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Law School and Professional Identity Formation

This article is adapted from our book, “The Formation of Professional Identity: the Path from Student to Lawyer,” and reviews the concept of professional identity, something that practicing lawyers of any age may find useful as they reflect on their own roles in the profession.

BY PROF. PATRICK E. LONGAN, PROF. DAISY HURST FLOYD AND PROF. TIMOTHY W. FLOYD

Law school is a transformative process. Students learn things that lawyers need to know and learn how to do some of the things that lawyers do. But that is not all. Beyond knowledge and skill, law students absorb lessons about the professional values that are supposed to guide the deployment of their newfound knowledge and skill.

We’ve spent many years teaching and writing about ethics and professionalism, and collectively we have practiced in a variety of settings. Those experiences have led us to conclude that the best way to help our students understand and commit to the values of the profession is to focus on the development of “professional identity.” The concept of a “professional identity” may be unfamiliar to most lawyers, and it may sound like academic gobbledegook. It is actually simple and intuitive. An identity is just a deep sense of self in a particular role. We all form multiple identities as we go through life—for example, as a friend, as a spouse or as a person of faith. Professional identity is a piece of this evolving sense of self for law students and lawyers. A sense of your professional identity would enable you to complete the sentence, “I am the kind of

lawyer who ____.” The professional identity we strive to promote for our students is one that internalizes the traditional values of the profession and disposes the students to act in accordance with them.

We have recently written a book that we will be using in that process: “The Formation of Professional Identity: the Path from Student to Lawyer” (Routledge Press 2019). A focus on professional identity formation is not new or original with us. But in our book we offer our own specifics about the components of the right kind of professional identity for lawyers and, based upon our experience in teaching legal ethics and professionalism, how best to begin the process of professional identity formation among law students. Practicing lawyers of any age may also find the book and the concept of professional identity useful as they reflect on their own roles in the profession.

Our book discusses in depth the six virtues that should be part of the professional identity of every lawyer: professional excellence, fidelity to the client, fidelity to the law, public service, civility and practical wisdom. We make the case why students and lawyers should seek to acquire and cultivate these virtues—be-



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cause doing so will help them to make a meaningful difference in the lives of others and to flourish as individuals in the profession. We explore, as to each virtue, the details of what it means and why it matters. We identify the reasons why a lawyer might find it difficult in particular situations to deploy each virtue, and we give recommendations for how to overcome those obstacles.

We focus on professional identity in part because law school historically has not been as good about transmitting the values of the profession as it has been about teaching knowledge and skill. For decades, no training in ethics or professionalism was required. Since the post-Watergate era began, all law schools have been required to teach all students a course on professional responsibility, which almost always focuses on the Model Rules of Professional Conduct. Study of the Model Rules provides some guidance to students about the values of the profession and motivates conduct that lives up to these values primarily by the fear of discipline such as disbarment.

As a way of transmitting the values of the legal profession and motivating students to live up to them, the professional responsibility course is important but incomplete. Not all of the values of the profession are reflected in the rules. For example, civility is a core value of the legal profession, yet there is no “civility rule” in the Model Rules. Furthermore, many kinds of misconduct are difficult to detect and therefore difficult to punish. And deploying the values of the profession in complex circumstances requires much more than knowledge of the “do’s and don’ts.” Often the value-laden decision for lawyers is about what they should do, among multiple permissible actions. Knowing the rules of conduct and the possible consequences of violating them is important, but it is not enough.

More recently, some law schools have exhorted students to “aim higher” than the rules and aspire to act with “professionalism.” Mercer Law School has been teaching such a course since 2004. The

notion of professionalism broadens the conception of a lawyer’s professional responsibilities in important ways. One of the early proponents of professionalism, Chief Justice Harold Clarke of the Supreme Court of Georgia, once famously wrote that “ethics is a minimum standard which is required of all lawyers while professionalism is a higher standard expected of all lawyers.”¹ Such an expectation does not fit comfortably into a regulatory framework but can find useful expression in an aspirational statement on professionalism. The modern professionalism movement has spawned dozens of such statements, including Georgia’s “A Lawyer’s Creed” and “Aspirational Statement on Professionalism.”²

We believe in teaching professionalism to law students but have come to recognize the shortcomings of such instruction. One is motivation. The underlying theme of the professionalism movement is to inspire students and lawyers, to convince them that they should conduct themselves in particular ways, even at cost to themselves, when no rule requires them to do so and they need not fear any punishment. That is not enough for some students. Part of the problem is that, frankly, professionalism teaching can sound a little preachy. Our experience has been that many law students do not respond well to preaching. They are in the midst of rigorous training to be critical thinkers and are understandably skeptical of received wisdom.

Another shortcoming of professionalism teaching is that it does not provide any guidance on how to turn noble aspirations into action in particular situations. Being able to recite professionalism guidelines does not enable law students to solve complex real-world problems in which more than one professional value is in play. It is like telling a pianist about all the beautiful notes but providing no guidance about which notes to play in which order. The beautiful notes are no practical good at concert time.

Courses and programs on professionalism have been an important step in the

right direction of a more comprehensive process of introducing law students into the values of the profession. However, now that the shortcomings of such training are clear, another approach is needed.

That is where “professional identity” and our new book come in. We hope that students and members of the Bar find it useful. We invite you to read it and see for yourselves, and we welcome your feedback. •



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This article is adapted from “The Formation of Professional Identity: The Path from Student to Lawyer” (Routledge Press 2019).

Endnotes

1. Harold G. Clarke, Professionalism: Repaying the Debt, 25 *GEORGIA STATE BAR JOURNAL* 170, 173 (1989).
2. A copy of A Lawyer’s Creed and the Aspirational Statement on Professionalism is available on the website of the Chief Justice’s Commission on Professionalism at www.cjcpga.org.