

2017

Looking for Competencies in All of the Right Places

Laurel Terry
lterry@psu.edu

Follow this and additional works at: <https://ideas.dickinsonlaw.psu.edu/fac-works>



Part of the [Comparative and Foreign Law Commons](#), [Legal Education Commons](#), [Legal Ethics and Professional Responsibility Commons](#), and the [Legal Profession Commons](#)

Recommended Citation

Laurel Terry, *Looking for Competencies in All of the Right Places*, 2017 *Jotwell: J. Things We Like* 1 (2017).

This Article is brought to you for free and open access by the Faculty Scholarship at Dickinson Law IDEAS. It has been accepted for inclusion in Faculty Scholarly Works by an authorized administrator of Dickinson Law IDEAS. For more information, please contact lja10@psu.edu.

Looking For Competencies in all of the Right Places

Author : Laurel Terry

Date : June 30, 2017

Neil W. Hamilton & Jerome M. Organ, *Thirty Reflection Questions to Help Each Student Find Meaningful Employment and Develop an Integrated Professional Identity (Professional Formation)*, 83 **Tenn. L. Rev.** 843 (2016), available at [SSRN](#).

Few people would say that U.S. legal education is doing an absolutely perfect job. While there have been a number of different criticisms and reform proposals over the past thirty years, some common themes have emerged. One of the recommendations that frequently appears is that students should be taught a broader array of knowledge and skills than is typically taught in U.S. law schools. While most agree that U.S. law schools do a good job of teaching students to “think like a lawyer,” many argue that students are not equipped with the range of skills they need to help clients address multi-faceted issues in an interdisciplinary world. Many also agree as well that that legal education could be doing a better job to help students develop their professional identity. As one of the authors of the Carnegie Foundation Report on Legal Education [has explained](#), legal education is doing a good job with respect to the “first apprenticeship” of thinking like a lawyer, an acceptable job with respect to the “second apprenticeship” of [traditional] legal skills, and a poor job with respect to the “third apprenticeship,” which involves professional identity and values.

Though there is a consensus that legal education in the United States has certain shortcomings, there is less agreement as to how institutions can improve—and even less on concrete steps educators can and should take to better train the lawyers of the twenty-first century.

One article that can help address this gap is Neil Hamilton and Jerry Organ’s “[Thirty Reflective Questions](#).” I particularly like Part III which provides a short and accessible overview of material that is found in Neil Hamilton’s recent book entitled *Roadmap: The Law Student’s Guide to Preparing and Executing a Successful Plan for Employment*. While there are many reasons to recommend the *Thirty Reflective Questions* article (and the *Roadmap* book), one aspect that is particularly useful for legal educators is the article’s discussion of the “competencies” that new lawyers need to practice and the article’s suggestions about how law schools can help students develop those competencies.¹

Because I monitor [global developments](#) related to the legal profession and lawyer regulation, I have been aware that, for a number of years, jurisdictions around the world have had initiatives to identify – and, in some cases, adopt as regulatory requirements – the competencies required of new lawyers. For example, regulators in Australia (see [here](#) and [here](#)), Canada (see, e.g., [here](#), [here](#), and [here](#)), England & Wales (see, e.g., [here](#), [here](#) and [here](#)), and Scotland ([here](#)), are among those who have recognized that new lawyers need to possess competencies that go beyond doctrinal knowledge and traditional legal skills.

Although few U.S. regulators have initiatives similar to the global initiatives listed above, there *has* been long-standing interest in the U.S. related to the issue of “competencies” and the knowledge, skills, and values that U.S. law schools should be transmitting to their students. For example, [twenty-five years ago](#), the ABA issued the [MacCrate Report](#) which included a “Statement of the Fundamental Lawyering Skills and Professional Values” that it believed were essential for competent representation. The Report identified ten skills, including problem solving, legal analysis and reasoning, factual investigation, communication, negotiation, and organization and management of legal work, among others. The four professional values listed in the MacCrate Report were the provision of competent representation; striving to promote justice, fairness, and morality; striving to improve the profession; and professional self-development.

Many of the skills and values that appeared in the 1992 MacCrate Report also appear in the 2007 Carnegie Foundation report on [Educating Lawyers: Preparing for the Profession of Law](#). Like the MacCrate Report, the Carnegie Foundation report focused on the competencies that lawyers need and the ways in which legal education was working well and the ways in which it might be improved.

More recently, interest in lawyer competencies was also at the heart of the 2015 *Foundations for Practice* study, which surveyed more than 24,000 lawyers in 50 states in an effort to identify the attributes and competencies that lawyers need in the short-term, medium-term, and long-term.

One thing that the 1992 MacCrate Report, the 2007 Carnegie Report, and the 2015 *Foundations for Practice* study all have in common is the fact that they recommend that law students learn much more than doctrinal law and what might be considered the traditional legal skills of legal research, legal writing, and oral advocacy.

While there are a number of good works to build upon when exploring the issue of competencies, Neil Hamilton and Jerry Organ have been at the forefront of academic thinking about the role that legal education can play to help contemporary students develop the competencies they will need as lawyers. As noted above, Neil Hamilton is the author of the 2015 *Roadmap* book, which includes empirical data about the competencies Minnesota lawyers who practiced in different kinds of legal settings, (including large firms, small firms, in government settings, and in-house counsel offices) identified as important to their practices. After setting forth these competencies, the book encouraged law students to consider their strengths, attributes, and interests; to consider which type of practice setting would be a good “fit;” and to develop a plan that would allow them to acquire and communicate to future employers the competencies they possess.

Professor [Bill Henderson](#) is one of the people who has endorsed this approach, calling the book “a breakthrough.” A [number of law schools](#) share Professor Henderson’s view and have made the book required reading.

You may wonder why I am talking about the *Roadmap* book when this Jot is about Hamilton and Organ’s *Thirty Reflective Questions* article. The answer is that the article explains the theory and philosophy that underlie the book and expected outcomes of using the *Roadmap* approach. In addition, for those academics who want something shorter than the *Roadmap* book for themselves or for their students, the article provides a useful and accessible resource.

Thirty Reflective Questions begins by discussing the concept of Learning Outcomes. For those who have not paid particularly close attention to the ABA’s relatively new [Standard 302](#), interpretative [Guidance Memo](#), or the related literature, this section of the article provides a very useful overview of the Learning Outcomes requirement and the rationale that lies behind it. After laying that foundation, Part II of the article focuses on how a law school curriculum can be designed in order to foster learning outcomes related to professional identity. (Professional identity was the third pillar of the Carnegie Foundation’s report and is related to ABA Finally, Part III offers professors, law schools, and students the list of thirty questions. This section also includes this infographic prepared by Elizabeth Meyers of the University of St. Thomas School of Law’s Holloran Center for Ethical Leadership in the Professions:

Legal Profession

As the infoTap site illustrates, and as the article itself explains, the first fourteen of the thirty questions help students' progress in self-directed learning toward excellence at the competencies needed to serve clients and the legal system well." The article also explains (at p. 866) that the first set of questions helps students remember that they have strengths, passions, and skills to offer, and it also helps students create and implement a positive plan to achieve their goals in the context of the professional-formation competencies that employers and clients want and the faculty's professional-formation learning outcomes. The article offers the following description of the remaining thirty questions:

If the 14 ROADMAP questions are designed to help the student determine what she wants to do as a lawyer as she writes the next chapters of her story toward meaningful employment, taking into account her strengths and passions and the needs of clients and employers, this second set of 16 questions is focused more on who the student wants to be as a lawyer, how she wants to conduct herself as a lawyer, and how she will balance her life as a lawyer in the context of her responsibilities to clients, to the legal system, and to all the other people in her life. These questions help the student navigate her relationship with clients and with the legal system.

In addition to setting forth the thirty questions, the article presents empirical data that show the positive effects of using the thirty questions on law students' education.

In sum, in *Thirty Reflective Questions* Professors Hamilton and Organ provide a great service to all legal educators and, even more importantly, to students and to the clients that they one day will serve. I encourage you to check out this very accessible and useful article.

1. The "Thirty Reflective Questions" article is just one of several articles that address these types of issues. See [here](#) and [here](#) for other examples of Neil Hamilton's work in this area. [2]

Cite as: Laurel Terry, *Looking For Competencies in all of the Right Places*, JOTWELL (June 30, 2017) (reviewing Neil W. Hamilton & Jerome M. Organ, *Thirty Reflection Questions to Help Each Student Find Meaningful Employment and Develop an Integrated Professional Identity (Professional Formation)*, 83 **Tenn. L. Rev.** 843 (2016), available at SSRN), <http://legalpro.jotwell.com/looking-for-competencies-in-all-of-the-right-places/>.