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The Importance of Professionalism

John L. Gedid



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THE IMPORTANCE *of* PROFESSIONALISM

Long before the Carnegie Foundation's recent national critique on legal education, Widener Law understood professionalism to be a vital component of how it prepares future attorneys.

By John L. Gedid

A current concern of the legal profession

is lack of professionalism among lawyers. The American Bar Association and most state and local bar associations have formed committees to study the causes of weakening professionalism among lawyers and to attempt to reverse this trend. Recently, the Carnegie Foundation published a study entitled *Educating Lawyers: Preparation for the Profession* (William Sullivan et al, *Educating Lawyers*, Carnegie Foundation, 2007), which concludes that American law schools fail to teach professionalism effectively.

What is lawyer professionalism? The bar journals and law reviews cannot agree on the meaning of this term, and they also fail to consider the basis or source from which professional obligations arise. Only if we understand the basis or source of professionalism will we be able to agree on a meaning of that term.

The Carnegie Foundation in *Educating Lawyers* described the source of legal professionalism:

Law is ... a particularly public profession. [L]awyers ... [are] charged with making the legal system function.... Professions operate within ... explicit contract[s] with society... . In exchange for privileges such as monopoly on the ability to practice, professions agree to provide certain important social services. ... The basis of these contracts is a set of common goals shared by the public and for which ... professions take responsibility. These are public values, and the core of professional privilege is based on the professions' willingness to commit to them.

Law is a “public profession”; it squarely fits the Carnegie exchange contract definition. This concept of exchange has profound consequences for understanding professionalism. It makes clear that our profession has obligations to the public and to the legal system as a whole as well as to our clients. If carried one step further, this analysis can explain obligations that some lawyers occasionally question. For example, as lawyers we have a duty to perform pro bono work because our adversarial system of justice will not operate properly in the absence of counsel. So, as part of our public duty to help assure that our legal system delivers justice, we represent those who cannot afford to pay for an attorney. Thus, pro bono service is not charity, but one of the duties of a public profession.

A definition of professionalism for lawyers must take this social contract between the legal profession and society into account. Many of the general meanings were captured by the American Bar Association’s Model Rules of Professional Conduct in, of all places, the Preamble, which recited: “A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen

having special responsibility for the quality of justice.” (*Model Rules of Professional Conduct*, American Bar Association, 2004, Preamble)

How can law schools teach this complex concept? The Carnegie Foundation Report concludes that American law schools have failed to teach professionalism effectively, but the authors of the Report admit that they don’t know how that task can be accomplished!

Widener Law School has some suggestions and solutions to cure the professionalism gap. Widener Law many years ago adopted a curriculum that was calculated to teach *professional skills*—lawyering—as well as traditional formal legal analysis. Teaching professional skills necessarily involves students in learning professionalism.

Since its founding in the 1970s, Widener Law included professional skills training in its curricular offerings. In doing so, Widener was to some extent “swimming against the tide,” because this was many years before those practices became fashionable in the legal academy.

We made extensive use of clinics, externships and internships, and simulations. For example, we were one of the first schools to use the National Institute of Trial Advocacy total immersion model in our Intensive Trial Advocacy Program. By imitating the behavior of lawyers in these simulations, students learn expected professional behavior from the supervising bench and bar.

In our clinics, students work on cases for real clients with lawyer educators. Our students observe models of professional practice and are held to standards of professional behavior in the client work that they perform. Widener has also for many years made substantial use of externships and internships, where students work on real problems under the tutelage of judges and lawyers. In all of these activities, they absorb and are held to standards of professionalism. Finally, Widener Law has for many years included pro bono work by students as a professional obligation of novice lawyers.

The Widener mission continues to be producing not only graduates skilled in legal analysis and strategy but also professionals skilled in lawyering. That has been our educational goal since our inception. Our alumni are professionals. ■



John L. Gedid is Vice Dean of the Harrisburg Campus, Director of the Harrisburg Campus’s Law and Government Institute, and Professor of Law.