

AALS Workshop for New Clinical Teachers, 29 June 2008

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How Do We Teach and Evaluate Students? **A Brief Introduction**

Clinical teaching usually involves classroom discussion and individual supervision. Clinical work is often intimate and intense, and necessitates a hands-on approach from both the student and instructor. This session will explore some fundamental concepts (and tensions) underlying the clinical approach, including non-directive and directive instruction, reflective practice, problem-solving methods, teaching skills and substance, and adapting to your institutional and practice-based setting. The session will also explore the unique difficulties in evaluating clinic students, including what and how to evaluate, the variances in student experiences, grading group work, and avoiding adversely affecting the learning process through the evaluation process.

This handout is intended to give you some further reading on the subject of this panel and related issues.

Selected Bibliography for New Clinicians

This bibliography identifies a number of articles that provide a basic introduction to clinical history and theory. It is by no means meant to be exhaustive. Please let us know if there are other articles you already have read that should be contained in an Introduction to Clinical Scholarship. @ Thanks!

A fabulous resource that all new clinicians might want to peruse at some point 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>.

HISTORY: CLINIC DEVELOPMENT

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2. Jerome Frank, *Why Not a Clinical Lawyer-School?*, 81 U. PA. L. REV. 907 (1933) (excerpt)
3. Wm. Pincus, LEGAL EDUCATION IN A SERVICE SETTING, IN CLINICAL EDUCATION FOR THE LAW STUDENT 27 (1973)
4. Anthony G. Amsterdam, *Clinical Legal Education - A 21st Century Perspective*, 34 J. LEGAL EDUC. 612 (1984)
5. *AALS Section on Clinical Legal Education, Report of the Committee on the Future of the In-House Clinic*, 42 J. LEGAL EDUC. 511 (1992)
6. Guidelines for Clinical Legal Education in Report of AALS-ABA Committee on Guidelines for Clinical Legal Education (1980)
7. Philip Schrag, *Constructing a Law School Clinic*, 3 CLINICAL L. REV. 175 (1997) (the Appendix is particularly helpful)
8. Alexander Scherr, *Lawyers and Decisions: A Model of Practical Judgment*, 47 VILL. L. REV. 161 (2002)

IN-HOUSE CLINICAL PROGRAMS

Supervision

1. Susan Bryant, *Collaboration in Law Practice: A Satisfying and Productive Process for a Diverse Profession*, 17 VERMONT L. REV. 459 (1993)
2. Justine A. Dunlap & Peter A. Joy, *Reflection-in-Action: Designing New Clinical Teaching*

Training by Using Lessons Learned from New Clinicians, 11 CLINICAL L. REV. 49 (2004)

3. Peter Toll Hoffman, *The Stages of the Clinical Supervisory Relationship*, 4 ANTIOCH L.J. 301 (1986)
4. Minna J. Kotkin, *Reconsidering Role Assumption in Clinical Education*, 19 N.M. L. REV. 185 (1989)
5. Carrie Mendel-Meadow, *Two Contradictory Criticisms of Clinical Education: Dilemmas & Directions in Lawyering Education*, 4 ANTIOCH L. REV. 287 (1986)
6. Catherine Gage O=Grady, *Preparing Students for the Profession: Clinical Education, Collaborative Pedagogy, and the Realities of Practice for the New Lawyer*, 4 CLINICAL L. REV. 485 (1998)
7. William P. Quigley, *Introduction to Clinical Teaching for the New Clinical Law Professor: A View from the First Floor*, 28 AKRON L. REV. 463 (1995)
8. Ann Shalleck, *Clinical Contexts: Theory & Practice in Law & Supervision*, 21 N.Y.U. REV. L. & SOC. CHANGE 109 (1993)
9. James H. Stark, Jon Bauer, James Papillo, *Directiveness in Clinical Supervision*, 3 B.U. PUB. INT. L.J. 35 (1993)

Social Theory

1. Jane Aiken, *Striving to Teach Justice, Fairness & Morality*, 4 CLINICAL L. REV. 1 (1997)
2. Naomi Cahn, *The Integration of Progressive Thought & Action*, 43 HASTINGS L.J. 1039 (1992)
3. Binny Miller, *Give Them Back Their Lives: Recognizing Client Narrative in Case Theory*, 93 MICH. L. REV. 485 (1994)
4. Odeana R. Neal, *The Making of a Law Teacher*, 6 BERKELEY WOMEN=S L. J.128 (1991)
5. Kathleen A. Sullivan, *Self-Disclosure, Separation, and Students: Intimacy in the Clinical Relationship*, 27 INDIANA L. REV. 115 (1993)
6. Lucie E. White, *Subordination, Rhetorical Survival Skills & Sunday Shoes: Notes on the Hearing of Mrs. G*, 38 BUFF. L. REV. 1 (1990)
7. Brook Baker, *Learning to Fish, Fishing to Learn: Guided Participation in the Interpersonal Ecology of Practice*, 6 CLINICAL L. REV. 1 (1999).
8. Jill Chaifetz, *The Value of Public Service: A Model for Instilling a Pro Bono Ethic in Law School*, 45 STAN. L. REV. 1695 (1995).

9. Robert Condlin, *"Tastes Great, Less Filling": The Law School Clinic and Political Critique*, 36 J. LEGAL EDUC. 45 (1986).
10. ROBERT J. CONDLIN, *THE MORAL FAILURE OF CLINICAL LEGAL EDUCATION IN THE GOOD LAWYER: LAWYERS' ROLES AND LAWYERS' ETHICS* 318 (David Luban ed., 1983).
11. Jon C. Dubin, *Clinical Design for Social Justice Imperatives*, 51 SMU L. REV. 1461 (1998).
12. Christopher Lasch, *The Lost Art of Political Argument*, Harpers, 1990, available at <http://www.harpers.org/archive/1990/09/0000354>

EVALUATION AND CRITIQUE

1. Nina Tarr, *The Skill of Evaluation as an Explicit Goal of Clinical Training*, 21 PACIFIC L.J. 967 (1990)
2. Stacy Brustin & David Chavkin, *Testing the Grades: Evaluating Grading Modes in Clinical Legal Education*, 3 CLINICAL L. REV. 229 (1997)
3. Amy L. Ziegler, *Developing a System of Evaluation in Clinical Legal Teaching*, 42 J. LEGAL EDUC. 575 (1992)
4. Mary-Lynne Fisher & Arnold I. Siegel, *Evaluating Negotiation Behavior and Results: Can We Identify What We Say We Know?*, 36 CATH. U. L. REV. 395 (1987)
5. Nancy Kaufman, *A Survey of Law School Grading Practices*, 44 J. LEGAL EDUC. 415 (1994).
6. Richard K. Neumann, Jr., *A Preliminary Inquiry into the Art of Critique*, 40 HASTINGS L.J. 725 (1989).
7. Don Peters, *Mapping, Modeling, and Critiquing: Facilitating Learning Negotiation, Mediation, Interviewing, and Counseling*, 48 FLA. L. REV. 875 (1995).

EXTERNSHIPS

1. Alexis Anderson, Arlene Kanter & Cindy Slane, *Ethics in Externships: Confidentiality, Conflicts, and Competence Issues in the Field and in the Classroom*, 10 CLINICAL L. REV. 473 (2004)
2. Papers Presented at the Catholic University Law School Symposium on "Externships: Learning from Practice", 10 Clinical L. Rev. (2004)
3. Stephen R. Alton, *Mandatory Prelicensure Legal Internship: A Renewed Plea for Its Implementation in Light of the MacCrate Report*, 2 TEX. WESLEYAN L. REV. 115 (1995).

4. Kate E. Bloch, *Subjective Lawyering and Other Clinical Extern Paradigms*, 3 CLIN. L. REV. 259 (1997).
5. Stacy Caplow, *From Courtroom to Classroom: Creating an Academic Component to Enhance the Skills and Values Learned in a Student Judicial Clerkship Clinic*, 75 NEB. L. REV. 872 (1996).
6. Joanne Carter, *Mixed Emotions: A Law Student's Perceptions While Working at a Public Defender's Office*, 2 T. M. COOLEY J. PRAC. & CLIN. L. 329 (1998).
7. Liz Ryan Cole, *Training the Mentor: Improving the Ability of Legal Experts to Teach Students and New Lawyers*, 19 N.M. L. REV. 163 (1989).
8. Liz Ryan Cole, *Lessons from a Semester in Practice*, 1 CLIN. L. REV. 173 (1994).
9. Robert Condlin, *A Tastes Great, Less Filling@: The Law School Clinic and Political Critique*, 35 J. LEGAL EDUC. 45 (1986).
10. Greg Dantzman, *My Externship Experience at the Public Defender's Office in Ann Arbor*, 22 T. M. COOLEY J. PRAC. & CLIN. L. 337 (1998).
11. Daniel J. Givelber, Brook J. Baker, John McDevitt & Robin Miliano, *Learning Through Work: An Empirical Study of Legal Externship*, 45 J. LEGAL EDUC. 1 (1995).
12. Kenny Hegland, *Condlin's Critique of Conventional Clinics: The Case of the Missing Case*, 36 J. LEGAL EDUC. 427 (1986).
13. Harriet N. Katz, *Personal Journals in Law School Externship Programs: Improving Pedagogy*, 1 T. M. COOLEY J. PRAC. & CLIN. L. 7 (1997).
14. LaFrance, *Clinical Education: To Turn Ideals Into Effective Vision*, 44 S. CAL. L. REV. 624 (1971).
15. Neil Kibble, *Reflection and Supervision in Clinical Legal Education: Do Work Placements have a Role in Clinical Legal Education*, 5 INT'L J. LEGAL PROF. 83 (1998).
16. Stephen T. Maher, *The Praise of Folly: A Defense of Practice Supervision in Clinical Legal Education*, 69 NEB. L. REV. 537 (1990).
17. Steven Maher, *Clinical Legal Education in the Age of Unreason*, 40 BUFF. L. REV. 809 (1992).
18. James E. Moliterno, *On the Future of Integration Between Skills and Ethics Teaching: Clinical Legal Education in the Year 2010*, 46 J. LEGAL EDUC. 1 (1996).
19. Linda H. Morton, *Creating a Classroom Component For Field Placement Programs: Enhancing Clinical Goals With Feminist Pedagogy*, 45 ME. L. REV. 19 (1993)

20. Janet Motley, *Self-Directed Learning and the Out-of-House Placement*, 19 N.M. L. REV. 211 (1989).
21. J.P. Ogilvy, *The Use of Journals in Legal Education: A Tool For Reflection*, 3 CLINICAL. L. REV. 55 (1996)
22. William Wesley Patton, *Externship Site Inspections: Fitting Well-Rounded Programs into the Four Corners of the ABA Guidelines*, 3 CLIN. L. REV. 471 (1997).
23. Allen Redlich, *Perceptions of a Clinical Program*, 44 S. CAL. L. REV. 574 (1971).
24. Henry Rose, *Legal Externships: Can They Be Valuable Clinical Experiences for Law Students*, 12 NOVA L. REV. 95 (1987).
25. Sacks, *Student Fieldwork as a Technique in Educating Students in Professional Responsibility*, 20 J. LEGAL EDUC. 291 (1968).
26. Robert F. Seibel & Linda H. Morton, *Field Placement Programs: Practices, Problems and Possibilities*, 2 CLIN. L. REV. 413 (1996).
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28. Mark Spiegel, *Theory and Practice in Legal Education: An Essay on Clinical Education*, 34 UCLA L. REV. 577 (1987).
29. Marc Stickgold, *Exploring the Invisible Curriculum: Clinical Field Work in American Law Schools*, 19 N.M. L. REV. 287 (1989).
30. Nina W. Tarr, *Current Issues in Clinical Legal Education*, 37 HOW. L. J. 31 (1993).

DIVERSITY

1. Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 CLINICAL L. REV. 33 (2001)
2. Leslie Espinoza, *Legal Narratives, Therapeutic Narratives: The Invisibility of and Omnipresence of Race and Gender*, 95 MICH. L. REV. 901 (1997)
3. Bill Ong Hing, *Raising Personal Identification Issues of Class, Race, Ethnicity, Gender, Sexual Orientation, Physical Disability and Age in Lawyering Courses*, 45 STAN. L. REV. 1807 (1993)
4. Michelle Jacobs, *People From the Footnotes: The Missing Element in Client-Centered Counseling*, 27 GOLDEN GATE U.L. REV. 345 (1997)

5. Gerald P. Lopez, *Training Future Lawyers to Work with the Politically and Socially Subordinated: Anti-Generic Legal Education*, 91 W.VA. L. REV. 305 (1989)
6. Angela McCaffrey, *Don't Get Lost in Translation: Teaching Law Students to Work with Language Interpreters*, 6 CLINICAL L. REV. 347 (2000)
7. Margaret Montoya, *Silence and Silencing: Their Centripetal and Centrifugal Forces in Legal Communication, Pedagogy and Discourse*, 33 U. MICH. J.L. REF. 263 (2000)
8. Margaret Montoya, *Voicing Differences*, 4 CLINICAL L. REV. 147 (1997)
9. Kimberly O'Leary, *Using a Difference Analysis to Teach Problem Solving*, 4 CLINICAL L. REV. 65 (1997)

ETHICS

1. Alexis Anderson, Arlene Kanter & Cindy Slane, *Ethics in Externships: Confidentiality, Conflicts and Competence Issues in the Field and in the Classroom*, 10 CLINICAL L. REV. 15 (2004)
2. Derrick A. Bell, Jr., *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation*, 85 Yale L. J. 470 (1976)
3. Angela Olivia Burton, *Cultivating Ethical, Socially Responsible Lawyer Judgment: Introducing the Multiple Lawyering Intelligences Paradigm into the Clinical Setting*, 11 CLINICAL L. REV. 15 (2004)
4. David Chavkin, *Am I My Client's Lawyer?: Role Definition and the Clinical Supervisor*, 51 SMU L. REV. 1501 (1998)
5. Clark D. Cunningham, *How to Explain Confidentiality?*, 9 CLINICAL L. REV. 579, (2003)
6. Stephen Ellmann, *Client-Centeredness Multiplied: Individual Autonomy and Collective Mobilization in Public Interest Lawyers' Representation of Groups*, 78 VA. L. REV. 1103 (1992)
7. Michelle S. Jacobs, *Legal Professionalism: Do Ethical Rules Require Zealous Representation of Poor People?*, 8 ST. THOMAS L. REV. 97 (1995)
8. Peter Joy, *The Law School Clinic as a Model Ethical Law Office*, 30 WM. MITCHELL L. REV. 35 (2003)
9. Peter Joy & Robert Kuehn, *Conflict of Interest and Competency Issues in Law Clinic Practice*, 9 CLINICAL L. REV. 493 (2002)
10. Shauna Marshall, *Mission Impossible?: Ethical Community Lawyering*, 7 CLINICAL L. REV. 147 (2000)

11. Paul Tremblay, *Acting as a Very Moral Type of God: Triage Among Poor Clients*, 67 *FORDHAM L. REV.* 2475 (1999)
12. Paul Tremblay, *Interviewing and Counseling Across Cultures: Heuristics and Biases*, 9 *CLINICAL L. REV.* 373 (2002)
13. Rodney Uphoff & Peter B. Wood, *The Allocation of Decisionmaking Between Defense Counsel and Criminal Defendant: An Empirical Study of Attorney-Client Decisionmaking*, 47 *KANS. L. REV.* 1, 6 (1998)
14. Stephen Wizner, *Can Law Schools Teach Students to Do Good?: Legal Education and the Future of Legal Services for the Poor*, 3 *N.Y. CITY L. REV.* 259 (2000)
15. Stephen Wizner, *The Law School Clinic: Legal Education in the Interests of Justice*, 70 *FORDHAM L. REV.* 1929 (2002)

BOOKS

1. Roy Stuckey and Others, *BEST PRACTICES FOR LEGAL EDUCATION* (CLEA, 2007)
2. William Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond, and Lee Shulman, *EDUCATING LAWYERS* (Carnegie Foundation, 2007)
3. Martha R. Mahoney, John O. Calmore & Stephanie M. Wildman, *SOCIAL JUSTICE, PROFESSIONALS, COMMUNITIES & LAW: CASES AND MATERIALS* (2003)
4. David F. Chavkin, *CLINICAL LEGAL EDUCATION: A TEXTBOOK FOR LAW SCHOOL CLINICAL PROGRAMS, CHAPTER THREE, GRADING AND EVALUATION*, (2002).
5. Rebecca A. Cochran, *JUDICIAL EXTERNSHIPS: THE CLINIC INSIDE THE COURTHOUSE*, 2d ed. (Cincinnati, OH: Anderson Publishing Co. 1999)
6. Steven Keeva, *TRANSFORMING PRACTICES* (1999)
7. Ogilvy, Wortham & Lerman, *LEARNING FROM PRACTICE: A PROFESSIONAL DEVELOPMENT TEXT FOR LEGAL EXTERNS* (1998).
8. Philip G. Schrag and Michael Meltsner, *REFLECTIONS ON CLINICAL LEGAL EDUCATION* (Northeastern Univ. Press 1998)
9. *CLINICAL ANTHOLOGY: READINGS FOR LIFE-CLIENT CLINICS* (Alex J. Hureder, Frank S. Block, Susan L. Brooks & Susan L. Kay, eds.) (1997)
10. Gerald Lopez, *Rebellious Lawyering: One Chicano's Vision of Progressive Law Practice* (New Perspectives on Law, Culture & Society) (1992)

11. DONALD A. SCHÖN, EDUCATING THE REFLECTIVE PRACTITIONER (1987)
12. Robert MacCrate, *Legal Education and Professional Development - An Educational Continuum*, 1992 A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO BAR 280-84, 327-38 (*Efforts to Measure Lawyering Skills and Task Force Recommendations*)

Web-Based Resources for Law School Clinicians

WEB SITES

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

Clinical Education: An Annotated Bibliography, Revised Edition: (Revised 2005), J. P. Ogilvy with Karen Czapanskiy, <http://faculty.cua.edu/ogilvy/Biblio05clr.htm>

Clinical Law Review:

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

Clinical Legal Education Association (CLEA):

<http://www.cleaweb.org>

Clinical Legal Education – a directory clinical legal educators:

<http://cgi2.www.law.umich.edu/GCLE/index.asp>

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/>

The Law and Society Association

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

National Legal Aid & Defender Association

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

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/>

National Professionalism Web Site

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

LISTSERVS

LAWCLINIC B go to <http://www.washlaw.edu/subject/lawclinic.html>

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