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Empirical Evidence That Legal Education Can Foster Student Professionalism/Professional Formation to Become an Effective Lawyer

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INTRODUCTION

We start with a bold proposition. Recent empirical studies make it clear that a new lawyer who has internalized a high degree of professionalism is a more effective lawyer. The empirical evidence presented in this paper demonstrates that a well-designed law school curriculum and culture can help students grow toward internalization of a high degree of professionalism or what we now call professional formation. We argue that legal education should move toward much more effective curricula, culture, and pedagogies to foster each student's professionalism.

This paper unpacks and explains the empirical evidence providing justification for the bold proposition above by analyzing four important questions:

1. Is professional formation important both for the professional effectiveness of each law student and practicing lawyer and for the legal profession's social contract, whereby society grants the profession autonomy to regulate itself? Part I presents data strongly supporting an affirmative answer.
2. What does empirical research tell us about the most effective curriculum, culture, and pedagogy to help each student internalize the capacities and skills of professional formation? Part II summarizes and analyzes research indicating the most effective educational strategies.

3. With both the educational objective of professional formation and the empirical research on the most effective educational engagements in mind, how has the University of St. Thomas School of Law designed its curriculum, culture, and pedagogy to help each student develop in terms of professional formation? Part III summarizes and analyzes UST Law's curriculum, culture, and pedagogy.

4. Do the University of St. Thomas School of Law's curriculum, culture, and pedagogy make any assessable difference in terms of student professional formation? Part IV analyzes the data, which indicates substantial student growth in moral reasoning and ethical professional identity.

I. PROFESSIONAL FORMATION AS THE FOUNDATION BOTH FOR THE PROFESSIONAL EFFECTIVENESS OF EACH STUDENT AND PRACTICING LAWYER AND FOR THE PROFESSION'S SOCIAL CONTRACT

A. *The Capacities and Skills Necessary for Effective Lawyering*

Empirical research makes it clear that legal employers evaluate more than a new lawyer's technical legal skills (e.g., knowledge of the law, legal analysis, and effective written and oral communication). They also evaluate a new lawyer's capacities for good judgment, integrity and trustworthiness, an internalized commitment to self-development toward excellence, self-awareness, the capacity to take feedback and reflect on weaknesses and mistakes, effective teamwork, and strong client relationships.[1]

Empirical studies also make it clear that corporate clients want and evaluate not just a lawyer's technical legal skills but also his good judgment, high commitment and responsiveness to the client, understanding of the client's business and needs fully, and teamwork.[2] Individual clients also want not just technical legal skills but also honesty, integrity, diligence, good relationship skills, good judgment and creative problem solving, lis-

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1. *See* Neil W. Hamilton, et al., *Encouraging Each Student's Personal Responsibility for Core Competencies Including Professionalism*, 21 PROF. LAW., Spring 2012, at 1, 1, 10 [hereinafter Hamilton, *Personal Responsibility*] (citing Susan Manch, *Competencies and Competency Models: An Overview, in* THE ART AND SCIENCE OF STRATEGIC TALENT MANAGEMENT IN LAW FIRMS 83 (Terri Mottershead, ed., 2010) (noting that a July 2009 survey of U.S. law firms reported that in response to market changes almost seventy-five percent of the firms had or were planning to develop a competency-model approach to talent management)). An increasing proportion of medium and large law firms are adopting competency models to evaluate associate attorneys. These models define specific performance expectations using behavioral language to describe each needed capacity or skill. The more sophisticated models will describe each needed capacity or skill using three or four levels of competence. *Id. See also* Neil W. Hamilton & Verna Monson, *The Positive Empirical Relationship of Professionalism to Effectiveness in the Practice of Law* 24 GEO. J. LEGAL ETHICS 137, 163–65 (2011) [hereinafter Hamilton & Monson, *Effectiveness*].

2. Hamilton & Monson, *Effectiveness*, *supra* note 1, at 160–62, 165.

tening skills, ability to see things through the eyes of others, counseling proficiency, teamwork, and reflective self-development.[3]

We can see from the studies cited above that clients and legal employers evaluate a new lawyer's effectiveness not just by looking at the quality of the lawyer's technical legal skills, but also by looking at capacities relating to both the new lawyer's moral core and to the new lawyer's ability to build successful relationships with clients and in teams. For example, both law firm competency models and individual clients evaluate a new lawyer's (1) integrity, honesty and trustworthiness and (2) ability to take feedback and reflect to foster self-development.[4] Law firm competency models evaluate whether a new lawyer has self-awareness and an internalized commitment to grow toward excellence in all the other competencies of being an effective lawyer.[5] Law firm competency models and both individual and corporate clients evaluate a new lawyer's (1) good judgment, (2) client relationship skills, and (3) teamwork skills.[6]

B. *The Capacities and Skills Included in Professional Formation*

With a clear understanding of the capacities and skills that legal employers and clients expect in their evaluation of new lawyers, we now explore which of these capacities and skills are included in the concept of professional formation. The initial challenge has been to create definitional clarity about the terms professionalism and professional formation. For example, the authors of the five Carnegie Foundation studies of education in the professions used synonymously the terms professional formation, formation of a professional identity, professionalism, professionalism and ethics, and ethical comportment.[7] In *Educating Physicians*, the last in the series of studies, the authors adopted "professional formation" rather than "professionalism" as the best term to use going forward because it empha-

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3. *See* Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admission Decisions*, 36 LAW & SOC. INQUIRY 620, 629–30 (2011) (synthesizing the responses from 2,012 law alumni of UC Berkeley ranging from one to over twenty years of practice to a survey regarding the qualities they would look for in a lawyer); Hamilton & Monson, *Effectiveness*, *supra* note 1, at 158, 163.

4. *Compare* Shultz & Zedeck, *supra* note 3, at 629, *with* Hamilton, *Personal Responsibility*, *supra* note 1, at 13.

5. *See* Hamilton, *Personal Responsibility*, *supra* note 1, at 13.

6. *See* Neil W. Hamilton, *Law-Firm Competency Models and Student Professional Success: Building on a Foundation of Professional Formation/Professionalism*, tbl.1 (Apr. 29, 2013) (unpublished manuscript) (on file with author); Shultz & Zedeck, *supra* note 3, at 629. Notably, client relationship skills for corporate clients include a high commitment and responsiveness to the client and understanding the client's business and needs fully. For the individual client, client relationship skills include empathy and good listening skills.

7. *See* Neil W. Hamilton, *Fostering Professional Formation (Professionalism): Lessons from the Carnegie Foundation's Five Studies on Educating Professionals*, 45 CREIGHTON L. REV. 763, 771–774 (2012) [hereinafter Hamilton, *Lessons from Carnegie*] (listing specifically on Table 1 on page 773 all of the terms used to describe the third apprenticeship in each of the five Carnegie studies).

sizes the developmental and multi-faceted nature of the construct.[8] Professional formation indicates "an ongoing self-reflective process involving habits of thinking, feeling, and acting,"[9] and a lifelong commitment to continued progress toward technical excellence and the aspirational goals of the profession.[10] We like "professional formation," but believe an even more specific statement—"professional formation toward a moral core of service to and responsibility for others"—best captures both the developmental nature of the educational challenge and the "other-directedness" inherent in professionalism. For purposes of brevity, we proceed in this paper relying on the phrase "professional formation" as we discuss these themes.

Following the general principle that we could best understand the capacities and skills of professional formation by using a variety of qualitative and quantitative research methods, and then looking for general areas of convergence, we have done six earlier studies analyzing different perspectives on the capacities and skills that define professional formation.[11] We first looked at how the organized profession nationally has defined professionalism in its reports and in the ABA Model Rules of Professional Conduct.[12] Then we analyzed how all legal scholars, writing since 1980, have defined the elements of professionalism.[13] In a third article, we analyzed how the five Carnegie studies of higher education for the professions (based on over fifty site visits) defined the elements of professionalism.[14] Finally we did three qualitative empirical research studies focused on how entering law students, early-career lawyers, and peer-honored exemplary lawyers understood professionalism.[15]

The most important findings of these studies are that a student's or new lawyer's understanding of professional formation depends upon the student's or new lawyer's stage of development, and that a student or new

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8. Molly Cooke, David M. Irby, William Sullivan, & Kenneth M. Ludmerer, Educating Physicians: A Call for Reform of Medical School and Residency 108 (2010).

9. *Id.* at 41.

10. *Id.*

11. Our earlier studies used "professionalism" as a synonym for "professional formation" because most were written prior to the emergence of the idea of "professional formation" as the best descriptor.

12. *See* Neil W. Hamilton, *Professionalism Clearly Defined*, 18 No. 4 Prof. Law. 4 at 6–8 (2008) [hereinafter Hamilton, *Professionalism Clearly Defined*].

13. *See* Neil W. Hamilton, *Assessing Professionalism: Measuring Progress in the Formation of an Ethical Professional Identity*, 5 U. St. Thomas L.J. 470, 482–83 (2008) [hereinafter Hamilton, *Assessing Professionalism*].

14. *See* Hamilton, *Lessons from Carnegie*, *supra* note 7, at 779–80.

15. *See generally* Verna E. Monson & Neil W. Hamilton, *Entering Law Students' Conceptions of an Ethical Professional Identity and the Role of the Lawyer in Society*, 35 J. Legal Prof. 385 (2011) [hereinafter Monson & Hamilton, *Entering Law Students*]; Verna E. Monson & Neil W. Hamilton, *Ethical Professional (Trans)Formation in Law: Early Career Lawyers Make Sense of Professionalism*, 8 U. St. Thomas L.J. 129 (2011) [hereinafter Monson & Hamilton, *Ethical Professional (Trans)formation*]; Neil W. Hamilton & Verna Monson, *Ethical Professional (Trans)Formation: Themes from Interviews About Professionalism with Exemplary Lawyers*, 52 Santa Clara L. Rev. 921 (2012) [hereinafter Hamilton & Monson, *Themes from Interviews*].

lawyer can eventually grow over a career toward the internalization of a later-stage understanding of professional formation.[16] To be effective in fostering professional formation, legal educators must take into account the developmental stage of each student and engage each student at his or her developmental stage.

These studies also clarify the key elements of a later-stage understanding of professional formation. The studies of the understandings of professionalism from the organized profession, the legal scholars who have written on professionalism, and the five Carnegie studies on higher education for the professions, combined with the exemplary lawyers study, all agree that professional formation encompasses an internalized moral core characterized by a deep responsibility or devotion to others, particularly the client, and some restraint on self-interest in carrying out this responsibility.[17] Most of the studies also agree that professionalism includes these elements: (1) ongoing solicitation of feedback and self-reflection, (2) an internalized standard of excellence at lawyering skills, integrity, honesty, and adherence to the ethical codes, (3) public service (especially for the

Table 1
Comparison of the Capacities and Skills Defining Professional Formation with the Capacities and Skills That Legal Employers and Clients Expect in Assessing the Effectiveness of a New Lawyer

Professional Formation Capacities and Skills	Capacities and Skills Legal Employers and Clients Evaluate (Beyond Technical Legal Skills)
Internalized Moral Core Characterized by Deep Responsibility to Others, Particularly the Client	Integrity/Honesty/Trustworthiness
Integrity/Honesty	Internalized Commitment to Grow Toward Excellence in All Competencies
Internalized Standard of Excellence at Lawyering Skills	Ability to Take Feedback and Reflect to Foster Self-Development
Ongoing Solicitation of Feedback and Self-Reflection	Good Judgment/Counseling Skill
Independent Professional Judgment and Counsel to the Client	Client Relationship Skills Including Responsiveness to the Client, Understanding Fully the Client's Business and Needs, Empathy and Listening Skills
Adherence to Ethical Codes	Effective Teamwork Skills
Public Service	

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16. *See generally* Monson & Hamilton, *Entering Law Students*, *supra* note 15; Monson & Hamilton *Ethical Professional (Trans)Formation*, *supra* note 15; Hamilton & Monson, *Themes from Interviews*, *supra* note 15.

17. *See* Neil Hamilton & Verna Monson, *Legal Education's Ethical Challenge: Empirical Research on How Most Effectively to Foster Each Student's Professional Formation (Professionalism)*, 9 U. Sᴛ. Tʜᴏᴍᴀs L.J. 325, 326 (2011) [hereinafter Hamilton & Monson, *Legal Education's Ethical Challenge*].

disadvantaged), and (4) independent professional judgment and honest counsel.[18]

Table 1 above juxtaposes the capacities and skills of a later-stage understanding of professional formation with the capacities and skills that legal employers and clients expect in evaluating the effectiveness of a new lawyer. Table 1 shows substantial overlap between the capacities and skills of professional formation and those beyond the technical legal skills that clients and legal employers evaluate.

While professional formation explicitly includes an internalized moral core, characterized by internalization of deep responsibilities to others (particularly the client), this is implicit in legal employers' and clients' evaluation of a new lawyer's virtues of integrity, honesty, and trustworthiness, as well as the lawyer's internalized commitment to grow toward excellence in all the capacities and skills of effective lawyering. These virtues and internalized commitments are rooted in a new lawyer's moral core. A new lawyer who seeks ongoing solicitation of feedback and engages in self-reflection will foster growth of her moral core.[19] Moreover, an internalized commitment to grow toward excellence in all the competencies of an effective lawyer will lead to ongoing improvement in a new lawyer's technical skills. Finally, and most importantly, a new lawyer who has internalized a moral core characterized by deep responsibility to others (particularly the client) and also has integrity, honesty, and trustworthiness will be more effective in achieving successful client relationships and effective teamwork.

The professional formation of each law student and lawyer supports the legal profession's social contract where the public grants the profession substantial autonomy to regulate itself through peer review. In return the organized profession and each lawyer commit both (1) to set and enforce standards of how individual lawyers perform their work so it serves the client and the public good and (2) to foster the core values and ideals of the profession.[20] The social contract is premised on the public's trust that the organized profession and each lawyer are serious about professional formation. For example, a lawyer will merit trust if the lawyer has internalized a moral core characterized by: (1) deep responsibilities for others, particularly the client; (2) integrity, honesty, and trustworthiness; and (3) a standard of excellence at all lawyering skills. The elements of professional formation capture the required and aspirational duties of the social contract for each lawyer. Failures of professional formation undermine the public trust in the profession and the social contract.[21]

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18. *Id.*

19. Monson & Hamilton, *Ethical Professional (Trans)formation*, *supra* note 15, at 136.

20. Hamilton, *Professionalism Clearly Defined*, *supra* note 12, at 2; Hamilton, *Assessing Professionalism*, *supra* note 13, at 471.

21. Hamilton, *Assessing Professionalism*, *supra* note 13, at 473–74.

II.   Empirical Research on the Most Effective Curriculum,
Culture, and Pedagogies to Foster Professional Formation

Since it is clear that a new lawyer who internalizes a high degree of professional formation is a more effective lawyer, we propose a major shift in legal education to incorporate curriculum, culture, and pedagogies that foster internalization of the elements of professional formation. Legal ethics education should move beyond its focus on analyzing the law of lawyering to include also fostering each student's internalized moral core. This moral core includes a deep responsibility to others—in particular to the client—with some restraint on self-interest, a standard of excellence for technical skills, integrity, honesty, public service (especially for the disadvantaged), and independent professional judgment and honest counsel. We turn now to a review of recent empirical scholarship analyzing the most effective curriculum, culture, and pedagogies for professional formation.

A.   *The Carnegie Studies and Effective Pedagogies for Professional Formation*

The Carnegie Foundation's five studies on higher education for the professions examine three apprenticeships: (1) knowledge of the basic doctrine of the profession and cognitive analytical skills applied to the doctrine, (2) practical skills necessary for effective professional work, and (3) professional formation.[22] The authors of the most recent Carnegie studies note that the third apprenticeship, professional formation, is "the most fundamental goal of the learning process."[23]

Based on classroom visits and interviews with professors identified by colleagues as effective teachers at fifty-one sites, the Carnegie studies identify twenty-two different pedagogies relevant to professional formation.[24] The following summary describes the various pedagogies and their effectiveness in fostering professional formation.

Of the twenty-two pedagogies, six specifically focus on elements of professional formation that foster a deep internalized sense of responsibility toward others, the community, and the larger common good.[25] All five Carnegie studies found that two pedagogies specifically focus on professional formation: (1) reflecting on the responsibilities of the profession and (2) fostering each student's habit of actively seeking feedback, dialogue with others about the tough calls, and reflection (we refer to this as the FDR habit).[26] Some of the five studies cite two additional pedagogies unique to

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22. Hamilton, *Lessons from Carnegie*, *supra* note 7, at 771–72.

23. Cooke, et al., *supra* note 8, at 41.

24. Hamilton, *Lessons from Carnegie*, *supra* note 7, at 781.

25. *Id.* at 781–82.

26. *Id.* at 783.

professional formation: (3) teacher-facilitated discussion of ethics[27] and (4) consideration of each student's developmental stage in designing curriculum and pedagogies.[28] Additionally, some of the Carnegie studies found that professional formation could be promoted by: (5) integrating the three apprenticeships throughout professional education[29] and (6) integrating modules on professional formation into a wide variety of courses.[30]

Several other primary pedagogies observed in the Carnegie studies can further professional formation if used in combination with the first four core pedagogies identified above. All five Carnegie studies found that (1) practical experience and clinical education, (2) coaching, and (3) modeling are pedagogies that can foster technical skills as well as professional formation.[31] Further, four of the five studies found that institutional intentionality (consisting of faculty setting educational goals and then actively planning to achieve those goals)[32] and scaffolding (support and guidance for students to achieve educational objectives) were effective pedagogies.[33]

The Carnegie studies build on the work of early constructivists from John Dewey to Lawrence Kohlberg.[34] The studies recommend a holistic curriculum that emphasizes reflection on a professional's responsibilities to the person served and others, encouragement of the habit of actively seeking feedback, dialogue with others on the tough calls, and reflection and consideration of each student's developmental stage, particularly in the context of practical experience and clinical education, coaching, modeling, institutional intentionality, and scaffolding.[35]

In terms of the practical design of a curriculum, culture, and pedagogies to foster professional formation, we think the most useful approach is to organize the Carnegie studies' findings into those that apply to all law school educational engagements, including large-group classrooms, and those that apply particularly to team-based and individualized instruction. Table 2 summarizes the Carnegie Studies' findings.

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27. *Id.* at 785.

28. *Id.*

29. *Id.* at 783.

30. Hamilton, *Lessons from Carnegie*, *supra* note 7, at 771–74.

31. *Id.* at 787.

32. *Id.* at 788.

33. *Id.* at 788–89.

34. *See, e.g.*, JOHN DEWEY, DEMOCRACY AND EDUCATION (1916). Other constructivist and social learning theorists of the day included Lev Vygotsky, whose notion of engaging learners in "scaffolding" undergirds numerous education theories and approaches. Jean Piaget's study of children's morality similarly pointed out the social nature of moral judgment development, which later guided Lawrence Kohlberg, and more recently, James Rest and his colleagues.

35. Hamilton, *Lessons from Carnegie*, *supra* note 7, at 783–89.

Table 2
The Most Effective Pedagogies for Professional Formation
From the Carnegie Studies

1. Carnegie Studies' Findings That Apply to All Law School Educational Engagements
   a. Reflecting on the responsibilities of the profession
   b. Fostering each student's habit of actively seeking feedback, dialogue on the tough ethical calls, and reflection
   c. Consideration of each student's developmental stage and engaging the student at the appropriate stage
   d. Modeling
   e. Scaffolding

2. Carnegie Study Findings That Apply Particularly to Team-Based and Individualized Instruction
   a. Practical experiences and clinical education
   b. Coaching

B. *Empirical Research on Pedagogies of Professional Formation Linked to the Four Component Model*

At the heart of professional formation is the concept of each new lawyer's moral core or personal conscience. Hence moral psychology is a valuable lens through which to examine effective curricula and pedagogies to foster personal conscience. Since humans live in groups and one person's actions affect others, morality provides guidelines for optimizing the mutual benefit of people living in groups as well as resolving conflicts among them.[36] Scholars have identified four distinct capacities, called the Four Component Model ("FCM"),[37] that are necessary for moral behavior to occur. An underdeveloped capacity may interfere with moral behavior. The FCM includes:

1. *Moral Sensitivity (Perceptual Clarity and Empathy)*, which involves the ability to interpret the reactions and feelings of others and to see things from the perspective of other individuals and groups, including legal, institutional, and national perspectives.[38]

2. *Moral Reasoning and Judgment*, which involves deliberation regarding the moral justifiability of a given action in light of

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36. *See* JAMES R. REST, MORAL DEVELOPMENT: ADVANCES IN RESEARCH AND THEORY 1 (1986) (explaining that "[t]he function of morality is to provide basic guidelines for determining how conflicts in human interests are to be settled and for optimizing mutual benefit of people living together in groups. It provides the first principles of social organization; it remains for politics, economics, and sociology to provide the second-level ideas about the specifics for creating institutions, role-structure, and practices.") *Id.* at 1.

37. The first reference to the Four Component Model was in James R. Rest, *A Psychologist Looks at the Teaching of Ethics*, 12 HASTINGS CENTER REP., Feb. 1982, at 29–36.

38. *See* MORAL DEVELOPMENT IN THE PROFESSIONS: PSYCHOLOGY & APPLIED ETHICS 23 (James Rest & Darcia Narvaez eds., 1994).

its impact on others.[39] It requires the integration of shared moral norms and individual moral principles.[40]

3. *Moral Motivation and Identity*, which includes the importance given to moral values in competition with other values. This competition takes place in the context of the individual's evolving concept of the moral self from a single focus on the self to more complex and diverse perspectives.[41]

4. *Moral Implementation ("Conscience in Action") and Interpersonal Abilities*, which consist of carrying out a moral decision despite obstacles and setbacks.[42] Moral implementation typically involves interpersonal interaction among clients, peers, as well as adversaries.

Rest cautioned that the FCM is not a sequential, four-step model in which an individual moves from one step to the next; it is instead more holistic, with growth in one component likely having an impact on growth in other components.[43]

The empirical research analyzed below has identified a range of pedagogies that foster moral behavior and are linked to the FCM components. While some pedagogies are uniquely effective for one of the FCM components, many cross over into multiple capacities. It is also important to note that the study of professional formation is a developing field and that considerable work needs to be done to identify measures that yield valid and reliable data to determine the relationship between various pedagogies and one or more individual moral capacities. Again, we analyze the moral psychology empirical research on curriculum and pedagogies first in terms of findings that apply across all law school educational engagements, including large-group classroom instruction, second in terms of findings that apply more specifically to team-based instruction, and third in terms of findings that apply to individualized education.

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39. *Id.* at 23–24.

40. Over a lifetime, the two most important factors influencing growth in moral judgment as measured by the moral reasoning tests developed in this body of scholarship are education and age, with education being a far more powerful predictor of moral judgment development. REST, MORAL DEVELOPMENT IN THE PROFESSIONS, *supra* note 36, at 15. *See* Muriel Bebeau, *Promoting Ethical Development and Professionalism: Insights from Educational Research in the Professions*, 5 U. ST. THOMAS L.J. 366, 370 (2008) (noting that young people are naturally more self-centered rather than other-centered; learning to serve others is a mark of moral maturity).

41. *See* MORAL DEVELOPMENT IN THE PROFESSIONS, *supra* note 38, at 24.

42. *See id.* Moral implementation requires ego strength, perseverance, backbone, toughness, strength of conviction, courage and problem-solving skills—including figuring out the necessary sequence of concrete actions, working around impediments and unexpected difficulties, and interpersonal skills.

43. *Id.* Recent scholarship on moral judgment suggests that there is not a linear sequence of psychological processes leading to moral behavior. Recent articles frame the four component process as an interactive, dynamic process model. Muriel Bebeau & Verna Monson, *Guided by Theory, Grounded in Evidence: A Way Forward For Professional Ethics Education*, *in* HANDBOOK ON MORAL AND CHARACTER EDUCATION 557, 558–60 (Darcia Narvaez & Larry Nucci eds., 2008).

   1.   *FCM Research Findings That Apply to All Law-School Educational Engagements on Professional Formation*

      a.   *Stage-Appropriate Educational Engagements*

Effective pedagogies recognize that students are at different developmental stages of growth in each of the four components toward an internalized moral core. They engage each student at his or her current developmental stage.[44]

      b.   *Questioning Strategies to Foster Professional Identity: Cognitive Disequilibrium and Optimal Conflict*

Kegan and Lahey suggest, based on their empirical research, that shaping the learners' social environment, or creating a climate of "optimal conflict,"[45] fosters growth in professional identity. Questioning strategies create a state of cognitive disequilibrium, a process wherein the learners' existing ideas and assumptions are challenged and new meaning is constructed.[46] Questions must be appropriate for each student's stage of professional identity and moral reasoning.[47] Four conditions are necessary for growth to occur in this type of learning environment:

1. A problem must represent a "persistent experience of some frustration" or "quandary."
2. The problem must challenge one's assumptions and beliefs or "current way of knowing."
3. The underlying issues must connect deeply to who we are and what we value.
4. Social support from instructors, supervisors, mentors, peers, and others must be effective to prevent the student from becoming overwhelmed or being able to "escape or diffuse it."[48]

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44. *See* Hamilton & Monson, *Legal Education's Ethical Challenge*, *supra* note 17, at 374 (2011).

45. *See* Robert Kegan & Lisa Laskow Lahey, Immunity to Change, at xiii, 13–17, 54–57 (2009).

46. *See* James Rest, Darcia Narvaez, Muriel J. Bebeau, & Stephen J. Thoma, Postconventional Moral Thinking 32 (1999) [hereinafter Rest. et al., Postconventional Moral Thinking]. The term *cognitive disequilibrium* was first used by cognitive developmental psychologist Jean Piaget to describe the active process involved as a child encounters new information which challenges his current ideas, and subsequently, through a process of assimilation and accommodation, constructs new, more complex cognitive abilities. In this construct, learning is viewed as an active process in which the children interact with the social and physical environment, guided by teachers or parents—as opposed to a passive process in which the teacher "fills up" the child with facts or knowledge. Kohlberg, Rest, and Kegan all build upon Piaget's work. For an introduction to Piaget's work, see Jean Piaget, The Moral Judgment of the Child (1932).

47. *See* Neil Hamilton, Foreword, *The Formation of an Ethical Professional Identity in the Peer-Reviewed Professions*, 5 U. St. Thomas L.J. 361, 363 (2008).

48. *See* Kegan & Lahey, *supra* note 45, at 54.

c. *General Pedagogical Guidelines That Foster Reflective Judgment (Moral Judgment)*

The proponents of reflective judgment, a developmental construct similar to moral judgment, have identified a series of pedagogical guidelines for effective instruction. These include:

1. Respect students' assumptions, without which they are less likely to engage in challenging discussions or take risks necessary for moral development.
2. Engage in discussion of controversial issues throughout their learning and make evidence available that supports different points of view.
3. Create multiple opportunities for students to examine different points of view, including their own, for evidentiary accuracy.
4. Teach analytical skills from data gathering, assessing for relevance, evaluating sources, and making interpretive judgments based on data.
5. Give frequent feedback and provide both cognitive and emotional support for effort.
6. Help students to examine their assumptions about knowledge and how it is gained when making judgments.
7. Encourage students to practice their reasoning skills in multiple settings.[49]

d. *Repeated Opportunities Throughout the Curriculum With Respect to Professional Formation*

Both the Carnegie studies and the FCM studies recommend giving broad attention to professional formation by creating a curriculum that "provides students with multiple assessment and reflective self-assessment opportunities on professional formation, including feedback from multiple sources."[50] The curriculum should help students become reflective and self-directed over an extended period of time in the context of the overall program.[51]

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49. *See* Patricia M. King, *Educational Implications*, REFLECTIVE JUDGMENT (last visited Aug. 6, 2012), http://www.umich.edu/~refjudg/edimplications.html; Patricia M. King & Karen S. Kitchener, *The Reflective Judgment Model: Twenty Years of Research on Epistemic Cognition*, *in* PERSONAL EPISTEMOLOGY: THE PSYCHOLOGY OF BELIEFS ABOUT KNOWLEDGE AND KNOWING 37, 55 (Barbara K. Hofer & Paul R. Pintrich eds., 2002).

50. Muriel J. Bebeau, *Promoting Ethical Development and Professionalism: Insights from Educational Research in the Professions*, 5 U. ST. THOMAS L.J. 366, 391 (2008) [hereinafter Bebeau, "*Promoting*"].

51. *Id.*

e. Teacher-Facilitated Discussion of Ethical Dimensions of Cases That Foster Moral Reasoning and Judgment

Muriel Bebeau, in a meta-analysis of thirty-three studies of ethics education in the professions, found that moral reasoning and judgment (FCM #2) is fostered only if there is an ethics component in the curriculum that involves students repeatedly in the discussion of ethical issues that apply to each student's own ethical reasoning.[52] For example, to foster moral judgment, the instructor assigns a complex problem in which there are competing duties, responsibilities, and rights. Students take a position on how the problem should be solved after identifying the issues, affected parties, consequences, and duties raised by the case. Following class discussion, students are asked to reverse their position, presenting arguments for the opposing view. Students then write a short essay on the case. A checklist or scoring rubric can be developed for each case to assess students' understanding of the multiple ethical issues contained in each case, with the resulting scores used as a formative assessment tool to allow students to monitor their growth in understanding of complex ethical issues.[53]

f. Case Method Approaches That Foster Professional Identity

Based on her empirical studies, Bebeau suggests the use of case discussion to promote moral motivation or identity formation so that students have opportunities to think about their future as a professional.[54] Questioning strategies can help clarify the role and responsibilities of the professional as well as help surface and resolve role conflicts and conflicts of interest that professionals often face.[55]

g. Service Learning That Fosters Moral Reasoning

In higher education studies, service-learning experiences have been shown to effectively foster moral reasoning when they are integrated with formal ethics instruction, including reflection.[56] Reflection can be structured in a number of ways, including journaling, discussion, student presen-

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52. Muriel J. Bebeau, *The Defining Issues Test and the Four Component Model: Contributions to Professional Education*, 31 J. MORAL EDUC. 271, 273, 289 (2002) [hereinafter Bebeau, *The Defining Issues Test*].

53. *Id.* at 287; *see also* Verna E. Monson, The Don Glidden Case (unpublished handout) (on file with second author); Verna E. Monson, Evaluating Ellen's and Todd's Responses: The Don Glidden Case Scoring Guide (unpublished handout) (on file with second author).

54. *See* Michael Zigmond & Muriel Bebeau, Developing Abilities Using Cases (2007) (unpublished handout on file with second author accompanying Muriel Bebeau's presentation, *Guided by Theory, Grounded in Evidence: A Way Forward for Business Ethics* (on file with the Mendoza College of Business, Notre Dame University)).

55. *Id.*

56. *See* 2 ERNEST T. PASCARELLA & PATRICK T. TERENZINI, HOW COLLEGE AFFECTS STUDENTS: A THIRD DECADE OF RESEARCH 369 (2005) (discussing how service learning in college affects moral development).

tation, or creative projects.[57] Service learning also has a positive impact on students' views of the importance of giving back to the community and striving for social justice.[58]

2. *FCM Empirical Research Findings That Apply to Team-Based Instruction*

a. *Constructive Controversy to Foster Moral Reasoning, Moral Motivation and Identity, and Moral Implementation*

This pedagogy is a variation of case-based discussion described in 1d above.[59] Here students work in teams to examine a complex ethical issue. They first develop arguments for one side and then reverse positions, presenting a case for the opposite side. Research shows constructive controversy is effective in promoting development in moral reasoning, moral motivation, and moral implementation.[60] Additionally, constructive controversy fosters integrative thinking, wherein the interests of two or more positions are reconciled by developing a third integrative position.[61]

An example of a similar strategy in legal education comes from Steven Hartwell. The author assigned realistic legal cases to formal groups, asking them to analyze the issues from all perspectives and then formulate a con-

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57. *See* HARRY C. SILCOX, A HOW TO GUIDE TO REFLECTION: ADDING COGNITIVE LEARNING TO COMMUNITY SERVICE PROGRAMS 46–73 (1993); JOHN DEWEY, HOW WE THINK: A RESTATEMENT OF THE RELATION OF REFLECTIVE THINKING TO THE EDUCATIVE PROCESS 8 (1933).

58. *See* SILCOX, *supra* note 57, at 24–25.

59. For a review of the literature on constructive controversy in legal education, see generally DAVID W. JOHNSON & FRANK P. JOHNSON, JOINING TOGETHER: GROUP THEORY AND GROUP SKILLS 348–51 (10th ed. 2009) [hereinafter JOHNSON & JOHNSON, JOINING TOGETHER]; Michael Hunter Schwartz, *Teaching Law by Design: How Learning Theory and Instructional Design Can Inform and Reform Law Teaching*, 38 SAN DIEGO L. REV. 347, 379–83 (2001); ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP, 138–39 (2007), *available at* http://www.law.sc.edu/faculty/stuckey/best_practices/best_practices-full.pdf; *see generally* James E. Moliterno, *On the Future of Integration Between Skills and Ethics Teaching: Clinical Legal Education in the Year 2010*, 46 J. LEGAL EDUC. 67 (1996) (describing the shift in legal education to include clinical and role-sensitive education that develops the thought processes inherent to lawyering); David Dominguez, *Principle 2: Good Practice Encourages Cooperation Among Students*, 49 J. LEGAL EDUC. 386, 387 (1999) (providing examples of cooperative learning exercises that enhance student performance in stressful situations and enable them to challenge the status quo); Gary L. Blasi, *What Lawyers Know: Lawyering Expertise, Cognitive Science, and the Functions of Theory*, 45 J. LEGAL EDUC. 313, 317 (1995) (suggesting that progress in cognitive science provides insight into understanding how lawyers develop judgment, wisdom, expertise, and problem-solving capacities).

60. Michelle Tichy et al., *The Impact of Constructive Controversy on Moral Development*, 40 J. APPLIED SOC. PSYCHOL. 765, 785 (2010). In this study, researchers did not find increases in moral sensitivity with constructive controversy pedagogy. *Id.* at 779. The research design was experimental, with a control group. *Id.* at 770. The setting was a medium-size elementary school. *Id.* at 769. Further studies are needed to replicate this study with law students.

61. *See* Karl A. Smith et al., *Pedagogies of Engagement: Classroom-Based Practices*, 94 J. ENGINEERING EDUC. 1, 9 (2005). *See also* ROGER FISHER & WILLIAM L. URY, GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN 71, 80 (2011).

sensus opinion.[62] At the end of the course he found statistically significant gains in moral judgment that were sustained for at least four months after the course concluded.[63]

b. *Formal Cooperative Learning to Foster Moral Implementation*

A great deal of research exists on the benefits of cooperative groups. Cooperative, or group, learning can lead to positive social interdependence (teamwork) that is associated with moral values and effective communication abilities.[64] Recent research found a positive relationship between formal cooperative learning and moral development growth.[65] Researchers Katzenbach and Smith state that "[t]eamwork represents a set of values that encourage listening and responding constructively to views expressed by others, giving others the benefit of the doubt, providing support, and recognizing the interests and achievements of others."[66]

In a structured educational setting, cooperative group members take responsibility for their own productivity as well as the productivity and performance of all group members.[67] Each member must support the development of communication and interpersonal capacities of other members.[68] Cooperative learning brings together the pedagogical elements of modeling, coaching, scaffolding, self-reflection, and formative assessment. These same pedagogies were highlighted in the Carnegie studies.

Cooperative learning requires four conditions necessary for effectiveness: (1) individual accountability, (2) promotive interaction, (3) appropriate use of social skills, and (4) group processing.[69] Within this structured

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62. Steven Hartwell, *Promoting Moral Development Through Experiential Teaching*, 1 CLINICAL L. REV. 505, 522–23, 527 (1995).

63. *Id.* at 526–27.

64. *See* David W. Johnson & Roger T. Johnson, *An Educational Psychology Success Story: Social Interdependence Theory and Cooperative Learning*, 38 EDUC. RESEARCHER 365, 370–71 (2009) [hereinafter, Johnson & Johnson, *Psychology Success Story*]; *see also* Sophie M. Sparrow & Margaret Sova McCabe, *Team-Based Learning in Law*, 8–15 (Jan. 16, 2012) (unpublished article) *available at* http://ssrn.com/abstract=1986230; Verna Monson & Michelle Tichy, *Turning Legal Classrooms Upside Down: The Pragmatic and Moral Power of Cooperation to Foster Ethical Professional Identity in Legal Education* (Dec. 14, 2012) (Holloran Center for Ethical Leadership in the Professions, Working Paper) *available at* http://ssrn.com/abstract=2021455. The theoretical foundations of the methodologies recommended by Sparrow and McCabe and by Monson and Tichy are closely linked.

65. *See* Tichy et al., *supra* note 60, at 784–85.

66. *See* Jon R. Katzenbach & Douglas K. Smith, *The Discipline of Teams: What makes the difference between a team that performs and one that doesn't?* HARV. BUS. REV. 111, 112 (Mar.–Apr. 1993).

67. *See* Johnson & Johnson, *Psychology Success Story*, *supra* note 64, at 366; *see also* David W. Johnson, Roger T. Johnson, & Verna Monson, *Cooperation-Competition and Constructive Controversy in Developing Professional Ethics in Law School Classes,* 10 U. ST. THOMAS L.J. 317 (2012), for an application of cooperative learning to law school.

68. *See* JOHNSON & JOHNSON, JOINING TOGETHER, *supra* note 59, at 133–34.

69. *See* Johnson & Johnson, *Psychology Success Story, supra* note 64, at 366–70.

environment positive social interdependence can be achieved either through outcome interdependence (such as when a portion of the grade for a class is assigned to a group paper or project) or through means interdependence (which includes role interdependence, resource interdependence, and task interdependence).[70] Role interdependence is critical for professional effectiveness as attorneys regularly work with clients, other lawyers, and staff in teams.[71] Resource interdependence can be structured by having each student take responsibility for learning and teaching assigned content to other members in the group.[72] Task interdependence occurs when students divide up the tasks necessary for a larger assignment.[73]

Cooperative groups also promote reflection. Instructors can ask students to reflect on and self-assess their groups' effectiveness formally and informally through checklists, surveys, or dialogue.[74] Peer- and self-evaluation forms can serve as formative assessments for individuals and groups to monitor their growth in group processing skills.[75] A great deal of literature is available on how to structure effective cooperative groups.[76]

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70. *See* David W. Johnson & Roger T. Johnson, Meaningful Assessment 251–54 (2002).

71. Johnson and Johnson suggest that role interdependence within cooperative groups should be defined by discussion within the group. Others suggest that specific roles are necessary in groups in order for the team to function properly, and that individuals gravitate towards certain roles based on preferred behavioral patterns, loosely based on personality theory or self-perception of behavioral patterns. *See, e.g.*, R. Meredith Belbin, Management Teams: Why They Succeed or Fail 50, 76 (1981). This approach suggests teams should be formed based on these role types, which were identified through empirical research on management teams in the United Kingdom in the 1970s. These include a coordinator, shaper, completer-finisher, team worker, monitor-evaluator, resource investigator, and plant. However, there is conflicting empirical evidence supporting the validity of team role theory. *See, e.g.*, Jane S. Prichard & Neville A. Stanton, *Testing Belbin's Team Role Theory of Effective Groups*, 18 J. Mgmt. Dev. 652, 652–53, 661 (1999); Adrian Furnham, et al., *A Psychometric Assessment of the Belbin Team-Role Self-Perception Inventory*, 66 J. Occupational & Organizational Psychol. 245, 254 (1993); Stephen G. Fisher, et al., *Further Evidence Concerning the Belbin Team Role Self-Perception Inventory*, 25 Personnel Rev. no. 2, 1996, at 61, 66–67. Belbin contends that the Belbin Team-Role Self-Perception Inventory ("BTRSPI") is valid and reliable. *See, e.g.*, Belbin Assoc., Method, Reliability & Validity, Statistics & Research: A Comprehensive Review of Belbin Team Rules 11–16 (2009).

72. *See* Johnson & Johnson, Joining Together, *supra* note 59, at 93; *see also* Johnson & Johnson, *Psychology Success Story, supra* note 64, at 369.

73. *See* Johnson & Johnson, Joining Together, *supra* note 59, at 93. One mechanism for fostering resource interdependence and task interdependence is "the jigsaw," a teaching strategy that can be used in both small groups and large lecture-based classrooms in which different sections of reading are assigned to different students who then must teach their assigned content to the group or class. *See* Karl A. Smith, *Going Deeper: Formal Small-Group Learning in Large Classes*, New Directions for Teaching and Learning, Spring 2000, at 25, 32–36.

74. *See* Johnson & Johnson, Joining Together, *supra* note 59, at 112.

75. *See* Sparrow & McCabe, *supra* note 64, at 32.

76. *See* Johnson, Johnson, & Monson, *supra* note 67, at 5–6; Sparrow & McCabe, *supra* note 64, at 7–10; Monson & Tichy, *supra* note 64, at 6–16.

c. *Peer Coaching for Moral Implementation Through Relationship Skills*

Peer coaching is a pedagogy based on group dynamics theory, in which students coach one another in the context of a course or curriculum. This pedagogy is often used within formal groups. Students are provided training in communication and interpersonal skills to build trust and ensure team cohesion.[77] They learn the skills of careful observation of group inter-action, effective communication, and providing constructive feedback.[78] These skills are crucial in a law firm environment, where similar assessments, such as a 360-degree assessment, are frequently used.[79] Peer coaching as pedagogy increases students' opportunities for feedback, dialogue, and reflection—crucial skills that foster growth in all four of Rest's moral capacities.

3. *FCM Empirical Research Relating to Individualized Instruction*

a. *Ethical Sensitivity Testing to Foster Empathy*

Bebeau's dental ethics curriculum includes a Dental Ethical Sensitivity Test ("DEST").[80] This assessment involves a student listening to recorded case vignettes and then verbally responding in the role of the dentist. A transcript of the recorded response is coded, scored, and used by a mentor to debrief the student in a one-to-one setting.[81] Similar testing has been used in teacher education to alert students to perceived biases.[82]

b. *Coaching and Identity Formation*

Bebeau and Lewis use students' responses to essay questions to facilitate growth in identity formation. The authors suggest questioning strategies that invite the student to approach an issue from multiple points of view without labeling or judging the student's existing perspective.[83]

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77. *See* Johnson & Johnson, Joining Together, *supra* note 59, at 125, 129, 539.

78. *See* David W. Johnson & Roger T. Johnson, Assessing Students in Groups 19–20, 31–32 (2004).

79. *See* Ida O. Abbott, Developing Legal Talent: Best Practices in Professional Development for Law Firms 92–93 (2001).

80. *See* Muriel Bebeau et al., *Measuring Dental Students' Ethical Sensitivity*, 49 J. Dental Educ. 225, 225–35 (1985).

81. *Id.*

82. *See* Mary M. Brabeck et al., *Increasing Ethical Sensitivity to Racial and Gender Intolerance in Schools: Development of the Racial Ethical Sensitivity Test*, 10 Ethics & Behav. 119 (2000).

83. *See* Muriel J. Bebeau & Philip Lewis, Manual for Assessing and Promoting Formation 1 (2004) (unpublished manuscript) (on file with author). The general approach to developmental coaching should guard against labeling or judging students but rather engage them in a dialogue and encourage them to be reflective. *See also* Marcia B. Baxter Magolda & Patricia M. King, *Interview Strategies for Assessing Self-Authorship: Constructing Conversations to Assess Meaning Making*, 48 J. C. Student Dev. 491 (2007) (summarizing interview techniques that are used in coaching).

c. *Role Play/Coaching to Foster Moral Implementation*

Bebeau's ethics curriculum asks students to respond to a realistic recording of a patient with a complex problem by taking on the role of the dentist, developing a treatment plan, and preparing a dialogue with the patient.[84] The dialogue is then used to provide feedback to the student and to coach the student in language and behaviors that demonstrate respect, compassion, and understanding.[85] The student also has the opportunity to revise and improve the dialogue.[86]

Table 3 summarizes the FCM studies' findings.

Table 3
The Most Effective Pedagogies for Professional Formation Suggested by the Four Component Model Research

1. FCM Studies' Findings That Apply to All Law School Educational Engagements
   a. Consideration of each student's developmental stage and engaging the student at the appropriate stage
   b. Creating "optimal conflict" to challenge each student's existing ideas and assumptions
   c. Fostering each student's reflective judgment
   d. Repeated opportunities for reflective self-assessment on professional formation throughout the curriculum
   e. Teacher-facilitated discussion of the ethical dimensions of cases to foster moral reasoning
   f. Case-method discussion that also fosters professional identity
   g. Service learning and moral reasoning

2. FCM Studies' Findings That Apply Particularly to Team-Based Education
   a. Constructive controversy
   b. Formal cooperative learning
   c. Peer coaching

3. FCM Studies' Findings That Apply Particularly to Individualized Education
   a. Ethical sensitivity testing and feedback
   b. Coaching and identity formation
   c. Role play/coaching to foster moral implementation

A comparison of Tables 2 and 3 indicates a great deal of overlap in the empirical evidence on the most effective pedagogies for professional forma-

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84. Personal Conversation with Muriel J. Bebeau, Professor, Univ. of Minn. (2007). For a report of an empirical review of Bebeau's dental ethics curriculum, see Muriel J. Bebeau & Stephen J. Thoma, *The Impact of a Dental Ethics Curriculum on Moral Reasoning*, 58 J. DENTAL EDUC. 684, 684–92 (1994) [hereinafter Bebeau & Thoma, *Impact of Dental Ethics Curriculum*].

85. *See* Maxine A. Papadakis, *The Education Community Must Develop Best Practices Informed by Evidence-Based Research to Remediate Lapses of Professionalism,* 87 ACAD. MED., Dec. 2012, at 1–5 (opining that remediation coach is an important tool to overcome students' shortcomings).

86. This pedagogy is similar to the Objective Structured Clinical Exam used in medical education and the Standardized Client method developed for legal education. Like Bebeau's cases, these pedagogies involve realistic cases, only in role play as a clinical encounter with a patient or client. *See* NANCY STEVENS, THE OBJECTIVE STRUCTURED CLINICAL EXAMINATION FOR THE RESIDENT PHYSICIAN (2010).

tion. The empirical studies strongly support culture, pedagogies, and a curriculum that engage each student repeatedly in stage-appropriate engagements to both reflect on the responsibilities of the profession and foster the FDR habit of actively seeking feedback, dialogue on the tough calls, and reflection. Coaching is a particularly effective strategy to ask stage-appropriate questions that promote this feedback, dialogue, and reflection on responsibility. We find no empirical evidence that a rules-based ethics course that does not call for each student's reflection on what the rules and responsibilities of the profession mean for that student will have any impact on any FCM capacity.[87]

We now turn to look at how the University of St. Thomas School of Law curriculum, culture, and pedagogies over these past eleven years have developed to reflect this empirical evidence of effective pedagogies for professional formation.

III. THE PROFESSIONAL FORMATION CURRICULUM, CULTURE, AND PEDAGOGY AT THE UNIVERSITY OF ST. THOMAS SCHOOL OF LAW

The University of St. Thomas School of Law has a distinctive mission "as a Catholic law school . . . dedicated to integrating faith and reason in a search for truth through a focus on morality and social justice."[88] This mission focuses on the professional and personal formation of each student. As faculty members, we have endeavored to create a curriculum and a culture in which each student can develop the knowledge and skills essential to becoming an excellent lawyer while also forming an ethical professional identity integrated with the student's faith and moral compass.

Drawing on the Carnegie Foundation's 2007 study of legal education, *Educating Lawyers*,[89] and empirical evidence supporting the hypothesis that a strong ethical professional identity correlates with effectiveness in the practice of law,[90] the School of Law emphasizes formation of an ethical professional identity with a moral core of service to and responsibility for others.

At the University of St. Thomas School of Law, our goal is and has been to prepare our graduates to be excellent professionals and servant leaders within the profession and within their communities. We want all graduates to be able (1) to apply their knowledge of the law and skills of lawyering to provide excellent service in helping clients solve problems, (2) to form an integrative understanding of professional identity in which who

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87. *See* Karl A. Smith et al., *Pedagogies of Engagement: Classroom-Based Practices*, 94 J. ENG'G EDUC. 1, 7 (2005).

88. Univ. St. Thomas Law Faculty, *Mission Statement*, UNIV. ST. THOMAS SCHOOL OF LAW (Mar. 20, 2002), http://www.stthomas.edu/law/missionvision/.

89. *See* WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 27–33 (2007) [hereinafter SULLIVAN ET AL., EDUCATING LAWYERS].

90. *See* Hamilton & Monson, *Effectiveness*, *supra* note 1, at 139.

the graduate is becoming as a lawyer is integrated with who the graduate is as a person, particularly as a person of faith,[91] and (3) to appreciate that one of the responsibilities of every lawyer is to promote social justice, not only through pro bono service, but also through the variety of interactions with clients, including discussing with clients considerations beyond the law.[92]

From the beginning of the School of Law, based on our lived experiences as people for whom faith has been a meaningful reference point in our lives and as people who have been successful lawyers and professors, the members of the faculty have operated with the hypothesis that a lawyer with a strong moral core of responsibility for and service to others would be an effective and excellent lawyer. From our experiences trying to implement our distinctive curriculum and culture, and from the empirical research on effective pedagogies, we have come to an ever deeper and richer understanding of how to foster student development toward professional formation. As will be apparent in the discussion that follows, however, we fully acknowledge that we are still learning and still have a great deal to learn.

The ethical professional formation environment at UST is shaped through both required and elective components of the curriculum that embrace the three apprenticeships described in *Educating Lawyers*—the cognitive/analytical, the practical/skills, and the professional identity apprenticeships.[93] The school's culture also reinforces what students are learning in the classroom and through externships and clinics about what it means to be a person of faith and a member of the legal profession. The most distinctive features of the School of Law's educational experience have to do with the third apprenticeship—formation of an ethical professional identity. The School of Law is working to create "a holistic approach to the educational experience that can grasp its formative effects as a whole."[94]

This presentation of the School of Law's curriculum and culture will highlight the components of the curriculum and culture that embrace the pedagogies described above that have been found most useful in fostering an ethical professional identity among students.

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91. Univ. St. Thomas Law Faculty, *Vision Statement: Professional Preparation*, Univ. St. Thomas School of Law (Mar. 20, 2002), http://www.stthomas.edu/law/missionvision/.

92. Univ. St. Thomas Law Faculty, *Vision Statement: Service and Community*, Univ. St. Thomas School of Law (Mar. 20, 2002), http://www.stthomas.edu/law/missionvision/.

93. *See* Sullivan et al., Educating Lawyers, *supra* note 89, at 27–33; *see also* discussion *supra* notes 19–20 and accompanying text.

94. *See* Sullivan et al., Educating Lawyers, *supra* note 89, at 31.

A. *The Apprenticeship of Professional Identity Formation in the Curriculum*

1. *Required Courses*

There are required courses throughout all three years that are focused on professional identify formation, with the two most distinctive being Foundations of Justice[95] and Mentor Externship.[96] The first-year experience—indeed, the entire UST School of Law experience—is framed by Foundations of Justice. The Mentor Externship Program also begins in the first year and continues in the second year and third year (with the addition of a classroom component in the second year and third year). Lawyering Skills and a required second-year Professional Responsibility course enrich this core emphasis on professional identity formation in a variety of ways.

a. *Foundations of Justice*

Foundations of Justice bridges the two semesters of the first year, with a five-day introductory component during First Week (the week prior to the start of the other fall classes), one class meeting during September focused on cultural competence, and a weekly seminar in the spring semester. During First Week the course focuses on the concept of human dignity and the law and introduces students to the moral implications of being a lawyer, with a focus on the professional identity of a lawyer in the context of a student's personal moral core and sense of vocation. Faculty and incoming students also discuss ways in which legal education tends to diminish attention to values and ways in which the work of the lawyer can erode attention to ethics. We have students participate in two counseling exercises in which they experience being an attorney and being a client and reflect on the power imbalance and the ease with which an attorney can usurp client autonomy. This intense first-week immersion, during which only the first-year students are on campus, also creates a strong culture and a sense of community within the entering class that carry forward throughout the year.

During the second semester Foundations of Justice provides students a greater vocabulary for discussing issues of justice, provides opportunities to model civil discourse about difficult issues,[97] creates a common "reader" that professors can refer to throughout the students' three years to facilitate efforts to integrate the mission more pervasively across the curriculum, and fosters further opportunities to reflect on the role of the lawyer and the

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95. Rob Vischer & Jerry Organ, Foundations of Justice – Spring 2010 Syllabus (2010) (unpublished syllabus on hand with third author) *available at* http://www.stthomas.edu/media/schooloflaw/pdf/syllabus/640.pdf.

96. Univ. St. Thomas Law Faculty, *Mentor Externship Program Student and Mentor Manual 2012–13*, Univ. St. Thomas School of Law (Fall, 2012–13), http://www.stthomas.edu/media/schooloflaw/pdf/MentorManual.pdf.

97. See *supra* notes 45–48 and accompanying text discussing the benefits of cognitive disequilibrium.

moral implications of being a lawyer. Students write one reflection paper each semester, connecting something discussed in Foundations of Justice with something discussed in another course or something experienced through the Mentor Externship. Students also work together on a paper and presentation that involves either applying the justice themes we discuss to a recently proposed bill or enacted statute or interviewing a lawyer (many choose their mentors) about the role of morality in the practice of law, the lawyer's perspective on the selection of clients and the nature of the attorney-client relationship, and the extent to which the lawyer views the practice of law as contributing to social justice.

b. Mentor Externship

The Mentor Externship is an innovative program that incorporates the mission of the school, as well as many of the best practices outlined in *Educating Lawyers*, by uniquely blending the introduction and development of key professional skills (including relationship skills often used in the profession but seldom addressed in the traditional legal curriculum) with a focus on the lawyer's ethical and moral duties (both the floor and the aspirations of our profession) in the use of the skills. The Mentor Externship has been required from the beginning of the School of Law in 2001, but has gone through major revisions to respond to lessons learned about what is most effective in engaging students on these topics.

The Mentor Externship spans all three years and includes every student at the School of Law.[98] Each year, students are assigned to and work with an attorney or judge as their mentor. The mentors are recruited from the breadth of the Twin Cities legal community and trained in the structure and goals of the program.

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98. The requirements of the program for first-year students include:

an orientation and training in the first week of law school classes;

the creation of a personal and professional development plan, including an individualized goal-setting worksheet to be completed with the mentor;

the completion of at least four mentor externship experiences during the year, for a total of at least eighteen hours of experience (which experiences should relate to the goals set forth in the personal and professional development plan);

the preparation of at least two 250-word debriefing summaries based on a conversation or experience with the mentor.

All of these activities must be properly recorded and logged in the mentor externship system and reviewed with the mentor and the Director. There are no classroom requirements in the first-year.

In the second and third years, law students complete a fieldwork component similar to that in the first year, with the additional requirements that: a minimum of two experiences must be completed and logged by the end of the first semester; students must complete a minimum of five experiences by the end of the year, plus a minimum of two debriefings or conversations with their mentors, for a minimum of thirty hours of total fieldwork. *See* Univ. St. Thomas Law Faculty, *Mentor Externship Program Student and Mentor Manual 2012–13*, Univ. St. Thomas School of Law (Fall, 2012–13), http://www.stthomas.edu/media/schooloflaw/pdf/MentorManual.pdf.

In addition to learning through their experiences, second- and third-year students also participate in the Mentor Externship Seminar.[99] Each semester the seminar involves a large group presentation, a small group discussion, and individual meetings with the faculty mentors assigned to each small group to discuss educational goals for the year and progress toward those goals, in the Mentor Externship and inside and outside the classroom. This framework fosters engagement with each student at his or her developmental stage and creates opportunities for each student to seek feedback, to dialogue with her mentor and faculty mentor, and to reflect on her experiences and conversations. The structure is designed to reinforce the importance of relationship skills essential to successful lawyering within a context focusing on self-directed learning. Students write reflection journals not only on their mentor experiences and the relationship skills emphasized in the group meetings and discussions but also on how they are progressing on their goals for the year to foster habits of reflection toward greater self-awareness and self-understanding.[100]

One reason for the success of the Mentor Externship program is the support the faculty has universally provided. This support comes in multiple forms. As a matter of academic support, all faculty have agreed to allow each student one absence from any given class to allow the student to participate in a mentor experience (given that many of the mentor experiences will take place during the business day and may conflict with a scheduled class). Additionally, faculty "talk up" the Mentor Externship in informal conversations with students, emphasizing for students why the Mentor Externship is an important experience for them and discussing with them what they are learning from their experiences. This sense of being "on message"—rather than counter to message—plays an important role in reinforcing the culture of formation at the School of Law.

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99. The classroom component for second-year and third-year students was initially instituted in response to students being interested in getting credit for their experiential learning, something that is not allowed in the first-year under ABA Standards, but is allowed in the second-year and third-year. ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS Standard 305(e)(6) (2012) *available at* http://www.americanbar.org/content/dam/aba/migrated/legaled/standards/20072008StandardsWebContent/Chapter_3.authcheckdam.pdf. The pilot for the classroom component was an elective course which seemed to work really well because it attracted the "choir." When it was subsequently implemented as a mandatory course for all students, we became aware of the need to recalibrate the classroom component to facilitate stage-appropriate engagement. *See supra* notes 44–46 and accompanying text. More recently, we have tweaked the program again to shift from four small group discussions per semester to one or two large group presentations, one or two small group discussions and individual meetings between faculty mentors and the students assigned to them, with the goal of fostering more self-directed learning among students and providing more opportunities for individual "coaching" that reflect stage-appropriate engagement.

100. Grading is pass/fail; a passing grade means all classroom and fieldwork requirements were completed at a professional level, including meeting deadlines.

c. Lawyering Skills

The Lawyering Skills program has played a critical role in promoting excellence in professional preparation and in assisting students in their efforts to integrate ethics and faith into their professional identities.

The first year includes two semesters of Lawyering Skills. These courses represent the first-year students' primary introduction to some of the foundational skills of lawyering reflected in Carnegie's second apprenticeship. The courses also provide a lens for thinking about the third apprenticeship—professional identity.[101] This series continues into the second year, when students must take a third semester of Lawyering Skills, which is focused on appellate advocacy. These courses involve a significant amount of one-to-one formative assessment as students receive feedback on drafts of multiple writing assignments and on an oral argument. The small sections provide opportunities for students to develop more meaningful relationships with their professors, who engage students at their varied developmental stages, frequently raising ethical issues for discussion. These courses represent one context in which all three apprenticeships are integrated, as the courses emphasize not only critical thinking and analytical skills but also research and writing skills and professional formation.[102]

d. Professional Responsibility Instruction

The required Professional Responsibility course covers "the history, goals, structure, duties, values, and responsibilities of the legal profession and its members."[103] The faculty has tried to emphasize the centrality of professional responsibility to legal education by requiring Professional Responsibility during the second year. The course is taught through a variety of methods, including cases, problems, and small group discussions. Roughly half of the discussion analyzes and clarifies the application of the Model Rules of Professional Conduct to typical problem situations; the other half of the discussion focuses on the core principles and ideals of the profession and personal conscience of the individual lawyer. Professors lead students in discussion of cases that help students reflect on how to counsel clients on ethical issues and how to improve peer review and peer culture in the profession. Some professors emphasize reflective journals when teaching professional responsibility, again fostering the habit of reflection, self-awareness, and self-understanding.

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101. *See, e.g.,* Lawyering Skills I – Fall 2010 Syllabus (2010) (unpublished syllabus on file with author) *available at* http://www.stthomas.edu/media/schooloflaw/pdf/syllabus/620.pdf.

102. The nine first-year sections of Lawyering Skills are taught primarily by full-time tenured or tenure-track faculty, with one visiting full-time faculty member teaching two sections. The second-year appellate advocacy course is taught by adjunct professors under the direction/supervision of the Chair of the Lawyering Skills Department.

103. ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS Standard 302(a)(5) (2012).

e.   Other Required Doctrinal Courses

The general curriculum also includes traditional required, first-year doctrinal offerings (Civil Procedure, Contracts, and Torts in the fall semester and Constitutional Law, Criminal Law, and Property in the spring semester), and two upper-level required doctrinal courses (Business Associations and Evidence). In these courses, students not only get instruction in the core knowledge and cognitive, analytical skills that represent Carnegie's first apprenticeship but they also have opportunities to reflect on lawyering, morality, and justice as our professors find ways to integrate the mission in these doctrinal classes and model for their students' integration of faith and professional identity.

2.   Elective Curriculum Emphasizing Professional Identity Formation

a.   Clinical Engagement

The School of Law offers an array of experiential learning opportunities that promote integration of all three apprenticeships, most notably through our clinical courses (Community Justice Project, Elder Law Clinic, and Immigration Law Clinic), which are part of the Interprofessional Center for Counseling and Legal Services (Center).[104] Students receive excellent professional preparation together with opportunities to integrate faith and reason in experiential learning about ethics, social justice, and public policy, while serving the disadvantaged and underserved. The Center integrates all three apprenticeships as law students combine legal analysis of specific areas of the law with the development of practical skills and professional identity, all through the direct representation of clients and under the supervision of clinical faculty. The clinical context encourages students to seek feedback and dialogue with their partners and supervising faculty about challenging ethical issues. It also allows faculty to engage each student at the student's developmental stage.

This interdisciplinary approach reminds students that many legal problems have non-legal components and that other professionals can play an important role in helping clients work through challenging situations.

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104.   The Center was established by the University of St. Thomas Schools of Law, Social Work, and Professional Psychology: (1) to offer hands-on experiential and interdisciplinary learning opportunities to students in all three schools; and (2) to serve the underserved within the community. The different disciplines within the Center work both independently and collaboratively to educate students and serve clients. *See Clinical Education*, Univ. St. Thomas School of Law, http://www.stthomas.edu/law/academics/clinicaleducation/ (last visited Feb. 15, 2013) (providing a general overview of the clinical program and offerings). The clinical offerings also include the Appellate Clinic, the Bankruptcy Litigation Clinic, the Consumer Bankruptcy Clinic, the Federal Commutations Clinic, the Nonprofit Organizations Clinic, and the Misdemeanor Clinic. *Clinical Education*, *supra*. There are enough spaces available in clinical offerings for over half of our students in a graduating class to take advantage of a clinical experience.

These clinical courses provide students with opportunities to apply their knowledge and critical thinking skills, to practice their lawyering skills (whether interviewing, counseling, oral or written communication, negotiation, problem-solving, fact investigation, planning, or advocacy), and to reflect on what it means to be a lawyer working on behalf of a client who would not otherwise have access to legal services. This work is done in a context of significant formative feedback from our clinical faculty who closely supervise the students' efforts.

b. *Experiential Learning*

In addition to the clinical courses, we have three externships (other than the Mentor Externship discussed above)—the Judicial Externship,[105] the Business Law Externship,[106] and the Public Interest Externship[107]— each of which provides students with hands-on experiences of being a lawyer. These courses have a weekly classroom component in which students get to discuss and reflect upon the professional identity issues presented by their work environments. Students also have to write weekly reflection journals describing what they are learning about the profession and about themselves as professionals.

c. *Other Skills Offerings*

In addition, students have a host of elective skills or simulation courses available to them, including Client Interviewing and Counseling, Negotiation, Mediation, Alternative Dispute Resolution, Transactional Drafting, Pre-Trial Civil Litigation, Trial Advocacy, and Advanced Trial Advocacy. These courses give students opportunities to practice specific sets of skills and to receive significant amounts of formative feedback while also providing students opportunities to reflect on being a lawyer, whether in a counseling setting, as a negotiator, or as an advocate in mediation or in a litigation setting.

d. *Ethical Leadership Courses*

Starting in the fall of 2003, the School of Law added a course entitled Ethical Leadership in Corporate Practice.[108] This course helps students ex-

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105. *See, e.g.*, Judicial Externship Course – Fall 2010 Syllabus (2010) (unpublished syllabus on file with author) *available at* http://www.stthomas.edu/media/schooloflaw/pdf/syllabus/910.pdf.

106. *See, e.g.*, Business Externships Syllabus (2011) (unpublished syllabus on file with author) *available at* http://www.stthomas.edu/media/schooloflaw/pdf/syllabus/937.pdf.

107. *See, e.g.*, Public Interest Externship Course – Spring 2011 Syllabus (2011) (unpublished syllabus on file with author) *available at* http://www.stthomas.edu/media/schooloflaw/pdf/syllabus/918.pdf.

108. *See, e.g.*, Ethical Leadership in Corporate Practice: Counseling and Problem-Solving – Fall 2010 Course Description and Syllabus (2010) (unpublished syllabus on file with author) *available at* http://www.stthomas.edu/media/schooloflaw/pdf/syllabus/865.pdf.

plore their roles as counselors and servant leaders in a corporate practice setting. Using a case study methodology common in business schools, students discuss cases and real-world problems with a focus on counseling and problem solving. After reflecting on their own values, students examine the concept of leadership within the profession and hear from numerous guest lecturers who are leaders in Minnesota's legal and corporate communities.[109]

e. *Elective Doctrinal Course Offerings*

Students also have opportunities in other doctrinal electives to integrate the cognitive/analytical, practical skills and professional identity formation, as these classes frequently offer opportunities to experience or reflect upon fact investigation, client counseling role plays, negotiation or mediation, drafting exercises, and questions of professional responsibility.[110]

f. *Practicums*

Most recently, the School of Law has added upper-level practicums. These courses seek to accomplish the integration of the three apprenticeships discussed by the Carnegie Report—the cognitive/analytical, practical skills, and the professional identity formation. These courses feature doctrinal coverage of one or more topics, with opportunities for learning by doing and reflecting on the professionalism issues and professional values likely to arise in the context of working on issues within that field.[111]

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109.   A second similar course was added in 2007–08, entitled Ethical Leadership in Litigation. *See, e.g.*, Ethical Leadership in Litigation: Counseling, Advocacy, and Dispute Resolution – Spring 2008 Course Description and Syllabus (2008) (unpublished syllabus on file with author) *available at* http://www.stthomas.edu/media/schooloflaw/pdf/syllabus/813.pdf. It uses a similar case study method to focus on the lawyer's role as counselor and servant leader in the litigation context, welcoming numerous guest lecturers who are leaders in Minnesota's civil and criminal litigation communities. Both courses require journals and team written assignments and presentations that foster self-assessment and reflection. A third iteration, Ethical Leadership in Social Justice also has been offered intermittently.

110.   In recent years, examples would include the following courses: Business Planning, where students prepared an LLC Operating Agreement and a Client Interview Checklist; Legal Malpractice, where students prepared a three-page "lawyer interview"; Family Law, where students wrote a three-page reflection essay regarding their observation of the family law system in action (generally addressing a visit to family court); Intellectual Property, where students have drafted a patent complaint; and Land Use Controls, where students have conducted a mock hearing in front of a mock planning and zoning commission.

111.   *See Practicum Courses*, Univ. St. Thomas School of Law, http://www.stthomas.edu/ law/academics/academicpolicymanual/academicstandardspolicies/courseregistrationandeligibility/ practicumcourses/ (last visited Apr. 25, 2013). Examples of recently approved practicums include Constitutional Litigation and the Community Banking Practicum.

3.   *Formative Feedback and Integration of Skills and Values*

Notably, in all first-year, first-semester courses and in most first-year, second-semester courses, professors provide both formative assessment and summative assessment. In some of the required upper-level courses and in many of the elective courses, professors—both full-time and adjunct—also provide both formative assessment and summative assessment. The School of Law has embraced a culture in which formative assessment in the form of a mid-term exam is required in first-year, first-semester courses and is strongly encouraged in first-year, second-semester and upper-level courses, in order to integrate formative assessment. While this obviously happens consistently in clinical courses and in skills/simulation courses, it also happens with great frequency in doctrinal and elective courses, whether through short quizzes, a mid-term exam, short writing exercises, or reflective papers.[112]

Professors in a number of doctrinal courses also provide students with opportunities to learn about and practice fundamental lawyering skills. This can take the form of brief client interviews in a Property class, a zoning board presentation in Land Use, or a drafting exercise in Mergers and Acquisitions. Across our curriculum, full-time and adjunct professors search for and find ways to integrate some exposure to skill instruction in doctrinal classes. Additionally, professors in Lawyering Skills courses and a variety of doctrinal courses discuss professional responsibility issues where relevant to the topics under consideration.

The pervasive integration of faith, skills, and ethics throughout the curriculum builds both personal conscience and internalization of the profession's core principles and ideals. The continual reinforcement of the ethical principles taught in Professional Responsibility provide an ongoing opportunity for students to remain connected with and nurture their moral cores that guide their personal and professional lives.

4.   *Non-Course Requirements — The Public Service Requirement*

In addition to all of the curricular emphasis on formation of professional identity, the School of Law, since its inception, has imposed a fifty-hour public service requirement for all graduates, making it one of the first law schools to emphasize public service as a requirement for graduation. This requirement assures that students participate in service programs designed to address the needs and improve the conditions of the disadvan-

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112. A survey of full-time and adjunct faculty showed that over half of the upper-level courses featured both multiple modes of assessment and multiple points of assessment as opposed to simply having one final essay exam. Many upper-level courses had a combination of a mid-term and final, quizzes and a final, and/or a paper and a final, with the mid-term and/or final featuring a combination of essay, short answer, and/or multiple choice questions. Survey results on file with author.

taged and underserved so that they integrate their commitments to serve society into their personal and professional lives. As part of this commitment, other members of the Law School community (faculty and staff) are encouraged to devote at least fifty hours over three years to some form of public or community service. There are also Public Service Days once each semester in which the law school community gathers to engage in service projects in various locales throughout the Twin Cities. This modeling reinforces for our students the importance of public service as both students and future members of the legal profession.

The School of Law requires public service for two reasons. First, the obligation to serve others does not end on enrollment in law school and begin again on graduation. Law students remain members of the broader community, with all of the accompanying responsibilities. Second, the faculty members at the School of Law believe that one of the indicators of whether a lawyer will do pro bono work in the future is whether that lawyer has done pro bono work in the past. Law students who have served the community before graduation—even under the compulsion of a public service requirement—are far more likely to integrate an ethic of service into their professional identity and choose to serve the community after graduation.[113]

B.   *The Apprenticeship of Ethical Identity Formation in the Culture*

The School of Law is highly intentional about creating a culture that emphasizes professional identity formation by 1) hiring and recruiting to mission, 2) setting aside time for worship and other opportunities for spiritual growth, 3) consistently emphasizing the mission and recognizing exemplars within our community through our Mission Awards Ceremony, 4) providing a host of extra-curricular opportunities for our students as well as a distinct approach to student services and career and professional development, 5) offering an intellectually vibrant environment by bringing to campus a wide range of speakers/events, 6) emphasizing engagement with alumni, 7) taking advantage of space to foster engagement, 8) instilling an ethos of institutional reflection, and 9) emphasizing teaching/learning through the lens of our mission as we confront challenges.

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113.   The requirement of public service may be satisfied by a wide range of activities, consistent with our vision that students draw on their own faith and values in serving the public, and it need not be in the form of legal advice or research. For those students interested in doing legal pro bono, the School of Law works in partnership with the Minnesota Justice Foundation ("MJF"), which has a staff attorney in an office at the School of Law, to promote legal pro bono opportunities. The MJF office and the office of the student-run Public Service Board are both located on the hallway on the second-floor (the skyway level) to provide significant visibility to these efforts.

1. *Hiring and Recruiting to Mission*

a. *Recruiting and Hiring Faculty and Staff*

Because the School of Law is a mission-driven institution, it has been attentive from its inception to the need to hire faculty and staff who feel called to its distinctive mission, aware that the vitality of such a mission is largely a function of maintaining a critical mass of people truly committed to it. When recruiting and hiring faculty and staff, the School of Law informs prospective faculty members of the mission and asks them to reflect upon and speak to ways in which they believe they can contribute to it.[114] The School of Law has been very successful to date in hiring faculty who are accomplished scholars and teachers as well as people of faith able and willing to model and to engage students in their integration of faith and reason in a search for truth through a focus on morality and social justice. It also has recruited and hired staff with a similar emphasis on mission.

As part of the review process for faculty, the dean regularly asks faculty to reflect upon and share how they have integrated the mission in the classroom. The responses are compiled and circulated to reinforce for all faculty members the continuing importance of integrating the mission in the classroom. This examination causes us to foster creative reflection on ways to integrate the mission in the classroom as we see the various, distinctive ways in which our colleagues integrate the mission in the classroom. The School of Law also has frequent faculty retreats and faculty and staff retreats focused on discussing the mission and the ways in which it can be lived out more fully at the School of Law.

The faculty embraces the mission from diverse perspectives and is conscious of the reality that at times there can be a "hidden curriculum" within the classroom (and outside the classroom) that can send mixed signals about what it means to be a lawyer. While there surely are aspects of a "hidden curriculum" at St. Thomas, as at any other law school,[115] the First Week conversation emphasizes some of the "hidden curriculum" ideas that sometimes are manifested in legal education and describes for students some of the ways in which St. Thomas tries to be intentional about communicating purposeful messages about the law as a moral enterprise and the importance of developing a moral core of responsibility for and service to others.

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114. For a listing of the faculty and their background and experience, see *Faculty*, UNIV. ST. THOMAS SCHOOL OF LAW, http://www.stthomas.edu/law/facultystaff/faculty/ (last visited Feb. 15, 2013).

115. *See* Elizabeth Mertz, *Inside the Law School Classroom: Toward a New Legal Realist Pedagogy*, 60 VAND. L. REV. 483 (2007); Roger C. Cramton, *The Ordinary Religion of the Law School Classroom*, 29 J. LEGAL EDUC. 247 (1978); Frederic W. Hafferty, *Beyond Curriculum Reform: Confronting Medicine's Hidden Curriculum*, 73 ACAD. MED. 403 (1998).

b.   *Recruiting Students to the Mission*

The School of Law has been very explicit about this distinctive mission in its efforts to recruit students, in terms of both web presence and other materials distributed to prospective students. Because the School of Law wants to recruit students who find the mission attractive and will help work with the faculty and staff to sustain the vitality of the mission, it has implemented a mission marketing campaign focused on building relationships with undergraduate institutions, campus ministry offices, and volunteer organizations that share the mission in some way, such as the Jesuit Volunteer Corps. The School of Law has been fairly successful in this endeavor: a significant percentage of first-year students regularly report that factors related directly or indirectly to the mission played a significant role in their decision to come to the University of St. Thomas School of Law.[116] Having this percentage of students attracted by the mission assures that there will be a critical mass of students interested in and capable of embracing the distinctive, supportive, formative culture the School of Law is trying to sustain and nurture.

Notably, the admissions staff sets the tone for the student's experience of the law school culture by providing a very personalized admissions process. In this process, the admissions staff recognizes that the University of St. Thomas School of Law is not necessarily the most appropriate law school for every applicant. By emphasizing with applicants that law school is a calling or vocation and that applicants really need to reflect on whether the University of St. Thomas School of Law is where they feel called to study, the admissions staff sets the foundation for the formation culture the School of Law is aspiring to create and sustain. The First Week program discussed above (in the context of Foundations of Justice) also reinforces the importance of the mission and helps acclimate students to take responsibility for contributing to the distinctive learning community the School of Law has formed grounded in the mission.

2.   *Worship Time and Spiritual Enrichment*

To help our students remain connected to who they are as people of faith while they are learning to become lawyers, the School of Law has set aside one half-hour each weekday, from 12:00–12:30, for spiritual nourishment and enrichment. During this block, faculty members are precluded from hosting classes or meetings and student organizations are precluded from having meetings. Lunch hour events run from 12:30–1:25 to avoid

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116. A survey conducted by admissions staff at the University of St. Thomas School of Law with fall 2010 matriculants showed that roughly two out of three matriculants responding to the survey cited the "service component of UST's mission" and sense of community as important factors in choosing to attend the school. The report on this survey is on file with Monson and is available upon request.

conflicts with "worship" time. During worship time, the students, staff, and faculty have access to daily mass in the St. Thomas More Chapel. Several times per week, there are also opportunities for yoga, for non-denominational prayer services, and for faith sharing and other forms of spiritual enrichment. Additionally, there is a St. Thomas More Chapel Choir (comprised of students, staff, faculty, and friends of the law school) that rehearses once a week and sings at Mass approximately once a month.[117]

For the last several years, the School of Law has also offered a weekend vocation retreat at the start of each semester.[118] These retreats offer students an opportunity to reflect upon their gifts and how God might be calling them to use their gifts while they live out their vocations as law student, spouse, sibling, child, volunteer, and friend, with and among those with whom they are in relationship. During the school year, Professor Stabile also hosts a variety of opportunities for spiritual reflection, including Advent and Lenten retreats in daily living and also an evening retreat for students and mentors.

The full-time faculty members are all people of faith (with several different religious traditions represented among them) who choose to be at St. Thomas because it fosters an environment in which students are encouraged to integrate faith and professional identity. This means that faculty can model a professional identity that involves integrating who they are as people of faith with who they are as lawyers, and that students have opportunities to discuss issues of faith relevant to the law and to lawyering with faculty both inside and outside the classroom.

3. *Mission Focus and Mission Awards Ceremony*

Since its inception, the School of Law has sponsored Mission Roundtable luncheons to foster conversations about the mission and what the mission means for the School of Law as an institution and for each member of the law school community. In addition, the School of Law sponsors an annual Mission Awards Ceremony each spring to recognize students, staff, faculty, adjunct faculty, and mentors who have contributed significantly to the mission of the School of Law. The Mission Awards Ceremony recognizes people who have contributed to one of the three areas emphasized in the School of Law's Vision Statement: excellence in professional preparation, in scholarly engagement and societal reform, and in service and community. Further, members of the first, second, and third-year classes, as well as the alumni, are recognized with a "Living the Mission" award for

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117. *See St. Thomas More Chapel Choir*, Univ. St. Thomas School of Law, http://www.stthomas.edu/law/currentstudents/opportunitiesforinvolvement/stthomasmorechapelchoir/ (last visited Jan. 10, 2013).

118. The vocation retreats, which are attended by 10–15 students (and increasingly by alumni) are generally co-facilitated by Professors Jerry Organ and Susan Stabile (the latter being a trained spiritual director), with help from Professor Jennifer Wright and Professor Mark Osler.

exemplary efforts in being true to the School of Law mission.[119] The recognition of mission-related contributions, rather than just academic success, signals to students the value we place on the mission and the importance of integrating faith and service into one's professional identity.

4. Extracurricular Opportunities and Student Services

a. Student Organizations and Student Competitions

The School of Law has a host of student organizations that embrace the mission and seek to foster formation of an integrated professional identity.[120] Student Government takes responsibility for fostering an environment in which the mission is alive and vital. The Law Journal, for example, has sponsored symposia grounded in some way in the mission.[121] The Board of Advocates similarly organizes student competitions and sponsors student teams representing UST in ABA and other competitions, giving students multiple opportunities to be in the role of a lawyer while reflecting on the demands of professionalism.[122] Other student organizations sponsor public service opportunities for faculty, staff, and students or welcome speakers who address topics including ethical leadership and integration of one's moral compass into one's professional identity.

b. Student Services

The Student Services office also takes a very individualized approach to dealing with students. When students come in facing academic or other challenges in their lives, the Student Services office engages these students as individuals and tries to develop a plan with them that will allow them to learn from their experience, foster greater personal responsibility, and achieve academic success.

This student-centered mindset, which begins when applicants first apply and engage with the Admissions personnel, is embraced by faculty and staff throughout the building. The library staff is greatly appreciated for being pleasant and helpful, as are the faculty administrative assistants and even the security personnel in the building.

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119. *See, e.g.*, *Law School Presents "Mission Awards"*, UNIV. ST. THOMAS SCHOOL OF LAW, http://www.stthomas.edu/law/news/law-school-presents-mission-awards.html (last visited Feb. 22, 2013) (describing the 2012 Mission Award recipients).

120. *Student Government and Organizations*, UNIV. ST. THOMAS SCHOOL OF LAW, http://www.stthomas.edu/law/currentstudents/opportunitiesforinvolvement/studentgovernmentandorganizations/ (last visited Jan. 10, 2013).

121. *Law Journal*, UNIV. ST. THOMAS SCHOOL OF LAW, http://www.stthomas.edu/law/currentstudents/opportunitiesforinvolvement/lawjournal/ (last visited Jan. 10, 2013).

122. *Advocacy Competitions*, UNIV. ST. THOMAS SCHOOL OF LAW, http://www.stthomas.edu/law/currentstudents/opportunitiesforinvolvement/advocacycompetitions/ (last visited Jan. 10, 2013).

c.   *Office of Career and Professional Development*

The name of the office is some indication of the formation emphasis of the School of Law. The Office of Career and Professional Development is not Career Services or the Placement Office; it is the Career *and Professional Development* office.[123] The office supports a great deal of vocational discernment and approaches its interactions with students from a formation emphasis—not just trying to help students find a job but helping students better understand who they are, what their unique gifts are, and what work environments would most likely allow them to thrive. The office provides extensive programming to help students learn about a wide array of practice areas and practice contexts and really fosters an individually-oriented approach to looking at professional development options. While much of what the office does is comparable to what similar offices do at other schools, there is a difference in the manner with which the office engages students and graduates—providing a more personalized and reflective approach that encourages students to reflect upon and deepen their self-understanding as they consider the various career paths they can pursue as a lawyer.

5.   *Murphy Institute and Holloran Center Speakers and Programs*

Over the course of each academic year, the Terrence J. Murphy Institute for Catholic Thought, Law, and Public Policy[124] and the Holloran Center for Ethical Leadership in the Professions[125] sponsor a number of speakers and programs that provide opportunities to discuss and reflect upon issues associated with the School of Law's mission. The Murphy Institute is a joint effort of the School of Law and the Center for Catholic Studies. Its purpose is to "explore[ ] the various interactions between law and Catholic thought on topics ranging from workers' rights to criminal law to marriage and family."[126] Many of the speakers and programs it sponsors reinforce the School of Law's mission, given that these programs promote the "intellectual integration of faith into the study of law, professional ethics, public policy, and social justice."[127]

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123. *Career and Professional Development*, Univ. St. Thomas School of Law, http://www.stthomas.edu/law/currentstudents/careerandprofessionaldevelopment/ (last visited Jan. 10, 2013).

124. *See generally Terrence J. Murphy Institute for Catholic Thought, Law and Public Policy*, Univ. St. Thomas School of Law, http://www.stthomas.edu/murphyinstitute/ (last visited Jan. 10, 2013) (providing general information about the institute and additional links).

125. *See generally Holloran Center for Ethical Leadership*, Univ. St. Thomas, http://www.stthomas.edu/hollorancenter/ (last visited Jan. 10, 2013) (offering general information about the center and additional links).

126. *Exploring the Intersection of Catholic Thought and the Law*, Univ. St. Thomas School of Law, http://www.stthomas.edu/murphyinstitute/mission (last visited Apr. 26, 2013).

127. During the 2011–12 academic year, it began sponsoring the Hot Topics, Cool Talk series covering a variety of issues of concern in society with speakers addressing the topics from a variety of faith perspectives. For the 2012–13 calendar, see *Hot Topics: Cool Talk Series*, Univ. St. Thomas, http://www.stthomas.edu/murphyinstitute/hottopicscooltalkseries/ (last visited Jan. 10, 2013).

The Holloran Center for Ethical Leadership in the Professions has a mission to provide innovative interdisciplinary research, curriculum development, and programs focusing holistically on the formation of both students and practicing professionals into ethical leaders in their communities. In February 2008, the Holloran Center organized and hosted the first national, interdisciplinary conference on "The Formation of an Ethical Professional Identity" with scholars from the sciences, the health professions, the clergy, engineering, the professoriate, and law. In 2010 and again in 2012, the Holloran Center hosted a conference on empirical research regarding professionalism.

Second, the Holloran Center annually hosts Medtronic Business and Law Roundtables on ethical leadership topics, including corporate governance, the mortgage meltdown, values-based leadership, and a retrospective on Watergate, with emphasis on the ethics of the lawyers.[128]

Third, the Holloran Center annually sponsors several Trusted Adviser lunches, in which the Dean hosts lunch with ten students and a distinguished ethical leader in our community to foster the students' growth as leaders. The Center also teams several times a year with student organizations (particularly the Business and Corporate Law Society) to bring in ethical leaders for lunch programs with the students.

6. Alumni Office

The Alumni Office has developed over the last few years with an engagement model of alumni relations, designed to sustain relationships with our graduates and help them continue to be a part of the UST law community. This engagement model is reflected in efforts to invite alumni to participate in the formation experience of the law school as mentors, as guest lecturers or coaches in courses such as Negotiations, as coaches for our student competition teams, as participants in our Career and Professional Development office programming, as participants in our student organization programming, and as volunteers working with students in pro bono activities and in other service opportunities. The Alumni Office fosters ongoing professional development as well through a variety of programming opportunities for graduates.

The engagement of the School of Law alumni, who lead the country in terms of percentage giving to the law school annual campaign,[129] suggests

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128. *Past Events*, Univ. St. Thomas, http://www.stthomas.edu/hollorancenter/conferences/ pastevents/ (last visited Feb. 15, 2013). In addition, it has sponsored a series of presentations related to "learning from mistakes"—featuring professionals convicted of white collar crime who saw their lives ruined by unethical decisions. *The Holloran Center Ethics Program: "Lessons Learned" Speakers*, Univ. St. Thomas, http://www.stthomas.edu/hollorancenter/lessons/ (last visited Feb. 15, 2013).

129. *See Annual Giving*, Univ. St. Thomas School of Law, http://www.stthomas.edu/law/ alumnifriends/alumnigiving/ (last visited Apr. 25, 2013).

that efforts to be intentional regarding our mission are perceived by graduates as having added value to their legal education.

7. *Space for Engagement — Library and Architecture Shape Community*

The building was intentionally designed to foster community, with a large gathering space in the Schulze Grand Atrium in which major events that bring the community together are held. The building also has large, open hallways on the second through fourth floors with places for students to gather, a comfortable student lounge in the basement level, and faculty offices interspersed among the classrooms on the third and fourth floor to highlight the accessibility of faculty. The second floor hallway, which flows from the library out into the skyway connecting the School of Law to downtown Minneapolis, operates as the "intersection" where students, staff, and faculty regularly run into each other and where student groups announce activities, have bake sales, and conduct silent auctions. The library itself functions as a comfortable gathering space and study space, with a large open reading room and over a dozen group study rooms in which students can gather to study together.

8. *An Ethos of Institutional Reflection*

One of the great strengths of the School of Law is the ethos of institutional reflection that guides much of what is done at the School of Law and models for students the importance of reflection and self-directed learning in the profession. The School of Law has engaged in an ongoing series of reflective conversations about how to continually improve the program of legal education it offers with its distinctive emphasis on professional formation. This is reflected in a variety of changes to components of its educational program and culture.

For example, the School of Law tweaked the Lawyering Skills program several years ago to accommodate the scholarly expectations that it had placed on tenure-track lawyering skills faculty. Similarly, as noted above, the School of Law has made two sets of changes to the Mentor Externship over the last several years. The School of Law also launched the Foundations of Justice course in an effort to foster greater integration of the mission and then redesigned the Foundations of Justice course based on survey responses from students, focus group conversations between students and faculty, and a reconceptualization of the course objectives.

With respect to both Mentor Externship and Foundations of Justice, part of the challenge for the School of Law involved figuring out how best to target the educational program to meet all students with stage-appropriate engagement, when students are at different stages of developing their professional identity with a moral core of service directed to others. As these

courses have evolved, the curriculum has moved toward emphasizing enlightened self-interest as the means of engaging students to appreciate the value of developing a strong moral core of responsibility for and service to others. It is within this context that we have emphasized professional relationship skills (important for client development) and teamwork capacities (important for success in a variety of legal and business enterprises) not only in Mentor Externship and Foundations of Justice, but in other required courses as well.

The implementation of the worship hour also resulted from the School of Law's reflection on the lived experiences of faculty, staff, and students trying to cram too many activities into a one-hour break between classes.

This ethos of institutional reflection is something the School of Law manifests explicitly so that students see it and are aware of it. This complements what happens in many classes in which students are being asked to develop the habit of reflection by writing reflection journals (classes such as Foundations, Mentor Externship, the Clinics, and Ethical Leadership, to name just the most prominent examples).

9. *Emphasis on Viewing Challenges Through the Lens of the Mission as Opportunities for Teaching and Learning Through Civil Discourse*

The School of Law also has developed a cultural response to challenging situations that emphasizes looking at the challenge through the lens of the mission and as an opportunity for teaching and learning with an emphasis on civil discourse.[130] Virtually everything that goes on in a law school touches upon some aspect of what it means to be an ethical lawyer, leader, and professional. When challenging situations present themselves, the School of Law has generally responded by emphasizing feedback, reflection, and dialogue. The administration listens, tries to understand the problem, and then reflects on how the problem connects with the mission. The administration then facilitates dialogue with key constituents about the

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130. For example, in Fall 2012, the Archdiocese of St. Paul and Minneapolis rented the law school atrium for a presentation on the Marriage Amendment that was on the ballot in Minnesota in November, 2012. The presentation included one speaker who said things in a manner which a number of students found disrespectful and inconsistent with the mission's emphasis on the human dignity of each person. These students expressed concern that the law school had sponsored an event with such a speaker. The administration listened to the students, explained the circumstances in which the presentation was scheduled for the law school atrium (and explained that it was not a law-school "sponsored" event), and then acknowledged to the entire community that some members of the community had raised these concerns and this was not a law-school sponsored event. The administration then met with and also listened carefully to a group of students who felt that the student body president's communication about the event had been slanted to favor the anti-Marriage Amendment position. This group did not want any specific remedy since members of the group had talked directly to the student body president. The first group of students ultimately hosted a forum at which issues could be discussed with an effort to emphasize civil discourse.

problem with an eye toward what the administration, faculty, staff, and students can learn from the experience. This has been the case with both larger issues that have confronted the community as well as with smaller issues that may affect only a small number within the community. This willingness to listen and to dialogue in the context of the mission and with an eye toward learning from the experience has provided teachable moments for students, for faculty, for administrators, and for the institution.

IV. DOES THE UST LAW CURRICULUM, CULTURE, AND PEDAGOGY MAKE ANY ASSESSABLE DIFFERENCE WITH RESPECT TO PROFESSIONAL FORMATION?

Can a curriculum, culture, and pedagogy that focus on stage-appropriate educational engagements that create cognitive disequilibrium/optimal conflict, with opportunities for feedback, dialogue, and reflection foster some assessable growth in moral reasoning and ethical professional identity?

This study empirically assessed the moral development outcomes of the graduating class of 2012 at the University of St. Thomas School of Law (n=168).[131] In the fall of 2009, students completed two assessments of moral capacities that are well-validated and frequently used within professional education and higher education research: the Defining Issues Test ("DIT") and a short essay assessment on ethical identity development.[132] In the spring of 2012, students completed a parallel form of the DIT and repeated the short essay assessment on the meaning of professionalism. These assessments measured both group and individual change over the three-year period. The research questions included:

How do moral judgment abilities of University of St. Thomas law students change from matriculation to graduation?

How do University of St. Thomas law students change in assessments of professional ethical identity formation from matriculation to graduation?

A. *Method and Procedures*

We used a pre-test, post-test, no control group, mixed method design with cross-sectional and longitudinal analyses, using two measures that are well validated in professional education. Prior to the first full week of classes, incoming students in fall of 2009 (n=174) completed the web-based short essay assessment on professionalism and a paper version of the

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131. This study partially replicates a previous ethics education curriculum outcome study in dental education. Bebeau & Thoma, *Impact of Dental Ethics Curriculum, supra* note 84, at 686–87.

132. *See* Bebeau, *Promoting, supra* note 50, 399–400; Bebeau, *The Defining Issues Test, supra* note 52, at 271; REST. ET AL., POSTCONVENTIONAL MORAL THINKING, *supra* note 46, at 35–36.

DIT.[133] The overall response rate to the short essay assessment on professionalism was 51% (*n*=88). The response rate for the DIT, adjusted for seven unusable responses, was 90% (*n*=157).[134]

In the spring of 2012, graduating students were invited to a session to complete the DIT2[135] and retake the short essay assessment on professionalism.[136] The response rate was 47% (*n*=79) for the DIT2, and 43% (*n*=72) for the short essay assessment on professionalism. After excluding scores or responses that failed to meet our criteria for inclusion,[137] the final response rate for the DIT2 was 45% (*n*=75); for the professionalism assessment, 40% (*n*=67).[138]

B.   *Comparison of Samples and Analysis of Non-Response Bias*

The entering class demographics were (1) 52.87% male, 47.13% female, (2) average GPA 3.31, (3) average LSAT 157, (4) average age 25 (range 20 to 55), (5) 74% were white, 16% ethnic minority, and 10% undisclosed ethnicity. The sample did not differ significantly from the population with respect to demographic characteristics. The sample for the DIT2 consisted of (1) 52.44% male and 47.56% female, (2) average LSAT score 156.48, (3) average age 26.54 (range 22 to 55), and (4) average law school GPA (from the end of fall semester 2011) of 3.22 for respondents and 3.06 for non-respondents. Ethnic composition of 2012 respondents consisted of 78% white and 22% ethnic minorities.

We conducted analysis of non-respondents to gauge potential sampling bias. Our analysis showed one statistically significant difference: respondents had a slightly higher mean law school GPA at the end of the 2011 fall

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133. *See* Bebeau, *Promoting*, *supra* note 50, at 399–400; REST. ET AL., POSTCONVENTIONAL MORAL THINKING, *supra* note 46, at 35–36.

134. Scoring of the DIT includes a check of meaningful responses or internal consistency reliability. Responses that fail to meet these criteria are tagged by the program.

135. The DIT2 uses updated stories, and typically retains more subjects through the reliability check process. The DIT2 is correlated with the DIT at .79. To limit practice effects of the DIT, we used a parallel form of the test, the DIT2. Three story versions were used in each administration of the test.

136. As an incentive, respondents were offered a $10 gift card to the school's cafeteria or to a coffee shop. Offering incentives such as lunch for optional activities is part of the culture of the University of St. Thomas, and in our view was not a source of response bias.

137. Some scores for the DIT could not be used because of missing data that exceeded the parameters used by the scoring algorithm. *See* MURIEL J. BEBEAU & STEPHEN J. THOMA, GUIDE FOR THE DIT-2 24–25 (2003). Excluded essays were those that were too thin to code, i.e., skimming over large concepts, failing to provide sufficient examples, or lacking "voice" or authenticity, which included the use of aphorisms or clichés.

138. *See infra* App. A (providing excerpts from the two assessments, instructions provided to students on the purpose and procedures for completing the assessments, and the informed consent form used in 2012).

semester than non-respondents (t=2.97 $_{df164}$, p=.003).[139] We discuss the implications of this finding in a later section of the paper.

We explored possible alternative explanations for our findings using data from the Law School Survey of Student Engagement ("LSSSE").[140] This national survey of law students is conducted annually with participation by dozens of law schools and provides administrators with data comparing their school's results to the national sample, the sample of religious law schools, and a sample of peer schools (selected by the institution), on student engagement, satisfaction, and self-assessment of learning and development. LSSSE includes a subset of self-report questions relevant to professional identity formation.[141] By comparing the School of Law's results on key items to results from religious law schools and from the national sample of law schools from the spring 2012 sample, we were able to "triangulate" our findings, a methodology that is useful in correlational research designs.[142]

C. Measures and Data Analysis

1. Defining Issues Test ("DIT")

We used the DIT,[143] a well-validated test of moral reasoning valid for adults and used extensively in outcomes research in higher education.[144] The DIT measures three moral schema representing different approaches to

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139. We used a t-test to compare LGPA of respondents and non-respondents. To investigate other possible sources of bias, we asked a random sample of non-respondents why they chose not to participate in the assessment process. Out of the five students who responded, all stated it was time pressure involved with studying for final exams. The second most frequently mentioned reason was job search activities. One out of the five stated that he or she had no interest in the assessment.

140. LSSSE is administered by the University of Indiana's Center for Postsecondary Research. The average student response rate of the 81 participating LSSSE schools was 46% in 2012. *2012 Annual Survey Results: Lessons from Law Students on Legal Education*, Ind. Univ. Ctr. for Postsecondary Research at 3 (2012), http://www.lssse.iub.edu/pdf/2012/LSSSE2012AnnualReport.pdf. The response rate from UST students was 60%, compared with 39% for all religious schools. According to an administrator at LSSSE, past research examining sampling bias showed no significant differences in levels of student engagement between respondents and non-respondents. Personal communication with Lindsay Watkins, Project Manager, Ind. Univ. Ctr. for Postsecondary Research (July 25, 2012).

141. The LSSSE is useful as an evaluation tool. To access information and reports, see generally *Law School Survey of Student Engagement*, IND. UNIV. CTR. FOR POSTSECONDARY RESEARCH, http://lssse.iub.edu/reports.cfm (last visited Feb. 22, 2013).

142. LSSSE reports that participating schools consist of slightly more private than public universities compared with the composition of all ABA-accredited schools in the U.S. *Id*; *see also Profile of LSSSE 2011 Participants*, IND. UNIV. CTR. FOR POSTSECONDARY RESEARCH, http://lssse.iub.edu/pdf/2011/Profile_of_LSSSE_2011_Participants.pdf (last visited Jan. 10, 2013) (providing an analysis of how the LSSSE sample differs from all ABA law schools).

143. *See supra* notes 131–32 and accompanying text.

144. Cronbach alpha (an index of reliability) for the DIT is adequate, in the upper .70s/low .80s; test-retest reliability is the same. The DIT utilizes items that sound complex, but are actually meaningless, in order to detect attempts to "fake high."

resolving moral problems about how to organize cooperation in society.[145] The DIT produces subscores in each of three moral schema: (1) Personal Interests, indicating the extent to which justifications prioritize individual goals and interests over societal, (2) Maintaining Norms, in which justifications favoring maintaining existing laws and norms are favored, and (3) Postconventional Reasoning, in which justifications that explore how cooperation should be organized in society are prioritized over other items.[146] The most common score traditionally used in the literature is derived from preference for postconventional reasoning, referred to as the "P score."[147]

Moral judgment, as measured by the DIT, is distinct from general intelligence or academic achievement. The DIT's predictive validity is supported by evidence that DIT P scores are better predictors of job performance for nurses than GPA scores.[148] For example, higher moral judgment scores are related to (1) increased clinical performance ratings by supervisors of medical residents, (2) increased ratings of internship performances in nursing, and (3) decreased incidence of malpractice claims for physicians.[149] Higher moral judgment scores in studies of accountants are related to (1) resisting use of insider knowledge in a trading simulation, (2) the likelihood of detecting fraud in financial statements and whistle blowing in organizations, and (3) maintaining independence of auditor judgment.[150]

Only a few studies of the effect of the law school curriculum on moral judgment exist in the literature on legal education. The earliest study of law student moral reasoning, published in 1981, examined moral judgment change over the first year of law school; no statistically significant increase in P score was found.[151] The topic of a doctoral dissertation in 1999 also examined moral judgment change over the first year of the law school curriculum, again finding no significant differences in moral judgment between the pre-test and post-test.[152] A longitudinal DIT study conducted at the University of Minnesota Law School in 1999 found no significant in-

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145. Bebeau, *Promoting*, *supra* note 50, at 399–400; *see generally* JAMES R. REST, MORAL DEVELOPMENT: ADVANCES IN RESEARCH AND THEORY (1986) (providing background information on the Four Component Model and evaluations of the DIT).

146. REST. ET AL., POSTCONVENTIONAL MORAL THINKING, *supra* note 46, at 36-43. Schemas were derived using psychometric procedures that examined the patterns of responses to items in different stages, using a large sample from hundreds of DIT studies (n = >44,000). The results indicated that the six stages, using the Kohlberg framework, could be reduced to three. *Id.* at 36. The *personal interests* schema reflects Kohlberg's stages two and three. *Id.* The *maintaining norms* schema is equivalent to Kohlberg's stage four. *Id.* The *post-conventional* schema represents stage five and six items combined. *Id.* at 40–43.

147. REST. ET AL., POSTCONVENTIONAL MORAL THINKING, *supra* note 46, at 48.

148. Bebeau, *The Defining Issues Test*, *supra* note 52, at 280.

149. Hamilton & Monson, *Effectiveness*, *supra* note 1, at 170.

150. *Id.* at 169–70.

151. Thomas E. Willging & Thomas G. Dunn, *The Moral Development of the Law Student: Theory and Data on Legal Education*, 31 J. LEGAL EDUC. 306, 341, 352–57 (1981).

152. Cheryl Diane Chapman, The Relationship Between Student Involvement and the Development of Moral Reasoning Among First-year Law Students 75–80 (May 1999) (unpublished

creases in the DIT P score over three years as a whole, but found significant differences in moral judgment capacity based on the degree of inherent altruism in projected area of practice (i.e., legal aid vs. corporate law).[153] Finally, a study examining the effect of a fourteen-week law school elective course that utilized student-centered ethical dilemma discussion showed significant gains in students' moral reasoning between pre- and post-test scores.[154]

   The Center for the Study of Ethical Development at the University of Minnesota and University of Alabama performed analysis of the raw data from the DIT and DIT2.[155] We selected two moral judgment scores for our analysis: (1) the P score,[156] and (2) the N2 score, an overall index of moral judgment capacity, which in addition to measuring postconventional item preferences, measures the extent to which the individual is rejecting earlier stage items representing the Personal Interest schema.[157]

Ph.D. dissertation, University of Miami) (on file with Otto G. Richter Library, University of Miami).

   153. Maury Landsman & Steven P. McNeel, *Moral Judgment of Law Students Across Three Years: Influences of Gender, Political Ideology and Interest in Altruistic Law Practice*, 45 S. Tex. L. Rev. 891, 904–05, 907 (2004). Landsman and McNeel found women also scored higher in their study. *Id.* at 905. Average P scores for men in their study were 47.00 and women 53.10. *Id.* at 917. However, when they ran regressions controlling for gender and including political ideology and preferences for altruistic legal practice, they found that the differential effect could be attributed to choice of altruistic legal practice, and not gender, per se. *Id.* at 907.

   154. Hartwell, *supra* note 62, at 522–23, 527. Hartwell examined the effect of discussion and consensus building in small groups on moral judgment within professional responsibility (PR) courses. Similar to formal cooperative learning, discussed *supra* at notes 61–73 and accompanying text, Hartwell structured the groups and interaction, instructing students to incorporate all members' position on issues. *Id.* at 522–27. He obtained statistically significant gains in moral judgment in three different PR courses taught between 1988 and 1992. *Id.* at 527–28. Students self-selected into the 14-week course, a possible threat to validity. *Id.* at 527. Hartwell also conducted an assessment of one section four months after the course ended, and found gains in moral judgment held constant. It is important to note that Hartwell subsequently applied this methodology to clinic courses, and found no increases in moral judgment. *Id.*

   155. The Center for the Study of Ethical Development serves as a resource for researchers globally in basic moral education research and educational outcome evaluation studies. The Center is jointly run by the University of Minnesota and the University of Alabama. *See* Center for the Study of Ethical Development, http://www.centerforthestudyofethicaldevelopment.net/ (last visited Jan. 10, 2013) (providing information and resources about assessment of moral capacities).

   156. The DIT P score and N2 scores range from zero to one-hundred and approximate a scale level of measurement.

   157. James Rest, Stephen J. Thoma, Darcia Narvaez, and Muriel J. Bebeau, *Alchemy and Beyond: Indexing the Defining Issues Test*, 89 J. Educ. Psychol. 498, 498–507 (1997). In test or survey research, individual items often represent different domains within a construct. An accessible example is standardized tests, which often have quantitative, verbal, and analytical sections, but a single number is reported. The N2 represents a composite index score that reflects maintaining norms and postconventional schema subscores, and the extent that personal interests were ranked as less important. The N2 score was developed in the late 1990s, and is now recommended by DIT experts as the preferred index score. We also include results for the P score so that comparisons with previous research can be made. Contemporary moral theorists point out that rather than moral judgment occurring on a two-dimensional scale, from low to high, it is a multi-dimensional phenomenon in which we utilize multiple moral schema in resolving moral problems. *See*

We first conducted a cross-sectional comparison of moral judgment scores from the class of 2012, comparing means from orientation in 2009 and the spring of 2012. Secondly, we conducted a longitudinal comparison by identifying students who completed the assessments in both 2009 and 2012. A total of 53 cases in both 2009 and 2012 were identified. We then analyzed these paired scores at the aggregate and individual longitudinal levels.[158]

2. *Professional Identity Essays*

We employed an assessment of identity formation used in the professions and in developmental coaching based on Robert Kegan's theory of lifespan development.[159] Kegan's theory emphasizes that adults are capable of growth and change throughout the lifespan.[160] This change occurs holistically and integrates cognitive, social, and emotional capacities. More developed stages are hallmarked by metacognition, or the ability to examine one's own way of thinking. The premise of the theory is that adults can become increasingly cognizant of hidden assumptions in how we interpret situations and through a process of engaging in adaptive change, we can become more effective in our professional roles.[161] The stages assessed, and a short description of each, are shown in Table 4.[162]

Bebeau, *Promoting*, *supra* note 50, at 397 (Figure 7 on the DIT "Type" score). The N2 score is reflective of this multi-dimensional understanding of moral judgment.

158. We used SPSS Version 19.0 to perform all statistical tests and analyses. We used different statistical tools depending on the type of variables in our analysis. For variables which approximated characteristics of a scale, and where our sample closely resembled the population of the cohort, we used inferential statistical tests. For our longitudinal analysis and analysis of the Kegan-type scores, we used nonparametric methods, more suitable to variables that are at an ordinal level of measurement.

159. We used an assessment tool based on the full Kegan in-depth interview that has been adapted for the professions and utilizes short essay responses. Bebeau & Lewis, *supra* note 83; *see generally* ROBERT KEGAN, IN OVER OUR HEADS: THE MENTAL DEMANDS OF MODERN LIFE (1998) (providing a review of Kegan's theory and research).

160. *See generally* Hamilton & Monson, *Themes from Interviews*, *supra* note 15 (providing a review of research in law using the Kegan model of lifespan development).

161. *Id.*

162. We omitted Stage 1 because it is relevant only to early childhood.

Table 4.
Kegan's Stages of Identity Formation in the Professions

Instrumental Mind (Stage 2): Views self in terms of own interests and desires, is egocentric; thinking is concrete, black and white (adolescence and early adulthood).
Socialized Mind (Stage 3): Characterized by increased shared interconnections, values, and mutual expectations. Can be idealistic and internally self-reflective, but the self can be subsumed within the social surrounding of peers, friends, spouse, or family (some adolescents and most adults are in this stage).[163]
Self-Authored Mind (Stage 4): Hallmarked by a self-defined system of values that can be distinct from one's social groups. Is increasingly self-reflective and intentional in examining the sources of one's understanding. Can self-define as a professional with a moral core of responsibility and service to others.
Self-Transforming Mind (Stage 5): Characterized by the ability to examine the limitations of one's self-authored personal authority, recognize the limits of any one system of constructing meaning, and seek out novel or alternative systems. Increasing recognition of the interdependencies of different systems or ways of understanding the self and the professional role.

In 2009, four coders[164] rated a random sample of twelve student essays, applying the Kegan coding criteria. We calculated correlations in ratings within and between coder judgments, which were moderate on the first round of coding.[165] After discussion, we resolved all differences. Next, the entire sample (*n*=93) was coded by Monson and the research assistant. Correlations within a random sample (*n*=35) of cases was r_s=.81; all differences were discussed and resolved.

In 2012, analysis of the professional identity essays was done by the first two authors (Hamilton and Monson), both experienced using the Kegan model to assess stage of identity formation.[166] Scoring was done

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163. *See* KEGAN & LAHEY, *supra* note 45, at xiii, 13–17 (reporting that in Kegan's longitudinal studies, about two out of three adults are in Stage 3 or below).

164. In 2009, coders included the authors and a research assistant with an undergraduate major in psychology.

165. Several statistics and methods of calculating reliability and agreement are recommended for judging the consistency of rater judgments. The most simple is percent agreement between two raters. Kappa adjusts for agreements due to chance. For more than two raters, simple correlations (the Pearson Product Moment correlation coefficient for scale-level data and the Spearman nonparametric correlation coefficient for ordinal data) can be used. The Intraclass Correlation Coefficient adjusts for variability both within and between raters, and produces an Alpha coefficient. Alpha for the first round of rater judgments (within one/half stage was .62; for the second round, this increased to .89). Several methods of estimating interrater agreement and reliability exist. For an introduction to the topic, see, for example, Joseph L. Fleiss, *Measuring Nominal Scale Agreement Among Many Raters*, 76 PSYCHOL. BULL. 378–82 (1971); Joseph L. Fleiss & Jacob Cohen, *The Equivalence of Weighted Kappa and the Intraclass Correlation Coefficient as Measures of Reliability*, 33 EDUC. & PSYCHOL. MEASUREMENT 613–19 (1973).

166. *See generally* Monson & Hamilton, *Entering Law Students*, *supra* note 15; Monson & Hamilton, *Ethical Professional (Trans)Formation*, *supra* note 15 (utilizing the Kegan model in both studies).

independently.[167] Following a review of seventy-two essays, we agreed that five did not contain sufficient content to reliably assess. Of the remaining sixty-seven essays, we coded independently, discussed each case, and resolved differences within one-half stage for sixty-six of the sixty-seven essays. Dr. Barbara Sanderson, an independent licensed counseling psychologist and executive coach trained in Kegan's methodologies, reviewed thirteen essays in order to further test the reliability and validity of the coding methodology.[168] Rater agreement between Dr. Sanderson and Hamilton and Monson was 77% within one-half stage, with three cases requiring discussion of differences, which were resolved.[169]

D.   Results

1.   Cross-Sectional Analysis, DIT

The results show a statistically significant increase in the N2 index of overall moral judgment capacity from fall of 2009 to 2012.[170] This increase represents an effect size of .8, using Cohen's *d*, considered a large effect.[171]

The results also show an increase in postconventional reasoning from 2009 to 2012, not statistically significant, with an effect size of .2, using Cohen's *d* as an estimate, adjusted for correlation (r=.26).[172] An effect size of .2 is considered small.[173]

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167.   Monson has completed training for certification in the interview and facilitation methodologies associated with the Kegan model. *See* MINDS AT WORK, http://mindsatwork.com/ (last visited Jan. 10, 2013) (providing information on assessment and coaching using the Kegan framework).

168.   Dr. Sanderson's primary professional services are executive coaching and organizational development. The second author did not discuss specific research questions or hypotheses. Essays were selected at random. Interview with Dr. Barbara Sanderson, Ph.D., L.P., Exec. Dir., Thriving Workplaces: Helping Individuals and Orgs. Flourish (Jan. 18, 2012).

169.   Dr. Sanderson's main impression of the essay assessment methodology was that she was surprised at the extent that stage-related material was evident within the essays. Although a small portion of the essays lacked sufficient content to be able to reliably coded, her opinion was that the methodology is one that could be effectively used in other professional education programs. *Id.*

170.   The increase was M=30.88 (SD, 6.72, *n*=157) to M=45.21 (SD, 13.79, *n*=75), statistically significant (t_{235}=9.65, p<.000). Reliability analysis for the N2 index score was .71 *Cronbach alpha*, considered adequate. Because we used the three-story version of the DIT2, it is likely that reliability would improve with the full five-story version of the DIT2.

171.   Effect sizes are recommended in addition to reporting statistical significance because of the gradual shift away from hypothesis testing in educational research. Statisticians point out that results may be statistically significant but may be unimportant. Likewise, results may be non-significant, but even a small effect can represent an important difference.

172.   The increase was from M=40.66 (SD 15.40, *n*=157) to M=44.67 (SD, 17.05, *n*=75), *p*=.08. Because the same individuals took the tests in 2009 and 2012, there was dependence in the scores, which could bias results. Taking into account the degree of correlation helps avoid overestimating the effect.

173.   *See* Christopher J. Ferguson, *An Effect Size Primer: A Guide for Clinicians and Researchers*, 40 PROF. PSYCHOL.: RES. & PRAC., 532 (2009) (using an effect size minimum anchored to r=.2 because such results convert from *r* to *d* without altering interpretations).

2. Longitudinal Analysis, DIT

We analyzed aggregate and individual growth in moral judgment capacity using the P score and the N2 score with a subsample of 53 individuals who had completed both the 2009 and 2012 assessments. Similar to the results of the cross-sectional sample, the average P score increase was modest, while the N2 score increase was statistically significant.[174] The effect size was r=.79, considered a large effect.[175]

Although the group means increased for both the P score and N2 score, we also found that at the level of individual change, some students regressed in moral reasoning capacity. This finding replicates past longitudinal research on moral development in professional education.[176]

3. Gender and Moral Judgment Differences

Women scored higher than men in both samples. Table 5 shows means and standard deviations for 2009 and 2012 for all identified cases in the cross-sectional sample (cases that could not be identified by gender are also noted).

Table 5
DIT Cross-Sectional Results — Means and Standard Deviations by Gender

	P score 2009	P score 2012	N2 2009	N2 2012
Men	38.85 (SD 15.76) n=64	40.81 (SD 18.97) n=35	30.29 (SD 6.27) n=64	41.91 (SD 15.35) n=35
Women	43.07 (SD 16.50) n=64	48.05 (SD 14.60) n=40	31.69 (SD 8.17) n=64	48.01 (SD 11.71) n=40
Unidentified (2009 only)	39.31 (SD 11.28) n=29		30.61 (SD 4.93) n=29	
Total	40.66 (SD 15.40) n=157	44.67 (SD 17.05) n=75	30.88 (SD 6.72) n=157	45.21 (SD 13.79) n=75

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174. The average P score increased from M=42.76 (SD 13.45) to M=44.60 (SD, 18.57) n=53, p=.08. The effect size was r=.12, considered small. The average N2 score increased from M=31.43 (SD, 6.32) to M=45.36 (SD, 14.80) n=53, significant (W=1300, p=.000). Because our longitudinal sample represented a subset of the larger sample, we used the Wilcoxon Signed Ranks Test for related samples, a statistical test that is more tolerant of the assumptions of inferential tests based on rank ordering of subjects' scores.

175. *See* Ferguson, *supra* note 173 (providing a guide to different types of effect sizes and guidelines for interpretation).

176. Bebeau & Thoma, *supra* note 84, at 688–91. A separate study of individual moral judgment change based on these data is currently being planned by the Holloran Center.

Gender differences for the matched pairs, longitudinal sample followed the same pattern as the cross-sectional data. Table 6 shows means and standard deviations for subgroups in the 2012 sample.

Table 6
Means and Standard Deviations for Gender, Matched Pair Sample

	P score 2009	P score 2012	N2 2009	N2 2012
Men (n=24)	38.75 (SD 13.14)	41.75 (SD 18.98)	30.06 (SD 6.37)	43.24 (SD 18.15)
Women (n=29)	46.08 (SD 12.99)	46.95 (SD 18.21)	32.56 (SD 6.16)	47.12 (SD 13.63)
Total (n=53)	42.76 (SD 13.45)	44.60 (SD 18.59)	31.43 (SD 6.32)	45.36 (SD 14.81)

4. *Cross-Sectional Analysis, Ethical Professional Identity Assessment*

Coding of essays by half stage showed a shifting distribution from earlier to later stages of Kegan stages of identity formation.[177] In order to test whether this progression was statistically significant, we used a nonparametric test suitable for ordinal data.[178] The results of the *Chi square* test were significant; a nonparametric index of the strength of the effect, *Cramer's V* was .68.[179] Figure 1 contains a graphic showing the distribution. Examples of content and stage estimates are shown in Appendix B.[180]

FIGURE 1. PROFESSIONAL ETHICAL IDENTITY FORMATION, KEGAN STAGE ESTIMATES

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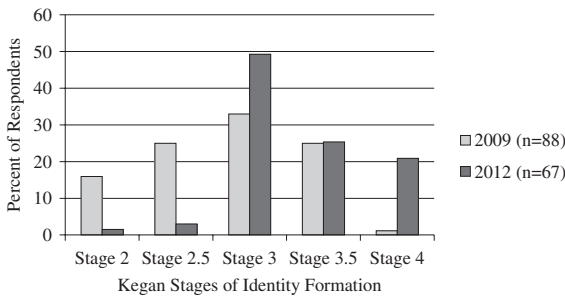
177. *See* Bebeau & Lewis *supra* note 83, at 5–6 (identifying such half stages (ex., Stage 2.5) instead as "transitions" from one stage to another (ex., Stage 2 to Stage 3 Transition)).

178. The concept of "levels of measurement" guides the choice of statistical methods of analysis. *See* Web Center for Social Research Methods, http://www.socialresearchmethods.net/ (last visited Jan. 10, 2013) (providing a primer on social science research methods, including fundamental principles of measurement and statistics).

179. *Chi square*=93.76; the formula used for *Cramer's V* was the square root of the chi square test value divided by N times the number of groups minus one. *See* Ferguson, *supra* note 173 (presenting guidance on effect sizes and their interpretation).

180. *See* Monson & Hamilton, *Entering Law Students*, *supra* note 15, at App. B (providing examples of content and stage estimates).

E. *Discussion*

This is the first study we know of that attempted to longitudinally explore how law school affects law students' moral judgment and moral identity formation from matriculation to graduation by using results from the LSSSE survey as a means of comparing our results to a broader sample of law schools. A subset of items from the LSSSE survey are conceptually linked to professional ethical identity development or professional formation, which comprises moral, cognitive, emotional, and social capacities and is associated with increased effectiveness in carrying out the role of the professional.[181] By examining LSSSE data from UST School of Law students, in comparison with other religious law schools and all participating law schools, we are able to rule out some of the alternative plausible hypotheses to explain the increases in moral judgment and moral identity formation capacities we observed. Thus, we believe the data demonstrates that UST School of Law students experience growth in moral development and professional formation over their three years of law school in a manner different from that which might be anticipated from law school generally.

The N2 score, an overall index of moral judgment capacity, shows a statistically significant increase over the three-year period in both the cross-sectional and longitudinal analyses, from an average of 31.43 to 44.65 using the cross-sectional sample, and representing an effect size of .8, a large increase. The traditional index of moral capacity, represented by the P score, also increased from an average of 40.66 to 44.67 (non-significant).[182] One possible explanation for the smaller increase in P score is the complexity of gauging moral development of professional students who represent diverse career tracks in law, with different motivations and alignment to the social contract of the profession to society. A more granular investigation of career track and development should be conducted, as suggested by past

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181. *See* Hamilton & Monson, *Legal Education's Ethical Challenge*, *supra* note 17, at 2.

182. Comparatively, the mean P scores for UST School of Law students were very close to the mean P scores of law students in a 1999 doctoral dissertation study by Chapman, who found the mean baseline P score for a cohort of 61 first-year students had increased from 41.58 (SD 14.67) to 44.98 non-significant (ns) at the end of the first-year. *See* Chapman, *supra* note 152. The mean P scores for UST School of Law students and for the students Chapman studied, however, were lower than in two other studies. In 1976, Willging and Dunn, looking at changes in students after the first year of law school (*n*=63) found a baseline mean P score of 49.54, which increased to 52.13 by the end of the first-year (ns). *See* Willging & Dunn, *supra* note 151, at 348. Landsman and McNeel reported a mean P score of 49.61 for entering law students in fall of 1999 (n=164), which declined slightly to 48.97 (*n*=64) by the third year of law school. *See* Landsman & McNeel, *supra* note 153, at 916, tbl. 2. The Center for the Study of Ethical Development points out that P scores have been declining in higher education studies since the 1980s. Bebeau, *Promoting*, *supra* note 50, at 394 fig. 1. Notably, although the increase in mean P scores for UST School of Law students was non-significant, it was larger than in any of the other three studies discussed in the preceding paragraph.

studies in legal education that found greater change among students choosing careers in which altruism was a core motive.[183]

The finding in our longitudinal sample, that some students' N2 or P scores declined over the three-year period, might prompt one to question the underlying theory of moral development based on Kegan's lifespan developmental model. The theoretical proposition that developmental gains occur in a stepwise fashion, without regression to earlier stages was shown to be inaccurate, based on analysis of large datasets using the DIT.[184] The DIT demonstrated that development proceeds more in overlapping waves, with some progression and regression.[185] This is the phenomenon that Bebeau and Thoma observed in a longitudinal study of the impact of an ethics curriculum of dental students, in which the P scores of some dental students declined.[186] They explain decline in terms of setbacks prompted by significant situational stressors.[187] Bebeau found declining P scores as well among some students who were consciously aware of an abandonment of idealism from matriculation to graduation.[188] This effect may be particularly relevant for professional education.[189]

We explored several alternative plausible explanations for our findings that would explain our results. The first is that our results were due to self-selection bias, meaning that our students chose St. Thomas because of its strong identification with Catholic faith traditions, and therefore, they arrived eagerly expecting to develop a personal code of values and ethics, and were prepared for moral growth. To rule out this explanation, we looked at admissions survey data on the reasons students chose St. Thomas.[190] The top five factors were (1) location (79.8%), (2) UST law community/quality of life (76.4%), (3) the Mentor Externship program (61.8%), (4) amount of scholarship (51.7%), and (5) the service component of the mission. Faith ranked as the ninth factor, behind the curriculum and interaction with staff, students, or alumni. Based on this data, the argument that our results are due to a predominant focus on the faith emphasis of the school and anticipation of moral growth is not supported.

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183. Landsman & McNeel, *supra* note 153, at 906.

184. *Id.*

185. *Id.*

186. *See* Bebeau & Thoma, *Impact of Dental Ethics Curriculum*, *supra* note 84, at 688. Landsman and McNeel likewise saw declines in mean P scores among many students, particularly male students. *See* Landsman & McNeel, *supra* note 153, at 905.

187. *Id.*

188. *Id.*

189. A singular theme across ethics education in the professions is the lack of moral idealism associated with postconventional reasoning. Much of the scholarship and research in higher education and education in the professions is focused on the topics of how professional education can institute curriculum and pedagogical changes to prevent the erosion of ethical idealism. *See, e.g.*, MORAL DEVELOPMENT IN THE PROFESSIONS, *supra* note 38.

190. *See supra* note 116.

A second alternative plausible explanation for our results could be that what the University of St. Thomas School of Law students are experiencing is not unique but is comparable to what law students at other religiously-affiliated law schools might experience. Given that we did not have DIT or Kegan essay data from law students at other religiously-affiliated law schools, we searched for a proxy and identified two questions on the LSSSE survey that asked for students' self-perceptions of moral development. We reasoned that if the growth in moral capacities of our students was causally related with the nature of the students attracted to religiously-affiliated law schools and the environment within religiously-affiliated law schools, then the same pattern of response would be observed in the LSSSE data of other religiously-affiliated law schools. The relevant questions were (1) "To what extent has your experience at your law school contributed to developing a personal code of values and ethics?" and (2) "To what extent does your law school emphasize . . . . encouraging the ethical practice of law?" As shown in Table 7, we found responses from University of St. Thomas students significantly higher than responses from all LSSSE religiously-affiliated law schools as a whole.[191] Based on this finding, we can rule out the alternative plausible explanation that our students' development resulted simply because the University of St. Thomas is a religiously-affiliated law school.

Table 7

Responses to two LSSSE items related to professional formation comparing UST Law 3Ls to 3Ls from all religious schools and all schools in the LSSSE 2012 sample

LSSSE Item	Response Options	UST Law 3Ls (n=96)	Religious Schools 3Ls (n=1492)	All Schools, 3Ls (n=6870)
Developing a personal code of values and ethics	Very little	1.0%	17.6%	17.6%
	Some	12.5%	31.4%	34.2%
	Quite a bit	30.2%	30.2%	28.8%
	Very Much	56.3%	20.8%	19.3%

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191. We used a *chi-squared* test to determine whether differences in percentages between UST and other schools were significant. Because survey data is at the ordinal level of measurement, using statistics such as the mean can be misleading and are not preferred. Nonetheless, the UST mean responses to these two questions were statistically significant with large effect sizes when compared with responses of students at other religious schools or the responses of all participants. In 2010, the UST first-year respondents to the LSSSE question regarding developing a personal code of ethics and values generated a mean score of 2.98, which was statistically significant with an effect size of .42. In 2012, UST's third-year respondents to the same question generated a mean score of 3.42, which was statistically significant with an effect size of .88. The mean score for the 8,240 first-years from all 77 participating law schools in 2010 was 2.56 while the mean score for the 6,870 third-years from all 81 participating law schools in 2012 was 2.50.

Encouraging the ethical practice of the law	Very little	1.1%	14.6%	3.7%
	Some	20.0%	27.0%	20.9%
	Quite a bit	31.6%	32.2%	37.8%
	Very Much	47.4%	26.3%	37.6%

A third alternative explanation for the observed advances in moral judgment and identity is the idea that we are instead measuring general cognitive ability or academic achievement within the context of legal education. This explanation seems plausible given the statistically significantly higher law school GPA as of fall 2011 for respondents as compared with non-respondents. To test this explanation we calculated correlations and partial correlations of pre- and post-moral judgment scores (P score) and proxy scores for general cognitive ability or achievement (LGPA and LSAT). We used the matched pair sample to examine correlations between the level of individual growth from 2009 to 2012 in the P score and students' baseline LSAT and Undergraduate GPA ("UGPA") scores. We found they were close to zero. Correlations between gains in P scores and LGPA were higher (r = +.17), but not statistically significant. Further testing this alternative hypothesis using regression analysis, which would statistically remove the effect of the baseline P score or N2 score from the correlations, we found that LGPA was no longer a significant predictor of graduates' P score. Only baseline P scores statistically significantly predicted graduating students' P scores (*b*=.420, p .003). LSAT and UGPA scores were non-significant in predicting graduates' P scores.

Repeating this analysis for N2 scores, LGPA significantly predicted graduating students' N2 scores (*b*=.369, p .015), unlike the P score. Similar to the P score, students' baseline N2 score significantly predicted graduating N2 scores (*b*=.291, p .03). LSAT was nonsignificant (*b*= -.115, p .425). The fact that LGPA was a significant predictor of N2 scores might argue for partial support for this third alternative explanation. We view this as unlikely, given prior construct-validity studies in moral judgment and the lack of significant findings in prior DIT studies in legal education.[192] We think that an explanation for this finding is that the moral capacities represented by N2 (which reflects in part a preference for Maintaining Norms schema arguments) may overlap with core elements of legal doctrine, which similarly emphasizes existing laws, rules, procedures, and precedents.

A fourth plausible explanation is that the natural maturation process, which occurs over the three-year period in law school, might explain the

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192. *See supra* note 182, discussing other studies of law students which showed little to no gain in mean P scores suggesting that legal education in general does not advance the moral judgment capabilities of law students in a meaningful way. We acknowledge that prior studies in legal education used the P score, not the N2 score, suggesting there might be value in re-analyzing the data from these studies with the N2 score to provide more meaningful comparisons. For a complete discussion about construct validity, the N2, and the DIT, see *supra* note 157.

advances in development we observed, and not the effect of the program's curriculum. This hypothesis suggests that our students would have developed moral capacities over a three-year period of time regardless of law school enrollment. To explore this possibility, we examined the correlation between the DIT N2 scores and age, statistically controlling for N2 scores at matriculation. We found a non-significant, negative correlation of -.102. Given this evidence, we can rule out age as a hidden variable resulting in moral development, consistent with prior studies in the literature.[193]

Our finding that P scores and N2 scores among women were significantly higher than for men suggests a differential effect and is not unique to this study.[194] However, in regression analyses in this and other studies, this difference can be accounted for by other variables, including choice of altruistic practice areas and baseline moral judgment capacity.[195] The patterns of growth also varied among men and women in the study, with women making overall greater individual gains in P scores than men, and men exceeding women on the N2. The reason for this difference needs to be explored further in replications of this study.

F.   *Limitations of This Study*

Some limitations of this study should be noted. One, our response rates, while overall satisfactory for a correlational design, are such that we cannot completely rule out sampling bias. Future study designs should consider embedding baseline and outcome assessments into the educational process as required components, in order to ensure a complete census sample of the cohorts. Two, without a true control group, we cannot state with certainty that there is a causal relationship between the overall curriculum and school climate and the outcomes we observed.

We also note that the use of LSSSE data in our comparative analyses assumes that LSSSE is a reasonable approximation of the population of third-year law students at all ABA-accredited schools. It could be argued, however, that LSSSE's sample is biased, both on the basis of the type of schools that are participating or the characteristics of students willing to respond. According to representatives at the University of Indiana's Center for Postsecondary Research, their past studies of non-respondents showed no significant differences with respondents in terms of responses to LSSSE survey questions.[196]

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193. Among DIT studies of adults, the most important factor predicting higher DIT scores is formal education, not age. *See* REST ET AL., POSTCONVENTIONAL MORAL THINKING, *supra* note 46, at 70.

194. *See* Bebeau & Thoma, *Impact of Dental Ethics Curriculum*, *supra* note 84, at 688 (noting that effects of an ethics program may be different for men and women).

195. Landsman & McNeel, *supra* note 153, at 898–900, 904–05.

196. Personal Communication with Lindsay Watkins, Project Manager, Ind. Univ. Ctr. for Postsecondary Research, Law Sch. Survey of Student Engagement, July 25, 2012.

V.	Encouraging More Law Professors and Faculties to
Adopt Professional Formation as an Important
Educational Objective

Our initial bold proposition was that legal education should move toward much more effective educational engagements to foster each student's professional formation and thus improve each student's ultimate effectiveness as a lawyer. Part I reviewed and analyzed the empirical evidence that convincingly points toward the importance of a law student's or practicing lawyer's capacities and skills of professional formation for legal employers and clients. Part II reviewed and analyzed the empirical evidence about the most effective curriculum, culture, and pedagogies to foster each student's professional formation. Part III explained the professional formation curriculum, culture, and pedagogies of University of St. Thomas School of Law (the empirical evidence in Part II aided in the design of this curriculum, culture, and pedagogy). Part IV analyzed empirical data demonstrating that the UST law students experience growth in moral development and professional formation over their three years of law school in a manner different from that which might be anticipated from law school generally. The data from this study reasonably support the link between the overall UST Law educational program and the increase of both student moral reasoning and ethical professional identity.[197]

This is the first empirical research to answer the challenge in *Educating Lawyers* that "[a]s far as we know, there is no research on the extent to which [a law school's] influence results in greater incorporation of the ethical-social values of the profession into students' personal and professional identities."[198] The empirical evidence in Part IV, that many UST law students grow in moral reasoning and ethical professional identity during the three years of law school, is another strong rebuttal to the deep skepticism among many law professors that by the time students enter law school it is too late to affect their ethical commitments and in any event legal education cannot foster such growth.[199] The longitudinal study presented in Part IV also demonstrates again that a law student's (and by implication a practicing lawyer's) understanding of professionalism is stage-dependent.[200] This finding adds to the research presented in Part II that education to foster professional formation must engage each student at the student's current developmental stage. The UST Law curriculum, culture, and pedagogies

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197.	We are not claiming causation from this study. We are working on research designs that would provide more clear evidence of causation between the curriculum, culture, and pedagogies and student growth in moral reasoning and ethical professional identity.

198.	Sullivan et al., Educating Lawyers, *supra* note 89, at 135.

199.	Neil W. Hamilton & Verna E. Monson, *Answering the Skeptics on Fostering Ethical Professionalism Formation (Professionalism)*, 20 Prof. Law. 3, 3–5 (2011).

200.	*See generally* Monson & Hamilton, *Entering Law Students*, *supra* note 15; Monson & Hamilton, *Ethical Professional (Trans)Formation*, *supra* note 15; Hamilton & Monson, *Themes from Interviews*, *supra* note 15.

reflect and incorporate the earlier research analyzed in Part II, but the study reported in Part IV does not separate out which specific elements of the curriculum, culture, or pedagogies were most effective. This is a next step in our research.

Our key goal going forward is to encourage more law professors and faculties to adopt professional formation as an important educational objective. Both the Holloran Center at the University of St. Thomas School of Law and Educating Tomorrow's Lawyers at the Institute for the Advancement of the American Legal System at the University of Denver (a consortium of twenty-six law schools) are working together on workshops that would bring together law professors interested in professional formation. The goal is to build a critical mass of three to four law professors at fifteen to twenty law schools who have embraced professional formation as an important educational objective. The workshops are designed to increase the number of motivated professors who recognize the value of these research findings and recommended practices and who self-adopt professional formation curriculum, culture, and pedagogies.

James Leming observed that:

> [t]he primary reason why [research-based models] ha[ve] been ineffective [in K-12 education] is that researchers are seldom in touch with the needs of the individual classroom teacher. . . . A more fruitful way of addressing the gap between research and practice is not to focus simply on more and better research, but to take the process of knowledge and evidence generation to a practical level.[201]

Leming noted that research strives to produce context-free understandings of effective practice, while teachers operate in context-bound environments. He suggested developing high-quality solutions to the practical challenges faced by a teacher.[202] Workshops provide a means to bridge theory and practice where professors would take home specific classroom engagements to use.

Workshops can also help define the most useful empirical research to help legal educators become more effective in fostering each student's professional formation. To generate debate, we list below some suggestions on future research that flow from our work.

　　1.　Develop causal models on the effects of particular elements of the professional formation curriculum, culture, and pedagogies, using a variety of explanatory and outcome variables.[203]

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201. James Leming, *Research and Practice in Moral Character Education*, *in* THE HANDBOOK OF MORAL CHARACTER EDUCATION 134, 151 (Larry P. Nucci & Darcia Narvaez eds., 2008).

202. *Id.* at 151–52.

203. By causal modeling, we are referring to a set of statistical methods referred to as Structural Equation Modeling, in which the goal is to statistically gauge the relative impact of various elements of a process or an educational curriculum to one or more outcomes. The rationale relates

Also analyze the effect of particularly positive elements in terms of their relative costs and examine overall effects of the professional formation curriculum, culture, and pedagogies. Outcome variables could include such variables as evaluations of a student's or practicing lawyer's work by supervisors or clients.

2. Task working groups of faculty from other law schools with developing a consensus plan for schools to evaluate the effectiveness of various different curricular elements. Using common measures (e.g., the DIT, the Professionalism Essays, or LSSSE) allows for replication of research or evaluation studies that can validate general approaches.

3. Task working groups of faculty with developing meaningful criteria for rating student performance in externships or as early career associates. Understanding how legal faculty define a range of competencies in the ethical skills of communication, conflict resolution, or negotiation within the context of legal practice paves the path toward common standards for graduates and transparency in terms of grading within clinics and on clerkships.

4. Learn all we can about the most effective educational engagements for professional formation from empirical work in higher education for the other professions.

5. Determine empirically what is the most effective means to get "buy-in" from students to engage with us on professional formation, particularly from students who are at earlier developmental stages. Continue empirical research on the competency models that legal employers and sophisticated clients are using to evaluate lawyer performance to help convince students that competency models include many of the capacities and skills of professional formation.[204]

6. Determine which "off-the-shelf" formative and summative assessments are most useful and cost-effective.

The challenge at its core is to help each student internalize deep responsibilities both for others—especially the client—and for the student's own development toward excellence at all the competencies that a practicing lawyer must have to fulfill his or her responsibilities for others. We want to engage each student to grow from thinking like a student to thinking and acting like an exemplary lawyer who has internalized the ideals of the profession. Existing empirical research provides some beacons to light the way in answering this challenge. We can create more beacons together.

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to the difficulty in utilizing control groups in education, and the developments of educational psychological research to develop methods that statistically control for different variables. While these methods do not unambiguously establish causation, they are respected as means of testing causal theories of how programs work. *See generally* MARCIA MENTKOWSKI & ASSOCS., LEARN-ING THAT LASTS (2000) (presenting a practical overview of structural equation modeling and the use of one of the techniques in a similar study of moral development in higher education).

204. *See* Hamilton, *Personal Responsibility*, *supra* note 1.

APPENDIX A

Professionalism Questionnaire, Class of 2012
UNIVERSITY OF ST. THOMAS SCHOOL OF LAW

How Graduating Law Students Understand the Meaning of Professionalism

IRB # A09-003-1
We are conducting an outcome evaluation study about the formation of an ethical professional identity. We invite you to participate in this research. Please read this form and ask any questions you may have before agreeing to be in the study.

This study is being conducted by Neil Hamilton, Professor of Law, University of St. Thomas School of Law, and Director of the Holloran Center for Ethical Leadership in the Professions; and Verna E. Monson, Ph.D., Research Fellow, Holloran Center for Ethical Leadership in the Professions.

BACKGROUND INFORMATION
The purpose of this study is to understand the outcomes of law school related to the meaning of professionalism or professional formation.

PROCEDURES
If you agree to be in this study, you will be asked to write short responses to questions about professionalism, taking approximately 20-25 minutes to respond. For consideration of your participation, you will be given a $10 gift certificate to Food for Thought. This certificate will be forwarded to you following completion of this essay questionnaire and an online assessment of moral reasoning called the Defining Issues Test 2 (DIT-2). Following the session today, you will receive an email with a link to the DIT-2 online. Upon completion of this survey, you will be notified when you can come and pick up your gift certificate.

CONFIDENTIALITY
All information you shared will be held in strict confidence, and no identifying information about you will be divulged at any time during the research process. In any sort of report we publish, we will not include information that will make it possible to identify you in any way. Transcripts of your essays will be held on a secured computer accessible only by Verna Monson. All data will be securely disposed of no later than September 1, 2020.

VOLUNTARY NATURE OF THE STUDY
Your participation in this study is entirely voluntary. Your decision whether or not to participate will not affect your current or future relations with the

University of St. Thomas. If you decide to participate, you are free to with-draw at any time. At your discretion, you may decide to withdraw data collected about you or decline to answer particular questions.

CONTACTS AND QUESTIONS

If you have questions, contact Dr. Verna Monson, Research Fellow at the Holloran Center for Ethical Development in the Professions at mons0076@stthomas.edu or by phone at 612-282-9472.

The Meaning of Professionalism in Law, Spring 2012
University of St. Thomas School of Law

Outcome Evaluation Study of Professionalism Competencies

Thank you for agreeing to respond to a series of open-ended questions about professionalism. The purpose of this study is to understand the outcomes of law school related to professionalism competencies and professional formation. This will help the University of St. Thomas School of Law demonstrate to accrediting entities such as the ABA that we are meeting our self-selected goals to foster professional formation of each law student. The assessment today will also help us determine how your understanding of professionalism has changed from entry to the program to your final semester. Long-term, your thoughtful participation will help us understand how professionalism changes over the course of your career.
All information we collect will be held in strict confidence. We hope that you will find the questions and topics interesting and enjoyable. For questions about this study, please contact Verna Monson, Research Fellow, Holloran Center for Ethical Leadership in the Professions, at mons0076@stthomas.edu. Thank you.

Please provide your name primary and email address.
This will allow us to correlate your responses to this survey with the responses to the earlier surveys and also will allow Dr. Verna Monson to follow-up with you if she has any questions about your responses. Your email address and responses will be held in the strictest confidence. As noted above, no identifying information will be included in any report regarding this survey or the earlier surveys.

Your Name (please print):
_____

Email Address:
_____

This page will be removed from your responses and a non-identifiable ID# will be attached to your response to reduce or eliminate any bias as we are analyzing your response.

Please proceed to the following page.

The Meaning of Professionalism in Law, Spring 2012
University of St. Thomas School of Law

Outcome Evaluation Study of Professionalism Competencies
INSTRUCTIONS: Please respond to each of the open-ended questions be-
low as fully and completely as possible. Short answers that "gloss" over the
topics covered will not be able to be analyzed. This is not a graded assign-
ment and no personal judgments will be made about you as an individual,
so please be as candid as possible. The approximate time needed to com-
plete this questionnaire is 25 to 30 minutes. The suggested length of re-
sponse to each of the following open-ended questions is approximately **one
to two paragraphs** consisting of three or four sentences. If you need more
space to write, we have provided a blank sheet of paper at the end of this
questionnaire.

QUESTIONS

1. Personally, what does professionalism mean to you?
2. Thinking about what professionalism means to you, how did you come
    to this understanding?
3. Reflecting on your law school experience, how has the meaning of pro-
    fessionalism changed over the past two and a half years?

Expectations of Self and Others
4. What are your career goals as a lawyer? What expectations do you have
    of yourself as you work toward your career goals?
5. What conflicts do you expect to experience when you are a lawyer
    (e.g., between your responsibilities to yourself and to others—family,
    clients, law firm or employer, community, profession, etc.)? How do
    you expect to resolve these conflicts?

Dealing with Disappointment

6. What would be the worst thing for you if you failed to live up to the
    expectations of your (a) clients? (b) your firm? (c) the bar? (d) broader
    society?

Looking Forward

7. Thinking about your future as a lawyer, what are the top two or three
    words that will be your *guiding virtues or values* in practicing law?

    a) _____

    b) _____

    c) _____

Thank you for your time!

The Defining Issues Test (DIT) (Rest, 1979): Sample Dilemma

Heinz and the Drug

In Europe a woman was near death from a special kind of cancer. There was one drug that doctors thought might save her. It was a form of radium that a druggist in the same town had recently discovered. The drug was expensive to make, but the druggist was charging ten times what the drug cost to make. He paid $200 for the radium and charged $2,000 for a small dose of the drug. The sick woman's husband, Heinz, went to everyone he knew to borrow the money, but he could only get together about $1,000, which is half of what it cost. He told the druggist that his wife was dying, and asked him to sell it cheaper or let him pay later. But the druggist said, "No, I discovered the drug and I'm going to make money on it." So Heinz got desperate and began to think about breaking into the man's store to steal the drug for his wife. Should Heinz steal the drug?

Please rate the following statements in terms of their importance in making a decision about what to do in the dilemma. (1=Great importance, 2=Much importance, 3=Some importance, 4=Little importance, 5=No importance)

1. Whether a community's laws are going to be upheld.
2. Isn't it only natural for a loving husband to care so much for his wife that he'd steal?
3. Is Heinz willing to risk getting shot as a burglar or going to jail for the chance that stealing the drug might help?
4. Whether Heinz is a professional wrestler, or had considerable influence with professional wrestlers.
5. Whether Heinz is stealing for himself or doing this solely to help someone else.
6. Whether the druggist's rights to his invention have to be respected.
7. Whether the essence of living is more encompassing than the termination of dying, socially and individually.
8. What values are going to be the basis for governing how people act towards each other.
9. Whether the druggist is going to be allowed to hide behind a worthless law which only protects the rich anyhow.
10. Whether the law in the case is getting in the way of the most basic claim of any member of society.
11. Whether the druggist deserves to be robbed for being so greedy and cruel.
12. Would stealing in such a case bring about more total good for the whole society or not.

Now please rank the top four most important statements. Put the number of the statement in the blank:

____ Most important item
____ Second most important item
____ Third most important item
____ Fourth most important item

http://www.centerforthestudyofethicaldevelopment.net/DIT%20—Sample%20Dilemma.htm

Appendix B. Excerpts from student essays and coding, Kegan-like "Meaning of Professionalism" Identity Development Assessment

Instrumental Mind (Stage 2)

- **"Acting like an adult** (being on time, **dressed appropriately**, not making excuses)."

- "A certain level of expertise, education or distinction can give the **label of 'professional'** to a person."

Stage 2 / 3 Transition
"Always acting in a courteous and respectful manner. **Dressing appropriately** for the occasion and **taking into account the thoughts, feelings, and rights of others**."

Socialized Mind (Stage 3)

- "Acting appropriately in the workplace as well as to **coworkers and any other people** you may encounter on the job."

- "Professionalism is representing your profession with the utmost **respect for yourself, your peers, and your clients**."

- "Professionalism means **working well alon[e] as well as with others**. It means to communicate and always be courteous and respectful of others, regardless of the other person's behavior."

Self-Defining Mind (Stage 4)

- "In the field of law, professionalism means upholding two sets of ethical standards simultaneously. First, a lawyer is required to meet the ethics required by the law. All of the basic principles that society has outlined as the floor of appropriate behavior should at a minimum be met. Yet to me, professionalism goes beyond that. **It goes into an intangible dimension that is not easily put into words. I expect my conduct to exceed what the law spells out as the basic floor** of acceptable, both in terms of ethics and dedication."

QUESTION: What would be the worst thing for you if you failed to live up to the expectations you have set for yourself?

Instrumental Mind (Stage 2)

- "Having a less-than-ideal financial state and/or family life. I would like to own a nice home in a nice neighborhood, travel often, and have a fabulous wardrobe, and I would be upset to have to give up any of the above."

- "I would flunk out of law school and have to work as an administrative assistant for the rest of my life."

Socialized Mind (Stage 3)

- "I fail to learn how to balance law school with my life outside of law school and my pre-law school relationships suffer."

- "If my family and friends no longer respected me."

- "My parents' disappointment if I was not able to secure a job after graduation."

Self-Defining Mind (Stage 4)

- "All my life I have been my own harshest critic. I'd be disappointed in myself if I became someone I didn't like, or wasn't able to fulfill my personal expectations. That disappointment would be a heavy burden and I'd feel obligated to remedy the situation immediately."

- "The worst thing for me would not having the satisfaction of attaining such a high goal I'd set for myself 5 years prior to coming to law school."