

UIC School of Law

UIC Law Open Access Repository

UIC Law Open Access Faculty Scholarship

2022

Transitions Unexplored: A Proposal for Professional Identity Formation Following the First Year, 29 Clinical L. Rev. 1 (2022)

Megan Bess
UIC School of Law

Follow this and additional works at: <https://repository.law.uic.edu/facpubs>



Part of the [Law Commons](#)

Recommended Citation

Megan Bess, Transitions Unexplored: A Proposal for Professional Identity Formation Following the First Year, 29 Clinical L. Rev. 1 (2022)

<https://repository.law.uic.edu/facpubs/919>

This Article is brought to you for free and open access by UIC Law Open Access Repository. It has been accepted for inclusion in UIC Law Open Access Faculty Scholarship by an authorized administrator of UIC Law Open Access Repository. For more information, please contact repository@jmls.edu.

TRANSITIONS UNEXPLORED: A PROPOSAL FOR PROFESSIONAL IDENTITY FORMATION FOLLOWING THE FIRST YEAR

MEGAN BESS*

Like students in other professional fields, law students experience significant transitions during their education. These transitions consist of intense learning periods associated with major change as students develop their professional identities. These challenges and experiences allow students to develop and internalize the skills needed to be a successful lawyer. Law schools are in a unique position to create and reinforce structures to help students navigate these transitions and maximize professional identity formation. This paper will detail some of these transitional challenges and provide recommendations for law schools to further support students during transitions—most notably during the summer following their 1L year.

Summer employment is a key transition point and a crucial opportunity for professional development and growth. The challenge for law schools is that summer employment falls outside their curriculum and oversight. But even when such transformational experiences occur outside of the traditional curriculum, law schools can still utilize effective pedagogy for professional identity formation to help students maximize their development and internalization of professional values. Experiential learning, and externship pedagogy in particular, uniquely aligns with professional identity formation. By implementing common externship pedagogical tools, such as goal setting, reflection, and skills assessment, law schools can help students develop professional identity in real-world practice settings, particularly over the summer after 1L year. This article proposes that law schools implement professional identity formation programs comprised of key externship pedagogical tools and provides suggestions for creating stakeholder buy-in for such programs.

INTRODUCTION

Each entrant into the legal profession must internalize the norms and values of the profession.¹ Law schools face the challenge of help-

* Assistant Professor of Law and Externship Program Director, University of Illinois Chicago School of Law.

¹ Neil Hamilton, *The Major Transitions in Professional Formation and Development*

ing students grow from thinking like a student to accepting and internalizing those norms and values.² This process, commonly known as professional identity formation, requires law students to develop competencies needed to serve others and to internalize a sense of responsibility to others, especially to clients and the legal system.³ Students experience several significant transitions in law school, each of which impacts students' abilities as lawyers and afford important opportunities to foster professional identity formation.⁴

This article begins by reviewing the research of Professor Neil Hamilton regarding when significant transitions occur during law school—most commonly during summer legal employment after the first year.⁵ Part I explores the origins and definitions of professional identity formation and explains why it is vital to law student development. This section explores efforts to foster professional identity formation, updates to ABA standards requiring a stronger focus in this area, and steps law schools can take to prepare to meet new ABA Standards. Part II explores the role transitions play in professional identity formation and opportunities for law schools to support students during those transitions. Part III proposes the unique pedagogy of law school externship programs as a tool to more fully support and develop students during periods of transitions. Part IV offers steps to guide law schools to establish professional identity development programs, including a specific proposal for a program during the summer after 1L year.

I. PROFESSIONAL IDENTITY FORMATION IN LAW SCHOOLS

A. *Origins of Professional Identity Formation*

To fully understand the importance of transitions to the professional identity formation of law students, it is necessary to first grasp the concept of professional identity formation. The meaning and general understanding of “professional identity formation” as it relates to legal education evolved over time. Prior definitions of “professionalism” encapsulate much of what is now known as professional identity

from Being a Student to Being a Lawyer Present Opportunities to Benefit the Students and the Law School, 73 BAYLOR L. REV. 139, 142 (2021) [hereinafter Hamilton, *Major Transitions*].

² William Sullivan, *Foreword*, in RICHARD CRUESS ET AL., *TEACHING MEDICAL PROFESSIONALISM* xi, xv (Richard Cruess et al. eds. (2d ed. 2016)) [hereinafter *TEACHING MEDICAL PROFESSIONALISM*].

³ Neil Hamilton, *Fostering Professional Formation (Professionalism): Lessons from the Carnegie Foundation's Five Studies on Educating Professionals*, 45 CREIGHTON L. REV. 763, 795 (2012) [hereinafter Hamilton, *Fostering*].

⁴ Hamilton, *Major Transitions*, *supra* note 1, at 140.

⁵ See *infra* section II.

formation.⁶ *Educating Lawyers* (commonly known as the “*Carnegie Report*”), a 2007 study and report that assessed the state of legal education, used the terms “professional identity and purpose” to describe the normative apprenticeship of legal education.⁷ Today, the term “professionalism” is distinct from “professional identity formation,” with the latter recognized as encompassing more than ethics and rules.⁸ While professional identity formation includes internalization of beliefs and standards, professionalism focuses on outward conduct.⁹ Professionalism is still important, as it provides the norms and values to which professional students aspire.¹⁰ Civility and respect for others are part of professional identity formation, but it also engages lawyers on a deeper level, challenging them to internalize principles and values.¹¹ Everything in the law school experience contributes toward a student’s emerging professional identity.¹²

The *Carnegie Report* described three apprenticeships that provide key context to the importance of transitions and the opportunity to aid in professional identity formation. The importance of the *Carnegie Report’s* first two apprenticeships, thinking like a lawyer and acquiring the skills of a lawyer, are widely acknowledged.¹³ In the first, stu-

⁶ See, e.g., Patrick E. Longan, *Teaching Professionalism*, 60 MERCER L. REV. 659, 666-670 (2009) (defining professionalism as competence, fidelity to client, service, fidelity to the law and its institutions, and civility as well as caring about professionalism); John E. Montgomery, *Incorporating Emotional Intelligence Concepts into Legal Education: Strengthening the Professionalism of Law Students*, 39 U. TOL. L. REV. 323, 330-331 (2008) (defining professionalism as norms, traditions and practices, competency in legal skills, but also responsibilities to the public good and the profession); Hamilton, *Major Transitions*, *supra* note 1, at note 14 (explaining that his own work used professionalism as a synonym for professional formation); see also TEACHING MEDICAL PROFESSIONALISM, *supra* note 2 (defining as professionalism in medicine the essential features of a high-performance practice grounded in continuing improvement, focused on patient needs, and guided by a sense of responsibility, which has recently been more aptly phrased as professional identity formation).

⁷ David I. C. Thomson, “*Teaching*” *Formation of Professional Identity*, 27 REGENT U. L. REV. 303, 304 (2015); Timothy W. Floyd, *Moral Vision, Moral Courage, and the Formation of the Lawyer’s Professional Identity*, 28 MISS. C. L. REV. 339, 347-48 (2009) [hereinafter Floyd, *Moral Vision*] (citing WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 14, 129 (2007) [hereinafter Carnegie Report]).

⁸ Thomson, *supra* note 7, at 314; 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, 343 (2014).

⁹ Madison & Gantt, *supra* note 8, at 343-44.

¹⁰ Richard L. Cruess & Sylvia R. Cruess, *Professionalism and Professional Identity Formation: The Cognitive Base*, in TEACHING MEDICAL PROFESSIONALISM, *supra* note 2, at 16.

¹¹ Madison & Gantt, *supra* note 8, at 345.

¹² Floyd, *Moral Vision*, *supra* note 7, at 348.

¹³ Ann 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

dents learn substantive knowledge base and necessary intellectual capacities.¹⁴ The second involves learning complex skills of professional practice, which includes lawyering courses, clinical experiences, and similar courses which support developing skills like writing, research, interviewing, and negotiation.¹⁵ The third apprenticeship is about inculcating values and ideals of the legal profession and is synonymous with formation of professional identity.¹⁶ It captures students' "induction into the field's ethical standards, and a sense of professional identity in which those purposes and standards are experienced . . ." ¹⁷ This third apprenticeship is not only inseparable from the other two, but is itself the force to integrate knowledge, practice, and purpose.¹⁸

B. The Evolution of Professional Identity Formation in Modern Legal Education

Legal scholars have increasingly examined professional identity in legal education. A formed professional identity combines knowledge and skills (and an ability to access and apply them), internalization of the profession's rules and values, and integration of personal and professional values.¹⁹ Definitions of professional identity formation vary by scholar, but most agree it includes a process of transitioning from student to professional by developing and internalizing values.²⁰ For example, Neil Hamilton, Louis Bilionis, Daisy Hurst Floyd, Benjamin Madison, Larry Gantt, and Eli Wald all include in their definitions the conception and internalization of legal profession values.²¹ David Thomson reconciles *Carnegie's* definition and those

(2008).

¹⁴ *Id.*

¹⁵ *Id.* Historically, legal education was driven by the first apprenticeship. The second apprenticeship is now abundant through experiential learning but is still subordinate to training for legal analysis. *Id.*

¹⁶ Louis D. Bilionis, *Professional Formation and the Political Economy of the American Law School*, 83 TENN. L. REV. 895, 900 (2016) [hereinafter Bilionis, *Professional Formation*]; Longan, *supra* note 6, at 660.

¹⁷ Colby & Sullivan, *supra* note 13, 410.

¹⁸ *Id.* at 411.

¹⁹ Timothy W. Floyd & Kendall L. Kerew, *Marking the Path from Law Student to Lawyer: Field Placement Courses to Facilitate the Deliberate Exploration of Professional Identity and Purpose*, 68 MERCER L. REV. 767, 774 (2017).

²⁰ Hamilton, *Major Transitions*, *supra* note 1, at 143-44; Louis D. Bilionis, *Bringing Purposefulness to the American Law School's Support of Professional Identity Formation*, 14 U. ST. THOMAS L.J. 480, 483 (2018) [hereinafter Bilionis, *Bringing Purposefulness*]; Thomson, *supra* note 7, at 310; Madison & Gantt, *supra* note 8, at 345; Daisy Hurst Floyd, *Practical Wisdom: Reimagining Legal Education*, 10 U. ST. THOMAS L.J. 195, 200-01 (2012) [hereinafter Floyd, *Practical Wisdom*].

²¹ Eli Wald, *Formation Without Identity: Avoiding a Wrong Turn in the Professionalism Movement*, 89 UMKC L. REV. 685, 691 (2021); Bilionis, *Bringing Purposefulness*, *supra*

offered by other scholars in offering the following definition: “Professional identity relates to one’s own decisions about professional behaviors ‘above the line’ as well as a sense of duty as an officer of the legal system and responsibility as part of a system in our society that is engaged in preserving, maintaining, and upholding the rule of law.”²²

The process of transitioning from student to lawyer is essential to professional identity formation. Billionis emphasizes the socialization that results in professional identity formation—it is through this process that a student transitions to an “insider” of the profession.²³ Floyd emphasizes that professional identity formation focuses legal educators on who law students are becoming and the need to provide students with the right kind of experiences to help them develop professional identities.²⁴

The responsibility for professional identity formation is shared between educators and students. The first two responsibilities lie with the student: to accept and internalize personal responsibility for their own development in all competencies of the profession and also to accept and internalize responsibility to those whom one serves as a professional (clients and colleagues).²⁵ The third lies with the school, which must make clear the student’s responsibilities and then guide and support the student as they take on their responsibilities.²⁶ “At a minimum, law schools must systematically introduce and instill in law students an appreciation of and commitment to the core values of the profession.”²⁷ Because students’ abilities to successfully integrate their values with those of the profession is not guaranteed, providing a framework to guide students on this journey is critical to professional identity development.²⁸

Against the backdrop of increased legal scholarship on the topic

note 20, at 484; Madison & Gantt, *supra* note 8, at 345; Floyd, *Practical Wisdom*, *supra* note 20, at 201 (quoting from John T. Berry, Daniel R. Coquillette, & Daisy Hurst Floyd, *Legal Education and the Formation of Professional Identity: Past and Future, Address at the American Bar Association 38th National Conference on Professional Responsibility*, Boston, Massachusetts (June 2012)); Neil Hamilton, *Professionalism Clearly Defined*, 18 No. 4 PROF. LAW. 4, 5 (2008).

²² Thomson, *supra* note 7, at 315 (referencing notes that the “above the line” distinction is important because students want to know what is expected of them as professionals.) Few situations require attorneys to take positions on the ethical line. Therefore, professional identity must involve application of attorney judgment to resolve ethical matters “above the line.” *Id.* at 315-16.

²³ Billionis, *Bringing Purposefulness*, *supra* note 20, at 484.

²⁴ Floyd, *Practical Wisdom*, *supra* note 20, at 201.

²⁵ Billionis, *Professional Formation*, *supra* note 16, at 903.

²⁶ *Id.*

²⁷ Wald, *supra* note 21, at 692.

²⁸ Robert Sternzus, *Developing a Professional Identity: a Learner’s Perspective*, in TEACHING MEDICAL PROFESSIONALISM, *supra* note 2, at 31-32.

of professional identity formation, actual implementation has lagged.²⁹ Law schools have traditionally covered this topic in events supplemental to the curriculum, including orientation, speakers/panels, public interest programs, and modestly in ethics and skills courses.³⁰ But these activities have little impact because they do not engage students in the contextual process necessary for identity formation.³¹ In the last few years, however, law schools have made progress in meaningfully incorporating professional identity formation as a stated and intentional goal for legal education.³² Law journals have held symposia on the next steps in professional identity formation and have devoted entire issues to the topic.³³ Between 2017-20, the number of law schools offering required first-year programs or courses on professional development doubled, with over 60 incorporating them by early 2020.³⁴ Some schools also implemented courses outside of the first-year.³⁵ Even in the face of these encouraging developments, there are still many law schools that do not engage students in intentional professional identity formation.³⁶ Those that do often do not address all students, courses, and teaching methods.³⁷ It should be noted that all schools likely have faculty and courses that do lead students in the reflective self-development that is central to professional identity formation, even if that work is not specifically names as such. Schools

²⁹ See Madison & Gantt, *supra* note 8, at 342 (law schools have responded sufficiently to appeals to concentrate equally on formation and analysis and skills).

³⁰ Montgomery, *supra* note 6, at 334; Thomson, *supra* note 7, at 318. See also Madison & Gantt, *supra* note 8, at 356; Heidi K. Brown, *The Emotional Intelligent Law Professor: A Lesson From the Breakfast Club*, 36 U. ARK. LITTLE ROCK L. REV. 273 (2013); Carrie Menkel-Meadow, *Crisis in Legal Education or the Other Things Law Students Should be Learning and Doing*, 45 McGEORGE L. REV. 133 (2013); Susan S. Daicoff, *Expanding the Lawyer's Toolkit of Skills and Competencies: Synthesizing Leadership, Professionalism, Emotional intelligence, Conflict Resolution, and Comprehensive Law*, 52 SANTA CLARA L. REV. 795 (2012); Eli Wald & Russell G. Pearce, *Making Good Lawyers*, 9 U. ST. THOMAS L.J. 403, 405 (2012). A 2014-15 survey by Benjamin Madison and Larry Gantt regarding professional identity formation revealed that just over half of respondent law schools had 1-3 required courses that included an outcome on the topic. Madison & Gantt, *supra* note 8, at 362

³¹ Thomson, *supra* note 7, at 318.

³² Billionis, *Professional Formation*, *supra* note 16, at 895.

³³ See e.g., 14 UNIV. ST. THOMAS L.J. (produced in 2018 in conjunction with a symposium titled: *Twenty-Five Years Since MacCrate's Four Professional Values and Ten Years Since Educating Lawyers and Best Practices: The Next Steps of a Professional Formation Social Movement Symposium*); 89 UMKC L. REV. (a symposium issue titled *Professional Identity Formation and its Pedagogy*, published in 2021).

³⁴ Jerome M. Organ, *Common Threads Across Increasingly Common Required First-Year Courses/ Programs Focused on Professional Development*, NALP PD Quarterly 20 (2020).

³⁵ Thomson, *supra* note 7, at 318-20.

³⁶ *Id.* at 322.

³⁷ *Id.*

should seek to better identify and recognize these efforts as part of their professional identity formation programming. Still, the need to improve remains, particularly in identifying and providing professional identity formation programs that progress through all years of law school.³⁸

C. Moving Toward Full Integration of Professional Identity Formation into Legal Education

A wave of change in how legal education addresses professional identity formation is underway. In February 2022, the American Bar Association (ABA) House of Delegates adopted revisions to the Standards for Approval of Law Schools that require schools to provide “substantial opportunities” for students to develop a professional identity.³⁹ Revised Standard 303 requires that schools provide frequent opportunities for students to develop their professional identity throughout law school (starting in the first year) and across curricular and co-curricular activities.⁴⁰ The ABA Council of the Section on Legal Education and Admissions to the Bar proposed this revision in March 2021 and the notice and comment period for the proposed change to Standard 303 resulted in more than 30 comments from individuals and organizations, all supporting the measure.⁴¹

The revisions to Standard 303 make clear what leading scholars have long argued—that schools need to accept broader responsibility for professional identity development during all years of law school.⁴² The focus on and support of professional identity formation in legal education recognizes a law school’s role in that development.⁴³ The evidence linking law student development of skills associated with professional identity and their fulfillment in practice further emphasizes the need for law schools to take this seriously.⁴⁴ Further, this focus on professional identity formation may be better than any other model at addressing longstanding deficiencies in legal education.⁴⁵

³⁸ Organ, *supra* note 34, at 25.

³⁹ ABA HOUSE OF DELEGATES RESOLUTION 300 (2022), <https://www.americanbar.org/content/dam/aba/news/2022/02/midyear-hod-resolutions/300.pdf> (last accessed September 13, 2022).

⁴⁰ *Id.*

⁴¹ Scott Bales & William Adams, *Memorandum*, ABA COUNCIL OF THE SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR (March 2, 2021) (on file with author).

⁴² Billionis, *Bringing Purposefulness*, *supra* note 20, at 489.

⁴³ *Id.* at 623.

⁴⁴ Madison & Gantt, *supra* note 8, at 348.

⁴⁵ Louis D. Billionis, *Law School Leadership and Leadership Development for Developing Lawyers*, 58 Santa Clara L. Rev. 601, 623 (2018) [hereinafter Billionis, *Law School Leadership*].

D. *Laying a Foundation for Professional Identity Formation*

To implement pedagogical tools to support professional identity formation, law schools must first adopt a definition of professional identity and engage support for such measures. At a global level, this innovation contemplates a change in focus of institutional priorities from legal education's current model and to revisit the notion of what "practice ready" means.⁴⁶ It is important to not get caught up in defining professional identity formation, as it is susceptible to many definitions.⁴⁷ Instead, finding consensus on a conception of professional identity is enough to launch efforts to support students.⁴⁸ Billionis suggests settling on common themes that define the process of professional identity formation, including internalizing responsibility for developing the competencies needed to participate in the profession and internalizing responsibilities to others.⁴⁹

In many law schools, professional identity formation is not an intentional and explicit feature of curriculum and pedagogy.⁵⁰ Law schools must create clear educational objectives or learning outcomes for professional identity formation.⁵¹ At a minimum, a professional identity formation competency or learning outcome should incorporate a school's agreed upon definition of professional identity formation, which likely includes a sense of responsibility to others and development of all competencies needed to serve clients and the legal system.⁵²

Professional identity formation initiatives require collective consensus among a community of decision-makers.⁵³ A law school should get support from key stakeholders to prioritize professional identity formation.⁵⁴ Ideally, a law school would obtain consensus that the law school should purposefully support professional identity and commitment to support the school's obligation to do so but would recognize that not everyone in the law school will have to be personally involved

⁴⁶ *Id.* at 617; Julie M. Moss et al., *Professional Identity Development: A Grounded Theory of Transformational Tasks of Counselors*, 92 J. OF COUNSELING & DEVELOPMENT 3, 27 (2014).

⁴⁷ Billionis, *supra* note 45, at 617.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Floyd & Kerew, *supra* note 19, at 768.

⁵¹ Neil Hamilton, *Assessing Professionalism: Measuring Progress in the Formation of an Ethical Professional Identity*, 5 U. ST. THOMAS L. J. 470, 476 (2008) [hereinafter Hamilton, *Assessing Professionalism*].

⁵² Neil Hamilton, *Professional Identity/Professional Formation/Professionalism Learning Outcomes: What Can We Learn About Assessment from Medical Education*, 14 U. ST. THOMAS L.J. 357, 363 (2018) [hereinafter Hamilton, *Professional Identity*].

⁵³ Billionis, *Law School Leadership*, *supra* note 45, at 620.

⁵⁴ *Id.*

in the effort.⁵⁵

It can be helpful for law schools to understand professional formation activities already conducted by various law school departments.⁵⁶ For example, career services offices often coach students and assist them in self-assessment of skills and competencies and in exploration of interests.⁵⁷ Student affairs and academic support departments often coach and counsel students and assist them with skills, such as stress and time management.⁵⁸ Lawyering skills and externship programs commonly provide students with coaching, feedback, and exercises guiding them to reflect on their professional identity development during important law school milestones (such as a first graded memo, first oral argument, and first externship).⁵⁹ Significant growth in experiential education in legal education in recent years equates with a larger number of experiential faculty,⁶⁰ who are equipped to help students engage in self-reflection. Once a school understands professional identity formation efforts already in place, it can better leverage those efforts into a more purposeful program to support student professional identity formation.⁶¹

II. TRANSITIONS IN PROFESSIONAL IDENTITY FORMATION

Like students undertaking study in other professional fields, law students experience significant transitions during their studies.⁶² Transitions are “critically intense learnings” periods that coincide with major change.⁶³ A significant transition is an inner re-orientation and self-definition that students undergo as they develop a new understanding of professional life.⁶⁴ Transitions represent a time in which identity is renegotiated.⁶⁵ People in transitions re-examine themselves,

⁵⁵ *Id.*

⁵⁶ Billionis, *Professional Formation*, *supra* note 16, at 904-05.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ Hamilton, *Major Transitions*, *supra* note 1, at 162. These milestones or “transitions” are more fully explored in the following section.

⁶⁰ Organ, *supra* note 34, at 465.

⁶¹ Billionis, *Professional Formation*, *supra* note 16, at 905.

⁶² Hamilton, *Major Transitions*, *supra* note 1, at 150.

⁶³ Jocelyn Lockyer, et al., *Professional Identity Formation: The Practicing Physician, and Continuing Professional Development*, in *TEACHING MEDICAL PROFESSIONALISM*, *supra* note 2 at 186, 188.

⁶⁴ *Id.* (citing WILLIAM BRIDGES, *TRANSITIONS: MAKING SENSE OF LIFE'S CHANGES* xxii, 81, 105-175 (2d ed. 2004)).

⁶⁵ Madeleine Abrandt Dahlgren et al., *From University to Professional Practice: Students as Journeymen Between Cultures of Education and Work*, in STEPHEN BILLET ET AL., *INTERNATIONAL HANDBOOK OF RESEARCH IN PROFESSIONAL AND PRACTICE-BASED LEARNING* 476 (2014) [hereinafter *INTERNATIONAL HANDBOOK*].

often unconsciously.⁶⁶ While legal education lacks significant study and insight into major transitions on the path to becoming a lawyer, studies from other professions show how students move from the role of an observing outsider to a member of the professional community and the role transitions play in this process.⁶⁷ Specifically, students can emerge from transitions with an enhanced sense of meaning.⁶⁸

A. *Neil Hamilton's Study*

Legal scholar Neil Hamilton recently conducted a study of students at his law school to determine when these transitions occur.⁶⁹ His goal was to learn how students assess transitions during their first year and in the summer before their second year.⁷⁰ To emphasize the nature of the transitions Hamilton looked to measure, he asked students to rate the impact of different experiences on transitioning them to thinking and acting like a lawyer.⁷¹ The most impactful experience of the first year (including the summer that follows) was summer employment (paid or unpaid), with 89% of respondents rating its impact as “great,” “substantial,” or “moderate” (with 59% listing “great”).⁷² Hamilton observed that “summer employment experience after the 1L year is a singularly important authentic transition.”⁷³

This data and the consequential nature of the summer after 1L year reveals what many legal educators instinctually suspect: law students experience their most significant transitions outside of the traditional law school curriculum. Major transitions are thus part of the hidden curriculum—the unwritten, unofficial, unintended lessons that students acquire in law school.⁷⁴ This is notable because legal educa-

⁶⁶ Lockyer, et al., *supra* note 63, at 188.

⁶⁷ Hamilton, *Major Transitions*, *supra* note 1, at 141, 157-161.

⁶⁸ Sullivan, *supra* note 2, at xiv.

⁶⁹ Hamilton, *Major Transitions*, *supra* note 1, at 152-53.

⁷⁰ *Id.* at 153.

⁷¹ *Id.* (students could rate each experience as having no impact, some impact, moderate impact, substantial impact, and great impact).

⁷² *Id.*

⁷³ *Id.* at note 48. The other top transitions during the first year include completing a graded memo in lawyering skills/legal writing class, the fall semester final exam period, mentor relationships with members of the practicing bar (Hamilton's school has a formal program that pairs students with a mentor each year), the summer job search, and the first week of classes. *Id.* at 154, note 30.

⁷⁴ Floyd & Kerew, *supra* note 19, at 768 (referencing the concept of the hidden curriculum in law school articulated by Dean Roger Cramton, *The Ordinary Religion of the Law School Classroom*, 29 J. LEGAL EDUC. 247 (1978) (using the phrase “ordinary religion”). Professor Jerome Organ has called attention to the hidden curriculum of law schools, referring to unarticulated value assumptions communicated to students by example or by teaching methods, by what is not taught, and by the student culture of law schools. *See e.g.*, Jerome M. Organ, *Comments of Professor Jerome M. Organ to the ABA Task Force on the Future of Legal Education* (Feb. 9, 2013),

tion's curricular scope and sequence sends messages to students about what matters for lawyering.⁷⁵ And when important formative experiences happen outside of the supported curriculum, students have an incomplete perspective when making judgments about what matters.⁷⁶

B. Transitions as a Component of Professional Identity

The goal of professional education is to be a formative process that transforms students into emerging practitioners.⁷⁷ This is a process of socialization known as professional identity formation, through which students are exposed to the values and norms of the profession.⁷⁸ The fact that important milestones for law students exist outside of ordained curricula (such as summer employment) is not all that surprising. Even with growing concern about how well law schools succeed at inculcating professional values, the discussion has focused on what can be done under the umbrella of the traditional curriculum.⁷⁹ While faculty understand that learning is not confined to the classroom, law schools often ignore the reality that students learn both inside and outside of classroom settings.⁸⁰ That such valuable formative experiences remain hidden poses the danger that schools will miss opportunities to aid students in forming their professional identities.

Students form their professional identities by internalizing the profession's values and responsibility to others.⁸¹ This process occurs "most powerfully through participation in a community of practice," and through seeing the values and behaviors of other members of the profession.⁸² Reactions to real-world settings are a critical turning point, signaling a change in perspective from student to emerging professional.⁸³ What a student learns in a classroom or experiential course will have much more value when connected to a professional setting.⁸⁴ The separation of professional education from actual prac-

ministrative/professional_responsibility/taskforcecomments/febhearing2013_jerome_organ_comment.authcheckdam.pdf) (last accessed September 13, 2022).

⁷⁵ Moss et al., *supra* note 46, at 20 (counseling).

⁷⁶ *Id.*

⁷⁷ Colby & Sullivan, *supra* note 13, at 419.

⁷⁸ Billionis, *Bringing Purposefulness*, *supra* note 20, at 484.

⁷⁹ Hannah R. Arterian, *The Hidden Curriculum*, 40 U. TOL. L. REV. 279 (2009).

⁸⁰ *Id.* at 282 (every faculty member, whether they believe it to be so, provides instruction in professionalism through this hidden curriculum).

⁸¹ See *infra* section I.b.

⁸² Yvonne Steinert, *Educational Theory and Strategies to Support Professionalism & Professional Identity Formation*, in *TEACHING MEDICAL PROFESSIONALISM*, *supra* note 2, at 72.

⁸³ Colby & Sullivan, *supra* note 13, at 421.

⁸⁴ *Id.*

tice environments can lead to difficulties understanding professional roles.⁸⁵

Notably, at least part of the professional identity formation process is hidden from students as opposed to being an intentional and explicit feature of law school curricula and pedagogy.⁸⁶ Students have a powerful formative experience when they put skills into practice in real-world settings and accept responsibility for outcomes.⁸⁷ But even though students cannot help but be shaped by their experiences in professional training, educational strategies for ensuring professional growth have not been well-developed.⁸⁸ Factors and experiences that influence student professional identity formation, such as summer employment, fall outside of the traditional bounds of legal education.⁸⁹ Developing competence in practice is inseparable from the forming a sense of identity in commitment to the profession's standards.⁹⁰

Transitions and their relation to professional identity formation have been largely unexplored in the context of legal education.⁹¹ The same is not true of other professions. Medical educators have discovered that transformational learning most often happens in everyday workplace settings.⁹² Subsets of medicine have also investigated and acknowledged the link between transitions and professional identity formation.⁹³ In addition to medicine, other professions, including social work, teaching, music, and counseling acknowledged this relationship.⁹⁴ As Lou Billionis, a well-known scholar on professional identity

⁸⁵ Jim Hordern, *Productive Systems of Professional Formation*, in INTERNATIONAL HANDBOOK, *supra* note 65, at 165.

⁸⁶ Floyd & Kerew, *supra* note 19, at 768.

⁸⁷ Colby & Sullivan, *supra* note 13, at 421.

⁸⁸ *Id.* at 419.

⁸⁹ Billionis, *Bringing Purposefulness*, *supra* note 20, at 488.

⁹⁰ Sullivan, *supra* note 2, at xii.

⁹¹ Richard L. Cruess & Sylvia R. Cruess, *Professionalism and Professional Identity Formation: The Cognitive Base*, in TEACHING MEDICAL PROFESSIONALISM, *supra* note 2, at 8 (studies show that medical students, residents, and practitioners each have a distinct identity—marking the progress toward developing the professional identity of a physician); see generally Hamilton, *Major Transitions*, *supra* note 1, at 141; Judy Wiley & Mike Hayler eds., PROFESSIONAL LEARNING THROUGH TRANSITIONS AND TRANSFORMATIONS (2016) (addresses the impact of transitions on the process of becoming a teacher); Rebecca B. Rosenfeld, *The Examined Externship is Worth Doing: Critical Self-Reflection and Externship Pedagogy*, 21 CLINICAL L. REV. 127, 130 (2014).

⁹² Cruess & Cruess, *supra* note 91; at 8; Steinert, *supra* note 82, at 72.

⁹³ Christy Noble et al., *Becoming a Pharmacist: Students' Perceptions of Their Curricular Experience & Professional Identity Formation*, 6 CURRENTS IN PHARMACY TEACHING & LEARNING 327 (2014) (publishing results of study on pharmacy student perceptions of their professional identity development); see Janet Urbanowitz, *The Impact of an Intentional APRN Student Clinical Experience on Role Transition Towards Becoming a Clinical Independent Practitioner; Pilot Study*, 77 J. ADV. NURS. 2050 (2021) (publishing results of a study on self-reported transitions in professional identity of nurses).

⁹⁴ See generally, Bernadette Moorhead, *Transition & Adjustment to Professional Iden-*

formation, observed, “[l]egal education has work to do here.”⁹⁵ Legal educators must identify important transitions for law students and discern how they relate to the development of students’ professional competencies.⁹⁶ Hamilton’s work is a first step in this direction. His data supports what many have long suspected—that the summer after a law student’s first year is a critical point.

Transitions are most consequential when they are consciously reflected on, struggled with, and result in changes to a student’s sense of self.⁹⁷ Like other professions, the process of becoming an effective, ethical, and fulfilled lawyer is complex and must be intentional.⁹⁸ Formative educational experiences, especially those that occur during the hidden experiences outside the formal curriculum, must help students become self-reflective and self-directed in their learning and development.⁹⁹ If schools fail to provide context or support for these transitions, students may receive messages that they do not matter.¹⁰⁰

The work of Lawrence Krieger and Kennon Sheldon found that student well-being suffers in an environment focused on extrinsic rewards such as ranking and credentials.¹⁰¹ Acknowledging this, Hamilton recommends that professional identity formation efforts carefully consider the impact on student well-being.¹⁰² Supporting students in professional identity development can also help them manage stress. Transitions present great opportunity but also anxiety for students.¹⁰³ This makes transitions crucial times to foster student support and growth.¹⁰⁴ Schools should be transparent about how transitions help

tity as a Newly Qualified Social Worker, 72 AUSTRALIAN SOC. WORK, 206 (2019) (social work); TEACHING MEDICAL PROFESSIONALISM, *supra* note 2 (medical profession); Angeliki Triantafyllaki, *The Role of “Creative Transfer” in Professional Transitions*, 15 ARTS & HUMANITIES IN HIGHER EDUC. 401 (2016) (music teachers); Noble, *supra* note 46 (pharmacy); Moss, *supra* note 46 (counseling).

⁹⁵ Bilonis, *Bringing Purposefulness*, *supra* note 20, at 485.

⁹⁶ *Id.*

⁹⁷ King Beach, *Consequential transitions: A sociocultural expedition beyond transfer in education*, REV. OF RESEARCH IN EDUC., 24, 101-139 (1999).

⁹⁸ Floyd & Kerew, *supra* note 19, at 768.

⁹⁹ Roy Stuckey, *Teaching with Purpose: Defining and Achieving Desired Outcomes in Clinical Law Courses*, 13 CLINICAL L. REV. 807, 831 (2007).

¹⁰⁰ Hamilton, *Major Transitions*, *supra* note 1, at 163.

¹⁰¹ Lawrence Krieger & Kennon Sheldon, *What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. note 484, 566-69 (2015).

¹⁰² Hamilton, *Formation-of-an-Ethical-Professional-Identity (Professionalism) Learning Outcomes and E-Portfolio Formative Assessments*, 48 U. PAC. L. REV. 847, 857-58 (2017) [hereinafter Hamilton, *Formation*].

¹⁰³ Hamilton, *Major Transitions*, *supra* note 1, at 13; Sternzus, *supra* note 28, at 32; *see also* INTERNATIONAL HANDBOOK, *supra* note 65, at 520 (describing transition shock and its effects).

¹⁰⁴ Hamilton, *Major Transitions*, *supra* note 1, at 152.

students grow and help ease the stress and anxiety that accompany this growth.¹⁰⁵

C. *Opportunities for Legal Education in Student Transitions*

As law schools expand efforts to recognize and support professional identity formation, transitions for law students, especially the summer after 1L year, present opportunities to further guide students.¹⁰⁶ Professional identity formation is marked by a series of identity transformations that primarily occur during transitions.¹⁰⁷ Professional formation is most effective when students take on responsibilities inherent to the profession.¹⁰⁸ Periods of transitions, particularly those in which students are in the settings they will experience as lawyers, are thus focal points for legal education to support students in professional identity formation.¹⁰⁹ A goal of professional identity formation is to give students the attitudes, behaviors, and competencies needed to handle these challenging real-world situations.¹¹⁰

If professional identity derives from several transformations that often occur during periods of transition, and law student transitions often occur outside of the curriculum,¹¹¹ then law schools are missing opportunities to aid students in their professional identity development. Students are often not aware of the transformation of their identities throughout the process of professional identity formation.¹¹² Without professional identity formation training and support during transitions, students may be left to fill in the blanks with negative behaviors when inevitably confronted with situations that require judgment, maturity, self-awareness, and self-control.¹¹³ Law schools could and should be doing more to curate these transitional experiences.¹¹⁴

This starts with rethinking the time frames and experiences that encompass a student's legal education. Experiences that play heavily into professional identity formation, such as summer employment, take place during students' time in law school but not in a way the school customarily considers its responsibility to oversee.¹¹⁵ While a

¹⁰⁵ *Id.* at 160-61.

¹⁰⁶ *Id.* at 162.

¹⁰⁷ Sternzus, *supra* note 28, at 26-27, 31.

¹⁰⁸ Sullivan, *supra* note 2, at 335.

¹⁰⁹ Wald, *supra* note 62, at 692-93; Bilonis, *Bringing Purposefulness*, *supra* note 20, at 484-85.

¹¹⁰ Daicoff, *supra* note 30, at 833-35.

¹¹¹ Sternzus, *supra* note 28, at 31.

¹¹² Floyd & Kerew, *supra* note 19, at 767.

¹¹³ Daicoff, *supra* note 30, at 833-35.

¹¹⁴ Bilonis, *Bringing Purposefulness*, *supra* note 20, at 492.

¹¹⁵ *Id.*

traditional view of legal education would start with the beginning of law school and then end at graduation, with summers viewed as breaks, it is now recognized that legal education starts with recruitment and admissions and extends to passing the bar examination and securing a job.¹¹⁶ Summers are not breaks but are designated for pursuing experiences (that schools promote and facilitate) because they are central to professional development.¹¹⁷ Student participation in these authentic professional experiences and support of those experiences maximizes professional identity development.¹¹⁸

Recognizing that professional identity formation requires growth over time, the ABA's proposed revision to Standard 303 calls for course, co-curricular, and professional development activities during each year of law school.¹¹⁹ If law schools must seek out opportune times to implement such measures, it makes sense to focus in on the major transitions during which students undergo intense change.¹²⁰ The major transition that takes place when students first engage in legal work the summer after their 1L year is an especially important opportunity for law schools. Student learning from those experiences can be enhanced with educational support before, during, and after their practice-based experiences.¹²¹ As legal education recognizes the learning and development that students experience during transitions, institutions have an opportunity to emphasize the value of these experiences and support them.

III. EXTERNSHIPS: A PEDAGOGY FOR TRANSITIONS AND PROFESSIONAL IDENTITY FORMATION

As legal education rises to meet the challenge of incorporating professional identity formation under revised ABA standards, schools would be wise to implement best practices. There are four principles that should inform any program focused on professional identity: 1)

¹¹⁶ *Id.* at 490.

¹¹⁷ *Id.*

¹¹⁸ Thomas A. Hutchinson & Mark Smilovitch, *Experiential Learning and Reflection to Support Professionalism & Professional Identity Formation*, in *TEACHING MEDICAL PROFESSIONALISM*, *supra* note 2, at 97.

¹¹⁹ The Standards Committee, *Memorandum: Final Recommendations: Standards 205, 303, 507, and 508*, ABA SECTION ON LEGAL EDUCATION AND ADMISSION TO THE BAR (August 16, 2021), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/aug21/21-aug-final-std-recs-with-appendix.pdf (last accessed September 13, 2022) [hereinafter *Standards Committee Memo*]; *see also* Organ, *supra* note 34, at 25 (explaining that curricular and co-curricular measures are vital to gain momentum.)

¹²⁰ *See supra* section II.a.-b.

¹²¹ Stephen Billett & Sarojni Choy, *Integrating Professional Learning Experiences Across University & Practice Settings*, in *INTERNATIONAL HANDBOOK*, *supra* note 65, at 507.

identity formation is a process that occurs in all learners; 2) identity is formed in the context of a student's existing individual identity; 3) formation results from socialization into a professional community of practice; and 4) identity is a series of transformations that occur primarily during periods of transitions.¹²² Any professional identity formation efforts must acknowledge that students are at different developmental stages and should engage each at their present stage.¹²³ Also key is helping students understand how their new knowledge and skills build upon prior knowledge and how professional identity formation efforts will help them achieve their goals.¹²⁴ Multiple opportunities for self-reflection and feedback that allow students to understand where they are in the professional identity formation process are additional key considerations.¹²⁵

Such efforts also require buy-in from faculty.¹²⁶ Faculty involvement is prevalent in the other domains of legal education, but less so in the socialization process of professional identity formation.¹²⁷ Thus, transitions provide an opportunity for faculty and staff engagement with students outside the traditional realm of legal education.

A. *Supporting Professional Identity Formation During Transitions*

Fortunately, legal education is already equipped with tools adaptable to support student transitions. Experiential learning and reflection (a hallmark of experiential learning) are educational methods most relevant to professional identity formation.¹²⁸ Experiential education—courses in which a student's primary learning comes from working in the role of a lawyer¹²⁹—may be uniquely helpful for helping students focus on professional identity development during transitional experiences. The best practices of experiential education “already feature ingredients fundamental to a program of purposeful

¹²² Sternzus, *supra* note 28, at 31.

¹²³ Hamilton, *Formation*, *supra* note 102, at 856. Hamilton used four perspectives on curricular design to foster student development toward a learning outcome of professional development toward all competencies needed to serve clients. These “include a synthesis of five Carnegie Foundation for the Advancement of Teaching Studies of higher education for the professions; a synthesis of empirical studies on effective curriculum coming out of the research on the Four Component Model in moral psychology; a synthesis of principles from HOW LEARNING WORKS: SEVEN RESEARCH-BASED PRINCIPLES FOR SMART TEACHING; and a synthesis of what medical education has learned about the most effective professional-formation curriculum.” *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*; Floyd, *Moral Vision*, *supra* note 7, at 348.

¹²⁶ Sullivan, *supra* note 2, at 335.

¹²⁷ Billionis, *Bringing Purposefulness*, *supra* note 20, at 488.

¹²⁸ Cruess & Cruess, *supra* note 10, at 3.

¹²⁹ Floyd & Kerew, *supra* note 19, at 770.

support for professional identity formation.”¹³⁰ Students begin to understand the professional role of a lawyer and their emerging identities in that role as they participate in hands-on experiences and reflect on them.¹³¹

A number of learning objectives can be achieved effectively through experiential education, including helping students adjust to their roles as professionals, develop interpersonal and professional skills, and acquire self-directed learning skills through experience.¹³² There is a common misconception that experiential education in law school is primarily a vehicle instructing only lawyering skills (*Carnegie’s* second apprenticeship).¹³³ But externship and clinical courses in particular foster both the second and third apprenticeship, as students encounter real-world problems, incorporate professional knowledge, skills, and values, and internalize the role of an attorney.¹³⁴ Clinics and externships are mechanisms through which modern legal education has developed students’ self-reflection.¹³⁵

In addition to offering students an opportunity to build skills, these experiences also provide the opportunity for students to reflect on personal and professional values, guiding them toward becoming thoughtful practitioners.¹³⁶ Through experiential learning, students create new understanding of the practice community they seek to join, taking on increasing responsibility.¹³⁷ This type of learning puts students into the role of lawyer where they can integrate doctrine, theory, skills, and legal ethics, engage in professional skill development, and have multiple opportunities for performance and self-evaluation.¹³⁸

It is in these experiential education roles that students examine their progress in developing the professional identity of a lawyer.¹³⁹ Reflecting on the challenges of professional identity formation, David Thomson observed that clinical and externship faculty work more intentionally on this concept than other law school faculty.¹⁴⁰ Similarly,

¹³⁰ Billionis, *Law School Leadership*, *supra* note 45, at 626.

¹³¹ Floyd, *Moral Vision*, *supra* note 7, at 349.

¹³² ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP* 168-73 (2007) [hereinafter *BEST PRACTICES*].

¹³³ *Id.* at 820.

¹³⁴ *BUILDING ON BEST PRACTICES: TRANSFORMING LEGAL EDUCATION IN A CHANGING WORLD* 62-63 (Deborah Maranville et al. eds., 2015) [hereinafter *BUILDING ON BEST PRACTICES*].

¹³⁵ Madison & Gantt, *supra* note 8, at 394.

¹³⁶ Stuckey, *supra* note 99, at 820-21.

¹³⁷ Steinert, *supra* note 82, at 72.

¹³⁸ Floyd & Kerew, *supra* note 19, at 770.

¹³⁹ *Id.* at 769-70.

¹⁴⁰ Thomson, *supra* note 7, at FN 101.

Bilionis found that not only do experiential courses include educational objectives aligned with professional identity formation, but clinical, practical skills, and externship instructors have already been engaged in a pedagogy of individual student coaching, feedback, and reflection.¹⁴¹ Pedagogy and assessment strategies from experiential courses represent intentional learning, including educational practices that help students become self-directed and self-conscious about their own learning.¹⁴² This framework enables students to become aware of what they are doing as they learn by making goals explicit, coaching students toward these goals, and offering formative assessments linked to them.¹⁴³ Experiential education is thus essential for developing professional identity¹⁴⁴ and can serve as a support framework during key transitions such as the summer after 1L year.

*B. Externship Pedagogy: A Model for Professional Identity
Formation During Transitions Associated with Real-World
Work*

Externships closely mirror the world of legal practice¹⁴⁵ and encompass the type of real-world work that students find impactful in their professional identity formation. Acclimating students into real legal practice “is a defining characteristic of externships. . .”¹⁴⁶ Externships thus present a way to focus on developing professional identities and the process of transformation as they progress through their legal education.¹⁴⁷ Externship pedagogy is well-suited to supporting the professional identity formation that takes place during transitions associated with real lawyering work.¹⁴⁸ This article focuses on externship pedagogy as a particularly effective way to support professional identity formation for students during the summer after their first year, while acknowledging the important role that other experiential courses and programs will play in meeting Standard 303. In particular,

¹⁴¹ Bilionis, *Law School Leadership*, *supra* note 45, at 625-26.

¹⁴² Stuckey, *supra* note 99, at 823.

¹⁴³ *Id.*

¹⁴⁴ *Id.* at 807; *see also* Susan L. Brooks, *Fostering Wholehearted Lawyers: Practical Guidance for Supporting Law Students’ Professional Identity Formation*, 14 U. ST. THOMAS L.J. 412, 420-21 (2018); Susan L. Brooks, *Meeting the Professional Identity Challenge in Legal Education Through a Relationship-Centered Experiential Curriculum*, 41 U. BALT. L. REV. 395 (2012) [hereinafter Brooks, *Meeting Professional Identity Challenge*].

¹⁴⁵ Rosenfeld, *supra* note 91, at 133.

¹⁴⁶ Anahid Gharakhanian et al., *Achieving Externship Success: An Empirical Study of the All-Important Law School Externship Experience*, 45 S. ILL. UNIV. L.J. 165, 171 (2021).

¹⁴⁷ Floyd & Kerew, *supra* note 19, at 770.

¹⁴⁸ *See* Kelly S. Terry, *Externships: A Signature Pedagogy For The Apprenticeship of Professional Identity and Purpose*, 59 J. LEGAL EDUC. 240, 243 (2009) (referring to externships as a “signature pedagogy” for professional identity formation).

clinical and externship pedagogy overlap on methods aimed to build professional identity. This author suspects that a study of important transitions after 1L year would establish clinical experience as very impactful on professional identity formation.

In externships, students observe the realities of legal practice, perform legal skills under supervision, and see firsthand the challenges lawyers face.¹⁴⁹ During this process, students reflect on the values of attorneys and witness behavior to measure their own sense of fairness and justice.¹⁵⁰ The goal of an externship is to use this experience to enhance knowledge of one's professional identity.¹⁵¹ Experience alone does not lead to improvement—it only occurs if one reflects and then uses that reflection to improve performance in the future.¹⁵² The sequence of learning from experience comes from completing the experience, reflecting on it, placing the experience in context, and then applying what was learned to future situations.¹⁵³ Students form their own professional identities as a result of this process.¹⁵⁴

Externships provide especially effective opportunities for students to engage in self-directed learning and broaden perspectives on legal systems, including reflecting on professional identities and values.¹⁵⁵ Through externships, students re-examine their own beliefs and can re-structure them in light of these new experiences.¹⁵⁶ Students adjust to a set of professional norms and revise their preexisting expectations. These newly formed norms can be integrated in future experiences and employment.¹⁵⁷

Common externship pedagogical tools align with strategies for professional identity formation. For example, Madison and Gantt recommend journaling and reflective writing, as well as increased awareness of emotions, motivations, and values.¹⁵⁸ Reflective journaling is common in externships.¹⁵⁹ Professional identity formation support

¹⁴⁹ *Id.*

¹⁵⁰ Stacy Caplow, *From Courtroom to Classroom: Creating an Academic Component to Enhance the Skills and Values Learned in a Student Judicial Clerkship Clinic*, 75 NEB. L. REV. 872, 885 (1996).

¹⁵¹ Terry, *supra* note 148, at 243.

¹⁵² Floyd & Kerew, *supra* note 19, at 771.

¹⁵³ BEST PRACTICES, *supra* note 132, at 166.

¹⁵⁴ Terry, *supra* note 148, at 253.

¹⁵⁵ *Id.* at 264; Robert F. Seibel & Linda H. Morton, *Field Placement Programs: Practices, Problems and Possibilities*, 2 CLINICAL L. REV. 413, 415 (1996).

¹⁵⁶ Seibel & Morton, *supra* note 155, at 419.

¹⁵⁷ Caplow, *supra* note 150, at 884.

¹⁵⁸ Madison & Gantt *supra* note 8, at 383-84, 398-402.

¹⁵⁹ Floyd & Kerew, *supra* note 19, at 778; Barbara A. Blanco & Sande L. Buhai, *Externship Field Supervision: Effective Techniques for Training Supervisors and Students*, 10 CLINICAL L. REV. 611, 645 (2004); Caplow, *supra* note 150, at 896; J.P. Ogilvy, *The Use of*

emphasizes the narrative of student experiences and increasing self-awareness,¹⁶⁰ which many externship programs do through rounds or similar sharing experiences that allow students to receive assistance contextualizing their experiences from their peers.¹⁶¹ The overlap between externship and professional identity pedagogy is further explored in the next section.

The supervision and teaching model employed by externship faculty can also aid in professional identity formation. Externship faculty enjoy a privileged relationship with students because the goal of their relationship is education and development.¹⁶² They focus solely on students and have allegiance to their educational and professional growth.¹⁶³ Externship faculty (along with a student extern's supervising attorney) can assist students in developing moral sensitivity by helping them reflect on how their choices impact clients and others.¹⁶⁴ The externship teacher fits into the picture as a "maker of meaning" who helps students develop a sense of where they come from and how to proceed.¹⁶⁵ The approaches taken by externship faculty (and experiential faculty generally) could be applied to the context of transitions.

Externship pedagogy is not, however, without challenges. The separation of teaching the externship seminar and on-site supervision creates obstacles to student learning.¹⁶⁶ Students do not always value the classroom component of externships.¹⁶⁷ To overcome resistance and create an experience students value, classroom work must add value to the student's fieldwork experiences and students should have a clear understanding of why schools require it.¹⁶⁸ To utilize externship pedagogy for professional identity formation and student support during transitions, law schools must first address the challenges such resistance presents.¹⁶⁹ Student resistance is due in part to lack of familiarity with the concept of professional identity, which is often not a core principle of other law school classes.¹⁷⁰ Unlike most law school

Journals in Legal Education: A Tool For Reflection, 3 CLINICAL L. REV. note 55 (1996).

¹⁶⁰ Floyd, *Moral Vision*, *supra* note 7, at 348.

¹⁶¹ *Id.*

¹⁶² Laurie Barron, *Learning How to Learn: Carnegie's Third Apprenticeship*, 18 CLINICAL L. REV. 101, 113 (2011).

¹⁶³ *Id.* at 114.

¹⁶⁴ Madison & Gantt, *supra* note 8, at 390.

¹⁶⁵ Rosenfeld, *supra* note 91, at 130-31.

¹⁶⁶ Elizabeth G. Ford, *Toward a Clinical Pedagogy of Externship*, 22 CLINICAL L. REV. 113, 121 (2015).

¹⁶⁷ *Id.* at 122; Caplow, *supra* note 150, at 889.

¹⁶⁸ Rosenfeld, *supra* note 91, at 129.

¹⁶⁹ Floyd & Kerew, *supra* note 19, at 772.

¹⁷⁰ *Id.*

classes, which emphasize analysis required to think like a lawyer, a class focused on professional identity development requires self-evaluation—an unfamiliar personal and subjective process.¹⁷¹ Section IV.C. below will more specifically address student resistance.

C. Externship Pedagogical Tools to Support Professional Identity Formation

A critical first step to professional identity formation in the context of externships is to explain why it is important and how it relates to their real-world experience.¹⁷² This should include explaining that this process is personal and involves self-exploration, which differentiates it from other law school courses and programs.¹⁷³ It can be helpful to link professional identity formation with research and data on skills necessary for a successful career in the law—this can help students connect the sometimes abstract concept of professional identity formation to real-world skills.¹⁷⁴ It is also important to define professional identity (and acknowledge that it encompasses varying definitions) and provide language to frame the concept and goal of fostering exploration of values in the context of legal practice.¹⁷⁵

1. Orientation/Training

Externship programs often train students on skills and strategies to prepare them for their first real-world legal experience.¹⁷⁶ Such training or orientation focuses on giving students practical tools to assist in overcoming their initial anxiety over the fieldwork experience.¹⁷⁷ Common topics covered include open communication with field supervisors, learning how to seek assignment clarification, and the role of reflection and self-assessment in legal problem solving.¹⁷⁸ Additional training topics can include ethical responsibilities, confidentiality, and the professional values that students will explore in their externships.¹⁷⁹ In legal workplaces, students commonly receive assignments yet remain confused about what is expected of them.¹⁸⁰ Often afraid to ask questions, many students just give assignments

¹⁷¹ *Id.*

¹⁷² *Id.* at 772-73.

¹⁷³ *Id.* at 772.

¹⁷⁴ *Id.* at 773.

¹⁷⁵ *Id.* (e.g., making clear that professional identity formation is not interchangeable with professionalism.)

¹⁷⁶ Blanco & Buhai, *supra* note 159, at 635-36; Terry, *supra* note 148, at 254.

¹⁷⁷ Blanco & Buhai, *supra* note 159, at 635-36.

¹⁷⁸ *Id.*

¹⁷⁹ Terry, *supra* note 148, at 254.

¹⁸⁰ Blanco & Buhai, *supra* note 159, at 636.

their “best shot,” but with training and encouragement, they can instead learn to elicit clarification.¹⁸¹ Training can help students to move beyond the fear of being wrong and understanding that the root of legal practice is creative thinking and uncertainty.¹⁸² Similar orientation or training could benefit students before beginning any real-world legal experience, in particular the summer after 1L year. Helping students understand workplace expectations and how to proactively seek clarity on assignments may help to ease the stress associated with transitions in the real world.

2. *Assessing Strengths & Weaknesses*

Part of the process of acquiring legal skills in an externship requires a student to assess their own strengths and weaknesses.¹⁸³ Externship programs require students to set their own goals and craft their own plan of action for their externship experience.¹⁸⁴ Before this can occur, students must honestly assess their own skill sets.¹⁸⁵ Having students participate in a baseline assessment of their skills helps them value the goal-setting process.¹⁸⁶

One approach is to provide students with data about the skills and competencies identified as important for lawyers.¹⁸⁷ Allowing students to evaluate their current strengths and weaknesses against skills identified through empirical research can be especially effective.¹⁸⁸ Sources for this data could include the Shultz-Zedeck Lawyering Effectiveness Factors,¹⁸⁹ *Foundations for Practice*,¹⁹⁰ and Hamilton’s research.¹⁹¹ After engaging with research on skills needed for lawyering, students can see how few of the identified skills are actually taught in

¹⁸¹ *Id.* at 636, 638-40 (e.g., students can ask questions about how long to spend on an assignment, when and how they will meet with their supervisor to discuss the assignment, suggestions on where to start research, and for examples of the assignment type to use as a template).

¹⁸² *Id.* at 636.

¹⁸³ *Id.* at 648; Barron, *supra* note 162, at 115.

¹⁸⁴ Barron, *supra* note 162, at 115.

¹⁸⁵ *Id.*; Ford, *supra* note 166, at 141.

¹⁸⁶ Ford, *supra* note 166, at 135.

¹⁸⁷ Floyd & Kerew, *supra* note 19, at 773; Blanco & Buhai, *supra* note 159, at 647-48.

¹⁸⁸ Floyd & Kerew, *supra* note 19, at 773.

¹⁸⁹ Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admission Decisions*, 36 *LAW. & SOC. INQUIRY* 620 (Summer 2011).

¹⁹⁰ ALLI GERKMAN & LOGAN CORNETT, FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., 1 (2016), https://iaals.du.edu/sites/default/files/documents/publications/foundations_for_practice_whole_lawyer_character_quotient.pdf (last accessed September 13, 2022).

¹⁹¹ NEIL W. HAMILTON, ROADMAP: THE LAW STUDENT’S GUIDE TO MEANINGFUL EMPLOYMENT, 134 (2d ed. 2018) [hereinafter HAMILTON, ROADMAP].

law school.¹⁹²

Another method is to ask students to rate their proficiency in different skills.¹⁹³ The skills selected can be tailored to the externship setting or more general. Some examples include decision-making, problem solving, legal analysis, research, written communication, oral communication, client counseling, and negotiation.¹⁹⁴ This tool allows students to obtain a baseline assessment of their skills, which they can use to set goals and help measure progress.¹⁹⁵

3. *Goal Setting*

Rigorous and specific goal setting correlates with higher levels of performance.¹⁹⁶ Challenging goals result in higher motivation because they require more in order to be satisfied.¹⁹⁷ In workplaces, feelings of success derive from pursuing and attaining important and meaningful goals.¹⁹⁸ Accordingly, externship curricula aid students in the process of identifying and accomplishing goals.¹⁹⁹ Externship pedagogy includes teaching goal-setting and assisting students in setting goals for their externship experience.²⁰⁰ Often nowhere else in the law school curriculum are students explicitly introduced to goal-setting as a skill.²⁰¹ Students take ownership of their externship experience and set their learning agenda when they identify goals that they revisit throughout their experience and evaluate their progress in achieving those goals.²⁰²

Goal-setting is an important part of intentional learning, which is integral to the pedagogy of experiential learning.²⁰³ Intentional learning practices help students to become self-conscious and self-directed in their learning.²⁰⁴ Faculty assist in this process by coaching students toward these goals and creating protocols for self-reflection and self-evaluation to help students better understand what they are learning from an experience.²⁰⁵ Self-reflection and self-assessment, both used

¹⁹² Floyd & Kerew, *supra* note 19, at 780-82.

¹⁹³ Ford, *supra* note 166, at 135.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.* at 138, 142.

¹⁹⁶ Edwin A. Locke & Gary P. Latham, *New Directions in Goal Setting Theory*, 15 CURRENT DIRECTIONS IN PSYCHOLOGICAL SCIENCE, 265-268 (2006).

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ Blanco & Buhai, *supra* note 159, at 642; Barron, *supra* note 162, at 107.

²⁰⁰ Terry, *supra* note 148, at 264; Mary J. Eyster, *Designing and Teaching the Large Externship Clinic*, 5 CLINICAL L. REV. 347, 356-57 (1999); Ford, *supra* note 166, at 139-40.

²⁰¹ Ford, *supra* note 166, at 140.

²⁰² Ogilvy, *supra* note 159, at 69.

²⁰³ BEST PRACTICES, *supra* note 132, at 823.

²⁰⁴ *Id.*

²⁰⁵ *Id.*

in the goal-setting and monitoring process, are hallmarks of active learning.²⁰⁶

There are several common techniques for setting externship goals. One is the backwards resume, whereby students reflect on the skills they would like to add to their resume during their externship.²⁰⁷ Personality assessments, journaling, and other self-reflection tools also guide students in identifying goals.²⁰⁸ In articulating specific goals, externship students identify the types of experiences that would be helpful in achieving goals.²⁰⁹ Common externship student goals include acquiring or further honing specific lawyering skills, developing substantive knowledge in areas of law, exploring practice areas or types of legal work, and contributing to social justice.²¹⁰

Externship programs often encourage students to share their goals with their externship supervisors.²¹¹ This allows supervisors to give students feedback on their goals, which can help the student revise goals as needed to best align with the anticipated learning experience at the externship placement.²¹² Sharing goals also helps the student create a “learning alliance” with their supervisor.²¹³ Students can return to their supervisors to discuss progress during their externship and to make adjustments if they are not on track to meet their goals.²¹⁴ Externship pedagogy commonly incorporates reevaluating goals throughout the externship experience, reflecting on what has been accomplished.²¹⁵ The practice of setting and revising goals and reflecting on the measure of accomplishment guides the externship student through a self-reflective process.²¹⁶

4. Reflection

Reflection is key to professional identity formation in all professions.²¹⁷ Encouraging law students to reflect on issues of meaning, identity, and purpose are an important component of their profes-

²⁰⁶ Blanco & Buhai, *supra* note 159, at 643.

²⁰⁷ Floyd & Kerew, *supra* note 19, at 779, 789-90.

²⁰⁸ Blanco & Buhai, *supra* note 159, at 642.

²⁰⁹ Terry, *supra* note 148, at 264.

²¹⁰ Eyster, *supra* note 200, at 356-58 (1999).

²¹¹ Blanco & Buhai, *supra* note 159, at 647.

²¹² *Id.*

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ Barron, *supra* note 162, at 115; Blanco & Buhai, *supra* note 159, at 642; Ogilvy, *supra* note 159, at 69.

²¹⁶ Blanco & Buhai, *supra* note 159, at 642.

²¹⁷ Floyd, *Moral Vision*, *supra* note 7, at 349-50; Susan Bryant & Elliott S. Milstein, *Rounds: A “Signature Pedagogy” For Clinical Education?*, 14 CLINICAL L. REV. 195, 213 (2007).

sional identity formation journey.²¹⁸ Such reflection is undervalued in law schools.²¹⁹ An externship program is often one of the few law school experiences that prompts students to reflect on their work in the real world.²²⁰ Reflection in the externship context triggers students to assess the role of a lawyer as they experience it in their externship and reflect on the performance, both their own and others, of the skills associated with that role.²²¹ Reflection and self-evaluation are thus critical components of the self-directed learning that occurs as part of an experiential education experience like an externship.²²²

Reflection attempts to identify the significance and meaning of a given experience.²²³ Like externship students, who often perceive that their “real” learning is taking place on-site at their externship,²²⁴ students undergoing transitions stemming from real work experiences may place the most value on the experience itself. But students reap the most benefit from the self-directed learning that comes from reflection and allows a student to later apply what they learned to a future experience.²²⁵ Student externs can use reflection to measure skill improvement and to consider how their real-world experiences shape their perceptions of themselves and the legal profession.²²⁶ If we allow students to have these experiences without observation and reflection, optimal learning and professional identity development do not occur.²²⁷ Without reflection, they have learned but in a less meaningful degree.²²⁸

As students encounter new experiences, they need time to reflect to give meaning to these activities. Reflection is a habit that can be learned as teachers guide students to practice it.²²⁹ The most important learning occurs when teachers have students reflect on the learning process itself.²³⁰ The process of reflection helps students improve performance or, where things went well, repeat successful behaviors.²³¹ Reflection should also explore the student’s preparation for

²¹⁸ Floyd, *Moral Vision*, *supra* note 7, at 350.

²¹⁹ *Id.* at 349.

²²⁰ Rosenfeld, *supra* note 91, at 137; Eyster, *supra* note 200, at 359-60.

²²¹ Rosenfeld, *supra* note 91, at 137-38.

²²² BEST PRACTICES, *supra* note 132, at 824.

²²³ Rosenfeld, *supra* note 91, at 129.

²²⁴ Caplow, *supra* note 150, at 889-90.

²²⁵ *Id.*

²²⁶ Blanco & Buhai, *supra* note 159, at 643.

²²⁷ Stuckey, *supra* note 99, at 813 (describing optimal learning as a cycle including reflection).

²²⁸ *Id.*

²²⁹ Rosenfeld, *supra* note 91, at 137.

²³⁰ L. DEE FINK, *CREATING SIGNIFICANT LEARNING EXPERIENCES, REVISED AND UPDATED* 122 (Jossey-Bass 2013).

²³¹ Floyd & Kerew, *supra* note 19, at 771.

the experience.²³² Students can also reflect on their interactions with others and the personal beliefs that played a part of their decision-making process.²³³ Students think about what is happening and why in order to reflect on the professional norms and practices to which they are being exposed.²³⁴ Through their own consideration of their performance, students generate the most profound self-assessment and identify ways to improve.²³⁵ The best practitioners in many professions develop their skills through continual reflection about uncertainties, complexity, and value conflicts that confront them in practice.²³⁶ The reflective skills acquired through real-world experiences should be transferable so that students can apply this concept to new settings.²³⁷

5. *Journaling*

Reflective journaling is a helpful tool for developing the self-awareness required for proper professional identity formation.²³⁸ Journaling exercises are widely used in externship programs.²³⁹ Journals can provide support for many aspects of a student's externship experience, including strengths and weaknesses, goals, relationships with supervisors, assignments and associated challenges, and reactions to observations from the legal workplace.²⁴⁰ Journaling encourages students to interact deeply and critically with what they are learning.²⁴¹ The journaling process fosters self-awareness, enabling students to discover and test their own voices.²⁴²

Journaling provides a tool for self-assessment and encourages students to take responsibility for their actions.²⁴³ Goals of journaling include helping students learn the value of reflection, assisting in more conscious self-reflection, and encouraging students to change their actions as a result of the reflection.²⁴⁴ Externship faculty often see stu-

²³² Rosenfeld, *supra* note 91, at 157.

²³³ Blanco & Buhai, *supra* note 159, at 643.

²³⁴ Eyster, *supra* note 200, at 359-60.

²³⁵ Barron, *supra* note 162, at 120.

²³⁶ Ogilvy, *supra* note 159, at 75.

²³⁷ Rosenfeld, *supra* note 91, at 138.

²³⁸ BUILDING ON BEST PRACTICES, *supra* note 134, at 263.

²³⁹ Blanco & Buhai, *supra* note 159, at 644; Harriet N. Katz, *Personal Journals in Law School Externship Programs: Improving Pedagogy*, 1 T.M. COOLEY J. PRAC. & CLINICAL L. 7, 13 (1997).

²⁴⁰ James H. Backman, *Practical Examples for Establishing an Externship Program Available to Every Student*, 14 CLINICAL L. REV. 1, 17-18 (2007) [hereinafter Backman, *Practical Examples*]; Blanco & Buhai, *supra* note 159, at 644-45.

²⁴¹ Ogilvy, *supra* note 159, at 64.

²⁴² *Id.* at 80.

²⁴³ Ogilvy, *supra* note 159, at 60; Caplow, *supra* note 150, at 896.

²⁴⁴ Ogilvy, *supra* note 159, at 81.

dent journals evolve from being self-centric to more affective, detailed, and introspective.²⁴⁵ As students journal to reflect on their experiences, they document their progress and personal growth.²⁴⁶ Journals also provide opportunities for students to reflect on the different roles they are asked to assume in law school and in their externships.²⁴⁷ The hope is that students will internalize this process and carry it forward into their professional lives.²⁴⁸

Journaling can be unstructured or include specific prompts.²⁴⁹ Students can simply write about what comes to mind with respect to their externships. Minimal structure could ask students what they are thinking and feeling, not just what they are doing.²⁵⁰ Journal entries can prompt students to describe meetings with supervisors, the nature and variety of externship assignments and their response to them, the difficulties and successes encountered, feedback received, and their response to that feedback.²⁵¹ Whether journals are prompted, it is important for students to understand the goals and benefits of journal assignments.²⁵²

Although the time required for faculty to read and respond to journal entries is a drawback, this feedback is critical to the success of journal assignments.²⁵³ Instructor response to journals provides a critical opportunity to check the accuracy of student self-assessments and to determine whether students are acquiring the skill of self-reflection.²⁵⁴ The type and amount of feedback may vary depending on the goals for journaling.²⁵⁵

6. *Dual Supervision and Support*

Externship programs' dual supervision model is unique in legal education. The relationship between students and their field placement supervisors is critical to students achieving their goals.²⁵⁶ In contrast, the fact that the faculty supervisor maintains some distance from the work product is helpful.²⁵⁷ Faculty supervision from the educational institution's side bring an independent view to the student's

²⁴⁵ Caplow, *supra* note 150, at 898.

²⁴⁶ Blanco & Buhai, *supra* note 159, at 644.

²⁴⁷ Ogilvy, *supra* note 159, at 81.

²⁴⁸ *Id.* at 80.

²⁴⁹ Caplow, *supra* note 150, at 897.

²⁵⁰ Floyd & Kerew, *supra* note 19, at 791-92.

²⁵¹ Blanco & Buhai, *supra* note 159, at 645.

²⁵² Ogilvy, *supra* note 159, at 89.

²⁵³ *Id.* at 97.

²⁵⁴ Barron, *supra* note 162, at 115; Terry, *Embedding*, *supra* note 272, at 490.

²⁵⁵ Ogilvy, *supra* note 159, at 97.

²⁵⁶ Blanco & Buhai, *supra* note 159, at 621.

²⁵⁷ Seibel & Morton, *supra* note 155, at 417.

work, allowing the student to set their own learning agenda.²⁵⁸ Externship programs are structured to support students in obtaining effective supervision from their placements and providing support from the school throughout that process.

Effective supervision at the student's externship placement is the most important element of real-world training.²⁵⁹ Students rate the relationship with their attorney supervisor as most important factor in externship success.²⁶⁰ Specifically, students cite feedback from supervisors as instrumental to their success.²⁶¹ The opposite is also true—when supervisors fail to provide feedback and supervision, students lose opportunities to learn about some aspect of lawyering skills or the law.²⁶²

Externship programs equip students to interact effectively with their supervisors.²⁶³ Students must first understand what they need from their supervisor.²⁶⁴ Then, students must plan to obtain the necessary levels of supervision.²⁶⁵ With support from their educational institutions, students can be trained to participate actively in their own learning and supervision, including having an ongoing dialogue with their supervisors.²⁶⁶ As part of self-directed learning, students must be prepared to address issues with supervision, including lack of feedback, the need for additional assignments, or reiterating goals.²⁶⁷ Externship programs teach students to seek clarification from supervisors when needed and support students in doing so.²⁶⁸

7. Feedback

Providing student feedback is a hallmark of externship pedagogy.²⁶⁹ ABA Standards for law schools require, at a minimum, feedback from the student's field supervisor.²⁷⁰ Multi-source feed-

²⁵⁸ *Id.* at 418.

²⁵⁹ Blanco & Buhai, *supra* note 159, at 612.

²⁶⁰ Gharakhanian, *supra* note 146, at 203-04 (referencing 82% of students surveyed rated it as one of top three factors in their externship success).

²⁶¹ *Id.* at 204.

²⁶² Blanco & Buhai, *supra* note 159, at 623.

²⁶³ Eyster, *supra* note 200, at 397.

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ Blanco & Buhai, *supra* note 159, at 631.

²⁶⁷ Eyster, *supra* note 200, at 399.

²⁶⁸ *Id.*; Blanco & Buhai, *supra* note 159, at 631-32.

²⁶⁹ BEST PRACTICES, *supra* note 132, at 820; Bilionis, *Law School Leadership*, *supra* note 45, at 625-26; Floyd & Kerew, *supra* note 19, at 79-91; Terry, *supra* note 148, at 251-52; Blanco & Buhai, *supra* note 159, at 629.

²⁷⁰ ABA STANDARDS & RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS, Standard 304 (2020-21) https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2020-2021/2020-21-aba-standards-

back, however, is preferable.²⁷¹ Accordingly, most externship programs provide additional feedback on student reflection and self-assessment through faculty instructors.²⁷² The importance of receiving feedback runs constant through different definitions of professional identity formation.²⁷³ Externship feedback offered from both instructor and supervisor sources helps to further this goal.

Feedback and then self-reflection about performance are vital to improving lawyering skills.²⁷⁴ In fact, at least one study of student performance in externships found that having supervisors provide detailed feedback on assignments was a notable predictor of a successful externship experience.²⁷⁵ Externship programs provide students with opportunities for self-reflection as they receive feedback throughout the semester.²⁷⁶ This loop of feedback followed by dialogue and reflection is critical to professional identity formation.²⁷⁷

8. *Meetings*

A common component of externship programs is an individual meeting between the instructor and each student.²⁷⁸ The purpose of this meeting is to evaluate the student's progress and to ensure they are having a good educational experience.²⁷⁹ These meetings can also assist instructors in assessing a student's professional identity development, including the skills of preparation, self-reflection, and ability to work under supervision.²⁸⁰

Some programs include the field supervisor in a mid-semester meeting.²⁸¹ This model allows for the student to set the agenda and discuss their progress toward their goals for their externship experience.²⁸² The meeting can also cover what needs to be done in the remaining externship time to allow the student to fully realize their

and-rules-for-approval-of-law-schools.pdf [hereinafter STANDARD 304] (last accessed September 13, 2022).

²⁷¹ Hamilton, *Major Transitions*, *supra* note 1, at 159.

²⁷² Kelly S. Terry, *Embedding Assessment Principles in Externships*, 20 CLINICAL L. REV. 467, 491 (2014) [hereinafter Terry, *Embedding*]; Terry, *supra* note 148, at 251; Ogilvy, *supra* note 159, at 97-99.

²⁷³ Hamilton, *Major Transitions*, *supra* note 1, at 144.

²⁷⁴ BEST PRACTICES, *supra* note 132, at 818.

²⁷⁵ Gharakhanian, *supra* note 146, at 208.

²⁷⁶ *Id.*

²⁷⁷ Hamilton, *Fostering*, *supra* note 5, at 796.

²⁷⁸ Terry, *Embedding*, *supra* note 272, at 500; Leah Wortham et. al., *Teacher's Manual to Accompany Learning From Practice* 333 (3d ed. 2016).

²⁷⁹ Terry, *Embedding*, *supra* note 272, at 500.

²⁸⁰ *Id.* at 501.

²⁸¹ Barron, *supra* note 162, at 108; Wortham et. al., *supra* note 278, at 26-27.

²⁸² Wortham et. al., *supra* note 278, at 26-27.

goals.²⁸³

Meetings work best when students know in advance what will be covered and what to address.²⁸⁴ Accordingly, programs often provide students with reflective questions and/or forms to prepare for meetings.²⁸⁵ The process of preparing for and participating in individual meetings with instructors or instructors and supervisors helps to support student professional identity development.²⁸⁶

9. Rounds

Structured rounds are also a common externship pedagogical tool.²⁸⁷ Rounds are facilitated conversations during which students share their experiences in peer-to-peer dialogue.²⁸⁸ This peer dialogue represents a great opportunity for reflection.²⁸⁹ When students reflect together on their externship work, they gain insights and develop new ideas and are able to better understand collectively what can be challenging to learn alone.²⁹⁰ Allowing students to engage in storytelling about their externship experiences is a way to provide them with guidance and support and deconstruct their experience with input from others.²⁹¹

Rounds often start by asking students to identify a specific task or experience and present any difficulties or problems associated with it.²⁹² Students describe the work they have done and ask the class for input.²⁹³ Commonly, a student will share a notable event and invite the class to discuss the specific issues arising as they relate both to the student's externship and to larger issues in their professional development.²⁹⁴ Peer input can range to answering questions about substantive law, how to carry out a task, or potential solutions to problems

²⁸³ *Id.* at 27.

²⁸⁴ Terry, *Embedding*, *supra* note 272, at 501.

²⁸⁵ Wortham et. al., *supra* note 278, at 26-27; Terry, *Embedding*, *supra* note 272, at 502-03.

²⁸⁶ Barron, *supra* note 162, at 105.

²⁸⁷ Floyd & Kerew, *supra* note 19, at 776; Rosenfeld, *supra* note 91, at 149; Terry, *Embedding*, *supra* note 272, at 498; Bryan L. Adamson et al, *The Status of Clinical Faculty in the Legal Academy: Report of the Task Force on the Status of Clinicians and the Legal Academy*, 36 J. LEGAL PROF. 353, 365-66 (2012) (defining rounds as a discussion in which students share their experiences and learn from each other).

²⁸⁸ Terry, *Embedding*, *supra* note 272, at 498.

²⁸⁹ Bryant & Milstein, *supra* note 217, at 206.

²⁹⁰ *Id.* at 211.

²⁹¹ Harriet N. Katz, *Stories and Students: Mentoring Professional Development*, 60 J. LEGAL EDUC. 675, 677, 681 (2011).

²⁹² Terry, *Embedding*, *supra* note 272, at 499.

²⁹³ Rosenfeld, *supra* note 91, at 149.

²⁹⁴ *Id.* at 150.

faced.²⁹⁵

As students reflect on their actions with the input of others, that broad base of experience and perspectives provide additional insights into the situation and alternative approaches.²⁹⁶ These conversations explore the norms of the legal profession and allow students to explore any tensions they feel with the norms.²⁹⁷ Externship rounds enable students to engage in the reflective and self-critical thinking required of attorneys and learn about the values of the profession.²⁹⁸

Rounds discussions also provide students with support as they come to realize that legal work can be stressful.²⁹⁹ When students share their experiences, they learn their problems are not unique.³⁰⁰ By sharing and reflecting on their experiences with their peers, students realize they are not without power to influence their externship circumstances.³⁰¹

Faculty shape rounds conversations by selecting topics, structure, and preparation required.³⁰² As rounds occur, faculty can also draw out general themes or generalize a student's problem so that other students can collaborate on responses and solutions and extract lessons from them.³⁰³ Through intentional questioning, instructors can focus students on different choices and the consequences that flow from them, thus providing opportunities for reflection.³⁰⁴ Rounds discussion allow students to immediately see the relevance of their externship work as they collaborate with their peers and develop insights into professional identity.³⁰⁵

D. Key Pedagogical Tools for Transitions After the First Year

Externship pedagogical tools can be selected and crafted by law schools to best support and complement professional identity formation efforts already in place. Externship programs also show us how to adapt pedagogy and best practices to the needs of individual schools and curricula. The varied structure of externship programs show they can be aligned with the goals and resources of individual law schools.³⁰⁶ There is a range of standards in externship programs,

²⁹⁵ *Id.* at 149.

²⁹⁶ Bryant & Milstein, *supra* note 217, at 213.

²⁹⁷ *Id.* at 202.

²⁹⁸ Adamson et al, *supra* note 272, at 366; Rosenfeld, *supra* note 91, at 148-49.

²⁹⁹ Bryant & Milstein, *supra* note 217, at 212.

³⁰⁰ *Id.*

³⁰¹ Rosenfeld, *supra* note 91, at 148.

³⁰² Bryant & Milstein, *supra* note 217, at 228.

³⁰³ Rosenfeld, *supra* note 91, at 149.

³⁰⁴ *Id.*

³⁰⁵ Bryant & Milstein, *supra* note 217, at 206.

³⁰⁶ Seibel & Morton *supra* note 155, at 416; *see generally* James H. Backman, *Where Do*

which shows they can be adapted to fit different educational goals.³⁰⁷ It is helpful to keep in mind the larger values and context of externship experiences when doing so. Key takeaways for transitions from externship programs are that the student's real-world experience should be the central focus, faculty and attorney supervisors should treat students as adult learners and building skills and engaging in self-reflection should be central to the experience.³⁰⁸ The ultimate value in the seminar (or other academic component) of an externship lies in enabling students to synthesize and distill the lessons of professionalism they acquire based on their work experiences.³⁰⁹

There is no one way to organize an externship, meaning schools can adopt pedagogical tools and structures to best support their students. For any school creating a program to support students in their work during the summer after 1L year, ideally these programs would utilize some of the most effective components of externship pedagogy. For example, orientation or training would help students to understand and frame their transitional summer experiences in terms of professional identity formation. Ideally, this preparation would include setting goals for the real-world experience that consider a student's evaluation of their own current strengths and weaknesses. Reflection is also essential—especially if students can be given opportunities to reflect on their experiences periodically during their real-world experience and then more summarily at the conclusion. It is also essential for students to receive feedback on their performance. Support from the school is very important to helping students interpret feedback and engage in self-reflection about their performance. Programs to support students in transitional summer experiences after their first year could be very robust, but these elements would offer, at a minimum, a level of support to ensure they progress in their professional identity formation.

IV. A PROPOSAL FOR PROFESSIONAL IDENTITY FORMATION IN THE FIRST MAJOR TRANSITION: SUMMER AFTER 1L YEAR

The task of supporting all law students during major transitions can seem daunting. Hamilton, among others, offers some advice. He suggests focusing on those in which students are engaged in “authentic professional experiences”—those in which they are performing real

Externships Fit? A New Paradigm is Needed: Marshaling Law School Resources to Provide an Externship for Every Student, 56 J. LEGAL EDUC. 615 (2006) [hereinafter Backman, *Where do Externships Fit?*].

³⁰⁷ Backman, *Where do Externships Fit?*, *supra* note 306, at 620.

³⁰⁸ Ford, *supra* note 166, at 121.

³⁰⁹ Terry, *supra* note 148, at 256.

legal work.³¹⁰ Schools can begin to focus resources and personnel on professional identity development during these important experiences.³¹¹

As schools seek to leverage resources and identify ways to promote professional identity formation, a program during the summer after 1L year would ensure that all students have equal opportunities for support and development during the critical major transition of their first real-world legal experience. Such efforts could serve as an important base for other professional identity formation curricula that schools will be responsible for implementing.³¹² Recognizing that implementation of such a program available to all 1L students will face obstacles, the simplest way to operationalize such a program is to leverage a school's existing externship framework and pedagogy. Every externship program must provide opportunities for students to perform legal work, engage in self-evaluation, receive feedback, and be guided in reflection on the experience.³¹³ These requirements overlap with recommended practices for professional identity formation.³¹⁴

This section explores as an ideal solution the creation of a for-credit professional identity formation summer program following 1L year. Creating a credit-bearing course would allow a school to show an important curricular step in meeting the revised professional identity formation requirement in revisions to ABA Standard 303³¹⁵ while minimizing the challenges to running such a program during the summer following 1L year. Notable challenges, which will be addressed below, include the logistics of structuring such a course, incentivizing student participation, enlisting faculty and staff support, and engaging employers.

A. Aligning with Externships to Create a Credit-Bearing Course

Students participating in externships and clinics for academic credit over the summer will engage in professional identity formation processes as part of those experiences.³¹⁶ The focus of this proposal is for students not participating in those programs. Rather, this proposal focuses on providing similar professional identity formation support for students working outside of credit-bearing externships and clinics. Given that externship pedagogy is so aligned with professional iden-

³¹⁰ Hamilton, *Major Transitions*, *supra* note 1, at 160.

³¹¹ Colby & Sullivan, *supra* note 13, at 423.

³¹² *See supra* section I.c.

³¹³ STANDARD 304, *supra* note 269.

³¹⁴ *See supra* sections I & II.

³¹⁵ *See supra* section I.c.

³¹⁶ *See supra* section III.a.

tity formation,³¹⁷ an ideal solution is to align a summer professional identity program to support students in legal employment with a school's externship program, as both serve to support students engaged in legal work outside the school environment. This would ensure that all students receive professional identity formation support in the key transition of their first real-world legal experience following their first year of law school, whether through a credit-bearing externship or clinic or a volunteer or paid position outside of those programs.

Externship programs also show us how to adapt pedagogy and best practices to the needs of individual schools and curricula. The varied structure of externship programs show they can be aligned with the goals and resources of individual law schools.³¹⁸ There is no one way to organize an externship, meaning schools can adopt pedagogical tools and structures to best support their students.

Summer externship programs are accustomed to a condensed schedule and faster pace for pedagogical components such as goal setting, check-ins with and feedback from supervisors, and reflection on lessons learned and skills gained. A summer professional identity formation program could mimic the pace and schedule of an externship program to align training, reflection, and self-evaluation with externship deadlines. This approach also allows for synergy of instruction, making it easier to recruit instructors for and support their work in a program with an existing schedule and key assignments and a community of other instructors working at the same pace.

1. *Creating a Credit-Bearing Course*

The simplest solution would be to create a single credit course that closely mirrors the summer externship program's academic components. As of 2019-20, nearly 40% of law schools operate a seminar course separate from externship fieldwork to focus on reflection and associated activities.³¹⁹ A for-credit externship seminar course could be easily adapted to support students working in any type of legal employment. Of the schools that offer separate credit for the seminar, most offer one credit.³²⁰ Where this is the case, externship seminars can most easily be adapted into professional identity formation

³¹⁷ See *supra* section III.b.

³¹⁸ Seibel & Morton *supra* note 155, at 416; see generally Backman, *Where do Externships Fit*, *supra* note 306.

³¹⁹ ROBERT R. KUEHN ET. AL., CENTER FOR THE STUDY OF APPLIED LEGAL EDUCATION (CSALE), 2019-20 SURVEY OF APPLIED LEGAL EDUCATION, 44 (2020) [hereinafter CSALE 2019-20 SURVEY]. The most common number of credits for this course is 1 (57% of courses are 1 credit, 35% are 2 credits, and 11% are 3 or more credits).

³²⁰ *Id.*

courses. Leveraging externship program resources and structures, schools could run multiple sections and iterations to accommodate a broader range of employment experiences to support all 1L summer legal employment. Even if not all externship seminar content is appropriate for students working in non-externship settings, given the effectiveness of many externship pedagogical tools for professional identity formation, many course goals, readings, discussion topics, and assignments will be compatible with a program focused solely on professional identity formation. Even at schools where externship seminars are offered for more than the single credit proposed for a professional identity support course, the existing externship seminar content can be scaled back.

At schools where an externship for credit does not include a separate one credit seminar course, a summer professional identity formation program schedule and assignments could still align with the externship program. Given that many externship programs provide credit for both fieldwork and complementary class components, these schools could use key externship program elements (such training, assignments, and feedback) to propose a separate course. Using these key externship components to design a professional identity formation course would ensure consistent opportunities for all students in the summer following their 1L year.

2. *Grading*

A credit-bearing professional identity course to accompany real-world work experience in the summer after first year will be most effective if it is graded, as opposed to pass-fail. The question of whether to grade coursework associated with clinical and externship experiences has been the subject of reflection and debate for years.³²¹ In law schools, where some classes have grades and others are evaluated only for passing, students will expend more effort on graded classes.³²² Research has found that grading has a positive impact on students' motivation to engage in and perform well the type of work done in externship and clinical courses.³²³ Students prefer grades to pass/fail for this type of work.³²⁴ Faculty feel that grades positively impact stu-

³²¹ See e.g., Terry, *Embedding*, *supra* note 272, at 511-15; Philip Schrag, *Constructing a Clinic*, 3 CLINICAL L. REV. 175, 201 (1996); see generally Stacy L. Brustin & David F. Chavkin, *Testing the Grades: Evaluating Grading Models in Clinical Legal Education*, 3 CLINICAL L. REV. 299 (1997).

³²² Barbara Glesner Fines, *Competition and the Curve*, 65 UMKC L. REV. 879, 884 (1996-97).

³²³ Brustin & Chavkin, *supra* note 321, at 312-18.

³²⁴ *Id.* at 316.; see also Schrag, *supra* note 321, at 202.

dent participation and preparation for clinic courses.³²⁵ Grades also enable faculty to recognize students who put exceptional effort into this type of work.³²⁶ The factors that favor grading in clinical and externship courses make a compelling case for grading a professional identity formation course.

Further, grading a professional identity formation course with the same grading system as most of the law school curriculum emphasizes the importance of the experience. If a professional identity experience is graded pass/fail, students may assign the level of importance to it that they do other pass/fail activities, which often include journal, moot court, and other extracurricular activities. These activities, while valuable to students and their education, are not universally required for all students such that professional identity formation is.

There are downsides, however, to grading experiential and reflective work. The variables on which to base grades for reflective work are less straightforward than traditional doctrinal courses and grading can work against the non-judgmental environment that students need to discuss values, goals, and motivations freely and openly.³²⁷ Students may be hesitant to share honestly about their real-world experiences, especially their mistakes.³²⁸ Lessons to overcome these challenges can be learned from externship programs and courses that award grades for the types of pedagogical tools discussed in section III.C. above. Externship programs have developed criterion-referenced rubrics for assessing reflective exercises like journaling and meetings to discuss performance.³²⁹ These tend to focus on timeliness, quality of reflection, and identification of challenges and successes.³³⁰ The summer after a law student's first year may be the first time they have been asked to engage in such reflection and, thus, rubrics should be developed for application to similar activities in professional identity formation contexts.

3. *Reconciling Policies Prohibiting Paid Externships and/or Externships with Private Firms or For-Profit Organizations*

A for-credit professional identity formation course available to any student working in a legal setting during the summer after their first year must consider individual law school policies that prohibit academic credit for paid work and/or work for private firms and for-

³²⁵ *Id.* at 317-18.

³²⁶ Terry, *Embedding*, *supra* note 272, at 513-14.

³²⁷ See Schrag, *supra* note 321, at 201-02.

³²⁸ *Id.*

³²⁹ See Terry, *Embedding*, *supra* note 272, at 493-502 (including examples from rubrics).

³³⁰ *Id.*

profit entities. Legal educators take different stances on whether to allow students to earn academic credit for externships with private firms or for-profit businesses and whether to allow students to earn both academic credit and compensation for externship work (in any setting).³³¹ The latest CSALE survey data reveals that 63% of law schools now offer externships with in-house counsel for for-profit organizations, and 18% of schools allow students to receive compensation in addition to credit for externships.³³² The most recent CSALE data on law firm placements (from 2016-17) showed that 20% of schools allowed them, which was up from 2013-14 data, when 85% of school restricted firm placements and 50% restricted placement with for-profits.³³³ CSALE data shows a trend in more law schools allowing for paid externships as well as firm and for-profit externships. Schools that allow paid work and externships with for-profit entities should not experience barriers to awarding professional identity formation course credit for students in paid positions or in law firm and for-profit positions during the summer after first year.

Law schools that disallow paid externships or private firm and for-profit externships for academic credit can still align a for-credit professional identity formation course with school policies. Notably, ABA Standards do not prohibit paid externships nor for-profit or private firm externships.³³⁴ One simple distinction between a single credit professional identity formation course and an externship is that students earning academic credit for the latter perform fieldwork hours for at least part of that academic credit.³³⁵ A summer professional identity formation course could award credit only for that course itself, thus avoiding giving students fieldwork or externship credit for work that is paid and/or with a law firm or for-profit organi-

³³¹ See, e.g., Emma Lloyd Best, *Satisfying Experiential Education Requirements Through Expanding Externships in For-Profit Placements*, 21 CLINICAL L. REV. 1, 7-12 (2014) (examining the costs and benefits of externships with for-profits); James H. Backman, *Law School Externships: Reevaluating Compensation Policies to Permit Paid Externships*, 17 CLINICAL L. REV. 21, 22, 24-29 (2010) [hereinafter Backman, *Law School Externships*]; Bernadette T. Feeley, *Examining the Use of For-Profit Placements in Law School Externship Programs*, 14 CLINICAL L. REV. 37, 41, 46-54 (2007) (describing an increase in allowing for-profit and private firm externships and the costs and benefits).

³³² CSALE 2019-20 SURVEY, *supra* note 319, at 10-11.

³³³ ROBERT R. KUEHN ET. AL., CENTER FOR THE STUDY OF APPLIED LEGAL EDUCATION (CSALE), 2016-17 SURVEY OF APPLIED LEGAL EDUCATION, 10 (2017); ROBERT R. KUEHN & DAVID A. SANTACROCE., CENTER FOR THE STUDY OF APPLIED LEGAL EDUCATION (CSALE), 2013-14 SURVEY OF APPLIED LEGAL EDUCATION, 14 (2015). Law firm placement data from the 2019-20 CSALE Survey was deemed unusable. CSALE 2019-20 SURVEY, *supra* note 319, at 10-11.

³³⁴ STANDARD 304, *supra* note 269.

³³⁵ See CSALE 2019-20 SURVEY, *supra* note 319, at 44-45 (for a breakdown of fieldwork credits and how they are calculated).

zation. Schools with policies prohibiting pay and for-profit work could make clear that participation in the course would not constitute experiential learning and would not replace a student's obligation to participate in clinic, externship, or other courses to fulfill the school's experiential learning requirements. On the balance, the importance of providing professional identity formation opportunities during transitions associated with real-world work, even when that work itself would not qualify for externship fieldwork credit, outweighs any concerns about students earning academic credit for assignments reflecting on that work. Students may choose to work in law firms regardless of whether they can earn academic credit for the work itself, and to do so without support for their professional identity formation runs the risk of them missing out on deepened learning and meaning from the experience.³³⁶ Similar logic applies to paid externships, which students may pursue regardless of whether they can earn credit.³³⁷

4. *Remote Programming*

Offering a professional identity course in an online format would best serve all students as they engage in legal employment during the summer following their first year. At no other point in the history of legal education have schools been better positioned to make this happen. Legal educators learned much about best practices for engaging students in meaningful learning experiences online throughout the COVID-19 pandemic.³³⁸ One upside to remote learning was the breakdown of geographical barriers, allowing students from all over the United States and the world to learn together in an online classroom, such as Zoom.³³⁹ Using lessons learned from online teaching during the pandemic as well as best practices for online learning will enable schools to provide high quality professional identity formation instruction and support to law students engaged in legal work in any location.

Online remote education is not only a practical way to deliver this proposed professional identity formation experience—it may be the ideal format. Even before the pandemic, faculty piloting online

³³⁶ Kristen Uhl Hulse, *The Foundations for (Private) Practice: Building Professional Identity Through Law Firm Externships*, 89 UMKC L. REV. 583, 601 (2021).

³³⁷ R. Michael Cassidy, *Strategic Austerity: How Some Law School Affordability Initiatives Could Actually Improve Learning Outcomes*, 17 CHAP. L. REV. 119, 125-26 (2013).

³³⁸ See, e.g., Colleen P. Graffy, *Pandemic Pedagogy and its Applications for International Legal Education and the Hyflex Classroom of the Future*, 46 S. ILL. U. L.J. 45 (2021); Agnieszka McPeak, *Adaptable Design: Building Multi-Model Content for Flexible Law School Teaching*, 65 ST. LOUIS U. L.J. 561 (2021); Christian Sundquist, *The Future of Law Schools: COVID-19, Technology, and Social Justice*, 53 CONN. L. REV. ONLINE 1 (2020).

³³⁹ Graffy, *supra* note 338, at 50.

courses found students were more comfortable and less intimidated in online settings and that they were able to establish more intimate connections with their students.³⁴⁰ In a recent study, law students expressed strong interest in taking online courses and have found them engaging—many students noted that the instructor and their own investment in the course were most important to an engaging course.³⁴¹ Students cited flexibility as an important factor in taking online courses.³⁴² Myths that online teaching in law schools result in passive learning, inferior assessment, and less community and connection have been debunked.³⁴³ Michael Hunter Schwartz advocates that quality legal instruction can take place in any modality with careful course design and preparation, thoughtful approaches to student engagement, and quality assessment and feedback.³⁴⁴ The benefits of flexibility combined with evidence that students can engage in quality learning online make the case that a professional identity formation course should be delivered in this format to provide all students the opportunity to participate.

5. *Addressing Tuition Concerns*

The rising cost of law school has been a cause for concern in recent years.³⁴⁵ A professional identity formation summer course should be mindful of these concerns. Students can be disincentivized to enroll for summer courses when they must pay additional tuition expenses out of pocket.³⁴⁶ In the externship realm, when students forgo externship credit for summer legal work experience, they also lose the support externship programs provide, including faculty guidance and reflection.³⁴⁷ This is precisely the disincentive that a summer professional identity formation program should seek to avoid.

³⁴⁰ Ronald J. Colombo, *Teaching a Synchronous Online Business Organization Course to J.D. Students: A Case Study*, 48 HOFSTRA L. REV. 873, 916-17 (describing the experience piloting an online course before the pandemic).

³⁴¹ Yvonne M. Dutton et al., *Assessing Online Learning in Law Schools: Students Say Online Classes Deliver*, 96 DENV. L. REV. 493, 519-24 (2019) (discussing the results of a survey of 300 law students in two fully online courses at IU McKinney, which was accompanied by focus group discussions).

³⁴² *Id.* at 521.

³⁴³ Michael Hunter Schwartz, *Towards a Modality-Less Model for Excellent in Law School Teaching*, 70 SYRACUSE L. REV. 115, 123-31 (2020).

³⁴⁴ *Id.* at 131-41.

³⁴⁵ Robert R. Kuehn, *Pricing Clinical Legal Education*, 92 DENV. L. REV. 1, 6-7 (2015); Backman, *Law School Externships*, *supra* note 331, at 38.

³⁴⁶ Jeremy Speckhals, *A Reflection on Pricing Legal Education*, 92 DENVER L. REV. 177, 180 (2015); James H. Backman & Jana B. Eliason, *The Student-Friendly Model: Creating Cost Effective Externship Programs*, 28 Touro L. REV. 1339, 1344 (2012); Backman, *Law School Externships*, *supra* note 365, at 63.

³⁴⁷ Backman & Eliason, *supra* note 346, at 1344.

Although there will be costs associated with implementing a professional identity formation summer course, such an endeavor may not be as costly as some may think. Nancy Maurer and Liz Cole Ryan analyzed costs of externship field placement courses and found they were no more expensive than typical three-credit small classes (20-25 students).³⁴⁸ With this in mind, schools should avoid charging students full tuition for summer credits unless there are no alternatives. Some options to reduce the financial impact of a summer course include offering credit in the semester before or after the summer, charging an administrative fee that is less than tuition, offering reduced summer tuition, or reducing tuition in another semester.³⁴⁹ Schools should explore these options to reduce barriers to student participation. Enrollment in a summer professional identity course should not increase the total tuition that a student pays for their degree.³⁵⁰

6. *Alternatives to a Course*

While a credit-bearing course is an optimal solution, not all law schools will be able to create such an offering. For those not in a position to offer credit, a summer professional identity support program could still mimic the support and structure of the externship program. Recognizing that students will have limited time and motivation to devote to non-credit programs, it will be important to curate the elements of an externship program that best align with professional identity formation and pursue those. Externship class components vary, and each institution can and should select the pedagogical tools that best suit the needs of their curriculum and students in the context of other professional identity formation and professionalism experiences. Some likely components of a non-credit program could include orientation or training before students begin their summer positions, simple tools for students to use in setting goals for their experiences, feedback on those goals, and check-in meetings with coaches (staff and/or faculty) and reflection on the experience at the midpoint and endpoint of the summer.

B. *Staffing and Support*

It is not uncommon for law schools to struggle with finding faculty, staff, and administrators willing and able to devote time to new projects and initiatives. Hamilton and Billionis both suggest start-

³⁴⁸ Nancy M. Maurer & Liz Cole Ryan, *Design, Teach and Manage: Ensuring Educational Integrity in Field Placement Courses*, 19 CLINICAL L. REV. 115, 156-58 (2012).

³⁴⁹ Backman & Eliason, *supra* note 346, at 1354-57, 1364-66; Backman, *Practical Examples*, *supra* note 240, at 27-28.

³⁵⁰ Backman, *Practical Examples*, *supra* note 240, at 27-28.

ing with a coalition of willing faculty and staff—these are the “early adopters” of professional identity formation efforts.³⁵¹ Starting with a distinct project involving such stakeholders is more likely to result in successful integration of professional identity formation throughout a law school.³⁵² A summer program built to support 1L students could be a unifying cause that brings departments together. Billionis suggests that early adopters of professional identity formation can be uniquely empowered as leaders in implementing these efforts.³⁵³ These include individuals working in different departments and roles at the law school who appreciate the value of professional identity formation efforts.³⁵⁴ Some will have already implemented professional identity formation in their courses and programming, while others will support these efforts but feel uncertain about how they can contribute or whether such efforts are part of their domain.³⁵⁵

The first step is to gather support for the creation of a professional identity course in the summer following the first year. Faculty teaching experiential learning programs and courses are likely allies, particularly given that experiential education has already worked to incorporate professional identity formation.³⁵⁶ For a professional identity formation program built on key elements of externship pedagogy, externship program directors and instructors are natural leaders.³⁵⁷ Faculty and staff from career services and academic success often have experience coaching and counseling students that would make them valuable assets to professional identity formation programs focused on supporting students while they work.³⁵⁸ Professors of writing and/or practice, who are used to working with smaller groups of students and offering individualized feedback, would also be useful to these efforts.³⁵⁹ Key to success will be helping faculty and staff see this as a cooperative new endeavor for the benefit of the students.³⁶⁰

Once support is generated for a professional identity course, instructors should be carefully selected and trained. There is a strong case in favor of having full-time faculty teach, or at least lead and direct, efforts for a professional identity formation course. To be effec-

³⁵¹ Billionis, *Law School Leadership*, *supra* note 45, at 609; Hamilton, *Professional Identity*, *supra* note 52, at 390, 402-03.

³⁵² Hamilton, *Professional Identity*, *supra* note 52, at 403.

³⁵³ Billionis, *Law School Leadership*, *supra* note 45, at 609-610.

³⁵⁴ *Id.* at 609.

³⁵⁵ *Id.* at 609-10.

³⁵⁶ *See supra* section II.

³⁵⁷ *See* Billionis, *Law School Leadership*, *supra* note 45, at 621.

³⁵⁸ *Id.*

³⁵⁹ *Id.*

³⁶⁰ *See* Hamilton, *Professional Identity*, *supra* note 52, at 403.

tive, faculty must have freedom, authority, influence, respect, and expertise.³⁶¹ The unique aspects of clinical and externship pedagogy make teaching the type of reflection required for students to process their real-world lawyering experiences different than teaching other courses.³⁶² This type of education requires both students and teachers to pursue “self-conscious reflection from experience.”³⁶³ Clinical teaching, including that in field placement programs, is time intensive, and the additional reflective component of experiential pedagogy means that instructors must constantly assess student progress and challenges and design discussions to address them.³⁶⁴ These different teaching demands likely entail hiring for different skills sets than for doctrinal faculty positions.³⁶⁵ Additionally, specialized training is recommended for this type of teaching.³⁶⁶ Because of the importance of the reflection and the experiential learning cycle to professional identity formation, schools would be wise to select instructors with these skills sets or a desire to build them and provide resources and training in this pedagogy. There are ways, however, to lessen the burden on instructors and involve others interested in these efforts in a professional identity formation course.

Once lead instructors are identified and trained, placing faculty and staff into teams teaching and supporting groups of students is one way to offer support to all participating while lessening the burden on individuals. Some schools with externship programs designed to maximize student placements have relied on cooperative models.³⁶⁷ This approach could allow faculty and staff leaders/instructors to take turns leading sessions and presenting material that best aligns with their interests and expertise. For example, team members from career services could be a logical choice to put together materials on networking and creating a career plan. Similarly, those from academic success could assist students in assessing strengths and weaknesses and setting goals for their summer employment experiences.

A credit-bearing course would likely make it easier to compensate faculty and staff serving as instructors and coaches in a summer

³⁶¹ Maurer & Cole, *supra* note 348, at 139-40; Backman, *Practical Examples*, *supra* note 240, at 23.

³⁶² See Justine A. Dunlap & Peter A. Joy, *Reflection-in-Action: Designing New Clinical Teacher Training By Using Lessons Learned From New Clinicians*, 11 CLINICAL L. REV. 49, 51-53 (describing the goals and methods of clinical teaching).

³⁶³ William P. Quigley, *Introduction to Clinical Teaching for the New Clinical Law Professor: A View From the First Floor*, 28 AKRON L. REV. 463, 474 (1995).

³⁶⁴ Bryan L. Adamson et al., *Clinical Faculty in the Legal Academy: Hiring, Promotion and Retention*, 62 J. LEGAL EDUC. 115, 120-21 (2012).

³⁶⁵ *Id.* at 137.

³⁶⁶ Dunlap & Joy, *supra* note 362, at 93-99.

³⁶⁷ Backman, *Practical Examples*, *supra* note 240, at 20-21.

professional identity formation program. While helpful, compensation is not the only potential motivator. The opportunity to instruct students in this type of innovative program is a great way for staff and alumni interested in teaching to demonstrate that interest and develop their own skills in instructing and mentoring students.

C. Incentivizing Students to Participate

Incentivizing student participation in any new program or course can be challenging. A simple solution to resistance would be to make such a course mandatory for all students following their 1L year. A mandatory course would help to satisfy the new requirements of ABA Standard 303, as all students would participate.³⁶⁸ The downside of such an approach would be the increased logistics of launching a mandatory summer course. Further, requiring a course does not necessarily generate willing participation from students. While there are benefits to a mandatory course approach, it is not necessary to create a successful summer professional identity formation program, especially at its inception. Regardless of whether a school mandates participation in such a program, it would be wise to utilize strategies described below to maximize student enthusiasm.

Getting students to value and participate in an optional professional identity formation experience will be a challenge. Offering the program as a credit-bearing course would make very clear to students the academic value of participation. Students can be resistant to new curricula that emphasize self-directed learning and reflection, especially those that are not linked to bar preparation.³⁶⁹ Notably, student resistance to professional identity formation in externship instruction could also arise in supporting transitions in other contexts.³⁷⁰ Students are also often unprepared to learn that legal practice requires a broader array of competencies than those traditionally taught in law schools.³⁷¹ It is important to be transparent with students about transitions and how students grow into later stages of professional development.³⁷² Moreover, students are often most concerned with bar passage and employment.³⁷³ Therefore, it is vital to explain how professional identity support programs help develop competencies sought by employers and clients.³⁷⁴ This will be a challenge law schools face as they implement the professional identity formation measures re-

³⁶⁸ See *supra* section I.c.

³⁶⁹ *Id.*

³⁷⁰ Floyd & Kerew, *supra* note 19, at 772.

³⁷¹ Hamilton, *Professional Identity*, *supra* note 52, at 402.

³⁷² *Id.*

³⁷³ *Id.*

³⁷⁴ *Id.*

quired by updates to ABA Standard 303.³⁷⁵ Even in a mandatory course during the summer following 1L year, schools should consider strategies to increase student “buy in” and participation.

Tim Floyd and Kendall Kerew suggest several strategies to overcome resistance and acknowledge the disorientation students may experience as part of the professional identity formation process.³⁷⁶ They start by acknowledging that professional identity formation is a deeply personal process focused on self-awareness.³⁷⁷ They also explain why professional identity formation matters using data related to lawyering effectiveness, pointing out how many important traits are not taught in law school.³⁷⁸ Kerew uses the Schultz-Zedeck Lawyering Effectiveness Factors to illustrate the point.³⁷⁹ Presenting students with *Foundations for Practice* (by the Institute for the Advancement of the American Legal System) or Hamilton’s research regarding lawyer effectiveness could produce similar discussions.³⁸⁰ Floyd and Kerew also give students a definition of professional identity formation and explain how it differs from professionalism so that students have a framework for the process.³⁸¹

In terms of incentivizing students for a non-mandatory course, a credit-bearing course is ideal. Receiving credit for their efforts signals the importance of the professional identity formation experience and rewards participation. There are other ways, however, to encourage students to get involved. Schools could tout the benefits of extra access to faculty and staff instructors/guides for the professional identity formation program. For students just coming out of their 1L year, the chance to create additional relationships at their school may prove motivating, especially if faculty and staff are touted as mentors and guides who are invested in student success during summer employment. Schools could hold special programs for participants, such as special trainings for on-campus interviewing, developing legal resumes, and networking. This could also include extra access to career services advisors as students prepare for on-campus interviewing and other opportunities for the summer after their 2L year. Another incentive could include awarding successful participants a certification to include on the student’s resume. With a proper accompanying description, this could signal to future employers that the student

³⁷⁵ *Standards Committee Memo*, *supra* note 119.

³⁷⁶ Floyd & Kerew, *supra* note 19, at 772

³⁷⁷ *Id.*

³⁷⁸ *Id.* at 772-73.

³⁷⁹ *Id.*

³⁸⁰ See generally GERKMAN & CORNETT, *supra* note 190; HAMILTON, ROADMAP, *supra* note 191.

³⁸¹ Floyd & Kerew, *supra* note 19, at 773.

chose to participate in a program focused on increasing their professional skills and developing their professional identity.

Another key factor in driving success will be to partner with the career services office to teach students about the program and encourage their participation. Career services offices (CSOs) meet with nearly all first-year students to assist them with searching for summer employment. This represents a key opportunity to introduce and promote a program for professional identity formation support during the 1L summer. Many CSOs have an orientation program where this could be introduced. Then counselors could be encouraged to bring the program once again to the attention of students in individual meetings. Individual conversations offer an opportunity for students to ask questions about the program and allows counselors to respond to inevitable concerns about the program and the value of participating. Writing and practice instructors and academic success personnel can reinforce these messages during their time teaching and advising 1L students. Similarly, it would be wise for schools to have student services and academic advisors emphasize this message.

Schools should set realistic expectations for student participation in such a program, particularly in the first few years. Akin to the concept of early adopters of innovative programs among faculty and staff discussed in the previous section, some students will likely be excited about the concept of support during their summer employment after 1L year. If participants find the program enhanced their summer experience, schools can recruit those students to tout the benefits of the program to the next class of incoming students. The goal will be to build momentum each year such that enthusiastic participation becomes part of the culture of each incoming 1L class.

D. Engaging Employers

A key advantage of externship experience is that a student receives dual supervision and dual feedback (from a faculty member and their attorney supervisor).³⁸² A school-run summer professional identity formation program will be structured to provide faculty feedback but the inclusion of employers in this process may prove challenging. This is yet another area in which externship programs have well-developed protocols to establish relationships with externships sites and provide training and support to those sites to ensure they give students quality work and feedback.³⁸³ The relationship between a student and a legal employer is akin to that between a student and

³⁸² See *supra* section III.c.5.

³⁸³ See Gharakhanian, *supra* note 146, at 209.

an externship supervisor—the underlying premise for success is that each provides mutual benefit to the other.³⁸⁴ Schools must keep this balance in mind when soliciting employer participation in a summer professional identity formation program. When schools ask employers and/or designated supervisors to participate in training and provide feedback to students these must provide demonstrable benefits for the employer.

An important first step will be to share with employers the research on major transitions that take place following 1L year and the importance of this time for professional identity formation.³⁸⁵ One obvious benefit is that schools will train and support students before and during their 1L summer work experience. Such support during what is for many students their first experience in a legal workplace can only be positive. The reflection inherent in a professional identity formation program prompts students to be mindful of their strengths and weaknesses and to honestly assess their performance. This introspection can benefit employers as students seek to improve their skills and performance.

Schools implementing a professional identity program following 1L year should, as much as possible, connect with the legal employers and make them feel as if they are educational partners. Externship programs are familiar with balancing the needs of employers and student supervisors with the needs of the student to create collaborative relationships.³⁸⁶ A successful externship supervisor will consider the educational needs of the student to be equally important to their own needs.³⁸⁷ Most requirements for externship supervisors are designed to provide the information and feedback needed by the school and the student without overburdening the supervisor. To conform with ABA standards, these always include designating an attorney supervisor for the student and providing feedback.³⁸⁸ Externship programs have in place mechanisms for attorneys to easily provide feedback to students, commonly through forms and meetings, and structure timelines for doing so. These mechanisms can be adapted for employers participating in a professional identity support program during the summer.

Schools also provide training and support for externship supervisors. This commonly includes a manual for supervisors to explain externship objectives, policies and procedures, and best practices for

³⁸⁴ Blanco & Buhai, *supra* note 159, at 620.

³⁸⁵ *See supra* section II.

³⁸⁶ *See generally* Blanco & Buhai, *supra* note 159.

³⁸⁷ *Id.* at 620.

³⁸⁸ STANDARD 304, *supra* note 269.

supervising law students.³⁸⁹ Training attorney supervisors is also common.³⁹⁰ Externship program best practices include periodically communicating with externship supervisors and providing updates on methods and best practices for supervising students to ensure that supervisors feel vested in the educational goals of the law school and the student.³⁹¹ These materials and practices can also be adapted for employers. A professional identity formation program is unlikely to have the same requirements for tracking student hours and monitoring projects assigned. Thus, it is likely that training and supervision materials can focus on mentoring and supervision methods and on providing quality feedback.

Schools likely will not be able to convince every employer during the summer following 1L year to participate in the professional identity formation program. Students whose employers are not participating can use their professional identity formation program to help them seek and digest feedback from employers. Exercises intended to reflect on feedback and the work experience provide opportunities for students to approach attorneys for whom they performed legal work and ask for feedback to assist them in the process. Schools should make simple feedback forms available to all students participating in summer legal employment so that they have an easy tool at their disposal to provide to individuals at their workplace. Even if students do not receive feedback from every attorney they work for, getting any quality feedback can aid them in reflecting on their work and identifying ways to improve. It is also foreseeable that summer professional identity formation programs could start with a small number of participating employers and build to engage additional employers as the program is successful and better understood among attorneys practicing in the community.

E. Scaling and Growth

Developing a summer professional identity formation program for all students after their 1L year is no small task. To tie such a program in with a school's key externship components, however, makes the work much less monumental. Externship programs provide an existing framework of support that schools can capitalize on and scale to meet the professional identity formation needs of all students during their important first real-world legal work experience.

It is important for schools to set reasonable expectations and goals for such a program. As with many innovative programs, starting

³⁸⁹ See, e.g., Blanco & Buhai, *supra* note 159, at 628-29.

³⁹⁰ *Id.*

³⁹¹ *Id.* at 621.

with a small group of willing students, faculty, and staff is a sound approach. A well-run and successful pilot program will generate additional excitement and likely more excited participants with each year. This momentum will spread to employers, likely starting with those tied to the school including alumni, adjuncts, and other supporters. The challenges explored above will not be overcome immediately, but over time such a program has great potential to grow such that all students can and will participate.

CONCLUSION

As Hamilton describes, “[l]aw schools have a major opportunity to benefit the students and the law school by providing coaching, feedback, and guided reflection when each student is engaged in authentic professional experiences outside of the formal curriculum. . . .”³⁹² A failure to do so runs the risk of reinforcing the hidden curriculum message that what students experience during transitions is not important to the formation of their professional identity.³⁹³ Moreover, if law schools fail to provide a stronger foundation in professional identity formation, the ability of new attorneys to develop a professional identity on their own is more difficult in the legal workplace than ever before.³⁹⁴

Providing support through transitional experiences, specifically the pedagogical tools of externship programs, will help students optimize professional identity formation.³⁹⁵ Law schools can use existing externship pedagogical tools and talents from faculty and staff engaged in coaching and mentoring to give students enhanced meaning from employment experiences—particularly the summer after 1L year. This effort does not have to be a monumental task, as schools can leverage existing resources to incrementally build support for student professional identity development during employment experiences that mark significant transitions. As the ABA now requires the type of attention to professional identity formation that externship program pedagogy already provides,³⁹⁶ taking these steps is an easy way for law schools to stay ahead of the curve and be ready to meet new challenges in student support and development.

³⁹² Hamilton, *Major Transitions*, *supra* note 1, at 162.

³⁹³ *Id.* at 163.

³⁹⁴ Madison & Gantt, *supra* note 8, at 351.

³⁹⁵ Hamilton, *Professional Identity*, *supra* note 52, at 396 (explaining how scaffolding helps students understand their stages of development and grow from them); Brooks, *Meeting Professional Identity*, *supra* note 132, at 426 (teacher guidance provides scaffolding to help improve performance).

³⁹⁶ *See supra* Section I.c.