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Professionalism and the New Normal

Philip J. Weiser

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Professionalism and the New Normal

by Philip J. Weiser

In today's "New Normal," it is critical for law schools to find ways to foster a sense of professionalism in their students. The University of Colorado Law School promotes professionalism by teaching each student to be a legal entrepreneur and to be a giver.

Nurturing entrepreneurial and exceptional legal professionals is fundamental to the University of Colorado Law School's (Colorado Law) vision of professionalism. Our vision requires our soon-to-be lawyers to take seriously their obligation to serve others. It calls on them to use their education to add value by being creative problem solvers and to serve their communities. Over the course of the three years of law school, we work hard—through a variety of curricular and extracurricular efforts—to develop this sense of professional identity in our students and to prepare them for the “New Normal” of the legal profession. In this article, I will explain Colorado Law's vision of professionalism and strategy for developing lawyers who will thrive in the New Normal.

New Challenges Lead to New Opportunities

As any prospective student can attest, going to law school is a big decision. For one, most law students will take on significant debt. Last year at Colorado Law, for example, 86% of students borrowed funds for their legal education, and the average debt load for graduates was approximately \$100,000. Moreover, the days of large law firms as a major source of employment are over.¹ As explained by *New York Times* columnist Thomas Friedman, today's students live in a “401(k) World” (as opposed to a defined-benefit pension world);² there are more opportunities than ever before, but also no guarantees. In this new professional climate, the onus is on students to seek out and grasp opportunities.

The New Normal of the legal services world was a long time coming, but the Great Recession exposed and amplified the pressures underlying the profession's departure from the “Old Normal.” Law firms and in-house law departments were forced to do more with less, resulting in less entry-level hiring and a dampened ability to train and mentor young associates. The pressure on legal employers has in turn compelled today's students to take initiative and develop their own professional portfolios to demonstrate what they can offer. In other words, it is up to them to make the case to

prospective employers that they will immediately and affirmatively add value.

The New Normal also has intensified the need for law schools to define what is required to be an effective professional in light of the changing legal landscape. At Colorado Law, we believe that the New Normal, with all of its challenges, creates exciting opportunities for our graduates. This perspective reflects our confidence that we can and do support our students in developing a robust sense of professionalism, along with the necessary competencies to thrive.

The Entrepreneurial Lawyer

The foundational attitude that we are developing at Colorado Law is that every law student needs to be an entrepreneur. This attitude means that each professional is responsible for understanding that it is up to himself or herself to “add value”³ to employers, to institutions, and to communities. It is important that our students learn how to be an entrepreneur during law school, because today's opportunities require individuals to provide immediate value to clients through creative problem-solving.

Underlying Colorado Law's entrepreneurial attitude is the belief that a professional is not owed anything as an entitlement. In the Old Normal, some law school students believed—and law schools often indulged the view—that students were entitled to a job (and a well-paying one at that). Unfortunately, the on-campus interviewing model embraced by law schools often reinforced an entitlement mindset. Many students thought, “I did well in high school, so was accepted into college; I did well in college, so I was accepted into law school; and once I do well in law school, I will be hired at a high salary by a law firm.” For many students, this overly simplistic approach to their legal careers, which law schools often tacitly embraced, was a trap because they never reflected on what type of lawyer they wanted to be, how they could serve their clients most effectively, and how they could make a positive impact in the world around them.



About the Author

Philip J. Weiser is Dean of the University of Colorado Law School; Thomson Professor of Law; and Executive Director and founder of the Silicon Flatirons Center for Law, Technology, and Entrepreneurship—(303) 492-3084, phil.weiser@colorado.edu. From 2009–10, he served as a Deputy Assistant Attorney General in the Department of Justice's Antitrust Division, and from 2010–11, he served as the Senior Advisor for Technology and Innovation at the White House's National Economic Council. He has also served as a law clerk to Justice Byron R. White and Justice Ruth Bader Ginsburg at the U.S. Supreme Court, and to Judge David Ebel at the Tenth Circuit Court of Appeals.

Students with an entitlement mentality are unlikely to be entrepreneurial and effective lawyers. After all, if you expect people to give you something, you are not focused on maximizing the value you can provide for others—notably for your client. As a result, those with an entitlement mentality are destined for an uncomfortable reality check, either by not getting the job they thought they were entitled to or by not thriving in (or not being fulfilled by) the job they do get.

A real benefit of the New Normal is that it is at war with an entitlement mentality. If there are far fewer positions available through the on-campus interview process, students are more apt to be entrepreneurs. Additionally, as a result of the decline in such positions, law schools have more of an incentive to engender an entrepreneurial attitude in their students. Given Colorado Law's close relationship with our local entrepreneurship community,⁴ and the fact that our students have long taken advantage of opportunities outside BigLaw, we are well situated to be innovators and leaders in the New Normal.

We at Colorado Law are working hard to be more entrepreneurial and to find ways to raise the value of a law school education and hold or lower the cost. Notably, we have held our tuition flat over the last two years, are increasing scholarship support, and are enhancing our curriculum in important ways. (In dollar terms, we are at \$31,500 for in-state tuition and fees, whereas many other law schools are in the low \$40,000 or even low \$50,000 range.⁵) Over the last two years, we have continued to ask ourselves how we are enabling our students to develop the range of competencies they need to thrive in the New Normal—including analytical and

critical thinking; writing abilities (including an enhanced upper-level program); domain-specific skills (for example, accounting and finance, and technological issues related to information privacy); practical skills (through our nine clinics and a range of practicums); and professional skills (such as working effectively in teams and communicating effectively with clients and colleagues).

The "Give Before You Get" Mentality

The demands of the New Normal and the focus on creating value reinforce the core precept of the profession's ethic of service. In his May 2013 president's message, CBA President Mark Fogg encouraged law school grads to have a "bent toward community service" and to prioritize "being a giver."⁶ Notably, by helping others, lawyers can develop meaningful relationships, spur greater levels of civic engagement, and create stronger community bonds, all of which improve lawyers' physical and emotional well-being. As acclaimed author Robert Putnam found in a recent study, community engagement can help individuals live longer and better,⁷ and helps produce more effective, satisfied, and successful lawyers.

Being a giver and adopting an ethic of service is closely related to what Brad Feld, my friend and fellow professor in Colorado Law's Philosophy of Entrepreneurship class, calls "give before you get."⁸ The idea is that serving others is something that should be done, both as an end in itself—you will feel better for it—and because it will, either directly or indirectly, end up coming back to help you. Since I became Dean of Colorado Law, there is nothing that warms my heart more than hearing about how one student got a job because another student helped him or her make a key connection. That type of generosity pays it forward in powerful ways.

To appreciate the dynamics of "giving before you get," and for an example of how we are innovating our offerings, consider the experience of the nearly thirty law students—most of them first-year students—who volunteered their time to help low-income Hispanic farmers in the San Luis Valley as part of the Acequia Project.⁹ Employing the entrepreneurial initiative that we encourage (which has equal applicability to public service as to startup companies), the students leapt at this opportunity with great enthusiasm. By so doing, they not only served a group in need, but also received top-flight mentoring from some of our state's best water lawyers and land conservation lawyers. This effort, led by our Schaden Chair for Experiential Learning Sarah Krakoff, captures the give-before-you-get principle and provides an instructive example of how Colorado Law is experimenting with new approaches to provide hands-on training to our students, developing a new generation of leaders, and building partnerships between law schools and the bar to confront the New Normal.

Conclusion

At Colorado Law, we believe that fostering professionalism is a major component of what we can do to enable our students to be effective lawyers and to enjoy satisfying careers. As we see it, the two key touchstones of being an effective legal professional are (1) to be an entrepreneur, and (2) to be a giver. These touchstones challenge an entitlement mindset by calling on our students to accept personal responsibility for taking control of their own careers and embracing professional norms focused on service to others.

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As the New Normal continues to reshape the legal profession, the discussion about what professionalism means, and whether and how it creates effective lawyers, also will continue. At Colorado Law, we are committed to leading this discussion so we can continue developing professionals who are devoted to helping others through creative problem solving and who are equipped to thrive in the New Normal. Our goal is not only to develop professionalism among our students, but also to work with the broader legal and business communities to understand and adapt to an ever-changing social and economic environment.

Notes

1. Clay, "2013 Law Firms in Transition: An Altman Weil Flash Survey" (Altman Weil, Inc., 2013), available at www.altmanweil.com/dir_docs/resource/2d831a80-8156-4947-9f0f-1d97eec632a5_document.pdf.
2. Friedman, "It's a 401(k) World," *The New York Times* (April 30, 2013), available at www.nytimes.com/2013/05/01/opinion/friedman-its-a-401k-world.html.
3. See Carlson, "Amazing Career Advice for College Grads from LinkedIn's Billionaire Founder," *Business Insider* (May 12, 2013), available at www.businessinsider.com/amazing-career-advice-for-college-grads-from-linkedins-billionaire-founder-2013-5?op=1 (portraying Reid Hoffman's belief that achieving professional success requires you to find ways to add value to those around you); Friedman, "How to Get a Job," *The New York Times* (May 28, 2013), available at www.nytimes.com/2013/05/29/opinion/friedman-how-to-get-a-job.html?_r=0&pagewanted=print (succinctly explaining the importance of taking professional responsibility for "adding value").
4. The University of Colorado Law School, for example, hosts Startup Colorado, an organization committed to supporting entre-

preneurs. See Startup Colorado, www.startupcolorado.com. In addition, Colorado Law has an Entrepreneurial Law Clinic and offers an interdisciplinary 1L class on the Philosophy of Entrepreneurship (for which local venture capitalist Brad Feld and I collaborate as instructors). Boulder also is a leading center of entrepreneurial activity. See Weiser, "Boulder is for Startups," Office of Science and Technology Policy Blog (May 11, 2011), available at www.whitehouse.gov/blog/2011/05/11/boulder-startups.

5. Consider, for example, that Northwestern University Law School's tuition is almost \$55,000 per year. See Northwestern University Tuition Rates and Expenses, available at www.law.northwestern.edu/admissions/tuitionaid/tuition.

6. See Fogg, "Some Advice for the Law School Graduating Class of 2013 (and Anybody Else Who Will Listen)," 42 *The Colorado Lawyer* 5 (May 2013). See also Weiser, 2013 Commencement Address (May 15, 2013) (transcript available at www.colorado.edu/law/2013/05/15/dean-weisers-2013-commencement-address).

7. Smith, "Relationships Are More Important Than Ambition," *The Atlantic* (April 16, 2013), available at www.theatlantic.com/health/archive/2013/04/relationships-are-more-important-than-ambition/275025, citing Putnam and Helliwell's 2004 study that examined the well-being of people in Canada, the United States, and forty other nations.

8. "Feld Thoughts: Give Before You Get" (Jan. 1, 2013), available at www.feld.com/wp/archives/2013/01/give-before-you-get.html.

9. More details about the Acequia Assistance Project can be found at www.colorado.edu/law/research/getches-wilkinson-center/about-center/acequia-assistance-project. This project benefits greatly from the generous support of leading lawyers like Allan Beezley, Karl Kumli, and Peter Nichols, all of whom are working with the project. ■

QUESTIONS

1. Short answer: What two reasons did the author provide to explain why going to law school in the "New Normal" is such a big decision?
 - a. creates more non-legal job opportunities for lawyers
 - b. creates more legal job opportunities for lawyers
 - c. decreases the number of lawyers entering the legal market
 - d. decreases the number of lawyers leaving the legal market
2. The foundational attitude that the University of Colorado Law School (Colorado Law) fosters in its students is that:
 - a. every law student needs to explore a wide range of practice areas
 - b. every law student needs to be an entrepreneur
 - c. every law student needs to seek out professional mentors
 - d. every law student needs to do a clinic or externship
3. One benefit of the New Normal is that it:
 - a. makes lawyers happier
 - b. is at war with an entitlement mentality
 - c. makes lawyers more successful
 - d. makes lawyers more ethical
4. Which of the following is *not* an example the article provided of a competency required to thrive in the New Normal:
 - a. writing abilities
 - b. analytical and critical thinking
 - c. practical skills
 - d. accounting skills
5. Short answer: What phrase does Brad Feld use that is related to being a giver and adopting an ethic of service?

Answers on page 74.

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by Philip J. Weiser

ANSWERS

1. Compared to students who went through law school in the “Old Normal,” today’s students (1) carry much higher debt loads, and (2) have a lower probability of acquiring employment in a large law firm setting.

2. b: Every law student should be an entrepreneur. Colorado Law operates under the belief that each student should be responsible for acquiring skills that will enable him or her to add immediate value to employers, institutions, and communities through creative problem-solving.

3. b: The New Normal discourages the entitlement mentality and rewards lawyers who adopt an entrepreneurial attitude. Entrepre-

neurial lawyers are more creative about where they search for employment, are more flexible, and work harder than those who expect things to be handed to them.

4. d: Accounting skills. The article gave five specific examples of competencies required to thrive in the New Normal: analytical and critical thinking skills; writing abilities; domain-specific skills; practical skills; and professional skills.

5. “Give before you get.” Brad Feld used this phrase to convey the idea that serving others is something that should be done, both as an end in itself and because it will end up coming back to help you.

The Mentoring Relationship: How to Make it Work and Why it Matters

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Mark A. Fogg, Richard L. Gabriel, and Margrit Lent Parker

ANSWERS

1. c: Partners and associates alike often have become more concerned with billing hours and generating revenue than taking the time to build successful mentoring relationships.

2. d: There are many reasons mentoring is even more important in today’s legal profession. A competitive legal environment has tended to result in a decrease in professionalism and civility. These values are difficult to teach in law school. There is no question that law is becoming even more specialized and the learning curve is becoming ever higher. The legal profession is improved overall when we value diversity and inclusiveness. Diverse mentoring relationships can help lawyers get outside their comfort zones and increase their adaptability skill sets to better serve their clients and the legal system.

3. b: A mentee must be able to tell a mentor in confidence the hopes, aspirations, and vulnerabilities he or she experiences in the legal practice. A mentee must feel secure in the knowledge that the mentor will not judge him or her, that all questions are welcome, and that any disclosures or questions will not be used in the context of a formal review or evaluation.

4. c: Certainly writing a problem down and asking the mentor for alternative strategies is appropriate, but it is key in the development of critical thinking for the mentee to prepare a proposed solution to the problem before coming to the mentor versus simply approaching and stating the problem. A mentor can discuss why it is a good solution or why it may not work, and discuss alternative potential solutions. A mentor also may be pleasantly surprised that the mentee’s suggested solution is one the mentor did not think of.

5. b: One of the strongest motivators in the legal profession is understanding how one’s efforts impact the overall case and assist the client. Because of the increasing complexity of the law, many times, new lawyers are given pieces of cases in isolation, with no idea of what benefit their work provided. As a result, they also have little client contact.

6. c: Successful mentees reflect on the particular areas in which they would like guidance and propose goals to the mentor. This helps to structure the relationship and ensures the mentee will get what he or she believes is needed from the relationship. This also acknowledges that a new lawyer can have several mentors at one time in different areas and that teachable moments always exist.

JLSA—Call for Interested Attorneys

The Jewish Law Students Association (JLSA) at the University of Colorado is compiling a list of attorneys who are interested in being invited to JLSA events, which will include Shabbat dinners, happy hours, a mentor program, and other social and networking opportunities. CBA student members are invited to join at no cost. Contact Abbey Wallach at AWallach19@gmail.com if you would like more information about JLSA or would like to be included on the e-mail list.