

**PROFESSIONAL FOUNDATIONS
LAW 180 (Spring 2019)**

**COURSE SYLLABUS
(Adopted by the Faculty Team)**

**WEDNESDAYS 2:35-4:25 p.m.
ROOM 203**

Faculty Team Members:

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Mavrova Heinrich, McGinniss, Myers, Oltz, & Sickler*

Welcome to Professional Foundations (“ProfFound”). This course explores basic issues of professional identity, self-reflection, and judgment as you enter into the legal profession. We provide below a quick reference guide for this syllabus:

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Why This Course Is Important. ProfFound plays a unique role in your legal education. **To start**, after the doctrine-heavy first semester, ProfFound provides broader context for understanding that analyzing legal doctrine is a vital aspect of lawyering, but it is only part of what lawyers do when making legal judgments. **Second**, this course helps prepare you for Professional Responsibility (PR), a required second-year course. To that end, it provides background for understanding the lawyers’ professional conduct rules and ethical decision-making that are key to PR. Those same rules are also tested on the Multistate Professional Responsibility Examination (MPRE), a nationwide exam required for bar admission in almost every state. **Third**, ProfFound helps sets the stage for the six credits of experiential courses that the American Bar Association requires all law students to take before graduating. This course does so by focusing on the professional identity and professional values dimensions of practice and by stressing the interactive and group work that is central to the law school’s externships, clerkships and simulation courses, as well as real-world practice settings. **Finally**, ProfFound will help you explore potential legal career paths, starting with employment decisions you might make concerning your first lawyering summer. In sum, ProfFound acts as a special bridge to your second year and as a firm foundation for your transition to practice after graduation.

Course Goals. ProfFound’s primary course goal is to enhance your ability to develop and employ the habit of professional self-reflection through sessions and interactive exercises designed to explore these core professional qualities of an effective lawyer:

- (1) Adaptability/Dealing with Unpredictability
- (2) Confronting Mistakes
- (3) Courage
- (4) Diligence/Reliability
- (5) Empathy/Compassion
- (6) Generosity/Public-Mindedness
- (7) Honesty/Trustworthiness
- (8) Humility/Respectfulness/Courtesy
- (9) Integrity under Pressure
- (10) Loyalty
- (11) Patience/Perseverance/Resilience
- (12) Professional Objectivity/Sympathetic Detachment

We presume you are familiar with all or most of these core qualities from your personal life experiences. However, the challenge in law school is to explore them in new professional contexts that will test their meaning and limits in unexpected ways. In particular, what may seem like a common sense quality in the abstract (e.g., “being honest”) can take on greater complexity in the law practice environment. For example:

- Professional conduct rules will circumscribe your behavior as a lawyer and put the client’s interests at the forefront of your decision-making process, often in uncertain situations. Acting effectively and appropriately under these conditions may be more difficult than you realize. It will require you to pause and to consider consciously what you are about to do, why you are about to do it, and how your actions (or inactions) will impact yourself and others, especially the client. In these ways, being self-reflective is one of the most important practical lawyering skills, but it takes practice and intentionality given the added demands of professional life.

- Thus, how you “live out” these core qualities in practice may be somewhat different from what you have expected of yourself—and in fact may change over the course of your professional life. The time is *now* to start examining these qualities from professional vantage points as you begin to understand, more deeply, what it really means to be a good lawyer and what psychological and behavioral adjustments may be necessary in order to fulfill that role competently and ethically.

- In this way, ProfFound will not be an abstract examination of professionalism. At its heart will be a series of real-life scenarios raising professional dilemmas involving the core qualities and asking you to confront the questions “What would *I* do, or how would *I* feel, as a lawyer in that situation?” The course complements and supplements the first semester’s emphasis on thinking, writing, and researching about the law in order to help you to develop a more integrated understanding of what it means to be a practicing lawyer who must bring to bear knowledge, skills, and values in spotting the

pertinent issues at stake and solving the problems they present. Exploring realistic lawyering situations will help bring the core qualities to life and reveal not only their complexities and interrelationships, but the necessity of being thoughtful about them as you attempt to square personal and professional skills and values, no matter what professional path you follow after graduation.

Thus, as noted above, a subsidiary course goal is to help you envision a career path that suits your sensibilities and aspirations. Reflecting upon the characteristics of a good lawyer will help you to engage with the meaning of that concept in your own life and to identify the kind of lawyer you may wish to become.

Overall Course Structure. This thirteen (13) week course meets each Wednesday in Room 203 from 2:35 to 4:25 p.m. Professor Julia Ernst is the Course Coordinator. General questions about the course (e.g., the syllabus, attendance, the four required assignments, etc.) should be directed to Professor Ernst. Each weekly session (except Weeks 1, 9, and 13) will be taught by different faculty members. Questions you may have about a specific session should be addressed to the session professor(s) listed on pages 8-11.

Units. This course contains two basic units—professional being (Unit 1), as well as client relationships and practice environments (Unit 2). The first five sessions (Unit 1, Weeks 1-5) concentrate on course basics and the fundamentals of professional life and identity. The following sessions (Unit 2, Weeks 6-12) provide a platform for exploring and personalizing these concepts in a variety of lawyer-client relationships and practice environments, encouraging you to think more specifically about your own career path. The last session (Week 13) will allow for a retrospective look at lessons learned and provide the opportunity for synthesis, sharing, and taking stock of your professional futures through a self-reflective lens.

Individual Weekly Sessions. ProfFound is team-taught largely because the faculty deeply believes in the importance of this course. Each professor is aligned with a session that reflects her or his academic expertise and practical experience in order to heighten the depth and relevance of each class session. In addition, the varied line-up of professors will help to ensure a diverse educational experience and to enforce the notion that being a professional requires adaptability in dealing with different perspectives and approaches.

To capitalize on the richness of this diversity without sacrificing continuity between sessions, the faculty team has developed course session protocols designed to create consistency from week to week. For each session:

- (1) Each professor will post on Blackboard, at least a week before his or her individual session, a REFLECTION QUESTIONS sheet that will list questions especially designed to focus you reflectively on the targeted learning outcomes for that class as they relate to one or more of the twelve core professional qualities. Look under the pertinent Weekly Session Materials tab for this sheet.

(2) In addition, each professor may assign specific session readings (or other “texts” such as films, videos, or podcasts), as well as provide other directions or materials relating to his or her session under the Weekly Session Materials tab.

(3) Each session will incorporate a variety of approaches, which may include interactive exercises, guest speakers, video clips, presentations, and other techniques to help you delve deeply into the concepts addressed in each session. For example, the interactive exercises might include a small group discussion, role-plays, drafting challenges, or other simulated experiences. They are intended to ensure that you actively participate in the learning process, either by voicing your viewpoints, playing a part, critiquing a performance, or helping to create or edit a document. Importantly, these exercises will help you cultivate a reflective professional mindset and habits that are vital to the exercise of sound professional judgment.

Please regularly check the course website for new postings, as you may or may not receive an email notification alerting you to them. If you have questions about Blackboard, please call UND Tech Support (701-777-2222) or use the “IT Service Portal” option on the UND Tech Support website page at <<http://und.edu/tech-support/>>.

Cooperative Learning. The small groups deserve special mention. Before the first class, you will be assigned to a small group of three to four students. A chart with seating assignments by group number will be posted on Blackboard. Then in starting in Week 5 and Week 10, the groups will be scrambled so that you will be able to work closely with, and learn from, other colleagues in your class. The relationships you form in the first year of law school can last a professional lifetime, and this course will help you maximize those invaluable connections.

Small Group Advantages. Learning and working together in small groups provides many advantages. **First**, the emphasis is on cooperation, not competition. The goal of each group member is to improve his or her learning by facilitating the learning of all. **Second**, for some students, localizing discussion takes the fear out of speaking in large classes. It also facilitates fluid dialogue and encourages in-depth exploration of the subject at hand. **Third**, participants are exposed to a variety of perspectives and approaches, so that the collective can produce more textured or multifaceted responses to questions or problems. **Fourth**, each student will have the chance to be engaged personally and actively in the learning. Such engagement is priceless and will provide you with numerous opportunities to practice and develop the interpersonal and communication skills at the heart of professional behavior and expression, especially in law firms, governmental agencies, public interest organizations, and many other practice settings, where group work is often essential. Working with a team also demonstrates the importance of learning from peers (in addition to professors) and asks each of you to take your role in the learning partnership seriously, in part to earn and keep the respect of your future colleagues at the bar, let alone to gain maximum benefit from the course. For helpful hints about maximizing your small group learning, please read and revisit periodically the two-page *Mini-Primer on Successful Small Group Discussions* written especially for this course and found on Blackboard.

Attendance. Since the classroom discussions form the heart of the course, and since the course only meets once per week, the faculty team expects and encourages you to attend every class session throughout the semester. However, we understand that sometimes professionals face circumstances beyond their control. Therefore, if you absolutely must miss a class (in whole or in part), please demonstrate your professionalism by emailing Professor Ernst prior to the class with an explanation of your absence—just as you would notify the judge if you were unable to make a scheduled court appearance. Additionally, by the Sunday after the missed class, please send Prof. Ernst via email a memorandum of at least five (5) full, double-spaced pages answering the Reflection Questions and summarizing the readings and other texts assigned for that class.

Furthermore, if you have a third absence, you must take the following additional actions (in addition to sending Professor Ernst the memorandum concerning the third missed class):

- (1) Send to Professor Ernst via email a justification memorandum of at least one full page (a) reviewing in detail the reasons for each of your absences and (b) explaining in detail why you should not be removed from this course and required to retake it the following spring, to enable you to receive the full benefit of participating in the course,
- (2) Schedule a meeting with Professor Ernst to discuss your absences and whether you will be able to complete the course this semester, and
- (3) Continue attending class until the decision is made as to whether you will be able to complete the course this semester despite your absences.

If you experience extenuating circumstances causing you to miss more than three classes (e.g., a severe illness lasting more than three weeks), in addition to the above requirements you will need to meet with Professor Ernst and Dean Parrish as soon as feasible to discuss those extenuating circumstances and whether you will be permitted to remain enrolled in the course. Students who are withdrawn from the course for any reason must retake it the following year.

Attendance will be taken by a sign-in sheet. So the class is not disrupted by late arrivals, **you must arrive early to sign the attendance sheet and take your seat before the start of class.** Once the class starts, the attendance sheet will no longer be available, and anyone who has not signed the attendance sheet or is not seated and ready to begin class will be deemed absent. You must attend the entire class (i.e., not arrive late nor leave early); otherwise it will be counted as an absence (except to use the restroom briefly midway through class, if needed). When you sign the attendance sheet, you certify the signature is yours and you actually attended the entire class. If you must leave early, you must notify the faculty member teaching that session before class and sign the early departure form at the front of the class before you leave, noting your departure time. Even if you arrive late or leave early, we encourage you to attend as much of the class period as possible, which will be taken into consideration in your justification if you reach three absences.

The faculty team is especially concerned with attendance because this course is built upon active learning and interaction with your colleagues. Thus, your participation is vital to enrich not only your own but also your colleagues' learning experiences. In addition, the attendance rule signifies the importance of the course to your professional development, in addition to emphasizing that punctuality, time management, and keeping commitments entail crucial components of professional behavior.

Technology Respite. The faculty team has adopted a “no technology” policy for this course. Face-to-face interaction is an important part of ProfFound and a critical part of law practice. This is especially true when meeting with clients, who require your undivided attention and the immediacy of your personal presence unmitigated by the physical barriers or distractions of the computer screen or iPhone. You may not use a laptop, iPad, smart-phone, or other technology during class, unless a faculty team member specifically authorized you to do so. You are also not permitted to record class in any way, whether by audio or visual means, or to take photographs in or of class. The one exception to this rule is that you will be required to bring your laptop computer to the final class session in order to complete the on-line course evaluation.

Basic Course Readings. For the opening session on becoming a self-reflective lawyer, please read these articles:

- Joshua E. Perry, *Thinking Like a Professional*, 58 J. LEGAL EDUC. 159 (2008), and
- Daisy Hurst Floyd, *Lost Opportunity: Legal Education and the Development of Professional Identity*, 30 HAMLINE L. REV. 555 (2007).

These readings should be revisited from time to time over the semester as they provide a helpful framework for understanding the course as a whole.

Four Required Assignments. ProfFound will be graded non-anonymously and on a Satisfactory/Unsatisfactory (S/U) basis. We consider this course to be a special opportunity for you to experiment with the critical, creative, and cooperative aspects of your professional selves free from the pressures of a letter grade. To these ends, you will write four (4) reflective essays. You will find these four required assignments on Blackboard under The Four Required Assignments tab. All reflections must be submitted on time; include your name, the date, and the title of the assignment; use Times New Roman 12-point font; be double-spaced with one-inch margins on all sides; use professional grammar, spelling, punctuation, and tone; address different issues from those on which you wrote in the prior essays; and evidence a good faith effort to reflect upon the assigned topic. *Should you receive an unsatisfactory grade on any assignment, Professor Ernst will contact you to address your performance as a prelude to revising and resubmitting your work.*

Each essay must be uploaded to Blackboard as a Microsoft Word or PDF document. To do so, go to “The Four Required Assignments” tab and click on the folder for the corresponding assignment to find the icon to upload your essay. As to those essays:

1. The first is the *Week 1 Essay*, due by **4:00 p.m. on Monday, January 14**. That essay must be at least one (1) full page and no more than two (2) pages in length. The assignment is posted on Blackboard and will be discussed in class.

2. The second is the *Week 2 Essay*, due by **4:00 p.m. on Monday, January 21**. That essay must be at least one (1) full page and no more than two (2) pages in length. The assignment is posted on Blackboard and will be discussed in class. You will receive feedback as a group concerning this essay from Professor Ernst.

3. The third is the *Unit 1 Essay*, due by **4:00 p.m. on Monday, February 11**. That essay must be at least three (3) full pages and no more than four (4) pages in length. Please address the following in your essay:

Describe a situation involving a lawyer—either one addressed in this course or one you now posit to answer this question—where two or more of the core professional qualities (listed on the Syllabus, p. 2) appear to be, or are, in competition with each other. Then explain and analyze the nature of the apparent or real conflict and offer suggestions for either resolving or honoring that conflict. You will receive written feedback on this essay.

4. The fourth is the *Semester Essay*, due by **4:00 p.m. on Thursday, April 18**. In this essay, you must do two things:

(1) *Self-Reflection Defined*. First, define and describe, based on your ProfFound class experiences this semester, what it means to be a self-reflective professional. Use at least one concrete example to illustrate your definition or to show how you have benefitted from being self-reflective about your professional or life experiences. This part of your Semester Essay should be labeled “Self-Reflection Defined” and must be approximately, but not exceed, one full page.

(2) *Key Lessons Learned*. Second, describe the 3 most important lessons about what makes for a good lawyer you have learned as a result of this course. You must reference, in support of your lessons learned, at least 6 of the 12 core professional qualities (listed on the Syllabus, p. 2), using them with respect to any or all lessons learned, citing them by name, and highlighting them in **boldface** type. For the core professional qualities that contain more than one concept (*e.g.*, “Empathy/Compassion”), citing to each of those concepts would be considered a single quality for purposes of this essay. In other words, even if you reference both empathy and compassion, please also be sure to reference qualities from at least 5 of the other categories. This part of your essay should be labeled “Key Lessons Learned” and should be at least 4 full pages, but no more than 5 pages. Thus, the Semester Essay, as a whole, must total at least 5 full pages, but no more than 6 pages.

Study Hint: Throughout the semester, we suggest you take notes about each weekly session and how it relates to the core professional qualities. Making contemporaneous notes will not only give you a head start on your reflective essays, but will also help you to capture pertinent insights while they are fresh in your mind and reinforce the learning related to each session.

This chart summarizes the four required assignments and their due dates:

ASSIGNMENT	DUE DATE	SPECIAL ASPECT
1. WEEK 1 ESSAY (at least 1/no more than 2 pages)	4:00 p.m./Monday, Jan. 14	Focuses on the complexity of core professional qualities and benefits of group discussion
2. WEEK 2 ESSAY (at least 1/no more than 2 pages)	4:00 p.m./Monday, Jan. 21	Group feedback will be provided by Prof. Ernst in a special class session
3. UNIT 1 ESSAY (at least 3/no more than 4 pages)	4:00 p.m./Monday, Feb. 11	Individual feedback will be provided in writing
4. SEMESTER ESSAY (at least 5/no more than 6 pages)	4:00 p.m./Thursday, April 18	Requires (1) self-reflection defined (1 page), and (2) reflections on 3 lessons learned and at least 6 core professional qualities (4-5 pages)

Final Grading/Best Semester Essay Awards. To arrive at your final course grade, the course coordinator, in consultation as appropriate with the faculty team, will consider (1) your satisfactory performance on the cumulative assignments throughout the semester and (2) your satisfactory compliance with the attendance policy. In addition, the course coordinator will determine the three best Semester Essays. Those three students will receive a special certificate acknowledging this commendable achievement.

Accommodations and Academic Resources. A student requesting disability accommodations in this course is expected to be registered with Disability Services for Students in McCannel Hall. Contact the Office of Student Life to request accommodations, discuss medical information, or plan for an emergency evacuation. For additional information about accommodations and academic resources (including the Notice of Nondiscrimination), please explore the link at <http://und.edu/provost/course-resources.cfm>.

Weekly Session Descriptions. Below is the list of weekly sessions, including the professors who will be teaching each session. Questions about the substance of any individual session should be directed to the session professor. General questions about the course (e.g., the syllabus, attendance, assignments, etc.) should be directed to Professor Ernst.

UNIT ONE: PROFESSIONAL BEING

The first five sessions focus on what it means to be a legal professional and provide meaningful opportunities to explore the basic contours of professional identity.

Week 1 **Becoming a Self-Reflective Lawyer**
Jan. 9 **(Professors Julia Ernst & Michael McGinniss)**

This session will start with an overview of the course. Then be ready for an interactive exercise focused on a core professional quality, illustrating its complexity in a practice setting and demonstrating the advantages of seeing that quality from the varied perspectives made possible by small group discussion.

Week 2 **What Does “Law is a Profession” Mean?**
Jan. 16 **(Professor Julia Ernst)**

This session will introduce you to what it means for the law to be a “profession,” the special responsibilities that accompany this societal status, and how you would like to incorporate your own values as a legal professional. We will explore how the legal profession has dealt with challenges, including some facing it today. This session will also enable you to examine—as potential role models—the profiles of influential judges, lawyers, legal educators, and other members.

Week 3
Jan. 23 **Professional and Personal Well-Being as Lawyers**
(Professor Tammy Oltz)

The ABA recently issued a report “emphasizing that well-being is an indispensable part of a lawyer’s duty of competence.”¹ This session will examine key components of professional and personal well-being for legal professionals. It will explore various challenges lawyers may face in maintaining their physical, mental, and emotional health; as well as strategies to enhance your personal and professional well-being throughout your legal career.

Week 4
Jan. 30 **Professional Role: Lawyers as Advisors**
(Professor Margaret Moore Jackson)

This session will examine the role of lawyers as advisors, including counseling their clients about matters relating to business or personal transactions as well as pending or potential litigation, and will introduce several models for client advising. Consideration will be given to the practical and moral challenges lawyers may encounter in exercising independent professional judgment and rendering candid advice to their clients.

Week 5
Feb. 6 **Professional Role: Lawyers as Advocates**
(Professor Kirsten Dauphinais)

This session will examine the evolving role of lawyers as advocates, including representing their clients in matters before tribunals and in negotiations with other parties. Consideration will be given to the practical and moral challenges lawyers may encounter in advocating legal and factual positions on behalf of their clients.

UNIT TWO: PROFESSIONAL RELATIONSHIPS AND PRACTICE ENVIRONMENTS

Building on these foundational concepts, the following sessions will provide you with opportunities to reflect upon your understanding of professional identity and the core professional qualities in a variety of lawyer-client relationships and practice environments. They will also help you prepare for practice life by envisioning a career path that suits your sensibilities and aspirations.

Week 6
Feb. 13 **Organizational Representation and the Legal Professional**
(Professor Grant Christensen)

This session will examine the professional and personal challenges lawyers may encounter in organizational representations, with particular attention to lawyers who serve as in-house counsel for private for-profit or non-profit entities or as counsel to public entities. Consideration will be given to the pro bono legal services such lawyers may provide.

¹ National Task Force on Lawyer Well-Being, February 7, 2018, https://www.americanbar.org/groups/professional_responsibility/task_force_lawyer_wellbeing/.

Week 7
Feb. 20 **Business Representation and the Legal Professional**
(Professor Bradley Myers)

This session will examine the professional and personal challenges lawyers may encounter in the representation of business clients.

Week 8
Feb. 27 **Professional Practice: Private Law Firms**
(Professor Jim Grijalva)

This session will introduce the basic aspects of the practice environment in private law firms, whether large or small, urban or rural, general or specialty. At the discretion of the faculty member, this program may include a guest who currently practices in a private law firm.

Week 9
Mar. 6 **Individual *Roadmap* Consultations with Legal Professionals**
(Professors Julia Ernst & Michael McGinniss with Legal Professionals)

Legal professionals will review your *Roadmap* materials and updated resume before this session and will discuss them with you individually during this class period. Please note: we will have a reception after this session to thank our volunteer legal professionals and to enable you to practice your networking skills and interact with additional members of our legal community.

***** No Class on Wednesday, March 13, Spring Break *****

Week 10
March 20 **Professional Practice: The Judiciary**
(Professor Julia Ernst)

This session will explore various aspects of judicial decision-making, the courtroom environment, and the expectations that judges have of lawyers. At the discretion of the faculty member, this program may include a guest who currently serves as a judicial officer.

Week 11
March 27 **Professional Practice: Government**
(Professor Alexandra Sickler)

This session will introduce you to the basic aspects of the practice environment in a governmental agency or entity. At the discretion of the faculty member, this program may include a guest who currently practices in a governmental agency or entity.

Week 12
April 3 **Professional Practice: Trial Lawyers**
(Professor Denitsa Mavrova Heinrich)

This session will specifically focus on the role of the trial lawyer and illustrate core professional qualities in this context. The session will include trial lawyers from both the private and public sectors, as well as judges, who will share their thoughts and experiences about the realities of professional self-reflection and judgment when facing the demands of trial.

PROFOUND REFLECTIONS

Week 13
April 10 **Conclusion: Foundations for the Future**
(Professors Ernst & McGinniss)

This session will provide an opportunity to reflect on lessons learned throughout the semester and how those lessons have impacted your understanding of yourself as a future lawyer relating to clients and to the community. It will also enable you to look ahead to the rest of your legal education and consider what steps you will take to get the most out of your experiences during law school.