

EXPLORING WELL-BEING PRACTICES AS PART OF
LAW STUDENT DEVELOPMENT OF A POSITIVE
PROFESSIONAL IDENTITY

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INTRODUCTION

The American Bar Association (“ABA”) is now requiring all ABA-approved American law schools to provide “substantial opportunities to students for . . . the development of a professional identity,”¹ in turn interpreted to “involve an intentional exploration of the values, guiding principles, *and well-being practices* considered foundational to successful legal practice.”² The ABA Interpretation does not define either what well-being practices should be intentionally explored or how to go about it. This Article is designed to help fill that gap by drawing on my experience in teaching multiple upper-level courses, as well as a new one-credit first-year course, all of which to some

1. Standard 303(b) provides: “A law school shall provide substantial opportunities to students for: (1) law clinics or field placement(s); (2) student participation in pro bono legal services, including law-related public service activities; and (3) the development of a professional identity.” ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022–2023 Standard 303(b), at 18 (AM. BAR ASS’N 2022).

2. ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022-2023 Interpretation 303-5, at 19 (AM. BAR ASS’N 2022) (emphasis added) [hereinafter Interpretation 303-5] (Interpretation 303-5 provides: “Professional identity focuses on what it means to be a lawyer and the special obligations lawyers have to their clients and society. The development of professional identity should involve an intentional exploration of the values, guiding principles, and well-being practices considered foundational to successful legal practice. Because 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.”); *see also* Neil W. Hamilton and Louis D. Billionis, *Revised ABA Standards 303(b) and (c) and the Formation of a Lawyer’s Professional Identity, Part 1: Understanding the New Requirements*, NALP BULL. (May 2022), <https://www.nalp.org/revised-aba-standards-part-1>.

degree involve “intentional exploration . . . of well-being practices.”³ An objective of these courses has not only been to help the students form a professional identity that includes well-being practices, but also to help that identity be a positive one by trying to bring out the best in them. In the process, I have drawn on some of the insights from the science of applied positive psychology, which can be described simply as the evidenced-based study of how people can thrive.⁴

While admission to law practice in almost all states requires passing an examination, such states also require applicants to meet minimum standards of *character and fitness*.⁵ The pedagogical idea is to encourage law students to use these standards as aspirations, not just minimum requirements that they must satisfy upon graduation. Also, as a way of moving toward those goals, the students can also draw upon the professional skill of *self-evaluation*, which other provisions of the ABA Standards specifically reference, as discussed below.⁶

It is important to acknowledge at the outset that this is not the only framework available for what well-being involves, especially for

3. Positive Psychology for Lawyers; Law Practice Planning: Law as a Career and An Enterprise; Character and Fitness for Professional Success; and a new first-year one-credit full year elective: Preparing for Professional Success, recently renamed beginning academic year 2023-24 as Professional Identity Formation and Well-Being.

4. See CHRISTOPHER PETERSON, A PRIMER IN POSITIVE PSYCHOLOGY 4 (2006) (stating “positive psychology is the . . . study of what goes right in life”). See *Positive Psychology*, PSYCH. TODAY, <https://www.psychologytoday.com/us/basics/positive-psychology> (last visited Oct. 3, 2023) (“Positive psychology is a branch of psychology focused on the character strengths and behaviors that allow individuals to build a life of meaning and purpose—to move beyond surviving to flourishing.”). See also R. Lisle Baker, *Integrating Positive Psychology into Legal Education*, 48 SW. L. REV. 295–96, 300–03 (2019) (summarizing national conferences on this topic held at Suffolk University Law School in 2017 and 2018 by organizing the participant presentations thematically around some of the important features of legal education (critical thinking, competition, independence, diligence, and professional values) and how to complement those features in ways to enhance the well-being and success of students, as well as the legal educators who teach them; also supplemented by links to the written materials prepared by the participants in the conferences so that readers of the article can dive deeper into a specific presentation and find additional resources).

5. See ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022–2023 Standard 504 (a)–(b), at 35–36 (AM. BAR ASS’N 2022) (“A law school shall include the following statement in its application for admission and on its website: In addition to a bar examination, there are character, fitness, and other qualifications for admission to the bar in every U.S. jurisdiction. . . . The law school shall . . . take additional steps to apprise entering students of the importance of determining applicable character [and] fitness . . .”).

6. See *infra* pp. 110, 112–13.

lawyers, if not explicitly law students. For example, Professor Larry Krieger and Dr. Kenneth Sheldon have done pathfinding work by looking at lawyers through the lens of self-determination theory in which autonomy, competence, and relatedness are key indices of well-being.⁷ Also, in 2017, the National Task Force on Lawyer Well-Being focused on six dimensions of well-being for lawyers: Emotional, Intellectual, Occupational, Physical, Social, and Spiritual.⁸ This is a broader set, which has been well elaborated by Professor Heidi Brown.⁹

The advantage of the Character and Fitness framework is that it helps students not only explore well-being practices, but also begin to explore the “values” and “guiding principles . . . considered foundational to successful legal practice” as ABA Interpretation 303-5 provides.¹⁰ Specifically, I believe the Character element allows student exploration of their and others’ positive character. The Fitness aspect allows student exploration of what might be the best fit in terms of a preferred professional role, as well as six dimensions of well-being that have been used principally by psychologist Dr. Martin Seligman and others to describe a flourishing life: Relationships, Engagement, Vitality, Achievement, Meaning, and Positive Emotion, explored in more detail below.¹¹ (These six dimensions are summarized for ease of remembering by putting the first letters into an acronym: “REVAMP.”)¹² Both Character and Fitness are important for law students’ positive professional identity

7. See, e.g., Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. 554, 564–65, 567 (2015) (discussing self-determination theory).

8. See NAT’L TASK FORCE, THE PATH TO LAWYER WELL-BEING: PRACTICAL RECOMMENDATIONS FOR POSITIVE CHANGE 9–10 (2017), <https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf> [hereinafter NAT’L TASK FORCE].

9. See HEIDI K. BROWN, THE FLOURISHING LAWYER: A MULTI-DIMENSIONAL APPROACH TO PERFORMANCE AND WELL-BEING 1, 3, 11 (2022); see also INST. FOR WELL-BEING IN LAW, <https://lawyerwellbeing.net> (last visited Oct. 23, 2023).

10. See Interpretation 303-5, *supra* note 2, at 19.

11. See MARTIN E. P. SELIGMAN, FLOURISH: A VISIONARY NEW UNDERSTANDING OF HAPPINESS AND WELL-BEING 24, 27, 238 (2013); see discussion *infra* pp. 124–39 (discussing the six aspects of a flourishing life).

12. See generally R. Lisle Baker & Peter Scott Campbell, *Louis D. Brandeis and the Formation of a Positive Professional Identity*, 56 SUFFOLK UNIV. L. REV. 275, 276, 280–81 (2023) (discussing former Boston lawyer and Supreme Court Justice, Louis D. Brandeis, in terms of the “values, guiding principles and well-being practices” that were important to his positive professional identity, such as his compassion and courage, as well as his relationships, engagement, vitality, achievement, meaning, and positive emotions). For a detailed explanation of the origin of the REVAMP framework, see *id.* at 280 n.34.

development, as lawyers who could be strong in all six domains of flourishing could still be engaged in morally blameworthy conduct.

I initially explored the REVAMP Character and Fitness framework in the context of leadership education.¹³ More recently, I expanded this framework to include the six REVAMP aspects of Fitness in examining the life of Boston lawyer, and later U.S. Supreme Court Justice, Louis D. Brandeis.¹⁴ For those unfamiliar with his legal career, he is the only lawyer in American history listed as among both the top five lawyers and top five U.S. Supreme Court Justices.¹⁵ Without repeating that article here, it is remarkable to look retrospectively at his life and work through this Character and Fitness lens. He was and is esteemed not only because of his consummate legal skills, but also because of his character—especially his compassion and courage.¹⁶ His life also modeled the elements of Fitness mentioned earlier—relationships, engagement, vitality, achievement, meaning, and the positive emotions he brought to his work. Viewed through these lenses, his life provides a positive example for law students to undertake an “intentional exploration of the values, guiding principles, and well-being practices considered foundational to successful legal practice.”¹⁷ Helping students choose other positive exemplars is also discussed in more detail below.

The balance of this Article will elaborate on this Character and Fitness pedagogical framework. This Article will also quote from some student writing for or related to my courses, with the students' consent, reporting how such well-being practices have been helpful. However, I recognize that not all such well-being practices have been, or will be, worthwhile for all students to explore. Nonetheless, my hope is that these positive student responses can still be instructive in helping other legal educators respond to the requirements of

13. See R. Lisle Baker, *Character and Fitness for Leadership: Learning Interpersonal Skills*, 58 SANTA CLARA L. REV. 525, 528–29 (2018) [hereinafter Baker, *Learning Interpersonal Skills*] (arguing that the Bar admission requirement of “character and fitness” can also be an aspirational goal to help provide a rationale for leadership education in law school, and that as interpersonal skills are an important part of leadership learning, it is helpful for law students to learn how to pay better attention to other people, be aware of their and others' strengths, and understand and acknowledge concerns that they and others have for appreciation, affiliation, autonomy, status, and a meaningful role); see also R. Lisle Baker, *Character and Fitness for Leadership: Educating Lawyers for Compassion and Courage as well as Brains: The Wizard of Oz Was Right*, 14 TENN. J. LAW & POL'Y 287, 294, 338 (2020) (discussing pedagogical issues involved in educating lawyers in compassion and courage as well as critical thinking where all three are needed to succeed).

14. See generally Baker & Campbell, *supra* note 12.

15. *Id.* at 278 (quoting Alan M. Dershowitz, *The Practice*, N.Y. TIMES, Sept. 27, 2009, at A13).

16. *Id.* at 282–84.

17. Interpretation 303-5, *supra* note 2, at 19.

Section 303(b)(3), and perhaps even going beyond them in shaping their own law students' exploration of well-being practices in developing a positive professional identity. But before going into these well-being practices, it may be helpful to first provide more background on the new ABA standards to put the well-being aspects of the new professional identity requirement in an appropriate educational context.

I. THE ABA STANDARDS FOR LEGAL EDUCATION ADDED IN 2022

For many years, the ABA has set standards for legal education in all ABA-approved law schools.¹⁸ In 2022, the ABA made two additions to the curricular standards in Section 303: Section 303(b)(3) referenced above and relating to professional identity, and Section 303(c) regarding cross-cultural competency and anti-racism.¹⁹ While both new standards are important, this Article will focus on Section 303(b)(3) relating to professional identity. However, it is important to point out that diversity, equity, and inclusion contribute to law student well-being.²⁰

The addition of well-being practices as part of professional identity development in law schools has been foreshadowed by increasing attention to that subject for practicing lawyers.²¹ Lawyers appear to be at a higher risk than the general population for mental

18. See ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022-2023 Standard 301(a), at 17 (AM. BAR ASS'N 2022) [hereinafter Standard 301] (requiring all ABA-approved law schools to “maintain a rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession”); *id.* at Standard 302 (a)–(d).

19. See ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022-2023 Standard 303(c), at 18 (AM. BAR ASS'N 2022) [hereinafter Standard 303(c)] (“A law school shall provide education to law students on bias, cross-cultural competency, and racism: (1) at the start of the program of legal education, and (2) at least once again before graduation.”).

20. NAT'L TASK FORCE, *supra* note 8, at 16 (“A significant contributor to well-being is a sense of organizational belongingness, which has been defined as feeling personally accepted, respected, included, and supported by others. A weak sense of belonging is strongly associated with depressive symptoms. Unfortunately, however, a lack of diversity and inclusion is an entrenched problem in the legal profession. . . . Given the above, we recommend that all stakeholders urgently prioritize diversity and inclusion.”).

21. See, e.g., *Well-Being in the Legal Profession*, AM. BAR ASS'N, https://www.americanbar.org/groups/lawyer_assistance/well-being-in-the-legal-profession/ (last visited Oct. 3, 2023) (discussing the ABA's efforts to promote lawyer well-being).

distress.²² Studies have focused on practicing lawyers, but law students have also been the subject of concern.²³

These mental health concerns include anxiety, depression, substance abuse, and even self-inflicted harm, including suicide.²⁴ Kentucky, for example, has experienced several public lawyer suicides.²⁵ Published reports indicate that even law students are involved.²⁶

22. See Jeffrey Fortgang, *Troubleshooting Common Problems*, THE FULL WEIGHT OF THE LAW: HOW LEGAL PROFESSIONALS CAN RECOGNIZE AND REBOUND FROM DEPRESSION 83, 84 (2017); see also Matthew S. Thiese et al., *Depressive Symptoms and Suicidal Ideation Among Lawyers and Other Law Professionals*, 63 J. OCCUPATIONAL ENV'T MED. 381, 385 (2021) ("In sum, we found that when compared with the general working population as benchmarked on the NHANES, law professionals and lawyers indicated that they experience more depressive symptoms. Specifically, they indicated that they experience little pleasure in doing things, have difficulties with sleep, feel depressed, struggle with energy levels, eating habits, and even consider self-harm (i.e., suicidal ideation) at as much as five times more than the general working population. . . . This would indicate that 17.5% of our lawyers likely have a depressive disorder.").

23. See Jerome M. Organ et al., *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 116, 121, 124–25 (2016) (reporting survey of 11,000 law students attending fifteen different law schools about drug and alcohol use, as well as mental health diagnoses after attending law school for twelve months). The data suggested that about a quarter of respondents engage in binge-drinking two or more times a week, and "nearly one-third of respondents (thirty-two percent) having used marijuana or cocaine or used prescription drugs without a prescription in the prior year." See *id.* at 145. Additionally, "one-fifth to one-sixth of respondents [were] diagnos[ed] with anxiety or depression, [and] many received their diagnosis after beginning law school." See *id.* This research was updated in David Jaffe et al., *"It Is Okay to Not Be Okay": The 2021 Survey of Law Student Well-Being*, 60 UNIV. LOUISVILLE L. REV. 441, 441 (2022).

24. See also Brian S. Clarke, *Coming Out in the Classroom: Law Professors, Law Students, and Depression*, 64 J. LEGAL EDUC. 403, 405 (2015) ("[T]he suicide rate among lawyers [from a two year study completed in 1997] . . . was 69.3 suicide deaths per 100,000 individuals, as compared to 10 to 14 suicide deaths per 100,000 individuals in the general population. In short, the rate of death by suicide for lawyers was nearly six times the suicide rate in the general population.").

25. See Rosa Flores & Rose Marie Arce, *Why Are Lawyers Killing Themselves?*, CNN (Jan. 20, 2014, 2:42 PM), <https://www.cnn.com/2014/01/19/us/lawyer-suicides/index.html> (discussing the 15 lawyer suicides in Kentucky occurring between 2010 and 2014); Al Cross, *4 Kentucky lawyers have killed themselves in the last 3 weeks*, KENT. HEALTH NEWS (Jan. 15, 2021), <https://cidev.uky.edu/kentuckyhealthnews/2021/01/15/4-kentucky-lawyers-have-killed-themselves-in-the-last-3-weeks/> (discussing lawyers who died by suicide during the 2020–21 holiday season).

26. See Emmy M. Cho & Alexandra Topic, *Harvard Remembers Tommy Raskin, an 'Extraordinary Young Person' with a 'Perfect Heart' and 'Dazzling Radiant Mind'*, HARV. CRIMSON (Jan. 18, 2021),

In 2017, the National Task Force on Lawyer Well-Being described lawyer self-care as part of the professional obligation of competence that attorneys must meet.²⁷ That principle is likely to be supported in a new proposed comment to the Model Rule about competence: “Lawyers should be aware that their mental, emotional, and physical well-being may impact their ability to represent clients and, as such, is an important aspect of maintaining competence to practice law”²⁸ While the focus on competence grows out of concern to avoid disabling distress among attorneys, my view is that it also should be read as promoting law student well-being, not only for their own success, but also for that of their future clients.

Section 303(b)(3) requires ABA-approved law schools to foster well-being in law school, a development anticipated by states like Massachusetts. Its highest court, the Supreme Judicial Court, established a Standing Committee on Lawyer Well-Being, which, drawing on work of its Legal Education Subcommittee of which I have been a member, issued well-being guidance for law students to follow.²⁹ The Massachusetts Committee is one of the leaders in a strong response from courts nationwide to address the importance of lawyer well-being.³⁰

However, having well-being be part of professional identity development in law schools might not have happened but for the intervention of the Executive Committee of the Section on Balance and Well-Being in Legal Education of the Association of American Law Schools (“AALS”) and the complementary efforts of other interested groups. Here is some of the history.

<https://www.thecrimson.com/article/2021/1/18/tommy-raskin-obituary/>; Ryan H. Doan-Nguyen & John N. Peña, *Harvard Law School Student Jeremy Hendley Dies at 35*, HARV. CRIMSON (Sep. 7, 2022), <https://www.thecrimson.com/article/2022/9/7/hls-student-dies/>.

27. See NAT'L TASK FORCE, *supra* note 8, at 26.

28. *Rules of Professional Conduct*, UTAH CT. RULES (Approved May 17, 2023), <https://legacy.utcourts.gov/utc/rules-approved/2023/05/17/rules-of-professional-conduct-effective-may-17-2023/>.

29. See generally MASS. SUP. JUD. CT. STANDING COMM. ON LAW. WELL-BEING, A GUIDE TO LAW STUDENT WELLNESS AND WELL-BEING (2021), <https://static1.squarespace.com/static/5e6d105ff4b7d15cf766c1e1/t/611e9050bb94f0099df0decd/1629392976814/A+Guide+to+Law+Student+Wellness+and+Well-Being+2021.pdf> (providing resources, tips, and practices for law students and law schools to use in promoting a variety of facets of success).

30. R. Lisle Baker, *Emerging State Bench and Bar Resources for Attorney Well-Being*, ABA L. PRAC. TODAY (Jan. 15, 2021), <https://www.lawpracticetoday.org/article/emerging-state-bench-and-bar-resources-for-attorney-well-being/> (examining different initiatives being undertaken throughout the United States, including an extensive appendix of resources to assist those interested, as well as overview of a study on Utah lawyers).

By a memorandum dated March 1, 2021, the ABA's Council of the Section of Legal Education and Admissions to the Bar offered proposed revisions to the *ABA Standards and Rules for Procedure for Approval of Law Schools*, including Section 303, for comment.³¹ The proposal for Section 303 recommended the addition of Section 303(b)(3) relating to making professional identity part of law school curricula, but the proposed Interpretation 303-5 contained no well-being component, though well-being was mentioned in the proposed addition to Section 508 relating to student services.³²

Upon review of the Council's proposal, Professor Rosario Lozada of the Florida International School of Law, the Chair of the AALS Executive Committee, upon consultation with several members of the Executive Committee (Professor Camille Lamar Campbell of the Nova Southeastern Shepard Broad College of Law, Associate Dean and Professor Leah Terranova of the University of Kansas School of Law, and me), felt it important to improve the proposal.³³ The thrust of the recommendation was that cultural competence and well-being components needed to be interpreted as part of the curricular standard of professional identity, not just part of the standard for student support, and that the Interpretation for the Student Support standard could be enhanced to clarify the important elements of well-being.³⁴

Because the Balance Section was then deemed an administrative Section, it could not take a position without approval of the AALS leadership.³⁵ That limitation has since been removed, but at the time it meant that the Section itself could not officially comment on the ABA proposal in a timely manner. The solution that emerged was that Chair Lozada wrote a letter dated March 31, 2021, on her own

31. See Memorandum from the Hon. Scott Bales, Council Chair for the ABA Section of Legal Educ. & Admissions to the Bar, & William E. Adams, Managing Dir. Of Accreditations & Legal Educ. for the ABA (Mar. 1, 2021), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/20210301-notice-and-comment-standards-303-and-508-rules-2-and-13.pdf.

32. *Id.* See STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS. 2022-2023 Standard 508(b), at 37–38 (Am. Bar Ass'n 2022) (“A law school shall provide all its students, regardless of enrollment or scheduling option, with: . . . [i]nformation on law student well-being resources.”).

33. See Letter from Professor Rosario Lozada, Chair of the Exec. Comm. of the Balance in Legal Educ. Section of the Ass'n of Am. L. Schs., to the Hon. Scott Bales, Council Chair for the ABA Section of Legal Educ. & Admissions to the Bar, & William E. Adams, Managing Dir. Of Accreditations & Legal Educ. for the ABA (Mar. 31, 2021), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/comments/2021/3-21-comment-std303-508-lozada.pdf.

34. *Id.* at 2–3.

35. *Id.* at 1, 1 n.1.

behalf, noting her role as Chair, but disclaiming speaking for the Section itself or the AALS.³⁶ In her letter, she wrote in part:

It is essential to recognize well-being as an integral component of the law school curriculum. In recent years, scholars have highlighted the need for law schools to help their students manage stress. But a laudable focus on managing stress should not obscure the value of teaching students how to optimize performance by improving well-being.³⁷

I and several others followed up with individual letters.³⁸ Chair Lozada kept the fifteen-member Balance Section Executive Committee informed and secured its unanimous support—and ultimately the Section membership’s support as a whole—for the changes in the proposed Standards and Interpretations outlined in her letter.³⁹ Chair Lozada received support from other commentators, including the Holloran Center at the University of St. Thomas School of Law, which modified its own earlier proposal to include well-being as part of the Interpretation to Section 303(b)(3).⁴⁰

While some of the changes recommended by Chair Lozada did not get adopted, amended language encouraging the exploration of well-being practices ultimately became part of Interpretation 303-5 as an important part of law student professional identity development.

While Section 303(b)(3) marks an important new opportunity for legal education, it is helpful to recall that the ABA Standards had already offered a means of “intentional exploration” in Section 302 of its standards. Specifically, ABA-approved law schools are authorized

36. *Id.*

37. *Id.* at 3 (citing Debra Austin, *Positive Legal Education: Flourishing Law Students and Thriving Law Schools*, 77 MD. L. REV. 649, 655 (2018); Lawrence Krieger, *THE HIDDEN SOURCES OF LAW SCHOOL STRESS: AVOIDING THE MISTAKES THAT CREATE UNHAPPY & UNPROFESSIONAL LAWYERS* (2014)).

38. *E.g.*, Letters from Professor R. Lisle Baker, Suffolk Univ. L. Sch., to the Hon. Scott Bales, Council Chair of the Section of Legal Educ. and Admissions, & William E. Adams, Jr., Managing Dir. Of Accreditations and Legal Educ. (March 30, 2021, & March 31, 2021), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/comments/2021/3-21-comment-std303-508-lisle-baker.pdf.

39. *See* Email from Professor Rosario Lozada, Chair of the Exec. Comm. of the Balance in Legal Educ. Section of the Ass’n of Am. L. Schs., to the Exec. Comm. (March 26, 2021) (on file with author).

40. *See* Letter from Professor Neil Hamilton et al., Co-Dir. of the Holloran Center for Ethical Leadership in the Professions at the Univ. of St. Thomas Sch. of L., to Scott Bales, Chair of the Council of the Section of Legal Educ. and Admissions (March 25, 2021), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/comments/2021/3-21-comment-std303-holloran-center.pdf.

to educate law students about “other professional skills.”⁴¹ These can themselves be valuable for forming a positive professional identity, in that they can include “interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and *self-evaluation*.”⁴² Specifically, asking students to evaluate themselves, including writing reflections about their experience, can aid their professional identity development, as discussed in more detail below.⁴³

II. CHARACTER AND FITNESS IN EXPLORING WELL-BEING PRACTICES IN FORMING A POSITIVE PROFESSIONAL IDENTITY

The potential Character component of professional identity is wide in scope. However, helping students understand, use, and develop their own character strengths is a good place for them to begin a larger process of developing their professional identity,

41. ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022-2023 302(d), at 18 (AM. BAR ASS'N 2022).

42. ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022-2023 Interpretation 302-1, at 18 (AM. BAR ASS'N 2022) (emphasis added).

43. See Instructions of R. Lisle Baker (on file with author).

As indicated in the Syllabus, your work in the course will build toward your preparing a Law Practice Plan. Just like a closing argument to a jury in a trial, you will want to cite the evidence (i.e., your journals) that leads to the conclusion you have in mind. You are being asked to record on a regular basis—just like you would on a client matter as a lawyer—some of what you are learning and how to apply it to aid your future professional success. These journals are the record that illustrate your positive practices, as well as reflections on your reading, classes, class presentations, or other experiences which may be helpful to you in bringing out the best in yourself and in those with whom you are involved. For example, in the class, you will tell a story of you at your best. You will then have an assignment to record that story in writing and reflect on the strengths and positive attributes you and others saw exemplified in that story. Each new learning should be captured in a journal so that it does not fade from memory, as so often occurs, and you can draw upon it later. Also, recent scholarship indicates that writing and well-being are potentially symbiotic. Specifically, writing is especially expressive in a journal, and can enhance well-being, which in turn helps writing itself. See Robert W. Rebele, *Writing Well: The Symbiotic Relationship between Writing and Well-Being 1* (Aug. 1, 2010) (unpublished manuscript) (on file with the University of Pennsylvania). Your journal entries also help you demonstrate other important professional attributes such as timeliness and diligence. Journals also help you retain information that even though vivid at the time fades in memory.

including the “values and guiding principles” described in Interpretation 303-5 to Section 303(b)(3).⁴⁴

In the case of Fitness, I have found it helpful for students to reflect about what they might like to do with their education, as finding a good match can have an impact on their well-being. Indeed, I teach an upper-level elective, *Law Practice Planning: Law as a Career and an Enterprise*, most of which is focused on just that issue.⁴⁵ Even in the first-year course, it has been helpful for students to begin considering what an optimal professional future might involve. As one first-year student commented:

My best possible future role would be to work for the American Civil Liberties Union . . . as a staff attorney This most engages me because being a person of color makes up a large part of my identity and pushes me to want to help bridge the gap within these communities specifically relating to access to legal services⁴⁶

In addition, as indicated earlier, students can also explore what practices they might undertake in the six domains of well-being for positive professional performance: Relationships, Engagement, Vitality, Achievement, Meaning, and Positive Emotions.⁴⁷ The six aspects are explained in more detail below.⁴⁸

While the specifics for individual courses vary with the topics and coverage, a common framework is that students submit multiple reflections following specific prompts, prepare and present a final professional development plan, and then submit their plans accompanied by an appendix of all their prior reflections. In the final plan, the students are asked to use and cite their previous reflections written during the course, just as they might cite evidence in a closing

44. ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022-2023 Interpretation 303-5, at 19 (AM. BAR ASS'N 2022); *id.* at 303(b)(3).

45. See R. Lisle Baker, *Planning Your Career in Law Practice*, 50 SUFFOLK UNIV. L. REV. 1, 2, 31, 40, 42, 44 (2017) (outlining the framework for Law Practice Planning: Law as a Career and an Enterprise, a course which helps students develop criteria for choosing a professional opportunity and then undertake a feasibility analysis of some of its economics, including a pro-forma cash flow statement).

46. Professional Development Plan from Daisha Bishop, Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author). Note that in the case of this and subsequent quotations from student writings, the titles of the writings quoted may vary depending on the course or the individual student. Also, the students have given their consent to be quoted and specified how they wished to be identified.

47. SELIGMAN, *supra* note 11.

48. See *infra* pp. 124–39 (discussing the six aspects of a flourishing life).

argument.⁴⁹ While this is not case authority, as in a legal brief, it asks them to support what they say from the record of their own reflections that they have developed.⁵⁰

The remainder of this Article will elaborate on the Character and Fitness pedagogical framework for responding to Section 303(b)(3), drawing on both the evidence for it and some of my students' experience, as noted above.

A. *Character*

Educating law students and lawyers in positive qualities of character has become the focus of increasing attention.⁵¹ But good character is not self-executing. If we want our law students and lawyers to be at their best, not just perform at their best, we need to help them understand what that might involve. To assist this process, it is helpful for students to find out about the strengths of character that they already have available to them, as well as to look for exemplars to emulate, on the premise that it is important to build on what is already working for them to develop a positive professional identity as a lawyer.⁵²

1. *Character Strengths*

From the beginning of their legal education, law students are exposed to some version of the case method of instruction, which involves reviewing a case to determine the interplay of facts, law, and policy that may be at work.⁵³ They can use the same vehicle for their own self-discovery. Specifically, students are asked to think of a time

49. See *Course Offerings: LAW-2253 Law Practice Planning: Law As a Career and an Enterprise*, SUFFOLK UNIV. L. SCH., <https://www.suffolk.edu/law/academics-clinics/juris-doctor/course-offerings> (last visited Oct. 3, 2023) (choose "Spring 2024" from term selection; then choose "LAW PRAC:PLAN CAREER" from courses displayed); see also R. Lisle Baker, *Designing a Positive Psychology Course for Lawyers*, 51 SUFFOLK UNIV. L. REV. 207, 219–20 (2018) (pedagogical choices involved in grounding students in positive psychology insights to help students take advantage of "opportunities for more meaningful and ethical service; improved performance and well-being; and greater resilience in the face of the profession's challenges").

50. See Baker, *supra* note 49, at 248.

51. See DEBORAH L. RHODE, *CHARACTER: WHAT IT MEANS AND WHY IT MATTERS* 14 (2019).

52. See Baker, *supra* note 49, at 227–33, 249–50 (discussing use of character strengths in law school curriculum); see also Baker, *Learning Interpersonal Skills*, *supra* note 13, at 536 ("In the Suffolk Law School leadership course, each student is initially asked to pick someone they admire as a leader and report on the person in a journal entry. Later in the course the students are asked to report and explain a more public exemplar and the rationale for wanting to emulate that individual. Those situations tend to have a personal dimension, as they should.").

53. For a helpful exploration of this process, see PETER T. WENDEL, *DECONSTRUCTING LEGAL ANALYSIS: A 1L PRIMER* 76–77 (2009).

that they were at their best, and be prepared to tell their story to a classmate.⁵⁴ They become, in effect, like a client, with the classmate's role being like an attorney whose task is to listen carefully and appreciatively, so that classmate can in turn introduce their client to the class.⁵⁵ As the story is told, the other students in class, including the interviewing classmate, are asked what positive attributes or strengths they see exemplified by the story. This activity not only introduces each student to other classmates in a positive light, but also begins a process the students will be exposed to more formally later—spotting strengths in other people—as well as the value of partnerships. Also, especially in the first year of law school where students are exposed to so much new learning, encouraging students to remember what positive attributes they bring with them can be an important counterweight to feeling at sea. Here is what one student commented about the exercise:

I have always found it difficult to talk about myself, especially in a positive light. . . . My partner . . . stated that my story showed my intelligence, something I struggle to remember about myself. . . . Hearing that other people appreciated my work and found strengths about my story is encouraging and reminds me to keep pushing forward towards my dreams. Sharing this story allowed me to remember that there are positive qualities about myself.⁵⁶

One of the interesting aspects of debriefing the exercise with a reflection afterwards is how some students feel validated to have others see qualities in themselves which they had not considered. Others feel awkward in being exposed to a wider audience, even in a

54. See Instructions of R. Lisle Baker (on file with author), excerpted: You at your best: Reflect on your experiences before and during law school and be prepared to tell a story about a time you thought you were at your best. If you are feeling modest, think of this story as not about you but someone else. It should be about the positive attributes that you displayed more than achievements or performance. . . . It need not be something anyone else knows about and can be as simple as helping someone with a frustrating task. This is not a law school exam—just a chance to talk about yourself in a positive way. It should be something you can tell in about two to three minutes.

55. See Instructions of R. Lisle Baker (on file with author). Each of you have something special to offer. . . . Take a few minutes to tell a story of you at your best to a partner. In effect, you are the client and your partner is the attorney. Then trade roles. If you are the client, do not be bashful; if you are the attorney, listen appreciatively as if to a good friend without interruption except to clarify what was said to you. Make a note when you are done of some of the strengths you heard in that story and be prepared to share it with your partner.

56. Memo: Practices Turned to Habits from Bianca Lopez, Student, Suffolk Univ. L. Sch., to author (May 9, 2023) (on file with author).

positive light. These varied reactions offer an opportunity for students to reflect on how they will need to prepare their clients for telling their stories in court or otherwise. The activity also introduces the students to the importance of careful listening, as they are not only hearing, but also summarizing and reporting what they have heard, developing their capacity for focused attention, a theme echoed below in the discussion about Engagement.⁵⁷

Also, the students are asked to interview someone in the class they do not know and in the process of the interview, find three things in common that are not obvious. They are often pleasantly surprised by the experience of getting to know a classmate, echoing research that indicates that we often imagine conversations with strangers to be much less rewarding than it turns out to be.⁵⁸ This process also introduces the students to understanding the value of building affiliation with others they will encounter in their law practice careers, a theme elaborated in more detail later in the exploration of well-being aspects of relationships.⁵⁹

Once the students are exposed to strength spotting, how do they learn what those strengths might be? The strengths we can bring and develop in becoming a good lawyer are many, but it is not a vocabulary that many of us have. Indeed, our inventory of descriptions of negative behavior are likely to be more well-developed.⁶⁰

Fortunately, some helpful homework has been done already. Many legal educators are aware of the *Diagnostic and Statistical Manual of Mental Disorders*, used by psychologists to classify and

57. See *infra* pp. 127–30. This exercise also lays the groundwork for students to reflect on one of the challenges of future law practice, not just listening carefully to client stories but to be able to report bad news to clients in ways that are consistent with their own and their client's well-being. See R. Lisle Baker & Jennifer List, *Delivering Bad News Well*, L. PRAC. TODAY (JAN. 14, 2019), <https://www.lawpracticetoday.org/article/deliver-bad-news-well/> (discussing how to deliver bad news to clients and do it well, based on learning from a medical protocol devised by a Philadelphia pediatric palliative care physician having to inform parents that their children are not likely to recover).

58. See MELINDA BLAU & KAREN L. FINGERMAN, CONSEQUENTIAL STRANGERS: THE POWER OF PEOPLE WHO DON'T SEEM TO MATTER . . . BUT REALLY DO 30–31 (2009).

59. See *infra* pp. 124–27; see also Baker, *Learning Interpersonal Skills*, *supra* note 13, at 537–38 (“At the beginning of the course, I also ask them to interview and introduce a classmate they do not know and find three things in common that are not obvious, like being a Boston Red Sox fan. Then, when we get to the discussion of the core concerns, I remind them of how that sense of affiliation helped them feel more at ease with that classmate, as many students can attend law school classes without having any idea about who sits next to them.”).

60. Paul Rozin & Edward B. Royzman, *Negativity Bias, Negativity Dominance, and Contagion*, 5 PERSONALITY & SOC. PSYCH. REV. 296, 296–99 (2001).

treat various kinds of behavioral health concerns.⁶¹ What is less well known is that Dr. Christopher Peterson and Dr. Martin Seligman co-authored a treatise they referred to as a “manual of the sanities.”⁶² Their joint work, *Character Strengths and Virtues: A Handbook and Classification*, examined twenty-four character strengths which have been valued across time and cultures.⁶³ While that work elaborates on them in detail, here is a brief description drawn from the work of psychologist Dr. Ryan Niemiec:

- **Creativity:** ingenuity; sees & does things in new/unique ways; original & adaptive ideas;
- **Curiosity:** novelty-seeker; takes an interest; open to different experiences; asks questions;
- **Judgment:** critical thinker; analytical; logical; thinks things through;
- **Love of Learning:** masters new skills & topics; passionate about knowledge & learning;
- **Perspective:** wise; provides wise counsel; sees the big picture; integrates others' views;
- **Bravery:** valorous; does not shrink from fear; speaks up for what's right;
- **Perseverance:** persistent; industrious; overcomes obstacles; finishes what is started;
- **Honesty:** integrity; truthful; authentic;
- **Zest:** enthusiastic; energetic; vital; feels alive and activated;
- **Love:** gives and accepts love; genuine; values close relations with others;
- **Kindness:** generous; nurturing; caring; compassionate; altruistic; nice;
- **Social Intelligence:** aware of the motives and feelings of oneself & others, knows what makes other people tick;
- **Teamwork:** a team player; community-focused, socially responsible; loyal;
- **Fairness:** acts upon principles of justice; does not allow feelings to bias decisions about others;
- **Leadership:** organizes group activities; encourages and leads groups to get things done;
- **Forgiveness:** merciful; accepts others' shortcomings; gives people a second chance;
- **Humility:** modest; lets accomplishments speak for themselves; focuses on others;

61. AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (DSM5) 5 (5th ed. 2013).

62. CHRISTOPHER PETERSON & MARTIN E. P. SELIGMAN, CHARACTER STRENGTHS AND VIRTUES: A HANDBOOK AND CLASSIFICATION 4 (2004) (explaining that the DSM-5 is a “manual of the sanities” (quoting Gregg Easterbrook, *I'm OK, you're OK*, THE NEW REPUBLIC, 136, 140 (Mar. 5, 2001))).

63. *See id.* at 8, 94, 198, 292, 356, 430, 518.

- **Prudence:** careful; wisely cautious; thinks before speaking; does not take undue risks;
- **Self-Regulation:** self-controlled; disciplined; manages impulses & emotions;
- **Appreciation of Beauty & Excellence:** awe-filled; quickly moved to wonder; marvels at beauty & greatness;
- **Gratitude:** thankful for the good; expresses thanks; feels blessed;
- **Hope:** optimistic; future-minded; has a positive outlook;
- **Humor:** playful; enjoys joking and bringing smiles to others; lighthearted;
- **Spirituality:** religious and/or spiritual; practices a faith; purpose & meaning-driven.⁶⁴

These are not the only strengths that students exhibit or will need to form a positive professional identity, but they offer a starting vocabulary for students to reflect on what strengths can mean in their personal and professional lives. Anyone can find out about their unique strengths profile through a free survey provided by the nonprofit VIA Institute on Character.⁶⁵ The top-ranked strengths are called signature strengths because each person's profile of top strengths is like their unique signature.⁶⁶ They are part of our identity in that they often feel so natural to us that we may be unaware of them, like using a dominant hand, unless we are asked to reflect on what it would be like if we could not use them for an extended period of time.⁶⁷

64. Dr. Ryan Niemiec, *Character Strengths 360*, VIA INST. ON CHARACTER (2018), https://www.viacharacter.org/pdf/VIA_Character_Strengths_360_Downloadable.pdf.

65. See *Character Strengths*, VIA INST. ON CHARACTER, <https://www.viacharacter.org/character-strengths-via> (last visited Oct. 3, 2023).

66. *Signature Strengths*, VIA INST. ON CHARACTER, <https://www.viacharacter.org/research/findings/signature-strengths> (last visited Oct. 3, 2023).

67. See Dr. Ryan Niemiec, *What are your Signature Strengths?*, VIA INST. ON CHARACTER (Apr. 3, 2019), <https://www.viacharacter.org/topics/articles/what-are-your-signature-strengths>. This idea of imagining life without signature strengths comes from Dr. Niemiec. Here in an excerpt of a journal prompt the author has used for introducing character strengths:

Your signature character strengths and where they may come from: Now that you have taken the VIA Survey, please be prepared to write about your strengths, in particular those which are most prominent for you, sometimes called signature strengths. Reflect upon the top five strengths in your list. Write about at least three of them. Where are these strengths rooted? Think back to your family of origin, your culture, gender and how and from where you came this far. Can you identify them in any of your family tree? If so, draw a version of the tree showing which strengths you associate with which family

In my courses, I have been fortunate to have the students undertake their initial learning about these twenty-four character strengths with lawyer and professional coach, Ruth Pearce, who maintains a portal at the VIA Institute where her clients can take the survey and receive more feedback from her than they would on their own.⁶⁸ Ruth has been generous in sharing her knowledge and experience with the students, including how as a law student herself she once participated in an inter-school competition that happened to take place at Suffolk University Law School, and came in last. (Students have appreciated learning that while setbacks can occur, they do not need to define their future.) Over the years working with my classes, Ruth has found that my students have a higher incidence than the general population of the character strength of humor. Aside from the fact that having a sense of humor can contribute to well-being in lightening the load of legal studies or legal work, it may even be professionally useful. For example, in an analysis of recordings of oral arguments before the U.S. Supreme Court, the advocate who induced laughter among the justices had a better chance of prevailing, other variables aside.⁶⁹

As a way of introducing students more explicitly to their strengths, I have found it helpful for them to give a simple form listing the twenty-four strengths to friends and family who know them well and ask them to note and comment on the strengths they see displayed and provide some examples. I use a version called the “VIA 360”, developed by Dr. Ryan Niemiec of the VIA Institute of Character, and used with his permission.⁷⁰ Here is how one student commented on the exercise:

members. Parents, grandparents, siblings, etc., should be enough. Now pick one of your signature strengths. It should be a strength that you celebrate and apply regularly—one you would find it hard to live without. See if you can situate this strength in a story or an image. How might this story or image help explain to others what this strength means to you and where this strength came from? How would you explain it orally? In other words, write about this strength in detail in terms of what it means to you. Give at least one example of this strength at work in your life, recognizing that it often may manifest in concert with others.

68. See Ruth Pearce, VIA INST. ON CHARACTER, <https://www.viacharacter.org/about/people/ruth-pearce> (last visited Oct. 3, 2023); Ruth Pearce, INST. OF COACHING, <https://instituteofcoaching.org/users/ruth-pearce> (last visited Oct. 3, 2023).

69. See Siyu Li & Tom Pryor, *Humor and Persuasion: The Effects of Laughter During U.S. Supreme Court Oral Arguments*, 42 DENV. L. & POL'Y 161, 163, 177–78 (2020) (examining oral arguments, the side which induced laughter among justices had a better chance of prevailing, other variables aside).

70. See VIA 360 Survey from Ryan Niemiec, Chief Sci. & Ed. Off., VIA INST. ON CHARACTER (on file with author). Here are some of the instructions:

This [VIA 360] exercise was impactful because it allowed others to recognize and appreciate strengths that I may not necessarily think I have.⁷¹

Another student commented:

The variety of strengths that were identified boosted my self-confidence and made me aware of how others view me.⁷²

While the objective is for the students to become aware of their own strengths, they can also begin to notice strengths in other people. Often, however, for want of something better, our compliments may often focus on something obvious, like what we wear. But what if instead we compliment others about something good that they have done and how they have done it? Part of the challenge is that we may not have a large enough vocabulary to do so. But if we notice and comment on other people's perseverance or bravery or kindness and say how we saw it expressed, we are honoring some of their character strengths. A bonus is that because their top strengths are key aspects of who they are, they may also take them for granted and not be as aware of them as we might be as observers of their behavior. When, however, they find them pointed out, they feel more appreciated.⁷³ As one student commented:

Getting strengths feedback from others: "It is often helpful to see how others see us, as well as how we see ourselves. Using the form distributed in class (which helps others report about you), ask three or more friends or family members to report what strengths they have observed in your actions, giving examples if possible. Please record those results in a journal entry comparing their reports with what you saw through the VIA survey so that you are clear on what they saw, but also how they saw it displayed. For example:

1. My best friend said that I had strengths of A, B, and C. My friend said that I showed strength A when I . . .
2. My colleague said that I had strengths B, D, and E. My colleague said that I showed that strength when . . .
3. [. . . and so on; the more people involved usually the better]." Baker, *supra* note 49, 273.

71. Final Paper from Hailey Skiff, Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

72. Final Professional Development Plan from Kimberly Sweeney, Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

73. See Xuan Zhao & Nicholas Epley, *Insufficiently Complimentary?: Understanding the Positive Impact of Compliments Creates a Barrier to Expressing Them*, 121 J. OF PERSONALITY & SOC. PSYCH: ATTITUDES AND SOC. COGNITION 239, 252–54 (2021) (illustrating how people underestimate the power of compliments to enhance well-being). Below is an excerpt of the instructions I give my class about recognizing character strengths in others.

I have seen myself pointing out character strengths in people. I get a positive reaction each time I tell someone a strength that I see in them. Every couple of weeks, my coworkers and I have begun to list three character strengths we see in each other We all enjoy this practice and find that it brings positivity though the rest of our day.⁷⁴

Looking for opportunities to compliment character strengths in other people also provides us opportunities to honor others' diversity. We often rely on visible signs of our differences rather than also looking for those invisible distinctions that can add additional value. Spotting strengths offer us a means to that end which can further deepen our relationships.

Aside from improving interpersonal relations, character strengths can help law students understand how they may succeed in their law school education and their legal career. Recent research indicates that people who become aware of their strengths, and use them appropriately in a chosen role, can lead more fulfilling lives.⁷⁵ In a study of nearly 10,000 New Zealand workers that examined indicators of flourishing, workers who reported a high awareness of their strengths were 9.58 times more likely to be flourishing than those with low strengths awareness.⁷⁶ Moreover, workers who reported high strengths use were 18.13 times more likely to be

Appreciating strengths in others: "Being an effective lawyer also means drawing out the best in other people—clients, colleagues, or even adversaries. To do that, however, requires recognizing their strengths and letting them know that you know. Record in your journal where you recognized, and commented appreciatively about, one—or more—positive attributes or strengths which you observed in the conduct of someone you might not have appreciated before. It might be classmate, a colleague, a friend, or a family member. The point is to begin to appreciate strengths and positive attributes in other people as you have begun to appreciate them in yourself. Just be clear on what you have observed, though the more can become familiar with the character strength vocabulary, it may help you be more observant. You need not be limited to that vocabulary, however."

See Instructions of R. Lisle Baker (on file with author).

74. Memo: Practices turned to Habits from Bianca Lopez, Student, Suffolk Univ. L. Sch., to author (May 9, 2023) (on file with author).

75. See generally *Character Strengths in the Workplace and Organizations*, VIA INST. ON CHARACTER, <https://www.viacharacter.org/research/findings/character-strengths-in-the-workplace-and-organizations> (last visited Oct. 3, 2023) (providing studies of how the use of character strengths in the workplace can lead to flourishing).

76. See Lucy C. Hone et al., *Flourishing in New Zealand Workers: Associations with Lifestyle Behaviors, Physical Health, Psychosocial, and Work-Related Indicators*, 57 J. OF OCCUPATIONAL & ENV'T MED. 973, 974, 979 (2015).

flourishing than those with low strengths use.⁷⁷ Such statistics, of course, do not assure similar outcomes for law students, but are evidence that strength awareness and use may be of significant benefit to students as they develop their professional identities.

As part of my courses, students are also asked to recall other times they were at their best and used one or more of their strengths. These stories can become the basis for a strength resume to help them describe the value they might add to a particular legal role they want to pursue.⁷⁸ Here is how one student commented on how her strengths might help her in her future role as a lawyer:

The top three character strengths that I and others have observed in me are curiosity, fairness and humor. . . . Curiosity will allow me to learn more about the legal profession. . . . Fairness will help me fight for and support those in underrepresented and marginalized communities. . . . Lastly, humor will allow me to see the bright side of things . . . when working in a profession that is equal parts stressful and overwhelming as it is rewarding.⁷⁹

Finally, our strengths can also provide a challenge for us if overused or used in an inappropriate context, something also important for the students to explore.⁸⁰ I have found it worthwhile to ask students to reflect on times when they may have not used a strength optimally, as understanding the right application at the right time is also important.⁸¹ Here are two student comments in that regard:

77. *See id.* at 979.

78. Baker, *supra* note 49, at 277–78; *See* Instructions of R. Lisle Baker (on file with author).

79. Professional Development Plan from Daisha Bishop, Student, Suffolk Univ. L. Sch. to author (Apr. 16, 2023) (on file with author).

80. *See generally* Ryan M. Niemiec, *Finding the Golden Mean: The Overuse, Underuse, and Optimal Use of Character Strengths*, 32 COUNSELLING PSYCH. Q. 453, 459–62 (2019) (discussing the theoretical approach to understanding misuse and optimal use of character strengths).

81. *See* Instructions of R. Lisle Baker (on file with author).

Over- and underuse of strengths: “Learning how much and when to rely on as strength is an important part of developing your capacity to succeed. (Humor may be a strength but it might be out of place in a funeral—or maybe not—depending on how it is used to comfort the afflicted.) Think about a time when you felt you got it just right—the right application of a strength in the right way at the right time and in the right context. It may seem minor but including in the reflection not only what you did but how you did it, if you can recall. Then also reflect on a time you felt you over- or underused one of your strengths. What happened and what have you learned from the experience?”

Judgment is a character strength I have had my whole life. I have always been a person that looks at both sides of a story and thinks about any consequence that could happen before I make a decision. I also view this as one of my weaknesses since I sometimes overanalyze and take too much time to make a decision.⁸²

I never thought about how it could also contribute to holding me back from goals if I put too much prudence into decisions, resulting in anxiety or missing an opportunity because I was unwilling to make a riskier choice.⁸³

Looking back over the use of character strengths, one student summarized her experience:

Consistent reflection on the use of my strengths, seeing my peers identifying strengths within themselves, and appreciating and sharing the strengths we see in others promoted a higher sense of self and instilled a positive outlook on my professional development.⁸⁴

2. *Positive Exemplars*

We often learn from those we admire and want to emulate. I have found it helpful for the students to hear in person from lawyers who have not only been successful but found a fulfilling life in the law. As law school students have become much more diverse, I invite lawyers of varying backgrounds to talk about their lives in the legal profession. These have included a federal judge, managing partners in law firms, and a retired Massachusetts Supreme Judicial Court Justice who led the study which resulted in the formation of a Standing Committee on Lawyer Well-Being. Each time I ask the students to write a journal entry about what they found important.⁸⁵

I also ask the students to pick an exemplar and to present that exemplar to the class, highlighting those attributes that they most admire.⁸⁶ On occasion, I have also invited students to reflect on what

82. Final Professional Development Plan from Kimberly Sweeney, Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

83. Final Paper from Emily Van Vlack, Student, Suffolk Univ. L. Sch., to author (Apr. 18, 2023) (on file with author).

84. Reflection Memo from Caroline McCarty, Student, Suffolk Univ. L. Sch., to author (Jan. 20, 2023) (on file with author).

85. See Instructions of R. Lisle Baker (on file with author).

Guest journal: When we have a guest, write a journal entry about what you want to take away and remember from the presentation, such as:
Guest journal: [guest name] . . . I found [Guest] presentation most helpful in pointing out”

86. See Instructions of R. Lisle Baker (on file with author).

Journal and presentation about your exemplar:

they would like as their epitaph. It is a way of helping them reflect on how they want to be remembered.⁸⁷

B. Fitness: Exploring Well-Being Practices Through Relationships, Engagement, Achievement, Vitality, Meaning, and Positive Emotions

The basic premise of exploring well-being practices while in law school is simply that it is much easier to stay healthy than to get well. To help students maintain and enhance their well-being through the

“Write a journal entry about an exemplar you admire that gives one or more examples of statements or actions that you would like emulate in your own life as a lawyer. It could be something simple like this: Exemplar: Former Chancellor of England, Thomas More: “[W]hen statesmen forsake their own private conscience for the sake of their public duties, they lead their country by a short route to chaos.” Or “Yes, I give the devil the benefit of law for my own safety’s sake.”.) What virtues/strengths that exemplar demonstrated that I want to develop more of in myself: courage, integrity. He manifested those virtues at a time when it was possibly lethal to do so because . . . After you have had a chance to reflect on it further, in a later class you will present your exemplar to the class, using words, verbal images, stories, video clips, as you choose. (Make sure that, if moving images are involved, they last no more than 2 minutes, and preferably less, so you will have some time to discuss your exemplar with the class.)”;

see also Baker, *supra* note 49, at 274

“Write a brief account about a person whom you admire, even if that person may be involved in a modest role and without fanfare. Take care to include the personal qualities that inspired you to choose this person as a positive role model for you. This person can be a family member or a historical figure, but does not necessarily have to be a lawyer.”).

87. See Instructions of R. Lisle Baker (on file with author).

“Your Epitaph: One of the distinguishing features of the lawyer is the command of language. Law is a verbal profession, so draft not your obituary or even your eulogy, but what you might like to have written on your tombstone. You can use your epitaph to conclude your final paper. Here are some famous epitaphs that might spark an idea or two:
Thomas Jefferson (1743-1826)

Here was buried

Thomas Jefferson

Author of the Declaration of American Independence

Of the Statute of Virginia for Religious Freedom

And Father of the University of Virginia

*

W. C. Fields (1880-1946)

Here lies W. C. Fields.

On the whole I would rather be living in Philadelphia.

*

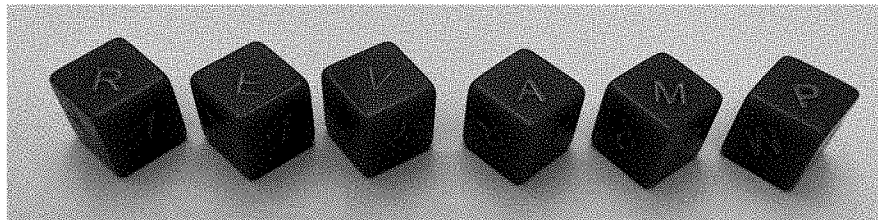
Reverend Doctor Martin Luther King, Junior (1929-1968)

Free at last, Free at last

Thank God Almighty,

I’m Free at last!

six domains of Relationships, Engagement, Vitality, Achievement, Meaning, and Positive Emotions (“REVAMP”), I have found it helpful to provide my students with a simple cube (depicted below in black and white but provided to students in Suffolk University colors) with the letters R-E-V-A-M-P on the six faces. That way, they can look at their cubes from time to time to assess how they may be doing in that domain of well-being practice and what they might want to modify as a result. Also, if they view their character as being the color of the cube itself, it can be a reminder that character is an underlying element.



Above is a photo of the REVAMP cubes followed by a discussion of each element and student comments about them. Like faces of the cube, each of the elements can be viewed and discussed separately, but much of their impact as well-being practices comes from being used in combination. For example, enhanced relationships often produce positive emotion, or greater engagement can enhance achievement.

1. *Relationships*

Part of the development by law students of a professional identity is the understanding that they will have obligations to their clients as well as the courts and their communities. Especially with first-year students, I have found it helpful to draw an analogy from professional football. At the beginning of the movie, *The Blind Side*, a short film clip of a football game sets up the important role of the left tackle to protect the quarterback’s blind side.⁸⁸ Students can understand that relationship, even though an attorney-client relationship is more complex and different. But what then is interesting to ask them is who protects the left tackle? That can lead to a useful conversation about being responsible for their own well-being, as well as enlisting others to help as discussed below. The focus on this and other REVAMP elements should not obscure the impact of the sometimes-difficult culture of law school instruction and competition, as they are worthy of institutional attention in their own right, as evidenced by the studies of student and lawyer distress cited

88. See *THE BLIND SIDE* (Warner Brothers 2009).

earlier.⁸⁹ But much can still be done to help students' well-being even in a challenging law school or later professional environment.

For example, the study and practice of law often involves more solitary activity than some other professions where teamwork is more common.⁹⁰ Family and friends can help provide an important buffer to the challenges that arise.⁹¹ I encourage my students to stay in touch with both and log those encounters in their positive activity logs.⁹² Here is one student comment:

I have a handful of best friends in the Boston area that I rarely made an effort to see because I was so focused on school Luckily, towards the end of last semester and throughout this whole [year]; I have made nights dedicated to hanging out with my friends I also made much more of an effort to get to know people in my section . . . and this semester has been a lot less lonely in that aspect. This slow progress on relationships the past eight months has been vital to my mental health.⁹³

Another student commented:

I went to an early dinner with my brother at a restaurant . . . and we talked and laughed for hours. This moment felt so good for my mental health because I was able to let loose and just be I loved every bit of it and will forever cherish that memory.⁹⁴

Part of professional identity development can involve learning about partnerships, as lawyers often practice together. Students sometimes form study groups, but there is also a benefit from having at least one other person to talk with, who can be a friend or even another student, who cares about the student and the student's welfare. When most of us learned to swim in a group lesson, we were required to get a swim "buddy." These "buddies" were there to help us out and vice versa, as well as make keeping track of swimmers easier. More recently, in the military, soldiers are encouraged to pair up with a "battle buddy," someone who they can turn to and be turned

89. See Thiese et al., *supra* note 22, at 381, 385.

90. See Debra Cassens Weiss, *Lawyers Rank Highest on 'Loneliness Scale' Study Finds*, ABA J. (Apr. 3, 2018, 7:00 AM), https://www.abajournal.com/news/article/lawyers_rank_highest_on_loneliness_scale_study_finds (discussing the solitary nature of legal work).

91. See Baker & Campbell, *supra* note 12, at 284–85 (discussing the importance of relationships with friends and family in the life of Brandeis).

92. See *infra* p. 138 (illustrating positive activity log).

93. Final Paper from A.S., Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

94. Reflection 7 from Briana Anderson, Student, Suffolk Univ. L. Sch., to author (Feb. 5, 2023) (on file with author).

to in return.⁹⁵ Having a law school “partner” to confide in from time to time, as well as help keep each other accountable, can be an asset. This partner need not be a trained counselor, any more than a swim lesson buddy needs to be a lifeguard. But this law school partner can sometimes turn into a more durable one, as happened with Louis D. Brandeis and his law school classmate, Samuel Warren, who became his law partner after graduation.⁹⁶

Here are some student comments about their law school “partners”:

I have two accountability partners that help me through school. One is my best friend from law school and the other is one of my best friends from my college who is currently in Physician Assistant (“PA”) school. It is nice having my friend in law school to clarify topics that confused us in class or to motivate each other that we are capable of doing this. Having my friend in PA school to talk to is helpful because sometimes talking to someone who does not know much about law school is just what I need.⁹⁷

[W]e were asked to find an accountability partner—someone who would be in your corner to encourage you to be at your best. I was fortunate to have . . . someone who I could rely on to take a study break and go for a walk on moment’s notice, meet for studying sessions outside of school hours to make sure we stayed on task, or even call/text to vent about personal or school matters. The knowledge that someone else is also looking out for your best interests, and vice versa, is a powerful asset, especially in law school.⁹⁸

However, I advise my students to go see a counselor if they need one. In a legal career, it is not likely to be whether you will need professional help, but when. I advise them that they would not hesitate to consult a physician if they broke a leg, so why not consult a counselor if they have mental or emotional challenges they cannot handle on their own? I often invite Barbara Bowe, a clinician with

95. See Cristina Sophia Albott et al., *Battle Buddies: Rapid Deployment of a Psychological Resilience Intervention for Health Care Workers During the COVID-19 Pandemic*, 131 ANESTHESIA & ANALGESIA 43, 48–49 (2020); see also R. Lisle Baker et al., *Enhancing Attorney Resilience with Psychological Protective Gear*, L. PRAC. TODAY (July 12, 2022), <https://www.lawpracticetoday.org/article/enhancing-attorney-resilience-with-psychological-protective-gear/>.

96. See Baker & Campbell, *supra* note 12, at 284–86 (explaining Warren as Brandeis’s law school partner).

97. Final Professional Development Plan from Kimberly Sweeney, Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

98. Reflection Memo from Caroline McCarty, Student, Suffolk Univ. L. Sch., to author (Jan. 20, 2023) (on file with author).

the Massachusetts-based Lawyers Concerned for Lawyers, to talk with my students.⁹⁹ Her office, which is part of Lawyers Concerned for Lawyers, is funded by dues from lawyers admitted to practice in Massachusetts and provides confidential counseling advice to students and practicing attorneys.¹⁰⁰ Her advice, as a skilled clinician, is that too many lawyers she sees have waited too long to come for aid when earlier intervention would have helped forestall or at least diminish the difficulty in which they find themselves.¹⁰¹

Bowe also advises students who are concerned about how to disclose past difficulties in the “character and fitness” portion of their application for bar admission. She points out that these difficulties need not define their future if they have been remedied and, in some ways, these difficulties can help students be more empathetic to the difficulties of the clients they will serve.

2. *Engagement*

The ability to “listen respectfully and attentively” was chosen by over ninety percent of lawyers surveyed as one of the top-ten things that young lawyers needed as an important foundation for the practice of law.¹⁰² Law students looking to engage with their material can manage their situation by removing things that might compete for their attention with their studies. This process can be as simple as clearing the visual field in the reading or writing space of books or papers, as well as turning off cell phones and putting them out of sight, as the modern fear of missing out can be a distraction.¹⁰³ Indeed, research indicates that the presence of a cell phone, even if turned off, can be a distraction.¹⁰⁴

99. See *Barbara Bowe*, LAWS. CONCERNED FOR LAWS., <https://www.lclma.org/about/staff/barbara-bowe/> (last visited Oct. 3, 2023).

100. See *LCL Terms of Service*, LAWS. CONCERNED FOR LAWS., <https://www.lclma.org/about/lcl-terms-of-service/> (last visited Oct. 3, 2023).

101. See, e.g., Kim van Zoonen et al., *Preventing the Onset of Major Depressive Disorder: A Meta-Analytic Review of Psychological Interventions*, 43 INT’L J. OF EPIDEMIOLOGY 318 (2014). In this study, the authors conducted a survey of all the literature, including studies, published between 1966 and 2012, that researched preventive measures for depression. See *id.* at 319. In total, 235 articles were reviewed, including thirty-two studies with over 6,000 participants. See *id.* at 319–20. The data from the research revealed that preventive interventions reduced the incidence of depression by twenty-one percent when compared to control groups. See *id.* at 324.

102. See ALI GERKMAN & LOGAN CORNETT, FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT 8, 26 (2016).

103. See SHAILINI JANDIAL GEORGE, THE LAW STUDENT’S GUIDE TO DOING WELL AND BEING WELL 23–24 (2021).

104. See Shalini Misra et al., *The iPhone Effect: The Quality of In-Person Social Interactions in the Presence of Mobile Devices*, 48 ENV’T & BEHAV. 275, 281 (2016); Bill Thornton et al., *The Mere Presence of a Cell Phone May Be Distracting*:

Here is what two students wrote:

I really have found that putting my phone away in a separate room has been very beneficial in keeping me focused.¹⁰⁵

One major practice that . . . has led to huge differences on my engagement and focus is getting rid of technology during class. I don't allow myself to use a laptop during class and focus on handwriting notes. Also, when I take breaks . . . I don't let myself bring my phone. I have found that both practices have allowed me to focus better on class, for a longer time, and more efficiently.¹⁰⁶

I also give the students the task of coaching each other in their presentations. When we have a presentation to make ourselves, it is sometimes hard to pay attention to what is being said by others. I therefore have found it helpful to give the students the task of coaching each other by summarizing the key points they hear, and also offering any helpful advice they may have. I ask them to do so using a one-page form which is then copied for each student speaker.¹⁰⁷

The other part of Engagement involves minimizing internal distractions. Research indicates that our minds are somewhere other than the present almost half the time.¹⁰⁸ For a time, this situation seemed to be beyond repair. The eminent psychologist, William James, once wrote that:

[T]he faculty of voluntarily bringing back a wandering attention over and over again is the very root of judgment, character, and will. . . . An education which should improve this faculty would be the education par excellence. But it is easier to define this ideal than to give practical directions for bringing it about.¹⁰⁹

However, research on training attention indicates that we can learn to notice our wandering minds and bring them back to what we want to attend to.¹¹⁰ Like building strength by lifting weights, it can

Implications for Attention and Task Performance, 45 SOC. PSYCH. 479, 480, 484–85 (2014).

105. Final Paper from Rachel Clausen, Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

106. Final Paper from Hailey Skiff, Student, Suffolk Univ. L. Sch. to author (Apr. 16, 2023) (on file with author).

107. See Baker, *supra* note 49, 286 app. F (“Coaching Your Presenter.”).

108. See Matthew A. Killingsworth & Daniel T. Gilbert, *A Wandering Mind Is an Unhappy Mind*, 330 SCI. 932, 932 (2010).

109. WILLIAM JAMES, PSYCHOLOGY: THE BRIEFER COURSE 228 (Alice H. James 1920) (1892) (emphasis removed).

110. R. Lisle Baker & Daniel P. Brown, *On Engagement: Learning to Pay Attention*, 36 U. ARK. LITTLE ROCK L. REV. 337, 346–50 (2014) (discussing

be developed through repetition.¹¹¹ Here is a simple description of the practice I was taught and in turn have offered my students, as authorized by my instructor, Daniel P. Brown, Ph.D. It has several elements, simplified here as a summary explanation. (Note that the tradition here is to focus on breathing as that is ever present, but an external object of attention will also do to help get started.):

- **Posture:** Attention is aided by sitting or standing up straight (“Sit up and take notice.”).
- **Breath:** Pay attention to your breathing.
- **Mind:** When your mind wanders, bring it back to your breath.
- **Body:** Focus on the felt sense of the body in between breaths.
- **Frequency:** Do it regularly as practice; also when you notice your mind wandering in daily life.
- **Start small:** Even a few minutes will help.¹¹²

Here is what one student reported:

Doing . . . concentration practice a few times a week has helped me to stay positive and grounded even when school gets stressful. It is nice to be able to shut your mind off and regroup even just for a few moments during the fast-paced environment of law school.¹¹³

While improving focus is the primary purpose of this practice, such mindfulness practices help lawyers reduce stress, which consequently helps them value their work.¹¹⁴ Here are some student comments in that regard:

Practicing meditation when I get overwhelmed helps me re-center myself . . . I had to study for a property mid-term and continued to get overwhelmed. When I would feel this way, I

attention and how to develop it, co-authored with a Harvard Medical School psychologist and professor).

111. See *id.* at 367 (“Whenever the mind wanders, repeatedly steer it back.” (citing Van M. Pounds, *Promoting Truthfulness in Negotiation: A Mindful Approach*, 40 WILLAMETTE L. REV. 181, 201–02 (2004))).

112. See *id.* at 378–82 (discussing more complete instructions for attention practice).

113. Reflection 7 from Appendix to Final Professional Development Plan from Amanda Tougas, Student, Suffolk Univ. L. Sch., to author (Feb. 5, 2023) (on file with author).

114. See Richard C. Reuben, *Beyond Stress Reduction: Mindfulness as a Skill for Developing Authentic Professional Identity*, 89 UNIV. MO. L. REV. 669, 678–79 (2021).

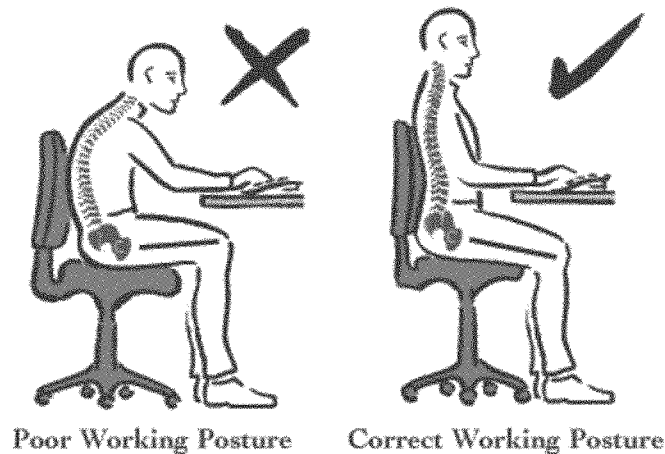
would take a few minutes to mediate and regain focus on studying.¹¹⁵

While I am still learning and improving, the concentration practice has been critical to my ability to balance my full-time job and law school without feeling burnt out.¹¹⁶

3. *Vitality*

While we do not often think of physical vitality as something required for a legal career, it can be beneficial, which includes taking time off. For example, when once asked about his August vacations, Louis Brandeis said that he could do twelve months' work in eleven months but not in twelve.¹¹⁷

Law is a sedentary profession and law school is often not much better, as students often sit for long periods of time in class or in study. As mentioned earlier, it is helpful to invite fitness experts to attend class and explain how students can better both their posture and their overall physical fitness. Often, for the first class, Carolanne Hoffman, a fitness professional, comes to explore what good posture means to students to help their well-being. Below is a picture Ms. Hoffman brought to help make the point:

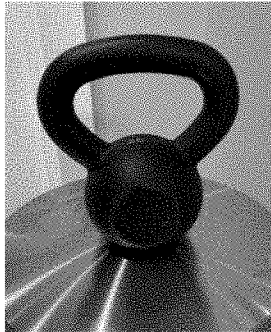


115. Final Memo from Mia Gurganus, Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

116. Professional Development Plan from Emily Summersby, Student, Suffolk Univ. L. Sch., to author (Apr. 18, 2023) (on file with author).

117. Baker & Campbell, *supra* note 12, at 290 (citing ALPHEUS THOMAS MASON, *BRANDEIS: A FREE MAN'S LIFE* 78 (1946)).

The Law School facilities staff has attached a posture grid chart to the wall of the classroom. Ms. Hoffmann invites the students to stand against the chart to have their picture taken with their own phones so that the photos are seen only by them, unless they want to show them to Ms. Hoffmann. What is striking is how frequently they find that they are out of optimal alignment, often caused by hunching over a laptop or a phone, as in the image above. Ms. Hoffmann has often brought a twenty-pound kettle weight for the class to pass around to illustrate how heavy a load your head can put on a student's neck when looking down at a phone.



Ms. Hoffmann then shows the students, with me demonstrating, simple exercises to help bring them back into alignment and avoid some of the pain and discomfort that comes from long sitting. One of the most helpful exercises is the hip-flexor stretch. This is the muscle that runs down the front of the thigh, but actually attaches to the spine in the back. It can get foreshortened with long sitting, leading to back pain when standing up. She shows students how to stretch this muscle gently to avoid this injury. A full range of her advice, including photos and short videos, can be found at the online ABA publication, *Law Practice Today*.¹¹⁸ During her classroom visit, she invites the students to try some of these exercises during the semester. At the end of the term, students are encouraged to take their pictures again against the posture chart to see their progress.

In addition, from time to time I have also invited other fitness professionals, including Anthony Colesano, Dani Karlin, and Meg Matthews, to talk with the students about other aspects of their fitness. In his talks with the students, Mr. Colesano emphasized four important principals of fitness:

- **Flexibility.** The human body is designed to move, but to do so, some bones and joints are relatively stable and

118. See generally R. Lisle Baker & Carol-Anne Hoffmann, *The Power of Posture*, ABA L. PRAC. TODAY (Jan. 18, 2022), <https://www.lawpracticetoday.org/article/the-power-of-posture/> (examining how lawyers can enhance their well-being and performance by appropriate ergonomic practices and complementary physical exercise).

others operate in wide ranges of motion. For example, while the upper back is designed to twist within a wide range, the lower back is not.

- **Athleticism.** These are aspects of fitness such as balance, core stability, and agility.
- **Strength.** This is the capacity to move against resistance, such as getting up out of a chair without using your arms.
- **Cardio.** This is the heart, lungs, and circulatory system.¹¹⁹

Students are often focused on one of the four, but not them all, and becoming more physically fit requires time and effort with all of them.

Mr. Colesano summed up his advice this way:

- DO NO HARM!
- Do some good: Too easy (no results) . . . too hard (hurt yourself).
- Exercise in Three Planes of Motion: (Linear/Lateral/Rotation).
- Exercise in Four Dimensions: Cardio, Flexibility, Strength, Athleticism.¹²⁰

Mr. Colesano's advice—including a short video clip we made of him taking me through the different exercises in an office—is available online and demonstrates that following his advice can be done in such a setting.¹²¹

Additionally, yoga can be important. Here is what one student reported:

Yoga has become a weekly practice of mine thanks to REVAMP. Before yoga, I did not have a healthy outlet of releasing

119. R. Lisle Baker & Anthony Colesano, *Becoming More Physically Active in a Busy Professional Life*, SUFFOLK UNIV. L. SCH. 4 (Dec. 12, 2019), <https://sites.suffolk.edu/bakerandcolesano/>.

120. See R. Lisle Baker & Anthony Colesano, *Becoming More Physically Active in a Busy Professional Life*, ABA L. PRAC. TODAY (Jan. 14, 2020), https://www.lawpracticetoday.org/article/becoming-physically-active-busy-professional-life/?utm_source=Jan20&utm_medium=email&utm_campaign=Jan20LPTemail; R. Lisle Baker, *In a Tenth of an Hour: Becoming More Physically Active When you are Stuck at Work*, YOUTUBE (May 10, 2020), <https://www.youtube.com/watch?v=i4N9egXpWYc> (demonstrating what the author learned from Tony Colesano).

121. Baker & Colesano, *supra* note 120 (discussing the importance of physical activity for well-being and performance as well as physical health); Baker & Colesano, *supra* note 119 (co-authors demonstrating the instruction described in the companion article).

anxiety . . . I honestly did not know how much of a difference simply breathing can have on reducing feelings of stress.¹²²

Why does vitality matter? Not only is appropriate exercise important for physical and emotional well-being, but it also can be important for cognitive ability.¹²³

Another aspect of vitality involves sleep, which can aid both students' long-term academic success and well-being. In one study, undergraduate students who received sufficient sleep throughout the month before an exam performed better on the exam than students who received sufficient sleep only the night before the exam.¹²⁴

Here are some student comments about vitality:

I have learned that vitality looks different for everyone and that there are plenty of ways for me to achieve vitality. For example, throughout the past year I have focused on taking walks, deep breathing exercises, light meditation, and prioritizing sleep and rest. . . . Taking the pressure off of myself to fit the mold of traditional gym/class exercise.¹²⁵

I have always led an active lifestyle. I love the outdoors and participating in sports, hiking, and walking. When law school started, this abruptly halted. I did not schedule in the time to exercise, nor did I feel I HAD the time to exercise. Through journaling and noting our positive practices, and with a lot of encouragement to "keep moving" throughout the day to avoid being sedentary, I saw myself implementing routines each day to stretch, go on walks, and take a break outdoors. I made a decision one day in my first semester of law school to never take the elevators in the building, but to always use the stairs to go between the seven floors of the law school. I am proud to say that I have maintained this "challenge" to this day, and don't even think twice about it. Although I know there is an elevator, I have no interest in actually using it, as my body involuntarily heads to any of the three stairwells in the building. Climbing from the first floor to the fifth floor each

122. Professional Development Plan Memo from Briana Anderson, Student, Suffolk Univ. L. Sch., to author (Apr. 18, 2023) (on file with author).

123. See Laura Mandolesi et al., *Effects of Physical Exercise on Cognitive Functioning and Wellbeing: Biological and Psychological Benefits*, 9 FRONTIERS IN PSYCH. 1, 7 (2018).

124. See Kana Okano et al., *Sleep Quality, Duration, and Consistency are Associated with Better Academic Performance in College Students*, 4 NATURE PARTNER J. SCI. OF LEARNING 1, 3–4 (2019); see also Logan Fiorella, *The Science of Habit and its Implications for Student Learning and Well-Being*, 32 EDUC. PSYCH. REV. 603, 615–16 (2020) (citing *id.* at 1–5) (concluding that getting good sleep during the month leading up to an exam may be more important than sleeping well the night before a quiz or exam).

125. Final Professional Plan from L.M., Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

morning when I enter school has been a great start to the day before I know I have to sit for a long class. At this point, it is an involuntary response to head in the direction of a stairwell instead of the elevators when I need to go between floors. It is so commonplace that my friends will often say, “I’ll meet you on five,” because they know I will be taking the stairs, while they take the elevator.¹²⁶

4. *Achievement*

Law students are well aware of the need for achievement. What may not be as clear is how prospects for achievement can be advanced or measured. Here are some student comments on achievement:

Law school can be all consuming and very hard and sometimes it is hard to acknowledge the little things that go right, which is why I have started journaling in the morning and writing down a few things I am happy I achieved the previous day. . . . I plan to keep journaling in this way as it helps me to nurture both achievement and positive emotions¹²⁷

Over this semester I really had to stop and reframe how I was measuring success. I had to stop looking at grades and thinking about rank, instead reframing to see if I am doing the best I can do—not comparing myself to others.¹²⁸

This came to be one of my favorite elements. This element forced me, each and every week, to celebrate even the smallest of victories.¹²⁹

5. *Meaning*

Meaning and purpose are important for law students to keep in mind, particularly why they chose to come to law school. Research suggests that having a purpose larger than one’s self-interest leads to a greater willingness to take on difficult, and sometimes monotonous, work to realize that goal.¹³⁰

126. Final Memo to Prof. Baker from Caroline McCarty, Student, Suffolk Univ. L. Sch., to author (May 19, 2023) (on file with author).

127. Professional Development Plan from Daisha Bishop, Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

128. Final Paper from Rachel Clausen, Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

129. Memo: REVAMP Summary and Quotations from Bianca Lopez, Student, Suffolk Univ. L. Sch., to author (Jan. 22, 2023) (on file with author).

130. See David S. Yeager et al., *Boring but Important: A Self-Transcendent Purpose for Learning Fosters Academic Self-Regulation*, 107 J. PERSONALITY & SOC. PSYCH. 559, 559–62, 576 (2014). Here is an exercise that builds on that research:

Letter to a future Suffolk Law student: “Many people come to law school not only to better themselves but also to make the world a better place.

An exercise I have found useful is to ask students to write about why they want to be a lawyer.¹³¹ Here are some student comments:

Explore how you think the world could be better. . . . You may find it helpful to think about what might not be working well, or what is going well that could be even better. As lawyers, we are used to drafting complaints; at the end of the complaint, there is always the request for judicial relief, such as an injunction or damages. So, for example, if you think you would like to use your learning to make the world a better place, what does that mean in terms of actions and by whom? You need not worry that this will be a challenge, only that it is a goal that moves you personally. . . . When you are done, prepare a journal entry on your result. In it, you should report your findings in the form of a brief note to a successor in this course that you would be willing to share with another student later, even one you do not know and may never meet. It should be anywhere from two to four sentences of your own words . . . and please put your name at the top and sign it, too. For Example:

To a future Suffolk Law student from _____: If you are reading this note, you are likely to be working hard on completing your studies. If it might be helpful to you, I want to offer you some encouragement. Of course, you should follow your own star, but I believe that my learning in law school will not only help me be the person I want to be, but also help me make a positive impact on the people around me and the society I will live in. [Specifically], here's why I think so, and I hope it may be useful for you as you shape your own future after law school . . . [continue in your own words]."

Baker, *supra* note 49, 277. While law school is much different, psychiatrist Viktor Frankl wrote of how having a purpose in life helped those in concentration camps survive. See VIKTOR E. FRANKL, *MAN'S SEARCH FOR MEANING* 36, 74–78 (Ilse Lasch trans., 2006). Psychologist Daniel P. Brown reported in his work with judges that having them reconnect their role with their larger purpose in life was, along with how to improve their concentration, what they found most valuable. Interview with Daniel P. Brown, Ph.D., Associate Clinical Professor of Psychology at Harvard Medical School, in Newton, Mass. (May 6, 2020).

131. Here is the prompt:

Why do you want to become a lawyer? This is an important issue as understanding why we do something can help make it worthwhile. Write an entry explaining why you want to become a lawyer. In thinking about your response, you may find it helpful to reflect on the following questions.

Are you doing something you feel well-fitted for? If so, can you say more?

Did someone see something special in you and encouraged you along? If so, what did they see in you and how did they encourage you?

Did someone tell you that you did not have what it takes to be a lawyer, but you are determined to prove that person wrong? What was said and what have you done in response?

Is there an injustice which outraged you that you want to correct? If so, what is it, and why?

My goal is to positively influence the public educational system to give proper opportunities to disabled children and children from low-income communities.¹³²

For me, becoming a lawyer is more than the monetary gain or pride in receiving a degree in higher education. It's the opportunity to better myself and fill up my own cup by helping others.¹³³

6. *Positive Emotion*

Positive emotions can be an important buffer against adversity and can help build creative capacity. Dr. Barbara Fredrickson identifies the ten most common positive emotions as joy, gratitude, serenity, interest, hope, pride, amusement, inspiration, awe, and love.¹³⁴

Positive emotions can help performance. For example, “a study investigated whether creative problem-solving and reported sources of satisfaction from the practice of medicine are influenced by the induction of positive affect among physicians.”¹³⁵ In the study, “[p]hysicians randomly assigned to the positive affect group received a small package of candy.”¹³⁶ The researchers concluded “that induction of positive affect among physicians can improve their creative problem solving and can influence the sources of practice satisfaction they report.”¹³⁷

One practice I have adopted is to invite each student in the class (as the classes are small) to report one positive thing that happened to them in the last week. This helps them both participate in class and also reflect on what is going right instead of what is going wrong.

One positive emotion which law students can cultivate deliberately is gratitude. All of us who are lawyers are privileged to

In other words, what supplied the energy to persuade you to come to law school and seek to enter the legal profession? Note that you can also refresh your recollection by reviewing your admissions essay, if that is helpful to you. (Note also that your goals may change as your education proceeds, but write what you feel now so that you will have a baseline.).

See Instructions of R. Lisle Baker (on file with author).

132. Final Memo from Mia Gurganus, Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

133. Final Paper from Hailey Skiff, Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

134. See Barbara L. Fredrickson, *Positive Emotions Broaden and Build*, 47 *ADVANCES IN EXPERIMENTAL SOC. PSYCH.* 1, 3–6 (2013).

135. Carlos A. Estrada et al., *Positive Affect Improves Creative Problem Solving and Influences Reported Source of Practice Satisfaction in Physicians*, 18 *MOTIVATION & EMOTION* 285, 285 (1994).

136. *Id.*

137. *Id.*

serve our students, clients, and communities, and it is worth remembering to appreciate those who have enabled us to follow this path.

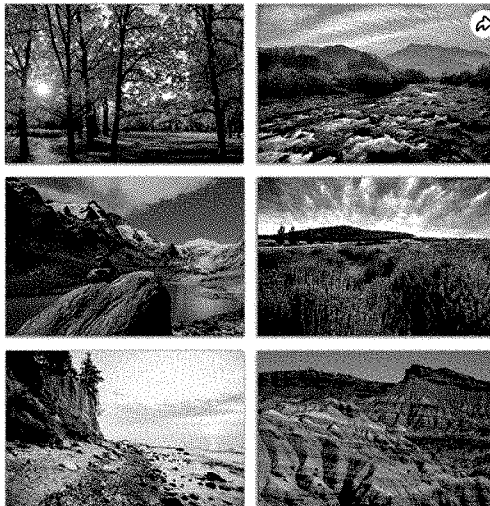
Another positive emotion is awe. Awe is particularly interesting and is the subject of a famous experiment where one group was shown tall buildings for about a minute, while the other group was shown tall trees.¹³⁸ The group that viewed the trees was significantly more likely to be helpful than the other group when they encountered someone in difficulty.¹³⁹

I therefore find it helpful to recall both of these positive emotions by giving the students blank thank you cards but with a natural scene on the cover, and ask them to write a note of thanks to someone who has been helpful to them.¹⁴⁰ I also ask the students to maintain a log of their positive practices, just as they would record time on a client matter as an attorney.¹⁴¹ Here is a sample entry:

138. See Paul K. Piff et al., *Awe, the Small Self, and Prosocial Behavior*, 108 J. PERSONALITY AND SOC. PSYCH. 883, 893–94 (2015).

139. See *id.* at 895.

140. Here is a photo of some of the cards which can be bought online in a box of 50 for \$13. *Better Office Products 50-Pack All Occasion Greeting Cards Box Set, 4x6 inch, 50 Assorted Blank Note Cards & 50 Envelopes, 6 Nature Photography Americana Designs, Blank Inside, 50 Pack* (photograph), in *Better Office Products Store*, AMAZON.COM (June 8, 2021), https://www.amazon.com/Envelopes-Photography-Better-Office-Products/dp/B096TCDCCK/ref=sr_1_5?keywords=blank+cards+nature&qid=1690253341&sr=8-5.



141. Here is the prompt:
Weekly reflection. (Recurring for each class; J4.1, 4.2, etc.):

As this course will meet weekly, that also provides an opportunity to reflect on your experience during the prior week. Record things you enjoyed or found satisfying, as memories of those experiences are sometimes more fleeting. You will find it helpful to think of six aspects

<u>Positive Practice Log Day and Date</u>	<u>Positive Practice</u>	<u>Time Spent (in tenths of an hour)</u>	<u>Comment (if any) or key points to remember</u>
<u>Monday – 09/05/22</u>	Physical Activity – yoga	.3	Worked on flexibility; found it easier to do as part of a class than by myself.
	Talked with close friend I had not seen for some time.	.3	We made a pledge to call each other once a week.
<u>Tuesday – 09/06/22</u>	Went for a long walk in the park.	.5	I found nature refreshing.
	Concentration Practice	.2	I found that I could stay focused on my intended object of concentration for about a third of the time. I think I will try it earlier in the day next time to see if that helps.

that are important for your professional success: Relationships, Engagement, Vitality, Achievement, Meaning, and Positive Emotions (REVAMP), concepts which will be explained more in class. Part of the value of the weekly reflections are that they can allow you to use course experience itself—or other work outside—as a learning laboratory to become more aware of how you might best succeed in a particular legal role. You can use that cumulative information later to help shape a positive future for yourself. At the same time, legal studies often involve some struggle—just like learning any new activity that requires practice and some difficulty—like learning to ride a bike or how to swim. Feel free to record some of those issues, too. Chances are you are not alone. Also, however, reflect on how you are overcoming them, as you are working to find that edge where growth occurs.

See Instructions of R. Lisle Baker (on file with author).

Here are some student comments:

In reading my past reflections, I realized how much joy I get from spending time with the people I love.¹⁴²

I have shown gratitude through the year . . . [by] taking one-second videos every day of my “highlight” so I can remember the best parts of my day.¹⁴³

Taking time to send a little note of gratitude to my best friend allowed me to reflect on how meaningful her friendship has been to me over the years. This friendship has kept me grounded through many life events including this experience of law school.¹⁴⁴

7. *A Summary REVAMP Reminder*

Here is a version of what I provided to some of the students as a summary reminder:

- a) **Remember and use the REVAMP framework as both a lens and a lever.** Check in with yourself periodically—how are you doing with Relationships, Engagement, Vitality, Achievement, Meaning, and Positive Emotions? What might need a little more attention? What might you do to enhance that element? Here are some thoughts in that regard.
- b) **Relationships.** Having supportive friends matters. While those you study or work with can be good personal friends, in addition, it can be an advantage to have someone who cares about you and your welfare. Have you found at least one person who can act as your accountability partner during your law school experience? You want to find someone who cares about you and has a balanced perspective, which may be easier to find outside law school, but not always. Keep in touch with friends and family, too.
- c) **Engagement.** Try noticing when your mind wanders so you can bring it back. When you finish a reading, or a class, make a note of what you want to remember so you can recall it later. Clear your workspace. Build your capacity for focused attention with regular concentration practice.

142. Professional Development Plan from Emily Summersby, Student, Suffolk Univ. L. Sch., to author (Apr. 18, 2023) (on file with author).

143. Final Paper from Rachel Clausen, Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).

144. Reflection 7 from Appendix to Final Memo from Matthew Hancock, Student, Suffolk Univ. L. Sch., to author (Feb. 5, 2023) (on file with author).

- d) **Vitality.** Remember to get up and get moving regularly. Make sure that you take breaks, and also undertake some positive restorative activity that you enjoy for its own sake, such as going for a walk outside.¹⁴⁵
- e) **Achievement.** Rejoice in small victories and recognize that new learning is challenging. Just remember that success is more likely if you plan for obstacles you may encounter and how you will overcome them.
- f) **Meaning.** Keep in mind why you wanted to become a lawyer. That can help when times get more difficult.
- g) **Positive emotions.** Positive emotions can be an important buffer against adversity and can help build creative capacity. When in doubt, adopt an attitude of gratitude, get outside and look at some trees, or lend someone in need a hand. All of them help take us outside of ourselves.

8. *Well-Being Practices in Combination*

While for purposes of this Article, the elements of Fitness have been disaggregated to explain them, like the faces of the REVAMP cubes, they are aspects of the whole person. Therefore, it is especially gratifying when students make connections themselves, as like character strengths, the elements of Fitness can work well in combination. For example, one student wrote:

The Meaning category is kind of intertwined with the Vitality category this week as whenever I was lacking motivation or concentration, I would meditate and visualize successfully completing the ultimate end goal to try to segue into concentration on a specific task.¹⁴⁶

Another student wrote:

I find it easier to work through obstacles when I have someone to bounce ideas off of, and to have a different perspective. . . . We practice the REVAMP qualities with each other or just make sure that the other isn't falling behind in taking care of themselves. I think I underestimated the

145. In a major study of lawyer satisfaction, Psychologist Ken Sheldon and Professor Larry Krieger noted that “the correlation strengths of vacation days and exercise with well-being are noteworthy, because they equal, and in some cases greatly exceed, the effect size for well-being of increasing income, decreasing debt, better grades, law review participation, or law school ranking.” Krieger & Sheldon, *supra* note 7, at 609.

146. Character Strengths, J.7 from Danielle Heinsohn, Student, Suffolk Univ. L. Sch., to author (Feb. 5, 2023) (on file with author).

“Relationship” I was building . . . through the other exercises, like “Vitality”, or the “Positive Feeling.”¹⁴⁷

9. *How Has REVAMP Worked?*

REVAMP is just one way we can help law students “explore well-being practices.” It is a start, but only a start at that important endeavor. Nonetheless it seemed to land well with enough students that I want to keep developing it. Here are some student comments about REVAMP:

Professor Baker introduced the REVAMP framework . . . as a way to maintain positive practices in all aspects of our lives. Keeping this framework in mind has allowed me to see what areas I need to enhance and develop, week after week.¹⁴⁸

Especially as a night student I think that the first year would have been a lot more difficult without the REVAMP practices and introspective assessments made over the course of this year.¹⁴⁹

This is a concept I still think about and use after our course ended. . . . This has become a helpful tool for me by allowing me to self-evaluate my progress. Each element is important in its own right and is a constant reminder for me. If one thing should be taught to law students, this is it.¹⁵⁰

C. *Assessment of These Dimensions of Character and Fitness*

How do you assess how well the students’ well-being practices have been explored? As mentioned above, I have found it useful to ask the students to prepare a final paper, called a Professional Development Plan, citing their journals or reflections as they would a case. This assignment offers them the chance to look back at how they have explored well-being practices either individually or more often in combination—like the faces of the REVAMP cubes—as they are different sides of developing a positive professional identity. Also, the process of writing journals and reflections has proved an important part of positive professional identity development. One student said it this way:

147. Professional Development Plan from Cassie Navarre, Student, Suffolk Univ. L. Sch., to author (Apr. 18, 2023) (on file with author).

148. Reflection Memo from Caroline McCarty, Student, Suffolk Univ. L. Sch., to author (Jan. 20, 2023) (on file with author).

149. Final Paper from Emily Van Vlack, Student, Suffolk Univ. L. Sch., to author (Apr. 18, 2023) (on file with author).

150. Memo: Thoughts/Reviews on Positive Psychology Course from Bianca Lopez, Student, Suffolk Univ. L. Sch., to author (Mar. 23, 2023) (on file with author).

I was never a journal writer. I am someone who always relied on my memory of facts, without delving into a reflection of asking questions of who, what, and why. I now see the function of journaling and continuous reflection as a requirement to creating a professional identity. Without understanding who we really are, we lack the foundation to develop further.¹⁵¹

CONCLUSION

Exploring well-being practices is ultimately about a means to an end: developing a positive professional identity. That pedagogical effort itself is very much a work in progress. Having students explore well-being practices is a start, but it will not help them after they graduate unless such practices ripen into positive professional habits. Indeed, it is important for law schools to do more than provide access to clinical resources. Schools need to view well-being from a positive health perspective and not just an illness perspective both for their law students and their graduates, echoing a recent call by the surgeon general for well-being in the workplace.¹⁵² Therefore, the potential positive impact of Section 303(b)(3) on the lives of our students and the lawyers they will become is worth the effort, and there are more well-being practices for students to explore. For example, we can find ways to coach—and not just advise—individual law students as coach Ruth Pearce has done as part of one of my courses.¹⁵³ A second example is trying explicitly to find new ways to prevent self-inflicted harm.¹⁵⁴ A third is to think of activities that combine well-being practices, such as playing sports with other people, where companionship and physical activity can make such practices both more enjoyable as well as worthwhile.¹⁵⁵ In the meantime, perhaps

151. Reflection Memo from Caroline McCarty, Student, Suffolk Univ. L. Sch., to author (Jan. 20, 2023) (on file with author).

152. *Workplace Mental Health & Well-Being—Current Priorities of the U.S. Surgeon General*, U.S. DEP'T OF HEALTH AND HUM. SERVS. OFF. OF THE U.S. SURGEON GEN., <https://www.hhs.gov/surgeongeneral/priorities/workplace-well-being/index.html> (last visited Oct. 8, 2023).

153. See Pearce, *supra* note 68; ROBERT BISWAS-DIENER, PRACTICING POSITIVE PSYCHOLOGY COACHING: ASSESSMENT, ACTIVITIES, AND STRATEGIES FOR SUCCESS 5–6 (2010); Neil Hamilton, *Mentor/Coach: The Most Effective Curriculum to Foster Each Student's Professional Development and Formation*, 17 U. ST. THOMAS L.J. 836, 853–55 (2022); JESSICA NATKIN & JESSICA HERNANDEZ, LET'S COACH ALL THE LAWYERS (2021).

154. Thiese et al., *supra* note 22, at 385 (“[R]esearchers may consider partnering with educational institutions to train future law professionals and lawyers to help them avoid these outcomes. This may include both resilience training as well as training on the primary drivers of depression from a job-demands perspective.”).

155. E.g., R. Lisle Baker, *Nine Reasons Why More Lawyers Should Play Golf*, ABA L. PRAC. TODAY (May 9, 2023), <https://www.lawpracticetoday.org/article/nine-reasons-why-more-lawyers->

the best evidence of the potential value of helping law students explore well-being practices is a comment from one of the students in my first-year course in her final paper submitted in April, 2023:

I **love** the law. I love what it stands for. I love people, my community, and advocacy. I love the smell of a courtroom and the weight of a casebook. I love my blazer and smart black heels and the words “Your Honor”. I love what the law has done, what it stands for, and what it has the potential to do. I love this field. . . . I did not come to law school to make money, get a fancy job, or to be able to call myself an attorney. I came here because my heart led me here. . . . My professional development plan . . . is to continue to love what I do until I cannot do it anymore.¹⁵⁶

It was inspiring for me as a legal educator to read words like these from one of my students. At the same time, while we ask our students to bring their best selves to their roles as law students and lawyers, we should also ask them to do so not only in their work but also in other parts of their lives. Therefore, we need to help them understand the value of exploring well-being practices for their lives in general in addition to helping them form a positive professional identity.

We will be more successful, however, if we can explore and adopt some of these same practices ourselves so that we can be positive exemplars for our students in this way as we are in so many others. Indeed, the language of ABA Standard Section 303(b)(3) and its Interpretation 303-5 invite us to set an example for our students in our own well-being practices while helping our students explore these practices for themselves. Perhaps our own example may be one of the most valuable contributions to legal education as law schools determine how to comply with the new ABA Standard and this Interpretation.

should-play-golf/ (discussing how golf or similar outdoor activity with others can enhance attorney well-being).

156. Final Professional Plan from L.M., Student, Suffolk Univ. L. Sch., to author (Apr. 16, 2023) (on file with author).