What constitutes an effective lawyer? Is it the quality of an attorney’s work or is it the amount of hours billed? Is it the number of profitable client relationships developed by the attorney, his or her win-loss record or client satisfaction?

In September 2008, Professors Marjorie Shultz and Sheldon Zedeck at the University of California, Berkeley, published a study that sought to identify specific characteristics and skills attributable to effective lawyers and how these attributes were integrated into the admissions processes of our law schools. The study included nine years of research and participation from more than 15,750 law students, alumni, faculty, judges and clients.

Traditionally, LSAT scores and undergraduate GPAs have been recognized as valid and reliable predictors of first-year law students’ GPA. The Berkeley study, however, analyzed whether these factors served as predictors of effective lawyering.

The study concluded that “[LSAT scores and undergraduate GPAs] make no effort to predict success in the profession. Nor do most [law] schools attempt to assess the needs of the profession and the citizenry when choosing among applicants.”

In order to predict who will be an effective lawyer, the study considered what effective lawyering entailed.

Participants were asked, “If you were looking for a lawyer for an important matter for yourself, what qualities would you most look for?” From the responses, Shultz and Zedeck identified 26 factors that reflected an attorney’s effectiveness and then separated the factors into general categories.

Five categories

In the first category, the study found that intellectual and cognitive skills were fundamental for effective lawyers. Respondents identified legal analysis, reasoning, creativity, problem solving and practical judgment to be particularly valuable in practice.

The Carnegie Foundation’s extensive 2007 study of legal education — “Educating Lawyers” — found that legal education’s principal emphasis was on a “first apprenticeship,” where law students learn the cognitive skill of “how to think like a lawyer.” However, while cognitive thinking skills are important for effective lawyering, there are other important skills that may serve as better predictors of future effectiveness.

Shultz and Zedeck’s next grouping indicative of effective lawyering was legal research and fact finding. Respondents felt effective attorneys should possess good skills in researching the law, fact finding,
questioning and interviewing. The study also identified organizational skills enhancing the lawyer’s own work to be of particular value to foster more efficient workflow.

In a third category, Shultz and Zedeck found communication skills to be essential attributes of effective lawyers. Respondents placed importance on persuasive communication skills such as influencing, writing and speaking. Furthermore, a lawyer’s ability to listen was distinctly noted to be a desirable attribute.

Respondents also noted that several abilities for effective lawyering could be summarized into the fourth category of conflict resolution. In particular, effective attorneys were those who possessed the ability to negotiate and see the world through the eyes of others. Respondents valued lawyers who could understand not only the lawyer’s own perspective on a specific matter, but also the diverse viewpoints of their clients and adversaries.

The client needs an observant and independent counselor to help the client think through the issues. Counseling skill promotes client trust in and reliance on the attorney-client relationship.

In the fifth category, respondents expressed desires for lawyers to develop strong relationships.

Shultz and Zedeck reported that effective lawyers were those who could build relationships with clients, something that would also lead to client referrals and new business. Respondents suggested that these tasks could also be accomplished through the development of relationships within the legal profession, whether with lawyers, support staff or in mentor relationships with our next generation of legal professionals. Each method provides new opportunities to simultaneously foster relationships and develop prospective business.

Shultz and Zedeck’s second to fifth categories of skills and qualities important for effective lawyering match up with what the Carnegie Foundation called the “second apprenticeship.” During this apprenticeship, students should learn all the skills necessary for lawyering other than cognitive skills and “thinking like a lawyer.”

The Berkeley study’s sixth category of skills necessary for effective lawyering is similar to the Carnegie Foundation’s “third apprenticeship” of an ethical professional identity that informs the use of the skills of the first and second apprenticeships.

Character was the final category indicative of effective lawyers identified by Shultz and Zedeck. Respondents acknowledged the importance of specific traits such as integrity, diligence and even stress management.

Similar to communication skills, respondents felt effective lawyers were those who could relate to the client’s situation and work reliably and honorably for them.

Character provides the foundation for the formation of trust in the client-attorney relationship. It is the lawyer’s duty to maintain, respect and strengthen that trust.
Confirming support

In 2006, the NALP Foundation conducted a study of several thousand associates and 129 managing partners to identify the importance of various factors in the evaluation of associate performance.

The NALP study emphasized the importance of relationships in professional life. Both associates and managing partners ranked the quality of work, client relationships and billable hours to be the most important evaluation criteria. Managing partners, however, placed significantly more importance than associates on not only client relationships, but also relationships with other attorneys and support staff. Community activities, generation of new business and pro bono work ranked as more modest factors for both associates and managing partners.

Both the Berkeley and NALP studies confirm that an effective lawyer provides legal work of very high quality and possesses excellent cognitive skills. Equally important, however, are relationship skills including interviewing, listening, persuasive communication and conflict resolution, including seeing the world through the eyes of others. Relationships must be guided by character for an ethical professional identity to be authentic and to generate trust.

Despite the recognition of the importance of relationship skills, legal education generally fails to help foster the development of these skills. For example, in a study of Minnesota lawyers from 1997 to 1999, Professors John Sonsteng and David Camaretto found that only 13 percent of respondents perceived that law school provided preparedness for an attorney’s ability to obtain and retain clients.

The Sonsteng and Camaretto study reaffirmed the findings of Professors Bryant Garth and Joanne Martin’s 1991 study, which found only 3 percent of respondents viewed law school as the most important source to instill others’ confidence in the attorney. Even more striking, however, was that only 1 percent of respondents viewed law school as the source to learn how to obtain and keep clients.

In light of these studies, legal education has not provided the profession with the resources to develop the relationship skills that are vital to the maintenance and growth of relationships. Lawyers are becoming increasingly aware of the importance of relationships as the cornerstone of their practices. Despite this increasing awareness, the development of these critical skills is being left to the individual lawyer and employers.

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