

## Unpacking the Apprenticeship of Professional Identity and Purpose: Insights from the Law School Survey of Student Engagement

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### Introduction

Law schools are under increasing pressure to justify the education they provide. Many students and recent graduates are disappointed with job prospects and complain that the cost of legal education is out of proportion to their future earnings.<sup>1</sup> At the same time, employers feel pressure from clients about passing along the cost of work performed by recent graduates, and law firms complain that law schools fail to prepare students to add value to a firm's practice upon graduation.<sup>2</sup> To guide improvement of legal education, as well as to help schools respond to these complaints and those of other stakeholders challenging law schools on issues of accountability, it would be useful to draw on data about the education being received by law students.

Using data to guide improvement also is at the core of the lessons of the Carnegie Foundation in its assessment of legal education. In *Educating Lawyers*,<sup>3</sup> the Carnegie scholars noted that “studies of how expertise develops across a variety of domains are unanimous in emphasizing the importance of feedback as the key means by which teachers and learners can improve

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<sup>1</sup> See, e.g., David Segal, *Is Law School a Losing Game?*, N.Y. TIMES, Jan. 9, 2011, at BU1, available at <http://www.nytimes.com/2011/01/09/business/09law.html#> (regarding high cost of tuition and high enrollment levels at law schools and low availability of job openings for graduates, and implications of six-figure student loans on graduates); Annie Lowrey, *A Case of Supply v. Demand*, SLATE (Oct. 27, 2010 4:14 PM), <http://www.slate.com/id/2272621> (arguing that complaints by students regarding the “mistake” of law school are more than anecdotal in light of fewer legal jobs and increased law graduation rates); Anna Stolley Persky, *Law School? Bag It, Bloggers Say*, ABA JOURNAL (Feb. 1, 2011 2:40 AM), [http://www.abajournal.com/magazine/article/law\\_school\\_bag\\_it\\_bloggers\\_say/](http://www.abajournal.com/magazine/article/law_school_bag_it_bloggers_say/) (regarding “scamblogs” made by disgruntled law students or graduates and the increased demand for transparency in law school job statistics); Karen Sloan, *Law Students Push Schools for Better Employment Numbers*, THE NATIONAL LAW JOURNAL (Apr. 19, 2010), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202448308203> (describing Law School Transparency, a non-profit organization founded by two law students that intends to compile detailed employment and salary information for all accredited ABA law schools).

<sup>2</sup> See, e.g., Heather Timmons, *Outsourcing to India Draws Western Lawyers*, N.Y. TIMES, Aug. 4, 2010 at B1, available at <http://www.nytimes.com/2010/08/05/business/global/05legal.html> (describing the trend of legal outsourcing to India, because clients “don’t need a \$500-an-hour associate to do things like document review and basic due diligence”); Dan Slater, *At Law Firms, Reconsidering the Model for Associates’ Pay*, N.Y. TIMES (Apr. 1, 2010 1:17 AM), <http://dealbook.nytimes.com/2010/04/01/at-law-firms-reconsidering-the-model-for-associates-pay/> (commenting on the transformation of firms into “business-minded organizations” in restructuring their programs and salaries of junior associates to match work done and “restore value to clients”).

<sup>3</sup> William M. Sullivan, et al., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007)(hereinafter *EDUCATING LAWYERS*).

performance.”<sup>4</sup> According to Judith Wegner, one of the authors of *Educating Lawyers*, while she was “developing recommendations that appeared in the Carnegie Report, [she] learned firsthand that ‘assessment drives learning.’ Faculty members who hear students ask ‘Will it be on the test?’ appreciate this powerful dynamic.”<sup>5</sup> Data are equally important for law schools as they consider how to improve the education of their students.

In this paper, we draw on data generated from law students about their experiences in law school to illuminate one of the challenges posed by the Carnegie report: the need to focus more intentionally and explicitly on helping students develop a sense of professional identity and purpose.<sup>6</sup> According to *Educating Lawyers*, professional identity and purpose constitute the third of three apprenticeships that are at the core of legal education.<sup>7</sup> Analytical learning in the first year comprises the first of these apprenticeships, supplemented by the skills and practical learning that are the focus of clinical and related courses that form the second apprenticeship.<sup>8</sup> The Carnegie scholars found that while law schools do an excellent job of teaching students legal analysis<sup>9</sup> and have made strides in teaching the skills necessary for practice,<sup>10</sup> they have not developed well-focused efforts towards teaching the elements comprising professional identity and purpose.<sup>11</sup>

The notion of professional identity and purpose includes legal ethics, but it goes further.<sup>12</sup> According to *Educating Lawyers*, it involves “the individual’s answer to questions such as, Who am I as a member of this profession? What am I like, and what do I want to be like in my professional role? and What place do ethical-social values have in my core sense of professional identity?”<sup>13</sup> The third apprenticeship, then, helps students situate themselves within the

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<sup>4</sup> EDUCATING LAWYERS at 171.

<sup>5</sup> Judith Wegner, “Forward,” STUDENT ENGAGEMENT IN LAW SCHOOL: IN CLASS AND BEYOND, 2010 Annual Survey Results, Law School Survey of Student Engagement, at p.3, avail. at [http://lsse.iub.edu/pdf/2010/2010\\_LSSSE\\_Annual\\_Survey\\_Results.pdf](http://lsse.iub.edu/pdf/2010/2010_LSSSE_Annual_Survey_Results.pdf).

<sup>6</sup> EDUCATING LAWYERS, *supra* note 3, at 180 (speaking of the merits of “student development toward intentional learning” and of “explicit learning goals and carefully calibrated assessment strategies.”). See also *id.* at 160 (“Therefore, the goal of professional education cannot be analytical knowledge alone or, perhaps, even predominately. Neither can it be analytical knowledge plus merely skillful performance. Rather, the goal has to be holistic: to advance students toward genuine expertise as practioners who can enact the profession’s highest level of skills in the service of its defining purposes.”).

<sup>7</sup> *Id.* at 28.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 87 (stating that the process of legal analysis and “learning to think like a lawyer” is “the main occupation of students’ first phase in law school”); *id.* at 151 (describing legal analysis as “the heart of the first-year experience”); *id.* at 183 (commenting that legal analysis “generally establishes the tone of the educational experience as a whole.”).

<sup>10</sup> *Id.* at 35-38 (giving examples of CUNY’s first-year law courses that fuse together skills and traditional legal training).

<sup>11</sup> *Id.* at 134 (“Overall, then, research makes quite clear . . . that unless they make an explicit effort to do so, law schools do not contribute to greater sophistication in the moral judgment of most students.”).

<sup>12</sup> See Vivien Holmes, Tony Foley, Margie Rowe and Stephen Tang, “Learning to Lawyer - Empirical insights into new lawyers in small to medium law practice,” paper presented at International Legal Ethics Conference, summer 2010 (on file with author)(defining legal professionalism to include “autonomy, public service, collegiality and ask variety competence . . . [and] the paramount duty to the law and the administration of justice . . . and the sometimes opposing duty to meet fiduciary obligations to a client.”).

<sup>13</sup> EDUCATING LAWYERS at 135.

profession, develop the self-awareness and social skills that lawyers need to work in society with integrity and a sense of loyalty both to clients and to the public good, among other things.<sup>14</sup>

Why have law schools failed to emphasize the development of professional identity and purpose?<sup>15</sup> One possible explanation suggested in *Educating Lawyers* is the discomfort of law faculty in teaching about ethics - apart from the rules governing lawyers - or in teaching about morality generally. On one hand, this reluctance may relate to a sense that law students are adults and, as such, their moral compasses already are well-established.<sup>16</sup> On the other hand, the Carnegie authors suggest that the explanation goes beyond passive inattention, because, “in the minds of many faculty, ethical and social values are subjective and indeterminate and, for that reason, can potentially even conflict with the all-important values of the academy – values that underlie the cognitive apprenticeship: rigor, skepticism, intellectual distance, and objectivity.”<sup>17</sup> But to the extent that law schools fail to put students in situations in which they must systematically reflect on their values and ethical obligations to clients and society, their message to students devalues the importance of developing a sense of professional identity and purpose. As the Carnegie scholars emphasize, “law school cannot help but affect . . . their students’ values, habits of mind, perceptions, and interpretations of the legal world, as well as their understanding of their roles and responsibilities as lawyers and the criteria by which they define and evaluate professional success.”<sup>18</sup> Given this significance of legal education, law schools should use their influence in intentional ways to shape the professional identities of their students.<sup>19</sup>

Since the publication of *Educating Lawyers*, there has been considerable discussion of the third apprenticeship<sup>20</sup> as well as some experimentation in addressing its challenges in curricular and

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<sup>14</sup> EDUCATING LAWYERS at 28 (describing the third apprenticeship as having as its “essential goal . . . to teach the skills and inclinations, along with ethical standards, social roles and responsibilities that mark the professional.”). See also Anne Colby & William M. Sullivan, *Formation of Professionalism and Purpose: Perspectives from the Preparation for the Professions Program*, 5 U. ST. THOMAS. L. J. 404, 410-11 (2008) (noting that the third apprenticeship “serves as a driving force for integration of professional understanding, craft and purpose.”).

<sup>15</sup> EDUCATING LAWYERS at 132 (“Overall, . . . we came away from our campus visits with the strong impression that in most law schools, the apprenticeship of professionalism and purpose is subordinated to the cognitive, academic apprenticeship.”).

<sup>16</sup> Compounding this is the ambivalence students perceive about the relevance of matters outside of case analysis. According to EDUCATING LAWYERS (at p. 187), students “are warned not to let their moral concerns or compassion for the people in the cases they discuss cloud their legal analysis.”

<sup>17</sup> EDUCATING LAWYERS at p. 133.

<sup>18</sup> EDUCATING LAWYERS at p.139.

<sup>19</sup> See generally Kim Economides, “The Role of Law Schools in Founding and Reviving Legal Professionalism: The need for Ethical Leadership,” presentation at International Association of Law Schools meeting May 2009, Canberra, Australia, avail. at [http://www.ialsnet.org/meetings/role/papers/EconomidesKim\(UK\).pdf](http://www.ialsnet.org/meetings/role/papers/EconomidesKim(UK).pdf) (proposing that law schools embrace a mission of “instilling professional awareness and commitment” in students); EDUCATING LAWYERS at 138 (“Without serious curricular attention to these concrete tensions and contradictions of professional identity and purpose, law schools are failing to provide the kind of open-eyed preparation needed for today’s complicated professional world.”).

<sup>20</sup> See, e.g., EDUCATING LAWYERS, *supra* note 3, at 35-38 (describing the City University of New York (CUNY) School of Law “lawyering seminar” in which practical skills and ethical issues of the profession are integrated with traditional curriculum to fuse issues of professional identity with doctrinal courses in classes of twenty students or less); *id.* at 38-43 (describing the first-year lawyering program at New York University’s School of Law, which teaches students concepts and vocabularies of practice, lawyering problems and guided responses, and group critique of responses to lawyering problems to teach a “love for lawyering”); Charles A. Cox & Maury Landsman,

programmatic reforms.<sup>21</sup> Ideally, the third apprenticeship will serve as the link between learning theory and legal analysis, on one hand, and skills, on the other hand. In this way, the third apprenticeship can guide the transition from law student to lawyer as well as serve as the driver for reforming the structure of legal education. To illuminate these transitions and ensure progress, it is useful to embrace the Carnegie scholars' emphasis on intentionality of education, both for schools and students:

Based on research that suggests that students learn more effectively when they become 'metacognitive,' or aware of what they are trying to accomplish (rather than just trying to pass a test, for example), this kind of teaching adds an important dimension to the usual aims of law school classes. Such pedagogy pays direct attention to student learning through devices such as making goals explicit and coaching toward these goals; formative assessment is then linked to them.<sup>22</sup>

For law schools, explicitness will be useful in guiding individual faculty as well as educational and institutional policies, if for no other reason than that it is easier to determine the distance from a target once the target is clearly identified. At the same time, schools can help unpack the elements of professional identity and purpose by beginning a conversation about the relationship of the third apprenticeship to an individual school's identity. This can include making explicit the goal<sup>23</sup> as well as the processes likely to lead to student gains with regard to the third

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*Learning Law by Avoiding It in the Process: And Learning from the Students What they Don't Get in Law School*, 58 J. LEGAL EDUC. 341 (2008) (advocating for "Learning the Law by Avoiding it in the Process," a course taught at University of Minnesota Law School that encourages students to think through answers to legal questions and develop a mindful awareness of the law and of each other); Neil Hamilton, *Assessing Professionalism: Measuring Progress in the Formation of an Ethical Professional Identity*, 5 U. ST. THOMAS. L. J. 101 (2008) (describing the University of St. Thomas Mentor Externship Program, which focuses on professional formation by pairing law students with mentors for externships throughout the school year); Kelly S. Terry, *Externships: A Signature Pedagogy for Apprenticeship of Professional Identity and Purpose*, 59 J. LEGAL EDUC. 240 (2010) (describing the Externship Programs and Pro Bono Opportunities program at University of Arkansas at Little Rock William H. Bowen School of Law, which integrates the third apprenticeship into teaching students through pre-placement training, work experiences, and the program's seminar class).

<sup>21</sup> Some have argued that students' pro bono experiences can help students clarify their professional identity and purpose. See, e.g., EDUCATING LAWYERS, *supra* note 3, at 138-39 (describing how pro bono experiences can "strongly influence" the future involvement of students in public service, but also noting that, for such an effect, "[t]he key differential factor is how supportive the school's overall culture is of such experience and how well integrated it is into the students' developing understanding of what it is to be a lawyer."); *id.* at 189 (describing the American Bar Association's emphasis on pro bono work as important through its standards of law school accreditation); Hamilton, *supra* note 20 (contending that duty of pro bono assistance as a "core value of the [legal] profession," and one strongly urged by the ABA Model Rules of Professional Conduct); Neil Hamilton & Lisa Montpetit Brabbit, *Fostering Professionalism through Mentoring*, 57 J. LEGAL EDUC. 102, 127 (2007) (noting how, for many students and lawyers, "pro bono work often falls to the bottom of the priority list," and how St. Thomas School of Law Mentor Externship Program attempts to prevent that trend with current students); Deborah L. Rhode, *Pro Bono in Principle and in Practice: Public Service and the Professions* (2005) (quoting Yale Law School graduates who credited the law school's support of "service ethic" and their classmates' value of public service with encouraging them to participate in pro bono, both as an extracurricular and as an occupation). In fact, the role of pro bono in the third apprenticeship was the subject of a panel at the conference convened by the John Marshall Law School in Chicago, "Yes We CArNegie" (July 2009).

<sup>22</sup> EDUCATING LAWYERS at 179-80.

<sup>23</sup> See Scott Jaschik, "Can Students Learn to Learn?" *Inside Higher Ed* (1/31/2011) avail. at [http://www.insidehighered.com/news/2011/01/31/colleges\\_try\\_to\\_use\\_metacognition\\_to\\_improve\\_student\\_learning](http://www.insidehighered.com/news/2011/01/31/colleges_try_to_use_metacognition_to_improve_student_learning)

apprenticeship and using the theme of professionalism to integrate different segments of a school's community.<sup>24</sup>

As schools experiment with regard to the third apprenticeship, it would be useful if mechanisms for gauging progress existed in order to identify the lessons students currently take from their law school experiences with regard to professional identity and purpose, as well as to confirm gains and encourage continued effort.<sup>25</sup> In this article, we discuss one existing mechanism, the Law School Survey of Student Engagement (LSSSE).<sup>26</sup> LSSSE obtains data from a questionnaire administered to law students that investigates the student experience by focusing on engagement - a "deceptively simple, even self-evident premise: the more students do something, the more proficient they become."<sup>27</sup> Relying on engagement as a proxy for learning is well-accepted with regard to higher education generally,<sup>28</sup> although, for reasons that are not altogether clear, engagement has been less frequently the basis for discussing learning in law school.<sup>29</sup> Conceptually, it focuses on "the degree to which students use the school's resources for learning in educationally productive ways,"<sup>30</sup> and in this regard the notion of engagement offers an alternative to reliance on rankings that emphasize a school's resources without regard to how those resources influence the experience of students in the school. LSSSE is especially well-positioned to investigate the notion of professional identity and purpose, which by definition involves elements of self-assessment by students.

In 2008 and 2009, LSSSE administered a set of beta questions intended to discover the ways in which students learn lessons relevant to the third apprenticeship. Section I, below, describes LSSSE's general approach and the questions about professional identity and purpose. Section II analyzes the responses to the beta questions and suggests preliminary lessons about student learning related to ethics and professionalism. In the conclusion (Section III), we offer ideas for

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<sup>24</sup> Tone Dyrda Solbrenke, "Professional responsibility as legitimate compromises - from communities of education to communities of work," 33 *Studies in Higher Educ.* 485, 488 (2008) ("learning and negotiating of meaning, e.g. the meaning of professional responsibility, is closely linked to developing an identity in social interaction with others in a community. Hence, the culture of a community of practice, its [sic] distinct symbols and concepts representing the language, norms, values and enterprise of the particular community, is significant to the individual's interpretation of what is at stake in that community, and what and whom one should be responsive to.").

<sup>25</sup> EDUCATING LAWYERS at p. 177 (recognizing the difficulty in assessment as well as that "many faculty and students are deeply skeptical of, if not outright hostile to, the notion of teaching values or moral character.").

<sup>26</sup> For general information on LSSSE, see [www.lssse.iub.edu](http://www.lssse.iub.edu). LSSSE is part of the Center on Post-Secondary Research, which also houses the National Survey of Student Engagement, [add names of other surveys of CPR here].

<sup>27</sup> Patrick T. O'Day & George D. Kuh, "Assessing What Matters in Law School: The Law School Survey of Student Engagement," 81 *Ind. L.J.* 401, 405-406 (2006).

<sup>28</sup> See Shaun R. Harper & Stephen John Quaye, eds., *Student Engagement in Higher Education* at p. 3-4 (2009) ("Researchers have found that educationally purposeful engagement produces [sic] gains, benefits, and outcomes in the following domains: cognitive and intellectual skill development; college adjustment; moral and ethical development; practical competence and skills transferability; the accrual of social capital; and psychosocial development, productive racial and gender identity formation, and positive images of self. In addition, ... students who devote more time to academic preparation activities outside of class earn higher grade point averages." (references omitted)); Robert M. Carini, George D. Kuh, and Stephen P. Klein, "Student Engagement and Student Learning: Testing the Linkages," 47 *Res. In Higher Educ.* 1, 2 (2006).

<sup>29</sup> But see, e.g., Bonita London et al., "Psychological Theories of Educational Engagement: A Multi-Method Approach to Studying Individual Engagement and Institutional Change," 60 *Vand. L. Rev.* 455, 456 (2007); O'Day and Kuh, *supra* n. 27.

<sup>30</sup> O'Day & Kuh at 405.



next steps both for further research and for law schools in facilitating the transformation of law students to lawyers through Carnegie's third apprenticeship.

### *I: Investigating Legal Education from the Student Perspective*

LSSSE is an annual survey that gathers information directly from law students about how they spend their time during their law school years, what they experience and how they benefit from those experiences.<sup>31</sup> Among the topics covered by survey questions are class preparation and learning; participation in law school and related activities (extra-curricular, work and pro bono); the nature of interaction and relationships with faculty, administrators and classmates;<sup>32</sup> and students' perceptions of gains from their law school experiences (including analytical, oral and written skills; problem solving and clarifying career goals).<sup>33</sup> LSSSE's goal is to provide schools with information that helps them both to improve the education they offer and to monitor and encourage students' involvement in learning - in traditional and experiential classes, in discussions with peers and faculty, and otherwise.

The survey is administered to all JD or LLB students at each participating law school in the spring.<sup>34</sup> Through this census sampling approach, the project obtained responses from close to 150,000 students from 164 US and Canadian law schools between 2004 and 2010. Respondents generally are representative of the student populations at the participating schools. Institutional response rates average at approximately 50%.<sup>35</sup> The US-based schools comprise a relatively

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<sup>31</sup> 2005 LSSSE Annual Report at 4. One advantage of LSSSE is that annual surveys are possible; the regularity of annually assessing student experiences can illuminate the consequences of deliberate modification of different elements of a law school's programs. If student responses indicate a concern in one area of a law school, the school may take steps to address the concern and infer from LSSSE responses in subsequent years that those steps correlated with change in student responses. Of course, the inability to hold constant all other possible influences on law student experiences means that interpreting LSSSE data should be one part of a larger investigation of the school. In this larger framework, the availability of annual LSSSE data combined with its focus on student engagement yields insight into the consequences of new courses, programs and policies.

<sup>32</sup> Responses typically are arranged along a continuum of four or five choices (e.g., "very often," "often," "sometimes," "never;" the fifth choice is along the lines of "not applicable"). Questions sometimes ask both about anticipated activities and those actually accomplished (for example, with regard to clinical work, the question allows for answers of "done," "plan to do," "do not plan to do," and "undecided." Certain questions ask about hours spent on particular activities. Questions about demographics also are included in the survey.

<sup>33</sup> The survey may be found at [http://lssse.iub.edu/pdf/MainSurveyInstrument\\_2009.pdf](http://lssse.iub.edu/pdf/MainSurveyInstrument_2009.pdf). Its questions have been tested for validity and are based on research regarding effective educational practices in higher education. LSSSE is part of the Center for Post-Secondary Research at Indiana University (see <http://cpr.iub.edu/index.cfm>), which also is the umbrella organization for the National Survey of Student Engagement, among other projects (see <http://nsse.iub.edu/>).

<sup>34</sup> Participating schools receive their data during the summer following the survey administration, along with several analytical tools to help them interpret the data. Included in the data is information on response rates and representativeness, to help schools identify underrepresented populations of students, if any. Among the analytical tools is comparative data for all LSSSE participating schools and for a group of "peer schools" selected by each participating school. Each participating school has the opportunity to select which schools are included in its peer group. Comparative data has been used by schools to clarify their relative strengths and weaknesses, and to help them focus attention on areas in which efforts can lead to substantial and observable change. All data regarding other law schools and individual students are provided on a blind basis. LSSSE funds its operation by charging schools a fee to participate. Annual fees are between \$3,000 and \$5,000, based on the size of the student body.

<sup>35</sup> Institutional response rates have ranged over the years since LSSSE's first official survey in 2004 from 48% to 53%.

representative group compared to all ABA-approved law schools in terms of size of student body, affiliation and location.<sup>36</sup>

LSSSE relies on students - arguably the primary consumers of legal education - as the source of its information related to their activities, experiences and perceptions of gains from law school. Self-reporting, including student reports about their self-reflection and assessment of gains, among other things,<sup>37</sup> is particularly appropriate as a means of investigating issues relevant to the third apprenticeship.

In order to gain insight into the lessons students now are learning with regard to the third apprenticeship, LSSSE developed a set of beta questions that it administered along with the core survey instrument to students at a subset of participating schools. We report here on the data collected from this set of beta items. In 2008, LSSSE administered these questions to students at 24 ABA-approved law schools, and in 2009, students at 18 ABA-approved law schools received the questions. We combine the years here to obtain a wider representation of ABA-approved law schools.

The final sample contained student responses from 38<sup>38</sup> ABA-approved law schools (together, these schools are referred to as the “B-Schools”). The B-Schools closely resemble the national profile of ABA-approved law schools in terms of student population (i.e., size of the student body) and school affiliation (i.e., public, private, and religious, or secular).

Figure 1 compares the characteristics of the B-Schools and all ABA-approved law schools. Sixty-three percent of the B-Schools are private institutions and 37% are public. About one-third of the B-Schools had student populations below 500, while 54% were medium sized schools with JD enrollments between 500 and 900 students.<sup>39</sup> Law schools with more than 900 students represented 16% of the B-Schools. Distribution by affiliation and size generally matches the national profile of law schools.<sup>40</sup>

<sup>36</sup> See LSSSE, Participating Schools, Overview, at <http://lsse.iub.edu/schools.cfm>.

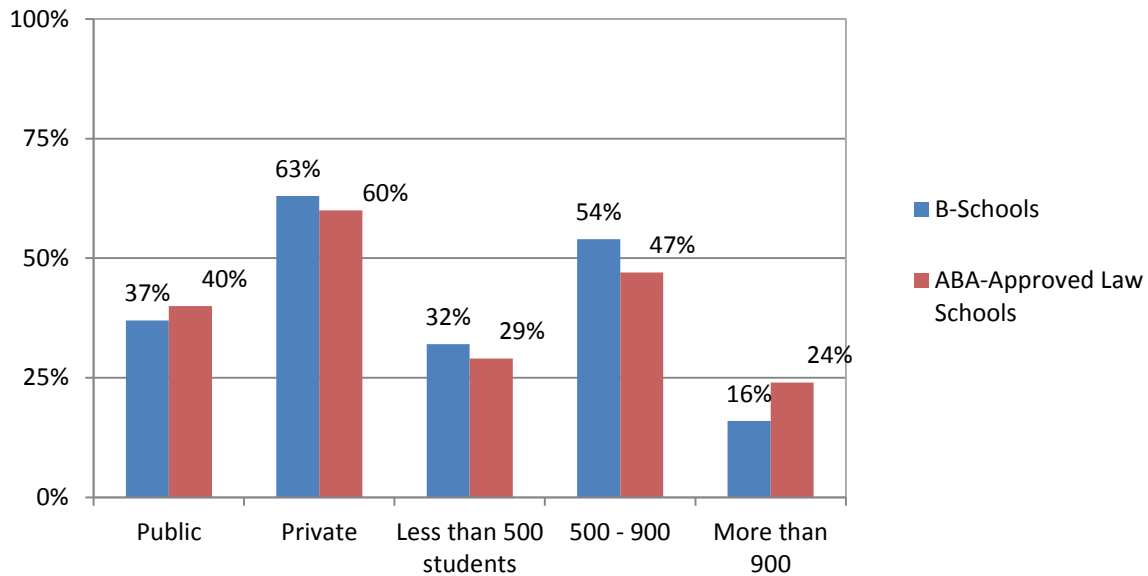
<sup>37</sup> On the validity of self-reported data, see generally Robert M. Gonyea, “Self-Reported Data in Institutional Research: Review and Recommendations,” 127 *New Directions for Institutional Res.* 73 (2005)(describing limitations of self-reported data); Carini et al, *supra* n.19 at 2 (describing conditions under which self-reports are valid); George D. Kuh, “The National Survey of Student Engagement: Conceptual framework and overview of psychometric properties,” at p. 3-4 (Bloomington, IN: Center for Postsecondary Research and Planning, Indiana University School of Education (2002)), avail. at [http://www.indiana.edu/~nsse/html/2002\\_NSSE\\_report/html/conceptual\\_1.htm](http://www.indiana.edu/~nsse/html/2002_NSSE_report/html/conceptual_1.htm) (same). See also Elizabeth Mertz, “Inside the Law School Classroom: Toward a New Legal Realist Pedagogy,” 60 *Vand. L.Rev.* 483 (2007) at n. 7 (noting that self-report methods are subject to distortions) and 73 (confirming that her results with regard to gender differences in participation in law school classes are consistent with results generated from surveys based on self-reporting). But see Nicolas A. Bowman, “Can 1<sup>st</sup>-Year College Students Accurately Report Their Learning and Development?” 47 *A. Educ. Res. J.* 466 (2010)(questioning the validity of self-reported gains for purposes of assessing improvements, but finding that self-reporting correlates with student satisfaction).

<sup>38</sup> Four schools administered the beta set in both years, and for these schools, only student responses from the most recent year (2009) were included in the final sample.

<sup>39</sup> Forty percent of the ABA-approved law schools are public, while the other 60% are private institutions, ABA Sec. Leg. Educ. statistics, avail. at <http://www.abanet.org/legaled/statistics/charts/enrollment%20FTPT0708.pdf>.

<sup>40</sup> Of the 200 law schools now accredited by the ABA, 29% are small schools (fewer than 500 students), 47% have student enrollments ranging from 500 to 900, and one quarter (24%) have large student bodies (more than 900 students). See ABA Sec. Leg. Educ. statistics, avail. at <http://www.abanet.org/legaled/statistics/charts/enrollment%20FTPT0708.pdf>.

Figure 1: Comparing institutional characteristics of B-Schools and all ABA-approved law schools



The beta questions pursue the two key issues related to professional identity and purpose described in *Educating Lawyers*:<sup>41</sup> “the area of professional ethics, the rules of conduct for lawyers, often taught as the ‘law of lawyering,’ and the wider matters of morality and character.”<sup>42</sup> To this end, our investigation had three areas of inquiry. First, we asked about the effectiveness of particular settings for learning legal ethics. Students might be exposed to legal ethics through traditional courses on professional responsibility or other substantive areas of law; in law school experiences aimed at exposing students to live clients and simulation, such as clinical and externship opportunities; and in their experiences outside of the law school, including working for pay in a law-related job. We wondered whether certain of these settings might be more effective than others in delivering the lessons of legal ethics.

A second line of inquiry considered the effectiveness of particular activities for learning legal ethics. Possibilities here included in-class activities (discussion, hypotheticals, analyzing rules) and guest lectures about legal practice.<sup>43</sup> We also asked students how often they discussed

<sup>41</sup> We recognize that the notion of “professionalism” is neither static nor singular. For a rich discussion of these issues, see Jean E. Wallace and Fiona M. Kay, “The professionalism of practicing law: A comparison across work contexts,” 29 *J. Organiz. Behav.* 1021, 1022 (2008) (“[W]e view lawyer professionalism not as a fixed set of unitary values, but instead as consisting of multiple visions of what constitutes proper lawyer behavior that are expected to reflect the different arenas in which these conceptions are reproduced.”).

<sup>42</sup> *EDUCATING LAWYERS* at 129.

<sup>43</sup> Including, for example, guest lectures by practitioners and others involved in the legal profession. See *EDUCATING LAWYERS* at 15 (suggesting that this is one way to introduce role models for law students beyond faculty (“many law schools enrich the opportunities for positive experiences by inviting practicing attorneys and judges who



ethical issues in classes other than professional responsibility,<sup>44</sup> and how often they simply reflected on their professional ethics and responsibilities.<sup>45</sup>

Finally, we asked students to evaluate the extent to which their experiences in law school helped them develop certain characteristics and skills related to professional identity and purpose. We identified five characteristics and skills: acting with integrity,<sup>46</sup> being able to develop positive relationships with future clients,<sup>47</sup> handling the stress of law practice,<sup>48</sup> developing a capacity for moral reasoning,<sup>49</sup> and strengthening a commitment to serving the public good.<sup>50</sup> The specific beta questions are set out in Appendix 1.

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are known for exceptional integrity and commitment to teach, to visit campus, talk about their work, and meet with students. Some campus speakers may provide inspiration about the value and meaning of law, even if they do not represent careers that most students will be likely to achieve. . . . These visits from members of the profession are also valuable components of the ethical-social apprenticeship.”).

<sup>44</sup> Integrating legal ethics into other doctrinal courses, in addition to teaching the traditional legal ethics course, is emphasized as important; see EDUCATING LAWYERS at 151 (recognizing the value of a “pervasive method” of “incorporate[ing] ethical issues into the full range of doctrinal courses”); *see also* D.L. RHODE, PROFESSIONAL RESPONSIBILITY: ETHICS BY THE PERVASIVE METHOD (2d ed. 1996); AMERICAN BAR ASS’N, SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, TEACHING AND LEARNING PROFESSIONALISM: REPORT OF THE PROFESSIONALISM COMMITTEE (1996).

<sup>45</sup> Reflection is itself important in helping students develop a professional identity consistent with the goals of the third apprenticeship. *See* EDUCATING LAWYERS at 158; Solbrekke, *supra* n. 24 at 497 (“it becomes important that professional education not only promotes theoretical competence and generic skills, but also the reflective competence which enables prospective professionals to evaluate the implications of their future role critically.”(citation omitted)).

<sup>46</sup> EDUCATING LAWYERS at 146 (“The kind of personal maturity that graduates need in order to practice law with integrity and a sense of purpose requires not only skills but qualities such as compassion, respectfulness, and commitment. Course work can contribute to the development of moral values, goals, identity, and compassion, as well as ethical understanding and skills. These outcomes depend even more on pedagogies that actively engage the students than do more traditional dimensions of academic understanding. Compassion and concern about injustice become much more intense when students develop personal connections with those who have experienced hardship or injustice. This has been a persistent theme among students in some of the clinical courses we observed. Likewise, when students form relationships with professionals who inspire them, they can internalize new images of what they want to be like more deeply and vividly than they are likely to do through reading. This is one of the important, though rarely documented, benefits of well-designed experiences of pro bono and service work, of good externships, and especially of clinical courses.”). *See also* Colby & Sullivan, *supra* note 9, at 423 (“If educators are successful in preparing graduates who will practice their professions with competence and integrity even in contexts that tend to undermine the profession’s standards and purposes, they can help prevent the profession from degenerating into technical work for hire, giving up “higher aims” to become “hired hands,” as a recent book on business education puts it.”)

<sup>47</sup> EDUCATING LAWYERS at 130 (“[A]s central as honesty is to maintaining trust, it is not the only factor that affects the lawyer-client relationship. Respect and consideration for one’s clients are also important contributors to that relationship. It is important, then for the ethical-social apprenticeship to foster these human qualities, which fall within the scope of professionalism, if not legal ethics per se.”). *See also* Hamilton, *supra* note 9, at 120 (“In addition, as a lawyer grows in these dimensions of personal conscience, the lawyer becomes a better counselor to his or her client. A fully developed lawyer can help a client think through a situation from the client’s perspective, wherever that client is in terms of the skills and capacities of moral decision making.”).

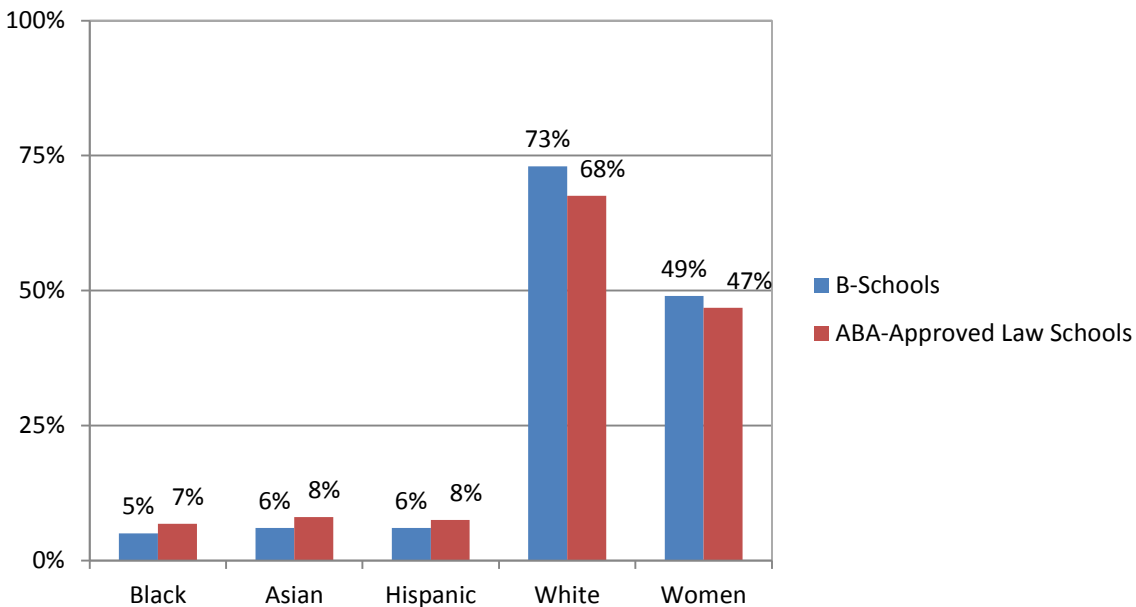
<sup>48</sup> Solbrekke, *supra* n. 24 at 487-88 (describing the “rather complex and ‘messy’ concept of professional responsibility, representing dilemmas and conflicts embedded in the inescapable tensions between responsibilities to: clients, professional domain/discipline, society, employer, colleagues, family and/or friends, one’s own professional self and personal integrity.”).

<sup>49</sup> EDUCATING LAWYERS at 134-35 (“A key factor in mediating the relationship between individuals’ ideals and their actual conduct is their own sense of moral identity. . . . Like moral judgment, moral identity is not established once and for all in childhood. . . . Law school experiences, if they are powerfully engaging, have the potential to influence

## II. Learning about Professional Identity and Purpose

Our sample of beta questions includes responses from a total of 9,381 full-time students.<sup>51</sup> First year students represented 35% of all respondents, 2Ls comprised 34%, and 31% of respondents were 3Ls. Approximately 87% of respondents were between the ages of 23 and 30; another 13% were between 31 and 40 years of age. Only 2% of students were over 40, and 1% of respondents were younger than 22. Figure 2 compares other student characteristics of B-Schools and ABA-approved law schools. B-Schools had a higher percentage of White students and lower percentage of Black, Asian and Hispanic students compared to the group of ABA-approved schools. Women were slightly overrepresented in the B-School sample compared to the ABA-approved schools.

Figure 2: Comparing student characteristics of full-time B-School respondents and ABA-approved law schools



### A. (Learning About) Learning About Legal Ethics

#### (i) Settings

We begin with questions about the effectiveness of particular settings for learning about legal ethics. Students were asked the extent to which doctrinal classes, professional responsibility

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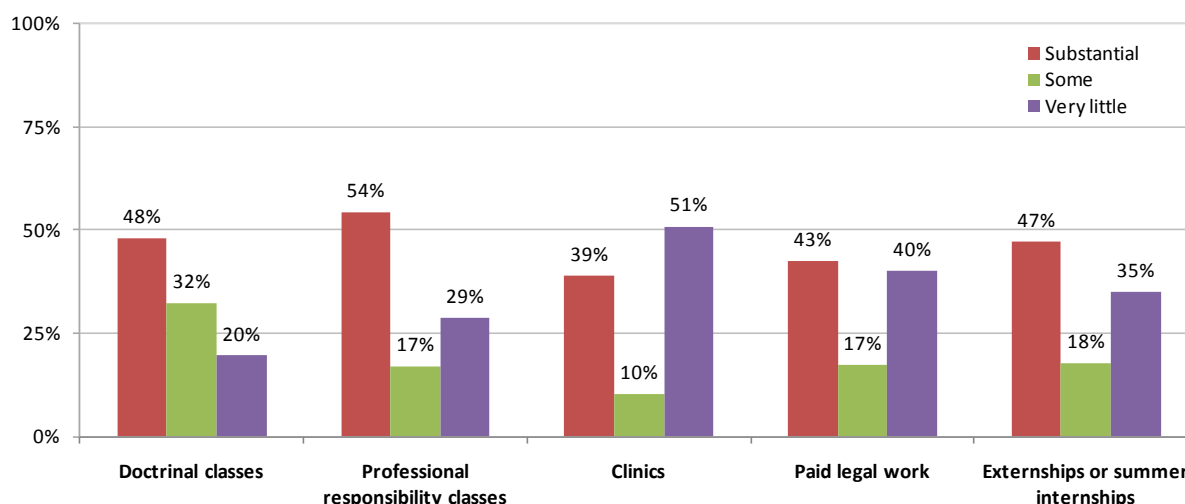
the place of moral values such as integrity and social contribution in students' sense of self." See also Neil Hamilton & Lisa Montpetit Brabbit, *Fostering Professionalism through Mentoring*, 57 J. LEGAL EDUC. 102, 115-16 (2007) (noting the processes necessary for moral action).

<sup>50</sup> EDUCATING LAWYERS at 126; Holmes et al, supra n.12 at 4 (discussing a notion of "public good" that extends beyond the traditional conception to include "doing their particular legal tasks to the best of their ability rather than being specifically engaged in legal work with a clear public utility.").

<sup>51</sup> Part-time and 4Ls were excluded from the final sample in order to simplify the comparison of 1Ls and 3Ls below.

classes, clinics, paid legal work, and externships or summer internships were effective for learning legal ethics. They were given a four-point response option of “Very little,” “Some,” “Quite a bit,” and “Very much.” Figure 3 sets out the aggregate responses for the questions on settings.<sup>52</sup>

Figure 3: Extent to which full-time students found select settings contributed to learning legal ethics (1Ls, 2Ls, and 3Ls)



Overall, more law students (54%) find their professional responsibility course more effective for learning legal ethics than the other settings. We wondered, however, whether there were differences among students as they progressed through school in their evaluation of settings. The perceptions of 1Ls, for example, who comprise slightly more than one-third of respondents, are constrained by the brevity of their law school experience. The typical 1L has encountered a limited set of experiences by spring of their first year when they complete the LSSSE survey. In nearly every law school, all 1Ls take a uniform set of doctrinal courses as well as a class on legal research and writing. As *Educating Lawyers* notes, first year doctrinal courses emphasize legal analysis, often to the exclusion of all else.<sup>53</sup> As a result, we might expect 1Ls to consider the effectiveness of their doctrinal classes for learning legal ethics as lower than the assessment of 2L and 3L students. In addition, 1Ls typically have not experienced the other settings identified in this beta question. Consequently, we might interpret their evaluation of alternatives to doctrinal classes identified in the beta question as indicative of their perception of where they expect to learn about legal ethics rather than an assessment based on experience.

<sup>52</sup> We have simplified throughout the four-point response options into three for purposes of depiction, combining “very much” and “quite a bit” into one category labeled “substantial.”

<sup>53</sup> *Educating Lawyers* at 87 (stating that the process of legal analysis and “learning to think like a lawyer” is “the main occupation of students’ first phase in law school”); *id.* at 151 (describing legal analysis as “the heart of the first-year experience”); *id.* at 183 (commenting that legal analysis “generally establishes the tone of the educational experience as a whole.”). See also *id.* at 132 (noting the authors’ impression after campus visits that “the apprenticeship of professionalism and purpose is subordinated to the cognitive, academic apprenticeship.”).

If we eliminate 1Ls from the pool of respondents for this first set of questions on settings, the negative responses (“very little”) for each of the four settings that 1Ls have not experienced (that is, all but doctrinal courses) decreases. If only responses from 2Ls and 3Ls had been reported in Figure 3, 16% (versus 29%) of respondents would have indicated that professional responsibility was only “very little” effective for learning legal ethics, 39% (versus 51%) of respondents would have reported that clinics were of “very little” effect, 27% (versus 40%) of respondents would have reported that paid legal work was of “very little” effect, and 21% (versus 35%) of respondents would have reported that externships or summer internships were of “very little” effect. The substantial negative response with regard to clinics is investigated further below.

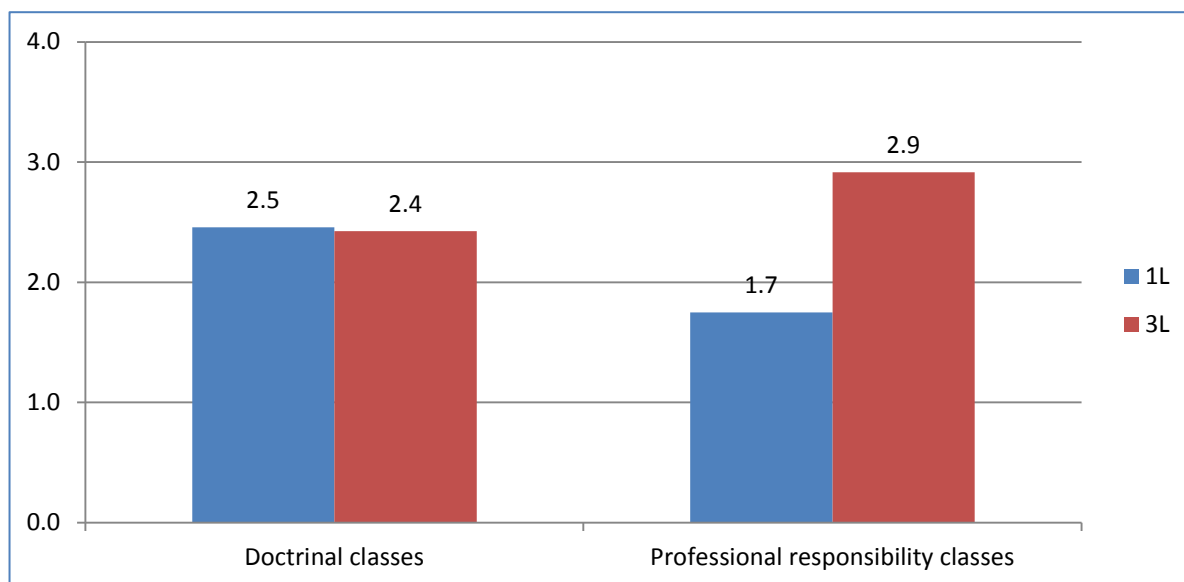
To draw the most relevant information from the data with regard to gains during law school, our focus here primarily is on the comparison of 1Ls and 3Ls. Third-year students have taken or are enrolled in the required professional responsibility course by spring when they complete the LSSSE survey. They offer the voice of experience with regard to their assessment of doctrinal and professional responsibility courses as effective settings for learning legal ethics. We might expect that 3Ls would devalue their doctrinal classes after having had professional responsibility, which, in most schools, is a course focused exclusively on legal ethics. At the same time, 3Ls have had many more doctrinal courses than 1Ls, including, perhaps, doctrinal courses in which legal ethics was specifically emphasized or noted. One example of such a class might be securities law or corporations, in which there may be some discussion of the Sarbanes-Oxley provision on lawyers’ reporting duties with regard to a corporate client.<sup>54</sup> Course content such as this might result in 3Ls finding that doctrinal courses offer substantial lessons in legal ethics.

Figure 4, below, compares the responses of 1Ls and 3Ls on the effectiveness of doctrinal and professional responsibility courses for learning legal ethics. The assessment of doctrinal courses is quite similar between the two groups, with both evaluating them as close to mid-point between “some” and “quite a bit” in terms of effectiveness for learning legal ethics. Contrary to our hypothesis that exposure to more doctrinal classes, and exposure outside of the 1L focus on learning legal analysis, might result in students increasing their assessment of the effectiveness of doctrinal courses for learning legal ethics, however, there is no significant “bump” in the 3L evaluation.

Figure 4: Comparing 1Ls and 3Ls with regard to the effectiveness of doctrinal and professional responsibility courses

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<sup>54</sup> See, e.g., John C. Coffee, Jr. and Hillary A. Sale, *Securities Regulation, Cases and Materials* (11<sup>th</sup> ed.2009) at p. 570 (discussing lawyers’ reporting obligations).



On the other hand, the professional responsibility course is considered much more effective by 3Ls than by 1Ls. The course may not even be on the radar screens of 1Ls; for 3Ls, however, it rises nearly to the level of “quite a bit” effective in learning legal ethics, and generates the largest positive response to the settings question (see Table 1).

Results from an ANOVA test on overall differences between the responses of 1Ls, 2Ls, and 3Ls, (set out in Table 1, below) indicate that in each year of law school, students increase their evaluation of effectiveness for every setting except doctrinal classes. This is some evidence that law students learn to “connect the dots” during their time in school with regard to understanding that the notion of “legal ethics” transcends a variety of settings. As such, it constitutes one of the most positive finding of the data.

Table 1: ANOVA Results: Homogenous subsets by class level for effectiveness of select settings in learning legal ethics

	Doctrinal classes	Professional responsibility classes			Clinics			Paid legal work			Externships or summer internships		
	1	1	2	3	1	2	3	1	2	3	1	2	3
<b>Class level</b>													
1L	2.46	1.78			1.46			1.49			1.47		
2L	2.46		2.71			2.14			2.32			2.58	
3L	2.42			2.91			2.63			2.61			2.67

Note: Means from Tukey's post-hoc analyses for groups are displayed in homogenous subsets,  $p \leq 0.05$ .

The static position of doctrinal classes reported in Table 1 likely is explained, at least in part, by the failure of these classes to include a discussion of ethical issues even when they arise as part of the cases assigned for the class. Only 43% of respondents reported that they frequently<sup>55</sup>

<sup>55</sup> “Frequently” is derived from combining responses “very often” and “often,” the two most positive responses of the four-point options. All respondents (1Ls, 2Ls and 3Ls) are included in the 43% reported above.

discussed the ethical issues embedded in cases during a doctrinal class that was not a professional responsibility course. Law schools seem to be missing important opportunities by maintaining such segmented approaches to substantive learning.

By the third year of law school, students may have participated in a clinic, performed legal work for pay, or participated in an externship or summer internship.<sup>56</sup> These experiences may influence a 3L's perception of the effectiveness of these settings as well as perception of courses on professional responsibility and more traditional doctrinal courses. Our expectation was that 3Ls would consider clinical courses highly effective for learning legal ethics.<sup>57</sup> Clinics are smaller class settings in which students have an opportunity to work closely with faculty.<sup>58</sup> They typically use live client or simulation experiences with which students may feel a strong and more significant connection, compared to the traditional appellate decisions that form the basis for most law school casebooks. In this way, they may function much as pro bono experiences in helping students develop an understanding of clients and their problems.<sup>59</sup> Ethical dilemmas may arise naturally in such settings, and the resulting conversations about such issues may be less formal and more interactive than in a traditional large class setting characteristic of professional responsibility courses. We expected students with clinical experience to assess it as highly effective for learning legal ethics. We also wondered whether students who had a clinical experience might devalue the effectiveness of other settings for teaching these lessons.

Similarly, the experience of working for pay in a law-related job also may influence the assessment of what is an effective setting for learning legal ethics. On one hand, to the extent that the work setting provides exposure to clients and ethical dilemmas based in reality rather than in casebooks, we would expect it to exert a significant influence on a student's learning about legal ethics – perhaps to such an extent that school takes on a less important role. On the other hand, we are uncertain about whether the kind of work students perform while also enrolled in law school offers a sufficiently big-picture exposure to allow for insight into client relationships and firm-level management of typical ethics issues such as conflicts of interest. Work performed during the school year may be more about legal research, and simply spending time in a law setting may not add much to a student's understanding of ethical issues.

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<sup>56</sup> While the beta questions asked about the role of externships and summer internships in learning legal ethics, we could not segregate students with these experiences from those who had not had these opportunities, and as a result our analysis of the “externship or summer internship” data is limited. We hope to pursue the influence of this experience through additional beta questions in the future.

<sup>57</sup> See *Educating Lawyers* at 139 (noting that “positives experiences with pro bono work were often part of clinical-legal courses,” and, ultimately, “can strongly influence a students’ future involvement in [public] service and even become a highlight of law school experience.”); *id.* at 159-60 (noting that legal clinics provide the “human face of law” and allow for “actual experience with clients as an essential catalyst for full development of ethical engagement”) (citing DREYFUS, ET AL., *MIND OVER MACHINE: THE POWER OF HUMAN INTUITION AND EXPERTISE IN THE ERA OF THE COMPUTER* (1986)). See also Hamilton, *supra* note 20; Hamilton & Brabbit, *supra* note 21; Terry, *supra* note 20.

<sup>58</sup> See LSSSE 2010 Annual Survey Results, *Student Engagement in Law School: In Class and Beyond*, at p. 9 (Table 2), avail. at [http://lssse.iub.edu/pdf/2010/2010\\_LSSSE\\_Annual\\_Survey\\_Results.pdf](http://lssse.iub.edu/pdf/2010/2010_LSSSE_Annual_Survey_Results.pdf) (reporting a positive correlation between student-faculty interaction and reported gains).

<sup>59</sup> According to *EDUCATING LAWYERS* (at p. 146), taking on pro bono work is one way that students learn, firsthand, “compassion and concern about injustice” after forging and investing in personal relationships with clients and victims of “hardship and injustice.”



Figure 5 reveals that the clinical experiences of 3Ls influence the perception of other settings' effectiveness. Table 2, which follows, highlights the significance of differences in responses.

Figure 5: Effectiveness of select settings for learning legal ethics: means for full-time 3Ls [NOTE: \*statistically significance differences found between groups. See ANOVA results below for details]

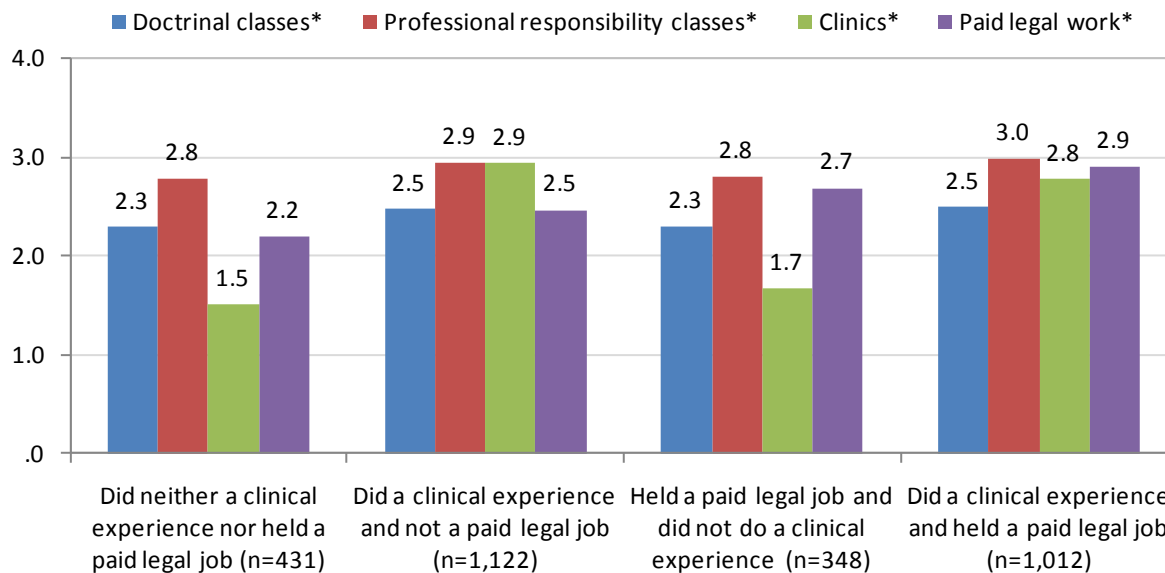


Table 2: ANOVA Results: Homogenous subsets by full-time 3Ls for effectiveness of select settings in learning legal ethics

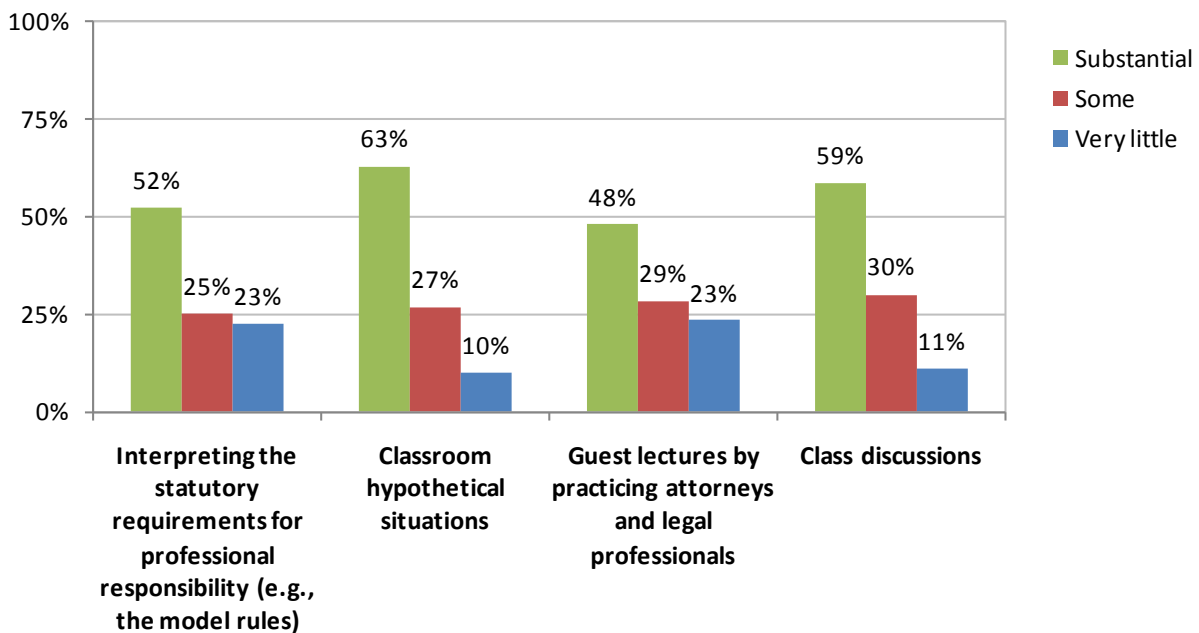
	Doctrinal classes		Professional responsibility classes		Clinics		Paid legal work			
	1	2	1	2	1	2	1	2	3	4
<b>Practical Experience</b>										
Did neither a clinical experience nor held a paid legal job	2.29		2.78		1.51		2.20			
Did a clinical experience and not a paid legal job		2.45	2.94	2.94		2.93		2.47		
Held a paid legal job and did not do a clinical experience	2.30		2.80		1.67				2.69	
Did a clinical experience and held a paid legal job		2.48		2.98		2.77				2.89

These data reveal that students with clinical experience consider all settings significantly more effective than do students who have neither a clinical nor a paid legal work experience. In contrast, students without a clinical experience who have worked for pay in a legal job consider all settings equally effective as do students with neither clinical nor paid legal work experience, with the exception of paid legal work (considered more effective by those who have had this experience). Finally, students who have both clinical and paid legal work experience (bottom row, Table 2) perceive paid legal work as even more effective than students who have worked for pay in a legal job but have not had a clinical experience (third row, Table 2). In sum, our findings suggest that clinical experience may enhance learning legal ethics, but more research is necessary to confirm the direct relationship.

## (ii) Activities

In addition to investigating settings, we also considered whether certain types of activities were more or less effective in helping students learn about legal ethics. We asked about the extent to which interpreting statutory material, classroom hypotheticals, guest lectures by practicing lawyers and other legal professionals, and class discussions were effective for learning legal ethics. Figure 6 reports on the responses of full-time 1Ls, 2Ls and 3Ls at the B-Schools, and offers an overview of the data.

Figure 6: Extent to which full-time students found select activities contributed to learning legal ethics (1Ls, 2Ls, and 3Ls)



With regard to these activities, all law students have had some exposure to classroom hypotheticals, guest lectures and general class discussions, but 1Ls probably would not have had an opportunity to work with the Model Rules of Professional Responsibility since most law schools do not offer a course on professional responsibility for first-year students.<sup>60</sup> As a result, we were curious about differences in students' assessments based on their law school class. As a result, we were curious about differences in students' assessments based on their law school class. Results from an ANOVA test find statistically significant mean differences by law school class. The findings reveal (at p-value 0.05) that 1Ls (mean=2.14) consider interpreting statutory material substantially less effective than do either 2Ls (mean=2.60) or 3Ls (mean=2.73). Class discussions, generally and with regard to hypotheticals, also are considered substantially less effective for learning legal ethics by 1Ls (mean=2.66) than by 2Ls (mean=2.83) and 3Ls (mean=2.87).

<sup>60</sup> See, however, the description of Indiana University Maurer School of Law's first-year legal profession class at <http://law.indiana.edu/degrees/jd/curriculum.shtml>.

Table 3: ANOVA Results: Homogenous subsets by class level for effectiveness of select activities in learning legal ethics

	Interpreting statutory requirements for professional responsibility			Classroom hypothetical situations		Guest lectures by practicing attorneys and legal professionals	Class discussions	
	1	2	3	1	2	1	1	2
<b>Class level</b>								
1L	2.14			2.66		2.40	2.65	
2L		2.60			2.83	2.40	2.71	2.71
3L			2.73		2.87	2.46		2.73

Note: Means from Tukey's post-hoc analyses for groups are displayed in homogenous subsets,  $p \leq 0.05$ .

Only the assessment of guest lectures is similarly assessed by students regardless of their year in law school. According to Figure 6, nearly a quarter of all students (23%) reported that lectures did “very little” to help them learn legal ethics. This surprised us. One possible explanation is that the term, “legal ethics,” used in the question was interpreted by students to refer to material typically covered in a professional responsibility course.<sup>61</sup> That is, students focus on learning what is identified as being the topic at hand in a particular class or experience, and may not be adept at drawing larger lessons about general issues - including legal ethics - from a class or lecture that purportedly is focused on another substantive or skills development area. Law schools might help students connect their experiences in and outside of classes to legal ethics by being more explicit about the importance of notions of professional identity and purpose as a general goal for their education.

Overall, findings on effective settings and activities reveal that law students tend to look to their classes for learning legal ethics. The largest group of students consider their professional responsibility course the most effective setting for learning legal ethics, and they find discussion of hypotheticals in class the most effective activity. For 2Ls and 3Ls, professional responsibility garners the highest effectiveness rating of any setting (Table 1). Students consider activities outside of class less effective compared to those in class, whether guest lectures or working in paid legal jobs.<sup>62</sup> They do not draw as much from activities outside of class, whether these

<sup>61</sup> See Solbrenke, *supra* n.24 at 491 (describing the conception of professional responsibility among law and psychology students in Norway as including their reliance on “external regulations as their primary ‘guide’ to responsible performance.”); Holmes, et al, *supra* n.12 at 5 (noting that Solbrenke “discerns a tendency in new lawyers to equate ‘professional responsibility’ primarily with the ability to live up to formal rules of conduct with no accompanying emphasis on the need for broader moral and societal responsibility. We note, however, that during the first year of practice, when one is ‘learning the ropes’, a focus on the detail of rules and tasks may well be necessary. A broader sense of professional responsibility may yet develop as the new lawyer begins to feel more competent in their work and better able to see it in a larger social context. The danger of course is that this narrow view or professionalism will prevail.”)(footnote omitted).

<sup>62</sup> 1Ls also consider interpreting statutory material less effective even than guest lectures, but their exposure to the Model Rules of Professional Responsibility limits the credibility of their responses.

involve listening to lectures by lawyers or working for pay in a law job. Finally, 3Ls find greater effectiveness from all settings and nearly every activity we investigated compared to 1Ls (Tables 1 and 3), reflecting, perhaps, a greater awareness of professional identity and purpose on the part of students nearing completion of their legal studies.

### B. *Learning About Lessons of Professionalism*

In order to investigate the larger topic of the transition from law student to lawyer, the third set of beta questions asked students to assess their progress during law school toward developing a professional identity, including issues related to practical competencies. We identified five areas of focus: building relationships with future clients, capacity for moral reasoning, handling the stress of law practice, serving the public good, and acting with integrity.<sup>63</sup> Responses for all full-time students are reported in Figure 7. Table 4 reports statistical significance in variations by law school class.

Figure 7: Extent to which full-time students found their experience at law school contributed to development in selected areas

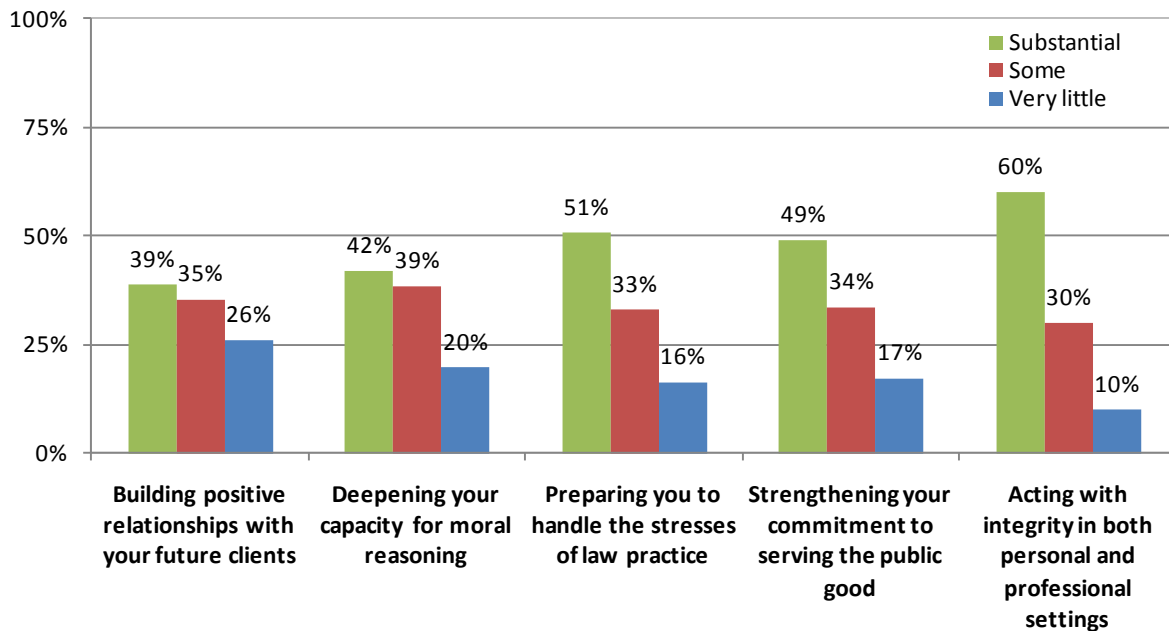


Table 4: ANOVA Results: Homogenous subsets by class level for extent to which experience at law school contributed to development in selected areas

<sup>63</sup> See Appendix 1, question 4 for details on these questions.

	Building positive relationships with your future clients		Deepening your capacity for moral reasoning	Preparing you to handle the stresses of law practice		Strengthening your commitment to serving the public good		Acting with integrity in both personal and professional
	1	2	1	1	2	1	2	1
<b>Class level</b>								
1L	2.21		2.35	2.59		2.54		2.77
2L	2.23		2.34		2.49	2.50	2.50	2.75
3L		2.31	2.37		2.44		2.45	2.73

Note: Means from Tukey's post-hoc analyses for groups are displayed in homogenous subsets,  $p \leq 0.05$ .

One of the most striking aspects of these data relates to the low mean response to the question about building relationships with clients. Respondents indicated that law schools are least effective with regard to this issue, with the mean score just barely above the response “some.” This is not necessarily related to students isolating themselves during law school. We know from the 2010 LSSSE survey, for example, that nearly two-thirds of full-time law students have had a serious conversation with students of a different race or ethnicity, and slightly more than two-thirds have had a serious conversation with a student who is very different in terms of religious beliefs, political opinions or personal values.<sup>64</sup> This might suggest that law students are engaging in activities that should help them learn about relating to people - including future clients. Perhaps the problem stems from failing to identify the goal of helping students learn to develop relationships with future clients, and connecting that to their building relationships with other students during law school. On the other hand, perhaps interaction in law school must be more intentional and intensive in order to serve as the basis for developing relationships in a professional setting. To be sure, 3Ls consider law school more helpful in terms of contributing to their ability to build positive relationships with future clients than do 1Ls or 2Ls (Table 4). Nevertheless, the data suggest this issue as a serious challenge for law schools: it is made more significant by the current upheaval in the legal market, in which building relationships may prove to be the cornerstone of how lawyers add value.<sup>65</sup>

In comparing students by class year, 3Ls report that law school is less effective in helping them handle the stress of law practice and in strengthening their commitment to the public good, compared to the 1L respondents (Table 4). This variation is exactly opposite of what we would hope to see; that is, ideally, law students would develop greater confidence in handling pressure and commitment to serving the public as they progress through school. We can imagine, however, that 3Ls facing the uncertainty of the job market and financial concerns about repaying educational loans might feel differently about these issues than their 1L colleagues. While we cannot be certain that this explains the 3L responses, these lower evaluations by 3Ls are

<sup>64</sup> Based on data collected from the 2010 administration of the core LSSSE instrument.

<sup>65</sup> See generally, Mark Curriden, “Future of Law Panel: Change With the Times or Find Another Line of Business,” ABA Journal (Feb. 12, 2011 6:30 PM), avail. at [http://www.abajournal.com/news/article/future\\_of\\_law\\_panel\\_change\\_with\\_the\\_times\\_or\\_find\\_another\\_line\\_of\\_business/](http://www.abajournal.com/news/article/future_of_law_panel_change_with_the_times_or_find_another_line_of_business/).

additional cause for concern that law schools are not addressing the third year of law school as effectively as possible.<sup>66</sup>

Finally, we were curious about the role of clinical and paid legal work on students' evaluation of gains in professional identity and purpose. Perhaps having a law-related experience outside of the classroom helps students draw lessons from their legal education that are different - and deeper - compared to students who have not had these experiences. Figure 8 and Table 5 report on these data.

Figure 8: Development in selected areas: means for full-time 3Ls (NOTE: \*statistically significance differences found between groups. See ANOVA results below for details)

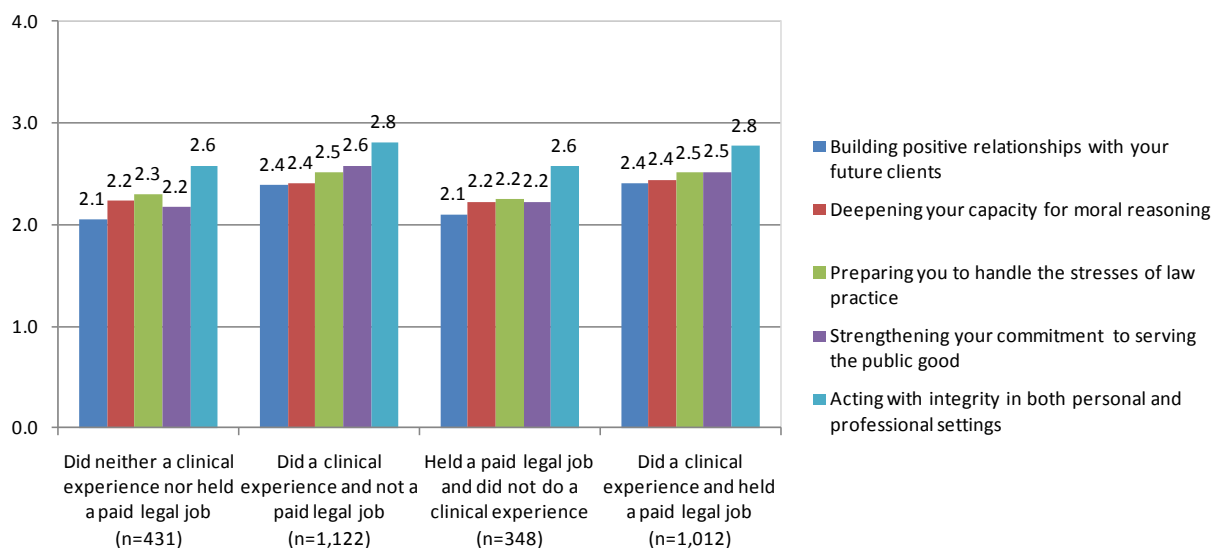


Table 5: ANOVA Results: Homogenous subsets by full-time 3Ls' perceptions of law school contributions to development in selected areas

<sup>66</sup> See generally Lawrence K. Hellman, *Seeking a professional I.D.*, *The Nat'l Law J.*, Mar. 24, 2008, available at <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1205923895337&slreturn=1&hblogin=1> (supporting the Carnegie Report's contention that professionalism needs to be taught throughout the entire legal education); EDUCATING LAWYERS at 154 ("A basis in the first year is essential, but this base soil needs cultivation throughout the three years, especially follow-up in the form of more advanced courses that enable students to continue relating their growing understanding of the law, their developing skills of practice, and their sense of identity and professional commitment."); see generally Robert L. Nelson, *After the JD: The Future(s) of Lawyering: Young Lawyers Assess the Value of Law School* (ABA Mid-Year Meeting, Atlanta, Feb. 2011) (reporting that between 45% and 50% of respondents (who graduated from US law schools in 2000) considered the third year of law school "largely superfluous." (on file with author).



	Building positive relationships with your future clients		Deepening your capacity for moral reasoning		Preparing you to handle the stresses of law practice		Strengthening your commitment to serving the public good		Acting with integrity in both personal and professional settings	
	1	2	1	2	1	2	1	2	1	2
<b>Practical Experience</b>										
Did neither a clinical experience nor held a paid legal job	2.05		2.23		2.30		2.17		2.58	
Did a clinical experience and not a paid legal job		2.39		2.41		2.51		2.58		2.81
Held a paid legal job and did not do a clinical experience	2.10		2.23		2.25		2.23		2.58	
Did a clinical experience and held a paid legal job		2.40		2.43		2.50		2.51		2.76

Note: Means from Tukey's post-hoc analyses for groups are displayed in homogenous subsets,  $p \leq 0.05$ .

The difference between students with clinical experience and those without is found significant here, as it was with regard to the settings for learning legal ethics, reported above. Results from an ANOVA test reveal that students with a clinical experience, whether or not they also had paid legal work experience, reported higher positive gains across each item of development in Table 5. Interestingly, paid legal work does not seem to yield the same gains. We cannot explain whether this is because of a difference in goals of the practical experience (educating the student versus serving the client's interests), the scope of the work shared with the student, or another reason, but the data provide a strong endorsement of clinical legal education for purposes beyond its particular goals.

### III. Conclusion

Law schools serve as launching pad and gatekeeper for the legal profession. They answer to disparate interests, including students, alumni, employers, regulators, courts and the public. In helping students make the transition to professional roles, schools need support for evaluating what works well and what would benefit from additional attention. The data described here offers some insight in this regard. But the data only begin to uncover how law students gain insight into their professional identity and purpose. Generally, these findings point to the importance of law school classes for effective learning about legal ethics, and also to the role of clinical legal education as a means for deepening the effectiveness of these lessons.

Findings suggests clinical experiences seem to further students' learning about professional identity and purpose in settings that are experienced by all students, but in order to understand why clinical education furthers learning with regard to the third apprenticeship, additional research is necessary. Do these gains relate to the real-world aspect of clinical work? Or is it the more intense and intimate faculty-student interaction of clinics that yields gains? Do students appreciate the lessons of their classes more after having a clinical course because they are more experienced law students, or would a first-year clinical experience also yield these gains and deepen learning throughout law school? Are the benefits of clinical education common to all clinical experiences, whether live-client or simulation, and regardless of the substantive focus of the clinic? How can law schools capitalize on the clinical experience in other settings? And what explains the differences between clinical experiences and paid legal work?<sup>67</sup>

<sup>67</sup> Robert Nelson, presentation at ABA Mid-Year Meeting (Atlanta, Feb. 2011), slide 7 (slides on file with author)(describing results of the After-the-JD research project, which gathers information from lawyers who

Significant differences in the responses of 3Ls and 1Ls may suggest the ways in which law school delivers value to students, but more work is necessary to determine whether this is the case. Data reported on in this article did not follow the same student from year one through year three, and differences in cohorts may be related to factors other than the experiences that arise from law school. Related to this issue is the possibility of differences among student populations. Finally, how do the institutional characteristics of law schools affect learning about professional identity and purpose? Understanding these issues will help law schools address the particular dynamics influencing their students' experiences.

Aside from questions for future research, however, our work offers important lessons about the way students develop a sense of professional identity and purpose. Students indicated that the most effective setting for learning legal ethics was their professional responsibility class. This was true for students who had no clinical or paid legal work experience as well as for those who had one or both of these experiences. We only can suggest why this is the case; the most likely explanation relates to student expectations. Students expect to learn about legal ethics in professional responsibility; they do not expect legal ethics to be a topic of discussion in corporations, civil procedure or in non-classroom experiences.

Carnegie's message of the importance of intentionality and explicitness provides the crucial insight for law schools to move beyond this silo-effect. Law schools can make additional settings and experiences relevant to gains in the third apprenticeship by explaining to students the relationship of their lessons and experiences to the issues of professional identity and purpose. That is, schools must help students "connect the dots." To do this, law schools must acknowledge and embrace opportunities to teach to the larger lessons of professional identity and purpose in settings other than those aimed at legal ethics, whether or not these opportunities arise in a credit-generating setting. This may require faculty to educate themselves about what happens outside of their classrooms. Doctrinal faculty may need to learn more about their law school's clinics and externships (and vice versa) and all faculty may need to learn more about what their students experience in their paid legal work and pro bono activities, so that each of these "alternative" activities and settings may be more thoughtfully drawn into classroom discussions and teaching on substantive law. In order to help students make the transition to becoming lawyers, law schools and faculty must move beyond the borders of their control. The goal of a more expansive approach is to situate professionalism in its integrative role, outlined in *Educating Lawyers*, and allow it to provide a framework for the entire law school experience.

## Appendix 1

### Law School Survey of Student Engagement Beta Questions on Professional Identity and Purpose

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graduated from law school in 2000: paid legal work during the academic year was considered helpful in "making the transition to ... early work assignments as a lawyer" by 72.3% of respondents; clinical experiences were considered helpful by 71.7% of respondents).

Administered in 2008 and 2009

- 1) During the current school year, about how often have you done each of the following? (Very often, often, sometimes, never)
  - (a) Discussed the ethical issues embedded in cases during a doctrinal class (*not* a professional responsibility course).
  - (b) Reflected on your professional ethics and responsibilities
- 2) In your experience at this law school, to what extent have you found the following settings effective for learning legal ethics? (Very much, quite a bit, some, very little, not applicable)
  - (a) Doctrinal classes
  - (b) Professional responsibility classes
  - (c) Clinics
  - (d) Paid legal work
  - (e) Externships or summer internships
- 3) In your experience at this law school, to what extent have the following activities helped you learn legal ethics? (Very much, quite a bit, some, very little, not applicable)
  - (a) Interpreting the statutory requirements for professional responsibility (e.g. the model rules)
  - (b) Classroom hypothetical situations
  - (c) Guest lectures by practicing attorneys and legal professionals
  - (d) Class discussions
- 4) To what extent has your experience at this law school contributed to your development in the following areas? (Very much, quite a bit, some, very little)
  - (a) Building positive relationships with your future clients
  - (b) Deepening your capacity for moral reasoning
  - (c) Preparing you to handle the stresses of law practice
  - (d) Strengthening your commitment to serving the public good
  - (e) Acting with integrity in both personal and professional settings