MANNERS, MINDFULNESS, AND A MODICUM OF RESPECT: TEACHING PROFESSIONALISM AND CIVILITY

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Abstract

The purpose of this article is to encourage professional schools to incorporate professional formation and specifically civility curriculum in their respective schools. The paper will provide a basic definition of professional formation and civility; explain the cost of incivility; suggest factors that provoke incivility; propose the foundational skills that foster civility; review current program models for incorporating professional formation and civility curriculum within the law school context; explain a pedagogy for teaching civility; and explore assessment tools.

KEY WORDS: civility, incivility, professional formation, curriculum development, law school, professional schools, pedagogy, assessment tools, and professional skills development

INTRODUCTION

In an era too often marked by acts of unprofessionalism and incivility, professional schools can no longer focus solely on the content of their disciplines and traditional skills training. Instead, they must also incorporate professional formation, and specifically civility, into their curriculum and courses. Not only is professional formation curriculum advocated by the Carnegie Foundation's most recent five studies of professional education [Hamilton 2012][1], but also integrating such curriculum makes sense given the changing demands and demographics of this society.

We are in the midst of an economic shift from the information age to the conceptual age. Many information based skill sets such as research, accounting, and data analysis is outsourced and automated with computer technology. As a result, to be successful, professionals today need more than information-based skills; they need to develop more empathetic and creative skills [Pink 2005][2]. Moreover, shifting demographics and increased globalization requires professionals to be more cross-culturally literate [Lustbader 2008][3]. Likewise, students entering professional schools today represent a broader range of cultural and ethnic backgrounds that requires a shift in pedagogy and intentional training on how to work collaboratively [Lustbader 2008][4]. Additionally, as part of the millennial generation, these students are tech savvy but not necessarily professionally or civility savvy.

Although students are more global in their approach to problem solving, they face huge economic and social challenges as they enter the workforce. Many will not receive the "old school" mentorship into their chosen professions; many will not work for the same organization for their entire career; and many will find themselves at a loss for how to balance work and life demands. As such, many will not be adequately prepared to fulfill expectations of their chosen profession. Arguably, the core of professional formation is civility.

The purpose of this article is to encourage professional schools to incorporate professional formation and specifically civility curriculum in their respective schools. The paper will provide a basic definition of

professional formation and civility; explain the cost of incivility; suggest factors that provoke incivility; propose the foundational skills that foster civility; review current program models for incorporating professional formation and civility curriculum within the law school context; explain a pedagogy for teaching civility; and explore assessment tools.

DEFINING PROFESSIONAL FORMATION AND CIVILITY

Professional Formation is teaching "the skills and inclinations, along with the ethical standards, social roles, and responsibilities that mark the professional." [Sullivan 2007][5]. Thus, professional formation refers to the fostering of students' formation of an ethical professional identity [Hamilton 2012][6]. Although a professional's education does not stop when he or she receives a diploma, empirical evidence shows that educating students on professional formation is an effective way to begin the career long professional development process. A person's professional identity changes and develops throughout his or her career to reflect new social norms and new responsibilities to the client. ."[Sullivan 2007][7]. The heart of professional formation is professionalism. Within the legal profession, scholars and professionals have tried, unsuccessfully to create a globally accepted definition of professionalism. However, almost all 50 states have in place some kind of professional or civility code [American Bar Association 2012] [8]. These codes, while very individualized, contain common words for each jurisdiction's attorneys to live by including, for example, the following: integrity, honesty, candor, fairness, trust, respect, dignity, and courtesy. All these words help to define the meaning of civility.

Civility requires more than good manners: Civility requires us to interact with an open mind and respect so we may engage in honest and constructive discourse. In *Choosing Civility: The Twenty-Five Rules of Considerate Conduct,* P.M. Forni, an leading expert on civility explains that "[t]he civil person is someone who cares for his or her community and who looks at others with a benevolent disposition rooted in the belief that their claim to well being and happiness is as valid as his or her own. More Americans are discerning with increasing clarity the connections between civility and ethics, civility and health, and civility and quality of life. In fact a consensus is developing around the notion that a vigorous civility is necessary for the survival of society as we know it."" [i][Forni 2002][9]; In *Civility: Manners, Morals and the Etiquette of Democracy*, Stephen L. Carter suggests that civility calls upon us to make sacrifices for strangers; to resolve our differences respectfully; to listen to others with an open mind that they might be right; that they are right and we are wrong; and that "we express ourselves in ways that demonstrate our respect for others". [Carter 1998][10] Civility is a set of attitudes, behaviors, and skills that reflect care and respect for others.

THE COST OF INCIVILITY

In contrast to civility, incivility is "mild aggressive behaviors that are characteristically disrespectful or rude." [Porath and Erez 2009][11] Examples of incivility include: interrupting conversations, not returning phone calls or emails, taking credit for others' efforts, not saying "please" or "thank you', excluding others from a network or team, using a demeaning or condescending tone, texting or emailing during a meeting or conversation, and showing little interest in another's opinion. [12] [Pearson and Porath 2009][13] Often times, incivility is subjective. One person, the offender, may not intend to be uncivil; nevertheless, the target of the action feels offended. Regardless of whether or not the act of incivility was deliberate, it is important to recognize its negative impact.[14] Such incivility in the workforce results in large economic costs. Studies show that 48% of targets of incivility intentionally reduce their work effort, 47% miss more days at work, and 78% lessen their commitment to the organization. [Pearson and Porath 2009][15]

Moreover, targets of "one-time, low-intensity" incivility suffer an impaired ability to concentrate and focus. In one study, 61% performed lower on verbal tasks and produced half as many creative ideas as those who had not been the target of incivility. Short-term memory was also impaired as targets recalled twenty percent less. Incivility decreases helpfulness. In another study, prior to an incident of incivility, 90% of the participants helped pick up something that was dropped; whereas, after they became the target of incivility, only 35% offered to help. [Pearson and Porath 2009][16]

Possibly more astonishing is that the witnesses of incivility in the workplace also show a similar detrimental impact. Porath and Erez found that participants who witnessed the rude response performed lower than the control group on the anagram test and on the brick test — producing fewer and less creative uses. In addition, they demonstrated lower citizenship behavior; 50% of the controls agreed to volunteer as compared to only 26% who witnessed the rude response. Further analysis suggests that those in the control group were three-times more likely to volunteer. As was expected, the participants

who witnessed the rude response had higher levels of dysfunction ideation: Not only did they generate more dysfunctional uses for the brick, such as hitting someone in the head or breaking a window, but in unscrambling "remdue" to spell "demure" they were 7 times more likely to spell "murder" than the control group. [Porath and Erez 2009][17]

Incivility costs executive's time, which translates to financial expenses. The amount of time managers spent on dealing with employee relations is another cost. Managers and executives of Fortune 1000 firms spent 13% of their time addressing employee relationships and replacing employees who "just can't take it anymore".[18]

Other economic costs of incivility in the workplace include: attrition, the cost of replacing talented workers; the cost of losing workers to competitors; and the cost of absenteeism due to stress related illnesses. [Pearson and Porath 2009][19] Pearson and Porath estimate that it costs a company or organization $50,000 to replace one worker (1.50-2.5 times their annual salary). One law firm estimated that one partner's incivility cost the firm over $2.8 million. Over the course of a few years, the firm lost six attorneys and two paralegals. [Pearson and Porath 2009] [20]

Stress caused by incivility extracts high costs. Although difficult to measure, studies show that over 60% of workers in a highly uncivil workplace experience stress. Over 80% felt "used up" each day and the majority felt emotionally exhausted, burned out, and lost enthusiasm for work. [Pearson and Porath 2009][21] This stress leads to an array of health issues including fatigue, weight loss or gain, gastrointestinal disease, headaches, high blood pressure, and compromised immune systems. [Alexander and Benjamin 2012] [Forni 2002] [Pearson and Porath 2009] [22] Moreover, stress leads to increases in substance and alcohol abuse, hostility, isolation, pessimism, cynicism, and depression. [Alexander and Benjamin 2012] [Pearson and Porath 2009] [23] Such stress costs an estimated $300 billion a year in the United States.[24]

FACTORS THAT CONTRIBUTE TO INCIVILITY

Numerous factors impact incivility. Lack of self-restraint and anonymity contribute to incivility. [Forni 2002][25] Stress is a dominating factor cited by most civility experts because stress creates a cognitive overload that makes it difficult for people to be nice. [Hallowell 2005][26] Overwhelming demands and hectic lifestyles contribute to cognitive overload. Many issues account for people's hectic lifestyles including: time famine, economic pressure, living and acting without coherent values, absence of creative expression, loss of sense of service to others, and a sense of alienation and isolation—all of these factors create stress, depression, and overall professional dissatisfaction. [Alexander and Benjamin 2012][27] These actions lead to uncivil behavior. [Alexander and Benjamin 2012][28] To make matters worse, many workers in the legal profession perpetuate uncivil behavior through misguided beliefs that uncivil conduct is supported by and in some cases is "mandated by an ethical requirement for 'zealous advocacy.'"[Althoff 2012][29]

Additional factors that contribute to uncivil behavior include: isolation, dissolving communities, divisive politics, poor role models, media magnification of conflict, and changing demographics with baby boomers being replaced by Gen-Xers. One study found students today are 30% more narcissistic than 25 years ago.[Pearson and Porath 2009][30] Millennials, those who turned 18 in the year 2,000 or later, are reportedly more narcissistic, suffer from greater degrees of depression and anxiety, and are more likely to blame others for their failures than those of any generation studied before. [Twenge 2006][31]

ATTITUDES, BEHAVIORS, AND SKILLS THAT FOSTER CIVILITY

Civility is not a doctrinal set of rules or something to memorize; rather, it is comprised of attitudes, behaviors, and skills. The foundation of these attitudes, behaviors, and skills are consciousness, creativity, and community. This foundation can counteract the factors that lead to incivility and as a result foster civility. Consciousness or mindfulness is part of our emotional intelligence; developing it fosters civility because practicing mindfulness enables us to be aware of our own emotions and biases and to temper them so we may operate from a proactive posture rather than a reactive one. Consciousness also entails being thoughtful about how we impact others, either intentionally or unintentionally. Creativity fosters civility by providing a process in which to practice mindfulness and by exercising those parts of our brain that often lie dormant, to enable us to use our whole brain. When we engage in whole-brain thinking, we increase the possibility of more effective problem solving for our clients. Finally, community fosters civility by decreasing our isolation, increasing mental wellbeing, and promoting service to others.

When one interacts with others from this foundation of consciousness, creativity, and community, one promotes the wellbeing of others' and self. As the Dali Lama explains, as we strive to engage in conduct that promotes others' wellbeing, we become more ethical. [Dalai Lama 1999][32] Arguably, when we are more ethical, we are more civil.

CURRENT PROGRAM MODELS FOR WITHIN THE LAW SCHOOL CONTEXT

Law Schools, though late to the table compared to other professional schools, are now including professional formation in the curriculum. At this point, the programs are generally still in their infancies, but schools on the forefront of this move have full programs teaching professional formation. Some schools are beginning this transformation by including a single class focused on professional practice, or an orientation program [Lustbader 2008], in which students are exposed to experiential learning and reflection. These experiential learning programs include activities such as sitting in on real trials at local courts, after which students reflect on all aspects of justice that did or did not take place during the trials. Other schools work with the local legal communities to employ all their second-year students, on a full-time basis for one semester, which gives these students real world experience under the tutelage of lawyers specifically chosen for this task.   Other similar programs include strong externship programs or clinic programs that highly encourage students to have practice experience with real clients before they graduate.

Schools that are further down the road of implementing professional formation curricula and that better follow the recommendations of the Carnegie Report[33] fully integrate their classes. Teaching professionalism as an additive, does not work [Sullivan 2007][34]. Thus, the most innovative school programs integrate their curricula by teaching the same problem from different legal perspectives. In these programs, professors work together to create problems that involve a variety of different issues. For example, the Torts professor, the Contracts professor, and the Civil Procedure professor together teach their students from the same case examples. This integration gives students a way to see a single problem from many views. Through these views, students can understand how people from diverse cultures, religions, financial statuses, political affiliations and color might understand different aspects of the law. Through understanding, students are educated from their first day of law school to open their minds and grasp how the law affects the world around them.

PEDAGOGY FOR TEACHING CIVILITY

Effective pedagogy, even for doctrinal courses, begins with the personal commitment and the passion of the teacher [Chickering and Gamson 1987][35]. For professional schools, the teacher is a role model and thus, the teacher's ability to model civility is crucial. Additionally, effective pedagogy is inclusive and respectful [Lustbader 1999][36], collaborative [Lustbader 2006],[37] active [Hess 1999][38], and provides context.[Lustbader 1998][39] An effective pedagogy for civility includes: methods for disseminating a substantive knowledge base of theory; providing opportunities for students to understand what attitudes, behaviors, and skills foster civility; immersing students in mindfulness practices; engaging in self-reflection; approaching life challenges with an open mind; expanding the students' world view; developing active listening and effective communication skills; collaborating with others; and applying and practicing all of this in the context of the students' own personal lives as well as hypothetical professional settings.

For example, in a lesson designed to teach the attitudes, behaviors, and skills that foster civility, the teacher begins with a reflective writing exercise that asks students to think of an experience when they had a challenge or conflict with another person or group and where the process and the resolution was positive. After students describe the experience, they articulate how they felt before, during, and after the experience, as well as how they think the other person or people involved felt. Students are then asked to identify and describe the attitude, behavior, and skills that they brought into the experience, and then to identify and describe the same for each of the other people involved. Then they pair and share their experiences and begin to generate a list of characteristics of attitudes, behaviors, and skills that foster civility. At this point, the teacher may give a brief presentation and handout on theories of and strategies on how to have difficult conversations and how to engage in constructive conversations. Students are then asked to compare their lists with those generated by the experts and to modify their lists accordingly. In a large group discussion, each pair contributes to create a synthesis of the attitudes, behaviors, and skills that foster civility.   At the end of class, students are asked to write their own personal list of strategies they want to practice to foster civility. As a homework assignment, students are asked to think

of a current situation where they feel challenged to remain civil. This will form the basis of an exercise for the following class where they role-play the situation and practice the strategies. A later exercise will use a hypothetical problem that was generated from an example students gave where they observed incivility in the workplace.

By starting with a positive experience, students see that they can already foster civility without being conscious of how they do it. In addition, by using their own experience, students become more engaged with the material. By reflecting on the experience and feelings, both their own and of others involved, students begin to develop a greater appreciation of the value of civility and for the specific attitudes, behaviors, and skills that foster it. By sharing their experience, students strengthen their communication skills and relationships with classmates. Because students are primed with their own revelations, students easily evaluate and incorporate expert theory and strategy presented by their teacher. By forming a large synthesized list, students create resources to use in the future. By writing personal lists, students affirm their commitment to engage in practices that foster civility.

ASSESSMENT

When developing curriculum, it is important to select methods to assess whether the students are learning what you intend to teach, and to provide formative and as well summative feedback [Hamilton, Monson, Organ, 2012] [40]. In addition, one must select methods to evaluate student performance and mastery of the content. The first step in developing effective assessment and evaluation methods is to establish competencies. Competencies are clear goals and objectives that participants are expected to achieve.[41] The most effective way to establish goals, objectives, and expectations is to include students in this dialogue and decision making process. [Hess 1998][42]

For example, in the lesson described above, the goals were the following:
1. Students will identify and articulate the attitudes, behaviors, and skills that foster civility.
2. Students will identify challenges and strategies to foster interpersonal civility.
3. Students will apply these strategies in a personal context and in a hypothetical context.

The second step is to develop assessable learning outcomes,[43] a way to clearly articulate your expectations for the students.[Chickering and Gamson 1987][44]. These learning outcomes are developed by looking at the competencies outlined under step one to determine what elements of those competencies can be assessed. For instance in response to the first goal, the assessable learning outcomes might be developed in the following way: If the teacher's goal is for students to identify and articulate these behaviors, one assessable skill would be active listening skills. To measure active listening skills, the teacher might note if the student: focuses on the speaker, nods at appropriate times, and responds appropriately to what has just been said.

The third step is to determine what pedagogy and curriculum is most effective to teach these assessable learning outcomes[45].

The final, and in some senses the most important step is to assess the effectiveness of the exercise[46]. Students often complete this final step through written reflection or oral journaling. The types of questions posed in this process require students to look inside themselves as well as articulate the effect the exercise has had on them. The questions should focus on how the students can adapt what they have learned to new situations. For instance, again in response to the first goal, a question in the assessment of the exercise might be the following: "How will my students/clients be affected by my ability to foster civility"? This type of question helps the students understand why this exercise is important and how they will be able to transfer that learned information into other professional situations.

Evaluating and grading the students work is also important because students depend upon their grades for applications for jobs and for higher education. Rubrics are also helpful because they allow for clear communication between the teacher and the student about what the student has done well and what the student has not yet mastered. Once the learning outcomes are determined, however, grading rubrics can be developed rather easily for this purpose. Once again, under the active listening example above, the teacher would need to decide whether to address each of the behaviors individually or holistically[47]. Thus, the behaviors of the student's focus on the speaker, nodding at appropriate times, and responding appropriately to what has been said could be evaluated independently or as a group. The line in the rubric could independently evaluate the behaviors like in the following:

Active Listening	Mastered	Close to Mastering	Needs Substantial Improvement	Has not begun to Master
Focus on Speaker	All of the time	Most of the time	Part of the time	Never
Nodding Appropriately	All of the time	Most of the time	Part of the time	Never
Appropriate Responses	All of the time	Most of the time	Part of the time	Never

TABLE 1

or the line in the rubric could be holistic like in the following:

Active Listening	Student shows mastery of focusing on speaker, nodding at appropriate times, and giving appropriate responses to what others say	Student is close to mastering this behavior. Student focuses on speaker, but does not always encourage speaker by nodding appropriately or by giving appropriate responses.	Student needs substantial improvement on mastering this behavior. Student is not consistently focused on speaker and rarely reacts with appropriate nodding or appropriate responses.	Student has not begun to master this behavior. Student either ignores speaker or interrupts with own ideas rather than focusing on speaker. Never nods or responds appropriately to speaker.

TABLE 2

To complete the rubric, the teacher must decide whether to weigh individual assessment outcomes differently. This assessment can be done with percentages or points depending upon what makes the most sense for the given subject.

CONCLSION

When the teaching of professionalism and civility is effectively integrated into professional school curriculum, students will enter their chosen career better prepared to succeed and to serve the interests of their organization and clients. Moreover, they will begin their career with a basic set of tools upon which they can continue to grow and develop. This will enable them to have a rewarding and satisfying lifetime career.

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