

# INDEX

## A

- Accreditation Council for Graduate Medical Education, 130
- Actual Minds, Possible Worlds* (Bruner), 96
- ADR (Alternative Dispute Resolution), 105–106, 112, 113–114
- Advance Legal Ethics course (Mercer University School of Law), 155–156
- Advocacy vs. justice debate, 131–132
- After the JD* study, 76, 87, 106, 137, 188
- American Association of Law Schools, 93
- American Bar Association: Code of Ethics of, 179; ethical-social values promoted by, 129; externships promoted by, 88; JD degree and bar exam requirements of the, 3; legal education accreditation standards of, 91; MacCrate report (1992) by, 93, 113, 136, 173–174, 177, 189, 190; *Model Rules* of, 126, 127, 138, 148, 176; Professionalism Committee of the, 126, 136, 189; reporting on legal competencies, 111; single standard promoted by, 45; on value of negotiation training, 112
- American Bar Association Professionalism Committee, 136, 151, 157
- American Bar Foundation, 51, 76, 189
- American Medical Association, 94
- Amsterdam, A., 41, 42, 43, 97, 103
- Analytical thinking: case theory use of, 123; definition of, 96
- Apprenticeships: definition of, 25; ethical-social, 145–161, 193; expert practice, 28; of identity and purpose, 28; moral development through, 139–140; of professional identity, 129, 132; reappraising learning benefits of, 25–27; three types of professional, 27–29; transmission of expert knowledge through, 98. *See also* Cognitive (or intellectual) apprenticeship; Students
- Apprenticeships of practice: application to legal practice, 98–99; challenges of providing, 95; ethical-social, 145–161, 193; forming professional expertise through, 96–97; as heart of education, 97; using iteration mode for, 99–100; learning sciences used to facilitate, 95–96; legal writing for connecting, 104–106; understanding profession's defining practices through, 100. *See also* Clinical-legal education; Lawyering curriculum; Theory for practice
- “Artificial trust,” 1
- Assessment: appropriate to developing expertise, 171–173; case-based essay examinations used for, 162–163, 167; conceptual knowledge, 164–171; criterion-referenced grading, 168, 170–171; of ethical-social development,

176–180; examinations available on the Internet, 166; as formative pedagogy, 171; grading on the curve, 165–166, 168–170; of lawyering skills, 173–176; medical education, 175; moving toward institutional intentionality, 180–184; pass-fail grading, 169; underdevelopment of student learning, 188–189. *See also* Feedback; Law school faculty; Students Association of American Law Schools, 15, 91, 94, 111  
Athanasίου, T., 116, 160

## B

Baldwin, D. C., 133  
Balin, J., 85  
*Bar Examiner* (Case), 170  
*Basic Contract Law* (Fuller and Eisenberg), 142  
Bebeau, M. J., 133, 134  
Bellow, G., 92, 112  
Benner, P., 118, 119, 160  
Bereiter, C., 108, 179  
Berger, A., 112  
Bergman, P., 102, 103  
*Best Practices for Legal Education* (2006): on case-dialogue method advantages, 57, 76; on clinical-legal education, 111, 120; context-based education theme of, 100, 115, 146; on differentiated assessment approaches, 175; on most effective setting to develop knowledge/skills, 125; recommendations on teaching professional values, 136; research origins of, 197  
Binder, D. A., 102, 103, 122  
“Black letter” law, 24  
Blasi, G., 101  
Bond, L., 15  
Boyer, E., 18, 19  
*the Bramble Bush* (Llewellyn), 77–78  
Brandsford, J. D., 100  
Brown, A. L., 100  
Brown, J. S., 61  
Bruner, J., 42, 43, 96, 97, 103  
Bryant, S., 37  
*Building Community: A New Future for Architecture Education and Practice* (Boyer and Mitgang), 19  
Business education, 193–194

## C

Carnegie Commission on Higher Education, 18, 92  
Carnegie Corporation of New York, 18  
Carnegie Council on Policy Studies in Higher Education, 18  
Carnegie Foundation, 128, 175  
The Carnegie Foundation for the Advancement of Teaching, 15, 18, 44  
Case book, 55–56  
Case, S. M., 170–171  
Case selection, 56  
Case theory: description of, 102, 122; educational use of, 122–124; map-reading analogy to describe, 123; T-funnel technique used for, 103; teaching, 124–125; three steps to, 102–103  
Case-based essay examinations, 162–163, 167  
Case-dialogue instruction: as cognitive apprenticeship, 60–71; developing theory of the case, 102–103; dynamics of dialogue and tactics of, 59–60; teaching the case, 102  
Case-dialogue method: case book used in, 55–56; described, 2–3; *Hawkins v. McGee* used for, 48–49; instructional tactics/dynamics of dialogue in, 59–74; learning to think like a

- lawyer purpose of, 51–54; as legacy and renewable resource, 198–200; origins of, 2–3, 199; pedagogical prototype of, 48–50, 93; possible diminishing returns of, 75–78; as potent form of learning-by-doing, 74–84; problem solving learning using, 199; questions to ask for examining, 47–48; selecting cases for, 56; as signature pedagogy, 24, 50–59, 187–188
- “Ceiling effect,” 133
- Center for Postsecondary Research, 77, 167
- Chesla, C. A., 160
- City University of New York (CUNY): addressing deficits in legal education at, 58; comparing NYU law school to, 43; conceptual/practical integration by, 99; first-year lawyering curriculum at, 34–38, 153–154, 179; integrated program approach used at, 119, 197; legal education mission of, 44, 45; Liberty, Equality, and Due Process course, 154; noteworthy aspects of, 59; studies on approach used by, 76–77
- Classroom instructional tactics: adjusting case dialogue to levels of student preparation, 66–69; expanding the repertoire, 71–74; exploring legal thinking using, 69–71; fitting rules to facts and beyond, 64–66; overview of, 63; shift from doctrinal, 119–120
- Clients: case theory, 102–103, 122–125; *pro bono publico* work for, 138–139, 184; trust between lawyers and, 130–131
- Clinical Law Review*, 94
- Clinical medical training, 192
- Clinical movement: goals of, 111; new emphasis on, 7–12; as part of legal education model, 14.  
*See also* Legal education
- Clinical nursing training, 118–119
- Clinical-legal education: added to scholarship, 7–12; *Best Practices* on value of, 111, 120; case theory, 102–103, 122–125; Dreyfus model of learning expertise in, 116–119, 123; fostering judgment in context through, 119–120, 122; negotiation skill development, 105–106, 111–114; potential of, 120–122; theory for practice used in, 101–124; uniting the three apprenticeships in, 145–161. *See also* Apprenticeships of practice
- Coaching: described, 61, 62; examples of, 65–66; legal writing, 109; of novice toward competence, 117
- Cocking, R. R., 100
- “Code of Lawyering Standards and Responsibilities” (NYU course), 40
- Cognitive (or intellectual) apprenticeship: adjusting case dialogue to levels of student preparation, 66–69; case-dialogue as, 2–3, 24, 48–84, 93, 102–103, 187–188, 198–200; coaching method used in, 61, 62, 65–66, 109–110, 117; cognitive theory applied to, 100–102; described, 28–29; expanding repertoire of, 71–74; exploring legal thinking through, 69–71; fading method used in, 61, 62; fitting rules to facts and beyond for, 64–66; four basic methods listed, 61–62; modeling method used in, 61–62, 109–110, 156–158; scaffolding method used in, 61, 62, 73, 103, 109. *See also* Apprenticeships; Theory for practice
- Cognitive theory, 100–102
- Cohen, M. R., 143
- Colby, A., 15, 135, 180

Collins, A., 61  
*The Common Law and the Case Method in American University Law Schools* (Redlich), 18  
 Complementary (or shadow) pedagogy, 24, 56–59  
 Composition theory, 108  
 Confidentiality issues, 21  
 Context-based education, 100, 115, 146  
 Costello, C. Y., 55  
 Council on Legal Education for Professional Responsibility, 92  
 Cramton, R., 140  
 “Crashing out” legal writing, 98–99  
 Criterion-referenced grading, 168, 170–171  
 Curriculum. *See* Lawyering curriculum

## D

Dahill, L., 128, 183  
 D’Alemberte, T., 167  
 Damon, W., 135  
 Davis, P. C., 39, 40, 42, 57, 200–201  
 “The Development of Professional Identity in Law Students” (Floyd), 156  
 Dinovitzer, R., 1, 44, 76, 87, 106, 137, 138, 139, 188  
 “Doctrine of consideration,” 142–143  
*Dougherty v. Salt*, 143  
 Dreyfus, H., 116, 123, 160  
 Dreyfus model of learning expertise, 116–119, 123  
 Dreyfus, S., 116, 123, 160  
 Duguid, P., 61  
 Dunham, W. P., 198, 199  
 Dunn, T., 134

## E

Ehrlich, T., 15, 18, 92, 93, 180  
 Eisenberg, M. A., 142, 143

Eliot, C., 4, 56  
 Elitism, 150–151  
 Engineering education, 79–80, 152–153  
 Ernest, M., 133  
 Ethical-social apprenticeships: assessing ethical-social development, 176–180; business education and, 193; as continuing education, 160–161; continuum of teaching/learning strategy for, 147; creating professional roles through, 145–147; first-year experiences strategy for, 152–154; legal ethics course as strategy for, 148–151; pervasive method as strategy for, 151–152; professional responsibility/ideals development using, 154–161  
 Ethics: legal ethics courses to facilitate, 148–151, 154, 155–156; original meaning of, 30–31; pervasive method to develop, 151–152. *See also* Moral development  
 Expert practice apprenticeship: described, 28–29; professionalism developed through, 96–97; transmission of knowledge through, 98. *See also* Legal knowledge  
 Expertise: using assessment appropriate for developing, 171–173; Dreyfus model of learning expertise, 116–119, 123; learning from practice, 118–119; moving from novice to, 116–117; moving toward formal knowledge from, 117–118  
 Externships, 88

## F

Faculty. *See* Law school faculty  
 Fading, 61, 62  
 Farago, J., 35, 36  
 Feedback: apprenticeship and role of, 26–27; legal writing, 109; perfor-

- mance improvement through, 171;  
 student comments regarding, 165.  
*See also* Assessment
- Fine, M., 85
- First-year courses: case-based essay  
 examinations of, 162–163, 167;  
 case-dialogue instruction used  
 in, 2–3, 48–84, 93, 102–103,  
 187–188, 198–199, 198–200;  
 classroom instructional tactics for,  
 64–74; CUNY lawyering seminar,  
 34–38, 153–154; CUNY Liberty,  
 Equality, and Due Process, 154;  
 introductory clinical, 120; legal  
 ethics, 148–151, 154, 155–156;  
 legal methods, 106–107; list of  
 common, 63. *See also* Assessment;  
 Lawyering curriculum
- Fisher, R., 113
- Flexner report (1910), 18, 94
- Floyd, D., 155, 156
- Formative education: using assessment  
 as, 171; goal of, 85–86; guided  
 experience or performance focus  
 of, 177; legal education, 84–86;  
 recovering dimension of, 29–33;  
 self-awareness required in, 201
- Foster, C. R., 128, 183
- Frank, J., 94, 189
- Freidson, E., 97
- Fuller, L. L., 142d, 143
- G**
- Galanter, M., 1
- Galbraith, M., 108
- Garth, B., 105, 112–113, 114
- Garvin, D. A., 198, 199
- Getting to Yes* (Fisher, Ury, and Pat-  
 ton), 113
- Gillers, S., 41
- Glendon, M. A., 127, 128
- “Gold standard,” 90–91
- Golemon, L., 129, 183
- Gonzaga University School of Law, 197
- Gonzalez, S., 15
- “Good work” activity, 45n.3
- Grading systems: criterion-referenced  
 grading, 168, 170–171; grading on  
 the curve, 165–166, 168–170;  
 pass-fail grading, 169
- Grossman, P., 119
- Guinier, L., 85
- H**
- Hall, O., 153
- Halpern, C., 36
- Hamline University Law School, 105,  
 106
- Hart, Mr. (*The Paper Chase* charac-  
 ter), 48–49, 62
- Hartwell, S., 134
- Harvard Law School: case-dialogue  
 method origins at, 2–3, 199; grad-  
 ing on the curve origins at, 169;  
 Legal Methods course of, 106–107;  
 legal process course of, 92; modern  
 American law school invented at,  
 4, 56; moot court of, 109
- Hawkins v. McGee* case-dialogue:  
 framing human conflicts of, 53–54;  
 instructor questions framing,  
 52–54; modeling tactic used in, 62;  
*The Paper Chase* (film) use of,  
 48–49; scaffolding instructional  
 tactic used in, 63
- Heinz, J. P., 137
- How People Learn: Mind, Experience,  
 and School* (Bransford, Brown, and  
 Cocking), 100
- Huber, M., 180
- Hutchings, P., 15, 180
- I**
- Identity and purpose apprenticeship,  
 28–29

*In the Interests of Justice* (Rhode), 137  
 Institute for Law School Teaching  
 (Gonzaga University School of  
 Law), 197  
 Institutional intentionality: assessment  
 of, 184; importance of institutional  
 climate for effective, 182–184;  
 moving toward, 180–182  
 Integrative education model: business  
 education and, 193–194; examples  
 from the field on, 197–198; legacy  
 and renewable resource for,  
 198–200; moving toward law  
 school use of, 194–200; NYU  
 and CUNY’s use of, 119, 197;  
 strategies for improving integra-  
 tion, 191–192  
 Intellectual apprenticeship. *See* Cogni-  
 tive (or intellectual) apprenticeship  
 Intentional learning, 179–180  
 Internet examination examples, 166  
*Irrational Exuberance* (Shiller), 193  
 Iteration: used for improving legal  
 skills, 99–100; legal documents  
 produced through, 98–99

## J

*Journal of Legal Education*, 112, 113,  
 114  
 Juris doctor (JD) degree, 2  
 Justice vs. advocacy debate, 131–132

## K

Kerr, C., 18  
 Kingsfield, Professor (*The Paper Chase*  
 character), 23, 48–49, 52, 62  
 Kissam, P., 167, 169  
 Knowledge. *See* Legal knowledge  
 Knowledge telling writing, 108  
 Knowledge transforming writing, 108  
 Kronman, A., 85

## L

Landsman, M., 134  
 Langdell, C. C., 4, 5, 6, 11, 47, 56, 94  
 Lauer, J., 111  
 Laumann, E. O., 137  
 Law and Family Relations (CUNY),  
 35  
 “Law of lawyering,” 135, 148  
 The Law and Practice of Federal Civil  
 Procedure course, 152  
 Law review journals, 93  
 Law School Admissions Council, 15  
 Law School Admissions Test (LSAT),  
 15, 38, 90, 189  
 Law school development: emphasis on  
 formal knowledge/legal analysis in,  
 5–7; invention of American, 4–5;  
 new emphasis on practice, 7–12  
 Law school faculty: feedback from,  
 26–27, 109, 165, 171; modeling  
 positive professional ideals,  
 156–158; as obstacle to change,  
 89–91; skepticism regarding ethical  
 maturity of students, 133–134;  
 “top tier,” 38. *See also* Assessment;  
 Teaching techniques  
 Law school findings: on one signature  
 pedagogy for socialization, 186; for  
 socialization into standards of legal  
 thinking, 185–186; on student  
 improvement incrementally rather  
 than comprehensively, 189–191; on  
 underdevelopment of student learn-  
 ing assessment, 188–189; on unin-  
 tended consequences of signature  
 pedagogy, 187–188  
 Law School Survey of Student Engage-  
 ment study (LSSSE), 75–76, 77,  
 139, 167  
 Law schools: elitism pervading experi-  
 ence of, 150–151; external factors  
 constraining, 33–34; faculty as  
 obstacle to change in, 89–91; find-

- ings on, 185–191; as hybrid institutions, 4–5; institutional intentionality of, 180–184; MacCrate report (1992) on, 93, 113, 136, 173–174, 177, 189, 190; moral development of practitioners by, 132–144; overcoming stigma of trade school, 91–93; rewards of innovation for, 200–202; *U.S. News & World Report* surveys on, 33, 139. *See also* Legal education
- Lawyering curriculum: building bridges to practical, 91–95; case-dialogue method, 2–3, 24, 48–84, 93, 102–103, 198–200; CUNY approach to, 34–38, 43, 44, 45, 58, 59, 76–77, 99, 179; developed to overcome stigma of trade school, 91–93; developing lawyering skills through, 87–89; developing theory for practice as part of, 100–111; Dreyfus model on, 116–119, 123; faculty as obstacle to change in, 89–91; imbalance between cognitive and practical, 89–91; “law of lawyering” approach to, 135, 148; law school journals as part of, 93; legal ethics course, 148–151; movement toward more integrated, 88–89; NYU approach to, 38–43, 44, 58, 76–77, 99, 179, 180; “strategic defects” of, 94. *See also* Apprenticeships of practice; First-year courses; Legal education; Teaching techniques
- Lawyering skills: assessment of, 173–176; Dreyfus model of learning expertise in, 116–119, 123; learning expertise from practice, 118–119; MacCrate report on law school role in, 93, 113, 136, 173–174, 177, 189, 190; moving from novice to expertise in, 116–117; moving toward formal knowledge from expertise, 117–118; negotiation, 105–106, 111–114, 174. *See also* Student learning
- Lawyers: ABA definition of professional, 126–127; as “artificial trust” suppliers, 1; declining public trust in, 30; justice versus advocacy role of, 131–132; learning to think like a, 51–54, 185–186; legal landscape of becoming, 54–56; MacCrate report on law schools and competencies of, 93, 113, 136, 173–174, 189, 190; moral development of, 132–144; problem-solving, 127; public trust/confidentiality of, 21; social regulator role of, 82, 126; tension between advocacy/regulative functions of, 82–84. *See also* Legal profession; Legal thinking
- Lawyers as Counselors: A Client-Centered Approach* (Binder, Bergman, Price, and Tremblay), 102
- Learning from practice, 118–119
- Learning sciences: on apprenticeship as the heart of education, 97; apprenticeship of practice application of, 95–100; *Best Practices* project findings on, 57, 76, 77–78; development of, 95–96. *See also* Student learning
- Legal analysis: formal legal knowledge used in, 5–7; legal educational model use of, 13
- Legal clinics, 159–160
- Legal education: assessment in, 162–184; *Best Practices* (2006) for, 57, 76, 77–78, 100, 111, 115, 120, 136, 146; business education as cautionary tale for, 193–194; case-dialogue method as signature

- pedagogy of, 2–3, 24, 48–84, 93, 102–103, 187–188, 198–200; complementary or shadow pedagogy of, 24, 56–59; in context of other professional education, 78–82; defining the challenge of, 43–45; developing theory for teaching practice, 100–111; external factors constraining, 33–34; findings on strengths and weaknesses of, 185–191; formative dimension of, 29–33, 84–86, 171, 177, 201; “gold standard” of, 90–91; integrative strategy for improving, 191–192, 194–200; medical education compared to, 80–81, 192–193; model for, 12–14, 194–200; new emphasis on practice, 7–12; overcoming stigma of trade school, 91–93; recent calls for change in, 93–95; rewards of innovative, 200–202; unique situation of, 82–84; value of, 2. *See also* Clinical movement; Law schools; Lawyering curriculum; Professional education
- Legal educational model: framework for, 12–14; legal analysis element of, 13; moving toward integrated, 12, 194–200; practical skill element of, 14; professional identity element of, 14
- Legal ethics courses, 148–151, 154, 155–156. *See also* Ethics
- Legal knowledge: apprenticeship transmission of expert, 98; complementary theoretical and practical, 13; expert practice to formal, 117–118; “knowledge telling” and “knowledge transforming” writing, 108; legal analysis and use of formal, 5–7; theory for practice to increase, 103–104; “wisdom of practice” drawing on, 115–117. *See also* Expert practice apprenticeship
- “Legal landscape,” 54–56
- Legal language, 64–66
- Legal Methods course (Harvard), 106–107
- Legal profession: apprenticeship of identity and purpose in, 129, 132; current trends in the, 1; ethical-social values of, 129–131; growing sense of demoralization in, 127–128; justice versus advocacy debate of, 131–132; *Model Rules* of, 126; moral development of, 132–144; trust issue of, 130–131. *See also* Lawyers; Professions
- Legal professionalism: AMA definition of, 126–127; “doing justice” to formation of, 128–132; theory for practice to develop, 103–104; trust and responsibility elements of, 130–131; uniting the three apprenticeships to develop, 145–161. *See also* Professionalism
- Legal thinking: classroom exploration of, 69–71; examining law school development of, 3–4; expanding repertoire of, 71–74; law school socialization into standards of, 185–186; learning, 51–54; learning to “think like a lawyer,” 51–54. *See also* Lawyers; Thinking
- Legal writing: ADR memo, 105–106; using composition theory to teach, 108; connecting apprenticeships through, 104–106; “crashing out,” 98–99; pedagogy of teaching, 109–111; using practice-centered subjects/courses for, 105–106; as simulated practice, 106–108
- Leges sine moribus vanae* (effective laws supported by practice), 30
- Lemann, N., 32
- Liberty, Equality, and Due Process (CUNY course), 154

Llewellyn, K., 44, 77–78, 81, 84, 94, 141, 189  
 Long, V. A., 134

## M

Macatangay, K., 15  
 MacCrate Commission, 136  
 MacCrate report (1992), 93, 113, 136, 173–174, 177, 189, 190  
 McMaster Medical School (Canada), 199  
 McNeel, S. P., 134  
 Mandelbaum, R., 41  
 Martin, J., 105, 112–113, 114  
 Medical education: Accreditation  
   Council for Graduate Medical Education, 130; AMA control of standards of, 94; assessment of, 175; becoming more responsive to public, 182; clinical training as part of, 192; Flexner report (1910) on, 18, 94; using formal knowledge and practice instruction, 6; legal education compared to, 80–81, 192–193; problem-based learning approach used in, 199; simulated practice used in, 107–108; studies on unprofessional attitudes and, 130–131  
 Melden, A. I., 143  
 Menkel-Meadow, C., 114  
 Mertz, E., 51, 52–54, 55, 57, 63, 77  
 Michigan State Medical School, 199  
 Miller, B., 123  
*Minding the Law* (Amsterdam and Bruner), 103  
 Minnich, E., 123–124  
 Mitgang, L. D., 19  
*Model Rules of Professional Conduct* (ABA), 126, 127, 138, 148, 176  
 Modeling: described, 61–62; legal writing, 109–110; professional ideals, 156–158

Moot court, 109  
 Moral development: apprenticeship used for, 139–140, 193; commitment of law schools to, 132–133; experience of students with, 140–142; legal ethics course to facilitate, 148–151; pervasive method for, 151–152; *pro bono publico* work as part of, 138–139, 184; research on, 133–135; through keeping moral and legal in dialogue, 142–144; value of education for, 135–138. *See also* Ethics; Professional ethical engagement  
 Moral obligations, 143–144  
 Morals, 30–31  
 Morgan, T., 157  
 Moulton, B., 112  
 Munro, G., 181–182

## N

Narrative thinking, 123  
 National Association for Law Placement Foundation, 76  
 National Board of Medical Examiners, 171  
 Negotiation skills: ADR (Alternative Dispute Resolution) form of, 105–106, 112, 113–114; assessing proficiency in, 174; clinical movement goal to improve, 111; importance to practice of law, 112  
 Negotiation theory: ADR teaching use of, 105–106; as part of “legal science,” 112–113, 114  
 Nelson, R. L., 137  
*New Directions in Legal Education* (eds. Packer and Ehrlich), 18, 92  
*New York Times*, 193  
 New York University’s (NYU’s) Law School: addressing deficits in legal education at, 58; Code of Lawyering Standards and Responsibilities,

- 179; comparing CUNY law school to, 44; conceptual/practical integration by, 99; first-year lawyering curriculum at, 38–43, 179, 180; integrated program approach of, 119, 197; inviting justices to visit with students, 158; legal education mission of, 44; studies supporting approach used by, 76–77
- Newman, S., 61
- Noonan, J. T., 55
- Norms, 55
- O**
- One L* (Turow), 106
- Osborn, J., 48, 49, 52
- Ostenso, L., 15
- Outcomes Assessment for Law Schools* (Munro), 181
- P**
- Packer, H., 18, 92, 93
- Papadakis, M., 131
- The Paper Chase* (film), 23
- The Paper Chase* (Osborn), 48
- Paradigmatic thinking, 96
- Pass-fail grading, 169
- Patton, B., 113
- Pedagogy: using assessment as formative, 171; Best Practices report's on context-based education, 100; case conference example of, 9–10; case-dialogue prototype, 2–3, 24, 48–84, 93, 102–103, 187–188, 198–200; complementary or shadow, 24, 56–59; developing clinical teaching, 100–111; as heart of human culture, 19; of legal writing, 109–111; *Practicum*, 10; professionalism issues as part of, 14; signature, 23–24, 50–59, 75–78, 186–188; working in role practice, 39–40
- Pervasive method, 151–152
- Philosophical positivism, 5
- “Power track” values, 138
- Practical instruction. *See* Clinical-legal education; Theory for practice
- Practicum* pedagogy, 10
- Preparation for the Professions Program, 15
- Price, S. C., 102, 103
- Pro Bono in Principle and in Practice: Public Service and the Professions* (Rhode), 138
- Pro bono publico* work, 138–139, 184
- Problem-based learning, 199. *See also* Case-dialogue method
- Problem-solving lawyers, 127
- Professional education: apprenticeship approach to, 25–29; defining the challenge of, 43–45; ethics and morals of, 31; formative dimension of, 29–33, 84–86, 171, 177, 201; integrative, 193–200; legal education in the context of, 78–82; signature pedagogies of, 23–24; six tasks of, 22–23; three different axes used to evaluate, 92–93. *See also* Legal education
- Professional ethical engagement, 129. *See also* Moral development
- Professional ideals, 156–158
- Professional identity: apprenticeship of, 129, 132; centrality of, 31; law school development of, 3–4; as legal education model element, 14; moral development aspect of, 132–144; uniting three apprenticeships to create, 145–161
- Professional responsibility: ethics courses to teach, 154–156; modeling professional ideals and, 156–158; significance of trust and, 130–131; simulated practice of, 158–159; strategies for engaging, 158–161; value of education for, 135–138

- Professionalism: “good work” activity as part of, 45n.3; recovering the formative dimension of, 29–33, 84–86, 171, 177, 201; “skillful ethical deportment” of, 119; studies on medical, 130–131; theory for practice to develop, 103–104. *See also* Legal professionalism
- Professionalism Committee of the American Bar Association’s Section of Legal Education and Admissions, 126, 136, 189
- Professions: characteristics of professionals and, 32; contracts between society and, 21; current trends in legal, 1; public trust granted to, 21–22, 30. *See also* Legal profession
- Public trust: granted to selected professions, 21–22; law profession and declining, 30
- Putnam, R. D., 1
- R**
- Rawls, J., 143
- Redlich, J., 18
- Reed, A. Z., 18, 44, 45
- Responsibility. *See* Professional responsibility
- Rhode, D., 30, 137, 139, 149, 151, 183, 184
- Root, E., 45
- Rosin, M., 15
- S**
- Sacks, A. M., 111, 112
- Salt, Dougherty v.*, 143
- Sandefur, R. L., 137
- Sander, R. H., 1
- Scaffolding: case narratives used as, 109; described, 61; examples of, 62, 73; T-funnel technique form of, 103
- Scardamalia, M., 108, 179
- Scholarship Reconsidered* series (1990), 18
- Schwartz, R. L., 154, 155
- Scofield, S. B., 133
- Sedillo Lopez, Antoinette, 121–122
- Self, D. J., 133
- Sexton, J., 42
- Shadow (or complementary) pedagogy, 24, 56–59
- Shiller, R., 193
- Shulman, L. S., 15, 19
- Signature pedagogies: case-dialogue, 2–3, 24, 48–84, 93, 102–103, 187–188, 198–200; described, 23–24; law school socialization using, 186; possible diminishing returns of case-dialogue, 75–78; unintended consequences of, 187–188
- Silver, C., 152
- Simon, W., 131
- Simulated practice: legal writing, 106–108; professional responsibility, 158–159
- “Skillful ethical deportment,” 119
- Socialization of students, 185–186
- Society: contracts between professions and, 21; public trust in professions by, 21–22; variety of roles filled by lawyers, 44, 82–84
- Socratic case-dialogue method. *See* Case-dialogue method
- Solimine, M. E., 94
- Southwestern Law School, 198
- Spencer Foundation, 51
- Steinglass, E. E., 57
- Stevens, R. B., 77, 111
- Stuckey, R., 57, 77, 94, 95, 120, 125, 146, 164, 175
- Student learning: assessment of institutional intentionality and, 184; importance of institutional climate for, 182–184; intentional,

- 179–180; learning from practice approach to, 118–119; problem-based, 199; to think like a lawyer, 51–54, 185–186; toward institutional intentionality and, 180–184; underdevelopment of assessment of, 188–189. *See also* Lawyering skills; Learning sciences
- Students: comments on elitism of law schools, 150–151; comments regarding feedback, 165; grading on the curve impact on, 165–166, 168–170; law school socialization of, 185–186; legal clinic work by, 159–160; moral development of, 132–151. *See also* Apprenticeships; Assessment
- Sullivan, W. M., 4, 15
- T**
- T-funnel technique, 103
- Tanner, C. A., 160
- Teaching techniques: case theory instruction, 124–125; case-dialogue instruction, 2–3, 24, 48–84, 93, 102–103, 187–188, 198–200; coaching, 61, 62, 65–66, 109–110, 117; fading, 61, 62; legal writing instruction, 104–111; modeling, 61–62, 109–110, 156–158; negotiation instruction, 111–124; scaffolding, 61, 62, 73, 103, 109; T-funnel, 103. *See also* Law school faculty; Lawyering curriculum; Theory for practice
- A Theory of Justice* (Rawls), 143
- Theory for practice: cognitive theory applied to, 100–102; composition theory form of, 108–111; developing theory of the case using, 102–103; elements of, 101–102; enriching legal knowledge/professional effectiveness using, 103–104; legal writing application of, 104–111; T-funnel technique application of, 103; teaching negotiation application of, 111–124. *See also* Apprenticeships of practice; Cognitive (or intellectual) apprenticeship; Teaching techniques
- Thinking: analytic or paradigmatic, 96, 123; narrative, 123; professional expertise formation and modes of, 96–97. *See also* Legal thinking
- Tocqueville, A. de, 1
- Tolentino, B. W., 129, 183
- Tomain, J. P., 94
- “Top tier” faculty, 38
- Torrance, M., 108
- Torts, 132
- Training for the Public Profession of the Law* (Reed), 18
- Tremblay, P. R., 102, 103
- Trust issue, 130–131
- Turow, S., 106–107, 109
- U**
- University of Montana Law School, 181
- University of New Mexico, 121
- University of Wisconsin-Madison Law School, 51
- Ury, W. L., 113
- U.S. Bureau of Labor Statistics, 3
- U.S. News & World Report* surveys, 33, 139
- “Using Simulation Exercises for Negotiation and Other Dispute Resolution Courses” (Williams), 112
- V**
- Valler, B., 98–99
- Value-free investigation, 81

**W**

Weber, M., 81  
Wegner, J., 15  
Willing, T., 134  
Williams, E. D., 1  
Williams, G. R., 112  
Wisdom of practice: learning from the,  
115–116; moving from novice to  
expert, 116–117

Wood, B., 167  
“Woozy thinking,” 84  
*Work and Integrity: The Crisis and  
Promise of Professionalism in  
America* (Sullivan), 15  
Working in role practice, 39–40

**Y**

Yale Law School, 120, 168, 184, 197

