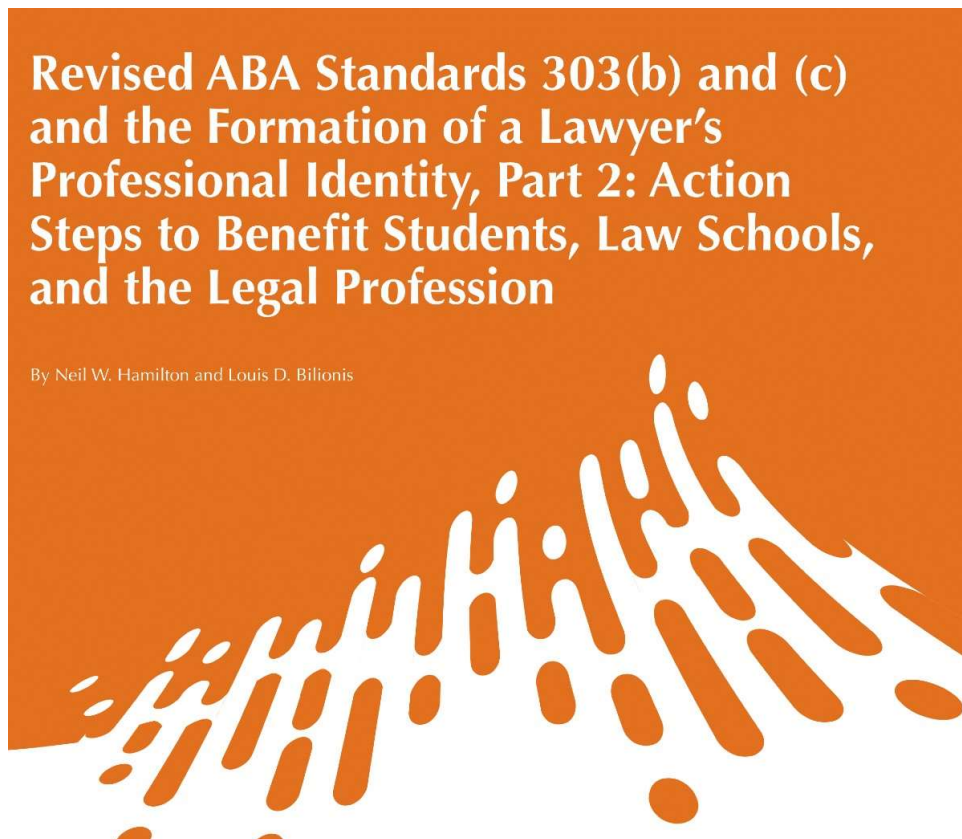


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Revised ABA Standards 303(b) and (c) and the Formation of a Lawyer’s Professional Identity, Part 2: Action Steps to Benefit Students, Law Schools, and the Legal Profession

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Editor’s Note: This is the second article of a two-part series, and **Part 1** appeared in the May 2022 edition of *NALP Bulletin+*.

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Section 3: Why Are These Standard 303 Revisions an Opportunity to Benefit Students, Law Schools, and the Profession?

The Standard 303 revisions create opportunities for students, schools, and the legal profession to achieve the following five benefits.

Benefit 1: More effective curriculum to foster each student's deep responsibility and service orientation to others, especially the client

In Part 1 of this article series, we asked you to think of a time when you (or a family member) felt a health team's deep responsibility and care as a patient. This is an intrinsic benefit that the legal profession and many legal educators want law graduates to similarly provide to clients and others in the legal system. Law graduates at later stages of internalization of deep responsibility to and care for others, especially the client, will strengthen client and public trust in the lawyer and the profession.

Extrinsic benefits like better post-graduation employment outcomes for the student and the school also may be expected. Growth to later stages of development on internalization of deep responsibility to and care for others, especially the client, is a foundational move that each new entrant to the profession must make, progressing from an earlier mindset of self-interest and low responsibility to others. This foundation of an internalized responsibility to and care for others supports many of the relational core values and skills in **Table 3** (as shown in Part 1 of this series) that empirical research indicates are foundational to successful legal practice:

- Superior client focus and responsiveness to the client
- Exceptional understanding of the client's context and business
- Effective communication skills, including listening and knowing your audience

- Client-centered creative problem-solving and good professional judgment
- Teamwork and collaboration
- An entrepreneurial mindset to serve clients more effectively and efficiently in changing markets

This foundation also supports development of the cross-cultural competency that Interpretation 303-6 has identified as necessary for client-centered relationship skills, problem solving, and good judgment.

If graduates are demonstrating later-stage development of the capacities and skills in **Table 3** that clients and legal employers need, students and law schools alike should benefit from better post-graduation employment outcomes. Student development to a later stage of internalizing deep responsibilities to and care for others also should fortify commitments to pro bono work and the promotion of a justice system that provides equal access and eliminates bias, discrimination, and racism.

Benefit 2: More effective curriculum to foster each student's ownership of continuous professional development toward excellence at the competencies that clients, legal employers, and the legal system need

Law students, faculty, staff, and administrators want to increase the probabilities of better academic performance, bar passage, and meaningful post-graduation employment for each student. Strong empirical data show that student growth toward the later stages of ownership of continuous professional development (as reflected in self-directed or self-regulated learning) enhances student academic performance (see Resources: Self-Regulated Learning), and that stronger student academic performance in turn correlates with higher probabilities of bar passage (see Resources: Bar Passage). It is reasonable that a student who has taken ownership over the student's own professional development and who can communicate this to potential employers will have better post-graduation employment outcomes.

Benefit 3: More effective curriculum to foster student well-being practices

Our earlier discussion noted the importance of autonomy as fundamental to well-being. Self-Determination Theory posits that there are positive outcomes for subordinates when organizational authorities support their autonomy by giving them (1) as much choice as possible, (2) a meaningful rationale to explain decisions, and (3) a sense that authorities are aware of and care about their point of view (see Resources: Krieger and Sheldon-Theory). These positive outcomes include (1) higher self-determined career motivation, (2) higher well-being, and (3) higher academic performance (see Krieger and Sheldon-Theory, p. 885).

Sheldon and Krieger's three-year longitudinal study of students at two law schools with very similar LSAT scores and undergraduate grade point averages compared student outcomes at the law school where students perceived stronger autonomy support with outcomes at the law school where students perceived weaker autonomy support. Students at the school with stronger autonomy support had higher well-being, better academic performance on grades, more self-determined motivation to pursue their legal careers, and better performance on the bar examination (see Krieger and Sheldon-Theory, pp. 893-894). Krieger and Sheldon followed up with surveys submitted from 7,865 practicing lawyers in four states (see Resources: Surveys). The responses from practicing lawyers affirmed that autonomy,

competence, and relatedness strongly predict respondents' well-being (see pp. 583 and 617). The practicing lawyers also affirmed that autonomy support from supervisors increased their well-being and self-determined motivation (see pp. 583 and 618).

Benefit 4: More effective curriculum to foster each student's client-centered relational skills, problem-solving, and good independent professional judgment that ground each student's responsibility to and care for the client

The empirical data summarized in **Table 3** indicate that legal employers and clients want law graduates who demonstrate later stages of client-centered relational skills, problem-solving, and good independent professional judgment. Law students who have evidence of later stage development of these competencies can increase their probability of meaningful post-graduation employment — a major benefit to the students and their law school as well.

Benefit 5. The skill of reflection

Recall the definition of reflection earlier in this article series: the skill of reflection is an ongoing cycle of careful examination of specific thoughts, actions, and experiences from a student's own perspective and the perspective of others with a goal of informing and improving the student's insight and practice for future experiences. The skill of reflection is learning from experience and doing better in the future. This is fundamental to professional development for both students and lawyers (see Resources: Hamilton-Professional Identity).



Section 4: Simple Action Steps to Realize These Benefits for Students and the School

What steps might a law school's faculty and staff take to realize the benefits that can come from effective implementation of the new requirements set out in amended Standard 303? A comprehensive set of detailed steps can be found in our new book, *Law Student Professional Development and Formation: Bridging Law School, Student, and Employer Goals*. Here, we highlight a few simple, immediate action steps that any school can and should undertake. They aim to position the law school

to address effectively and practically Interpretation 303-5's requirement that "[b]ecause developing a professional identity requires reflection and growth over time, students should have frequent opportunities for such development during each year of law school and in a variety of courses and co-curricular and professional development activities."

Step 1: Identify Stakeholders

The simplest **first step** is to identify the faculty and staff members who *already* are doing the most to foster student reflection in the formal curriculum or in coaching and mentoring students outside of the formal curriculum. Bring them together to discuss these Standard 303 accreditation changes and whether they see the changes as an opportunity to benefit the students and the school. A number of faculty in the experiential curriculum — including lawyering skills, clinic, and externship faculty and staff from career services and academic support — likely have been asking students to engage in reflection. Some doctrinal/podium faculty likely are interested in fostering student reflection too, and they should be affirmatively sought out. The simple step of bringing faculty and staff already fostering student reflection together and asking them to consider how to coordinate to help students grow to the next level of these four professional identity goals or learning outcomes and the related competencies will generate ideas and identify opportunities suitable to the school's circumstances, culture, and resources.

Once a school has a "coalition of the willing" of faculty and staff who see the Standard 303 changes as an opportunity to help students with the skill of reflection, there are many possible paths that could satisfy (and surpass) the accreditation requirements and pay dividends to students and the school. For example, the more than 60 schools that already have a required professional development curriculum in the 1L year (see Resources: 1L PD) might choose to build off that curriculum to create more reflection opportunities in the 2L and 3L years. Schools that have a public service requirement could add a reflection component to that requirement. The faculty teaching professional responsibility could choose to include modules on reflection into these professional identity learning outcomes.

Step 2: Empower the Willing

A **second simple step** is to empower the coalition of the willing to develop a multi-year plan, taking into account local conditions, to realize the benefits described earlier. This working group should inventory the reflection engagements currently in the curriculum and culture on the four foundational professional identity goals and learning outcomes — and then identify gaps and opportunities to coordinate and improve the curriculum. The coalition of the willing working group can consider 10 empirically-based principles to guide curriculum development relating to student professional identity that we develop in *Law Student Professional Development and Formation*.

Step 3: Go Where They Are

A **third simple step** is to "go where they are" — that is, fashioning curricular initiatives on professional identity formation with the interests, needs, and individual circumstances of students in clear, appreciative view. Students will buy-in if they see that these initiatives help them reach their own

personal goals. With buy-in comes student ownership of responsibility for personal professional development, and engagement and growth.

We have reasonably good data on the goals of both applicants to law schools and enrolled law students. The 2018 Association of American Law Schools (AALS) report, *Before the JD: Undergraduate Views on Law School*, is the first large-scale national study to examine what factors contribute to an undergraduate student's decision to go to law school (see Resources: AALS).

A synthesis of the AALS data indicates the most important goal of undergraduate students considering law school is meaningful post-graduation employment with the potential for career advancement that “fits” the passion, motivating interests, and strengths of the student and offers a service career that is helpful to others and involves some work/life balance. Achieving a high income is an additional key factor defining the meaningfulness of employment for about 30% of the students considering law school (see Resources: Income). A 2017 empirical study of enrolled 1L students in five law schools asked, “What are the professional goals you would like to achieve by six months after graduation?” The two most important goals were bar passage and meaningful employment, followed by sufficient income to meet loan obligations, a satisfactory living, and a trustworthy reputation (see Resources: Goals).

The law school's professional identity curriculum can be envisioned as a bridge that unites the students' goals of bar passage and meaningful post-graduation employment and the needs of clients, legal employers, and the legal system. Students who embrace that vision can buy into and engage in the curriculum more effectively. The law school can take two basic initiatives that will help students embrace that vision. Both initiatives draw on the school's capacity to communicate well and with appreciation of the student's perspective.

The first initiative is to help the student envision and comprehend the bridge. Faculty, staff, and the administration can assist the student to understand:

1. the full array of competencies that clients and legal employers want (this includes not only the traditional technical competencies in **Table 2** that all law schools emphasize, but also other competencies in **Table 3** including client-centered relational skills, problem solving, and good judgment and an entrepreneurial mindset to serve clients and legal employers in changing markets; and
2. the importance of a student pro-actively taking ownership of the student's own professional development, using both the formal curriculum and professional experiences outside of the formal curriculum, to develop toward the later stages of the competencies that are the student's strengths, and to have evidence of the student's later-stage development that legal employers will value.

The second initiative for the law school is to communicate to students, in language and with concepts that they understand, how most effectively to use the bridge that the law school's curriculum and culture create for each student. Our experience is that students are at different stages of development regarding (1) and (2) in initiative 1 above, and many students need substantially more help than might be expected to grow to understand the bridge and to become pro-active in using their time in law school to achieve their post-graduation goals.

Several factors appear to contribute to the difficulty. Many students want to be told what to do, a posture consistent with how they experienced their education before law school. As William Henderson has noted, law students expect to learn about their law school subjects in standard ways. The emphasis of the 1L year curriculum on cognitive competencies, moreover, means that students go relatively unexposed to the fact that the practice of law calls for a much broader array of competencies in **Table 3**

than the knowledge of legal doctrine and the performance of legal analysis (see Resources: Henderson). In our experience, nearly all students — including highly ranked students — need substantial help in framing an effective persuasive argument that their personal strengths meet a particular employer’s needs (in the language of the employer) and that the student has evidence of this later stage development that the employer will value.

The law school’s curriculum and culture, from orientation through the remaining three years, can be used more effectively to help each student see and use the bridge, meeting them where they individually are developmentally. One powerful step in this direction would be for as many faculty as possible from all roles and ranks, whether doctrinal/podium or experiential, to make transparent to students the entire map of competencies needed to practice law, and to make explicit what competencies the student is learning in the course or in a particular experience. Even when a faculty member does not personally focus on professional identity competencies in a course, the professor can still endorse their significance and underscore how those competencies are addressed elsewhere in the school’s academic program. Such “cross-selling” is quite easy, especially if faculty are provided talking points.

Step 4: Extend the Bridge

A **fourth simple step** is to extend the “go where they are” philosophy to the legal employers that hire significant percentages of the school’s students. The law school can build a bridge to legal employers too, helping them recognize that the law school’s graduates are reaching later stages of development on the competencies that employers and clients need. For example, as a law school develops a curriculum and culture to foster each student’s growth toward the later stages of development on the four professional identity goals and learning outcomes and the related competencies listed in **Table 3** that flow from them, the school’s career services and public relations offices should be communicating to legal employers — in **Table 3** language the employers understand — how the school’s graduates can demonstrate a much wider range of the competencies the employers need. Students will need education on how to communicate these strengths persuasively.

A perhaps less-obvious bridge to legal employers could focus on the fact that legal employers currently are dramatically increasing attention to diversity, equity, inclusion (DEI) and belonging initiatives. These initiatives drive at professional identity competencies discussed earlier. An entrepreneurial law school will educate the employers who hire the school’s graduates about (1) the law school’s efforts to foster each student’s growth toward the later stages of these professional identity learning outcomes and the related competencies that employers need, and (2) how this broader understanding of the competencies needed to serve clients well (beyond just the standard cognitive competencies) will contribute to the legal employers’ diversity. The law school can provide reliable evidence to the employers of each student’s later stage development of these needed competencies (see Resources: Competencies). An entrepreneurial law school emphasizing the full range of competencies that legal employers need will give particular emphasis to DEI and belonging initiatives that help historically underserved students understand the entire range of needed competencies and to create and implement a plan to develop those competencies.

Section 5: Conclusion

Law schools focused on benefiting students, legal employers, clients, the legal system, and the law school itself will seize the opportunity presented by the revisions to Standard 303. The first steps to take are simple. All law schools are already providing significant experiences for students to develop a professional identity, but these experiences can be far more beneficial if they are coordinated and if students are encouraged to reflect on them and their impact on the student's development as a professional. The simple steps of bringing the faculty and staff already fostering student reflection together and asking them to consider how to coordinate to help students grow to the next level of the four professional identity learning outcomes and their related competencies will generate substantial benefits for all stakeholders.

Neil W. Hamilton and Louis D. Bilonis are authors of Law Student Professional Development and Formation: Bridging Law School, Student, and Employer Goals (2022). Drawing on empirical studies and research on education in various disciplines, the book details a framework, guiding principles, and practical suggestions for bringing purposeful support of law student professional identity formation into the American law school.

Resources

Self-Regulated Learning: “Research has amassed overwhelming evidence that self-regulated learning enhances student performance and achievement in courses and course units.” Linda Nilson, *Creating Self-Regulated Learners 10-11* (2013). “It has been shown that self-regulated learning is one of the best predictors of academic performance” and “self-regulated learners are more effective learners.” Susanna Lucieer et al., *Self-Regulated Learning and Academic Performance in Medical Education*, 38 *Med. Teach.* 585, 586 (2016). Self-regulated activity “has consistently been found to be related to student achievement.” Renee Jansen et al., *Self-Regulated Learning Partially Mediates the Effect of Self-Regulated Learning Interventions on Achievement in Higher Education: A Meta-Analysis*, 28 *Educ. Research Rev.* 1, 2 (2019). “Students who were willing to reflect and make changes in their learning strategies and who selected active strategies that inherently involved regulating their learning were more likely to have academic success.” Jennifer Gundlach & Jessica Santangelo, *Teaching and Assessing Metacognition in Law School*, 69 *J. Legal Educ.* 156, 180 (2019).

Bar Passage: See Linda F. Wightman, Law School Admission Counsel, *LSAC National Longitudinal Bar Passage Study 37* (1998); Douglas Rush and Hisako Matsuo, *Does Law School Curriculum Affect Bar Examination Passage? An Empirical Analysis of Factors Related to Bar Examination Passage During the Years 2001 Through 2006 at a Midwestern Law School*, 57 *J. Legal Educ.* 224, 232-33 (2007); Katherine A. Austin, Catherine Martin Christopher, and Darby Dickerson, *Will I Pass the Bar Exam?: Predicting Student Success Using LSAT Scores and Law School Performance*, 45 *Hofstra L. Rev.* 253, 266-68 (2017).

Sheldon and Krieger-Theory: See Kennon M. Sheldon and Lawrence S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory*, 33 *Personality and Social Psych. Bull.* 883, 884 (June 2007).

Surveys: The 7,865 lawyers who responded constituted a 12.7% response rate to the surveys sent out. See Krieger and Sheldon at 570.

Hamilton-Professional Identity: See Neil Hamilton, *The Foundational Skill of Reflection in the Formation of a Professional Identity*, 12 *St. Mary's J. Legal Malpractice & Ethics* (forthcoming 2022).

1L PD: See Jerome Organ, *Common Threads Across Increasingly Common Required First-Year Courses/Programs Focused on Professional Development*, *PD Quarterly*, 20, 21 (Feb. 2020).

AALS: Association of American Law Schools, *Before the JD: Undergraduate Views on Law School* (2018).

Income: Of the undergraduate students considering law school, 31% responded that the potential to earn a lot of money was an important characteristic in selecting a law career and 31% responded that “there are high-paying jobs in the field” was an extremely important or important criterion for selecting the specific law schools to which they applied.

Goals: See Larry O. Natt Gantt, II and Benjamin V. Madison, III, *Self-Directedness and Professional Formation: Connecting Two Critical Concepts in Legal Education*, 14 *U. St. Thomas L.J.* 498, 503–04 (2018).

Henderson: See William D. Henderson, *A Blueprint for Change*, 40 *Pepp. L. Rev.* 461, 505 (2013).

Competencies: See Institute for the Advancement of the American Legal System, *Foundations Hiring Guide: Cut Through Bias, Hire and Retain the Best Lawyers* 9-10 (2021). A broader understanding of the full array of competencies that clients want will lead to hiring new associates with more diversity.

See **Part 1** of this article series in the May 2022 edition of *Bulletin+*. Neil W. Hamilton and Louis D. Billionis are authors of *Law Student Professional Development and Formation: Bridging Law School, Student, and Employer Goals* (2022). Drawing on empirical studies and research on education in various disciplines, the book details a framework, guiding principles, and practical suggestions for bringing purposeful support of law student professional identity formation into the American law school.

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