

FACTORS INFLUENCING REFLECTIVE PRACTICE IN U.S. LAW SCHOOLS

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REFLECTION DEFINED

Definition Matters!



CRITICAL REFLECTIVE PRACTICE – REFLECTING ON THE OTHER

- Knowledge
- Systems and structures
- Context

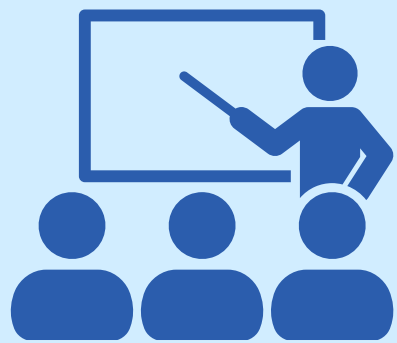


SELF-REFLECTIVE PRACTICE – REFLECTING ON SELF

- Norms
- Feelings
- Judgments, assumptions and bias
- Experience and context

REFLECTION & THE LEGAL ACADEMY

CRITICAL REFLECTIVE PRACTICE: WHERE WE SEE IT



SOME seminars

↑ *INCREASED, THEN DECREASED* ↓

- May be subject of seminar, underlying theme, dedicated class/es, or touched on as arises
- **Examples:** ADR/Mediation, Critical Race Theory, Child Welfare Law, Law and Poverty



SOME first-year courses

↑ *INCREASED, THEN DECREASED* ↓

- May be underlying theme (rare), dedicated class/es, or touched on as arises



Experiential Lawyering

- Clinical legal education - mostly
- Externships (with caveats) - variable

REFLECTION & THE LEGAL ACADEMY

(cont'd)

SELF-REFLECTIVE PRACTICE: WHERE WE SEE IT

1. Clinical legal education (with caveats) - most often
2. Externships (with caveats) - variable
3. LWR - variable
4. **Limited Seminars**



Professionalism and Law



Professional Identity



ADR/Mediation



Professional Foundations



Race and the Law

WHAT ARE THE BARRIERS?



1. Not traditional legal education



2. Lack of time



3. Fear

BARRIER #1

NOT TRADITIONAL LEGAL EDUCATION

HARD TO CHANGE A CULTURE

"Fighting against the tide"
(e.g. MLP)

If not integrated throughout
curriculum, not important

ACADEMIC FREEDOM

Legit or a cover-up?

DON'T KNOW → DON'T DO

"Just because I support it does not mean
I am capable of teaching it"

BARRIER #2

LACK OF TIME

INCREASED ABA REQUIREMENTS

No time to do at all

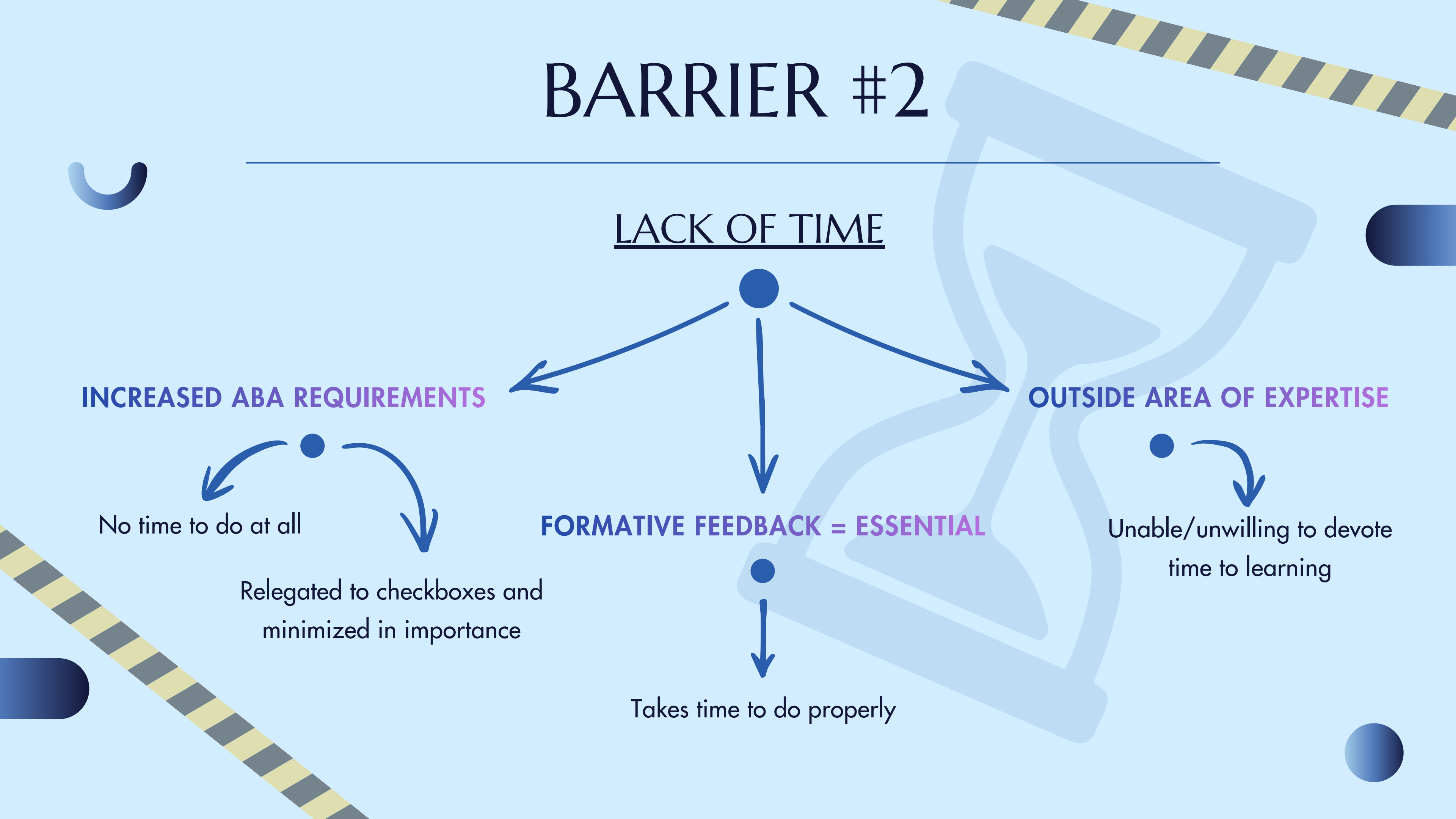
Relegated to checkboxes and
minimized in importance

OUTSIDE AREA OF EXPERTISE

Unable/unwilling to devote
time to learning

FORMATIVE FEEDBACK = ESSENTIAL

Takes time to do properly



BARRIER #3

FEAR

BLURS BOUNDARIES

Between professors and
students

Opens door to TMI

CANCEL CULTURE

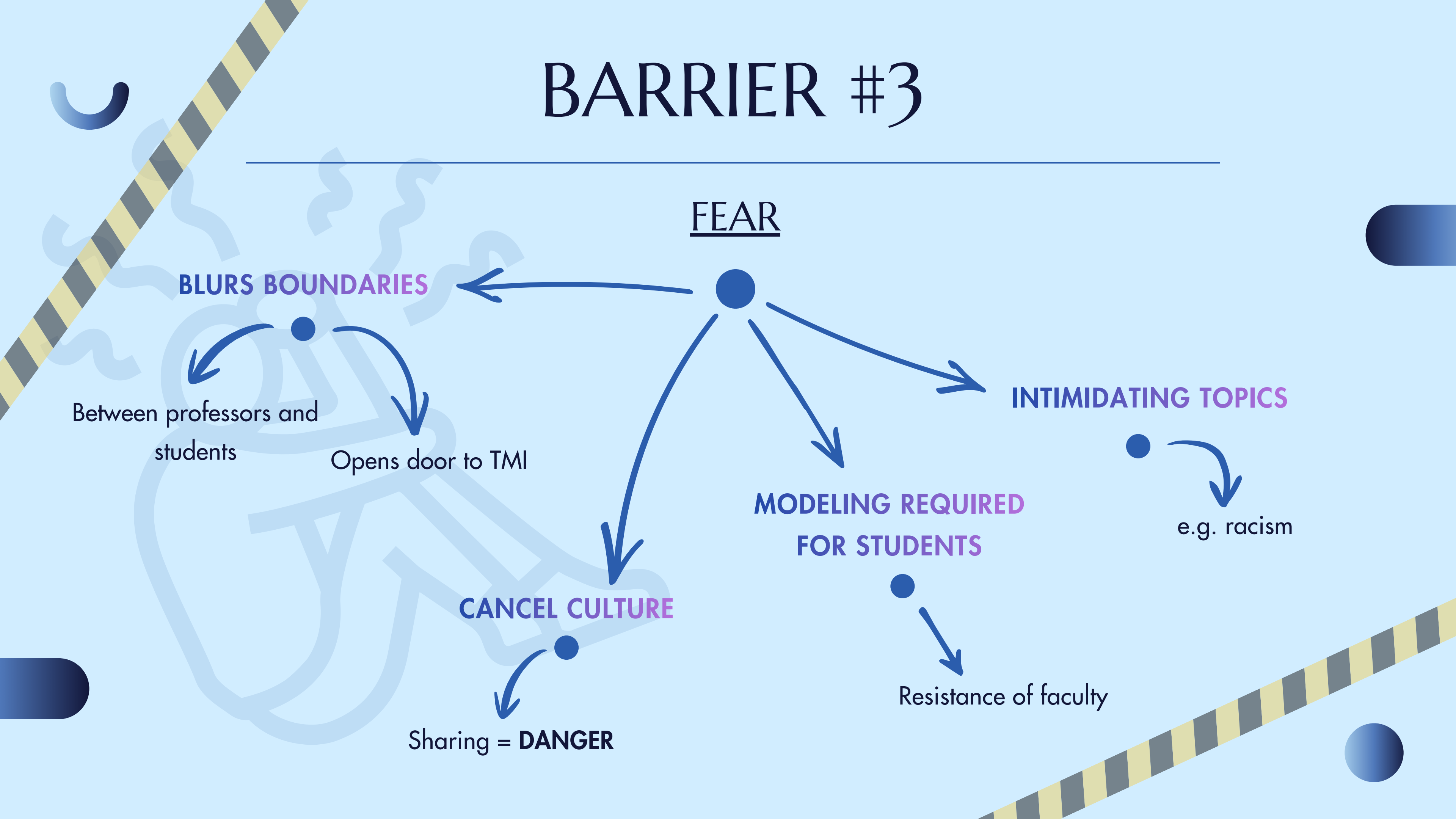
Sharing = **DANGER**

INTIMIDATING TOPICS

e.g. racism

MODELING REQUIRED FOR STUDENTS

Resistance of faculty



BARRIER #4

MISCELLANEOUS

MEDIA

Social media/news feeds

Reinforces rather than encourages
self-questioning and analysis

Career → job

FOCUS SHIFT

Must be integrated/scaffolded
throughout the 3-year curriculum

IT'S COMPLICATED!

ORIGINAL INTENTIONS

Chose law because it is
binary at heart

Reflecting pre, post- and in-action
require different skillsets



SURMOUNTING THE BARRIERS



SIMON SINEK'S "GOLDEN CIRCLE"

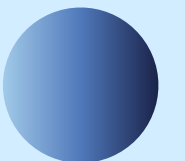
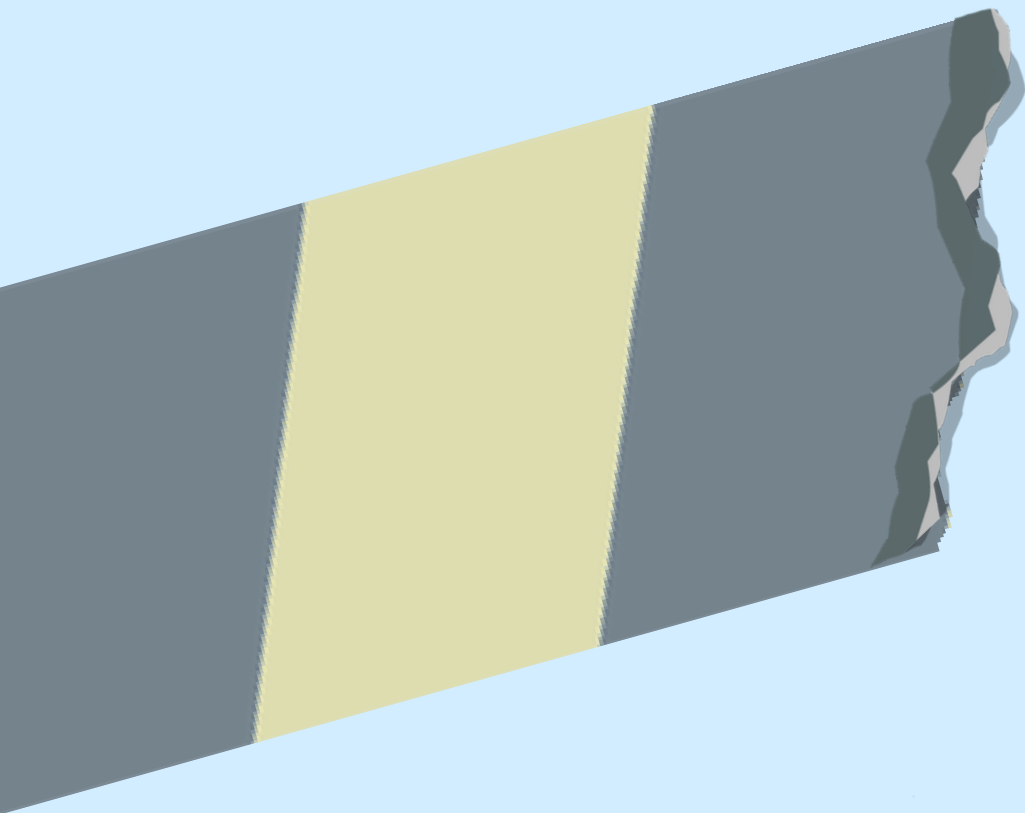
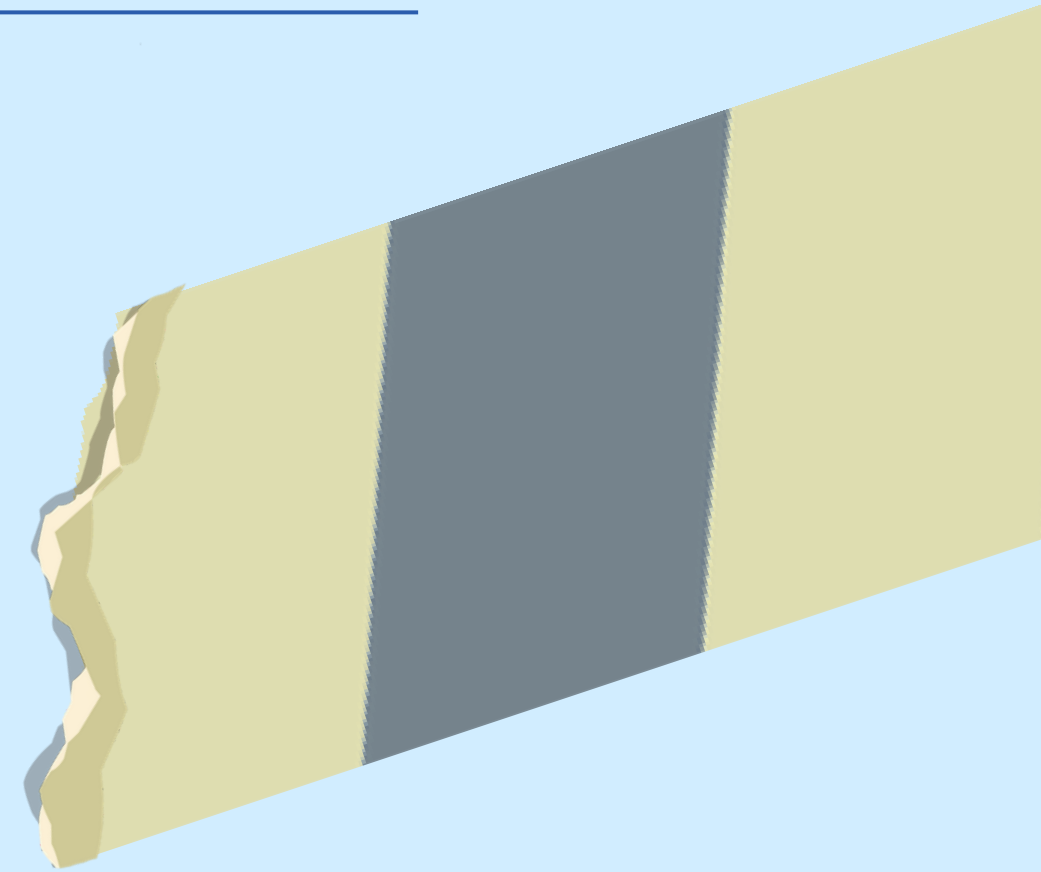
WHY?



HOW?



WHAT?



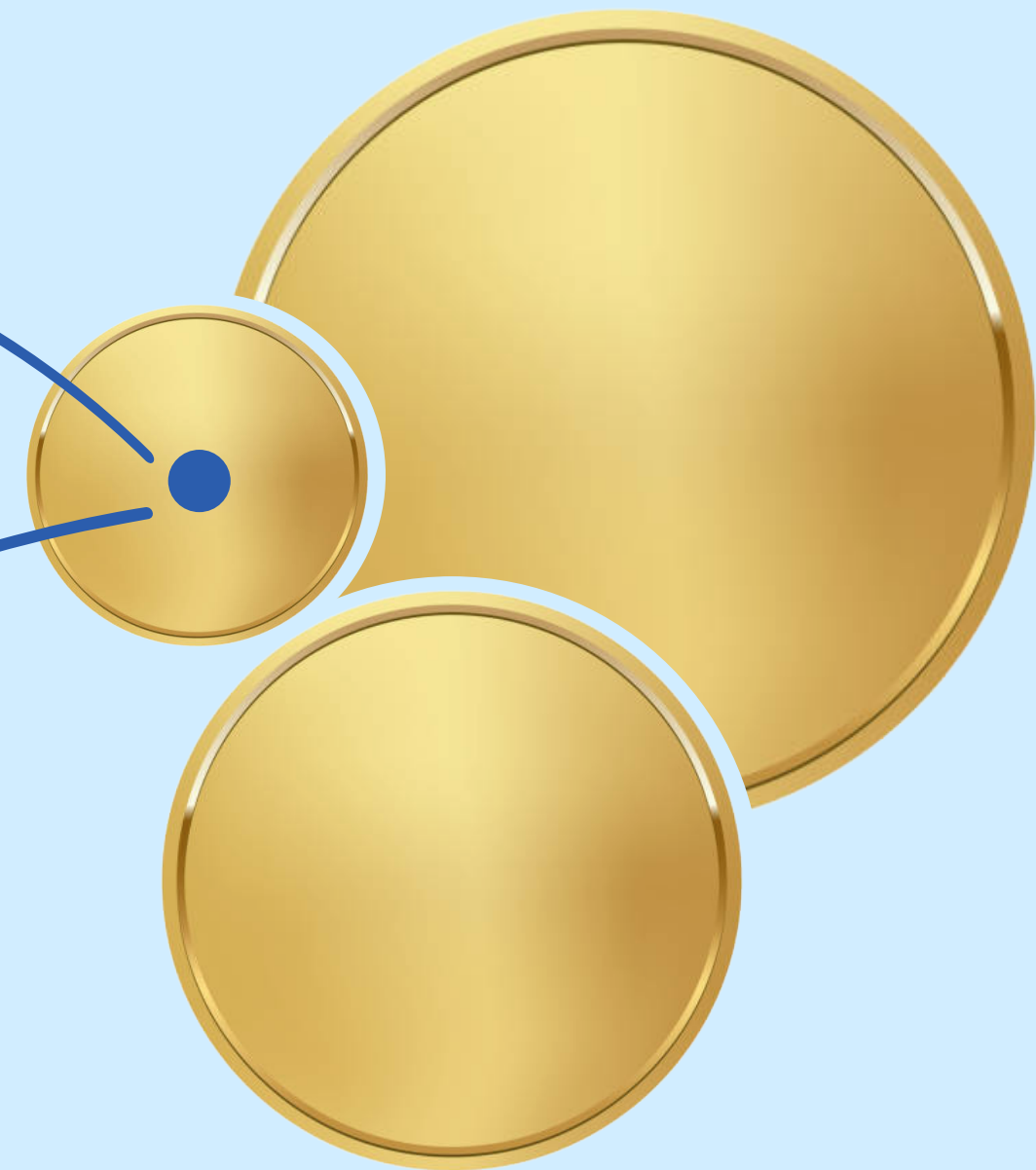
START WITH “WHY?”

FIND COMMON GROUND

- Make connections across difference

WHY SHOULD LAW SCHOOLS TEACH FUTURE LAWYERS REFLECTIVE PRACTICE?

- Is this a skill we believe attorneys should have?
- Why does this matter?



START WITH “WHY?”

REFLECTIVE PRACTICE

Self-awareness Moral development Person-in-context Analysis Collaboration Resilience Communication Questioning

Critical thinking Self-efficacy Self-assessment Empathy Self-directed learner Self-directed learning Professional judgement Insight Ethical growth

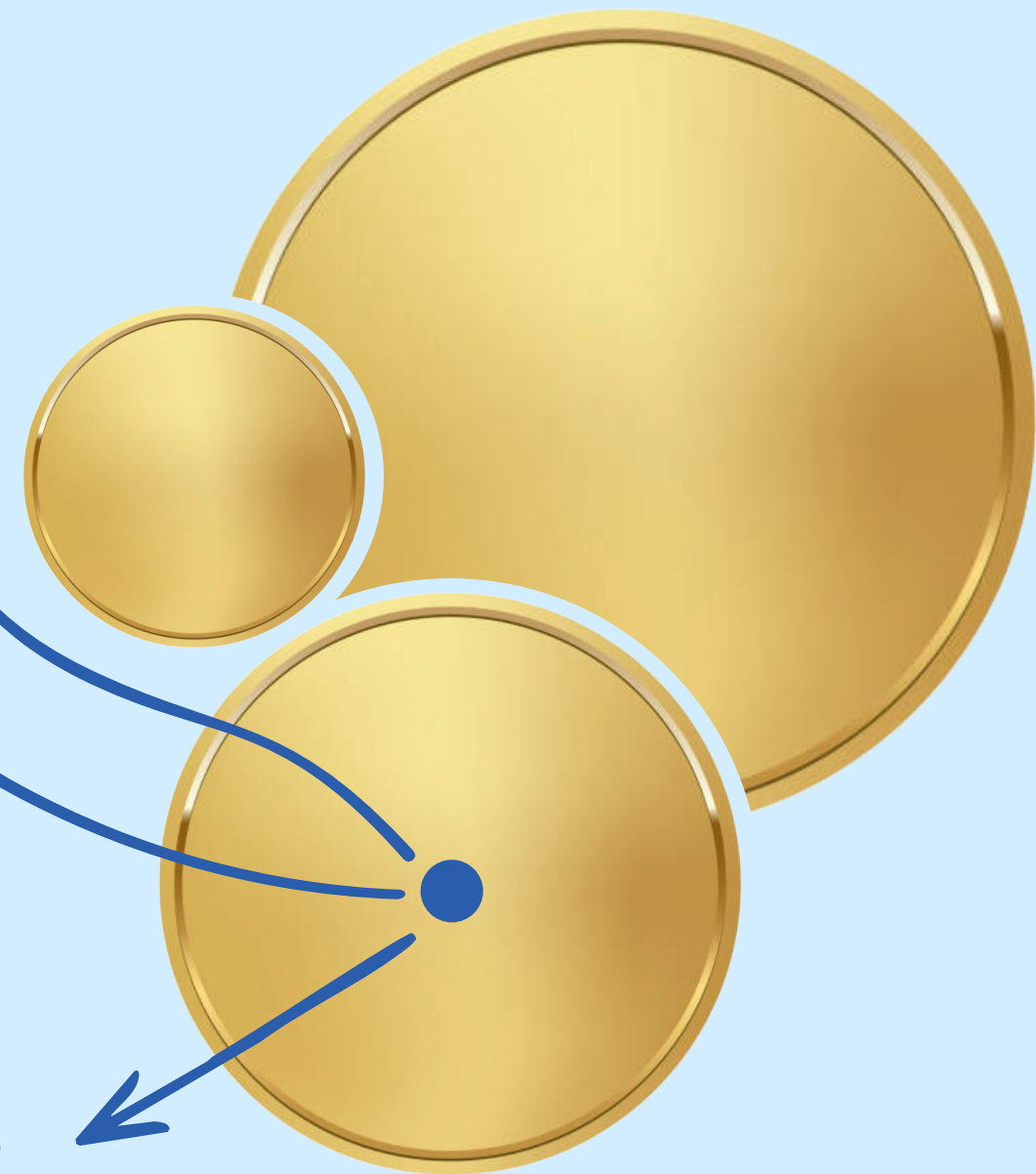
MOVE TO “HOW?”

HOW DO WE ACHIEVE THE “WHY?”

HOW DO WE EFFECTUATE THE “WHY?” AND
TEACH REFLECTIVE PRACTICE?

- Actions
- Processes

HOW HAS THIS EMERGED IN THE UNITED STATES?



MOVE TO “HOW?”

- MacCrate Report , 1992
- Carnegie Report, 2007
- Schultz & Zedick, 2008 & 2011
- Educating Tomorrow's Lawyers Foundation for Practice Report, 2016
- ABA Standards 303 & 304
- Clinical Law Review
- J. of Legal Education
- Next Gen Bar Exam
- Scholarship
- Professional Organizations: AALS, CLEA, SALT



END WITH “WHAT?”

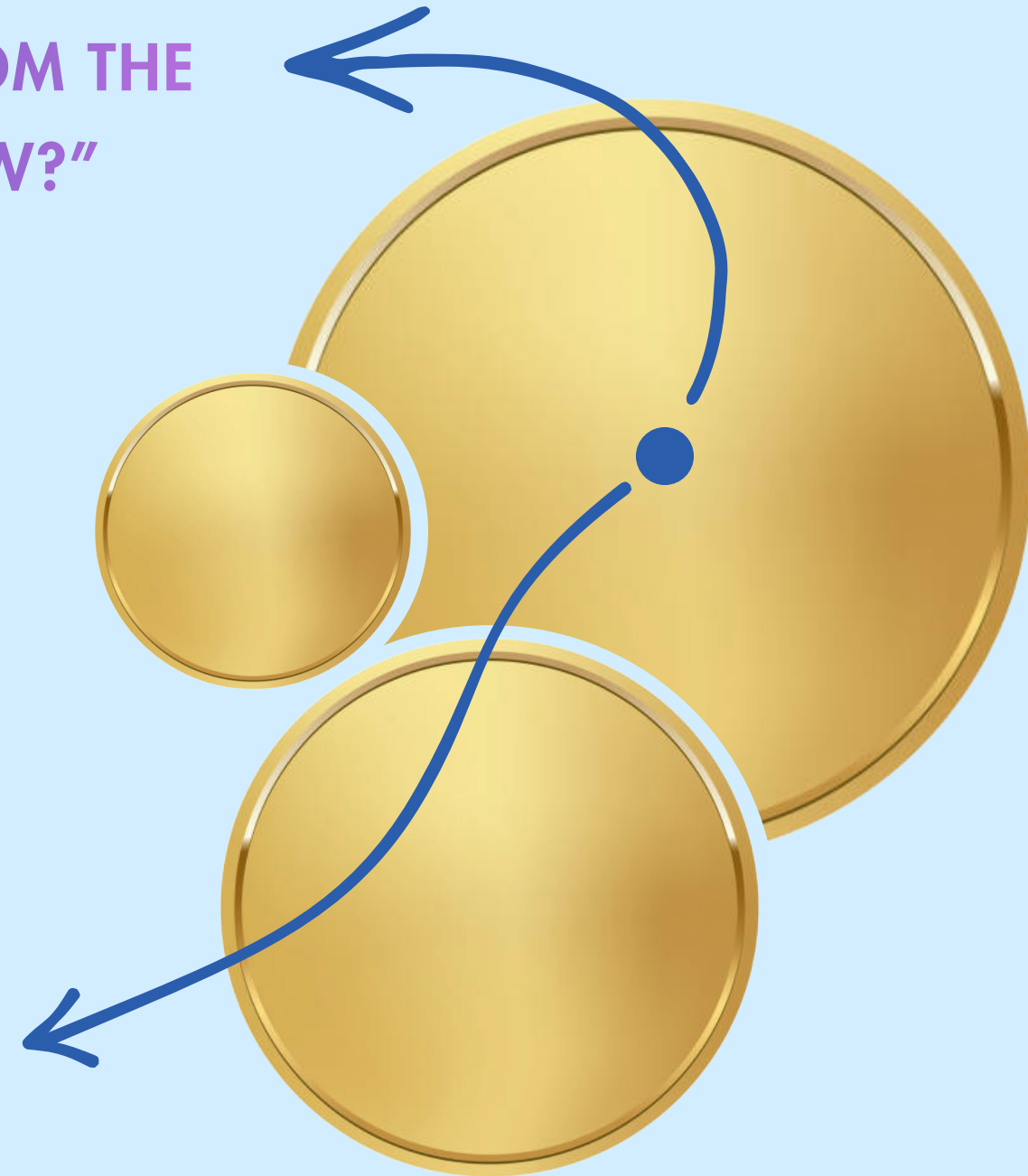
THE “WHAT?” RESULTS FROM THE
“WHY?” AND THE “HOW?”

- It reflects the “Why?” and the “How?”

WHAT?
WOH? YHW?

WHAT CAN/DO WE DO TO TEACH
REFLECTIVE PRACTICE?

- What do U.S. examples have to offer?



END WITH “WHAT?”



CLINICAL LAW PROGRAMS

- Case rounds
- Supervision
- Journals
- Individualized Clinic Plans
- Roleplays & exercises
- Freewrites
- Post-client meeting debriefs
- Process recordings



ELSEWHERE IN LAW SCHOOLS

- Experiential learning sequence - Elon
- Peer Mentoring & Leadership Program - Fordham
- Lawyer Leader Training - Tennessee
- Certificate in Legal Design - Northeastern
- Holleran Center for Professional Identity - St. Thomas
- Professional Identity Formation Program - Richmond
- Reflection journals & “turn & talks” - Yale
- Law justice & reflective practice - Columbia
- Professional foundations - U. North Dakota
- Professional identity - Texas A&M
- **Academic Medical-Legal Partnerships** - e.g. Rutgers

REFLECTIVE PRACTICE & ACADEMIC MLPs



REFLECTIVE PRACTICE IS BOTH:

- Lawyer competency & essential tool for developing lawyer competencies
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ACADEMIC MEDICAL-LEGAL PARTNERSHIPS

- Prime example of how to develop core lawyer competencies through reflective practice, including:

- | | |
|---|--|
| → Critical thinking & analysis | → Legal ethics |
| → Communication | → Collaboration* (with and across disciplines) |
| → Problem solving | → Preventive law* |
| → Professionalism & professional identity development | → Community engagement* |

**Core competencies less often taught in law school*

REFLECTIVE PRACTICE & ACADEMIC MLPs

HEALTH, EDUCATION, ADVOCACY, AND LAW (H.E.A.L.)



- Reflective practice essential to developing competencies
- **BEWARE:** One program becomes competency “kitchen sink”
 - Internalization requires reinforcement across three-year curriculum
- Move increasingly to competency-based, outcome-driven model

THE TIME FOR CHANGE IS NOW.



Where do we go
from here?