

Fostering Professionalism through Mentoring

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Introduction

Do you think our profession could do better at realizing its ideals and core values? Ask this question to any group of experienced lawyers at a CLE session and every hand will go up. “Professionalism” is the term most often used to describe this widespread desire to do better, but the profession does not agree on the specific meaning and scope of the term. In the following section, we outline seven principles to provide a clear definition of professionalism.

How can we improve professionalism? Scholars, bar associations, and judges are beginning to recognize the importance of formal mentor relationships as a means of doing so. The ABA’s 1986 Stanley Commission Report recommends that more experienced lawyers would be useful mentors for new lawyers.¹ The ABA’s 1996 Haynsworth Report urges experienced lawyers to participate in formal and informal mentoring programs and recommends that bar associations establish mentor programs under which experienced lawyers mentor newly admitted lawyers.² The 1999 National Action Plan on Lawyer Conduct and Professionalism adopted by the Conference of

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1. A.B.A., Comm’n on Professionalism, “...In the Spirit of Public Service:” A Blueprint for the Rekindling of Lawyer Professionalism 22 (Chicago, 1986) (hereinafter Stanley Commission Report).
2. A.B.A., Section of Legal Educ. & Admissions to the Bar, Teaching and Learning Professionalism: Report of the Professionalism Committee 29, 31 (Chicago 1996) (hereinafter Haynsworth Report).

Chief Justices is the most robust endorsement of mentor relationships for the specific purpose of fostering professionalism, recommending that “[j]udicial leadership should promote mentoring programs for both new and established lawyers.”³ In 2005 Georgia outlined a mandatory mentoring program emphasizing professionalism for all newly admitted lawyers, and Ohio will implement a similar program in the near future.⁴

The ABA and Conference of Chief Justices reports do not discuss or evaluate the existing theoretical and empirical scholarship on the functions of mentor relationships. The third section of this article explains how the theory of and empirical research on mentor relationships can help the legal profession to foster professionalism.

The fourth section provides a model for advancing professionalism through a formal mentor program. The Mentor Externship Program at the University of St. Thomas School of Law in Minnesota, required for every student in each year of law school, coordinates the efforts of mentors and the law school community to help students internalize the principles of professionalism.⁵

Professionalism Defined in ABA and Conference of Chief Justices Reports and the Preamble to the Model Rules

Seven principles of professionalism are apparent in the Stanley Commission Report, the MacCrate Report, the Haynsworth Report, the Conference of Chief Justices (CCJ) National Action Plan, and the Preamble to the Model Rules.

In our synthesis, professionalism means that each lawyer:

1. Agrees to comply with the ethics of duty—the minimum standards for the lawyer’s professional skills and ethical conduct set by the Rules;⁶
3. Conference of Chief Justices, Working Group on Professionalism and Lawyer Competence, Conference of Chief Justices, A National Action Plan on Lawyer Conduct and Professionalism 14 (Williamsburg, Va., 1999) (hereinafter Action Plan).
4. State Bar of Ga., Comm. on Standards of the Profession, Implementation Plan for a Mandatory Transition into Law Practice Program (Atlanta, 2004); Supreme Court of Ohio Lawyer to Lawyer Mentoring Program, available at <<http://www.sconet.state.oh.us/mentoring/default.asp>> (last visited June 24, 2007).
5. The ABA Standing Committee on Professionalism presented the 2005 E. Smythe Gambrell Award to the Mentor Externship Program as a model mentor program focused on professionalism.
6. Professionalism definitions stress that a minimum level of competence is necessary. The Stanley Commission Report speaks of lawyering as a “learned art” and notes that it requires substantial intellectual training. Stanley Commission Report, *supra* note 1, at 10 (quoting Dean Roscoe Pound). The MacCrate Report stresses the necessity of providing competent representation. A.B.A., Section of Legal Educ. & Admissions to the Bar, Task Force on Law Schools And The Profession: Narrowing The Gap, Legal Education and Professional Development—An Educational Continuum 140-41 (Chicago, 1992) (hereinafter MacCrate Report). The Haynsworth Report notes the requirement by including the essential skills of learned knowledge and skill in applying the applicable law to the factual context. Haynsworth Report, *supra* note 2, at 6-7. It also includes “maintenance

2. Should strive to realize, over a career, the ethics of aspiration—the ideals and core values of the profession including internalizing the highest standards for the lawyer’s professional skills and ethical conduct;⁷
3. Agrees to act as a fiduciary where his or her self-interest is overbalanced by devotion to serving the client and the public good in the profession’s area of fiduciary responsibility: justice;⁸
4. Should, over a career, continue to grow in personal conscience;⁹

of competence” in its supportive elements. *Id.* The CCJ National Action Plan includes “competence.” Action Plan, *supra* note 3, at 2. The Model Rules’ Preamble specifically requires a lawyer to be competent, prompt, and diligent. Model Rules of Prof’l Conduct Preamble ¶ 4 (Chicago, 2007).

7. In the language of Dean Roscoe Pound, each lawyer should pursue the law as a “learned art in the spirit of a public service...” Stanley Commission Report, *supra* note 1, at 10. Three of the four Fundamental Values of the Profession noted in the MacCrate Report spell out ideals that a lawyer should seek. MacCrate Report, *supra* note 6, at 125. The Haynsworth Report mixes minimum standards and aspirational ideals on its two lists of essential characteristics and supportive elements for the professional lawyer. Haynsworth Report, *supra* note 2, at 6-7. The CCJ National Action Plan is particularly forceful in stating that professionalism requires lawyers to exceed the minimum ethical standards. Action Plan, *supra* note 3, at 6-7. The Preamble to the Model Rules of Professional Conduct states directly that “[a] lawyer should strive to attain the highest level of skill, to improve the law and the legal profession, and to exemplify the legal profession’s ideals of public service.” Model Rules of Prof’l Conduct Preamble ¶ 7 (Chicago, 2007).
8. “[T]he client’s trust presupposes that the practitioner’s self-interest is overbalanced by devotion to serving both the client’s interest and the public good.” Stanley Commission Report, *supra* note 1, at 10. The Haynsworth Report builds on Pound’s definition of professionalism, emphasizes that a professional lawyer pursues “a learned art in service to clients and in the spirit of public service,” and includes the subordination of personal interests and viewpoints to the interests of the clients and the public good. Haynsworth Report, *supra* note 2, at 6-7. Each lawyer is called upon to balance three major roles: (1) a representative of clients; (2) an officer of the court; and (3) a public citizen having special responsibilities for the quality of justice. Model Rules of Prof’l Conduct Preamble ¶ 1 (Chicago, 2007). “These [basic] principles include the lawyer’s obligation zealously to protect and pursue a client’s legitimate interests...” *Id.* at ¶ 9.
9. The MacCrate Report, the Haynsworth Report, the CCJ National Action Plan, and the Preamble to the Model Rules emphasize that a lawyer must continue to grow in personal conscience. The primary sources of ethical rules include “[a] lawyer’s personal sense of morality.” MacCrate Report, *supra* note 6, at 204. A lawyer must demonstrate ethical conduct and integrity and should develop the capacity for self-scrutiny and for moral dialogue with clients and other individuals involved in the justice system. Haynsworth Report, *supra* note 2, at 6-7. Professionalism is defined as a personal characteristic that each lawyer must cultivate in him or herself. Action Plan, *supra* note 3, at 6. A lawyer is also guided by personal conscience and “sensitive professional and moral judgment.” Model Rules of Prof’l Conduct Preamble ¶ 7, ¶ 9 (Chicago, 2007). “Each lawyer must find within his [or her] own conscience the touchstone against which to test the extent to which his actions should rise above minimum standards.” Model Code of Prof’l Responsibility Preamble (Chicago, 1980).

5. Agrees both to hold other lawyers accountable for meeting the minimum standards set forth in the Rules and to encourage them to realize the ideals and core values of the profession;¹⁰
6. Should devote professional time to serve the public good, particularly by representing clients pro bono;¹¹ and
7. Should undertake a continuing reflective engagement, over a career, on the relative importance of income and wealth in light of the six other principles of professionalism.¹²

The ABA and CCJ reports propose steps to advance professionalism. In particular, the Stanley Commission and Haynsworth Reports and the CCJ National Action Plan strongly endorse mentoring relationships among the generations of lawyers to foster professionalism in law students and new lawyers. The next section explains how the theory of and the empirical data on mentoring relationships can help the legal profession foster the principles of professionalism.

The Theory of Mentoring Relationships

The Definition of a Mentor and Mentoring

Historically, the term “mentor” referred to an experienced, wise, and trusted guide or counselor who nurtured the protégé to grow in some substantial way. Mentors and protégés live out a critical social compact among the generations. The more experienced seek to help the generations who follow to build on what the earlier generations have done; the mentor seeks

10. Self-regulation is another common theme of these definitions of professionalism. Members of the profession are responsible for building healthy peer communities. Self-regulation is a defining characteristic of the profession, which has a responsibility to protect the public. Stanley Commission Report, *supra* note 1, at 10. Further, a lawyer is a member of a self-governing profession. MacCrate Report, *supra* note 6, at 140-41. Self-regulation is a supportive element to professionalism. Haynsworth Report, *supra* note 2, at 7. Lawyers “should not tolerate unethical or unprofessional conduct by their fellow lawyers.” Action Plan, *supra* note 3, at 7. The Preamble to the Model Rules stresses the responsibilities that are implicated by self-regulation and notes that the profession risks loss of its autonomy if its members fail in their duties.
11. Public service is an important element of these professionalism definitions. Each lawyer should devote professional time to serve the public good, particularly by representing pro bono clients. See MacCrate Report, *supra* note 6, at 140; Haynsworth Report, *supra* note 2, at 7; Action Plan, *supra* note 3, at 7.
12. Implicit in the third and the sixth professionalism themes is a continuing reflective engagement on the relative importance of wealth and income in professional life. The Stanley Commission Report, the Haynsworth Report, and the Model Rules’ Preamble all focus on balancing a lawyer’s personal income and wealth goals with the other principles of professionalism.

to help the next generation to do better than the mentor's own generation has done.¹³

While mentors have existed for millennia, intentional and organized efforts to foster mentor relationships in the legal workplace date back only three or four decades.¹⁴ In this period, the definition of "mentor" expanded from an experienced, wise, and trusted guide or counselor to include a much broader array of people who give guidance to the protégé. "Mentoring" became a verb referring to a process.¹⁵

The scholarly literature on mentoring, even on mentoring in a peer-review profession like law, does not define mentoring to include the principles of professionalism. For example, one author on legal workplace mentoring defines a mentor as "a person who helps a lawyer to develop professionally, to achieve the lawyer's desired professional goals," and "mentoring" as "the process by which mentor and protégé work together to identify and help the protégé work toward those professional goals."¹⁶

We believe the definition of a mentor and mentoring must include a focus on professionalism if the profession is to realize its ideals and core values: a mentor in the legal profession is a person who helps a lawyer (or law student) develop professionally both in internalizing the principles of professionalism and in achieving the protégé's personal professional goals. The mentor's and protégé's goals may include the mentoring functions identified below.

We define below the **career and psychosocial purposes (referred to in the literature as functions) of mentoring** and summarize the historical development of the social science literature on mentoring, primarily in the

13. Recent scholarship on mentoring observes that mentor relationships also offer substantial intrinsic and extrinsic benefits to mentors. The mentor receives intrinsic benefits in terms of the personal satisfaction of sharing one's experience to help another person. The mentor receives extrinsic benefits in terms of an increase in the mentor's base of loyal support and power, social recognition for skills as a good teacher and adviser, gratitude and confirmation from the protégé, and an increase in mentor learning. Raymond A. Noe, David B. Greenberger, and Sheng Wang, *Mentoring: What We Know and Where We Might Go*, in 21 *Research in Personnel and Human Resources Management*, 129, 151 (2002); Connie R. Wanberg, Elizabeth T. Welch, and Sarah A. Hezlett, *Mentoring Research: A Review and Dynamic Process Model*, 22 *Research in Pers. & Human Res. Mgmt.* 39, 52-53 (2003); Sharon K. Gibson, *Being Mentored: The Experience of Women Faculty*, 30 *J. Career Dev.* 173 (2004); Sarah A. Hezlett and Sharon K. Gibson, *Mentoring and Human Resources Development: Where We Are and Where We Need to Go*, 7 *Advances in Developing Hum. Resources* 446, 453, 457-58 (2005).
14. N.Y. Women's Bar Ass'n, *Preface to Ida O. Abbott, The Lawyer's Guide to Mentoring* 3 (Washington, D.C., 2000).
15. Abbot, *The Lawyer's Guide to Mentoring*, *supra* note 14. The newer approach to mentoring, rather than focusing on one ideal mentor, counsels protégés "to develop a network of relationships with many mentors at different times and for different developmental purposes. . . . Lawyers may have numerous mentors at once, at different times, and for different purposes." *Id.* at 23.
16. *Id.* at 17.

business context, which has focused on the protégé's career and psychosocial development. We then explain how this literature is only beginning to address how mentor relationships serve an important role modeling function. Finally, we explore how the current social science literature leaves virtually uninvestigated how mentoring relationships in the context of a peer-review profession foster the protégé's and mentor's professionalism.

The Functions of the Mentoring Relationship

The Career Mentoring Function

The scholarly literature on mentoring functions builds on the career and psychosocial functions of mentoring first articulated by Kathy Kram.¹⁷ The career mentoring function directly aids the protégé's career advancement and includes (1) favorable and challenging work assignments, (2) coaching, (3) exposure, (4) protection, and (5) sponsorship.¹⁸ Coaching refers to the mentor's efforts to enhance the protégé's "knowledge and understanding of how to navigate effectively in the corporate world."¹⁹ It includes specific strategies for accomplishing work objectives and for achieving recognition and career aspirations. It also includes feedback on critical events like presentations to senior management.²⁰

The career mentoring function should help the protégé develop the following skills: (1) networking; (2) marketing the protégé both within the firm or law department and with potential clients; (3) initiating and growing successful mentoring relationships (an important skill for all mentoring functions)²¹; (4)

17. Kathy E. Kram, *Mentoring at Work: Developmental Relationships in Organizational Life* (Glenview, Ill., 1985).

18. Hezlett and Gibson, *Mentoring and Human Resources Development*, *supra* note 13, at 448. Abbott gives examples of how a mentor helps a protégé with career advancement in a law firm:

- "help the protégé navigate and rise in the organization through sponsorship, challenging work assignments, coaching and protection." Abbott, *The Lawyer's Guide to Mentoring*, *supra* note 14, at 17.
- "help the protégé understand what the protégé has to do to advance." *Id.* at 27.
- "steer protégés to challenging work that will give them visibility and a chance to prove their mettle." *Id.*
- "provide a special form of entry into informal social networks that offer many important advantages" that will enhance career advancement. *Id.*

19. Kram, *Mentoring at Work*, *supra* note 17 at 28.

20. *Id.* at 28.

21. A skill fundamental to all mentoring functions discussed here but not yet significantly analyzed in the literature is initiating and developing a relationship with a mentor—how the protégé encourages mentors to invest in the protégé. There is limited research on how a protégé actually shapes the relationship with a mentor. Hezlett and Gibson, *Mentoring and Human Resources Development*, *supra* note 13, at 450; Monica C. Higgins and David A. Thomas, *Constellations and Careers: Toward Understanding the Effects of Multiple Developmental Relationships*, 22 *J. Organiz. Behav.* 223, 240 (2001).

career planning and implementation, including the practical knowledge of how to secure initial employment and how recognition and advancement occur in a firm; (5) teamwork with staff and other lawyers; and (6) self-organization and time management.

The Psychosocial Mentoring Function

The psychosocial mentoring function enhances the protégé's sense of competence, self-esteem, and identity, including acceptance and confirmation, counseling, friendship, and role modeling.²² The central theme is building the protégé's self-confidence and sense of self-worth. The psychosocial mentoring function should help the protégé to develop self-confidence, including a sense of competence in the professional role, and self-worth.²³

The Role-Modeling Mentoring Function

Hezlett and Gibson write that

“...because of mixed evidence..., it is unclear how many distinct mentoring functions there are. Some research suggests that Kram's (1985) original two mentoring functions are the appropriate way to characterize the assistance that mentors provide.... Other research supports the idea that role modeling, initially conceptualized as a facet of psychosocial mentoring, should be viewed as a third, separate mentoring function....”²⁴

Wanberg, Welsh, and Hezlett conclude that role modeling is a third mentoring function.²⁵ We agree, at least in the context of a peer-review profession.²⁶

Much skill development for law students and new lawyers occurs through observation of and discussion with good role models. This close connection between role modeling and professional skill development suggests role modeling is a separate mentoring function distinct from the career mentoring function. While the central theme of the psychosocial mentoring function is building the protégé's self-confidence and sense of self-worth, the central theme of the role modeling mentoring function is ensuring that the protégé develops

22. Hezlett and Gibson, *Mentoring and Human Resources Development*, *supra* note 13, at 448; Abbott, *The Lawyer's Guide to Mentoring*, *supra* note 13, at 28.

23. While scholarship on the psychosocial mentoring function occasionally mentions “identity” or “professional identity” as a goal and outcome of this function, these terms are left undefined. Analysis below places professional identity development in the professionalism mentoring function.

24. Hezlett and Gibson, *Mentoring and Human Resources Development*, *supra* note 13, at 449.

25. Wanberg et al., *Mentoring Research*, *supra* note 13, at 41-44.

26. Note that the responsibilities of a role model overlap those of a mentor. Not all role models are mentors because a role model may not interact significantly with the person for whom he or she is a role model. However all mentors are role models.

professional knowledge and skills that at least satisfy minimum professional standards and at best substantially exceed minimum standards.

A role model in a professional context sets an example of excellence by modeling the technical knowledge and relationship skills necessary for the professional role. Role modeling by a mentor thus substantially influences how a protégé learns the relationship skills and applied knowledge necessary for professional competence.

The role modeling mentoring function should assist the protégé with the following skills learned through observation of, and discussion with, experienced lawyers:²⁷ (1) the ability to obtain and keep clients; (2) understanding and conducting litigation; (3) counseling; (4) negotiation; (5) diagnosing and planning solutions to legal problems; (6) instilling others' confidence in the lawyer; and (7) practice management.

The Professionalism Mentoring Function

We add a fourth mentoring function, professionalism. The professionalism mentoring function includes those aspects of mentoring that help the protégé to internalize the principles of professionalism.

The benefit of separating the role modeling function from the professionalism function is to emphasize the importance of the professionalism function in the context of mentoring in a peer-review profession. The peer-review professions are those occupations where there is an unwritten social contract whereby society grants to practitioners rights of autonomy and self-regulation in return for the profession's commitment to the principles of professionalism, including effective peer review. Mentoring in many occupations will have a role modeling function but mentoring in a peer-review profession has a unique additional obligation.

Empirical Data Assessing Outcomes of Mentoring Relationships

Empirical research on mentoring relationships is still relatively thin.²⁸ “[M]any questions about mentoring remain poorly answered or have yet to be thoroughly investigated.”²⁹

27. See section entitled Empirical Data on the Role Modeling Mentoring Functions, *infra* at 9; see also Bryant G. Garth and Joanne Martin, Law Schools and the Construction of Competence, 43 J. Legal Educ. 469 (1993) (study on critical lawyering skills discussed *infra* at 9-10); John Sonsteng and David Camarotto, Minnesota Lawyers Evaluate Law Schools, Training and Job Satisfaction, 26 Wm. Mitchell L. Rev. 327 (2000) (study on critical lawyering skills discussed *infra* at 9-10).
28. Tammy D. Allen et. al., Career Benefits Associated with Mentoring for Proteges: A Meta-Analysis, 89 J. of Applied Psychology 127, 134 (2004); Hezlett and Gibson, Mentoring and Human Resources Development, *supra* note 13, at 447; Wanberg, Welsch, and Hezlett, Mentoring Research, *supra* note 13, at 112.
29. Hezlett and Gibson, Mentoring and Human Resources Development, *supra* note 13, at 447.

Empirical Data on the Career and Psychosocial Mentoring Functions

Most research has focused on mentoring's impact on the career development function in the context of business.³⁰ Several meta-analyses synthesizing research from a number of related empirical studies conclude that mentoring has a positive impact on career outcomes in terms of promotion and compensation.³¹ Mentoring also correlates with the protégé's perceived promotion and career opportunities.³² The studies "provide some evidence that objective career success indicators, such as compensation and promotion, are more highly related to career mentoring than to psychosocial mentoring,"³³ but little seems to be known about which particular facets of the career mentoring function are the most important in contributing to positive career outcomes.³⁴

Meta-analyses also indicate that protégés experience increased job and career satisfaction as a result of mentoring.³⁵ Career and psychosocial mentoring seem to contribute approximately equally to increased job and career satisfaction.³⁶

Four studies examine the career and psychosocial mentoring functions at law firms, and two studies provided evidence that mentored associates were more likely to make partner.³⁷ One provided evidence that female protégés had higher compensation and more job and career opportunities.³⁸ Three

30. *Id.* at 452.

31. Allen, et. al., Career Benefits, *supra* note 28, at 132 (but sizes of positive outcomes are small); Christina M. Underhill, The Effectiveness of Mentoring Programs in Corporate Settings: A Meta-Analytical Review of the Literature, 68 *J. Vocational Behavior* 292, 302 (2006) ("[T]hose receiving mentoring have a slight advantage in their careers over those not mentored."); Wanberg, Welsh, and Hezlett, Mentoring Research, *supra* note 13, at 47; Noe et al., Mentoring, *supra* note 13, at 130.

32. Underhill, The Effectiveness of Mentoring Programs, *supra* note 31, at 302.

33. Allen et al., Career Benefits, *supra* note 28, at 132.

34. Helzett and Gibson, Mentoring and Human Resources Development *supra* note 13, at 453.

35. Underhill, The Effectiveness of Mentoring Programs, *supra* note 31, at 302; Allen et al., Career Benefits, *supra* note 28, at 132; Gibson, Being Mentored, *supra* note 13; Wanberg, Welsh, and Hezlett, Mentoring Research, *supra* note 13, at 47; Noe et al., Mentoring, *supra* note 13, at 130.

36. Allen et. al, Career Benefits, *supra* note 28, at 132 ("What was surprising was that career and psychosocial mentoring had comparable relationships with job and career satisfaction."). Mentoring is more strongly related to job and career satisfaction than to positive career outcomes in terms of promotion and income. *Id.* Again there seems to be little known about which specific facets of career or psychosocial mentoring are most important to protégé job and career satisfaction.

37. David N. Laband and Bernard F. Lentz, The Impact of Having a Mentor on Earnings and Promotion: Evidence from a Panel Study of Lawyers, 6 *Applied Economics Letters* 785, 785-787 (1999) (reporting that those who reported having a mentor in 1984 were more likely in 1990 to have achieved partner status); Higgins and Thomas, Constellations and Careers, *supra* note 21, at 229-40.

38. Jean E. Wallace, The Benefits of Mentoring for Female Lawyers, 58 *J. of Vocational Behavior* 366, 372 (2001).

studies showed that mentored lawyers had higher job satisfaction,³⁹ while two indicated that mentored lawyers were less likely to leave the firm when given a viable option.⁴⁰

Even though two of the lawyer studies showed that having a mentor correlated with associate retention, Hezlett and Gibson, in reviewing empirical studies on the topic of mentoring, concluded that measurement of employee retention was often not accomplished even when it was a stated purpose of the program.⁴¹

Empirical Data on the Role Modeling Mentoring Function

Hezlett and Gibson note that “[o]ne of the mentoring functions, role modeling, suggests that learning through observation may be a key part of mentoring relationships.”⁴² Protégé learning is pivotal, and protégés learn primarily through observation of, and interaction with, mentors.⁴³

Two large-scale studies of lawyers provided evidence that newer lawyers learn some of the key professional skills through observation of, and discussion with, senior lawyers. The studies use the MacCrate Report’s list of key skills necessary for the practice of law. In late 1991, Garth and Martin surveyed 1,500 lawyers practicing law in Chicago who had been admitted to the bar between 1986 and 1991 to ascertain where a lawyer learns the skills that lead to professional success.⁴⁴ Sonsteng and Camarotto conducted two large surveys of Minnesota lawyers in 1997-98 and 1999 asking the same question.⁴⁵

39. G. Melton Mobley, Charles Jaret, Kristin Marsh, and Yoon Yong Lim, Mentoring, Job Satisfaction, Gender, and the Legal Profession, 31 *Sex Roles: A Journal of Research* 79 (1994) (from a cross-sectional survey of 1,132 Georgia lawyers in 1989); Wallace, The Benefits of Mentoring, *supra* note 38, at 372; Higgins and Thomas, Constellations and Careers, *supra* note 21, at 236.
40. David N. Laband and Bernard F. Lentz, Workplace Mentoring in the Legal Profession, 61 *S. Econ. J.* 783, 797, 799 (1995) (examining data from the 1984 ABA National Survey of Career Satisfaction); Higgins and Thomas, Constellations and Careers, *supra* note 21, at 236 (assessed in 1991 and 1997 whether the respondents were still at their original firm and whether they had been promoted).
41. Hezlett and Gibson, Mentoring and Human Resources Development, *supra* note 13, at 456. They noted however that in general little research attention has been given to mentoring outcomes at the organizational level so this question remains yet to be investigated. *Id.* at 455-56. Underhill suggested that more studies are needed to examine the impact mentoring has on outcomes such as a protégé’s organizational commitment and intentions to stay. Underhill, The Effectiveness of Mentoring Programs, *supra* note 31, at 302.
42. Hezlett and Gibson, Mentoring and Human Resources Development, *supra* note 13, at 459.
43. Sarah A. Hezlett, Proteges’ Learning in Mentoring Relationships: A Review of the Literature and an Exploratory Case Study, 7 *Advances in Developing Hum. Resources* 505, 505-06, 518-19 (2005).
44. Garth and Martin, Law Schools, *supra* note 27, at 471-73.
45. Sonsteng and Camarotto, Minnesota Lawyers, *supra* note 27, at 329, 374-390 (Table 8).

The two studies provide evidence that observation of and advice from experienced lawyers were the most important factors in developing the following skills (in order of priority): (1) the ability to obtain and keep clients; (2) understanding and conducting litigation; (3) counseling; (4) negotiating; and (5) diagnosing and planning solutions to legal problems. Other affected skills included the drafting of legal documents in the Garth and Martin study and the organization and management of law practice and instill confidence in others in the Sonsteng and Camarotto study.

With respect to the key skills learned through observation of experienced lawyers, respondents in both studies evaluated their law school preparation as follows:⁴⁶

	Sonsteng/Camarotto - percent perceiving law school provided preparation	Garth/Martin - percent saying law school was most impt. source of the skill
ability to obtain and keep clients	13	1
understanding and conducting litigation	26	15
counseling	29	11
negotiation	30	12
diagnosing and planning solutions to legal problems	55	14

Both studies highlight that legal education currently contributes little to the development of some critical professional skills, particularly interpersonal and practical judgment skills. The studies also show that observation of, and discussion with, practicing lawyers (including mentors) make a major contribution in developing these professional skills.⁴⁷

While the empirical literature on mentoring does not give much attention to how role modeling promotes skill development, “[r]ecent research and theory-building efforts highlight the potential importance of the role of learning in mentoring relationships. The preliminary evidence suggests that mentors and protégés see learning [both knowledge and skills] as an

46. Garth and Martin, *Law Schools*, *supra* note 27, at 492; Sonsteng and Camarotto, *Minnesota Lawyers*, *supra* note 27, at 337. Respondents indicated that law school provided preparedness or was the most important source for the following skills: library legal research (84 percent, 65 percent), computer legal research (76, 61); ability in legal analysis and reasoning (85, 49); and knowledge of the substantive law (62, 44).

47. Daniel J. Givelber, Brook K. Baker, John McDevitt, and Robyn Miliano, *Learning through Work: An Empirical Study of Legal Internship*, 45 *J. Legal Educ.* 1, 17 (1995).

important objective and outcome of their relationships.”⁴⁸ Two authors observe that “[r]elatively little research has focused on how mentoring is related to learning in organizations.”⁴⁹

Empirical Data on the Professionalism Mentoring Function

Empirical Research in the Mentoring Literature

While the scholarly literature on the theory of mentoring relationships occasionally mentions the formation of “identity” or “professional identity” as part of the psychosocial mentoring function, these terms are not yet clearly defined. “Identity” in the context of the psychosocial mentoring function is closely related to self-confidence and self-worth. The moral psychology literature discussed in the next subsection defines professional identity as the degree to which the individual has internalized the principles of professionalism for that profession.

We found little research investigating whether mentoring in a peer-review profession correlates with an increasing degree of protégé internalization of the principles of professionalism for that profession. A few authors have done empirical work on how medical students and residents learn professionalism. The study of one medical school’s students and residents found that clinically oriented learning approaches (role modeling by faculty, clinical rounds, interactions with patients, and case conferences) were the “most effective” means of fostering professionalism, with role modeling by faculty rated as the “most effective” of these approaches.⁵⁰ Respondents rated multidisciplinary approaches (discussion with cultural experts, ethics consultants, attorneys, and chaplains) as “effective.”⁵¹

Another study of senior medical residents’ views on the meaning of professionalism and how they learned about it provided evidence that the three most commonly listed attributes that defined professionalism for the residents were competence, respect, and empathy. The large majority of the residents listed contact with, and observation of, positive role models as their preferred method of learning these professionalism virtues and skills.⁵²

48. Hezlett and Gibson, *Mentoring and Human Resources Development*, *supra* note 13, at 457; Abbott, *The Lawyer’s Guide to Mentoring*, *supra* note 14, at 33-35 (Abbott does not indicate that her observation is based on empirical research).

49. Hezlett and Gibson, *Mentoring and Human Resources Development*, *supra* note 13, at 457.

50. Laura Weiss Roberts, Katherine A. Green Hammond, Cynthia M. A. Geppert, and Teddy D. Warner, *The Positive Role of Professionalism and Ethics Training in Medical Education: A Comparison of Medical Student and Resident Perspectives*, 28 *Academic Psychiatry* 170, 175-76 (2004) (62 percent response rate with 336 surveys completed).

51. *Id.* at 175-76.

52. A. Keith W. Brownell and Luc Cote, *Senior Residents’ Views on the Meaning of Professionalism and How They Learn about It*, 76 *Academic Medicine* 734, 735-36 (2001) (48 percent response rate with 258 responses). In a study of graduate students,

The current mentoring literature's emphasis on business, industry, and protégé career development is one reason so little empirical research has addressed issues of professionalism unique to a peer-review profession. Hezlett and Gibson note that the research "to date has focused on the protégés' perspective, using measures of protégé satisfaction and outcomes."⁵³ Other indices of program effectiveness may be more appropriate, particularly if the objectives are broader than enhancing career development.⁵⁴ Other scholars similarly observe that "empirical research is needed that examines the link between mentoring and professional identity and self-competence because this is discussed in mentoring theory but has not been the subject of much research attention."⁵⁵

The two-year pilot project for Georgia State Bar's Transition Into Law Practice Program obtained data from 100 mentor/protégé pairs concerning the impact of mentoring on the protégé's understanding of ethics and professionalism.⁵⁶ Both protégés and mentors responded at the end of the first and second years that the mentoring functions most strongly realized "were the handling of ethical aspects of law practice and dealing with other lawyers."⁵⁷

A 2001 survey of 1,201 South Carolina lawyers admitted to practice since 1994 indicates that "significant development of a lawyer's professional character occurs after law school in the first years of practice" and that mentors play a role in this professional character development process.⁵⁸ Nearly nine out of ten lawyers in the survey indicated that they have at least one person to whom they look for guidance or example in developing their own professional character.⁵⁹

almost half indicated that their "advisor/mentor" was the most important person shaping professional values and preparing the student to deal with ethical issues. Melissa S. Anderson, Elo Charity Oju, and Tina M. R. Falkner, *Help From Faculty*, 7 *Sci.& Engineering Ethics* 487, 501 (2001).

53. Hezlett and Gibson, *Mentoring and Human Resources Development*, *supra* note 13, at 452.

54. *Id.*

55. Allen et al., *Career Benefits*, *supra* note 28, at 133.

56. State Bar of Ga., *Comm. on the Standards of the Profession, Transition into Law Practice Program Pilot Project 4* (Atlanta, 2000).

57. State Bar of Ga., *Comm. on the Standards of the Profession, Committee Report and Recommendations for a Mandatory Transition into Law Practice Program 20* (Atlanta, 2003).

58. Robert M. Wilcox, *Professional Character Development: An Empirical Study of the Current Role of Mentoring and Other Means by Which Lawyers Learn Appropriate Behavior After Law School* 13, 37 (unpublished article on file with authors).

59. *Id.* at 37. "Respondents were asked to list all of the ways in which the mentor had influenced their own character. The most common guidance, cited by 330 of the 410 [80 percent] who have a person they consider to be a mentor, appears to be through role modeling and observation by the new lawyer of the mentor's behavior." *Id.* at 38. Sixty-seven percent indicated that they had received active mentoring through occasional conversations about professional character. *Id.* at 39.

Empirical Research in the Moral Psychology Literature on Professional Identity Formation

The moral psychology literature is beginning to address professional identity formation. James Rest, Darcia Narvaez, Muriel Bebeau, and other investigators who build on the work of Lawrence Kohlberg suggest understanding professional identity in the context of a Four-Component Model that explains what happens psychologically for professional moral behavior to take place.⁶⁰ Their approach posits at least four distinct and interactive processes a professional must complete to result in a moral action. A deficiency in any component will lead the professional to moral failure.

Component 1: *Ethical Sensitivity* is “the ability to interpret the reactions and feelings of others. It involves being aware of alternative courses of action, knowing cause-consequence chains of events in the environment and how each could affect the parties concerned. . . . For individuals being socialised to professional practice, ethical sensitivity involves the ability to see things from the perspective of other individuals and groups . . . , and more abstractly, from legal, institutional and national perspectives. Thus, it includes knowing the regulations, codes and norms of one’s profession, and recognising when they apply.”⁶¹

Component 2: *Moral Reasoning* takes place once a professional has identified a moral issue and is aware of possible lines of action and how people would be affected by each line of action (Component 1). Moral reasoning involves judgment about which line of action is more justifiable. It involves deliberation regarding the various considerations relevant to different courses of action, making a judgment regarding which of the available actions would be most morally justifiable, and integrating both shared moral norms and individual moral principles.⁶²

Component 3: *Moral Motivation, Commitment, and Professional Identity* have to do with the importance given to moral values in competition with other values. A professional may know which alternative course of action is just or right (Component 2), but the professional may not be sufficiently motivated to put moral values higher than other values. Values such as self-interest in terms of income or wealth, protection of one’s organization or community, or self-actualization might trump concern for doing what is just or right. Professional identity, the degree to which the professional understands and internalizes the concepts of professionalism, fits principally within moral motivation and commitment as a

60. See James Rest, Background: Theory and Research, in *Moral Development in the Professions: Psychology and Applied Ethics* (James R. Rest and Darcia Narvaez eds., Hillsdale, N.J., 1994) at 22-25

61. Muriel J. Bebeau, The Defining Issues Test and the Four Component Model: Contributions to Professional Education, 31 *J. Moral Educ.* 271, 283 (2002).

62. See Rest, Background: Theory and Research, *supra* note 60, at 23-24. For a summary of these concepts, see Neil W. Hamilton, *Legal Practice and Moral Psychology in Minnesota*, Minn. Lawyer, Sept. 29, 2003.

significant factor.⁶³ For example, in the legal profession, professional identity would be the degree to which the lawyer understands and has internalized the last four principles of legal professionalism.

Component 4: *Moral Character and Implementation Skills* focus on whether the professional has sufficient persistence, ego strength, toughness, strength of conviction, and courage to implement his or her moral reasoning. A professional must also be able to determine an effective action plan and to carry out the plan. Creative problem solving is critical for moral character and implementation.⁶⁴

There is some early research on how students and practicing professionals move through stages of professional identity formation. The process of understanding and internalizing the concepts of professionalism may occur over an extended period of professional life—perhaps over the entire professional career for those who continually engage in reflective professional practice.

Robert Kegan postulates five major stages or shifts explaining how individuals over a lifetime organize their experiences into a meaningful whole that makes sense of the world. “These progressive shifts in complexity are most easily recognized by comparing a young child’s understanding of the social world with an adult’s understanding. It is not merely that adults know more than children. Adults also possess a more complex system of thought than do children. They see and understand things that children may not see and certainly do not understand.”⁶⁵

Adapting Kegan’s theory of self-development to focus on how new professionals form a professional identity, Rule and Bebeau explain the three most common stages of a professional’s identity development.

Stage 2: The Independent Operator

Professionals at this stage “look at themselves and the world in terms of individual interests (e.g., their own, their employer’s, others’) and in terms of concrete, black-and-white role expectations. Personal success is paramount and is measured by concrete accomplishments of individually valued goals and the enactment of specific role behaviors....”⁶⁶ A stage 2 professional is likely to conform to professional ethical codes and standards in order to garner

63. Susan A. Roehrich and Muriel J. Bebeau, Professional Identity Development; Entering Dental Students’ Conceptions of Professionalism (unpublished article on file with the authors) at 10.

64. See Rest, Background Theory and Research, *supra* note 60, at 24. For a summary of this concept in the context of legal education, see Neil W. Hamilton, Moral Psychology and the Education of Lawyers, *Minn. Lawyer*, Dec. 15, 2003.

65. Robert Kegan, *The Evolving Self: Problems and Process in Human Development* 30, 32 (Cambridge, Mass., 1982). Stage 1 in Kegan’s original framework is the child’s impulsive stage constrained by the parenting culture. *Id.* at 118-19.

66. James Rule and Muriel J. Bebeau, *Dentists Who Care: Inspiring Stories of Professional Commitment* (Chicago, 2005) at 173-74.

rewards and avoid punishment.⁶⁷ “As one stage 2 aspiring professional put it, ‘there are professional guidelines and codes that shape your life.’”⁶⁸

Stage 3: The Team-Oriented Idealist

For a stage 3 professional, “individual interests are no longer central to how they define themselves. Stage 3 individuals look at themselves and the world in terms of shared values, mutual expectations, and identification with institutional ideals and people Rather than seeing professionalism as enacting certain specific behaviors or fixed roles (the stage 2 view), stage 3 individuals see professionalism as meeting the expectations of those who are more knowledgeable, more legitimate, and more professional. As one stage 3 professional remarked ‘we must always hold ourselves to the highest expectations of society.’”⁶⁹

Stage 4: The Self-Defining Professional

While a stage 3 professional is embedded in a collective identity defined by the most respected members of the profession, a stage 4 professional has forged a personal system of values and internal processes for evaluating the collective identity.⁷⁰ “The self-system of the stage 4 individual provides an internal compass for negotiating and resolving tensions among these multiple, shared expectations. Conflicts among the inevitable competing pulls of various roles and their attendant obligations are negotiated by adherence to one’s own internal standards and values.”⁷¹ When confronted with a moral dilemma, a self-authoring stage 4 professional, after reflection, says, “This is who I am and what I stand for.”

Forsythe, Snook, Lewis, and Bartone studied professional identity development of United States Military Academy cadets. Table 1 below indicates that although entering students are principally in transition to stage 3, graduating students are principally at stage 3 or in transition to stage 4.⁷²

67. George B. Forsythe, Scott Snook, Philip Lewis and Paul Bartone, Making Sense of Officership: Developing a Professional Identity for 21st Century Officers, *in* The Future of the Army Profession 189, 205 (Lloyd J. Matthews ed., Boston, 2002).

68. Rule and Bebeau, Dentists Who Care, *supra* note 66, at 173-74.

69. *Id.* at 174.

70. *Id.*

71. *Id.*

72. Forsythe et. al, Developing a Professional Identity, *supra* note 67, at 204.

Table 1
USMA Developmental Level Scores (Class of 1998) - Columns 1 and 2
Developmental Level Scores for Officers - Columns 3 and 4

<u>Kegan</u> Stage Level	1 Freshman	2 - Seniors	3 - Mid-career Officers	Senior Officers
Stage 2	21%	6%	0%	0%
Transition to 3	63%	28%	31%	0%
Stage 3	16%	47%	23%	11%
Transition to 4	0%	19%	8%	40%
Stage 4	0%	0%	38%	50%

They compared this data to similar studies of mid-career and senior officers and found continuing development toward an internalized professional identity.⁷³ Forsythe et al. conclude that the data indicate “a pattern of continued development toward a principle-centered, self-authored understanding of officer professionalism” over the course of a career. This study with cadets and practicing professionals provides evidence of Kegan’s theory that identity development is a lifelong process. They recommend a more intentional educational engagement to foster professional identity formation.⁷⁴

Roehrich and Bebeau arrive at similar conclusions about the developmental stage of students entering dental school. They coded essays written by students entering dental school to assess the students’ conception of professional expectations. Of 46 students, 13 percent were at stage 2, 70 percent in the stage 2 to stage 3 transition, 7 percent at stage 3, and 7 percent in the stage 3 to stage 4 transition.⁷⁵

Based on their study of dentists whom peers identified as exemplars of professionalism, Rule and Bebeau conclude that “[t]here is plenty of evidence that aspiring professionals do not intuit the values of their profession or learn them by osmosis. They need to be explicitly taught.... Lessons from our exemplars suggest that students would benefit from opportunities to reflect on their goals, their values, and the role that models (both positive and negative) play in their development. The job of educators is to facilitate self-assessment and reflection, tied to explicit and public criteria.”⁷⁶ Mentors fulfilling the professionalism mentoring function would clearly be “models” in the sense that Rule and Bebeau use the term.

Rule and Bebeau recommend tailoring strategies and probing questions appropriate to each student’s professional identity developmental stage. The goal is to promote student reflection to foster growth to the next stage of

73. *Id.* at 203.

74. *Id.* at 203, 206-08.

75. Roehrich and Bebeau, Professional Identity Development, *supra* note 63, at 9.

76. Rule and Bebeau, Dentists Who Care, *upra* note 66 at 164.

professional identity development and a more developed understanding of professionalism.⁷⁷

Professional identity formation is a necessary but, by itself, not a sufficient condition for moral action. The professional must also have ethical sensitivity, moral reasoning, and moral character and implementation skills. Mentoring in a profession should foster these additional components.⁷⁸ A formal mentoring program should structure educational engagements between mentors and protégés that develop the protégé's competence in all four components, not just professional identity formation. The seminar classes in a formal mentoring program can focus on skills of reflection and self-assessment.

The relationship of the principles of professionalism to the Four Component Model is more complex than just positing that professional identity formation, the third component of the Four Component Model, is the internalization of the principles of professionalism. For example, the fourth principle of professionalism in particular—a lawyer should, over a career, continue to grow in personal conscience—incorporates the other three components of the Four Component Model. Implicit in the concept of growth in personal conscience is that the lawyer will undertake moral action. For this to occur, ethical sensitivity, moral reasoning, moral character, and courage, not just moral motivation/professional identity, must also be developed.⁷⁹

Empirical Data on Informal and Formal Mentoring Relationships

A formal mentoring relationship differs from an informal relationship because (1) the formal relationship is typically initiated through some kind of organizational matching process, and (2) the formal relationship has elements of structure such as guidelines on how often to meet or suggestions on possible topics to discuss.⁸⁰

These distinctive features may lead to differences in how the mentoring relationship develops and the comparative advantages of each type of relationship. Of course a protégé may have a constellation of mentors and could be involved in both types of relationships.

Comparative advantages of informal mentoring relationships:

77. *Id.* at 11 and Appendix C.

78. We are indebted to David Bateson, Director of the Mentor Externship Program, for this point.

79. The Four Component Model itself is “not conceived as a linear problem-solving model. For example, moral motivation [professional identity] may affect moral sensitivity and moral character may constrain moral motivation.” Board on Health Sciences Policy and Institute of Medicine, *Integrity in Scientific Research: Creating an Environment That Promotes Responsible Conduct* 88 (Washington, D.C., 2002).

80. Wanberg, Welsh and Hezlett, *Mentoring Research*, *supra* note 13, at 83.

- Informal mentors may be more motivated to be in the relationship and give more time and energy to it than formal mentors.⁸¹
- A protégé in an informal relationship is likely to choose a mentor with good communication and interpersonal skills, a compatible personality, and similar interests and goals, whereas it is possible that an assigned mentor will not be similarly well matched.⁸²
- A protégé who initiates an informal relationship is more likely to have both a commitment to the relationship and the skills necessary to shape the relationship positively.
- Mentors in informal relationships, which are less visible, may be more willing to engage in mentoring that might be perceived as favoritism.⁸³

Comparative advantages of formal mentoring relationships:

- Many people, particularly those from disadvantaged backgrounds, could use mentors but do not have the skills to initiate and grow a mentor relationship.
- A strong structured program will: (1) carefully screen and select mentors who are outstanding role models for the profession (programs may be more effective if mentors participate voluntarily); (2) involve protégés to some degree in the selection of their mentors; (3) provide training for both mentors and protégés; (4) require protégés to engage in goal setting with the mentor; (5) provide guidance on the frequency of meetings and topics for discussion that relate to the formal program's goals; (6) monitor and assess the relationships to reduce variability and ensure quality; and (7) give the mentors recognition for their contributions.
- Employers offering formal mentoring programs increase their attraction for job seekers, particularly those job seekers with strong learning orientations.⁸⁴

While many authors have offered nuts and bolts advice about how employers should structure formal mentoring programs, there has been relatively little research on formal mentoring relationships and even less research rigorously comparing formal and informal mentoring relationships.⁸⁵ Formal programs have substantial variability, from a “take a student or junior professional” to lunch arrangement to a strong structured program along the lines discussed in the previous paragraph.⁸⁶ Comparisons between

81. *Id.*

82. *Id.*

83. *Id.*

84. Tammy D. Allen and Kimberly O'Brien, “Formal Mentoring Programs and Organizational Attraction,” 17 *Human Resource Development Quarterly* 43, 53 (Spring 2006).

85. *Id.* at 85, 87; Hezlett and Gibson, *Mentoring and Human Resources Development*, *supra* note 13, at 451-52.

86. Wanberg, Welsh, and Hezlett, *Mentoring Research*, *supra* note 13, at 84.

informal and formal mentoring relationships should make clear what type of formal program is being studied.

Existing data suggest that both informal and formal mentoring relationships are better for the protégé than no mentor relationship.⁸⁷ Although few in number, studies comparing formal mentoring to no mentoring find that formal mentoring generally produces higher levels of socialization, career commitment, organizational commitment, and self-esteem.⁸⁸

Studies comparing formal with informal mentoring (none of which controlled for the characteristics of the formal program) “generally portray informal mentoring as more effective....”⁸⁹ “Some, but not all..., research has suggested that protégés in informal relationships receive more support and accrue more favorable career-related outcomes than their counterparts in formal relationships....”⁹⁰ In other words, protégés in informal relationships appear to receive more career mentoring than those in formal relationships.⁹¹ The early research suggesting that informal mentoring relationships provide more benefit to protégés than formal programs does not control for characteristics of formal programs, and so the conclusion that informal relationships provide more benefit seems premature.

The major flaw in all comparisons of informal and formal mentoring relationships is that they do not investigate and assess the impact of a formal program on the two mentoring functions, professionalism and role modeling, where formal programs should be the strongest. There is virtually no research looking at the impact of formal and informal relationships on these two mentoring functions.

Mentoring Functions for Formal Mentoring Programs in the Legal Profession

The empirical research on mentoring has focused on the career development and psychosocial mentoring functions principally in informal mentoring relationships in business and industry. Formal mentoring relationships in the legal profession (and in all the peer-review professions) must also emphasize professionalism and role modeling.⁹²

A formal mentoring program serving an employer’s interest would likely focus on the retention and professional knowledge and skill development

87. Hezlett, *Proteges’ Learning*, *supra* note 43, at 508-09.

88. Wanberg, Welsh, and Hezlett, *Mentoring Research*, *supra* note 13, at 87.

89. *Id.* at 88.

90. Hezlett and Gibson, *Mentoring and Human Resources Development*, *supra* note 13, at 451.

91. Noe et al, *Mentoring*, *supra* note 13, at 156.

92. See Patrick J. Schiltz, *Legal Ethics in Decline: The Elite Law Firm, the Elite Law School, and the Moral Formation of the Novice Attorney*, 82 *Minn. L. Rev.* 705, 721-22 (1998) (discussing how mentors in the legal profession teach novice lawyers both how to practice the skills of the profession well and how to practice law ethically).

of junior lawyers to justify the costs of the program. Retention may be improved if mentors focus on the career development and psychosocial mentoring functions, as well as the role modeling mentoring function.

Senior members of a law firm must ensure that all lawyers comply with the Rules of Professional Conduct and create an ethical atmosphere that will positively influence the conduct of all lawyers in the organization.⁹³ In addition, common sense suggests that, to the degree professionals find meaning in their work, they will be more satisfied and productive.⁹⁴ Professionalism mentoring should contribute to meaning and purpose in the work for both protégés and mentors. Nearly all of the professionalism principles go to meaning and purpose in professional life. Legal employers should, therefore, include the professionalism mentoring function in their formal mentor programs.

Formal mentoring programs for law students, like the Mentor Externship Program at the University of St. Thomas School of Law, or for newly admitted lawyers, like Georgia's Transition Into Law Practice Program, have broader objectives than the economic interest of a law firm or department. These formal mentoring programs are aimed principally at both the professionalism and the role modeling mentoring functions. For example, the most important goal of the Georgia Program is ethics and professionalism. This is also true of the University of St. Thomas School of Law Mentor Externship Program described in the following section.

Formal mentoring programs in legal education or in the organized bar would focus on the four mentoring functions: professionalism; role modeling (emphasizing those skills best learned by observation of, and reflective discussion with, the mentor—principally the interpersonal skills discussed earlier); psychosocial; and career development. An emphasis should be placed on the professionalism function.

Advancing Professionalism and Role Modeling in a Law School Mentor Externship Program

Overview of the University of St. Thomas School of Law Mentor Externship Program

The University of St. Thomas Law School Mentor Externship Program is the most ambitious formal mentor program to date for law students. Its focus is on professionalism, and, therefore, professional identity formation. While the program provides students and mentors the opportunity to engage in all four mentoring functions,⁹⁵ program administrators and School of Law faculty

93. Model Rules of Prof'l Conduct R. 5.1, cmt. 3 (2003).

94. See Michael Argyle, *The Psychology of Happiness* 224 and 109 (2d ed. 2001) ("Work is enjoyed more if it involves...the completion of meaningful tasks." "Job satisfaction has a small effect on the rate of work; it also enhances cooperation... and reduces absenteeism and labour turnover.")

95. Strong anecdotal evidence from program administrators support the theory that mentors are fulfilling the career mentoring function by assisting students with the skills of (1) networking,

emphasize the professionalism mentoring function, particularly in the required seminar component for all second- and third-year students. Mentors, trained specifically for the program, also emphasize the role modeling function.

The mentor externship is required for every student in each year of law study.⁹⁶ It has three primary objectives that engage the four mentoring functions:

- To foster professionalism for students and mentors;
- To provide students with an experiential window through which to view the professional world and exposure to the diverse spectrum of work that lawyers and judges do; and
- To create opportunities for students to engage in conversations with mentors, full- and part-time faculty, and peers about professionalism, the practice of law, and what they are observing and learning through their mentor experience.

More than 550 lawyers and judges participate in the program, working with a student body of 480 each year.⁹⁷ With 75 percent retention, the program has developed a core group of committed professionals who participate to invest in the future of the profession. Mentors introduce students to a wide range of lawyering tasks and judicial activities and share with them the traditions, ideals, and skills necessary for a successful career. High level quality control, extensive data management, and continuous contact ensure that each student/mentor match has the opportunity to move forward on both the objectives of the program and the identified student goals.⁹⁸

The three objectives translate into an action plan for each student, also known as a Personal and Professional Development Plan. First, the student must write a personal ethics mission. Each student is asked to think about the principles of professionalism in writing his or her ethics mission. The student provides a copy of the personal ethics mission to his or her mentor. Second, the student (with the assistance of his or her mentor) is required to identify a minimum of two lawyering or judicial experiences he or she would like to do

(2) marketing, (3) initiating and growing successful mentor relationships, (4) career planning and implementation, and (5) self-organization and time management. In addition, mentors assist protégés to develop self-confidence in the professional role and a sense of self-worth. However, the focus of the program remains on the professionalism function and the role modeling function.

96. Over the last six years, the program has evolved significantly in response to student, mentor, and faculty evaluation. For a history of the program up through 2003, see Patrick J. Schiltz, *Making Ethical Lawyers*, 45 S. Tex. L. Rev. 875, 875-89 (2004). For a more current overview of the program, see Lisa Montpetit Brabbit and David M. Bateson, *Mentors Mind the Legal Gap*, *Legal Times*, Sept. 4, 2006, available at <<http://www.legaltimes.com>>.

97. To date, over 1,850 pairs have been monitored, observed, and evaluated.

98. To achieve success, a significant number of resources are dedicated to the program, including strong financial support and dedicated lines of full and part-time faculty and staff.

or see during the year with the mentor.⁹⁹ Third, the student and mentor are required to outline two or more agreed upon “topics” and to discuss those topics during the year. Topics include an experience, a template,¹⁰⁰ or an issue important to the legal profession. Last, each student is required to record all program activity in near “real time,” using software designed specifically for the program, Mentor Log 2.0.

In addition to working with a mentor, second- and third-year students enroll in a one-credit seminar.¹⁰¹ The seminar topics have been redesigned several times as we have learned how to engage students at their level of professional identity. Law students at stage 2 (self-interest) want to know what is good for their professional success, the seminar therefore focuses on understanding the importance of good relationships for their success. This includes relationships with clients, mentors, other lawyers and staff in the law firm, adversaries, decision makers, lawyers in the wider profession, and the community. We introduce and analyze all the principles of professionalism in the context of how to be successful in these relationships.¹⁰²

Advancing the Professionalism Function

Based on classroom dialogue, observations, and year-end student feedback, Mentor Externship Program staff and faculty observe that entering law students

99. Second- and third-year students must complete a minimum of five different experiences; first-year students must complete a minimum of four. Students and mentors are provided with a list of suggested experiences representing a diversity of practice areas and legal skills. The experiences intentionally correlate with the law school curriculum in each year of study. For 2006-2007, students recorded over 3,000 experiences. The most popular experiences were: (1) appellate argument; (2) aspects of the trial process such as opening statements, direct and cross examination, and closing arguments; (3) the ADR process (mediation and arbitration); (4) civil and criminal motions; (5) client interviews and (6) research, review, or drafting of legal documents.
100. A Mentor Externship template is a set of questions designed to facilitate a conversation on a given topic.
101. The for-credit seminar meets eight times during the year and each seminar is limited to 15 students. For a more detailed outline of the program and class requirements, visit The School of Law Mentor Externship Program, Curriculum, available at <http://www.stthomas.edu/law/academics/mentor_externship/curriculum.asp> (last visited Aug. 2, 2007).
102. Second year class topics include: (1) The value of a mentor and a mentor relationship; (2) Civility in the legal profession; (3) The economic relationship between lawyer and employer; (4) Work expectations and achieving balance; (5) Gender and relationships in the law; (6) Race and relationships in the law; (7) Growing a mentor relationship; (8) Chemical dependency and mental health. Third year class topics include: (1) Networking; (2) Marketing; (3) Leadership; (4) Fees and billing; (5) Client service and retention; (6) Counseling clients during difficult moments; (7) Time management; (8) Vocation and career satisfaction. Many of these relationship skills are the key skills for the practice of law like obtaining and keeping clients, interviewing and counseling, and creative problem solving noted by Garth and Martin, *supra* note 27, at 492, and Sonsteng and Camarotto, *supra* note 27 at 337. Seminar professors grade student classroom contributions and journals from each student for each class on the degree to which students are able to reflect and learn from their externship experiences regarding the assigned topic. This assessment satisfies ABA Interpretation 302-3.

fall on a spectrum of stages of professional identity formation similar to the students in the West Point and dental school studies discussed earlier. Most Mentor Externship faculty believe that a significant proportion of students are at stage 2 or in the stage 2 to stage 3 transition and are focused on concrete rewards and personal achievement in terms of self-interest. Some of these students are hostile to any engagements in professionalism that are not seen to serve self-interest directly or appear to be duplicative of other classes such as Professional Responsibility. The Mentor Externship Program has been designed specifically to engage each student, regardless of his or her stage of professional identity, and to provide the opportunity for each student to advance on the spectrum of professional identity formation.

Ethics of Duty

Working with a lawyer or judge in the community requires students to focus on a number of ethics-of-duty professionalism skills¹⁰³ that are minimally developed in doctrinal courses. Students see and experience first hand the ethics of duty in action and how lawyers and judges struggle with these issues.

Through program participation, students are called to develop relationships with a mentor, program administrators, full and part-time faculty, and each other (through classroom engagement). Doing so outside of the classroom creates an environment where each student is called upon to navigate the ethics of duty just as lawyers and judges do on a daily basis. While this is true for all professionalism principles, it becomes particularly obvious with the ethics of duty. Each year we find that the most common program violations mirror the most common complaints about practicing lawyers—failures of diligence (Rule 1.3) and competence (Rule 1.1) relating to communications,¹⁰⁴ neglect,¹⁰⁵ record-keeping,¹⁰⁶ and meeting deadlines.

103. Ethics-of-duty professionalism skills refer to the minimum standards set by the rules.
104. Failing to return phone calls or e-mails is generally the number one complaint each year to the Board of Professional Responsibility. Both mentors and program administrators help students who fail to communicate to see the importance of this issue and to improve. For mentors who fail to communicate, the student and program administrators evaluate a variety of ways to address this challenge. If the mentor remains unresponsive, the student is paired with another mentor.
105. Many mentors have helped students to understand that neglect often stems from poor time management skills and an inability to manage a demanding case load and schedule. For students, neglect can include failing to attend to mentor program requirements in a timely manner, “cramming” in all the requirements at the end of the year, or cutting corners on projects for class or with the mentor.
106. Each student is required to record all activity in the externship, applying the same principles that guide lawyers in the profession. Program administrators emphasize to students that the greater the passage of time between when an event occurs and when it is logged increases the likelihood of inaccurate reporting, guesswork, and unethical behavior. Mentor Log 2.0 is designed to mirror billing software used in the profession.

Ethics of Aspiration

Functioning at the aspirational level, the externship allows students to emulate lawyers and judges who represent the highest standards of the profession and to navigate difficult issues with a role model who exemplifies high levels of creativity and problem solving with confidence and appropriate levels of ego strength. The required personal ethics mission allows each student to think about and internalize ethics, values, faith, and the ideals of the profession. The final draft should be something that the student believes and is committed to, and that will shape actions and decisions. The ethics mission also serves as a backdrop for evaluating and discussing what the student observes in the program.

Self-Interest Over-Balanced by Client's Interest and the Public Good

Principle 3 permeates many of the externship's classroom conversations and journal assignments, and it builds on the student's observation of how his or her mentor manages key relationships. Whether the topic is client relationships including billing, or relationships with adversaries, students are being asked to weigh the invariable competing interests of self, client, and community. Competing interests become even more apparent when mentor externship faculty, working in concert with mentors, provide real world examples of what students might expect in practice.

Outside of the classroom, principle 3 is present in the very act of mentoring itself.¹⁰⁷ Mentors who volunteer to help a student develop professionally to achieve the principles of professionalism and the protégé's personal professional goals place the betterment of the profession ahead of self-interest.

Personal Conscience

Both the MacCrate Report and the Haynsworth Report emphasize the importance of self-scrutiny together with feedback from and moral dialogue with others to contribute to professional growth.¹⁰⁸ These self-scrutiny, feedback and moral dialogue skills help lawyers learn from their experience, including mistakes, and to improve professional skills generally.¹⁰⁹ They contribute particularly to growth in personal conscience in terms of learning the impact of conduct on others, forming first ethical principles, and developing a commitment to live the first ethical principles. The Mentor Externship templates for discussions about field experiences between mentors and protégés, required personal ethics mission for each student, seminar discussions analyzing the field experiences, and student reflective journals for each class

107. Again we see overlap between the professionalism function and the role modeling function. Thanks go to Director Dave Bateson for highlighting this important observation of the program and the commitment of the mentors.

108. Macrate, *supra* note 6 at 137, 205, 215, 218; Haynsworth, *supra* note 2 at 6-7.

109. Rule and Bebeau, *Dentists Who Care*, *supra* note 66 at 157.

session promote moral reasoning and personal conscience in the context of professional work.¹¹⁰

Peer Review and Accountability

The externship seminars and work with a mentor reinforce the proposition that we are all members of a self-governing profession. They are designed to help each student become part of a standard-generating, self-policing community. Mentors often report that one of the greatest professional challenges is confronting (and possibly reporting) a colleague when behavior falls short of the ethics of duty, particularly in the area of competence and diligence. Some mentors and students have observed instances when a lawyer fails to meet the ethics of duty. These opportunities allow students both to identify the professional's pitfalls and to recognize the importance of peer review and accountability for a self-governing profession and the protection of the public.

Public Service

Students who participate in the externship often talk about the challenge of prioritizing class and study requirements, completing all the requirements, finding time for others, including public service, and finding time for recreation and self. As part of the graduation requirements, St. Thomas students must also complete fifty hours of public service. Program administrators note that students often prioritize credit-earning requirements first, smaller credit-earning assignments or non-graded assignments second, and public service last. Some students believe these three challenges are simply a product of the law school environment. Mentors help students understand how to overcome a similar phenomenon for lawyers: pro bono works often falls to the bottom of the priority list.

Wealth and Income

The question, "How much is enough?," permeates a number of the classroom topics: (1) the economic relationship between lawyer and employer; (2) work expectations and achieving balance; (3) fees and billing; (4) counseling clients in difficult moments and (5) chemical dependency and mental health.

Advancing the Role Modeling Function

Observation of skilled and ethical professionals offers critical role modeling opportunities in the socialization of students into the profession.¹¹¹ The

110. The evidence available strongly supports that moral dilemma or problem discussion from different moral perspectives in seminar-size groups, combined with opportunities for student reflection and self-assessment, foster growth in moral reasoning and professional identity. See Rule and Bebeau, *Dentists Who Care*, *supra* note 66 (and accompanying text); Roerich and Bebeau, *Professional Identity Development*, *supra* note 63 (and accompanying text).

111. Mentors report that having a student observe some aspect of the practice of law creates a heightened sense of awareness for the mentor about his or her behavior. Specifically,

externship emphasizes the interpersonal skills best learned by observation or participation.

Mentors allow students to observe a diverse set of lawyering activities from a list of over 150 approved experiences. The most common experiences students observe are appellate argument, civil or criminal motion practice, depositions, and client meetings.

The opportunity to observe “real world” lawyering activities and to debrief what was observed with the mentor helps students see that the law is about relationships, not just the technical skills of the law school doctrinal classroom. Mentors model strong interpersonal skills with clients, colleagues, adversaries, family, the wider profession, and the community.

The way in which a mentor serves his or her key relationships is a critical aspect of the role modeling function. For example, the role modeling function proves particularly important in the area of communication. Students will always remember the level of professionalism the mentor demonstrates in the area of communications, specifically returning phone calls and e-mails. Mentors shed light on the often inherent tensions among a lawyer’s duties to the client, to the justice system, and to self. Mentors can also emphasize through conversation and action that a lawyer’s personal sense of morality is the primary source of ethical behavior.

Future Directions—Assessment Models

We have extensive data measuring student/mentor interaction and student/mentor satisfaction with all aspects of the externship. We have not yet designed or implemented specific assessment tools to measure the degree to which any of these externship engagements moves each student forward specifically on (1) internalization of any of the seven principles of professionalism or (2) any of the skills and competencies of the four component model. Moreover, we have not yet designed or implemented specific assessments of the degree to which any educational engagement in the externship moves a student forward on one or more of the skills that role modeling is trying to teach. The design and implementation of these assessment tools is the current focus for the Externship Program.

Conclusion

The profession’s social contract with society—the principles of professionalism—must be renewed by each professional generation. A well designed formal mentor program that successfully combines the talents and skills of a mentor with a strong seminar component can foster these principles for the newest generation as well as older ones. Law schools and state supreme courts can also require all law students or newly admitted lawyers to participate, thus

mentors often report that they are “on their very best behavior” when a student observes because the mentor is intentionally setting a great example.

avoiding the “preaching to the choir” problem of many existing professionalism efforts.

To be effective in teaching professionalism and moving students toward an internalized ethical professional identity, a formal mentoring program should clearly identify stated objectives focused on the professionalism principles. A formal mentoring program should also define clear objectives relating to which specific career, psychosocial, and role modeling mentoring function skills the mentor should assist the protégé to develop. The program’s pedagogy should be designed around these objectives, and assessment of protégé growth should focus on these defined objectives.

We still have a great deal to learn about how to design and assess mentoring relationships that help students internalize the professionalism principles, and how best to help students learn the career, psychosocial, and role modeling mentoring function skills. Even so, there is already good evidence that formal mentoring can foster in students (and in mentors) the principles of professionalism, the four components of moral action, and specific, important interpersonal skills not taught in the doctrinal classroom. Formal mentoring is a promising path for legal education to take.

