

***Interrogating the Hidden Curriculum:
Implications for Formation of Professional Identity***

Sturm College of Law, University of Denver

September 22 & 23, 2023

Friday September 22

12:00 Welcome and Framing for the Conference - David Thomson (Denver)

12:15 Lunch Conversation and Opening Keynote - Jerome Organ (St. Thomas)

Our Formative Experiences and The Hidden Curriculum's Impact on the Formation of Professional Identity

What is the hidden curriculum of legal education and how is it unconsciously pervasive? How does the hidden curriculum affect the values, identity, choices, and decisions that our students, especially first years, make? How does it bolster myths about the legal profession? How does it foster certain values and undermine others? Does it drain the passion and purpose of some of our students and, if so, who is most vulnerable? This opening plenary session will set the foundation for a discussion about the role of the hidden curriculum of legal education, how it narrows our students' choices about who they are and who they will be in the legal profession, and how it tends to create a homogenous legal professional identity that undermines the core aspects of what it means to be a diverse, justice-oriented, client-centered, and service-centered profession.

1:15 Break

1:30 Panel 1: Valuing our Students' Pre-Law School Identities

Cliff Zimmerman (Northwestern) – moderator/panelist

Rory Bahadur (Washburn)

Janice Craft (Richmond)

Teri McMurtry Chubb (UIC)

Panel 1 will explore, generally, the importance of connecting with our students so that our institutions and the legal profession do not lose the value of who our students are when they enter law school and their motivations for coming to law school. Panelists will discuss both the importance of valuing our students' life experiences, values, race, culture, and other aspects of who they are from day one, as well as the cost of not doing so.

Our students come to law school as growing and developing adults with generally well-formed and mature personal identities. We admitted them because of who they are, what they bring to law school, and their potential to contribute to the legal profession and system. They have values and their individuality, be it in their race, class, gender, sexual orientation, gender identity, culture, national origin, religion, or otherwise. Further, our

students arrive with a sense of the legal profession and the law's purpose, which in turn is informed by competing societal views about whether the law is fundamentally just or unjust.

The hidden curriculum of law school too often discounts this diversity. It presumes a norm – a version of identity – often at odds with who students are, their life experiences, or their purpose in pursuing the law as a profession. This dramatic contrast undermines their sense of self, identity, and purpose, as well as their well-being. The hidden curriculum also then acts to undermine the goals of diversifying the legal profession by aiming to homogenize or marginalize that very difference.

We need to explore and engage our students where they are not only so that we can better teach them but also to enable them to bridge their personal identity with their emerging legal professional identity.

2:15 Panel 1: Responsive Student Panel (tentative)

A discussion of how students' identities, or aspects of their identities, were either undermined or enabled during their first year of law school.

2:45 Moderated discussion with audience and Panel 1 and student panelists

3:15 Break

3:30 Panel 2: Sustaining Student Values and Identity in the First Year of Legal Education

Lindsey Gustafson (Arkansas) – moderator/panelist
Eduardo Capulong (CUNY)
Monte Mills (Washington)
Aric Short (Texas A&M)

Panel 2 will discuss precisely how the hidden curriculum works in the first year and provide ideas and prescriptions for how to engage our students in ways that give them agency to build their professional identity and to sustain a range of values, their well-being, and their connection with specific aspects of their identity, including their race, gender identity, sexual orientation, religion, etc..

The core 1L courses are where the hidden curriculum first subverts or disables aspects of our students' personal identities and values. It does so through curricular design, the emphasis on logic, rationalism and analytical thinking, jurisprudential grounding in legal liberalism and neoclassical economics, the Langdellian method, a pressure to conform, the doctrine of stare decisis, and much more. Most of this is done too often without transparency of purpose or effect.

If our students are to start forming their professional identity from day one, then the first-year curriculum must be explicit and invite our students to engage these foundations critically. Only in this manner will students have agency to decide how to develop their professional identity.

4:45 Moderated discussion with audience and Panel 2 presenters

5:15 Break

5:30 Cocktail hour

Saturday September 23

8:30 Breakfast and moderated discussion/response to Panels 1 & 2 – Thoughts and Further Reflection

9:15 Panel 3: The Upper Division Imperatives in the Formation of a Professional Identity for Legal Service

Susan Brooks (Drexel) – moderator/panelist

Kendall Kerew (Georgia State)

Andrew King-Ries (Montana)

Rhonda Magee (USF)

Panel 3 will explore the key attributes in working with students to form their professional identity during their second and third years of law school. This panel will also address the need to distinguish the formation of professional identity from professionalism, so that it does not collapse into other areas such as professional behaviors, civility, and ethical judgment.

The hidden curriculum persists throughout students' tenure in law school. What are the features of the hidden curriculum in the succeeding two (or three) years and how are they similar or different from the first? Clinical training is now standard in most law schools—proponents of which argue is the ideal ground for developing professional identity. How do clinics — in particular the representation of actual clients — form professional identity and, as with the first-year curriculum, enable or undermine aspects of students' personal identities? How do second- and third-year electives or “tracks” contribute to the hidden curriculum?

This discussion will include how we can facilitate student curricular choices to support their agency over identity and understand how their curricular choices fit into their professional identity, as well as how to implement our understanding of the hidden curriculum and its impact on students' values and identity into a process that is flexible and applicable to teaching across the law school curriculum. Key to this stage is the individual intentionality in lawyering and what methods foster this deep understanding in our students. Developing this personal agency and intentionality, or authenticity, revolves

around critical engagement, meaningful reflection, narrative humility (deep listening), the cultivation of one's sense of justice, and the client-centered and relational nature of legal work.

10:30 Moderated discussion with audience and members of Panel 3

11:00 Break

11:15 **Closing keynote - Barbara Glesner Fines (UMKC)**

Ways in which we can break down the hidden curriculum to make room for the concepts, pedagogies, methods, and structures that will allow students to form their professional identity with intentionality

What does it mean for us when we say we want to value our students' identities and aid them in forming their own professional identities? When was the last time we thought about our own professional identity? Who are we? Why are we here? What is important to us? We are in a growth relationship with our students, just as we were with our clients when we practice(d) law. We need to reflect on these questions and concepts to enable ourselves to do the same with our students. This closing plenary will explore how we move forward with our understanding of the formation of professional identity and what it means for our students and ourselves.

12:30 Box lunches (to go or for further conversation)