**Clinical Legal Education Association**



**HANDBOOK For**

**New Clinical Teachers**

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# WELCOME TO THE CLEA NEW CLINICIANS CONFERENCE

Dear New Clinicians,

On behalf of the Clinical Legal Education Association and the AALS Section on Clinical Legal Education, we congratulate and welcome you to an exciting, rewarding career as a clinical legal educator. Although the Section on Clinical Legal Education and CLEA are separate entities, we share many of the same goals and interests. We hope that you utilize the resources of and participate in both CLEA and the Section throughout your career.

CLEA is an all-volunteer advocacy group and serves as an independent voice for clinicians on critical issues concerning the accreditation of law schools and the participation of clinicians in the academy. These efforts are particularly salient right now, as the Standards for Law School Accreditation are undergoing a comprehensive review. CLEA also serves as a sponsoring organization for new initiatives: for example, it fostered both the Best Practices Project and the New Clinicians Conference. CLEA also sponsors community-building activities, including a Creative Writing Contest and annual awards to clinic students across the country, as well as awards for Outstanding Advocate for Clinical Education and Outstanding Clinic Project. CLEA works largely through its Committees, which form to address pressing issues facing clinical legal education, and welcomes new participants.

The Section on Clinical Legal Education is one of several sections of the Association of American Law Schools (AALS). The AALS is an educational association of more than 170 law schools representing more than 10,000 law faculty. The Section serves a critical “insider’s” function within the AALS to improve legal education from a clinician’s perspective. To that end, the Section supports the collection and dissemination of important data about clinical legal education and advocates for strong AALS responses to issues of concern to clinicians. The Section also provides support for professional development as teachers and scholars via the annual Conference on Clinical Legal Education, the Bellows Scholar Program, annual Works-in-Progress sessions, its sponsorship of regional conferences and programs at annual conferences, a mentoring program, and the Clinicians’ Desk Reference.

CLEA and the Section are separate entities but provide some services jointly. For example, we jointly publish the Clinical Law Review and sponsor the annual Clinical Writers Workshop at New York University each fall. CLEA and the AALS alternate each year in hosting training meetings for new clinical teachers. In odd years, CLEA hosts the New Clinicians’ Conference in conjunction with the AALS Conference on Clinical Legal Education. In even years, the AALS provides a New Clinical Teachers Workshop in conjunction with annual New Teachers’ Conference.

We hope that you will join both CLEA and the AALS Section on Clinical Legal Education. Both offer important ways to connect with the clinical community and to access resources to advance your career as a clinical legal educator. And both will benefit from the new ideas and vision that you, our newest members, bring to the clinical community.

Kate Kruse

CLEA President, 2013

Hamline University School of Law

Elizabeth B. Cooper

2013 Co-Chair, AALS Section on Clinical Legal Education

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# CLEA MISSION STATEMENT AND CLEA/AALS ACTIVITIES

## CLEA MISSION STATEMENT

CLEA exists to advocate for clinical legal education as fundamental to the education of lawyers. CLEA and its members seek to:

* Foster excellent teaching and scholarship by clinical educators;
* Integrate clinical teaching and extend its methods into the legal education program of every law school;
* Reform legal education so as to prepare law students for excellent and reflective law practice;
* Advance regulation of legal education that insures the continued vitality of clinical education in law schools; and
* Pursue and promote justice and diversity as core values of the legal profession.

## CLEA’S GOALS AND ACCOMPLISHMENTS

The Clinical Legal Education Association was founded after several years of discussion among clinical teachers. Membership is open to all people interested in using clinical methodology to prepare law students and lawyers for more effective law practice. Clinical methodology includes supervised representation of clients, supervised performance of other legal work, the use of simulated exercises in a variety of settings. Clinical teaching is designed to teach skills and values necessary to the ethical and competent practice of law.

CLEA was incorporated as a nonprofit corporation in 1992. What follows is a list of some of the principal goals and accomplishments of the organization:

1. **To bring together in one organization all of those involved in clinical education.**  CLEA welcomes as members not only full-time clinical teachers at law schools belonging to the Association of American Law Schools, but also field supervisors, adjunct teachers, faculty at schools outside the U.S., and other people who are involved in clinical education or are interested in its continued development.
2. **To serve as a voice for clinical teachers and to represent their interests inside and outside the academy.** CLEA has been a vigorous advocate for the interests of clinical teachers on a number of issues, including: the ABA’s current comprehensive review of its accreditation standards for law schools; challenging political interference by outside organizations, individuals, and public bodies to the independence of law school clinics; proposed cuts in Legal Services Corporation funding; and estabishment of a uniform law to make admission to practice easier for clinical teachers.
3. **To promote and disseminate clinical scholarship and research.**  CLEA was instrumental in founding the first Journal of Clinical Legal Education, the Clinical Law Review, a peer-review journal which publishes useful and readable articles about improving the teaching of law and the quality of legal practice. Membership in CLEA includes a subscription to the Clinical Law Review.
4. **To foster professional development of clinical teachers.** CLEA organized the first national conferences on externships and on Alternative Dispute Resolution clinical programs and a workshop for newer clinical teachers. In addition, CLEA has provided training on advanced supervision issues for experienced clinical teachers and field supervisors in two geographic regions. Members receive discounts on the cost of CLEA conferences and training.
5. **To gather and distribute to clinical teachers information about issues and developments that affect clinical teachers.** CLEA publishes a newsletter, maintains active telephone and Internet communications, and has sponsored annual salary and demographic surveys of clinic teachers.
6. **To foster the development of clinical methodologies, the integration of clinical methodology into legal education, and the integration of clinical teachers into Law Schools.**  CLEA organized a workshop on the MacCrate report during the 1993 AALS Annual Meeting.

CLEA presently has more than 1,000 members. If you are interested in its mission and goals or would like to contribute by suggesting a new objective to a vital and growing organization, please join.

## ROADMAP: CONNECTIONS BETWEEN CLEA AND THE AALS SECTION ON CLINICAL LEGAL EDUCATION

The Association of American Law Schools (“AALS”) Section on Clinical Legal Education and the Clinical Legal Education Association (“CLEA”) are the two main professional organizations for clinical teachers. This roadmap aims to describe the two organizations and their activities.

The Section on Clinical Legal Education is the official voice of clinicians within the AALS. The Clinical Section presents programs such as the Annual Clinical Conference or Workshop,[[1]](#footnote-1) supports regional conferences, and publishes a newsletter. Because the Section is part of the AALS, it cannot take an independent public position or an active role on public issues without the permission of the AALS Executive Committee. The Section may ask the AALS to take a position but it cannot take a position on its own. Annual membership dues for the Clinical Section are $15 (payable to AALS).

The Clinical Legal Education Association (“CLEA”), founded in 1992, advocates on behalf of clinicians and clinical education in a variety of public forums. CLEA co-publishes the Clinical Law Review, sponsors and supports workshops and conferences, publishes a newsletter, maintains a website with a database of available positions in clinical legal education, and publishes the book Best Practices. CLEA also sponsors the *Per Diem* project each year, to financially support social justice work in the community hosting the AALS Clinical Conference or Workshop.[[2]](#footnote-2) CLEA’s membership dues for individuals are $40 per year; group rates are also available. Membership includes a subscription to the Clinical Law Review.

Together, CLEA and the AALS collaborate closely and their memberships greatly overlap. Both organizations sponsor workshops and conferences, and often the two organizations offer them in a collaborative fashion. For example, the New Clinicians Conference, held every other year, is sponsored by CLEA, but is scheduled immediately before the AALS Clinical Conference or Workshop.

Both CLEA and the Clinical Section maintain committees to address various issues affecting clinical teachers, such as the ABA accreditation standards, the status of clinicians, and political interference. CLEA also maintains a comprehensive history of advocacy materials on its website, including *amicus* briefs.

Both organizations sponsor and support the Clinical Law Review, a semi-annual, peer-edited journal devoted to issues of lawyering theory and clinical legal education. The Clinical Law Review is also co-sponsored by NYU Law School. The Review welcomes unsolicited articles, as well as essays, comments, and other short pieces on lawyering, clinical teaching, legal practice, or related subjects.

Both CLEA and the Clinical Section support the Center for the Study of Applied Legal Education (CSALE), a non-profit corporation dedicated to the empirical study of applied legal education and the promotion of related scholarship. CSALE’s website, with survey data on developments in applied legal education (including program design, capacity, and administrative support), can be found at [www.csale.org](http://www.csale.org).

With many similarities, you may be wondering: Why do we need two organizations and what are the differences between them? One major difference is the ability of each organization to take an independent public position or an active role on public issues. The Clinical Section, as part of the AALS, is limited by the fact that it is part of a larger organization, and it must therefore seek approval for any public actions and statements. As a freestanding entity, CLEA may take action on an issue, including stating its positions publicly, as long as the action or public statement has been approved by its member-elected Board of Directors.

Another difference between the two organizations is the ability of clinicians to become members. Membership in the AALS Clinical Section is limited to faculty at schools that are members of fee-paid associates of the AALS. CLEA membership is not restricted in this way. Those who teach in foreign countries and at non-AALS member schools are eligible to join, as well as adjunct professors and supervisors in field placement programs who are not full-time employees of a law school.

RESOURCES FOR NEW CLINICIANS

TAXONOMY OF CLINICAL PROGRAM DESIGN

***Editor’s Note***: The information that follows, originally generated some years ago, seeks to provide a basic overview of different kinds of clinics and design features. It does so through a glossary of rough definitions and descriptions and is only one suggested take on existing clinic features and design. Therefore, keep in mind that this glossary is intended merely to serve as a starting point for your understanding and thinking about clinics and experiential learning. It should not be read as promoting one kind of clinic or experiential learning model over another, or as limiting your approaches or imagination in the days ahead. In fact, as this document goes to press, the American Bar Association is examining some of these very terms and may provide us with some additional parameters to be considered in designing and running clinics and experiential learning programs. – MCQ 3/31/13.

### Types of Clinics

Clinicians and law schools have generated an enormous diversity in clinical programs, responding to many influences: social justice, client and community needs, clinician interest and motivation, funding, teaching goals and more. This section provides some points of distinction between various programs, organized by relationship of student, client, & supervisor; by lawyering activity; by relationship to the law school; and by funding sources.

**BY RELATIONSHIP OF STUDENT, CLIENT, & SUPERVISOR**

DIRECT SERVICE (“LIVE CLIENT”): students form lawyer-client relationships directly with clients, in law practices engaged exclusively in clinical practice, under the supervision of law school clinicians.

EXTERNSHIP: students work in law offices engaged primarily in non-clinical practice, under the supervision of both attorneys engaged in that practice and law school clinicians.

HYBRID: these programs combine elements of both the in-house clinic and externship models, and vary in the nature of the case work, the relationship between the placement and the law school, and the degree to which clinical faculty members engage in specific casework supervision.

**BY LAWYERING ACTIVITY**

LITIGATION: students represent clients in formal advocacy to authoritative decision-makers, typically in courts or administrative agencies; includes trial and appellate advocacy.

TRANSACTIONAL: students represent clients in planning, negotiating and drafting of transactions, from individual planning, through community organizing, to regulatory and legislative rule-making.

DISPUTE RESOLUTION/NEUTRAL PRACTICE: students engage in either informal negotiation or in practice as neutral mediators or arbitrators.

JUDICIAL: students work as clerks in judicial chambers, both trial and appellate, typically in an externship model.

COMMUNITY ORGANIZING: students work with community groups to advocate for group issues and concerns, including economic development and/or social justice.

LEGISLATIVE ADVOCACY: students accept legislative drafting and advocacy projects on behalf of clients seeking redress through legislative action. Related to both transactional and community organizing clinics.

OMBUDSMAN/INFORMAL ADVOCACY: students advocate on behalf of clients towards informal, non-litigation solutions to individual or community problems.

“UNBUNDLED” CLINICS: students engage in specific lawyering tasks seen (and taught) as a sub-set of “full lawyering,” such as client counseling, providing limited assistance to *pro se* litigants, or advocacy that is limited to mediation or negotiation.

**BY RELATIONSHIP TO LAW SCHOOL: IN-HOUSE vs. EXTERNAL**

*IN-HOUSE CLINICS* function exclusively as clinical practices within the law school; faculty members supervise students to provide legal services.

*EXTERNAL (OR “FIELD”) CLINICS* function as law practices outside the law school, with supervision of casework provided by attorneys in the field and/or clinical faculty members. Clinical training is an accepted, but not a primary, feature.

**BY FUNDING SOURCES**: **HARD MONEY, SOFT MONEY, DIRECT STATE SUPPORT**

*CLINICS FUNDED WITH HARD MONEY* operate with funding from the law school’s internal budget, based on sources of support for the entire institution, including alumni giving and state support. This model is typically viewed as institutionally secure, but allows for administrative discretion.

*CLINICS FUNDED WITH SOFT MONEY* operate with funds from temporary sources, including grants, foundations and governmental programs. This model is seen as unstable and provisional, but also provides a measure of independence from decanal control.

*CLINICS FUNDED WITH DIRECT STATE SUPPORT* operate on funds from state or local government to provide a designated legal service.

### Common Clinic Design Features

Even among clinics of a similar type, differences in clinical design may create wide differences in teaching and service provision, while clinics of very different types often closely share assumptions about those concerns. This section offers a non-exclusive list of common design choices, with related questions raised by each feature.

**CLIENT SERVICE**

Choices about client services rest on factors too numerous to list here; however, the relationship of client service to teaching practice forms a central concern. Should a clinic choose short-term over long-term representation? If the latter, how can you ensure meaningful semester-to-semester engagement by different students? Should a clinic offer itself as a universal provider of a given service? If so, how will the clinic balance increased case-load pressure with the often slower pace of supervised practice?

**SUPERVISION**

Supervisory relationships can vary from the traditional lawyer to law clerk model in some externship programs (with clinical supervision by a clinician) to direct one-to-one relationships on cases and caseloads by clinician and student in direct service programs. A plausible distinction lies between case supervision (in which clinician / attorney work with the student on specific legal work) and clinical supervision (through which the student also explores personal, ideological or professional development). Direct service clinics tend to combine both types of supervision in the clinician-student relation; externship programs tend to separate them into two roles.

**REFLECTIVE PRACTICE**

JOURNALS: many, if not most, clinics require some form of written reflective journal by students, in which they are asked to write about their experiences and process lessons learned. Clinics vary in the number, length, focus, and use of these journals, and may distinguish between periodic journals and end-of-semester learning appraisals.

INTERVIEWS: many clinics also require formal interviews between student and clinician, in which the clinician provides feedback and prompts further reflection by the student, and the student may provide feedback and critical assessment to the clinician. Differences exist between the intitial, mid-semester, and end-of-semester interviews: early meetings may tend towards goal-setting; mid-semester meetings often focus on evaluation and feedback, with attempts at correction; and end-of-semester meetings often involve some further assessment, with discussions about lessons and long-term planning.

**CLASSROOM TEACHING**

Most clinics provide students with a classroom or seminar experience as part of the clinic. These classes address a wide range of topics: from focused training on specific doctrine relevant to the practice; to policy- and value-based assessment of the client group or broader social concerns; to behavioral training; to staff meetings and practice management; to introductions to lawyering theory and practice; to practicums on ethics. Teaching methodologies include discussion, lecture and presentation, simulation, case review, behavioral self-assessments, sensitivity training, and even traditional Socratic question & answer.

**SKILLS TRAINING**

Clinics differ in how they handle focused training on the basic tasks which students must perform while in the clinic. Some clinics front-load training in an intensive period towards the beginning; others spread behavioral training throughout the semester; while still others require students to take pre-requisite courses (e.g., interviewing, counseling & negotiation, document drafting, or trial practice). Moreover, where training occurs within the clinic, it can happen either through conceptual discussion of the task, simulated practice through role plays, or task supervision in the context of an individual case.

**RESEARCH, ANALYSIS, WRITING AND SPECIAL PROJECTS**

Many clinics specifically require completion of one or more written projects by students, typically within the context of the relevant practice, and as part of regular casework. Supervision of written work can happen both on a case-specific basis, and during an overall evaluation of the student writer. Moreover, some clinics also require research on issues not specifically related to cases, but arising out of the practice or the student=s response to it. This research may be reported in traditional research paper format, or through the implementation of projects to improve the practice or assist the community.

**CASE HANDLING AND WORKLOADS**

Clinics have the added task (and opportunity) of educating students on the handling of case files and case loads. Computerized and networked systems can abate the technical burden, but clinics usually introduce students to the mechanical details of practice: notation of case events; opening, summary and closing memos; organization of case files; management of multiple files and schedules; and the challenges of deadlines and collaborative calendars. Moreover, clinics may vary in how they train students in time management, ranging from a laissez-faire model to a structured, shared effort in calendaring.

**COLLABORATIVE PRACTICE**

Clinics also vary in the extent to which they encourage team and group practice, in addition to the already collaborative relationship between student and clinician. Some clinics focus on one-on-one clinical supervision, while others encourage work in teams of two or more students, up to a full collaborative model for all participants in the clinic. Clinics thus provide a first exposure to interdependence, at variance with the often competitive context of law schools outside the clinic setting.

**ACADEMIC AND CURRICULAR CONCERNS**

Clinics often vary in their interface with the traditional law school curriculum. Common issues here include: the need for pre- or co-requisites; the number of credit hours granted, and relationship between hours of work and credit; the use and assignment of grades; and the procedures by which students enroll, including eligibility / requirement for one or more semesters. Other curricular concerns relate more to clinical faculty, and vary from school to school, including: the necessity or availability of other teaching; and the calculation of number of teaching hours credited to the clinical teacher.

BEST PRACTICES FOR CLINICAL LEGAL EDUCATION

Authors: Roy Stuckey and Others

This book was published by CLEA in March 2007. Copies of the book, in full and by chapter, are available on the CLEA website.

The Best Practices Project began in 2001. Guided by a Steering Committee of law teachers around the county, the project sought to describe the best practices for legal education generally, not just for clinical legal education. Each new draft was posted on-line several times a year. Requests for comment were regularly sent to various listservs and discussions about the evolving document or segments of it were conducted at various professional meetings. A national conference focusing on the document was held at Pace University School of Law in March 2005.

When publication neared, CLEA formed a committee co-chaired by Alex Scherr, Georgia, and Carrie Kaas, Quinnipiac, to develop strategies for persuading law teachers to implement the principles of best practices described in the book. The work of this committee is expected to continue for years to come.

Best Practices for Legal Education can be used by a law school as a road map for overall curricular reform, or individual teachers can use it to improve course design and the quality of their instruction.

**Executive Summary and Key Recommendations**

**Developing a Statement of Best Practices (Introduction and Chapter One)**

There is a compelling need to change legal education in the United States in significant ways. Law schools do some things well, but they do some things poorly or not at all. While law schools help students acquire some of the essential skills and knowledge required for law practice, most law schools are not committed to preparingstudents for practice. It is generally conceded that most law school graduates are not as prepared for law practice as they could be and should be. Law schools can do much better.

Our key recommendations for improving legal education are listed below. One can quickly grasp the full breadth of our recommendations by reviewing the table of contents.

We divide our discussion of best practices into seven categories: 1) setting goals, 2) organizing the program of instruction, 3) delivering instruction, generally, 4) conducting experiential courses, 5) employing non-experiential methods of instruction, 6) assessing student learning, and 7) evaluating the success of the program of instruction. We also include an example of a “model” best practices program of instruction.

We call on law schools to make a commitment to improve the preparation of their students for practice, clarify and expand their educational objectives, improve and diversify methods for delivering instruction, and give more attention to evaluating the success of their programs of instruction. The importance of accomplishing these goals was explained by Greg Munro:

A law school can best achieve excellence and have the most effective academic program when it possesses a clear mission, a plan to achieve that mission, and the capacity and willingness to measure its success or failure. Absent a defined mission and the identification of attendant student and institutional outcomes, a law school lacks focus and its curriculum becomes a collection of discrete activities without coherence. If a school does not assess its performance, it can easily be deluded about its success, the effectiveness of its pedagogical methods, the relevance of its curriculum, and the value of its services to its constituencies. A law school that fails to assess student performance or its performance as an institution, or that uses the wrong measures in doing so, has no real evidence that it is achieving any goals or objectives. A law school that lacks evidence of achievement invites demands for accountability.[[3]](#footnote-3)

It may not be possible to prepare students fully for the practice of law in three years, but law schools can come much closer than they are doing today. It is especially important for law schools to make an institutional commitment to do the best they can to prepare their students for practice.

An important step is to articulate clear educational objectives for the program of instruction and, preferably, to describe those objectives in terms of desired outcomes. Outcomes-focused education is becoming the norm throughout higher education. In fact, regional accrediting agencies are requiring institutions of higher education, including some law schools, not only to state educational outcomes but also to prove that their students are attaining those outcomes.[[4]](#footnote-4) Legal education programs in the United Kingdom and other countries have outcomes-focused curriculums, and a few law schools in the United States are making progress toward becoming outcomes-focused. It is time for all law schools to make the transition.

Descriptions of desired outcomes of legal education should include statements of what graduates should know, what they should be able to do, and how they should do it. We describe some general outcomes that all law schools should seek to achieve as they try to develop basic competence.

The key recommendations in this document are set forth below.

**Setting Goals (Chapter Two)**

1. Law schools should demonstrate a commitment to preparing their students for bar examinations and for law practice. They should engage in a continuing dialogue with academics, practitioners, judges, licensing authorities, and the general public about how best to accomplish this goal.
2. Law schools should clearly articulate their educational goals and share them with their students.
3. Law schools should shift from content-focused programs of instruction to outcomes-focused programs of instruction that are concerned with what students will be able to do and how they will do it, as well as what they will know on their first day in law practice.
4. The primary goal of legal education should be to develop competence, that is, the ability to resolve legal problems effectively and responsibly.
5. Law schools should help students acquire the attributes of effective, responsible lawyers including self-reflection and lifelong learning skills, intellectual and analytical skills, core knowledge and understanding of law, professional skills, and professionalism.

**Organizing the Program of Instruction (Chapter Three)**

1. Law schools should organize their curriculums to develop knowledge, skills, and values progressively; integrate the teaching of theory, doctrine, and practice; and teach professionalism pervasively throughout all three years of law school.

**Delivering Instruction (Chapters Four, Five, and Six)**

1. Law schools should use teaching methods that most effectively and efficiently achieve desired educational objectives, employ context-based instruction throughout the program of instruction, and employ best practices when using any instructional methodology.
2. Law schools should create and maintain healthy teaching and learning environments.
3. Law schools should enhance the quality of their programs of instruction with technology and by making appropriate use of practicing lawyers and judges.
4. Law schools should have effective teacher development programs and establish learning centers.

**Assessing Student Learning (Chapter Seven)**

1. Law schools should use best practices for assessing student learning, including criteria-referenced assessments, multiple formative and summative assessments, and various methods of assessment.

**Evaluating the Success of the Program of Instruction (Chapter Eight)**

1. Law schools should regularly evaluate their effectiveness and use best practices for conducting such evaluations.

Many of our recommendations do not have cost or time implications and others have none beyond the initial effort involved in making the transition from current practices. It will require hard work and, perhaps, additional or reallocated resources to implement some of our recommendations. We are convinced, however, that the major impediment to reforming legal education is a lack of vision and commitment, not a lack of resources. Hopefully, this document provides some of the needed vision and will inspire more people to become committed to implementing positive changes in legal education.

SAMPLE READINGS

This bibliography identifies a number of articles that address issues relevant to clinical legal education. Another resource that may be helpful is the Online Annotated Bibliography of Clinical Legal Education prepared by J.P. Ogilvy & Karen Czapanskiy, *available at* <http://faculty.cua.edu/ogilvy/Biblio05clr.htm>.

Please keep in mind these are just some sample resources and not intended to be exhaustive. There are many fine articles published each year that offer important insights into experiential teaching and learning. Please let us know if you think there are other articles or resources that should be contained in the next version of this bibliography.

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WEB-BASED RESOURCES

### Websites and Blogs

American Association of Law Schools (AALS):

<http://www.aals.org/>

American Association of Law Schools (AALS)/Clinical Legal Education Section:

<https://memberaccess.aals.org/eWeb/dynamicpage.aspx?webcode=ChpDetail&chp_cst_key=2546c8e7-1cda-46eb-b9f3-174fc509169b>

American Bar Association Central and East European Law Initiative (CEELI):

<http://www.abanet.org/ceeli/home.html>

American Bar Association Section of Legal Education and Admission to the Bar:

<http://www.abanet.org/legaled/home.html>

Association of American Law Schools (AALS) Section on Clinical Legal Education:

<http://www.aals.org/services_sections_ce.php>

Best Practices For Legal Education

<http://bestpracticeslegaled.albanylawblogs.org/>

Center for the Study of Applied Legal Education (CSALE)

<http://www.csale.org/index.html>

Clinical Education: An Annotated Bibliography, Revised Edition: (Revised 2005), J. P. Ogilvy with Karen Czapanskiy:

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Clinical Law Prof Blog:

<http://lawprofessors.typepad.com/clinic_prof/>

Clinical Law Review:

<http://www.law.nyu.edu/clr/>

Clinical Legal Education Association (CLEA):

<http://www.cleaweb.org>

clinicians with not enough to do: a reverent and irreverent look at clinical legal education:

<http://kotplow.typepad.com/clinicians_with_not_enoug/>

Gateway to Clinical Legal Education:

<http://cgi2.www.law.umich.edu/_GCLE/Index.asp>

Global Alliance for Justice Education (GAJE):

<http://www.gaje.org/>

A Humanizing Dimension for Legal Education:

<http://www.law.fsu.edu/academic_programs/humanizing_lawschool/images/readinglist.pdf>

International Network on Therapeutic Jurisprudence: <http://www.therapeuticjurisprudence.org/>

Institute for Law School Teaching:

<http://www.law.gonzaga.edu/About-Gonzaga-Law/Institute-for-Law-School-Teaching/default.asp>

The Law and Society Association:

<http://www.lawandsociety.org/>

LexternWeb:

http://www.law.cua.edu/lexternWeb/index.htm

National Legal Aid & Defender Association:

<http://www.nlada.org/>

National Professionalism Web Site:

<http://professionalism.law.sc.edu/>

Roy Stuckey’s Compilation of Clinical Law Teachers with International Teaching /Consulting Experience:

<http://www.law.sc.edu/clinic/docs/internationalsurvey2005.pdf>

Society of American Law Teachers (SALT):

<http://www.saltlaw.org/>

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### Listservs

LAWCLINIC go to <http://lists.washlaw.edu/mailman/listinfo/lawclinic/>

CLEA New Clinicians –

go to <http://cleaweb.org/mailman/listinfo/cleanewclinicians_cleaweb.org>

LEXTERN to subscribe, email listserv@lists.cua.edu with the following request in the body of the message: subscribe lextern

GAJE email majordomo@list.vanderbilt.edu with the following command in the body of your email message: subscribe gaje

Humanizing Legal Education to subscribe, send an empty email to: legaled-subscribe@mail.law.fsu.edu

LAWPROF to subscribe, email listproc@chicagokent.kentlaw.edu with the following request in the body of the message: subscribe LAWPROF

LEGALETHICS to subscribe, email listserv@lawlib.wuacc.edu with the following request in the body of the message: subscribe legalethics-l [your first name] [your last name] lawprofessor

PROF-ISM a professionalism listserv, to subscribe email listserv@vm.sc.edu with the following request in the body of the message: SUB PROF-ISM [your first name] [your last name]

SAMPLE EXERCISES

### Building Blocks Exercise

From Paul Bergman, Avrom Sherr & Roger Burridge, Learning from Experience: Nonlegally-Specific Role Plays, 37 J. Legal Ed. 535 (1987)

The premise of this article is that simulation exercises placed outside an overtly legal context, in settings already familiar, are valuable for law students. Everyday social behavior sometimes constitutes desirable professional behavior as well. The article describes several usual exercises. One in particular has become a staple of many clinical programs: the Blocks Exercise.

The Blocks Exercise illustrates the strengths and weaknesses of oral communication, particular in a question-answer format. It has immediate relation to interviewing and direct examination, in particular. As the authors see it, [r]esearch indicated that we are visual learners; most of what we know is a product of our having seen it. By contrast, we are quite inefficient when it comes to oral transmission of data. Transforming actual events into verbal description is something we do repeatedly in everyday life, but usually without any sense of how we have altered those events in the listeners mind. Obviously, oral communication is a lawyers principal tool as well. Distortion is an ever-present worry. This exercise never fails to make vivid points, in about hour, depending on the length of the discussion.

Here is one suggested version of the exercise:

**Stage 1:** Player 1 builds; player 2 copies visually.

Discussion: Note the sight; speed; accuracy. (For contrast.)

**Stage 2:** Player 3 builds; player 4 is behind a screen. Player 3 describes her structure; player 4 is mute, listens and tries to replicate the structure.

Discussion: Note the additional time, the frustration and the lessened accuracy. Identify how it went wrong usually, player 3 is accurate in the description, but the ambiguities of language become apparent.

**Stage 3:** Without warning, ask player 2 to return and build again from memory player 1's structure.

Discussion: the added challenge of memory loss, especially without a warning that one will be called upon later to recall an event.

**Stage 4:** Player 5 builds; player 6 is behind a screen. Player 6 may interview player 5 to find out how to build the structure.

Discussion: Usually the time is longer but the accuracy increases. Lots of time spent setting up expectations and vocabulary.

**Stage 5:** Player 7 builds; player 8 is behind a screen and is mute. Player 9 sits with player 7, and conducts a direct exam of him in order to enable player 8 to replicate the structure.

Discussion: player 8 is like a juror, trying to glean understanding from a conversation in which she cannot participate like stage 2 again.

### Introduction to Representing Clients (Ice Breaker)

I first participated in this exercise in 1992 at a clinic conference. Jean Koh Peters and Paul Tremblay demonstrated it in a small group. I do not know where they got it, or if they invented it, but I have been using it in my clinic and in my simulation interviewing and counseling course ever since. It has evolved over time from the original exercise.

- Carrie Kaas (2005)

Divide the class into pairs.

Ask each pair to interview each other for approximately three minutes each.

I let them decide who goes first

I give very little guidance, and refuse to answer too many questions.

I do not tell them whether or not to take notes.

I do not tell them what is going to happen next.

My students usually assume that this is the first roleplay interviewing exercise and focus heavily on interview technique, hoping to impress me with their interrogation skills. I do not contradict them.

Call everyone back together after six minutes.

I now ask everyone to sit in a big circleor the closest approximation that I can manage within the constraints of the room layout.

I want everyone to be able to make eye contact with everyone else.

Tell everyone that they will be introducing the person they interviewed to the rest of the class, and telling the class about the person. Depending on the class size and time available, I usually limit the presentation to one minute or less.

Note for future comment how people reactespecially if any pairs whisper or pass notes to each other.

Begin the presentations. Take notes and notice the following:

Does anyone correct the presenter?

Does any presenter ask for clarification from the person he or she is introducing?

Who uses notes?

How often do the pairs presentations mirror each other in topic? (Two favorite colors; two pets discussions; etc.)

How often is the presentation nothing more than a resume?

What is the body language of the person being presented?

Who does the rest of the class look atthe presenter or the person being presented?

After the full rounds of presentations, introduce yourself.

Begin the discussion with a deliberate feint: Ask the people who interviewed first generic interviewing type questionssuch as Did you use a closed or open question?

Slowly lead the conversation through questions and answersmoving from a focus on interviewers conduct to the experience of being a re-presenter by another, with little or no control over, or preparation for, the experience.

Who controls the flow of information with what types of questions?

Because the person did not know what was to be done with the information, did he or she share more or less personal information?

Did any presenter self-censor what he or she said to the group about a classmate?

Did any person instruct the classmate not to reveal something (notes or whispers)?

Who did they look at and whypresenter or person being introduced?

How did it feel to be introduced to your classmates and professor with no chance to decide what was said?

Draw their attention to the fact that you got to tell the class whatever you wanted to about yourself, but that you took that privilege away from the class.

Ask how the presentations would have differed if you had told the class what was to happen? How many would have told their presenter what they wanted said about themselves?

Conclude with getting the observations about how much this exercise is like the experience of being a client: being asked lots of questions, with no idea what will happen with the information, and rendered mute as you listen to someone else making your first impression for you.

Note: I have begun using a variation of this exercise at the end of the semester as well. I tell the class that each person will present the class with an insight of something learned from the class (or some other task) and then I tell when they are going to present through an agent/lawyer. I pair them up and after a few minutes of talking, we go around the room. I remind them of the initial exercise and get them to tell me what was different. Most students tell me that they asked the partner, What would you like me to tell the class on your behalf? and admit that this approach never occurred to them in the first class.

### Empathy for Clients and “Clients Who Lie”

**Exercise by Bridgette Carr**

Articles to look at with exercise:

1) Hegland, Kenney, "Lies, Mistakes, and Miscalculations," Chapter 4 (pp. 46-58), Trial and Clinical Skills in a Nutshell (4th ed.) (no doubt, there's a newer version) and

2) Preston, Julia, "Guatemala Laureate Defends 'My Truth,' The New York Times, Jan 21, 1999.

With crayons or markers, ask students to draw a picture illustrating the following scenario:

***“There was a shooting.  The next door neighbor heard the shot and looked out the window just in time to see the culprit run past.”***

Tell the students to not spend more than 10 minutes on this, to not worry about whether their drawing is “good,” and please do not discuss the assignment with classmates.

After the drawing is complete, start off looking at the students’ drawings, which illustrates the "filler effect" (how we will in gaps in stories based on our own culture and experiences), and discussing how the students' backgrounds influenced their pictures.  It's fun (and fun is good) and enlightening.

We then discuss what they learned from Hegland's article, which includes a brief explanation of false memories and other psychological phenomena that influence our recall.

Then, we get to lies, and the article on Rigoberta Menchu makes for a rich discussion of what is and isn't a lie, the morality of lying, and casting judgment on stretchers of the truth.

I have not used (but come to think of it, probably should use) a brief exerpt from the 1996 (or so) video, "Well Founded Fear," in which an enlightened asylum officer says that lies are not a moral issue, as asylum seekers may have all kinds of valid reasons for lying, and that it's not her job to judge the person, but to try to figure out what really happened.

Later on, we have a class session called "cross cultural lawyering and parallel universe thinking" in which we have more readings about cultural reasons for miscommunications and we take a couple examples from the students' cases (a moment in an interview or some action by the client that troubled or confused them) and brainstorm possible reasons for the client's statements or actions (re. learning to lawyer based on facts and not assumptions, and not jumping to conclusions).

1. Historically, the AALS Clinical Section has alternated between hosting five-day “Clinical Conferences” and three-day “Clinical Workshops.” [↑](#footnote-ref-1)
2. Clinicians are encouraged to make a tax-deductible donation equal to the amount of one day’s *per diem* – to a worthy recipient selected by local clinicians. [↑](#footnote-ref-2)
3. Munro, *supra* note 4, at 3-4. [↑](#footnote-ref-3)
4. *See, e.g.*, Standards 2 & 4, Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities, Handbook of Accreditation (2001), *available at* http://wacssenior.org/wasc/Doc\_Lib/2001%20Handbook.pdf (last visited September 19, 2006) [hereinafter Western Association Accreditation Handbook]. [↑](#footnote-ref-4)