

TRAINING LAW STUDENTS TO MAINTAIN CIVILITY IN THEIR LAW PRACTICES AS A WAY TO IMPROVE PUBLIC DISCOURSE*

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Our current social discourse is broken. Not only have we resorted to name-calling instead of reasoned discussion, but we have also resorted to the fundamental attribution error¹: we attribute bad motives to people with whose positions we disagree rather than starting with the presumption that, perhaps, buried deep within their positions could be a grain of truth.² As Yoni Appelbaum observed in a recent article in The Atlantic, “Recent research by political scientists at Vanderbilt University and other institutions has found both Republicans and Democrats distressingly willing to dehumanize members of the opposite party.”³ We need to find a way to reach across the void. As a way of mending our torn social fabric, I recommend that we train law students not only to pick apart bad arguments but also to find ways to pick arguments apart without showing disrespect for the person making the argument. By training law students to behave civilly, even when they are convinced that the other person is flat-out wrong, we might just be able to get people to hear each other, rather than speak past each other—not just in law schools, not just in universities, but in our society.

INTRODUCTION1144

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1. This phenomenon is well-documented:

The fundamental attribution error (also known as correspondence bias or overattribution effect) is the tendency for people to over-emphasise dispositional, or personality-based explanations for behaviours observed in others while under-emphasising situational explanations.

In other words, people have a cognitive bias to assume that a person’s actions depend on what “kind” of person that person is rather than on the social and environmental forces that influence the person.

Saul McLeod, *Fundamental Attribution Error*, SIMPLY PSYCHOL. (Oct. 31, 2018), <https://www.simplypsychology.org/fundamental-attribution.html> [<https://perma.cc/6UNV-WKPG>].

2. Sometimes, though, after studying a person’s position, we will find out that we were right the first time: that person might not only hold an unsupportable position but be an execrable person, too.

3. Yoni Appelbaum, *How America Ends*, ATLANTIC, Dec. 2019 at 46, 46.

1144	<i>NORTH CAROLINA LAW REVIEW</i>	[Vol. 98]
I.	THE NECESSITY FOR CIVILITY.....	1146
	A. <i>Group Polarization and Motive Attribution Asymmetry: Challenges to Civility</i>	1148
	B. <i>Contempt and Distrust: The Result of Failed Discussion</i>	1152
II.	OBSTACLES TO INCREASING CIVILITY TRAINING IN LAW SCHOOLS	1160
	A. <i>Curricular Innovations</i>	1164
	B. <i>Cocurricular Innovations or General Professional Development Innovations</i>	1165
	CONCLUSION—CIVILITY TRAINING AS ADVOCACY TRAINING	1166

INTRODUCTION

Many human conflicts appear extraordinarily difficult to resolve even when outsiders can see the contours of a rational resolution. . . . Why are so many conflicts so intractable when people on both sides could gain from a compromise?

—Adam Waytz, Liane L. Young, and Jeremy Ginges⁴

We are, of course, living in interesting times.⁵ I can't recall a more politically polarized environment. More and more of us are spending less and less time debating politics out of a fear that the debate will turn ugly. We huddle together with those who agree with us, and we miss opportunities to test the hypotheses that form our beliefs.⁶ The group polarization effect, which Cass Sunstein has explored so well,⁷ prevents us even from conceiving that others might perceive events differently. Our *Rashomon*⁸-like existence means that we can each experience the same event and take away radically different interpretations. What CNN or the *Washington Post* views one way, Fox News and the *Wall Street Journal* will likely view exactly the opposite way: same moment in time—different spins.

4. Adam Waytz, Liane L. Young & Jeremy Ginges, *Motive Attribution Asymmetry for Love vs. Hate Drives Intractable Conflict*, 111 PNAS 15,687, 15,687 (2014).

5. For a potential derivation of this phrase, see Garson O'Toole, *May You Live in Interesting Times*, QUOTE INVESTIGATOR (Dec. 18, 2015), <https://quoteinvestigator.com/2015/12/18/live/> [<https://perma.cc/VKX4-FTRV>].

6. David Roberts Grimes, *Echo Chambers Are Dangerous—We Must Try To Break Free of Our Online Bubbles*, GUARDIAN (Dec. 4, 2017), <https://www.theguardian.com/science/blog/2017/dec/04/echo-chambers-are-dangerous-we-must-try-to-break-free-of-our-online-bubbles> [<https://perma.cc/S2PX-8P3A>].

7. Cass R. Sunstein, *Deliberative Trouble? Why Groups Go to Extremes*, 110 YALE L.J. 71, 74–76 (2000).

8. RASHOMON (Daiei Film 1950) (exploring the same event from several different perspectives); see also *Rashomon*, IMDB, <https://www.imdb.com/title/tt0042876/> [<https://perma.cc/T7BW-B7TQ>].

Instead of seeking first to understand⁹—or even to imagine a world in which intelligent people’s opinions *could* differ from our own—we assume that those who hold different views are uneducated, stupid, delusional, or evil.¹⁰ That’s a harsh worldview, and it’s destined to perpetuate the discord that so many of us are experiencing. It’s also destined to make the practice of law miserable. If we imagine that our adversaries are lunatics, idiots, cheats, or boors, the choices that we’ll make when we deal with them are vastly different from the choices that we’d make if we assumed that they were just as bright and just as ethical as we are.

Let’s assume—and I think that it’s a fair assumption—that lawyers¹¹ should be included among the logical gatekeepers of a just society. If we’re serious about improving the practice of law and, thus, our system of justice, then we should develop ways to reinforce certain behaviors in society (civil discourse) and eliminate others (name-calling and finger-pointing). Law professors already know that our graduates need to be able to express themselves well and that they need to have highly developed analytical skills. But is that all that we should teach them? I’m not suggesting that law professors have an affirmative duty to prepare their students to be leaders in civil discourse,¹² but I am suggesting that law students, who are already being trained to consider all sides of an issue, are in a perfect position to benefit from learning how to create and maintain a civil and respectful environment. But, for both effective communication and analysis, our graduates need to be able to see the world from more than one perspective. Civility training may be just the ticket.¹³

Law professors are good at asking our students to craft legal arguments from multiple perspectives. But we should also teach our students that looking at difficult issues from multiple perspectives is useful outside the classroom—and outside a lawyer’s day job—as well. After all, our students take their

9. See STEPHEN R. COVEY, *THE 7 HABITS OF HIGHLY EFFECTIVE PEOPLE: RESTORING THE CHARACTER ETHICS* 237 (2004) (“*Seek first to understand, then to be understood.* This principle is the key to effective interpersonal communication.”).

10. See Pamela B. Paresky, *I’m Right, You’re Evil*, *PSYCHOL. TODAY* (Nov. 02, 2016), <https://www.psychologytoday.com/us/blog/happiness-and-the-pursuit-leadership/201611/i-m-right-you-re-evil> [<https://perma.cc/SV98-5XQB>]; Bret Stephens, Opinion, *The Dying Art of Disagreement*, *N.Y. TIMES* (Sept. 24, 2017), <https://www.nytimes.com/2017/09/24/opinion/dying-art-of-disagreement.html> [<https://perma.cc/9LKG-TD4U> (dark archive)].

11. Well, *good* lawyers, anyway. See MODEL RULES OF PROF’L CONDUCT pmb1. (AM. BAR ASS’N 2019) (“A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.”).

12. I’ve been in and out of administration too long to consider adding a curricular mandate. That’s the job of the faculty.

13. My references to “civility training” in this Article mean the type of training that allows our students not just to consider all sides of an issue but also to articulate each position in a way that respects the person who holds that position, even if they think that the position itself lacks merit.

behavioral cues from us (at least sometimes).¹⁴ When they see us act as strong advocates in speeches, interviews, op-ed pieces, and negotiations, they naturally want to develop the skill set that allows them to be as eloquent in their own arguments. In our own quest for eloquence, though, we may be omitting the concept that those who disagree with us often have some valid points. If law students don't see us acknowledging that, on most issues, reasonable minds can disagree, it's little wonder that they might not develop the habit of acknowledging well-reasoned differences of opinion, either. If, however, we can help our students develop the habit of building arguments that can acknowledge and then address differences, we can actually improve the atrocious level of discourse that our country displays today.

I. THE NECESSITY FOR CIVILITY

Let's start by defining what I mean by civility, as that concept can mean many things to many people.¹⁵ In my mind, civility is a behavior.¹⁶ It demonstrates respect for others' views—for maintaining courtesy in the face of deep disagreement. A civil discussion starts with listening to someone else's reasons for taking a position and weighing that person's reasons fairly. A civil discussion avoids allegations that start with "you always" or "you never" (or, worse yet, "your people" or "your kind").¹⁷ Civility begins with humility. It assumes that no one person has cornered the market on wisdom. It provides an outward show of respect for others.¹⁸ It focuses on the issues—examining the topic from more than one vantage point—and not the personalities of the people discussing the issues.¹⁹ A civil discussion can depersonalize deeply felt

14. *But see* Lawrence K. Hellman, *The Effects of Law Office Work on the Formation of Law Students' Professional Values: Observation, Explanation, Optimization*, 4 GEO. J. LEGAL ETHICS 537, 538–40 (1991) (noting that what students observed in their summer jobs was quite different from the professional responsibility rules that they were learning in class).

15. There are probably as many definitions of civility as there are people who use that term as a buzzword—as a way of saying, "you should treat me better."

16. Hat tip to my friend Bernie Burk for first pointing out that civility is a behavior, back when he reviewed an earlier draft of this Article. *See* Email from Bernie Burk, Visiting Assistant Professor of Law, Univ. of Memphis, to author (July 14, 2019) (on file with author).

17. Friends and lovers would be wise to avoid those phrases, too.

18. It is possible—and, I think, desirable—to show respect for people even when you don't respect their views (or them), assuming that you want to maintain some level of discourse. Once you go past the point of no return—when you've given up on them, because you find their views truly repugnant, then respect can go out the window. As the old aphorism goes, "A gentleman is a man who never gives offense unintentionally." *Variations*, CLOVER, Jan. 1906, at 22, 22. The point is well-taken. Inadvertent insults are just sloppy and distracting. When I talk with someone whose views I don't respect, I try to be polite for as long as I can. When I talk with someone who believes that I'm subhuman, though, civility isn't going to result in discourse. I have the choice of disengaging with that person respectfully or not respectfully.

19. For example, telling someone that he is either an idiot or insane for holding a particular belief is not civil (or respectful). Here's an example that cuts close to the bone for me: Holocaust deniers. If I choose to engage with them about their belief that the Holocaust did not happen, then

emotions so as to cool the tempers around the room and give real discourse a chance to work.²⁰

Recognize what I'm *not* saying, though: I am not advocating for a return to the old days that used "civility" as code for "you don't have a right to express your opinion, so let those of us who are older and wiser (and are members of the dominant group) have our way."²¹ I don't want civility to be an excuse to avoid hearing unpopular views. Frankly, I hope that civility training will provide the type of tension that Dr. King mentioned in his *Letter from a Birmingham Jail*:

My citing the creation of tension as part of the work of the nonviolent-resister may sound rather shocking. But I must confess that I am not afraid of the word "tension." I have earnestly opposed violent tension, but there is a type of constructive, nonviolent tension which is necessary for growth. Just as Socrates felt that it was necessary to create a tension in the mind so that individuals could rise from the bondage of myths and half-truths to the unfettered realm of creative analysis and objective appraisal, so must we see the need for nonviolent gadflies to create the kind of tension in society that will help men rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood.²²

Let me acknowledge that the behavior of civility won't—and shouldn't—eliminate strongly held emotions that someone's opposing views might evoke.²³ But allowing deeply felt emotions to govern all aspects of discourse

calling their belief nonsensical moves the conversation nowhere. I can choose not to engage with them at all, or I can try a dialogue, but I can't insult them if I want to engage in meaningful dialogue.

20. Without a way to cool tempers down, no one can hear anyone else's views. Dag Wollebaek et al., *Anger, Fear, and Echo Chambers: The Emotional Basis for Online Behavior*, SOC. MEDIA & SOC'Y, Apr.–June 2019, at 1, 3 ("Anger has also been shown to exacerbate problems associated with motivated reasoning; in the presence of anger, incorrect messages aligning with prior convictions are more likely to be believed, and messages contradicting prior attitudes are more likely to be rejected.")

21. In a wonderful discussion with my friend John Valery White, he reminded me that "civility" used to be code for "don't raise anything controversial." An article by Adam Serwer in *The Atlantic* seconds that point: "There are two definitions of civility. The first is not being an asshole. The second is 'I can do what I want and you can shut up.' The latter definition currently dominates American political discourse." Adam Serwer, *Against Reconciliation*, ATLANTIC, Dec. 2019, at 106, 108. I don't want to return to the days when "civility" existed because disenfranchised people were silenced. I do want to return to the days in which we tried to reason through an argument's logic instead of painting the person making the argument as crazy or evil. We need to be brave enough to discuss difficult and painful topics, but we can do so without name-calling.

22. Martin Luther King, Jr., *The Negro Is Your Brother*, ATLANTIC MONTHLY, Aug. 1963, at 78, reprinted in *Martin Luther King Jr.'s 'Letter From Birmingham Jail'*, ATLANTIC (Apr. 4, 2018), <https://www.theatlantic.com/magazine/archive/2018/02/letter-from-a-birmingham-jail/552461/> [<https://perma.cc/NG29-PQX3>].

23. Although Aaron Sorkin was referring to the First Amendment in his classic speech in *The American President*, those words work well here, too:

has gotten us in one heck of a mess. We run the risk of never saying what we think in order to avoid saying something that might offend, rather than hoping that we will have a chance to repair any inadvertent offense that we gave. Without civility, useful discourse is much more difficult. With civility, perhaps we have a way to bring the current national polarization back from the brink. I'm not saying that lawyers²⁴ are the only saviors of a return to a civil society, but I think that we're certainly capable of assisting in that return and of modeling behavior that any willing member of society could adopt.

A. *Group Polarization and Motive Attribution Asymmetry: Challenges to Civility*

The world seems to be awash with deeply felt emotions these days. Let's start with outrage. We're outraged about things that truly deserve the use of that word—mass murder, starvation, deep-seated corruption—but we are also “outraged” over far lesser evils, which devalues outrage's original meaning.²⁵ I think that the first problem is that we tend to jump from being outraged (or its related emotion, offended) to a sense that those feelings automatically mean that we've been harmed in some actionable sense. People are offended by a wide variety of actions, and I don't doubt for a minute that their taking offense is real.²⁶ But both of those concepts—“outraged” and “offended”—tend to cut off the next important step in discourse: dialogue. How can one move from legitimate feelings of outrage or offense to a discussion with the person who may have caused those feelings, even inadvertently? Is there a boundary between feeling offended and being harmed such that the First

America isn't easy. America is advanced citizenship. You've gotta want it bad, 'cause it's gonna put up a fight. It's gonna say, “You want free speech? Let's see you acknowledge a man whose words make your blood boil, who's standing center stage and advocating at the top of his lungs that which you would spend a lifetime opposing at the top of yours.”

THE AMERICAN PRESIDENT (Columbia Pictures 1995).

24. Again, *good* lawyers. See *supra* note 11. The awful ones just make things worse.

25. See, e.g., Michael Brice-Saddler, *'Meth. We're on It,' South Dakota Says in Ridiculed Ad Campaign that Cost \$449,000*, WASH. POST (Nov. 19, 2019), <https://www.washingtonpost.com/health/2019/11/18/meth-were-it-says-south-dakota-new-ad-campaign/> [<https://perma.cc/CCN8-G5WQ> (dark archive)] (covering the “outrage” that resulted from South Dakota's poorly worded antidrug campaign: “Meth, we're on it”); Quinn Kelley, *UMD 'Tragedy of the Commons' Tweet Goes Viral*, BALT. SUN (July 9, 2015), <https://www.baltimoresun.com/features/baltimore-insider/bal-umd-tragedy-of-the-commons-tweet-goes-viral-20150709-htmlstory.html> [<https://perma.cc/3GAM-PA9A>] (detailing the social media outrage that resulted from a teacher's extra credit question that functioned as a prisoner's dilemma); Liam Stack, *Starbucks Is Criticized for Its Holiday Cups. Yes, Again.*, N.Y. TIMES (Nov. 20, 2017), <https://www.nytimes.com/2017/11/20/style/starbucks-gay-agenda.html> [<https://perma.cc/7W3N-2KSA> (dark archive)] (describing the “outrage” that resulted from Starbucks introducing new holiday cups).

26. One of the worst things someone can do—if he or she wants to encourage dialogue—is to deny the validity of someone else's feelings. We may not have taken offense at something that someone else finds offensive, but that doesn't mean that the person who says that he or she is offended is exaggerating.

Amendment stops protecting the offensive speech?²⁷ Where is the demarcation between speech that indicates an imminent threat and speech that is so hurtful that it cuts us to the quick but is still protected? Is there a middle ground that can create a space for a respectful discussion?

I think that there is, but to occupy that middle ground requires a new step in one's thought processes. It requires the person who is experiencing outrage or offense to ask about, and not just assume, the other party's intentions.²⁸ It also requires the person who created the interaction that caused outrage or offense to consider whether she contributed to the experience of being offended. In a recent *Stanford Magazine* editorial,²⁹ several Stanford professors weighed in on how to handle difficult issues in class. Professor Ralph Richard Banks made the following point:

["]WORDS ARE DANGEROUS. That's why we should always choose them with care." That's my way of preparing my law students for the discussion of controversial and polarizing topics—abortion, same-sex marriage, capital punishment, affirmative action. I worry that

27. I'm sure that there is a boundary, but (1) I got a B in Constitutional Law, (2) my Constitutional Law course was decades ago, and (3) my instinct is that finding actionable "harm" is somewhere in *Jacobellis v. Ohio*-land ("I know it when I see it . . ."), see *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring). We may not be using the word "harm" in its First Amendment context when we talk about how someone's offensive conduct has harmed us because we may not actually be saying that the deeply offensive speech creates a credible threat of future mistreatment. We may be using "harm" in the sense of damaging one's psyche, as countless years of being on the receiving end of prejudice can damage someone. But actionable harm—e.g., the type of harm for which a university can expel someone—is different from harm to one's psyche. Unless, for example, a university's student code of conduct prohibits certain types of speech (and a speech code might have constitutional implications), isn't the better answer to grossly offensive speech a response that explains why the speech is grossly offensive? And if such explanations don't work, then isn't the better answer to break off the discourse, rather than censoring the speech?

Perhaps, then, we need to be clearer about the use of the word "harm" in the context of having been offended. There are good ways to bring together those who have offended with those who have been offended, and there are good reasons to do so. But, given the lightning speed of social media's condemnation machine, the current tendency to equate being offended with experiencing actionable harm creates a significant roadblock for discourse. Cf. LEWIS CARROLL, *ALICE IN WONDERLAND AND THROUGH THE LOOKING-GLASS* 185–86 (World Syndicate Publ'g Co. 1930) (1871) ("When I use a word," Humpty Dumpty said, in rather a scornful tone, "it means just what I choose it to mean—neither more nor less." "The question is," said Alice, "whether you *can* make words mean so many different things." "The question is," said Humpty Dumpty, "which is to be master—that's all."); WILLIAM GOLDMAN, *THE PRINCESS BRIDE* 105 (Harcourt, Inc. 2007) (1973) ("You keep using that word ['inconceivable']! . . . I don't think it means what you think it does.").

28. I love the way that Jonny Thakkar puts it: "It is hard to throw ourselves into the mental position of those who think differently. We tend to caricature opposing views. What we need, then, is for people to explain and defend their own reasoning. That will happen only if they feel free to express their views." Jonny Thakkar, *Putting the Political Back in Politically Correct*, CHRON. HIGHER EDUC. (June 12, 2019), <https://www.chronicle.com/article/Putting-the-Political-Back-in/246476> [<https://perma.cc/6Y3K-7RTM> (dark archive)].

29. *What Should Free Speech Mean in College?*, STAN. MAG., May 2019, at 47, 47 (collecting works by Ralph Richard Banks, Michael McConnell, Hazel Rose Markus, and Debra Satz).

the inclination to censor oneself or others may deprive us all of the full and rich inquiry such topics warrant. I know, too, that students may feel invested in these topics, implicated by them, in a way they don't when we discuss, say, invalidation of wage and hour laws during the New Deal. It's all too easy for the class to reach an unproductive equilibrium, where some students don't speak to avoid the risk of censure and others confidently declare some views righteous and others bigoted.

Students are unlikely to make useful intellectual contributions if they are feeling attacked or if they feel that they don't belong at Stanford.

....

... I try to frame the discussion broadly and to make it about policies rather than people. I situate race-based affirmative action, for example, in the context of the many ways that universities deviate from strict admissions criteria of grades and test scores. I place same-sex marriage within a broader conversation about the changing role and nature of marriage. With both topics, I try to create space for conversation by encouraging students to identify unbigoted reasons that people may oppose race-based affirmative action or the Supreme Court's mandate of same-sex marriage.³⁰

Framing a discussion to encourage deep discourse is difficult in basic one-on-one interactions, even among repeat players who might actually know something about the other person's intentions, but it's even more difficult when groups of people are outraged or offended.³¹ Groups seem to build on their own feelings to the point at which there's little opportunity for anyone to step away from the brink. Why is that? Maybe it's because we tend to surround ourselves with like-minded people, robbing ourselves of the learning that can come from the discomfort of exploring our own assumptions.

Cass Sunstein has described a peculiar effect of some group deliberations:

In brief, group polarization means that members of a deliberating group predictably move toward a more extreme point in the direction indicated by the members' predeliberation tendencies. "[L]ike polarized

30. Ralph Richard Banks, *When Silence Isn't Golden, in What Should Free Speech Mean in College?*, *supra* note 29, at 48.

31. Social media isn't much help here, as the speed of outrage or offense has gone ballistic, even before all of the facts are in on what may have triggered the outrage or offense. *See id.* at 49 ("I see two factors as undermining debate on college campuses. One is the rise of social media, or, more accurately, the dominance of social media as a means through which young people relate to others and learn about their society. Now, what happens inside the classroom is shaped by what could happen outside of the classroom.").

molecules, group members become even more aligned in the direction they were already tending.” . . . Notably, groups consisting of individuals with extremist tendencies are more likely to shift, and likely to shift more; the same is true for groups with some kind of salient shared identity (like Republicans, Democrats, and lawyers, but unlike jurors and experimental subjects). When like-minded people are participating in “iterated polarization games”—when they meet regularly, without sustained exposure to competing views—extreme movements are all the more likely.

Two principal mechanisms underlie group polarization. The first points to social influences on behavior and in particular to people’s desire to maintain their reputation and their self-conception. The second emphasizes the limited “argument pools” within any group, and the directions in which those limited pools lead group members.³²

Imagine what this polarization effect can do when coupled with another effect: motive attribution asymmetry. Motive attribution asymmetry means that you assume that *your* point of view comes from a good-hearted place, but your opponent’s point of view comes from being venal.³³ In a relatively recent column, Arthur Brooks suggested that motive attribution symmetry can cause us to hold the views of “the other” in contempt, which creates an enormous barrier to understanding.³⁴

Other research indicates that today’s average Democrat and Republican both “suffer from a level of motive attribution asymmetry that is comparable

32. Sunstein, *supra* note 7, at 74–75 (alteration in the original) (footnotes omitted) (quoting JOHN C. TURNER ET AL., REDISCOVERING THE SOCIAL GROUP 142 (1987)). Sunstein goes on to explain:

Though standard, the term “group polarization” is somewhat misleading. It is not meant to suggest that group members will shift to two poles, nor does it refer to an increase in variance among groups, though this may be the ultimate result. Instead the term refers to a predictable shift *within* a group discussing a case or problem. As the shift occurs, groups and group members move and coalesce, not toward the middle of antecedent dispositions, but toward a more extreme position in the direction indicated by those dispositions. The effect of deliberation is both to decrease variance among group members, as individual differences diminish, and also to produce convergence on a relatively more extreme point among predeliberation judgments.

Id. at 85–86 (footnotes omitted).

33. “We theorized that this motive attribution asymmetry may be associated with specific beliefs that undermine conflict resolution, *including a belief in the unalterable intransigence of the outgroup.*” Waytz et al., *supra* note 4, at 15,687–88 (emphasis added).

34. Arthur C. Brooks, Opinion, *Our Culture of Contempt*, N.Y. TIMES (Mar. 2, 2019), <https://www.nytimes.com/2019/03/02/opinion/sunday/political-polarization.html> [<https://perma.cc/A2R7-MCC3> (dark archive)]; *see also* Crispin Sartwell, Opinion, *Hatred Enhances Your Self-Esteem*, WALL ST. J. (July 1, 2019), <https://www.wsj.com/articles/hatred-enhances-your-self-esteem-11562021287> [<https://perma.cc/8443-ACPA> (dark archive)] (“Hatred is self-congratulatory. It involves expressing superiority to its objects, and patting yourself on the back for not being them.”).

with that of Palestinians and Israelis. Each side thinks it is driven by benevolence, while the other is evil and motivated by hatred—and is therefore an enemy with whom one cannot negotiate or compromise.”³⁵ The problem in the United States today is not merely incivility or intolerance but contempt, and “not just contempt for other people’s ideas, but also for other people. In the words of the philosopher Arthur Schopenhauer, contempt is ‘the unsullied conviction of the worthlessness of another.’”³⁶

If I understand these two effects correctly, then, like-minded people will not only reinforce each other’s views but take those views to a more extreme level. And if that group of like-minded people tends to view others who hold different views with contempt, then there’s a likelihood of developing a more extreme contempt over time. Once a group holds another entire group in contempt, the odds of reaching any sort of real discourse or understanding comes close to zero.³⁷ In other words, we end up with today’s political climate.³⁸

B. *Contempt and Distrust: The Result of Failed Discussion*

Let’s take some real-life examples. One example involves the reactions of some Harvard undergraduates to the fact that a Harvard Law professor represented Harvey Weinstein, at least for a time, in his rape case.³⁹ Now, these are undergraduates, not law students, and I don’t expect non-law-trained people to be familiar with the idea that lawyers don’t necessarily hold the views of their clients. (On the other hand, there are some who argue that there’s a world of difference between representing a criminal defendant and representing a defendant in a civil action.)⁴⁰ The Harvard undergraduates said that Professor Ronald Sullivan’s representation of Mr. Weinstein caused them

35. Brooks, *supra* note 34 (citing research done by Adam Waytz, Liane L. Young, and Jeremy Ginges).

36. *Id.* (defining contempt as “a noxious brew of anger and disgust”); *see also* Sartwell, *supra* note 34 (“When you declare your opponents to be obviously evil and stupid, you are congratulating not only yourself but the people who agree with you for being intelligent and good.”).

37. *See* Thakkar, *supra* note 28 (“[T]hose who take themselves to be fighting for ethical and political progress ought to be fostering a culture in which critics feel free to challenge their beliefs and ideals. And since that would be an environment in which people can express themselves without fear of being punished for saying the wrong thing, it follows that those who call others out prematurely or ungenerously ought themselves to be called out. They are standing in the way of progress.”).

38. I’m no longer surprised when I hear colleagues demonizing the other political party without first asking me where my own political sympathies lie.

39. *See, e.g.*, Heather MacDonald, Opinion, *Triggered by Weinstein’s Harvard Lawyer*, WALL ST. J. (Mar. 18, 2019), <https://www.wsj.com/articles/triggered-by-weinsteins-harvard-lawyer-11552950103> [<https://perma.cc/BZ9M-VZ2Z> (dark archive)].

40. *See, e.g.*, David B. Wilkins, *Race, Ethics, and the First Amendment: Should a Black Lawyer Represent the Ku Klux Klan?*, 63 GEO. WASH. L. REV. 1030, 1034 (1995).

actual pain. I believe that.⁴¹ But where was the next stage of the dialogue—the one that explores whether their very real pain should force Professor Sullivan to withdraw from representing his client?⁴² Does that pain mean that Harvard must take action to protect those students? (It did, and what it did wasn't the action that I'd have expected it to take.)⁴³ The students were bothered by the

41. Professor Ralph Richard Banks has shed light on the thought processes of young undergraduates faced with experiencing thoughts and actions that differ from their own deeply held beliefs:

I see two factors as undermining debate on college campuses. One is the rise of social media. . . . Social media mobs can seem merciless and relentless. The second factor relates to students' willingness to pounce on others who voice sentiments they deem unacceptable. Some portion of this inclination stems from anxiety and insecurity; students in their search for comfort seek certainty—an ideological safe space. This confluence of forces can lead to an uncomfortable classroom dynamic, in which the most thoughtful students become the least likely to speak out, leaving a conversation dominated by those with the most extreme and self-righteous views.

Banks, *supra* note 30, at 49. As Sigal Ben-Porath points out,

When some members of the campus community are effectively barred from speaking, when they avoid speaking their minds for fear of humiliation or ridicule, or when they do not feel that they belong or that they are appreciated, free speech is limited just as much as it can be limited by censorship. Defenders of free speech should be worried about both types of limits. They both make the debate poorer and hamper the democratic culture of campus, which is the framework that necessitates and justifies the commitment to free speech. Free speech arguments should not be wielded against demands for inclusion, and neither should claims of harm be lobbed at free speech. The common ground between the two sides is in fact much broader and more stable than either side assumes.

SIGAL BEN-PORATH, FREE SPEECH ON CAMPUS 62 (2017).

42. Professor Sullivan did withdraw. *See, e.g.*, Scott Jaschik, *Harvard Professor Quits as Lawyer for Weinstein*, INSIDE HIGHER ED (May 14, 2019), <https://www.insidehighered.com/quicktakes/2019/05/14/harvard-professor-quits-lawyer-weinstein> [<https://perma.cc/5QBB-3CRS>].

43. To my deep disappointment, Harvard has resolved the matter by deciding not to renew Professor Sullivan's contract as faculty dean, which is a position that placed him and his wife in charge of a particular undergraduate dormitory. *See* Kate Taylor, *Harvard's First Black Faculty Deans Let Go Amid Uproar Over Harvey Weinstein Defense*, N.Y. TIMES (May 11, 2019), <https://www.nytimes.com/2019/05/11/us/ronald-sullivan-harvard.html?smid=nytcore-ios-share&login=smartlock&auth=login-smartlock> [<https://perma.cc/ZDG2-Z86Z> (dark archive)]. In so doing, Harvard has missed a real opportunity to educate its students about the importance of legal representation in criminal matters and about what lawyers do to serve the public good. I express no opinion about any other allegations that have been made about Professor Sullivan in his role as faculty dean, having read mostly just one side of the story and being aware that there may be much more that I don't know. *See, e.g.*, Shera S. Avi-Yonah & Aidan F. Ryan, *'With Us or Against Us': Current Former Winthrop Affiliates Say Faculty Deans Created a Toxic Environment Stretching Back Years*, HARV. CRIMSON (May 10, 2019), <https://www.thecrimson.com/article/2019/5/10/winthrop-climate/> [<https://perma.cc/D7YF-KR5B>]. But Professor Randall Kennedy makes a cogent point:

Now, of course, Harvard authorities are dredging up various supposed delinquencies on Mr. Sullivan's part. An exposé in The Harvard Crimson refers to allegations that he and his wife were highhanded in their dealings with the staff at Winthrop House. No one is perfect; perhaps there is something to these claims.

fact of the representation, and they concluded that someone who works at Harvard who represents an alleged sexual harasser would threaten their direct well-being. The students have gone from outrage to resolution, without (as far as I can tell through publicly available information) engaging in a discussion that should have occurred. Why wouldn't they start with a request for a dialogue with Professor Sullivan—one that tried to hash out the pathway from their reactions to their sense of being directly harmed? I think that the answer stems from a failure of universities to make that path both available and a traditional first step to any good discourse.⁴⁴

I'm intrigued by Sigal Ben-Porath's take on exactly what type of harm is implicated, although I don't agree with the entirety of her argument in her book, *Free Speech on Campus*⁴⁵:

The claims that students make about harm, their demands for safety, and the counterclaims made in defense of free speech often fail to distinguish between *dignitary safety* and *intellectual safety*. Dignitary safety is the sense of being an equal member of the community and of being invited to contribute to a discussion as a valued participant. Dignitary safety and the avoidance of dignitary harms are necessary for the creation and maintenance of a democratic campus community. On the other hand, intellectual safety—the refusal to listen to challenges to one's views or to consider opposing viewpoints—is harmful to the openminded inquiry that defines any university worth the name.⁴⁶

But these dissatisfactions, if relevant at all, were not what provoked the student protests that led to Mr. Sullivan's ouster. The central force animating the drama has been student anger at anyone daring to breach the wall of ostracism surrounding Mr. Weinstein, even for the limited purpose of extending him legal representation. They want to make him, a person still clothed with the presumption of innocence, more of an untouchable before trial than those who have been convicted of a crime. There was no publicized protest at Winthrop House when Mr. Sullivan successfully represented a convicted murderer, Aaron Hernandez, the former New England Patriots star, who was acquitted of a separate double murder before killing himself in prison.

Randall Kennedy, Opinion, *Harvard Betrays a Law Professor—and Itself*, N.Y. TIMES (May 15, 2019), <https://www.nytimes.com/2019/05/15/opinion/race-identity/harvard-law-harvey-weinstein.html> [<https://perma.cc/DN7M-5UG2> (dark archive)].

44. See Sartwell, *supra* note 34 (“For a couple of generations, educators have taken as obvious that their purpose is to enhance young people's self-esteem, and that extreme self-esteem is tantamount to redemption. A couple of generations of Americans who grew up in those schools learned that having their self-esteem damaged is tantamount to being violently victimized. Combine this with the awareness that disagreeable views damage your self-esteem, and you make sense of the demand to purge environments—whether craft websites or college campuses—of dissent.”).

45. Given the thesis of this Article, it's likely no surprise that I disagree with her wholesale rejection of civility as a norm for campus free speech. See, e.g., BEN-PORATH, *supra* note 41, at 69–74.

46. *Id.* at 62.

Part of the necessary underpinning for how to create civil discourse, at least in a university setting, would then involve the tricky balance between free speech and dignitary safety. Feeling unheard or invisible has a tendency to anger the person being ignored and to cause one of two reactions: getting louder, in order to be heard, or becoming disengaged entirely. Neither reaction contributes to useful discourse. I might not know where to draw the line between protecting dignitary safety and avoiding a hermetically sealed campus safe from all hurtful speech,⁴⁷ but I know that we have to train students to hear arguments that they might find deeply upsetting if we're going to give them the tools to address the assumptions embedded in those arguments. I would much rather give our students the tools to dismantle bad arguments than to send them out into the world without that training.

If the Harvard example involves the boundary between someone's actions (representing a person accused of rape) and someone's job (serving as a faculty dean in an undergraduate residence hall), the University of Tennessee provides an example of the boundary between hurtful speech and actionable speech. Many University of Tennessee undergraduates were legitimately shocked and deeply hurt by the decision of some of their classmates to post pictures in blackface. In today's world, the notion that blackface is somehow a harmless gesture rings false. Blackface is a gesture that carries with it an ugly history of hatred. Even if there were some conceivable way to assume that some people might not understand the ugly history, the students posing in blackface almost certainly understood it. Their Snapchat caption about "racial equality" speaks for itself. But some Tennessee students called for the expulsion⁴⁸ of those students without the necessary intermediate discussion of what speech is protected by the First Amendment, and certainly without finding a way to bring together the deeply misguided students who posed for the picture and those who were outraged by their behavior. Wouldn't a moderated dialogue have provided a better (though risky) opportunity for learning?⁴⁹ That selfsame type of dialogue was what moved

47. Avoiding all hurtful speech is, I think, impossible because what is considered safe speech to some can be hurtful to others.

48. At least one of the students in blackface has already left the university. See Kristi L. Nelson, *UT: One Student From 'Blackface' Snapchat Image No Longer Enrolled*, KNOXVILLE NEWS SENTINEL (Mar. 6, 2019), <https://www.knoxnews.com/story/news/2019/03/06/utk-blackface-snapchat-ethan-feick/3086151002/> [<https://perma.cc/RX6J-X5K6>].

49. Some dialogues can be successful. Mallery Simon and Sara Sidner describe a dialogue between Eva Schloss (Anne Frank's stepsister) and teenagers who had "posted pictures on social media from a party where they laughed as they raised their arms in the Nazi salute next to a swastika made of plastic cups." Mallery Simon & Sara Sidner, *Ann Frank's Stepsister Meets the Teens Who Partied with a Swastika*, CNN (Mar. 8, 2019, 6:35 AM), <https://www.cnn.com/2019/03/08/us/california-holocaust-survivor-talks-to-students/index.html> [<https://perma.cc/6S28-C8TV>]. The students told Schloss that "[t]hey didn't know what their actions meant. Not the swastika. Not the Hitler salute." *Id.* So she talked with them about her own experiences, and a true dialogue ensued. *Id.*

Professor Geoffrey Stone to stop using the full version of the N-word in his Constitutional Law classes.⁵⁰ What's the distinguishing feature? Dialogue—a civil discussion.

In what Stone said was [a] productive exercise of the First Amendment, the students conveyed to him that the N-word was so loaded, hateful and ultimately distracting that using it in class negated any educational benefit.

Stone was persuaded.

“It was very illuminating, I have to say,” he said. “I then went into class and basically said that, having had this conversation with these students—not because anybody made me do this, just from listening to them about what a distraction it is, and how much pain is caused—I’ve decided not to use this example in class.”⁵¹

The students explained their deeply felt pain to Professor Stone; he heard them; he made a decision based on that dialogue. That's the value of a civility-based discussion. Persuasion can be a part of a civil dialogue. After all, the point of discussing one's deeply held beliefs includes the desire to persuade others to agree.

Although I wasn't in the room during the discussion, here's how I imagine that the discussion went: Professor Stone explained the pedagogical reasons that encouraged him to use the N-word in class. The students explained why they considered that word to be antithetical to pedagogy by indicating that, once they heard the word, their brains started processing their reaction to the word's power, causing them to tune out the classroom discussion. That link (a pedagogy-diminishing reaction), to me, is different in kind from the Harvard students' reaction to Professor Sullivan.⁵² I'm trying to come up with a pedagogy-related reason that Harvard used to decide not to renew his contract as faculty dean. I can't think of one. Here are the rationales that the students might have argued, all of which I have rejected:

- We're afraid that Professor Sullivan will bring Harvey Weinstein into our residence hall, and that Mr. Weinstein will create an unsafe environment. (Unlikely.)
- We believe that some criminals don't have a right to be represented. (The case law developed around the Sixth Amendment has something to say about that.)

50. Colleen Flaherty, *A Free Speech Purist Opts Not To Use the N-Word*, INSIDE HIGHER ED (Mar. 8, 2019), <https://www.insidehighered.com/news/2019/03/08/first-amendment-scholar-geoffrey-stone-whos-previously-defended-use-n-word-classroom> [<https://perma.cc/8UEM-N3G3>].

51. *Id.*

52. See *supra* notes 41–44 and accompanying text.

- We think that someone who represents certain criminal defendants should not be entrusted with our emotional guidance as a faculty dean. (Missed educational opportunity.)
- We think that someone who represents a criminal defendant must somehow agree with or support that defendant's behavior. (Most criminal defense attorneys would disagree with that characterization.)

The difference between Professor Stone's students and Professor Sullivan's students lies not in the feeling of shock or outrage, which both groups felt, but in the link between the expressed outrage and the direct harm experienced. There may well also have been some differences in the degree of comfort that each group felt in raising the issue with the professors, but I have no direct knowledge of that. My guess is that Professor Sullivan would have welcomed a direct discussion with the students in the same way that Professor Stone did—one that started from "why" instead of from "how dare you." "Why" signifies a willingness to hear out the person who may have unintentionally caused offense. "How dare you" presumes a bad intent, coupled with contempt for the person's behavior.⁵³

Here's a different rationale, though: perhaps those students who objected to Professor Sullivan's work had felt unheard for so long that their simmering frustration just boiled over. That's possible, though I worry that, if we've reached the stage when Harvard undergraduates are hard-pressed to communicate their thoughts and emotions, then less well-equipped students⁵⁴ will be in real trouble and perhaps further underscore the dire need for this type of education in all levels of our schools. We have to find a way, as institutions, to communicate that we are willing to hear from all points of

53. Sigal Ben-Porath has a possible explanation:

There seems to be an agreement—even if thin, even if only as lip service—that free speech and inquiry are central tenets of university or college life and its mission, and that diversity, equity, and inclusion need to be respected.

....

... The demands of civility are founded on the assumptions that we can all calmly and respectfully voice our opinions and listen to others' views, that we can weigh the different perspectives offered in the conversation using a shared metric, and that all views will be assessed on their merits. But when a participant in a debate is not recognized as an equal, he can find himself in a vicious cycle—the more he tries to assert his view, the more unreasonable he will seem to any participants predisposed to suspect his capacity to engage reasonably in the first place. This is what Fricker calls "epistemic injustice"—the injustice that occurs when knowledge and perspective are not recognized as valid because the identity of the speaker as a knower is put into question.

BEN-PORATH, *supra* note 41, at 42–43, 59–60.

54. Or at least less credentialed.

view and that we will actually listen to those points of view, rather than to use the pauses between expression as a way to gear up our rebuttal. Truly listening necessarily implies entertaining the option that someone else might actually have some good ideas, even if those ideas differ from our own.⁵⁵

Anthony Kronman, in a recent interview, has suggested that free speech issues on campus should be treated not as an either/or concept but in terms of activities inside the classroom and outside the classroom:

[T]alking past each other in a classroom: That is out of keeping with the requirements of the conversational ideal, and it is the responsibility of the teacher to keep that ideal in view at all times. That is a special, rare, and valuable enterprise which the speech libertarians simply don't notice. By the same token, the defenders of limits on speech for the sake of inclusion do not have it in view either. What they miss is the way in which institutionalized forms of sensitivity compromise the conversational ideal and reinforce the idea that what ultimately matters is how I see the world, rather than the prospect for achieving some shared foothold on the ground of reason and truth. Always an aspiration that we fall short of achieving—I have no illusions about that—but the fact that you don't achieve it does not to my mind deprive the ideal itself of its magnificent force.⁵⁶

“Achieving some shared foothold on the ground of reason and truth”—that's something about which Dean Kronman knows a great deal, and it's something that we should emphasize with our law students. Currently, the political environment seems to have been captured by the rhetoric of twelve-year-olds, filled with name-calling and unbridled contempt. But the realm of politics—and the issues of governance that go with that realm—doesn't have to continue to behave as though anyone who disagrees with a point of view is beneath contempt.

Let's contrast the burgeoning contempt that people seem to have developed these days with the attributes of more successful relationships. People in long-term relationships have worked hard to preserve their relationships by repeating mantras like these:

1. My partner is not trying to drive me insane.

55. It is, though, certainly the case that someone can intend to say something profoundly offensive. As you can tell by now, I'm a free speech extremist. But the fact that someone has the free speech right to intend and to deliver profound offense doesn't mean that the listeners can't also use their own free speech rights to call that person a derogatory name (or shun him) in return. Free speech has consequences. Nonetheless, shutting down offensive speech also has societal consequences (who gets to decide what's offensive?), and I don't think that those consequences outweigh the importance of free speech.

56. Len Gutkin, *Elite Schools Are National Treasures. Their Elitism Is What Makes Them Such.*, CHRON. HIGHER EDUC. (July 12, 2019), <https://www.chronicle.com/article/Elite-Schools-Are-National/246657> [<https://perma.cc/K9BC-XU65> (dark archive)].

2. My partner might have a point.⁵⁷

In other words, we try hard to listen to what our life partners have to say. If we can love our life partners and assume that they're not trying to hurt us, confuse us, or drive us insane, then can't we take the next step and assume that our colleagues (for the most part) aren't, either?

Don't get me wrong: some people *are* contemptible. When they behave in loathsome ways, they deserve our contempt.⁵⁸ But a genuine difference of opinion—rather than contemptible behavior—shouldn't automatically trigger contempt. It should trigger curiosity: how did this smart, reasonable person, who holds ideas so different from my own, develop those opinions? Arthur Brooks is right. Civility stems from an underlying respect, and contempt precludes respect. But in the world in which our graduates will find themselves, contempt seems to be the new norm. That's not a healthy environment in which to practice law, so we need to combat that norm and give our graduates the skills that they'll need to be good lawyers.⁵⁹

Although there are times when moral outrage can spur a lawyer to work hard for a good cause, moral outrage applied injudiciously is not likely to be persuasive, and it gets in the way of civility.⁶⁰ That's probably one of the reasons that various state bars have tried to enforce (or at least encourage) civility.⁶¹ We law professors could serve as a bridge between the civility codes

57. As Justice Ginsberg has pointed out:

Another often-asked question when I speak in public: "Do you have some good advice you might share with us?" Yes, I do. It comes from my savvy mother-in-law, advice she gave me on my wedding day. "In every good marriage," she counseled, "it helps sometimes to be a little deaf." I have followed that advice assiduously, and not only at home through 56 years of a marital partnership nonpareil. I have employed it as well in every workplace, including the Supreme Court. When a thoughtless or unkind word is spoken, best tune out. Reacting in anger or annoyance will not advance one's ability to persuade.

Ruth Bader Ginsburg, *Ruth Bader Ginsburg's Advice for Living*, N.Y. TIMES (Oct. 1, 2016), <https://www.nytimes.com/2016/10/02/opinion/sunday/ruth-bader-ginsburgs-advice-for-living.html?login=email&auth=login-email> [<https://perma.cc/4CEA-3WED> (dark archive)].

58. And some of that contemptible speech can incite people to violence. Again, I don't know whether there's any way to draw a useful line between contemptible speech that gathers others to that point of view and contemptible speech that incites violence, *see supra* note 20 and accompanying text, but I think that until speech is of a nature that incites imminent violence, censoring it does more harm than good.

59. Yes, some of those skills involve managing people who aren't civil. I aspire to "never give offense unintentionally," which is a different mindset from "never giving offense." *See A Gentleman Is a Man Who Never Gives Offense Unintentionally*, QUOTE INVESTIGATOR, <https://quoteinvestigator.com/2015/01/21/offense/> [<https://perma.cc/FLX8-P725>]; *see also Variations*, *supra* note 18, at 22; SWORDFISH (Hollywood Licensing Grp. 2001) ("[D]on't confuse kindness with weakness.").

60. *And* it's exhausting.

61. For a listing of state civility codes, please see the wonderful table appended to the end of this Article that my colleague Youngwoo Ban has developed. *See infra* Appendix A.

that state bars are using and the training for civility that we can give students.⁶² If we can give our students some help in toning down any natural contempt that they feel for other groups—for other political parties, for their adversaries, for other student groups, etc.—and some tools for engaging a natural empathy instead, that’s a legitimate first step. I think that such training will give these students, when they become practicing lawyers, opportunities to improve not only the discourse they encounter in their practices but also in their off-hours. They can use these skills when they serve on boards or become officers of an organization, and they can use these skills when the free speech rights of opposing groups heat up a situation.

II. OBSTACLES TO INCREASING CIVILITY TRAINING IN LAW SCHOOLS

Professor Alyson Carrel has noted the foundation quality of these soft skills:

Central to the success of a lawyer has always been the notion that law school needs to teach one how to “think like a lawyer” by instilling the critical-thinking skills necessary to read, analyze, and understand case law. How to “think like a lawyer” has become the basis for traditional

Bernie Burk thinks that state bars have developed civility codes for another reason: “I’m inclined to think that the urging toward civility in practice is more instrumental. It makes the system run more smoothly; it makes lawyers’ lives less stressful. These are good things, but it’s still an adversary system.” Email from Bernie Burk, *supra* note 16.

62. Professor David Wilkins, in a wonderful commencement address at Washington and Lee Law School, made this point:

But the most important thing you need to take with you as you commence this life journey are your values. And the value that you will need most in the coming years is openness, and the willingness to reach across difference.

I don’t have to tell anyone in the audience today that we are living in very fractious times. No matter what side of the political aisle you are on, no one can be happy with the way that our politics—and indeed, our very society—is increasingly polarized into warring camps with little understanding or appreciation of the hopes and dreams—or fears and concerns—of their fellow citizens. Tragically, we as a country have seen the catastrophic consequences when deep divisions are allowed to fester and grow unattended. It is therefore incumbent on each of us to do our part to reach across our divisions to build bonds of community and trust with all Americans. Lawyers have a special responsibility, as both professionals and as citizens, to engage in this work.

As professionals, lawyers have been given special responsibility for the laws and institutions that our founding fathers believed would hold this country together. But lawyers are also citizens who often assume important leadership roles throughout society, including, of course, as elected and appointed officials, often at the highest levels of our government. Given these important positions of trust, it is especially critical that lawyers in their professional work, leadership roles, and private lives work to preserve and extend the legal framework and fundamental rights that are so essential to our constitutional democracy.

Brant J. Hellwig, *Address by Professor David B. Wilkins Washington and Lee University School of Law Commencement Exercises May 5, 2018*, 76 WASH. & LEE L. REV. 1, 4–5 (2019).

legal education focused on doctrine and is prioritized by the first-year curriculum in every law school today. However, over the years, a growing amount of research has demonstrated that behavioral skills related to emotional intelligence are just as important—if not more important—to a lawyer’s success in practice.⁶³

Professor Carrel is right about what components we need to add to traditional legal education, and I’d count civility training as a key part of that work.

If we want to use civility training in law school as a way of helping our law students in both their eventual “day jobs” as lawyers and as leaders of their communities, then we need to pin down just what we mean by civility training. Are we talking about a one-off lunchtime panel discussion in which leaders of the bar tell war stories about how they were sorely provoked by opposing counsel, or are we talking about incorporating civility training as part of a law school curriculum? The former option is nice⁶⁴ but won’t be particularly effective;⁶⁵ the latter will require effort from the faculty.

To integrate civility training in the law school curriculum itself, either an individual professor will need to develop some units to fit inside her courses, or the faculty as a whole will have to vote to add a civility component to the curriculum as a whole. The law school curriculum is in the hands of the faculty, and for everything that the faculty wants to add, something else must disappear. That’s one obstacle to civility training, and it tends to push me into the direction of starting by finding early adopters—professors who might be willing to play with the idea of incorporating civility training into their own courses as a way of teaching the material. Clinics have an obvious advantage here, as law students coming into contact with less-civil adversaries will get an immediate sense of the advantages of civility. Professional responsibility professors also have a natural advantage, especially in teaching the ethics of negotiation or of advocacy. But there are likely many courses that could find ways to create the same kind of “civility by the pervasive method” that Stanford found in teaching ethics pervasively.⁶⁶ To be clear, from a signaling perspective, finding a way to give course credit for both the theory and

63. Alyson Carrel, *Legal Intelligence Through Artificial Intelligence Requires Emotional Intelligence: A New Competency Model for the 21st Century Legal Professional*, 35 GA. ST. U. L. REV. 1153, 1164–65 (2019) (footnotes omitted).

64. And it probably involves free food, which almost always draws a crowd of students.

65. A onetime lunch discussion, even one using well-respected members of the bar, symbolically indicates that civility is easy to achieve, doesn’t need any practice to master, and is best slotted in between bites of pizza.

66. See, e.g., Deborah L. Rhode, *Into the Valley of Ethics: Professional Responsibility and Educational Reform*, 58 LAW & CONTEMP. PROBS. 139, 139 (1995). My problem with teaching civility pervasively is the same as it was when Stanford was teaching ethics pervasively: I didn’t learn any. Or at least I only learned some vague outlines of ideas about ethics. Ironic, isn’t that, given my field these days?

practice of civility is superior to sneaking in some thoughts about civility in a Contracts or Employment Law course. Curricula tend to evolve in stages, though, so perhaps early adopters can lead the way.⁶⁷

I also wondered about any obstacles to civility training from my law students' perspectives. On the theory that one of the best ways to understand law school obstacles is to ask students about them, I polled my Spring 2019 Professional Responsibility students. To be fair, this cohort of students was collaborative by nature. They embraced⁶⁸ the format for the course, which involved group presentations on the ethics rules.⁶⁹ At the end of one class session, I described the thesis of this Article and asked them for input. Here are some of their suggestions.

- Provide more opportunities for hands-on experience, particularly with group exercises (and, yet more particularly, group exercises involving adversarial environments), which will help students understand teamwork and also how to still maintain good relationships with the “other side.” Find ways to teach students to be “better losers.”⁷⁰
- Teach students how to compartmentalize so that they can “separate [their] work hat from [their] personal hat.”⁷¹
- Help students manage their social anxiety and give them stress management tools.⁷²
- Require students to enroll in Professor Jean Sternlight's popular Law & Psychology course, which gives our students a better understanding of how our cognitive errors can play out in law practice. (The students recognized that there is only one Professor Sternlight, that she only teaches at one law school, and that she might have other ideas on how to spend part of her workday, but they emphasized how

67. If we're going to use early adopters, the best possible way is to find early adopters who teach required courses.

68. Or, if they didn't, they hid it well.

69. In my Spring 2019 Professional Responsibility course, I required my law students to present the day's material to their classmates. Many of those presentations are extremely creative: students used Jeopardy!, homemade videos, press conferences, film clips, and—yes—even PowerPoints to give their colleagues some context as they went through their chosen topics.

70. One law student suggested that, instead of characterizing negotiations or litigation as win/lose, “all outcomes to conflict ought to be seen as ‘win/win’ or as a party to a dispute, you failed.” Email from Richard Young, Law Student, Univ. of Nev., Las Vegas, Boyd Sch. of Law, to author (Feb. 26, 2019, 12:27 PM) (on file with author). Mr. Young also divided the universe of attorneys into those who will almost always be civil, those who almost always will choose incivility, and the vast majority of attorneys who will sometimes be uncivil. He suggested that training our law students on the science of why civility is almost always a winning strategy might be persuasive. *Id.*

71. Email from Katrina Fadda, Law Student, Univ. of Nev., Las Vegas, Boyd Sch. of Law, to author (Feb. 27, 2019, 11:50 AM) (on file with author).

72. Email from Alfa Alemayehu, Law Student, Univ. of Nev., Las Vegas, Boyd Sch. of Law, to author (Feb. 27, 2019, 6:33 AM) (on file with author).

helpful her course has been in terms of their professional development.)

- Reconsider the grading system so as to minimize the effects of a grading curve. (Some students in my course disagreed strongly with this suggestion, pointing out that the curve had some advantages.⁷³ Others suggested mastery grading, rather than a grading curve, as a way of signaling to employers that a student really had understood the course. Still others suggested that defining mastery—even if a law professor defines it—is no easy feat.)⁷⁴
- Increase the diversity of the school, so that students can interact with more people who may have different experiences from their own.
- Find ways to socialize with other lawyers so that you get to know each person as a person and not just as an adversary.
- Find ways to acknowledge and reward professionalism, perhaps through the school and perhaps through the local bar association.⁷⁵
- Increase opportunities for community service for law students.

I also asked my colleagues on the American Bankruptcy Institute’s Civility Task Force, which former American Bankruptcy Institute President Jim Markus created. Their comments included emphasizing the importance of

73. One student pointed out:

Eliminating grades would help well-connected students have more advantages than they already have. It is no secret that having parents who are attorneys or otherwise influential in town is hugely important for finding a job. However, less well-connected students are able to stand out through objective criteria like grades and rank. Without grades and rank, it would be that much easier for firms to hire the children of well-connected people in the community because there would be no chance for less well-connected students to stand out. Of course, there are socioeconomic factors that tend to result in people from more privileged backgrounds getting better grades than students without the same privilege. But in my opinion, eliminating grades would exacerbate rather than solve this problem.

Email from Arthur Burns, Law Student, Univ. of Nev., Las Vegas, Boyd Sch. of Law, to author (Feb. 26, 2019, 11:10 AM) (on file with author). Another student asked, though, whether “schools that do not issue grades (such [as] Berkeley Law and Stanford Law) are able to produce young attorneys that are more cordial towards each other. I hypothesize that the problem lies with how law schools are structured to breed competition between students. I wonder if schools that don’t place this competition between students breed different and more cordial young professionals.” Email from Edgar Cervantes, Law Student, Univ. of Nev., Las Vegas, Boyd Sch. of Law, to author (Feb. 26, 2019, 11:22 AM) (on file with author).

74. Email from Arthur Burns, Law Student, Univ. of Nev., Las Vegas, Boyd Sch. of Law, to author (Feb. 26, 2019, 4:26 PM) (on file with author).

75. One time-honored way to inculcate professionalism is through an American Inn of Court. See *Welcome to the American Inns of Court!*, AM. INNS COURT, http://home.innsofcourt.org/AIC/About_Us/AIC/About_Us/About_Us.aspx?hkey=72647b55-4a23-4263-8a3e-817098c808fa [<https://perma.cc/XG3F-JPYU>].

building and maintaining strong relationships,⁷⁶ of integrity,⁷⁷ and of setting a good example.⁷⁸ (In other words, faculty members also needed to treat others with respect—and, in particular, they should treat staff members and administrators with respect.)⁷⁹ As you can tell, there were some overlaps between what my Professional Responsibility students were suggesting and what a group of bankruptcy judges, law professors, and practicing lawyers were suggesting. Let's group these ideas into the categories of curricular innovations and cocurricular or general professional development innovations.

A. *Curricular Innovations*

Thanks to the hard work of one of my research assistants, Daniel Brady, we were able to ferret out some of the curricular training on civility in various law schools. Mr. Brady had to be creative in his research, though, because very few law schools actually listed courses with “civility” in their course names.⁸⁰ There's no easy way to search each school's curriculum, but the overall conclusion that we drew is that many schools embedded professionalism and civility in other courses, such as legal writing or clinics, and that professors often invited local practitioners to class to talk about their own experiences. The few schools that made it easy for us to read about their curricular innovations are listed in appendix B. My overall takeaway is that law schools are losing ground in terms of teaching the skills that the profession needs—not just in terms of professionalism and civility but also in terms of active listening, reading someone's body language, and other “soft” skills that can help to distinguish good lawyers from bad ones. There is also likely to be an increased need for courses that teach project management, the use of artificial intelligence, and other modern developments, all of which are changing the

76. Email from the Honorable Kevin J. Carey, Partner, Hogan Lovells, to author (Feb. 27, 2019) (on file with author).

77. Email from Richard Carmody, Of Counsel, Adams & Reese, LLP, to author (Feb. 27, 2019, 5:08 AM) (on file with author).

78. Email from Brian Shapiro, Attorney, to author (Feb. 27, 2019, 4:33 PM) (on file with author).

79. *Id.* Mr. Shapiro also suggested that saying “thank you” is important, as is holding people accountable for their behavior when they behave like jerks. *Id.* See generally ROBERT I. SUTTON, THE NO ASSHOLE RULE: BUILDING A CIVILIZED WORKPLACE AND SURVIVING ONE THAT ISN'T (2007) (noting the importance of respect to maintaining a healthy workplace).

80. Bernie Burk has suggested that, because law schools don't have courses called “critical thinking,” it's not surprising that we don't have courses with “civility” in their title: “Civility, like critical thinking, is something you do while you're doing something else, like negotiating or writing a brief. It has to be taught in the context of lawyer tasks. So as far as civility goes, the test is really how to integrate it into exercises in the existing curriculum, which is doable” Email from Bernie Burk, *supra* note 16.

type of work that the most junior lawyers may be likely to do.⁸¹ In other words, civility will be a necessary, but not sufficient, skill set for lawyers.

B. *Cocurricular Innovations or General Professional Development Innovations*

Let's assume that many law schools don't want to change their curricula. Perhaps it would be possible to provide cocurricular opportunities to give law students the skill set to move people from a deep-seated feeling of having been offended⁸² to one of productive discourse. Nothing stops a group of law professors from having those lunchtime conversations⁸³ to present scenarios that might create distress and propose ways to combat that distress. And certainly nothing prevents the career services office in a law school from developing a series of workshops to develop the skill set of creating a space for true discourse.

One problem, though, may be that some of our students also have to overcome some fears of expressing themselves publicly. As Professor Hazel Rose Markus has explained,

In class, some students with European American backgrounds were extremely well practiced in speaking freely and often. As one student told me, "I don't even know what I think until I hear myself saying it." Others, however, often those with less wealth and privilege, or those who were first-gen, were decidedly more reticent. A student who grew up in a rural community where he practiced fitting in, keeping his head down and paying attention to authority, asked me, "All those students who talk all the time—how do they do it? How do they already have so many ideas and opinions?"

As I have listened to these students, I have learned that they all have a lot to contribute but that the university as currently arranged makes inclusion more likely for the easy talker than for the others. Designing for inclusion raises many speech-related questions: Are people equally familiar and practiced with speaking and with engaging in active debate in the marketplace of ideas? Do they feel equally entitled and empowered to speak? Is speaking the most important way to have impact in the world? When is my speech hurting, threatening or excluding others? Do I have a responsibility to care about this?⁸⁴

81. For what is rapidly developing into my screed on what too many lawyers are missing in terms of training, see generally, for example, Nancy B. Rapoport, *Client-Focused Management of Expectations for Legal Fees in Large Chapter 11 Cases*, 28 AM. BANKR. INST. L. REV. 39 (2020).

82. Note that I am not arguing that people shouldn't take offense. The proper response to someone who's said that he or she is offended, though, is *not* "you shouldn't be." Each person is entitled to his or her own reactions to an event.

83. See *supra* note 65 and accompanying text.

84. Hazel Rose Markus, *Listen and Learn, in What Should Free Speech Mean in College?*, *supra* note 29, at 51, 52.

Professors must be aware that simply saying that our students should “just speak up already” isn’t creating the type of environment conducive to real dialogue. Speaking up with classmates who are, by definition, repeat players is an activity fraught with long-term repercussions. And the most inexperienced among us may not yet be skilled at finding the right words to express themselves in a way that’s consistent with their intention not to be hurtful to others.

Of course, law students aren’t the only ones who have to cope with behavior that can cut them to the quick. (And they’re not the only ones who are inartful at choosing their words.) Lawyers face hurtful behavior as well, and far too frequently. An Inn of Court could take on the project of developing a series of coping methods to deal with outrageous statements or behavior, and—if there’s enough demonstrated need—I’m sure that CLE providers would be willing to shoehorn such training into state requirements for professionalism. The point is that our society seems to lack ways to decelerate reactions stemming from outrage, and we are the worse off because we haven’t found enough good ways to decelerate those reactions.

CONCLUSION—CIVILITY TRAINING AS ADVOCACY TRAINING

I often joke that, when I teach professional responsibility, my job isn’t to train people to be more ethical. My job is to scare them into behaving as if they *were* ethical, given the downside that comes with violations of the ethics rules. We could take the same tack with civility training: civility makes people better advocates, and the best lawyers are superb advocates.⁸⁵ Arthur Brooks made a salient point when he provided a self-interested rationale for moving from contempt to civility:

[E]ach of us can make a commitment never to treat others with contempt, even if we believe they deserve it. This might sound like a call for magnanimity, but it is just as much an appeal to self-interest. Contempt makes persuasion impossible—no one has ever been hated into agreement, after all—so its expression is either petty self-indulgence or cheap virtue signaling, neither of which wins converts.⁸⁶

Let’s go back to my Spring 2019 Professional Responsibility course. Each “law firm” (three to four students) had to present on the day’s topic, and because their colleague students provided written feedback, the law firms were aware that they had to be both informative and creative. They were. They developed skits and movies; they created games; and, of course, they came up

85. Yes, even if they’re transactional lawyers, they still have to advocate for their clients’ positions when negotiating deals.

86. Brooks, *supra* note 34.

with PowerPoints.⁸⁷ In their zest to entertain, though, some of those students inserted their own political perspectives into their presentations, without understanding the effect that their perspectives might have had on those fellow students who held different political perspectives. When I had the opportunity to critique their performance, I spoke to them about why their presentations may not have been as effective as they had hoped: by injecting their own political views, they increased the odds that some of their classmates stopped listening to, and thus learning from, them.⁸⁸ For many of the students, that point had not occurred to them. My guess is that the same “aha moment” applies beyond law school. When people offend unintentionally, their typical reactions to understanding what they have done combines mortification and a desire to repair the damage. The kindest thing that those who have been offended can do is to give the mortified offender an opportunity to engage in dialogue.

The “civility as advocacy” approach can help law students in two ways: it can reinforce the need for law students to choose their words carefully in order to keep their listeners’ attention, and it can help law students who have been faced with incivility find ways to manage their own emotions and get a dialogue back on track. By emphasizing that the need to be understood is inextricably linked with the need to understand, perhaps we can create the habit of openness⁸⁹ that will lead to better discourse.

87. Sometimes, I fear that bad PowerPoints will take over the world. Compare Peter Norvig, *The Gettysburg PowerPoint Presentation*, PETER@NORVIG.COM, <https://norvig.com/Gettysburg/> [<https://perma.cc/4SSL-N7S5>] (illustrating a tongue-in-cheek version of the Gettysburg Address in a PowerPoint), with *Yours Is a Very Bad Hotel*, SLIDESHARE (Mar. 30, 2007), <https://www.slideshare.net/politicsjunkie/yours-is-a-very-bad-hotel> [<https://perma.cc/H8LV-P5PP>] (displaying possibly the funniest use of a PowerPoint ever, and it still makes the point that the authors intended to make).

88. *Contra* text accompanying notes 51–52 (discussing the different reactions that students had with Professor Stone using the N-word in class and Professor Sullivan representing Harvey Weinstein).

89. See, e.g., Hellwig, *supra* note 62, at 4.

Appendix A—State (and Some Federal) Civility Rules⁹⁰

Jurisdiction	Source(s)	Mandatory or Aspirational?
Alabama	<ul style="list-style-type: none"> • <i>Code of Professional Courtesy</i>, ALA. ST. B., https://www.alabar.org/office-of-general-counsel/ethics-division/code-of-professional-courtesy/ [https://perma.cc/8XWH-7MEV]. 	Aspirational <ul style="list-style-type: none"> • “This Code is not intended as a disciplinary code nor is it to be construed as a legal standard of care in providing professional services.”
Alaska	No statewide civility standards	
Arizona	<ul style="list-style-type: none"> • ARIZ. SUP. CT. R. 41(g). • ARIZ. SUP. CT. R. 54(i). • ARIZ. SUP. CT. R. 31(a)(2)(E). • <i>Oath of Admission</i>, ST. B. ARIZ., http://www.azbar.org/membership/admissions/oathofadmission [https://perma.cc/GD83-NPAA]. • <i>A Lawyer’s Creed of Professionalism of the State Bar of Arizona</i>, ST. B. ARIZ., https://www.azbar.org/membership/admissions/lawyerscreedofprofessionalism/ [https://perma.cc/8BVS-N9DP]. 	Mandatory <ul style="list-style-type: none"> • Rule 41(g) of the Supreme Court of Arizona says that attorneys shall “avoid engaging in unprofessional conduct.” • Rule 54(i) says that unprofessional conduct, as defined in Rule 31(a)(2)(E), is a ground for disciplinary action. • Rule 31(a)(2)(E) says that unprofessional conduct means substantial or repeated violations of the Oath of Admission to the Bar or the Lawyer’s Creed of Professionalism of the State Bar of Arizona. • The Oath of Admission requires a lawyer to <ul style="list-style-type: none"> ○ “[t]reat the courts of justice and judicial officers with due respect” AND <ul style="list-style-type: none"> ○ adhere to the Lawyer’s Creed of Professionalism. • The Lawyer’s Creed of Professionalism requires a lawyer to be “courteous and civil, both in oral and in written communication.” • Therefore, incivility is a violation of the creed or the oath, which is

90. Compiled by Boyd Law Librarian Youngwoo Ban.

Jurisdiction	Source(s)	Mandatory or Aspirational?
		unprofessional conduct under Rule 31(a)(2)(E) and grounds for discipline under Rule 54(i).
Arkansas	No statewide civility standards	
California	<ul style="list-style-type: none"> • <i>California Attorney Guidelines of Civility and Professionalism</i>, ST. B. CAL., http://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide-Revised_Sept-2014.pdf [https://perma.cc/F2HN-CNAK]. • See <i>Attorney Civility and Professionalism</i>, ST. B. CAL., http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Attorney-Civility-and-Professionalism [https://perma.cc/WJ4M-H4VZ], for more information such as journal articles and civility guidelines for local bar associations. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The introduction section of the <i>Guidelines of Civility and Professionalism</i> says that the guidelines are not mandatory.
Colorado	<ul style="list-style-type: none"> • <i>Colorado Principles of Professionalism</i>, COLO. B. ASS'N, https://www.cobar.org/For-Members/Committees/Professionalism-Coordinating-Council/Principles-of-Professionalism [https://perma.cc/NQ38-RCMB]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The preamble says that “the principles have no coercive enforcement mechanism except those that have existed in our profession since the days of the quill pen and powdered wig: the fundamental commitment of attorneys to conduct themselves and their practices professionally and with integrity.”
Connecticut	<ul style="list-style-type: none"> • <i>Lawyers' Principles of Professionalism</i>, CONN. B. ASS'N, https://www.ctbar.org/docs/default-source/resources/2014_0520_lawyers_principles.pdf?sfvrsn=a63f171 	<p>Aspirational</p> <ul style="list-style-type: none"> • The last paragraph says that “nothing in these principles shall be deemed to supersede, supplement, or any way amend the Rules of Professional Conduct, alter existing standards of

Jurisdiction	Source(s)	Mandatory or Aspirational?
	3_2 [https://perma.cc/49G9-VX8K].	conduct against which lawyer conduct might be judged or become a basis for the imposition of civil liability of any kind.”
D.C.	<ul style="list-style-type: none"> • <i>Voluntary Standards of Civility in Professional Conduct</i>, D.C. B., https://www.dcbar.org/bar-resources/legal-ethics/voluntary-standards-for-civility/index.cfm [https://perma.cc/W3H9-3E59]. • <i>D.C. Bar Voluntary Standards of Civility: Preamble</i>, D.C. B., https://www.dcbar.org/bar-resources/legal-ethics/voluntary-standards-for-civility/preamble.cfm [https://perma.cc/G8G4-F5YS]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The aspirational nature is indicated by the title (“Voluntary Standards”) • The preamble also says that “[w]hile these standards are voluntary and are not intended by the D.C. Bar Board of Governors to be used as a basis for litigation or sanctions.”
Delaware	<ul style="list-style-type: none"> • <i>Principles of Professionalism for Delaware Lawyers</i>, DEL. ST. B. ASS’N, http://media.dsba.org/pdfs/Principles%20of%20Professionalism%20for%20DE%20Lawyers.pdf [https://perma.cc/DU3U-UY9C]. • DEL. LAWYERS’ RULES PROF’L CONDUCT r. 3.5(d) (DISCIPLINARY COUNSEL, SUPREME COURT OF DEL. 2020). 	<p>Aspirational</p> <ul style="list-style-type: none"> • The preamble of the principles says that the principles “shall not be used as a basis for litigation, lawyer discipline or sanctions.” • However, Delaware has a modified version of Rule 3.5(d). It states that a lawyer shall not “engage in conduct intended to disrupt a tribunal <i>or engage in undignified or discourteous conduct that is degrading to a tribunal.</i>” (Delaware added the part in <i>italics</i>.)
Florida	<ul style="list-style-type: none"> • <i>Oath of Admission to the Florida Bar</i>, FLA. B., https://www.floridabar.org/prof/resources/oath-of-admission-to-the-florida-bar/ [https://perma.cc/KG63-CC95]. 	<p>Mandatory</p> <ul style="list-style-type: none"> • In 2013, the Florida Supreme Court issued an order integrating the existing standards of behavior into and as a part of the <i>Code for Resolving Professionalism Complaints</i>.⁹¹

91. *In re Code for Resolving Professionalism Complaints*, 116 So. 3d 280, 281 (Fla. 2013). This order was later amended in 2015 to replace the *Ideals and Goals of Professionalism* with the *Professionalism Expectations*. *In re Amendments to Code for Resolving Professionalism Complaints*, 174 So. 3d 995 (Fla. 2015).

Jurisdiction	Source(s)	Mandatory or Aspirational?
	<ul style="list-style-type: none"> • <i>Creed of Professionalism</i>, FLA. B., https://www.floridabar.org/prof/presources/creed-of-professionalism/ [https://perma.cc/7U5Z-FYZY]. • <i>Professionalism Expectations</i>, FLA. B., https://www-media.floridabar.org/uploads/2017/04/professionalism-expectations.pdf [https://perma.cc/GC36-8SXX]. • <i>Guidelines for Professional Conduct</i>, FLA. B., https://www.floridabar.org/prof/presources/presources002/ [https://perma.cc/3J8B-PQM2]. • <i>Rules Regulating the Florida Bar</i>, FLA. B., https://www-media.floridabar.org/uploads/2019/09/2020_03-SEP-RRTFB-Full-Text-9-19-19.pdf, [https://perma.cc/9ZUY-QH52]. 	<ul style="list-style-type: none"> • The code says that unprofessional conduct means substantial or repeated violations of (1) the Oath of Admissions; (2) the Creed of Professionalism; (3) the Professional Expectations; (4) the Rules Regulating the Florida Bar (“RRFB”); or (5) the decisions of the Florida Supreme Court.⁹² • The code also says that Rule 4-8.4(d) of the RRFB⁹³ is the basis for imposing discipline in instances involving unprofessional conduct.
Georgia	<ul style="list-style-type: none"> • <i>Lawyer’s Creed and Aspirational Statement on Professionalism</i>, ST. B. GA., https://www.gabar.org/aboutthear/lawrelatedorganizations/cjcp/lawyers-creed.cfm [https://perma.cc/7RN2-ZH5F]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • Indicated by the title (“Aspirational Statement”).
Hawaii	<ul style="list-style-type: none"> • <i>Guidelines of Professional Courtesy and Civility for Hawai’i Lawyers</i>, HAW. ST. JUDICIARY, https://www.courts.state.hi.us/docs/court_rules/rules/gpcc.htm [https://perma.cc/VW7N-58N9]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The introductory paragraph says that “[t]he Guidelines are not mandatory rules of professional conduct, nor standards of care, and are not to be used as an independent basis for either disciplinary charges by the Office of

92. *In re Code for Resolving Professional Complaints*, 116 So. 3d at 282.

93. *Compare id.* (containing the Florida version of Rule 8.4(d)), with MODEL RULES OF PROF’L CONDUCT r. 8.4(d) (AM. BAR ASS’N 2019) (defining misconduct as “conduct that is prejudicial to the administration of justice”).

Jurisdiction	Source(s)	Mandatory or Aspirational?
		Disciplinary Counsel or claims of professional negligence.”
Idaho	<ul style="list-style-type: none"> STANDARDS FOR CIVILITY IN PROF'L CONDUCT (IDAHO STATE BAR 2001), https://isb.idaho.gov/wp-content/uploads/standards_for_civility.pdf [https://perma.cc/ST2Y-A44N] (noting adoption by the state bar, the state courts, and the U.S. District Court for the District of Idaho). 	<p>Aspirational</p> <ul style="list-style-type: none"> The preamble says that the standards are “voluntary and not to be used as a basis for litigation or sanctions.”
Illinois	No statewide civility standards	
Indiana	No statewide civility standards	
Iowa	<ul style="list-style-type: none"> <i>Standards for Professional Conduct</i>, IOWA ST. B. ASS'N, https://www.iowabar.org/page/ProfessionalConduct [https://perma.cc/DYF9-UEYM]. 	<p>Aspirational</p> <ul style="list-style-type: none"> The preamble says that “[t]hese standards shall not be used as a basis for litigation or for sanctions or penalties.”
Kansas	<ul style="list-style-type: none"> <i>Pillars of Professionalism</i>, KAN. B. ASS'N, https://www.ksbar.org/page/pillars [https://perma.cc/5A4U-8CH7]. 	<p>Aspirational</p> <ul style="list-style-type: none"> “These Pillars should guide lawyers in striving for professionalism.”
Kentucky	<ul style="list-style-type: none"> <i>Code of Professional Courtesy</i>, KY. B. ASS'N, https://www.kybar.org/page/procourtesy [https://perma.cc/Y783-5MP3]. 	<p>Aspirational</p> <ul style="list-style-type: none"> “This Code is not intended as a disciplinary code nor is it to be construed as a legal standard of care in providing professional services. Rather, it has an aspirational purpose and is intended to serve as the Kentucky Bar Association’s statement of principles and goals for professionalism among lawyers.”
Louisiana	<ul style="list-style-type: none"> LA. SUP. CT. R. § 11 (“Code of Professionalism in the Courts”), http://www.lasc.org/rules/supreme/PartGSection11.asp 	<p>Aspirational</p> <ul style="list-style-type: none"> The preamble says that the standards shall not be used as a basis for litigation or sanctions.

Jurisdiction	Source(s)	Mandatory or Aspirational?
	[https://perma.cc/8Y9Q-66JZ].	
Maine	<ul style="list-style-type: none"> • <i>Guidelines of Professional Courtesy</i>, ME. ST. B. ASS'N, https://www.mainebar.org/page/Guidelines [https://perma.cc/E3F4-U2QQ]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The words “guidelines” and “should” indicate the guidelines’ aspirational nature.
Maryland	<ul style="list-style-type: none"> • MD. ATTORNEYS’ RULES OF PROF’L CONDUCT app. 19-B (MD. STATE BAR ASS’N 2016) (“Ideals of Professionalism”). 	<p>Aspirational</p> <ul style="list-style-type: none"> • “A failure to observe these ideals is not of itself a basis for disciplinary sanctions”
Massachusetts	<ul style="list-style-type: none"> • <i>Civility and Professionalism Guidelines</i>, MASS. B. ASS’N, https://www.massbar.org/docs/default-source/publications-document-library/ejournal/2016-17/civilityandprofessionalismguidelines.pdf?sfvrsn=2 [https://perma.cc/YBE7-Z9T8]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The words “guidelines” and “hope” emphasize these Guidelines’ aspirational nature.
Michigan	<ul style="list-style-type: none"> • MICH. RULES OF PROF’L CONDUCT r. 3.5(d) (MICH. SUPREME COURT 2020). • MICH. RULES OF PROF’L CONDUCT r. 6.5(a) (MICH. SUPREME COURT 2020). 	<p>Mandatory</p> <ul style="list-style-type: none"> • Rule 3.5(d) says that a lawyer shall not “engage in undignified or discourteous conduct toward the tribunal.” • Rule 6.5(a) says that “[a] lawyer shall treat with courtesy and respect all persons involved in the legal process.”
Minnesota	<ul style="list-style-type: none"> • <i>Professionalism Aspirations</i>, MINN. LAW. PROF’L RESPONSIBILITY BOARD OFF. LAWS. PROF’L RESPONSIBILITY, http://lprb.mncourts.gov/LawyerResources/ProfessionalAspirationsDocuments/Professionalism%20Aspirations.pdf [https://perma.cc/43JP-8KJE]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The preamble section says that “[t]hese standards are not to be used as a basis for litigation, lawyer discipline, or court sanctions.”
Mississippi	<ul style="list-style-type: none"> • <i>Lawyers Creed</i>, MISS. B., https://www.msbar.org/ethics-discipline/professionalism/lawyers-creed/ [https://perma.cc/MD4J-NN4C]. • <i>Guidelines for Professional Conduct</i> 	<p>Aspirational</p> <ul style="list-style-type: none"> • The creed “expresses ideals” that attorneys “should aspire” to meet.

Jurisdiction	Source(s)	Mandatory or Aspirational?
	<i>in Litigation</i> , MISS. B., https://www.msbar.org/ethics-discipline/professionalism/guidelines-for-professional-conduct-in-litigation/ [https://perma.cc/VFF5-BWB6].	
Missouri	No statewide civility standards	
Montana	<ul style="list-style-type: none"> • <i>Standards of Professional Courtesy Among Attorneys</i>, ST. B. MONT., https://c.ymcdn.com/sites/montanabar.site-ym.com/resource/resmgr/Attorney_Rules_and_Regulations/Standards_of_PC_Attorney.pdf [https://perma.cc/LF2V-ZQEG]. • <i>Standards of Professional Courtesy to Clients</i>, ST. B. MONT., https://cdn.ymaws.com/www.montanabar.org/resource/resmgr/attorney_rules_and_regulations/standards_of_prof_courtesy_t.pdf [https://perma.cc/TLD5-C6YD]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The standards use words like “try” to indicate that the Standards are aspirational.
Nebraska	No statewide civility standards	
Nevada	No statewide civility standards	
New Hampshire	<ul style="list-style-type: none"> • <i>The New Hampshire Lawyer Professional Creed</i>, N.H. B. ASS’N (2016), https://www.nhbar.org/resources/professionalism-creed [https://perma.cc/9F24-DWU3]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The creed states that New Hampshire attorneys should “aspire” to the points.
New Jersey	<ul style="list-style-type: none"> • N.J. Comm’n on Professionalism, <i>Principles of Professionalism</i>, N.J. ST. B. ASS’N, https://tcms.njsba.com/PersonifyEbusiness/Default.aspx?TabID=2008 [https://perma.cc/7WFV-A34T]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The preamble section says that “[t]he following Principles . . . are aspirational in nature.”
New Mexico	<ul style="list-style-type: none"> • <i>Creed of Professionalism</i>, ST. B. N.M., https://www.nmbar.org/Nmstate 	<p>Aspirational</p> <ul style="list-style-type: none"> • The creed begins with “I will strive.”

Jurisdiction	Source(s)	Mandatory or Aspirational?
	<p>bar/For_Members/Creed_of_Professionalism.aspx [https://perma.cc/6CWC-9LAW].</p>	
New York	<ul style="list-style-type: none"> • The New York State Bar Association has recently updated the <i>Standards of Civility</i>. • Press Release, N.Y. State Bar Ass'n, New York State Bar Association Approves Updated Standards of Civility for NY Legal Profession (Apr. 22, 2019), https://www.nysba.org/CustomTemplates/SecondaryStandard.aspx?id=92845 [https://perma.cc/62B4-H76E]. • Andrew L. Oringer & Robert Kantowitz, <i>Report on Revision of the N.Y. Standards of Civility</i>, N.Y. ST. B. ASS'N (2019), https://www.nysba.org/capstandards/ [https://perma.cc/MFD3-EAEG]. • U.S. Bankruptcy Court for E.D.N.Y. has adopted the Standards of Civility. Press Release, U.S. Bankr. Court E. Dist. of N.Y., U.S. Bankruptcy Court for the Eastern District of N.Y. Adopts New York State Bar Standards of Civility To Govern Practice in All Cases Before the Court (Nov. 2, 2010), https://www.nyeb.uscourts.gov/sites/nyeb/files/standards_of_civility.pdf [https://perma.cc/88NZ-73ST]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The preamble says that the standards are “not intended as rules to be enforced by sanction or disciplinary action.”
North Carolina	<ul style="list-style-type: none"> • N.C. Chief Justice's Comm'n on Professionalism, <i>Lawyer's Professionalism Creed</i>, N.C. JUD. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The creed's use of the word “strive” indicates that it is aspirational.

Jurisdiction	Source(s)	Mandatory or Aspirational?
	BRANCH, https://www.nccourts.gov/commissions/chief-justices-commission-on-professionalism/lawyers-professionalism-creed [https://perma.cc/Y7RB-5ZKH].	
North Dakota	No statewide civility standards	
Ohio	<ul style="list-style-type: none"> Supreme Court Comm'n on Professionalism, <i>Professional Ideals for Ohio Lawyers & Judges</i>, SUP. CT. OHIO (Apr. 2019), http://www.supremecourt.ohio.gov/Publications/AttySvcs/proIdeals.pdf [https://perma.cc/NQC2-PHAS]. The standards include <i>A Lawyer's Creed</i> and <i>A Lawyer's Aspirational Ideals</i>. 	<p>Aspirational</p> <ul style="list-style-type: none"> Entitled "A Lawyer's Aspirational Ideals."
Oklahoma	<ul style="list-style-type: none"> Ethics Counsel, <i>OBA Standards of Professionalism</i>, OKLA. B. ASS'N, https://www.okbar.org/ec/standardssofprofessionalism/ [https://perma.cc/3JH5-L63X]. 	<p>Aspirational</p> <ul style="list-style-type: none"> The preamble says that "[t]he Standards of Professionalism are not intended to be used as a basis for discipline . . . or for establishing standards of conduct in an action against a lawyer."
Oregon	<ul style="list-style-type: none"> <i>Statement of Professionalism</i>, OR. ST. B., https://www.osbar.org/_docs/forms/Prof-ord.pdf [https://perma.cc/FZ3N-JLM9]. 	<p>Aspirational</p> <ul style="list-style-type: none"> The statement says that the officers of the court should "aspire" to meet these standards and gives an option to pledge to meet them.
Pennsylvania	<ul style="list-style-type: none"> 204 PA. CODE §§ 99.1–.3 (2020). 	<p>Aspirational</p> <ul style="list-style-type: none"> Section 99.1 (the preamble) says that "[t]hese principles are not intended to supersede or alter existing disciplinary codes or standards of conduct, nor shall they be used as a basis for litigation, lawyer discipline or sanctions."
Rhode Island	No statewide civility standards	
South Carolina	<ul style="list-style-type: none"> S.C. APP. CT. R. 402(h)(3). S.C. APP. CT. R. 413, 7(a)(6). 	<p>Mandatory</p> <ul style="list-style-type: none"> Rule 402(h)(3) requires an oath that includes civility components.

Jurisdiction	Source(s)	Mandatory or Aspirational?
		<ul style="list-style-type: none"> Rule 413, 7(a)(6) says violation of the oath constitutes a ground for discipline.
South Dakota	No statewide civility standards	
Tennessee	No statewide civility standards	
Texas	<ul style="list-style-type: none"> THE SUPREME COURT OF TEX. & THE COURT OF CRIMINAL APPEALS, THE TEXAS LAWYER'S CREED: A MANDATE FOR PROFESSIONALISM (1989), https://www.texasbar.com/AM/Template.cfm?Section=Ethics_Resources&Template=/CM/ContentDisplay.cfm&ContentID=30311 [https://perma.cc/4PQX-WXJN]. 	<p>Aspirational</p> <ul style="list-style-type: none"> "These rules are primarily aspirational. Compliance with the rules depends primarily upon understanding and voluntary compliance, secondarily upon re-enforcement by peer pressure and public opinion, and finally when necessary by enforcement by the courts through their inherent powers and rules already in existence."
Utah	<ul style="list-style-type: none"> Advisory Comm. on Professionalism, Utah Supreme Court, <i>Utah Standards of Professionalism and Civility</i>, UTAH CTS., https://www.utcourts.gov/courts/sup/civility.htm [https://perma.cc/2P3X-CSGR]. 	<p>Aspirational</p> <ul style="list-style-type: none"> The use of the words "should" and "encourage" indicates that the Standards are aspirational.
Vermont	<ul style="list-style-type: none"> <i>Guidelines of Professional Courtesy</i>, VT. B. ASS'N, https://www.vtbar.org/FOR%20ATTORNEYS/Practice%20Resources/Guidelines%20of%20Professional%20Courtesy.aspx [https://perma.cc/4GUY-ZQNZ]. 	<p>Aspirational</p> <ul style="list-style-type: none"> The use of the words "guidelines" and "should" indicates that the guidelines are aspirational.
Virginia	<ul style="list-style-type: none"> Va. Bar Ass'n Comm'n on Professionalism, <i>Principles of Professionalism</i>, VA. ST. B. (Dec. 22, 2009), https://www.vsb.org/pro-guidelines/index.php/principles/ [https://perma.cc/ZC8W-8943]. 	<p>Aspirational</p> <ul style="list-style-type: none"> The preface says that the principles "shall not serve as a basis for disciplinary action or for civil liability."
Washington	<ul style="list-style-type: none"> <i>Creed of Professionalism</i>, WASH. ST. B. ASS'N, https://www.wsba.org/docs/default 	<p>Aspirational</p> <ul style="list-style-type: none"> The creed states that "this creed is a statement of professional aspiration."

Jurisdiction	Source(s)	Mandatory or Aspirational?
	It-source/resources-services/professionalism/creed-of-professionalism.pdf?sfvrsn=c41539f1_3 [https://perma.cc/KPC5-RHJ6].	
West Virginia	<ul style="list-style-type: none"> W. VA. RULES OF PROF'L CONDUCT pmb1., para. 20 (SUPREME COURT OF APPEALS OF W. VA. 2015), http://www.courtswwv.gov/legal-community/court-rules/professional-conduct/pdf/RulesOfProfessionalConductEngrossedFinal.pdf [https://perma.cc/7TBB-5LXR]. 	<p>Aspirational</p> <ul style="list-style-type: none"> The "scope" section says that "violation of a Rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached."
Wisconsin	<ul style="list-style-type: none"> WIS. SUP. CT. R. 40.15. WIS. SUP. CT. R. 20:8.4(g). WIS. SUP. CT. R. 62.01–.02. 	<p>Mandatory</p> <ul style="list-style-type: none"> Rule 40.15 requires an attorney to take an oath of admission. The oath requires an attorney to "abstain from all offensive personality." Rule 20:8.4(g)⁹⁴ says that violation of the oath constitutes professional misconduct. Rule 62.01⁹⁵ says conduct that violates Rule 40.15 or Chapter 20 is subject to the authority of the Office of Lawyer Regulation. Rule 62.02 requires lawyers to "maintain a cordial and respectful demeanor" and to conduct all proceedings with "civility and respect." Rule 62.01 says Rule 62.02 is not enforceable by the Office of Lawyer Regulation.

94. Wisconsin's *Rules of Professional Conduct* is codified in Chapter 20 of the *Wisconsin Supreme Court Rules*. Rule 20:8:4 is Wisconsin's version of Rule 8.4 of the *ABA Model Rules of Professional Conduct*.

95. Wisconsin's *Standards of Courtesy and Decorum for the Courts of Wisconsin* is a civility rule codified in Chapter 62 of the *Wisconsin Supreme Court Rules*.

Jurisdiction	Source(s)	Mandatory or Aspirational?
		<ul style="list-style-type: none"> But the Wisconsin courts can impose sanctions for incivility. <i>See</i> <i>Aspen Servs., Inc. v. IT Corp.</i>, 583 N.W.2d 849, 851–52 (Wis. Ct. App. 1998).
Wyoming	No statewide civility standards	
Federal District Courts		
N.D. Tex.	<ul style="list-style-type: none"> N.D. Tex. mandated civility within its jurisdiction in <i>Dondi Properties Corp. v. Commerce Savings Loan Association</i>, 121 F.R.D. 284, 287–88 (N.D. Tex. 1988). 	Mandatory
M.D. Ala.	<ul style="list-style-type: none"> STANDARDS FOR PROF'L CONDUCT pml. (M.D. ALA. 1999), http://data.almd.uscourts.gov/docs/professional_conduct.pdf [https://perma.cc/6HZ7-UP74]. 	Aspirational <ul style="list-style-type: none"> “These standards shall not be used as a basis for litigation or for sanctions or penalties. Nothing in these standards supersedes or detracts from existing disciplinary codes or alters existing standards of conduct against which lawyer’s negligence may be determined.”
C.D. Cal.	<ul style="list-style-type: none"> CIVILITY AND PROFESSIONALISM GUIDELINES pml. (C.D. CAL), http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-guidelines [https://perma.cc/LL5E-P68E]. 	Aspirational <ul style="list-style-type: none"> “Nothing in these guidelines supersedes or modifies the existing Local Rules of the Central District, nor do they alter existing standards of conduct wherein lawyer negligence may be determined and/or examined.”
D. Idaho	<ul style="list-style-type: none"> STANDARDS FOR CIVILITY IN PROF'L CONDUCT (IDAHO ST. BAR 2001), https://isb.idaho.gov/wp-content/uploads/standards_for_civility.pdf [https://perma.cc/VHQ9-QU37] (adopting standards for the Idaho State Bar, U.S. District Court for the District of Idaho, and the 	Aspirational <ul style="list-style-type: none"> The preamble says the standards are “voluntary and not to be used as a basis for litigation or sanctions.”

Jurisdiction	Source(s)	Mandatory or Aspirational?
	Courts of the State of Idaho).	
E.D. Mich.	<ul style="list-style-type: none"> • CIVILITY PRINCIPLES pmbl. (E.D. MICH. 2007), https://www.mied.uscourts.gov/PDFFiles/08-AO-009.pdf [https://perma.cc/66JQ-YJNU] (noting addition as an appendix to the local rules). 	<p>Aspirational</p> <ul style="list-style-type: none"> • The preamble says that “[t]hese standards shall not be used alone as a basis for litigation, sanctions, or penalties.”
W.D. Mich.	<ul style="list-style-type: none"> • STANDARDS FOR CIVILITY IN PROF’L CONDUCT pmbl. (W.D. MICH.), https://www.miwb.uscourts.gov/sites/miwb/files/local_rules/Professional-Conduct.pdf [https://perma.cc/TY7J-NSSR]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The preamble says the standards are voluntary.
D. Or.	<ul style="list-style-type: none"> • STATEMENT OF PROFESSIONALISM (D. OR. 2018), https://www.ord.uscourts.gov/index.php/attorneys/statement-of-professionalism#fn1 [https://perma.cc/QZ9N-JLMB]. 	<p>Aspirational</p> <ul style="list-style-type: none"> • The Statement refers to these as “general guidelines.”
E.D. Wash.	<ul style="list-style-type: none"> • E.D. WASH. LOC. CIV. R. 83.1(j), https://www.waed.uscourts.gov/sites/default/files/localrules/LocalCivilRules.pdf [https://perma.cc/SU5S-9GP7]. • The current Rule 83.1(j) provides a concise civility code. <i>Id.</i> • The older version was more detailed. <i>See</i> E.D. WASH. LOCAL CIV. R. 83.1(k) (repealed 2018). 	<p>Mandatory</p> <ul style="list-style-type: none"> • In <i>Johnson v. United States</i>, the court said: “<i>All parties . . . who appear in this court are required to comply with Local Rule 83.1. Parties must act with dignity, integrity, and courtesy in oral and written communications to the court and opposing counsel. It goes without saying that there is a critical distinction between zealous advocacy on behalf of one’s interests, on the one hand, and launching personal attacks at opposing counsel. The court has the inherent authority to sanction parties who violate LR 83.1 or who engage in personal attacks on opposing</i>”

Jurisdiction	Source(s)	Mandatory or Aspirational?
		parties and counsel.” No. CV-09-259-JLQ, 2010 WL 3418243, at *2 (E.D. Wash. Aug. 27, 2010) (second emphasis added).
D. Wyo.	<ul style="list-style-type: none"> D. WYO. LOC. CIV. R. 84.1(a)–(b), https://www.wyd.uscourts.gov/sites/wyd/files/local_rules/localrules-cv_0.pdf [https://perma.cc/3NFT-GDZB]. 	Mandatory <ul style="list-style-type: none"> Rule 84.1(a)(3) says that attorneys shall “treat each other, the opposing party, the Court and members of the court staff with courtesy and civility, and conduct themselves in a professional manner at all times.” Rule 84.1(b) says that the court may sanction those who violate Rule 84.1(a).

Appendix B—A Sampling of Civility Training in Some Law Schools⁹⁶

Law school	Course information
Campbell Law School	The Campbell Law Connections mentor program is a joint endeavor between Campbell Law and the Wake County Bar Association that seeks to provide third year students with “meaningful professional relationships.” <i>Mentorship Program: Campbell Law Connections</i> , CAMPBELL L., https://law.campbell.edu/advocate/mentorship-program/ [https://perma.cc/RNF9-LXYF]. Through these relationships, students gain a “more thorough understanding of the responsibilities and ethics demanded by the practice of law.” <i>Id.</i>
Drake University Law School	A Drake University Law School professor, Professor Weresh, has argued that professionalism and ethics should be part of a legal writing course. Melissa H. Weresh, <i>Fostering a Respect for Our Students, Our Specialty, and the Legal Profession: Introducing Ethics and Professionalism Into the Legal Writing Curriculum</i> , 21 TOURO L. REV. 427, 428–29 (2005). I’m unsure if Drake University Law School has adopted such a program.
Florida Coastal School of Law	The Florida Coastal School of Law “curriculum brings together traditional and new law school courses, along with skills and behavioral training, civility and professionalism, an international perspective and an emphasis on writing borne out of the recognition that the ability to communicate in writing is fundamental to the skills of a lawyer in any venue.” William I. Weston, <i>Changing Paradigms in a New Law School</i> , 8

96. Compiled by Daniel Brady, one of my research assistants at Boyd Law.

	PROF. L. 24, 25 (1997).
George Washington University Law School	<p>Inns of Court/Foundations of Practice Program:</p> <p>The Foundations of Practice Program is a voluntary professional development program that encourages students to take advantage of important resources to supplement their classroom education at every stage of their law school career. . . . The American Bar Association Standing Committee on Professionalism awarded the Foundations of Practice Program the E. Smythe Gambrell Professionalism Award in 2018. . . . The 1L Foundations of Practice Program for first-year law students, which centers on the Inns of Court Program, encourages students to develop a wide array of critical professional skills through Inns of Court sessions, Academic Excellence Workshops, one-on-one conferences with Writing Center Fellows, Career Center workshops and individual counseling sessions, health and wellness programs, cultural competency programs, and advice from practicing attorneys.</p> <p><i>Foundations of Practice</i>, GEO. WASH. L., https://www.law.gwu.edu/foundations-of-practice [https://perma.cc/V4MC-F35J].</p>
Mercer University School of Law	<p>“The Legal Profession” is a required course that covers broad issues of professionalism. Included in the definition of professionalism is the requirement “that a lawyer act with civility in his or her dealings with others.” Patrick Emery Longan, <i>Summary Description</i>, CLARK CUNNINGHAM (2005), http://clarkcunningham.org/Professionalism/Award05/Apps/Longan.htm [https://perma.cc/Y97M-NNJQ].</p>
Rutgers School of Law-Newark	<p>Legal Research and Writing faculty have mentioned embedding civility training into legal writing seminars for first-year law students. Donna C. Chin et al., <i>One Response to the Decline of Civility in the Legal Profession: Teaching Professionalism in Legal Research and Writing</i>, 51 RUTGERS L. REV. 889, 896 (1999). Again, I’m unsure whether this suggestion has been adopted.</p>
Southern Methodist University Dedman School of Law	<p>SMU Dedman School of [Law’s] . . . flagship professionalism initiative is aimed at developing practice-ready, competent and thoughtful lawyers. “Professionalism is a core component of learning at SMU Law, incorporated into the first-year curriculum through a series of required programs,” says Jennifer Collins, Judge James Noel Dean and Professor of Law</p>

	<p>at SMU Dedman School of Law. “Through our Inns of Court program, the Mustang Exchange mentoring program and the Public Service program, the professionalism initiative is designed to ensure that SMU graduates are ethical, compassionate attorneys committed to civility, public service and zealous advocacy on behalf of their clients.”</p> <p><i>SMU Dedman Law Receives American Bar Association Award for Innovation and Professionalism</i>, SMU (June 13, 2017), https://www.smu.edu/News/2017/law-school-award-13june2017 [https://perma.cc/AJK2-H4AG].</p>
<p>University of New Hampshire Franklin Pierce School of Law</p>	<p>Daniel Webster Scholar Program:</p> <p>Students are accepted into the program prior to their second year of law school and discover first-hand what it takes to succeed in today’s legal marketplace. They hone their skills in both simulated and real settings—counseling clients, working with practicing lawyers, taking depositions, appearing before judges, negotiating, mediating, drafting business documents—while creating portfolios of written and oral work for bar examiners to assess every semester.</p> <p>Years in the making, DWS is a collaboration between UNH Law, the New Hampshire Supreme Court, the New Hampshire Board of Bar Examiners and the New Hampshire Bar Association.”</p> <p><i>Daniel Webster Scholar Honors Program</i>, U. N.H., https://law.unh.edu/academics/experiential-education/daniel-webster-scholar-program [https://perma.cc/F3XF-BRU9]; see also Sophie M. Sparrow, <i>Practicing Civility in the Legal Writing Course: Helping Law Students Learn Professionalism</i>, 13 J. LEGAL WRITING INST. 113, 132 n.114 (2007) (discussing the possibility of acting with civility being a bar requirement using a performance-based alternative such as the Webster Scholar Program to evaluate competency).</p>
<p>University of Miami School of Law</p>	<p>The Professional Responsibility and Ethics Program: “The Professional Responsibility & Ethics Program (PREP) is an award-winning program which develops continuing legal education (CLE) ethics training for the legal community.” <i>Professional Responsibility and Ethics Program (PREP)</i>, MIAMI SCH. L., https://www.law.miami.edu/academics/professional-responsibility-and-ethics-program [https://perma.cc/8UBX-CXVH].</p>
<p>William S. Boyd School of Law, University of Nevada, Las Vegas</p>	<p>Joanna A. Medrano & Marcia Levy, <i>Externships: Teaching Civility and Professionalism</i>, U. GA. SCH. L., (2018) https://digitalcommons.law.uga.edu/xconf/2018/Schedule/30/</p>

	[https://perma.cc/C5YE-MBVD] (“We believe that law schools have an obligation to incorporate civility into their curriculum. It is natural that Externship courses should take the lead in this endeavor.”).
University of San Francisco School of Law	Joshua D. Rosenberg, <i>Interpersonal Dynamics: Helping Lawyers Learn the Skills, and the Importance, of Human Relationships in the Practice of Law</i> , 58 U. MIAMI L. REV. 1225, 1234–35 (2004) (describing an “Interpersonal Dynamics for Attorneys” class that Professor Rosenberg teaches at USF School of Law).
Vermont Law School	The General Practice Program allows second- and third-year law students to work with local practitioners to solve problems and then receive a certificate after completion. <i>General Practice Program</i> , VT. L. SCH., https://www.vermontlaw.edu/academics/centers-and-programs/general-practice-program [https://perma.cc/MPB6-VFU9].