

## Introduction

### *The Four Foundational Professional Development and Formation (PD&F) Goals and Their Benefits for Students, Faculty, Staff, and Administrators*

Do you believe that “thinking like a lawyer” is an important professional skill, but by no means all that there is to being a lawyer? Do you think that being a professional calls for the development of a wide range of competencies? Do you seek to understand those competencies better? Do you think that being a professional should involve the exploration of the values, guiding principles, and well-being practices foundational to successful legal practice?<sup>1</sup> Are you interested in new and effective ways to build these competencies, values, and guiding principles into a law school’s curriculum? Would you like a framework for improving your own law school’s attention to these competencies, guiding principles, and values along with practical suggestions you can consider? Would you like to help better prepare students for gratifying careers that serve society well?

This book is written for law school faculty, staff, and administrators who would like to see their school more effectively help each student to understand, accept, and internalize the following:

1. Ownership of continuous professional development toward excellence at the major competencies that clients, employers, and the legal system need;
2. a deep responsibility and service orientation to others, especially the client;

<sup>1</sup> At its February 2022 meeting, the ABA House of Delegates approved revisions to Standard 303 that require each law school “to provide substantial opportunities to students for: . . . the development of a professional identity.” Newly adopted Interpretation 303–5 defines “professional identity” as an exploration of “what it means to be a lawyer and the special obligations lawyers have to their clients and society. The development of professional identity should involve an intentional exploration of the values, guiding principles, and well-being practices considered foundational to successful legal practice.” <https://www.americanbar.org/content/dam/aba/images/news/2022/02/midyear-hod-resolutions/300.pdf>.

3. a client-centered problem-solving approach and good judgment that ground each student's responsibility and service to the client; and
4. well-being practices.

These four goals taken together state what it means for an individual to think, act, and feel like a lawyer. They constitute a lawyer's professional identity. They also define the foundational learning outcomes<sup>2</sup> of the professional development and formation of law students movement in legal education in the United States.<sup>3</sup> They figure centrally in all that follows in this book. We

<sup>2</sup> "Learning outcomes" are defined as "clear and concise statements of knowledge that the students are expected to acquire, skills students are expected to develop, and values that they are expected to understand and integrate into their professional lives. The outcomes should identify the desired knowledge, skills, and values that a school believes that its students should master." Managing Director's Guidance Memo, Standards 301, 302, 314, and 315 (June 2015) at page 4. [www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/governancedocuments/2015\\_learning\\_outcomes\\_guidance.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2015_learning_outcomes_guidance.authcheckdam.pdf). Standards 314 and 315 require that a learning outcome must be measurable using formative, summative, and program assessment. *Id.* at 4–5.

<sup>3</sup> The first three goals are the most common elements of the formation of a professional identity in all five of the Carnegie Foundation for the Advancement of Teaching's studies of education for the clergy (2007), lawyers (2007), engineers (2009), nurses (2010), and physicians (2010) based on many dozens of site visits at schools in each profession. See Neil Hamilton, *Fostering Professional Formation (Professionalism): Lessons from the Carnegie Foundation's Five Studies of Educating Professionals*, 45 CREIGHTON L. REV. 763, 765, 775 (2012). All five Carnegie studies emphasize that the most fundamental element of the formation of a professional identity is internalizing responsibility to the person being served (e.g., parishioner, client, patient). Four of the studies agree on two other foundational goals: (1) a commitment to growth toward excellence at all the competencies needed for the profession and (2) good judgment/moral reasoning in the context of the interpersonal relationship with the person served. *Id.* at 775–76. Hamilton's empirical study of lawyer professionalism award winners in Minnesota also found a common understanding among them that their professional formation and development included (1) a deep responsibility to others, especially deep care for the client that builds trust; (2) ongoing reflection and career-long learning; and (3) counseling the client with candid and honest counsel and independent judgment. See Neil Hamilton & Verna Monson, *Ethical Professional Transformation: Themes from Interviews About Professionalism with Exemplary Lawyers*, 52 SANTA CLARA L. REV. 921, 948–49, 957 (2012). The fourth goal reflects recent major concerns of law schools and the profession. The Carnegie study of legal education was published in 2007. See WILLIAM M. SULLIVAN, ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007) [hereinafter *EDUCATING LAWYERS*]. In the years since the publication of *Educating Lawyers*, and particularly in the past several years, there has been much greater awareness that the well-being of law students and lawyers is profoundly important to the legal profession and to the clients that lawyers serve. Illuminating sources on that development include Jerome M. Organ, David B. Jaffe & Katherine M. Bender, *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 116–56 (Autumn 2016), (discussing the 2014 Survey of Law Student Well Being), and NAT'L TASK FORCE ON LAWYER WELL-BEING, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* (2017) [hereinafter *Path to Lawyer*

will speak of them as the four foundational professional development and formation goals – or, for convenience and brevity, the four “PD&F” goals.

If any of these goals are important to you, this book explains how to help your students achieve them. Importantly, this book also explains how you can influence others – the faculty, staff, and administrators at your school; your students; and the legal employers your graduates serve – to adopt these goals and take steps to achieve them. We look first at the benefits from a more effective curriculum on each of the four goals.

### 1.1 THE BENEFITS OF A MORE EFFECTIVE CURRICULUM TO FOSTER PD&F GOAL 1: EACH STUDENT’S OWNERSHIP OF CONTINUOUS PROFESSIONAL DEVELOPMENT TOWARD EXCELLENCE AT THE COMPETENCIES THAT CLIENTS, LEGAL EMPLOYERS, AND THE LEGAL SYSTEM NEED

Law students, faculty, staff, and administrators want to increase the probabilities of better academic performance, bar passage, and meaningful postgraduation employment for each student. Strong empirical data show that student growth toward later stages of ownership of continuous professional development (as reflected in self-directed/self-regulated learning) enhances student academic performance,<sup>4</sup> and that stronger student academic performance in turn correlates with higher probabilities of bar passage.<sup>5</sup> Diversity,

*Well-Being*], <https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf>.

<sup>4</sup> “Research has amassed overwhelming evidence that self-regulated learning enhances student performance and achievement in courses and course units.” LINDA NILSON, *CREATING SELF-REGULATED LEARNERS* 10–11 (2013). “It has been shown that self-regulated learning is one of the best predictors of academic performance” and “self-regulated learners are more effective learners.” Susanna Lucieer et al., *Self-regulated Learning and Academic Performance in Medical Education*, 38 *MED. TEACH.* 585, 586 (2016). Self-regulated activity “has consistently been found to be related to student achievement.” Renee Jansen et al., *Self-Regulated Learning Partially Mediates the Effect of Self-Regulated Learning Interventions on Achievement in Higher Education: A Meta-Analysis*, 28 *EDUC. RESEARCH REV.* 1, 2 (2019). “Students who were willing to reflect and make changes in their learning strategies and who selected active strategies that inherently involved regulating their learning were more likely to have academic success.” Jennifer Gundlach & Jessica Santangelo, *Teaching and Assessing Metacognition in Law School*, 69 *J. LEGAL EDUC.* 156, 180 (2019).

<sup>5</sup> See LINDA F. WIGHTMAN, *LAW SCH. ADMISSION COUNSEL, LSAC NATIONAL LONGITUDINAL BAR PASSAGE STUDY* 37 (1998); Douglas Rush & Hisako Matsuo, *Does Law School Curriculum Affect Bar Examination Passage? An Empirical Analysis of Factors Related to Bar Examination Passage During the Years 2001 Through 2006 at a Midwestern Law School*, 57 *J. LEGAL EDUC.* 224, 232–33 (2007); Katherine A. Austin, Catherine Martin Christopher & Darby Dickerson, *Will I Pass the Bar Exam? Predicting Student Success Using LSAT Scores and Law School Performance*, 45 *HOFSTRA L. REV.* 253, 266–68 (2017).

equity, inclusion, and belonging initiatives aimed at helping disadvantaged students<sup>6</sup> also benefit substantially from a more effective curriculum (particularly a continuous coaching model of the kind we will analyze in Chapter 4) that fosters belonging and provides institutional support to navigate the educational environment and the job market.<sup>7</sup>

To the extent that online learning may provide lower levels of support and guidance to students than in-person classroom education, self-directed/self-regulated learning skills characterized by student skill in planning, managing, and controlling their learning processes become even more important for student performance.<sup>8</sup> Data also show that legal employers and clients greatly value initiative and ownership of continuous professional development;<sup>9</sup> a student who can communicate evidence of later-stage development on self-directed/self-regulated learning will demonstrate strong value to potential employers.

## 1.2 THE BENEFITS OF A MORE EFFECTIVE CURRICULUM TO FOSTER PD&F GOAL 2: EACH STUDENT'S DEEP RESPONSIBILITY AND SERVICE ORIENTATION TO OTHERS, ESPECIALLY THE CLIENT

Many law faculty and staff would like to see each law graduate internalize a deep responsibility and service orientation to others, particularly the client. We also know that a substantial proportion of undergraduate students in the applicant pool are seeking a career with opportunities to be helpful to others and useful to society.<sup>10</sup>

<sup>6</sup> Disadvantaged groups in law school are groups whose members are historically underrepresented in the legal profession due to their backgrounds. Dorainne Green et al., *Group-Based Inequalities in Relationship Quality are Associated with Disparities in Belonging, Satisfaction, and Achievement in Law School*, forthcoming at J. OF EDUC. PSYCH., at 12.

<sup>7</sup> An increased sense of belonging is linked to increased academic motivation, engagement, intention to persist, and achievement. See Elizabeth Bodamer, *Do I Belong at This Law School: How Perceived Experiences of Bias, Stereotype Concerns, and Social Capital Influence Law Students' Sense of Belonging* (dissertation submitted to Indiana University Graduate School, Dec. 2020) at 3, 35–36 (<https://www.stthomas.edu/hollorancenter/>). The more that minoritized students experience social support and social capital in the law school, the greater their sense of belonging. *Id.* at 6, 8, 39–41, 148, 151.

<sup>8</sup> Rene Kizilcec et al., *Self-Regulated Learning Strategies Predict Learner Behavior and Goal Attainment in Massive Open Online Courses*, 104 COMPUTERS & EDUC. 18–33 (Jan. 2017).

<sup>9</sup> NEIL W. HAMILTON, ROADMAP: THE LAW STUDENT'S GUIDE TO MEANINGFUL EMPLOYMENT 18–34 (2d ed. 2018) [hereinafter ROADMAP].

<sup>10</sup> See the discussion *infra* of what applicants to law school want in Chapter 5, Section 5.8.1.

Deep care for the client is the principal foundation for client trust in both the individual lawyer and the profession itself.<sup>11</sup> That deep care essentially entails a fiduciary disposition or fiduciary mindset, using “fiduciary” in the general meaning of founded on trustworthiness.<sup>12</sup> Each law student and new lawyer must learn to internalize a responsibility to put the client’s interests before the lawyer’s self-interest.<sup>13</sup> As Professor Greg Sisk emphasizes in a recent treatise on legal ethics: “When the lawyer protects confidential information and exercises loyal and independent judgment uninfected by conflicting interests or the lawyer’s own self-interest, the lawyer’s responsibilities are distinctly fiduciary in nature. In these matters, the trust of the client is directly at stake.”<sup>14</sup>

The legal profession also holds out other fiduciary mindset values and guiding principles relating to trust in each lawyer. For example, the Preamble of the Model Rules of Professional Conduct states, “[a] lawyer should strive to attain the highest level of skill, to improve the law and the legal profession, and to exemplify the legal profession’s ideals of public service.”<sup>15</sup> It declares, “a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of the service rendered by the legal profession” and emphasizes the following:

A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel.<sup>16</sup>

The Model Rules contemplate that a lawyer will possess very broad discretion when exercising professional judgment to fulfill responsibilities to clients, the legal system, and the quality of justice – and that the lawyer also has

<sup>11</sup> William M. Sullivan, *Foreword* to *TEACHING MEDICAL PROFESSIONALISM: SUPPORTING THE DEVELOPMENT OF A PROFESSIONAL IDENTITY* ix, xi, xv (Richard L. Cruess et al. eds., 2d ed. 2016).

<sup>12</sup> See *id.* at ix; William Sullivan, *Align Preparation with Practice*, 85 N.Y. ST. B. A. J. No. 7, 41–43 (Sept. 2013) (where Sullivan introduces the concept of fiduciary disposition).

<sup>13</sup> Law school accreditation standards reflect this requirement. Standard 302(c) provides: “A law school shall establish learning outcomes that shall, at a minimum, include competency in the following: (c) Exercise of proper professional and ethical responsibilities to clients and the legal system.” *Standard 302(c)*, 2021–2022 *Standards and Rules of Procedure for Approval of Law Schools*, A.B.A. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR.

<sup>14</sup> GREG SISK ET AL. *LEGAL ETHICS, PROFESSIONAL RESPONSIBILITY, AND THE LEGAL PROFESSION* 295 (2018).

<sup>15</sup> A.B.A. MODEL RULES OF PROF’L CONDUCT Preamble para. 7 (2020).

<sup>16</sup> *Id.*, para. 6 (2020).

a personal interest in being an ethical person who makes a satisfactory living. The Preamble recognizes that “difficult ethical issues” can arise from these potentially conflicting responsibilities and interests. “Within the framework of these Rules,” the Preamble observes, “many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of *sensitive professional and moral judgment* guided by the basic principles underlying the Rules.”<sup>17</sup> The Preamble further notes, “a lawyer is also guided by personal conscience and the approbation of professional peers.”<sup>18</sup>

The Model Rules recognize that clients also face many difficult ethical issues, and a lawyer should provide “*independent professional judgment* and render candid advice” to help the client think through decisions that affect others.<sup>19</sup> As the comments to Rule 2.1 note, “[a]dvice couched in narrow legal terms may be of little value to a client, especially where practical considerations, such as cost or effects on other people, are predominant . . . . It is proper for a lawyer to refer to the relevant moral and ethical considerations in giving advice.”<sup>20</sup> The lawyer is not imposing the lawyer’s morality on the client; rather, the “relevant moral and ethical considerations” upon which the lawyer is to draw and offer counsel – and therefore needs to comprehend – include the client’s own tradition of responsibility to others.

The foregoing implicitly defines the elements of a law student’s and lawyer’s fiduciary mindset. They call on each law student and lawyer to

1. Comply with the *ethics of duty* – the minimum standards of competency and ethical conduct set forth in the Rules of Professional Conduct;
2. foster in oneself and other lawyers the *ethics of aspiration* – the core values and guiding principles of the profession, including putting the client’s interests first;
3. develop and be guided by personal conscience – including the exercise of “sensitive professional and moral judgment” and the conduct of an “ethical person” – when deciding all the “difficult issues of professional discretion” that arise in the practice of law;
4. develop independent professional judgment, including moral and ethical considerations, to help the client think through decisions that affect others; and
5. promote a justice system that provides equal access and eliminates bias, discrimination, and racism.

<sup>17</sup> *Id.*, para. 9 (2020) (emphasis added).

<sup>18</sup> *Id.*, para. 8 (2020).

<sup>19</sup> *Id.*, R. 2.1 (2020) (emphasis added).

<sup>20</sup> *Id.*, R. 2.1 cmt. 2 (2020).

Fostering each student's development toward later stages of responsibility, service, and care for the client and the legal system has obvious benefits for students. As we discuss in Chapter 5, principle 8, research shows that students rank service to others as a significant personal objective that motivates them to pursue a career in law.<sup>21</sup> Supporting students in this way also contributes to the missions of many law schools and the aspirations of many faculty and staff, advancing the ideals and core values of the profession including service to the disadvantaged. As we shall see in the next section, benefits flow to clients and legal employers as well. They value client-centered lawyering and creative problem solving in the lawyer's exercise of good independent professional judgment emphasized by the Model Rules.

1.3 THE BENEFITS OF A MORE EFFECTIVE CURRICULUM TO  
FOSTER PD&F GOAL 3: EACH STUDENT'S CLIENT-CENTERED  
PROBLEM-SOLVING APPROACH AND GOOD INDEPENDENT  
PROFESSIONAL JUDGMENT THAT GROUND EACH STUDENT'S  
RESPONSIBILITY AND SERVICE TO THE CLIENT

Legal employers and clients want law graduates who demonstrate deep responsibility and service orientation to others, ownership over continuous professional development toward excellence, a client-centered problem-solving approach, and good independent professional judgment. Law students (prospective new lawyers) who have evidence of later-stage development of these competencies can increase their probability of meaningful employment – a major benefit to the students and their law school as well.

A growing number of empirical studies are defining the capacities and skills that clients and legal employers need in their changing markets, reaching results that substantially converge in support of the central importance of the third PD&F goal. Among the major studies are the following:

1. The 2003 Shultz/Zedeck survey, including principally University of California–Berkeley alumni, identifying lawyer effectiveness factors;<sup>22</sup>
2. Hamilton's 2012–14 and 2017 surveys of the competencies assessed by large firms, small firms, state attorneys general offices, county attorneys offices, and legal aid offices;<sup>23</sup>

<sup>21</sup> See the discussion *infra* at Chapter 5, Section 5.8.1.

<sup>22</sup> Marjorie Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admissions Decisions*, 36 LAW & SOC. INQUIRY 620, 629 (2011).

<sup>23</sup> See ROADMAP, *supra* note 9, at 24–33.

3. The Institute for the Advancement of the American Legal System 2016 study of 24,137 lawyers' responses to the question of what competencies are "necessary in the short term" for law graduates;<sup>24</sup>
4. Thomson Reuters' 2018–19 interviews and survey of law-firm professional development lawyers and hiring managers on what are the most important competencies for a successful twenty-first-century lawyer;<sup>25</sup>
5. The Institute for the Advancement of the American Legal System 2019 study on the competencies that clients want, based on a random sample of 2,232 AVVO client reviews of lawyers in the period 2007–17;<sup>26</sup>
6. The 2019 Association of Corporate Counsel survey of 1,639 respondents who self-identified as the highest-ranking lawyer in a company;<sup>27</sup>
7. The 2019 BTI Consulting Group's Client Service A-Team Survey of Law Firm Client Service Performance, which includes data from 350 in-depth telephone interviews with senior in-house counsel at large organizations;<sup>28</sup>
8. The 2020 National Conference of Bar Examiners survey of 3,153 newly licensed lawyers (up to three years of practice) and 11,693 not recently licensed lawyers asking how frequently newly licensed lawyers performed specifically listed tasks;<sup>29</sup>
9. The 2020 Institute for the Advancement of the American Legal System's national study using fifty focus groups, asking respondents about the knowledge and skills that new lawyers used during the first year of practice;<sup>30</sup>

<sup>24</sup> See ALLI GERKMAN & LOGAN CORNETT, FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT (2016), [https://iaals.du.edu/sites/default/files/documents/publications/foundations\\_for\\_practice\\_whole\\_lawyer\\_character\\_quotient.pdf](https://iaals.du.edu/sites/default/files/documents/publications/foundations_for_practice_whole_lawyer_character_quotient.pdf).

<sup>25</sup> Natalie Runyon, *Delta Model Update: The Most Important Area of Lawyer Competency – Personal Effectiveness Skills*, THOMSON REUTERS (Mar. 21, 2019), <http://www.legalexecutiveinstitute.com/delta-model-personal-effectiveness-skills/>. Thomson Reuters followed up with a questionnaire survey of a broader group of practitioners on the client side. See NATALIE RUNYON & ALYSON CARREL, ADAPTING FOR 21ST CENTURY SUCCESS: THE DELTA LAWYER COMPETENCY MODEL (2019), <https://legal.thomsonreuters.com/content/dam/ewp-m/documents/legal/en/pdf/white-papers/delta-lawyer-competency.pdf>.

<sup>26</sup> LOGAN CORNETT, THINK LIKE A CLIENT (2019), [https://iaals.du.edu/sites/default/files/documents/publications/think\\_like\\_a\\_client.pdf](https://iaals.du.edu/sites/default/files/documents/publications/think_like_a_client.pdf).

<sup>27</sup> ASS'N CORP. COUNS., 2019 ACC CHIEF LEGAL OFFICERS SURVEY (2019), <https://www.acc.com/sites/default/files/resources/upload/2019-ACC-Chief-Legal-Officers-Survey.pdf>.

<sup>28</sup> BTI CONSULTING GROUP, BTI CLIENT SERVICE A-TEAM 2019: SURVEY OF LAW FIRM CLIENT SERVICE PERFORMANCE (2019), <https://bticonsulting.com/themadclientist/bti-client-service-a-team-2019-survey-of-law-firm-client-service-performance>.

<sup>29</sup> NAT'L CONF. BAR EXAMINERS TESTING TASK FORCE, PHASE 2 REPORT: 2019 PRACTICE ANALYSIS (2020).

<sup>30</sup> DEBORAH JONES MERRITT & LOGAN CORNETT, BUILDING A BETTER BAR: THE TWELVE BUILDING BLOCKS OF MINIMUM COMPETENCE 14 (2020). The study had 200 total participants with 41 focus groups of junior lawyers who had been licensed between January 1, 2016, and January 31, 2019, and had worked at least 12 months in one or more positions that required a law



10. Lisa Rohrer and Mitt Regan's in-depth interviews with 278 law partners at larger US law firms to assess whether business concerns are eclipsing professional values in law firm practice, published in 2021;<sup>31</sup> and
11. The National Association for Law Placement report on a 2020 Survey of Law Firm Competency Expectations for Associate Development published in 2021 based on survey results from fifty large-firm competency models.<sup>32</sup>

The work of leading futurists looking at the legal services market reinforces the picture. They emphasize that the competencies needed for a successful twenty-first-century lawyer include a more proactive entrepreneurial mindset to meet changing market conditions for clients and lawyers alike.<sup>33</sup>

All of the aforementioned studies essentially asked lawyers and clients to identify the most important competencies needed to practice law. While both attorneys and clients include client-service orientation and relationship skills among the important competencies needed to represent clients, the clients emphasize these skills more heavily (including communication, attentive listening, responsiveness, understanding of the client's context and business, and explanation of fee arrangements).<sup>34</sup>

Synthesizing all these empirical studies into a useful model of the foundational competencies that clients and legal employers need can be a challenge. In a recent white paper, Thomson Reuters presents what it has titled the "Delta" model of lawyer competency. The model groups lawyer competencies into three categories, with each category represented by one of the three sides of a triangular figure. The base of the triangle represents the technical skills traditionally associated with lawyering. The upper two sides of the triangle represent "personal effectiveness factors" and "business and operations" competencies, respectively.<sup>35</sup> We find much to favor in the Delta model; its chosen visual form for depicting the differing

license. Also included were nine focus groups of experienced lawyers who had supervised at least one junior lawyer during the two years preceding the study.

<sup>31</sup> MITT REGAN & LISA H. ROHRER, *BIG LAW: MONEY AND MEANING IN THE MODERN LAW FIRM 2* (2020).

<sup>32</sup> NAT'L ASS'N L. PLACEMENT, *REPORT ON 2020 SURVEY OF LAW FIRM COMPETENCY EXPECTATIONS FOR ASSOCIATE DEVELOPMENT* (2021), [https://www.nalp.org/uploads/NA\\_LP\\_Associate\\_Competerencies\\_Report\\_May\\_2021.pdf](https://www.nalp.org/uploads/NA_LP_Associate_Competerencies_Report_May_2021.pdf).

<sup>33</sup> See, e.g., JORDAN FURLONG, *LAW IS A BUYER'S MARKET: BUILDING A CLIENT-FIRST LAW FIRM* 29, 73–81, 145–52 (2017); RICHARD SUSSKIND, *TOMORROW'S LAWYERS: AN INTRODUCTION TO YOUR FUTURE* 4–14 (2013); William Henderson, *Efficiency Engines: How Managed Services Are Building Systems for Corporate Legal Work*, *ABA J.* 38–45 (June 2017).

<sup>34</sup> RANDALL KISER, *SOFT SKILLS FOR THE EFFECTIVE LAWYER* 2–33 (2017).

<sup>35</sup> See DELTA LAWYER COMPETENCY MODEL, *supra* note 25, at 5.

yet interrelated competencies of effective lawyering strikes us as particularly effective. A model that serves the needs of legal educators does well to draw from the Delta model, but it needs important adaptations to reflect insights about professional education, the student's formation of professional identity, and methods of competency-based education – and also to incorporate the fuller range of competencies identified by the aforementioned studies.

Building on the Delta model approach, we offer here a Foundational Competencies Model (depicted in Figure 1) that law school faculty, staff, and administrators can consider and modify to best articulate the competencies that clients and legal employers served by their school's graduates need. Appendix A provides a summary of the empirical studies mentioned earlier that also can be useful to inform faculty and staff discussion. The model in Figure 1 reflects four principles that should inform any model developed for an individual law school:

1. The model should be based on the best available current data on the competencies that clients and legal employers need;
2. the model should be clear and understandable to a new law student and include a manageable number of competencies;
3. the model should be in the language that legal employers use, thereby helping students communicate their value to employers; and
4. the model's foundational competencies should be translatable directly into institutional learning outcomes established by the law school.

The empirical studies also support the conclusion that the following six traditional technical competencies that law schools emphasize are necessary but not sufficient to meet client and legal employer needs in changing markets:

1. Knowledge of doctrinal law in the basic subject areas;
2. legal analysis;
3. legal research;
4. written and oral communication in the legal context;
5. legal judgment; and
6. knowledge of the law-of-lawyering responsibilities to clients and the legal system.<sup>36</sup>

<sup>36</sup> These are the competencies listed in the ABA's accreditation standards. See *Standards 302 (a)-(c), 2021-2022 Standards and Rules of Procedure for Approval of Law Schools*, A.B.A. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR.

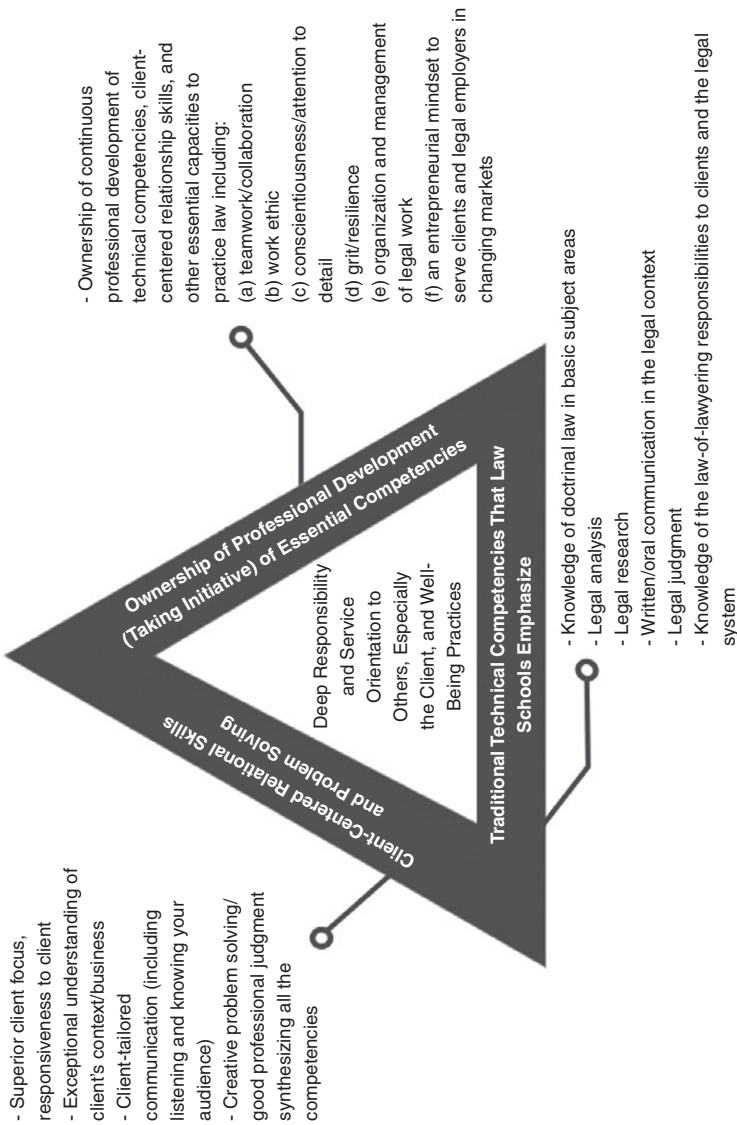
The additional competencies that the studies indicate clients and legal employers need from lawyers in changing markets include the following:

1. Superior client focus and responsiveness to the client;
2. exceptional understanding of the client's context and business;
3. effective communication skills, including listening and knowing your audience;
4. creative problem-solving and good professional judgment in applying all of the previously noted competencies;
5. ownership over continuous professional development (taking initiative) of both the traditional technical competencies previously listed, the client relationship competencies previously listed, and the skills or habits described later;
6. teamwork and collaboration;
7. strong work ethic;
8. conscientiousness and attention to detail;
9. grit and resilience;
10. organization and management of legal work (project management); and
11. an entrepreneurial mindset to serve clients more effectively and efficiently in changing markets.

Figure 1 visually represents a Foundational Competencies Model that captures and conceptually organizes all these major competencies that clients and legal employers need. At the center of the Foundational Competencies Model – visually and conceptually – is each student's internalization of a deep responsibility and service orientation to others, especially the client, that creates trust. That internalized commitment informs all the other competencies. The center of the model also includes well-being practices because lawyers must care for themselves to care for others.

The center of the Foundational Competencies Model could also include a deep responsibility and service orientation to the legal system itself in terms of a commitment to improve the legal system and pro bono service for the disadvantaged. These internalized commitments are not emphasized in the empirical data on the capacities and skills that clients and legal employers want, but the law faculty and the legal profession may emphasize these commitments.

The bottom side of the model makes clear that each student and lawyer must demonstrate the basic technical legal competencies that clients and employers need. The left side of the model makes clear the foundational importance to clients and employers of each student and new lawyer demonstrating client-centered problem solving and good professional judgment in serving the client – including superior client focus and responsiveness,



These traditional competencies reflect ABA Accreditation Standard 302(a)–(c).

FIGURE 1 Foundational Competencies Model based on empirical studies of the competencies clients and legal employers need

exceptional understanding of the client's context and business, and communication skills including listening and knowing the audience.<sup>37</sup> The right side of the model makes clear the foundational importance for clients and employers of ownership of continuous professional development (taking initiative) toward excellence at the competencies needed, harnessed to an entrepreneurial mindset to serve well in rapidly changing markets for both employers and clients. Employers and clients need strong teamwork and collaboration skills, a strong work ethic, conscientiousness and attention to detail, grit and resilience, and organization and management of legal work. An entrepreneurial mindset includes constant attention to client goals and completion of work more effectively and efficiently, including making effective use of technology.

A student or new lawyer who demonstrates later-stage development of these foundational competencies will benefit clients and legal employers and has a higher probability of meaningful postgraduation employment and long-term success in a service profession like law. These outcomes benefit the student, while also benefitting the law school and its faculty, staff, and administration. The law school also can demonstrate to enrolled students – and prospective applicants – that it is helping them achieve their goals of bar passage and meaningful postgraduation employment.

#### 1.4 THE BENEFITS OF A MORE EFFECTIVE CURRICULUM TO FOSTER PD&F GOAL 4: STUDENT WELL-BEING PRACTICES

In response to increasing evidence of chronic stress, anxiety, depression, and addictive behaviors among law students and lawyers,<sup>38</sup> many law faculty and staff have heightened their concern about student well-being. Lawrence Krieger and Kennon Sheldon analyze a robust branch of modern positive psychology – self-determination theory (SDT) – that provides an empirical framework to understand student well-being. It also outlines the benefits to students, faculty, and staff of increasing student well-being.

What is well-being? Krieger and Sheldon treat subjective well-being in their studies as the sum of (1) life satisfaction and (2) positive affect or mood (after subtracting negative affect). They utilize established instruments on each factor. Life satisfaction includes a personal (subjective) evaluation of objective circumstances such as one's work, home, relationships, possessions, income,

<sup>37</sup> Note that in the early years of practice for a new lawyer in a firm or law department, the "client" is essentially the experienced lawyer giving the new lawyer work.

<sup>38</sup> See *PATH TO LAWYER WELL-BEING*, *supra* note 3, at 7.

and leisure opportunities. Positive and negative affects are purely subjective, straightforward experiences of “feeling good” or “feeling bad.”<sup>39</sup>

What are the basic psychological needs that contribute to student well-being? Self-determination theory defines three basic psychological needs contributing to well-being: (1) autonomy (to feel in control of one’s own goals and behaviors), (2) competence (to feel one has the needed skills to be successful), and (3) relatedness (to experience a sense of belonging or attachment to other people).<sup>40</sup> Note that the first two professional development and formation goals with which we began this chapter (ownership of continuous professional development toward excellence and a deep responsibility and service orientation to others, especially the client) reflect significant aspects of SDT’s three basic psychological needs.

Autonomy is considered the most important of the three basic psychological needs since people must have a well-defined sense of self and express their core values in daily life to function in a consistent way.<sup>41</sup> SDT posits that there are positive outcomes for subordinates when organizational authorities support their autonomy by giving them (1) as much choice as possible, (2) a meaningful rationale to explain decisions, and (3) a sense that authorities are aware of and care about their point of view.<sup>42</sup> These positive outcomes include (1) higher self-determined career motivation, (2) higher well-being, and (3) higher academic performance.<sup>43</sup>

Sheldon and Krieger’s three-year longitudinal study of students with very similar LSAT scores and undergraduate grade point averages at two law

<sup>39</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, 564, 582–85 (2015).

<sup>40</sup> See Lawrence Krieger, *The Most Ethical of People, the Least Ethical of People: Proposing Self-Determination Theory to Measure Professional Character Formation*, 8 U. ST. THOMAS L. J. 168, 171–72 (2011). Self-determination theory 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 and growth (the importance of learning and personal growth), (2) intimacy with others (the importance of trusting close relationships with others), (3) helping others (improving others’ lives, especially those in need), and (4) being in and building community (improving society).

<sup>41</sup> See *id.*

<sup>42</sup> Kennon M. Sheldon & Lawrence S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory*, 33 PERSONALITY AND SOCIAL PSYCH. BULL. No. 6, 883, 884 (June 2007).

<sup>43</sup> *Id.* at 885.

schools compared student outcomes at the law school where students perceived stronger autonomy support with outcomes at the law school where students perceived weaker autonomy support. Students at the school with stronger autonomy support had higher well-being, better academic performance on grades, more self-determined motivation to pursue their legal careers, and better performance on the bar examination.<sup>44</sup> Krieger and Sheldon followed up with surveys submitted from 7,865 practicing lawyers in four states.<sup>45</sup> The responses from practicing lawyers affirmed that autonomy, competence, and relatedness strongly predict respondents' well-being.<sup>46</sup> The practicing lawyers also affirmed that autonomy support from supervisors increased their well-being and self-determined motivation.<sup>47</sup>

In Chapter 4, we will outline how law schools can utilize coaching to provide autonomy support and help improve well-being for each student. In addition to helping students achieve their goals, faculty and staff who provide that support will help the school to achieve its goals of improved bar passage and postgraduation employment outcomes.

### 1.5 REALIZING THESE BENEFITS AT YOUR SCHOOL

The next two chapters focus on strategic planning to realize the foregoing benefits at your school. Chapter 2 explains and stresses the importance of purposefulness in the law school's efforts to help students to realize the four PD&F goals. The reader will find a framework for bringing that purposefulness to work in the law school. Chapter 3 explores how competency-based education can serve as a possible framework for purposeful support of students toward the four goals. That discussion will introduce the reader to important lessons that legal education can learn from the experience of medical education, which changed its accreditation requirements to require competency-based education fifteen years earlier than legal education.

Chapters 4 and 5 focus on practical implementation steps to realize the benefits we just outlined at your law school. Chapter 4 brings forward ten principles from the literature on higher education that should inform the development of any law school curriculum to foster each student's progressive growth toward later stages of development on the four PD&F

<sup>44</sup> *Id.* at 893–94.

<sup>45</sup> The 7,865 lawyers who responded constituted a 12.7 percent response rate to the surveys sent out. Krieger & Sheldon, *supra* note 39 at 570.

<sup>46</sup> *Id.* at 583, 617.

<sup>47</sup> *Id.* at 583, 618.

goals. Chapter 5 stays with the practical, turning attention to how interested faculty, staff, and administrators can lead their school toward more purposeful support of students and their PD&F goals. Recognizing that the various, and sometimes differing, interests of the major stakeholders of a law school influence the school's actions, Chapter 5 presses the importance of a clear understanding of those interests. That understanding, we believe, can only be obtained by going where each major stakeholder actually is, and we illustrate how to do that. The good news is that stakeholder interests *can* converge on a shared interest in student progress toward the four PD&F goals. As Chapter 5 explains, bridges can be built to connect stakeholders and their interests to the law student's realization of PD&F goals.



## APPENDIX A

## A Summary of the Empirical Studies That Define the Foundational Competencies That Clients and Legal Employers Need<sup>1</sup>

This summary can be used to inform faculty and staff discussion of the data on the competencies that graduates need to serve clients and legal employers well. The law school's learning outcomes should reflect these needs.

In ROADMAP: *The Law Student's Guide to Meaningful Employment*,<sup>2</sup> Neil Hamilton observed substantial convergence among (1) the 2003 Shultz/Zedek survey of University of California–Berkeley alumni identifying lawyer effectiveness factors;<sup>3</sup> (2) the author's 2012 to 2014 and 2017 surveys of the competencies assessed by large firms, small firms, state attorneys general offices, county attorneys offices, and legal aid offices;<sup>4</sup> and (3) the Institute for the Advancement of American Legal Studies 2016 study of 24,137 lawyers' responses to the question of what competencies are “necessary in the short term” for law graduates.<sup>5</sup> All of these studies essentially asked lawyers to identify the most important competencies needed to practice law. Table 1 shows the convergence of these empirical studies up to 2018 (when the second edition of the ROADMAP was published) on the competencies that clients and legal employers want beyond the basic technical legal skills.

There are more recent empirical studies of the clients' desired competencies to compare with the previous competencies identified by the lawyer respondents. First, in 2018, Thomson Reuters interviewed thirteen practitioners including both buyers of legal services and law firm talent development professionals (the study does not report how many of each) asking the following question: What are the top ten competencies that are

<sup>1</sup> The material in Tables 1–6 first appeared in Neil Hamilton, *The Gap Between the Foundational Competencies Clients and Legal Employers Need and the Learning Outcomes Law Schools Are Adopting*, 89 UMKC L. REV. 559 (2021).

<sup>2</sup> NEIL W. HAMILTON, ROADMAP: THE LAW STUDENT'S GUIDE TO MEANINGFUL EMPLOYMENT 24–33 (2d ed. 2018) [hereinafter ROADMAP].

<sup>3</sup> Marjorie Shultz & Sheldon Zedek, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admissions Decisions*, 36 L. & SOC. INQUIRY 620, 629 (2011).

<sup>4</sup> ROADMAP, *supra* note 2, at 2–33.

<sup>5</sup> ALLI GERKMAN & LOGAN CORNETT, FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT 4, 29 (2016), [https://iaals.du.edu/sites/default/files/documents/publications/foundations\\_for\\_practice\\_whole\\_lawyer\\_character\\_quotient.pdf](https://iaals.du.edu/sites/default/files/documents/publications/foundations_for_practice_whole_lawyer_character_quotient.pdf).

TABLE 1 *Convergence of the empirical studies on the nontechnical competencies that lawyers and legal employers identify as important for the practice of law*<sup>6</sup>

<p>Ownership of Continuous Proactive Professional Development Over a Career</p> <ul style="list-style-type: none"> <li>• Commitment to professional development toward excellence, including habit of actively seeking feedback and reflection</li> <li>• Initiative/strong work ethic/diligence, plus project management that demonstrates these</li> </ul>
<p>Internalization of Deep Responsibilities to Others (the client, the team, the employing organization, the legal system)</p> <ul style="list-style-type: none"> <li>• Trustworthiness and integrity</li> <li>• Relationship skills, including respect for others, understanding of and responsiveness to client, and listening</li> <li>• Good judgment/common sense</li> <li>• Teamwork and collaboration</li> </ul>

important for a successful twenty-first century lawyer?<sup>7</sup> Table 2 indicates the results of the initial Thomson Reuters interviews.

Asking the same question, Thomson Reuters followed up in 2019 with a survey of thirty-three professionals composed primarily of hiring managers of (1) in-house counsel, (2) outside counsel, and (3) new law school graduates.<sup>8</sup> Table 3 summarizes the responses to the survey.

Table 4 on the succeeding page is the authors' synthesis of the Thomson Reuters interview and survey data.

In October of 2019, the Institute for the Advancement of American Legal Studies (IAALS) published a major study on the competencies that clients want.<sup>9</sup> Partnering with Avvo, IAALS identified a random sample of 2,232 client reviews of lawyers out of 669,255 reviews published by AVVO in the period

<sup>6</sup> ROADMAP, *supra* note 2, at 33; see Schultz & Zedeck, *supra* note 3, at 630; FOUNDATIONS FOR PRACTICE, *supra* note 5, at 14–16, 20.

<sup>7</sup> Natalie Runyon, *Delta Model Update: The Most Important Area of Lawyer Competency – Personal Effectiveness Skills*, THOMSON REUTERS (Mar. 21, 2019), <https://www.legalexecutiveinstitute.com/delta-model-personal-effectiveness-skills/>.

<sup>8</sup> NATALIE RUNYON & ALYSON CARREL, ADAPTING FOR TWENTY-FIRST CENTURY SUCCESS: THE DELTA LAWYER COMPETENCY MODEL 2, 8 (2019), <https://legal.thomsonreuters.com/content/dam/ewp-m/documents/legal/en/pdf/white-papers/delta-lawyer-competency.pdf>.

<sup>9</sup> See LOGAN CORNETT, THINK LIKE A CLIENT (2019), [https://iaals.du.edu/sites/default/files/documents/publications/think\\_like\\_a\\_client.pdf](https://iaals.du.edu/sites/default/files/documents/publications/think_like_a_client.pdf).

TABLE 2 Thomson Reuters interviews: What are the top ten competencies that are needed for a successful twenty-first century lawyer?<sup>10</sup>

Competency	Percentage of Respondents Indicating a Top-Ten Competency
Relationship management	92
Communication (knowing your audience)	83
Project management	83
Emotional intelligence <sup>11</sup>	75
Business fundamentals	67
Entrepreneurial mindset	66
Data analytics	50
Staying current in the law regarding practice areas of expertise	“many” but less than 50%

TABLE 3 Thomson Reuters surveys: What are the top ten competencies that are needed for a successful twenty-first century lawyer?<sup>12</sup>

Competency	Percentage of Respondents Rating the Skill as Extremely Important (8–10 on a 10-point scale)
Entrepreneurial mindset and adaptability	91
Legal judgment	67
Legal analysis	63
Pro-active problem solving	61
Legal subject expertise	60
Emotional intelligence (self-management, self-awareness, and empathy)	59
Communication (including active listening)	55
Legal writing	55
Character (honoring commitments)	55
Business fundamentals (and understanding how the client makes money)	48
Relationship management	45
Legal research	42
Project management and technology	42
Data analytics	less than 33

<sup>10</sup> Runyon, *supra* note 7.

<sup>11</sup> Emotional intelligence includes self-awareness, self-regulation, and empathy that lead to a lawyer’s service as a trusted adviser for a client. *Id.*

<sup>12</sup> DELTA LAWYER COMPETENCY MODEL, *supra* note 8, at 8–10.

TABLE 4 *Synthesis of the Thomson Reuters interview and survey data: Top competencies needed for a successful twenty-first century lawyer*<sup>13</sup>

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1. **Technical legal skills**
    - a. Legal judgment
    - b. Legal analysis
    - c. Legal subject expertise
    - d. Legal writing and research
  2. **Entrepreneurial mindset and adaptability to serve clients and legal employers in changing markets (including project management and technology to lower costs)**
  3. **Client service orientation**
    - a. Communication (including active listening and knowing your audience)
    - b. Relationship management
    - c. Knowledge of business fundamentals (including understanding how the client makes money)
    - d. Emotional intelligence (including self-management, self-awareness, and empathy)
    - e. Character (including honoring commitments)
    - f. Proactive problem solving
- 
- 

2007 to 2017.<sup>14</sup> The Advancement of American Legal Studies identified the lawyer competencies that appeared in five percent or more of the reviews in the sample and commented that “each of the[se competencies] appears to have an impact on the client’s experience.”<sup>15</sup> However, IAALS was not able to indicate the relative importance of each competency.<sup>16</sup> Table 5 on the next page summarizes the IAALS data.

Several other recent empirical studies confirm the Thomson Reuters and IAALS studies’ emphasis on client service orientation skills as very important for twenty-first century clients.<sup>17</sup> Table 6 outlines the results of the 2019 BTI Consulting Group’s Client Service A-Team Survey of Law Firm Client Service Performance that includes data from 350 in-depth telephone interviews with senior in-house counsel at large organizations.<sup>18</sup>

<sup>13</sup> See Runyon, *supra* note 7; DELTA LAWYER COMPETENCY MODEL, *supra* note 8.

<sup>14</sup> THINK LIKE A CLIENT, *supra* note 9, at 4.

<sup>15</sup> See *id.* at 3.

<sup>16</sup> *Id.*

<sup>17</sup> See Runyon, *supra* note 7; DELTA LAWYER COMPETENCY MODEL, *supra* note 8, at 8–10; THINK LIKE A CLIENT, *supra* note 9, at 3–4; BTI CONSULTING GROUP, BTI CLIENT SERVICE A-TEAM 2019: SURVEY OF LAW FIRM CLIENT SERVICE PERFORMANCE (2019), <https://bticonsulting.com/themadclientist/bti-client-service-a-team-2019-survey-of-law-firm-client-service-performance> [hereinafter BTI SURVEY].

<sup>18</sup> BTI SURVEY, *supra* note 17. The BTI Consulting’s 18th Annual Client Service All-Stars 2019, based on the same telephone interview data, reports that the all-stars identified by clients provide

TABLE 5 IAALS's analysis to identify the lawyer competencies that appeared in 5 percent or more of the AVVO reviews of lawyers in the period 2007–2017<sup>19</sup>

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1. **Communications with the client, including:**
    - a. Promptness of response
    - b. Provision of status updates
    - c. Explanation of the matter and potential courses of action
    - d. Degree of accessibility
  2. **Interpersonal behavior with the client, including:**
    - a. Qualities associated with trustworthiness, integrity, and reliability
    - b. Professionalism (undefined)
    - c. Ability to relate to the client with tolerance, sensitivity, and compassion
    - d. Sociability
    - e. Taking a personal interest in the matter
    - f. Respect and courtesy to the client
  3. **Value of the lawyer's contribution to the client's matter, including specific outcomes and the cost of the services**
  4. **Technical lawyering skills**
  5. **Tenacity, including diligence and work ethic**
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Note that the respondents in this survey indicated that legal skills and quality work are important to get in the door for consideration but they are not differentiating. Both are expected and abundant in the market.<sup>20</sup>

- (1) "superior client focus" (including achieving the best outcome from the client's unique perspective);
- (2) "unmatched client experience" (including identifying business risks and helping inside counsel shape messages for management);
- (3) "understanding the client's business like no other" (including discussing "how legal advice will impact business goals" and proactive monitoring and advice on business and industry risks);
- (4) "unparalleled legal skills" (including "identify[ing] and discuss[ing] legal needs before a major issue arises"); and
- (5) "innovative thought leadership" (including "educat[ing] the client on how to manage risks associated with emerging issues").

Based on the results of its 2018 survey, BTI's most important recommendation to deliver superior service is to "ingrain yourself in the [client's] business – not [just] the [immediate] matter . . . . Cloak all your recommendations and guidance in the context of the client's business. Legal decision makers say business context most differentiates one attorney from another . . . . The work is important, but is only one component of a successful relationship. Many attorneys are capable of providing effective counsel. Few focus on building the business relationship . . . . Teach clients something they don't know that will help them do their job better . . . . No charge. Taking a step to prove you are invested in the client earns you their investment back." BTI CONSULTING GROUP, BTI CLIENT SERVICE ALL-STARS FOR LAW FIRMS 57 (2018).

<sup>19</sup> See THINK LIKE A CLIENT, *supra* note 9, at 6–17.

<sup>20</sup> See BTI SURVEY, *supra* note 17, at 8.

TABLE 6 2019 BTI Consulting Group survey of law firm client service performance  
(350 interviews with senior in-house counsel)<sup>21</sup>  
*The top differentiating skills driving superior client relationships are*

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- (1) Commitment to help (matching the client's emotional investment in a matter);
  - (2) client focus (being responsive to a client's needs and goals);
  - (3) understanding the client's business (better understanding leads to more relevant advice); and
  - (4) providing value for the dollar (delivering more than the client expects).
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Therefore, fostering these differentiating skills and superior relationship skills should be a major point of emphasis to prepare law students for successful acquisition and retention of legal jobs after graduation.

Similarly, the Altman Weil 2018 Chief Legal Officer Survey of 279 law department leaders found the most important efforts outside counsel could make to improve relations with the client were all related to improved responsiveness to the client's needs, including "[g]reater cost reduction," "[n]on-hourly based pricing structures," improved budget forecasting so the client will know what the service will cost, "[m]ore efficient project management," modification of work to match the legal risk involved, "[i]mproved communication and responsiveness," and greater effort to understand the client's business.<sup>22</sup> Furthermore, the 2019 Association of Corporate Counsel survey of 1,639 respondents who identified themselves as the highest-ranking lawyer in a company<sup>23</sup> reported that the top non-legal skills that chief legal officers want for the in-house legal team are: (1) leadership; (2) business management skills; (3) communication and listening skills; (4) project management skills; and (5) presentation skills.<sup>24</sup>

In 2020, the National Conference of Bar Examiners published a survey of 3,153 newly licensed lawyers (up to 3 years of practice) and 11,693 non-recently licensed lawyers asking how frequently newly licensed lawyers performed specifically listed tasks.<sup>25</sup> The study included the combined ranking of both

<sup>21</sup> *Id.*

<sup>22</sup> See ALTMAN WEIL INC., 2018 CHIEF LEGAL OFFICER SURVEY viii, 45 (2018), [http://www.altmanweil.com/dir\\_docs/resource/D3942AD5-753D-4EDC-96C6-99048671F193\\_document.pdf](http://www.altmanweil.com/dir_docs/resource/D3942AD5-753D-4EDC-96C6-99048671F193_document.pdf).

<sup>23</sup> ASS'N CORP. COUNS., 2019 ACC CHIEF LEGAL OFFICERS SURVEY 2 (2019), <https://www.acc.com/sites/default/files/resources/upload/2019-ACC-Chief-Legal-Officers-Survey.pdf>.

<sup>24</sup> See *id.* at 21–22.

<sup>25</sup> NAT'L CONF. BAR EXAMINERS TESTING TASK FORCE, PHASE 2 REPORT: 2019 PRACTICE ANALYSIS (2020).

TABLE 7 2020 NCBE Survey Ranking of the Most Critical Skills and Abilities for Newly Licensed Lawyers

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1. Written/reading comprehension
2. Analytical thinking
3. Written expression
4. Identifying legal issues
5. Integrity/honesty
6. Conscientiousness
7. Professionalism – demonstrate respect for the profession with civility and candor
8. Adapting to change, pressure, and setbacks
9. Fact gathering
10. Oral comprehension
11. Advocacy – written and oral
12. Attentive to details
13. Practical judgment
14. Diligence and persistence
15. Collegiality to establish quality relationships and work collaboratively
16. Legal research
17. Oral expression
18. Continuous learning
19. Managing projects
20. Collaboration/Teamwork to accomplish a common goal

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groups with respect to the criticality (low, medium, or high) of a list of skills and abilities for newly licensed lawyers.<sup>26</sup> Table 7 indicates the ranking of the top twenty most critical skills and abilities.

In 2020, the California State Bar published the results of a survey of 16,190 California attorneys to collect data on (1) what attorneys do as reflected in daily tasks, and (2) what knowledge attorneys use to perform those tasks.<sup>27</sup> The survey was administered to gauge the alignment between the content of the California Bar Exam and the practice of law in California. In addition to making recommendations on the legal topics to be included on the bar exam, the report recommended a list of competencies to be considered for inclusion on the bar exam as follows:<sup>28</sup>

- Drafting and writing;
- Research and investigation;

<sup>26</sup> *Id.* at 62.

<sup>27</sup> STATE BAR OF CALIFORNIA CAPA WORKING GROUP, *THE PRACTICE OF LAW IN CALIFORNIA: FINDINGS FROM THE CALIFORNIA ATTORNEY PRACTICE ANALYSIS AND IMPLICATIONS FOR THE CALIFORNIA BAR EXAM (2020)*.

<sup>28</sup> *Id.* at 18–19.

- Issue-spotting and fact-gathering;
- Counsel/advice;
- Litigation;
- Communication and client relationship including:
  - ~ Establishing the client relationship;
  - ~ Maintaining the client relationship; and
  - ~ Communication.

In 2020, IAALS published another national study based on 50 focus groups that were asked about the knowledge and skills that new lawyers used during the first year of practice.<sup>29</sup> From the focus group data, Merritt and Cornett identified 12 building blocks that allowed the new lawyers possessing these abilities to represent clients with little or no supervision. The 12 building blocks are set forth in Table 8. The order of the building blocks does not indicate their relative importance. The authors thought all of them are critical components of minimum competence for a new lawyer.<sup>30</sup>

TABLE 8 IAALS 2020 *Twelve Building Blocks of Minimum Competence for a New Lawyer*

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1. The ability to act professionally and in accordance with the Rules of Professional Conduct
  2. An understanding of legal process and the sources of law
  3. An understanding of the threshold concepts in many subjects
  4. The ability to interpret legal materials
  5. The ability to interact effectively with clients
  6. The ability to identify legal issues
  7. The ability to conduct research
  8. The ability to communicate as a lawyer
  9. The ability to understand the big picture of client matters
  10. The ability to manage a law-related workload responsibly
  11. The ability to cope with the stress of legal practice
  12. The ability to pursue self-directed learning.
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<sup>29</sup> DEBORAH JONES MERRITT & LOGAN CORNETT, BUILDING A BETTER BAR: THE TWELVE BUILDING BLOCKS OF MINIMUM COMPETENCE 14–15 (2020) (the study had 200 total participants with 41 focus groups of junior lawyers who had been licensed between Jan. 1, 2016, and Jan. 31, 2019, and had worked at least 12 months in one or more positions that required a law license, and 9 focus groups of experienced lawyers who had supervised at least one junior lawyer during the two years preceding the study).

<sup>30</sup> *Id.* at 31.



In 2021, Mitt Regan and Lisa Rohrer published a study (summarized in Table 9) reporting on in-depth interviews with 278 law partners at larger US law firms to assess whether business concerns are eclipsing professional values in law firm practice.<sup>31</sup>

In 2020–21, IAALS conducted collaborative working sessions with 36 different legal employers in New York, Chicago, Denver, and Seattle representing a variety of practice areas and organization sizes. IAALS then synthesized the working session results with the data from its 2016 Foundations for Practice survey of more than 24,000 lawyers from across the country. In its publication *Foundations Instructional Design Guide*, IAALS draws on that research to recommend five Foundations Learning Outcomes to help schools instill and measure what is important for student practice-readiness, and help

TABLE 9 *Competencies Highlighted in Regan and Rohrer's Interviews with 278 Law Firm Partners*

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1. Although at an earlier time, big firm lawyers were acculturated that excellence in the craft of lawyering defined by internal professional standards would provide assurance of advancement and financial success, the firms now are emphasizing that lawyers need to be more entrepreneurial because of increasing competitive pressure.<sup>32</sup>
  2. Professional values contributing to each lawyer's meaning in the work are still important to many partners.<sup>33</sup>
  3. Many partners indicated that serving as a trusted advisor for their clients is how they can play a distinctive role as a professional.<sup>34</sup> Commitment to the client (being client-centered) is essential in this role, but the lawyers also counsel beyond technical legality to include the spirit of the law and broader considerations, sometime expressed in the client's risk language, from a deep understanding of the client's context and business.<sup>35</sup>
  4. Building and sustaining a cooperative firm culture can create a competitive advantage for a firm. Being both entrepreneurial and collaborative within the firm is very important.<sup>36</sup>
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<sup>31</sup> MITT REGAN & LISA ROHRER, *BIG LAW: MONEY AND MEANING IN THE MODERN LAW FIRM 2* (2021).

<sup>32</sup> *Id.* at 2, 5. Regan and Rohrer find that responses from partners across all firms emphasize the common critical challenge posed by intensifying competition and pressure for financial performance. *Id.*

<sup>33</sup> *Id.* at 244–45, 233. The interviews indicated that law firm partners in bigger firms seek both money and meaning in their practice. They still maintain a sense of themselves as a distinctive profession notwithstanding a significant intensification of business pressures in recent years. *Id.*

<sup>34</sup> *Id.* at 231.

<sup>35</sup> *Id.* at 228, 230–31, 204–05, 212–17.

<sup>36</sup> *Id.* 7–8, 239.

employers adopt hiring practices that identify candidates that they want to hire and retain.<sup>37</sup>

COMMUNICATOR – Communicate by reading, writing, speaking, and listening in a professional manner.

PRACTITIONER – Employ research, synthesize, analyze, and apply skills in legal processes and actions.

PROFESSIONAL – Use efficient methods and tools to manage one's and the firm or organization's professional workload with accuracy and utility.

PROBLEM SOLVER – Solve long-term and immediate problems to the benefit of all stakeholders.

SELF STARTER – Demonstrate leadership, responsibility, and initiative in work responsibilities with little supervision.

In 2021, the National Association for Law Placement published a survey of 58 large firms where 51 (88 percent) indicated they do have competency models for associate assessment.<sup>38</sup> Fifty of the firms provided data on the competencies included in their models. Competencies included in more than 80 percent of the firm models are listed as follows here.

Competency	No. of firms including this competency
Legal analysis	49
Written advocacy	49
Communicating clearly	49
Legal knowledge	48
Judgment/common sense	48
Teamwork/collaboration	48
Oral advocacy	47
Initiative	47
Responsibility/reliability	47
Responsiveness to client	47
Understand client's business/circumstances	47
Attention to detail	47
Leadership	44

<sup>37</sup> IAALS, FOUNDATIONS INSTRUCTIONAL DESIGN GUIDE 14 (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).

<sup>38</sup> NAT'L ASS'N L. PLACEMENT, REPORT ON 2020 SURVEY OF LAW FIRM COMPETENCY EXPECTATIONS FOR ASSOCIATE DEVELOPMENT 5–6 (2021), [https://www.nalp.org/uploads/NALP\\_Associate\\_Competencies\\_Report\\_May\\_2021.pdf](https://www.nalp.org/uploads/NALP_Associate_Competencies_Report_May_2021.pdf).

(continued)

Competency	No. of firms including this competency
Legal research	43
Problem-solving	42
Respect for others	40

The major futurists looking at the legal services market emphasize that the competencies needed for a successful twenty-first century lawyer include a more pro-active entrepreneurial mindset to meet changing market conditions for the clients and the lawyers.<sup>39</sup> Richard Susskind highlights the “more for less” challenge, in which clients want legal services delivered at lower cost, and the related challenge of taking advantage of the increasing capabilities of information technology to streamline current processes in legal services.<sup>40</sup> Jordan Furlong and William Henderson also emphasize that client demands for better, faster, and cheaper legal services are causing a structural change in the legal services market.<sup>41</sup> To thrive in the years ahead, lawyers will need to become more entrepreneurial, more efficient, and less expensive through the use of new technologies and collaboration.<sup>42</sup> They stress the need for both project management skills and collaboration skills in teams of lawyers, nonlawyers, and clients to achieve greater efficiencies and lower costs.<sup>43</sup>

Client surveys accentuate the importance of client orientation and relationship skills. Randall Kiser, in his 2017 book *Soft Skills for the Effective Lawyer*, notes that while both attorneys and clients include client service orientation and relationship skills among the important competencies needed to represent clients, the clients emphasize these skills (including communication, attentive listening, responsiveness, understanding of client’s context and business, and explanation of fee arrangements) more heavily.<sup>44</sup>

<sup>39</sup> See RICHARD SUSSKIND, *TOMORROW’S LAWYERS: AN INTRODUCTION TO YOUR FUTURE* 4–14 (2013); William Henderson, *Efficiency Engines: How Managed Services Are Building Systems for Corporate Legal Work*, ABA J. 38–45 (June 2017); JORDAN FURLONG, *LAW IS A BUYER’S MARKET: BUILDING A CLIENT-FIRST LAW FIRM* 29, 73–81, 145–52 (2017).

<sup>40</sup> *TOMORROW’S LAWYERS*, *supra* note 39, at 4–14.

<sup>41</sup> Henderson, *supra* note 39, at 38–45; *LAW IS A BUYER’S MARKET* *supra* note 39, at 29, 73–81, 145–52.

<sup>42</sup> See *supra* note 41, and sources cited therein.

<sup>43</sup> See *supra* note 41, and sources cited therein.

<sup>44</sup> RANDALL KISER, *SOFT SKILLS FOR THE EFFECTIVE LAWYER* 32–33 (2017).