exceptional Learner (Level 4)
4. Considers changes in terms of the student's conceptual framework.	RARELY considers changes in terms of the student's conceptual framework.	SOMETIMES considers changes in terms of the student's conceptual framework.	OFTEN considers changes in terms of the student's conceptual framework.	CONSISTENTLY considers changes in terms of the student's conceptual framework.
5. Engages in the above steps iteratively over time.	RARELY engages in the above steps iteratively over time.	SOMETIMES engages in the above steps iteratively over time.	OFTEN engages in the above steps iteratively over time.	CONSISTENTLY engages in the above steps iteratively over time.

\* The instructor should first look over the Milestone Model on Assessment of a Student's Skill of Reflection Based on a Number of Experiences Where the Student Did Individual Reflection Writing Assignments to understand the stages of development for this competency. This grading template is for individual assignments. Note that the instructor must fill in the points to be given for each level of performance on each sub-competency depending on the total points available for the assignment

Sub-competencies of Reflection	Novice Learner (Level 1)	Intermediate Learner (Level 2)	Competent Learner (Level 3)	Exceptional Learner (Level 4)
1. Identifies the specific thoughts and actions the student is examining with respect to the experience(s) above.	Provides no narrative explaining the specific thoughts and actions the student is examining in the context of the experience(s) in the assignment.	Provides a cursory narrative explaining the specific thoughts and actions the student is examining in the context of the experience(s) in the assignment.	Provides a general narrative explaining the specific thoughts and actions the student is examining in the context of the experience(s) in the assignment.	Provides a thorough narrative explaining the specific thoughts and actions the student is examining in the context of the experience(s) in the assignment.
2. From the perspectives that the instructor has identified including the student's own perspective, the student carefully examines the specific thoughts and actions.	Examines the experience(s) only from the student's own perspective.	Examines the experience(s) largely from the student's own perspective and only considers additional perspectives the instructor has identified in a superficial manner.	Examines the experience(s) from multiple perspectives identified by the instructor, including a personal perspective, but fails to identify and examine one or more of the other important perspectives in a meaningful way.	Examines the experience(s) from multiple perspectives identified by the instructor, including a personal perspective, in a meaningful way.
3. Student shows awareness of the conceptual framework(s) (e.g., the motivations, intentions, beliefs, premises, and values) that underlie the student's thoughts and actions.	Shows just surface-level awareness of the student's own conceptual framework underlying the student's thoughts and actions.	Shows some depth in awareness of the student's own conceptual framework underlying the student's thoughts and actions.	Shows significant depth in awareness of the student's own conceptual framework underlying the student's thoughts and actions.	Shows deep awareness of the student's own conceptual framework underlying the student's thoughts and actions.

4 For example, is the conceptual framework principally motivating the student's thoughts and actions focused on rule compliance, rewards and recognition, compliance with social norms and expectations, internal values, or awareness of gaps in student's current conceptual framework. This is based on constructive-developmental theory. See Neil Hamilton & Verna Monson, *Ethical Professional Transformation: Themes from Interviews About Professionalism with Exemplary Lawyers*, 52 SANTA CLARA L. REV. 921, 937 (2012).

(continued)

Sub-competencies of Reflection	Novice Learner (Level 1)	Intermediate Learner (Level 2)	Competent Learner (Level 3)	Exceptional Learner (Level 4)
4. Student considers changes in the student's conceptual framework that lead to an action step(s).	Focuses only on the past with no indication how insights gained might both change student's conceptual framework and lead to an action step.	Provides some consideration of how insights gained might change student's conceptual framework and lead to an action step. Good definition of an action step.	Provides good consideration of how insights gained might change student's conceptual framework and lead to an action step. Excellent definition of an action step.	Provides in-depth consideration of how insights gained might change student's conceptual framework and lead to an action step. Outstanding definition of an action step.

REFLECTION WRITING ASSIGNMENT GRADING TEMPLATE<sup>5</sup>

Course Name:

Assignment Name:

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[For the instructor to put into the assignment.] Explain briefly the experience(s) that are the subject for this reflection assignment.

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[For the instructor to put into the assignment.] List the multiple perspectives that the instructor wants the student to consider with respect to the experience(s) that are the topic of the reflective writing assignment. E.g. readings, class discussion, interviews, client meeting, team discussion, student research, etc.

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Note that the instructor may choose to include points for the quality of the student's writing.

<sup>5</sup> This grading template adopts the four sub-competencies of a reflective thinking process defined by Quoc D. Nguyen et al. based on a systematic review of medical education scholarship. Nguyen et al., *supra* note 1, at 1182. The template also adapts some language in the descriptions of the novice, intermediate, competent, and exceptional learner stages from Prof. Kendall Kerew's Reflection Rubric. See email to Neil Hamilton from Kendall Kerew, Feb. 27, 2020 (on file with the authors). The template also adapts some language from the American Association of College and Universities' *Foundation and Skills for Lifelong Learning VALUE Rubric*, <https://www.aacu.org/value/rubrics/lifelong-learning>.