

# Education & Practice

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## Defending the Rule of Law

On January 6, 2021, what began as a political protest in Washington, D.C. escalated into a deadly mob attack on the United States Capitol. The protests and the counter-protests regarding the 2020 presidential election were protected speech. The deadly assaults, death threats and destruction of property were not.

In the aftermath of this horrific scene, I found myself asking, “What can we do?”

There is plenty of conflict and disagreement within our legal system. To be sure, a key component of the judicial system is the ability to resolve legal issues and disputes in a civil and civilized manner. The violent riot at the Capitol was neither.

Fortunately, it didn't take long for leaders of our profession to spring into action and communicate exactly the kind of messages that citizens and legal professionals needed to hear. On the same day that the Washington, D.C. protest erupted into a mob attack, American Bar Association President Patricia Lee Refo issued a powerful statement condemning the attack and advocating for the rule of law.<sup>1</sup>

President Refo was not alone. Law school deans also issued statements the same day and in the days that followed the insurrection.<sup>2</sup> The common thread was the need to defend the rule of law.

On January 12, 2021, over 150 law school deans released a joint statement describing the Capitol riot as “an assault on our democracy and the rule of law.”<sup>3</sup> The joint statement issued by the law deans concluded with this paragraph:

As law deans, our mission is train the next generation of leaders to uphold the core values of our profession and sustain the rule of law. This should be a moment of reflection for legal educators and members of the legal profession. A sustained effort will be necessary to repair and preserve our precious democratic institutions. As legal educators and lawyers ourselves, we must redouble our efforts to restore faith in the rule of law and the ideals of the legal profession. We have enormous faith in the law's enduring values and in our students, who will soon lead this profession. We call upon all members of the legal profession to join us in the vital work ahead.<sup>4</sup>

Critics of our profession have long delighted in quoting from Shakespeare’s play, Henry the VI, in which “Dick the Butcher” says, “The first thing we do, let’s kill all the lawyers.” Taken in context, however, the actual meaning is that in order for tyranny to prevail over the rule of law, the lawyers must be eliminated.<sup>5</sup>

So I return to the question I asked at the beginning of this message, “What can we do?” My answer is to start by speaking up for and defending the rule of law, reminding ourselves and our citizens of why the law matters, and then taking action to make sure that tyranny, anarchy and lawless mobs do not prevail. It is our duty to lead by example, and to make sure that the generations of lawyers who follow us understand our central role in protecting and advancing the rule of law. Indeed, we are the guardians of our entire system of government.

As Dean Risa Goluboff said in her statement to students at the University of Virginia School of Law, “the world needs you now more than ever.”<sup>6</sup>

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*Kevin E. Martingayle, Chair*

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## **Integrating Professionalism, Civility, and Leadership Education in Law Schools: The Time is Now**

As I speak with lawyers and judges around the Commonwealth and country about what my law school can do to improve the knowledge and skills of our graduates, a constant refrain is that *all* law schools need to focus on preparing law students to enter a profession marked by civility and excellence. Giants of the bar across the landscape have expressed concern to me about the future of the profession—not because the next generation of lawyers lack legal knowledge or the ability to think like a lawyer—but due to a perceived degradation or deep misunderstanding of the importance of civility

1. Patricia Lee Refo, “Statement of ABA President Patricia Lee Refo Re: Violence at the U.S. Capitol”, available at [Statement of ABA President Patricia Lee Refo Re: Violence at the U.S. Capitol \(americanbar.org\)](#) (last viewed February 4, 2021).
2. *See e.g.*, Dean Risa Goluboff, University of Virginia School of Law, “Dean Risa Goluboff Releases Message on Violence in D.C.”, available at [Dean Risa Goluboff Releases Message on Violence in D.C. | University of Virginia School of Law](#) (last viewed February 4, 2021); Dean A. Benjamin Spencer, William & Mary Law School, “Dean A. Benjamin Spencer: A Message to the William & Mary Law Community About Events on January 6 in Washington, D.C.”, available at [Dean A. Benjamin Spencer: A Message to the William & Mary Law School Community About Events on January 6 in Washington, D.C. | William & Mary Law School \(wm.edu\)](#) (last viewed February 4, 2021).
3. Rick Seltzer, “157 Law Deans Decry ‘Assault on Democracy’”, Inside Higher Education, available at [157 Law Deans Decry ‘Assault on Democracy’ \(insidehighered.com\)](#) (last viewed February 4, 2021).
4. *Id.*
5. James Podgers, “What Did Shakespeare Think About Lawyers? Panel Counts the Ways”, American Bar Association Journal, available at [What did Shakespeare think about lawyers? Panel counts the ways \(abajournal.com\)](#) (last viewed February 4, 2021).
6. Dean Risa Goluboff, University of Virginia School of Law, “Dean Risa Goluboff Releases Message on Violence in D.C.”, available at [Dean Risa Goluboff Releases Message on Violence in D.C. | University of Virginia School of Law](#) (last viewed February 4, 2021).

and professionalism.

As we witness daily the inability of national, state, and local leaders—many of whom are lawyers—to respect each other and engage in civil debate over the most important issues of the day, our law students, recent graduates, and young attorneys are left wanting for examples of “great” leaders. As the practice of law becomes more competitive, leaving less time for the type of mentoring that used to be offered in firms to address professionalism, civility, and leadership, the need for law schools to fully integrate and formalize these concepts into law school curricula is more critical than ever. While courses on Professional Responsibility are required at every law school, they too often focus only on the Rules of Professional Conduct, do not meaningfully include the aspirational goals of civility and

professionalism, and generally lack any real focus on leadership.<sup>1</sup>

However, law schools throughout the Commonwealth and beyond have a real opportunity to seize this moment in time to appropriately model civil discourse and professionalism and develop the lawyer leaders of tomorrow through purposeful incorporation of leadership training in their programs. In Virginia, we are fortunate to be lawyers led by a Supreme Court that places great focus and value on all three topics discussed herein and a mature bar yearning to support law school efforts to develop outstanding graduates and future leaders.

We can all agree as a baseline that professionalism in the practice of law refers to “competent” and “effective” services an attorney delivers to a client and the manner in which the lawyer conducts themselves during the course of the representation.<sup>2</sup> While law schools and law offices do a fine job preparing young attorneys to deliver valuable legal services to clients, the development of ideas on how legal professionals treat clients, opposing counsel, and judges is often left for new lawyers to create their “own style.” It is precisely here where I believe law schools can do a better job in developing students and young lawyers through focused efforts during law school.

While “civil behavior is a core element of attorney professionalism” it is undeniable that *incivility* in the

practice of law and society is prevalent today.<sup>3</sup> A recent poll showed that 93% of Americans believe the state of civility in the country is a problem with 68% stating it is a major problem.<sup>4</sup> Law schools have an important responsibility to teach law students the critical role that civility plays in the legal profession and in their individual careers.<sup>5</sup> It has been almost 50 years since Chief Justice Berger challenged law professors to teach their students “that good manners, disciplined behavior and civility—by whatever name—are the lubricants that prevent lawsuits from turning into combat.”<sup>6</sup> The Chief Justice followed on to point out that law professors who believed their function was merely “to teach law students how to think” missed the mark.<sup>7</sup> Berger said, “[L]awyers who know how to think but have not learned how to behave are [a] menace and a liability, not an asset, to the administration of justice.”<sup>8</sup>

There is a need for a focus on leadership training in law schools. While the ranks of attorneys make up less than a half of one percent of the American population, the influence of lawyers serving in positions of influence cannot be overstated.<sup>9</sup> “No other profession accounts for more leaders in every aspect of society.”<sup>10</sup> Yet, only a handful of law schools across the nation have developed any formal leadership development curricula. Even in the face of a clear need to initiate an organized supplemental curriculum focused on leadership, voices inside law schools have opposed leadership training as

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<sup>1</sup> A.B.A., ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2020-2021, 18 (2020), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/standards/2020-2021/2020-21-aba-standards-and-rules-chapter3.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2020-2021/2020-21-aba-standards-and-rules-chapter3.pdf).

<sup>2</sup> Michelle Silverthorn, *20 Professionalism Tips for Millennial Attorneys*, 2CIVILITY, Jan. 28, 2015, <https://www.2civility.org/20-professionalism-tips-millennial-attorneys/>.

<sup>3</sup> Jayne R. Reardon, *Civility as the Core of Professionalism*, A.B.A., Sept. 18, 2014, [https://www.americanbar.org/groups/business\\_law/publications/blt/2014/09/02\\_reardon/](https://www.americanbar.org/groups/business_law/publications/blt/2014/09/02_reardon/).

<sup>4</sup> *Civility in America 2019: Solutions for Tomorrow*, WEBER SHANDWICK, June 6, 2019, <https://www.webershandwick.com/wp-content/uploads/2019/06/CivilityInAmerica2019SolutionsforTomorrow.pdf>.

<sup>5</sup> See David A. Grenardo, *A lesson in Civility*, 32 GEO. J. OF LEGAL ETHICS 135 (2019).

<sup>6</sup> *Id.* at 137–38 (quoting *Excerpts From the Chief Justice’s Speech on the Need for Civility*, N.Y. TIMES, May 19, 1971, at 28.).

<sup>7</sup> *Id.* at 138 (quoting *Excerpts From the Chief Justice’s Speech on the Need for Civility*, N.Y. TIMES, May 19, 1971, at 28.).

<sup>8</sup> *Id.* (quoting *Excerpts From the Chief Justice’s Speech on the Need for Civility*, N.Y. TIMES, May 19, 1971, at 28.).

<sup>9</sup> Leah Witcher Jackson Teague, *Lawyers as Leaders: Community Engagement and Leadership Benefit All*, STATE BAR OF TEXAS, <https://www.texasbar.com/AM/Template.cfm?Section=articles&Template=%2FCM%2FHTMLDisplay.cfm&ContentID=39075> (citing DEBORAH L. RHODE, *LAWYERS AS LEADERS* 1 (2013)).

<sup>10</sup> *Id.* (citing DEBORAH L. RHODE, *LAWYERS AS LEADERS* 1 (2013)).

“partisan” or “militaristic” and have resisted formalized approaches to leadership development in law schools.<sup>11</sup> The time is now to extend law student education so that we can better prepare graduates to be leaders filled with civility, integrity, and professionalism.

Law schools have a unique opportunity to provide particularized attention to increasing civility, preparing professionals, and developing future leaders in the law. Faculty and administration share three intense years with law students, and for a brief period while in law school, students are malleable and hungry to learn the norms and peculiarities of our profession. It is incumbent upon law schools to *fully* immerse students into the norms that have made law the noblest of the learned professions by leading them on a deeper exploration of civility, professionalism, and leadership. This investigation must go far beyond statutory guidelines offered in Professional Responsibility courses. Larger and broader concepts and norms of the profession can and must be purposefully infused throughout the curriculum.

Current structured and regulated curricula often “allow little room beyond substantive coursework and clinical instruction” to make additions beyond traditional areas of study.<sup>12</sup> The real opportunity to answer the clarion call of the organized bar for new law school graduates to protect, sustain, and uphold our profession and its unique calling is through a full-throated and purposeful incorporation and integration of professionalism and leadership into law school curricula inside the traditional subject areas.<sup>13</sup> “The exploration into behavior and conduct can be part and parcel with the core teaching of the law school education.”<sup>14</sup>

Liberty Law has made attempts to develop curricular innovations to address this civility, professionalism, and leadership quandary. We require, among other offerings, in each students’ first year that they participate in a six-part lecture series touching on the

aspirational and inspirational aspects of the profession. These lectures are delivered by the bench and bar. When fully implemented, our entire program will require second-year students to engage in a four-part series focusing on the lawyer as a leader. Finally, in their third year, students will partake in a six-part series on transitioning to practice to include practical professionalism training for new lawyers.

While certainly imperfect and still evolving, I believe our approach is a step in the right direction. Unless legal education shifts from a focus primarily on the substantive and technical aspects of law and expands meaningful exploration on professionalism and leadership, our profession, clients, and communities will suffer the consequences. My goal is for tomorrow’s attorneys to be the change-agents that honor civility and cherish the practice of law and public discourse.

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***B. Keith Faulkner***

*Dean, Liberty University School of Law*

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**The VSB Section on the Education of Lawyers has been able to offer its Professionalism for Law Students program virtually at each of the Virginia law schools during the 2020-2021 semesters.**

**Thank you to the program co-chairs: Frank E. Telegadas, Esq. and Susan M. Butler, Esq., the volunteers who provide lectures and guide the students through hypotheticals, and the law school faculty for coordinating and incorporating this important program into your busy course schedules.**

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<sup>11</sup> Kellye Y. Testy, *Embracing Leadership Development in Legal Education*, LAW SCH. ADMISSION COUNCIL, March 27, 2019, <https://www.lsac.org/blog/embracing-leadership-development-legal-education>.

<sup>12</sup> Mark C. Palmer, *Making Civility Education A Law School Standard*, 2CIVILITY, Aug. 3, 2016,

<https://www.2civility.org/making-civility-education-law-school-standard/>.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

# Externships' Role in Training Practice-Ready Lawyers

In 1630, John Billington, a Mayflower pilgrim and signer of the Mayflower Compact, killed his neighbor, John Newcomen:

The poor fellow [Newcomen] perceiving the intent of this Billington, his mortal enemy, sheltered himself behind trees as well as he could for a while; but the other, not being so ill a marksman as to miss his aim, made a shot at them, and struck him on the shoulder, with which he died soon after. The murtherer expected that either for want of power to execute for capital offenses, or for want of people to increase the plantation, he should have his life spared; but justice otherwise determined.<sup>1</sup>

Billington's trial, the Plymouth Colony's first for murder of a White colonist by another White colonist, featured England-trained lawyers.<sup>2</sup>

Between 1762 and 1767, George Wythe, a renowned Williamsburg attorney, used the English

apprenticeship model to train a William & Mary graduate and budding lawyer named Thomas Jefferson.<sup>3</sup> Little more than a decade later, Jefferson, then Virginia's governor, established the first professorship of law in the United States at William & Mary.<sup>4</sup> He hired his mentor, Wythe, to hold that professorship.<sup>5</sup>

Fast-forward to the late Nineteenth Century, when critics advocated for eschewing apprenticeship in favor of "a deeper and wider understanding of lawyers than the training . . . afforded by the law office."<sup>6</sup> The academic, casebook method of legal education attributed to Harvard Dean Christopher Columbus Langdell began to take hold in the United States, eventually supplanting the apprenticeship method.<sup>7</sup> In 2014 – nearly 400 years after those England-trained lawyers prosecuted and defended Billington, approximately 250 years after Wythe's tutelage of Jefferson and the founding of the nation's first law school at William & Mary, and almost a [sesquicentennial](#) after the introduction of the casebook method – the American Bar Association mandated that all J.D. graduates of U.S. law schools complete at least six credits of experiential education.<sup>8</sup> What a difference four centuries make!

Has the evolution of required experiential legal education in the United States – albeit glacial and perhaps insufficient compared to other disciplines<sup>9</sup> –

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1 Rebecca Beatrice Brooks, *John Billington*, HISTORY OF MASSACHUSETTS BLOG (Jan. 8, 2013), <https://historyofmassachusetts.org/john-billington-mayflower-pilgrim-executed-for-murder> (last visited Feb. 15, 2021).

2 Derrick Howard, *Phantom Thread: Restoring Live-Client Interactions in the First-Year Educational Continuum in This Age of Information and Beyond*, 81 U. PITT. L. REV. 597, 599 n.1 (2020).

3 Davison M. Douglas, *Jefferson's Vision Fulfilled*, WM. & MARY ALUMNI MAG. (Winter 2010), <https://law.wm.edu/about/ourhistory/index.php> (last visited Feb. 15, 2021).

4 *Id.*

5 *Id.*

6 Howard, *supra* note 2, at 605 (quoting A. Benjamin Spencer, *The Law School Critique in Historical Perspective*, 69 WASH. & LEE L. REV. 1949, 1963 (2012)).

7 See, e.g., Howard, *supra* note 2, at 604-06, n.29 (also citing Spencer, *supra* note 6).

8 STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 303(A)(3) (Am. Bar Ass'n 2020-21) [hereinafter ABA STANDARDS].

9 Notwithstanding the ABA's mandate for at least six credit hours of experiential education, law schools lag far behind other disciplines' experiential education requirements: "Architecture education . . . requires approximately one-third in design studio courses; medical education requires one-half of the student's education in clinical rotations; nursing requires approximately one-third of the education in clinical practice courses; pharmacy schools require 300 hours in the first three years [o]f study in clinical settings and 1,440 hours in the final year of school in clinical settings; masters of social work requires approximately one-third of the credit hours in field education courses; and veterinary medicine requires at least one-quarter of the education in clinical education." Howard, *supra* note 2, 615 n.87 (original source citations omitted).

positively impacted newly-minted attorneys? Through the lens of externships, the answer is, “Yes.”

### *Externships vs. Clinics and Simulations*

The ABA recognizes three types of experiential education – externships (also called “field placements” by the ABA), clinics, and simulations. Externships are positions with organizations external to the law school (e.g., judges, government agencies and legislatures, legal aid offices and other nonprofit organizations, prosecutors, public defenders, law firms, corporate law departments) in which students assist in “advising or representing . . . client[s] or engaging in other lawyering tasks . . . under the supervision of a licensed attorney . . .”<sup>10</sup> Clinics are based in law schools or in law-school affiliated locations through which students assist actual clients under the supervision of a faculty member who also is a licensed attorney.<sup>11</sup> As the name suggests, simulations do not involve actual clients but instead provide experience “reasonably similar to . . . advising or representing . . . client[s] . . . in a set of facts and circumstances devised or adopted by a faculty member.”<sup>12</sup>

### *Externships’ Prevalence in Legal Education*

Based on externship data from 185 U.S. law schools reported to the Center for the Study of Applied Legal Education (CSALE) for the 2018-19 academic year (the most recent reporting period), law schools have taken to heart the ABA’s mandate for experiential education. Nearly 40% of second- and third-year students completed at least one externship during the 2018-19 academic year.<sup>13</sup> The vast majority of

schools offer externships with government agencies (96%), public defenders or prosecutors (95%), judges (95%), or public interest law offices (92%).<sup>14</sup> A sizeable number also offer externships with nonprofit organizations (76%), legislatures (71%), and in-house for-profit counsel (63%).<sup>15</sup> Litigation-focused externships (61%) led the way, followed by transactional (16%), legislative/policy (9%), regulatory (9%), and “other” (6%).<sup>16</sup> A median of 50% of J.D. students nationally completed externships before graduating.<sup>17</sup>

Students may extern full-time (defined as a semester’s worth of ten or more credits) at 54% of law schools.<sup>18</sup>

Forty-seven percent of schools reported increased student demand for externships since CSALE’s study in 2016-17.<sup>19</sup> Most schools attributed the spike in demand to students’ belief that externships will improve their employment prospects (80%) and enhance their skills (70%).<sup>20</sup>

### *Externships’ Academic Requirements*

To earn credit, students must complete hours for the externship organization, with the most common requirements ranging between 42.5 hours per credit and 50 hours per credit.<sup>21</sup> Virtually all schools (94%) require students to keep time sheets.<sup>22</sup> The ABA mandates that externship courses include “a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection.”<sup>23</sup> Three-quarters of schools meet this requirement through classes, with the most prevalent topics being

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10 ABA STANDARDS, *supra* note 8, Standard 304(d).

11 *Id.* at Standard 304(c).

12 *Id.* at Standard 304(b).

13 Anahid Gharakhanian, Carolyn Young Larmore, and Chelsea Parlett-Pelleriti, *Achieving Externship Success: An Empirical Study of the All-Important Law School Externship Experience*, *SO. ILL. UNIV. L.J.* \_\_\_, 3 (2020) (available at SSRN: <https://ssrn.com/abstract=3689133>).

14 Robert R. Kuehn, Margaret Reuter, and David Santacroce, *2019-20 Survey of Applied Legal Education*, *CTR. FOR THE STUDY OF APPLIED LEGAL EDUC.* (2020), at 10 [hereinafter CSALE SURVEY].

15 *Id.* Responses for law firm externships were deemed unusable. *Id.* at n.4.

16 *Id.* at 43.

17 *Id.* at 14.

18 *Id.* at 10.

19 *Id.* at 17.

20 *Id.*

21 *Id.* at 45.

22 *Id.*

23 ABA STANDARDS, *supra* note 8, at Standard 304(a)(5).

– in prevalence order – students’ field work/rounds, professional identity formation, ethics, and skills instruction.<sup>24</sup> Over 95% of externship courses require students to write reflective journals and reports.<sup>25</sup> Grades are based on field supervisors’ evaluation of externs’ work, faculty evaluation of externs’ classroom contributions, and faculty assessment of externs’ written reflections.<sup>26</sup>

### *Externships’ Preparation of Students for Practice*

Externships play a key role in preparing students for practice.

Based on nationwide responses from over 24,000 attorneys in more than seventy practice areas, a recent study by the Institute for the Advancement of the American Legal System (IAALS) identified seventy-seven “foundations” as necessary for new lawyers’ success.<sup>27</sup> Those foundations fall into three categories: character attributes, professional competencies, and legal skills.<sup>28</sup> “Character attributes” include items like honoring commitments, integrity, trustworthiness, work ethic, attention to detail, and initiative.<sup>29</sup> Examples of “professional competencies” are maintaining confidentiality, punctuality, courtesy and respect toward others, attentive and respectful listening, assuming responsibility, and emotional regulation and self-control.<sup>30</sup> Included among “legal skills” are legal research, drafting, identifying facts and legal issues, documenting and organizing, and using legal reasoning and argument.<sup>31</sup>

In the first year of practice, “character attributes and professional competencies are far more important . . . than legal skills. Specifically, of the top 20

foundations that are necessary in the first year of practice, only one was a legal skill: researching the law.”<sup>32</sup>

Using the IAALS measures, externships play a key role in helping attorneys get a fast start out of the post-graduation gate. A 2019 study of externs from three California law schools and their supervisors documented that externships meaningfully contribute to students’ development of character attributes, professional competencies, and legal skills the IAALS concluded are important for new lawyers’ success.<sup>33</sup> Externs acquired those indicators of success regardless of the respective schools’ entering median LSAT scores and the academic component of their externship programs.<sup>34</sup> Law school GPAs had minimal impact on externs’ attaining those markers of success.<sup>35</sup>

Surveys conducted prior to the 2019 California study (and prior to the ABA’s 6-credit experiential education requirement) substantiate externships’ important role in imparting practice-ready skills and attributes. In 2010 and 2011, NALP and the NALP Foundation conducted two widely-cited surveys.<sup>36</sup> Although not as current as the 2019 California study, the NALP surveys captured data from a larger group of respondents, reflected a broader geographic scope, and covered more years of post-law school practice than did the California study.<sup>37</sup>

The 2010 NALP survey focused on attorneys in private practice, primarily in midsize and large firms. On a 1-4 scale, with 1 being “not at all useful” in preparing them for practice and 4 being “very useful,” 60% rated their externships as “very

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24 CSALE SURVEY, *supra* note 14, at 46-47.

25 *Id.* at 47.

26 *Id.* at 45, 47.

27 Gharakhanian *et al.*, *supra* note 13, at 8.

28 *Id.*

29 *Id.* at App. A.

30 *Id.*

31 *Id.*

32 *Id.* at 29.

33 *Id.* at 26 *et seq.*

34 *Id.* at 2.

35 *Id.*

36 NALP and NALP Found., 2011 SURVEY OF LAW SCHOOL EXPERIENTIAL LEARNING OPPORTUNITIES AND BENEFITS: RESPONSES FROM GOVERNMENT AND NONPROFIT LAWYERS (2012) [hereinafter 2011 NALP SURVEY]; NALP and NALP Found., 2010 SURVEY OF LAW SCHOOL EXPERIENTIAL LEARNING OPPORTUNITIES AND BENEFITS (2011) [hereinafter 2010 NALP SURVEY].

37 2011 NALP SURVEY, *supra* note 36, at 32-33; 2010 NALP SURVEY, *supra* note 36, at 30-32.

useful.”<sup>38</sup> The average “usefulness rating” was 3.4<sup>39</sup> Externships’ utility was highly ranked by both transactional attorneys and litigators.<sup>40</sup>

NALP’s 2011 survey involved attorneys practicing with government agencies, civil legal aid providers, public defenders, prosecutors, and policy/advocacy organizations.<sup>41</sup> These lawyers’ ratings of their externships in preparing them for practice were even higher than their private practice counterparts’ strong ratings. Over 72% assessed their externships as “very useful,”<sup>42</sup> and the average “usefulness rating” was 3.6.<sup>43</sup> Results were comparable across practice areas.<sup>44</sup>

### *Externships’ Future*

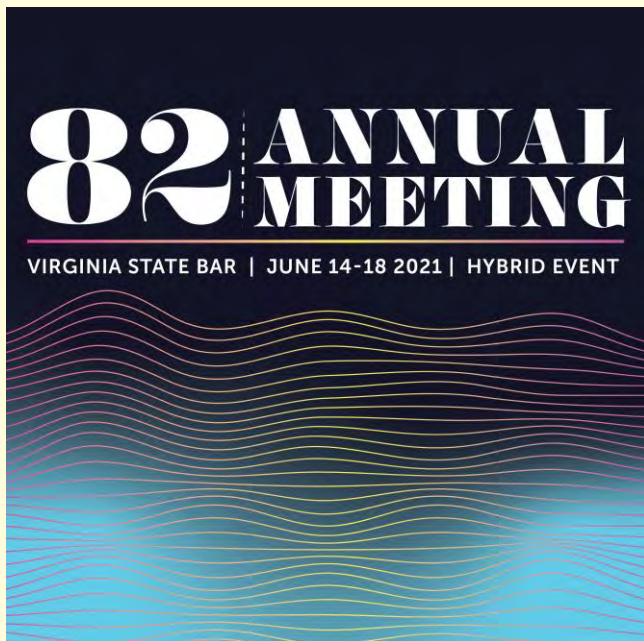
Employers’ and clients’ needs for practice-ready attorneys will not abate. Nor will students’ demand for practical opportunities they (correctly) believe will help them succeed in an evolving profession. The ABA is likely to keep experiential learning in its sights. To meet the expectations of employers, students, and accreditors, law schools will continue to enhance their skills-focused curricula. Building on past studies’ results, externships will remain bright stars in the constellation of experiential education.

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**Robert E. Kaplan**

*Associate Dean and Professor of the Practice  
William & Mary Law School*

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Your section leadership is hard at work,  
gearing up for the hybrid Annual Meeting in  
June!

Together with the Senior Lawyers Conference,  
the Young Lawyers Conference, the Diversity  
Conference and the Family Law Section, we  
bring you:

**Mentoring During and After the COVID Era:  
How to set up a program  
and make it work**

You won’t want to miss it.

Check back [here](#) for more Annual Meeting  
information.

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38 2010 NALP SURVEY, *supra* note 36, at Table 16.

39 *Id.* at Graph 12.

40 *Id.* at Graph 13.

41 2011 NALP SURVEY, *supra* note 36, at Table 6.

42 *Id.* at Table 17.

43 *Id.* at Graph 12.

44 *Id.* at Graph 13.



# Regent Law Mentoring Initiatives to Foster Student Professional Formation

In 2007 two groundbreaking reports, one by the Carnegie Institute for the Advancement of Teaching and Learning in *Educating Lawyers*,<sup>1</sup> and the other by the Clinical Legal Education Association in *Best Practices for Legal Education* (collectively, the 2007 Reports),<sup>2</sup> concluded that law schools' most glaring deficiency was its failure to cultivate its students' professional ethical identity and practical judgment.<sup>3</sup> Even more disturbing, the 2007 Reports suggested that law schools, perhaps unintentionally, "prepared students in a manner that led them to engage in unprofessional conduct, to be prone to personal dissatisfaction, and to exercise poor judgment in practice."<sup>4</sup>

The 2007 Reports understandably led to serious reflection among law schools about how we can do a better job helping our students develop their professional and ethical identity. This charge to foster professional identity formation was not simply revisiting the traditional calls to promote professionalism. As the reports and later scholars reasoned, nurturing students' professional identity was more complex because, while professionalism focuses largely on the outward conduct lawyers should exhibit, "professional identity engages lawyers at a deeper level because it challenges lawyers to internalize principles and values such that their professional conduct flows naturally from their individual moral compass."<sup>5</sup>

At Regent, this reflection led the school to form its Center for Ethical Formation and Legal Education Reform (CEFLER) in 2012.

CEFLER coordinates the programs and resources Regent Law has committed to developing students' moral formation, ethical judgment, and professional identity. The 2007 reports and other research confirmed that having good mentors was key to lawyers' professional formation, career satisfaction, and personal well-being.<sup>6</sup> Two of the CEFLER's most important initiatives have thus centered on mentoring.

## Mentor Program

First, in 2013, CEFLER started a mentor program to enable every interested law student to be paired with a practicing lawyer or judge who can serve as a professional mentor to the student during his or her time in law school. We aim to pair each participating student with a legal professional who (1) practices in the state where that student intends to practice; and (2) specializes in the practice area most aligned with that student's interests. The purpose of the program is not for the mentor to help find the student a job; rather it is to help the student develop his or her professional identity by talking with the mentor about the mentor's area of practice and the ethical and professional development issues the mentor has faced.

To promote flexibility within the relationship, we kept the requirements for the mentor light. Specifically, mentors are expected to have one meeting with their student in the first semester of participation and two meetings in each subsequent semester. Further, we ask that mentors allow students to observe some aspect of their professional work environment, and we plan that mentors will continue the relationship with their student throughout the student's time in law school.

Since its inception in February of 2013, over 350 student "mentees" have participated in the program,

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1 WILLIAM M. SULLIVAN, ET AL., *EDUCATING LAWYERS* (2007).  
2 ROY STUCKEY, ET AL., *BEST PRACTICES FOR LEGAL EDUCATION* (2007).

3 See *EDUCATING LAWYERS*, *supra* note 1, at 31, 188; *BEST PRACTICES*, *supra* note 2, at 81.

4 Benjamin V. Madison, III & Larry O. Natt Gantt, II, *The Emperor Has No Clothes, but Does Anyone Really Care? How Law Schools Are Failing to Develop Students' Professional Identity and Practical Judgment*, 27 REGENT U. L. REV. 339,

344-45 (2015) (citing *BEST PRACTICES*, *supra* note 2, at 35-36; *CARNEGIE REPORT*, *supra* note 1, at 140-42)).  
5 *Id.* at 344-45.

6 *Id.* at 355-56; see also Theresa M. Beiner, *Legal Mentoring*, 57 U. LOUISVILLE L. REV. 329, 333-35 (2019); Katerina P. Lewinbuk, *Kindling the Fire: The Call for Incorporating Mandatory Mentoring Programs for Junior Lawyers and Law Students Nationwide*, 63 ST. LOUIS U. L.J. 211, 217 (2019).

and this academic year, nearly 50% of the first-year class applied to the participate in the program. The program has promoted our students' individual character formation and professional development through lasting relationships with lawyers and judges nationwide. For instance, in fall 2020, one student reported to CEFLER: "Every interaction I have had with [my mentor] has left me feeling encouraged and uplifted. It has been a blessing to be connected with someone who sincerely cares and provides beneficial insight into how not just to be a lawyer and encourages me to aspire to live according to God's calling for me in the practice of law."

### Foundations of Practice Course

Second, in 2017, the law school began offering a required one-credit professional formation course all students take in the spring of their first year. Regent already had a robust program in which law students met regularly with a member of the full-time faculty for academic advising, but we realized that we needed to make more of these relationships to provide more holistic mentoring of our students. Therefore, a key component of the course, titled Foundations of Practice, is required meetings between each student and a full-time faculty mentor (renamed from advisor).

Students are now assigned faculty mentors based on shared interests, faculty members' practice expertise, and other personal and professional connections. Students meet with their mentor twice during the course to discuss the career development plan they complete based on the template outlined in the ABA publication *Roadmap: The Law Student's Guide to Meaningful Employment* by Neil W. Hamilton. This "Roadmap" plan covers, in phases, the following items: (1) an identification of the students' strengths and motivating interests; (2) an assessment of the areas of legal employment that might be good fits given the attributes identified in the first phase; (3) an exploration of what value students might bring to such employers and how they can communicate that value; and (4) a plan for how to use their remaining time in law school (through courses, internships, extra-curricular involvement, and other experiences) to prepare for such legal employment. Students may also discuss with their mentor the results of the

personality assessment and vocational interest inventory they take at the beginning of the course.

After the course, students meet with their faculty mentor each subsequent semester in law school (except their final semester) to discuss changes to their plan and other issues related to their professional development. Mentoring discussions range from traditional academic advising to career planning to personal and professional coaching depending on student interest and need. Since beginning this course and enhancing student mentoring, our students are more actively engaged in the process of discerning their professional calling, and the number of our students with employment at or closer to the time of graduation has increased. Moreover, in their feedback on the course, many students comment on how much they appreciate the professional formation emphasis of the course. For instance, one student in spring 2020 wrote: "I think this course has had the biggest impact on my law school experience so far. The Roadmap has helped me step back and question why I want to be a lawyer and what kind of lawyer I want to be. It has helped me recognize what areas I need to work on to accomplish my goals. . . . Without this class I'm afraid I may have sludged through law school by constantly comparing myself to others using education as a source of pride. This course has been enlightening and encouraging . . . ."

In sum, through these two initiatives and other related programs, Regent recognizes that a central component to student professional formation is for them to develop mentoring relationships both internally with law faculty and externally with lawyers and judges in the legal community. We thus appreciate the State Bar's emphasis on mentoring as critical to lawyers' professional development as they enter the profession and progress through their career.

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#### **L.O. Natt Gantt, II**

*Professor and Associate Dean for Academic Affairs  
Co-Director, Center for Ethical Formation and  
Legal Education Reform  
Regent University School of Law*

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## My Mentorship Experience

Like most people in Southwest, Virginia, I come from a long lineage of hard-working, blue-collar folks. I was the first in my immediate and extended family to go to college and then on to law school. Consequently, I had no real way of gaining access to the legal field without an internship.

I first came into contact with my mentor, Stephanie Vipperman, in the spring of 2011 when I was a freshman at Virginia Tech vying for an unpaid summer internship as a prosecutor. Ms. Vipperman was the elected Commonwealth's attorney, and she agreed to let me shadow her a few days a week that summer. I watched Ms. Vipperman ethically and vigorously try cases, advocate for victim's rights, and concede where appropriate. I interned with Ms. Vipperman's office for three summers while finishing my undergraduate degree, and eventually came back after law school to work in her office as an Assistant Commonwealth's Attorney.

Ms. Vipperman gave me a chance, instilled her ethics and values in me, and most importantly, believed in me. Through her mentorship, I went on to the University of South Carolina School of Law and excelled there. I stayed in touch with Ms. Vipperman, often helping with jury trials when I came home for breaks from law school.

Ms. Vipperman continues to mentor me as a young attorney. She is the person I ask when I feel I am facing an ethical dilemma in a case. She is the person I turn to when I am unsure about the law or how to handle a specific issue in a case. Ms. Vipperman has always given good, solid advice and has never steered me wrong. I sincerely believe that without Stephanie's mentorship, I would not be the person or attorney that I am today. Something seemingly so simple as giving a college student an internship created a snowball effect that changed the course of my life forever, and I will forever be grateful for her mentorship.



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**Dayna Bobbitt**  
*Assistant Commonwealth's  
Attorney for Patrick County*

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Education Section leaders seek content that will inform Virginia lawyers and connect section members across the state:

- Topical articles that you have written
- Articles that you have read and think bear reprinting
- Cases that you would like to discuss
- CLE ideas or programs of interest
- Law School happenings



Direct submissions to the newsletter editor,  
Leslie Haley, at [lath@parkhaley.com](mailto:lath@parkhaley.com)



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