

# CLINICAL LEGAL EDUCATION ASSOCIATION

## NEWSLETTER

VOLUME VII NO. 3

FEBRUARY, 1999



**Margaret Martin Barry**  
Columbus School of Law  
Catholic University

The march in New Orleans to petition the Louisiana Supreme Court to rescind its amendments to the Student Practice Rule was a success. It was a success because many of you came and marched and sang. It was a success because more of you -- well over 900!-- signed the petition that was filed with the court. It was a success because despite Louisiana Governor Foster's labeling our march "un-professional" and his instruction that we law professors would do better to spend our time in the French Quarter (and probably due in part to it) we made a statement in Louisiana and

hopefully moved the members of its highest court.

The success was no accident. Many clinicians and others worked very hard within a very short period of time to make it so. I will mention a few, apologizing in advance for not noting all. It was Peter Joy's (Washington U.) conversation with Bob Kuehn (Tulane) that lead to Peter's raising the idea that it was time to consider making a statement about the Student Practice Rule during the AALS Annual Meeting. Chuck Weisselberg (U. of Southern California) had worked with Peter Joy on the brief that was filed by AALS, and Suzanne Levitt (U.Tulsa) at Mark Heyerman's (U. Chicago) urging, had worked on the brief submitted by CLEA. When AALS, CLEA and other submissions to the changes did not discourage the Louisiana Supreme Court from amending the rule, the hope was that local politics would prevail. Bill Quigley (Loyola) stepped in to run for election. While he did not win, his candidacy was a platform for making the Student Practice Rule an election issue. Nonetheless,

when the post-election dust settled there was still no movement on the rule.

Peter raised the idea that it was time for action with the AALS Section on Clinical Legal Education Executive Committee. The committee voted unanimously to support a march, and members embarked on plans to make it so. Carl Monk decided that AALS could not sponsor the march, noting that it had declined to sponsor the affirmative action march in San Francisco the previous year, and adding that AALS was continuing to pursue other channels to oppose the amendments to the rule. (The Section's Executive Committee also instructed me to send a letter to AALS requesting that no meetings not already booked for New Orleans be planned in that city or in the state until the amendments to the rule are rescinded. AALS has not responded to that request as yet.) CLEA, which had already agreed to cosponsor the march, stepped in as the only sponsor, with the AALS Section on Minority Groups and SALT as supporters.

Those who worked real hard on the march and the petition were Peter Joy (especially regarding the petition), Sue Bryant (rallying CLEA board members and others to publicize the march), CLEA Board members (getting the word out), AALS Clinical Section Executive Committee members (get-

ting the word out), Mary Helen McNeal (publicity), Wendy Brown Scott (who did the initial work on the march license), Bob Kuehn and Bill Quigley (who were constant resources about contacts and logistics in New Orleans). At that final pivotal point when I got to New Orleans, there were two people who made the march truly come together: Alicia Little (Tulane Environmental Law Clinic) and Harold Green (State Chapter, SCLC). They facilitated getting the march license, organized local marchers, helped with the press, and generally made it happen. With regard to local support, Pastor Marie Galatas's songs and Reverend Norwood Thomson's prayers combined with their positive attitudes and singularity of purpose were particularly inspiring. I know that their presence heightened my resolve as we walked into traffic up Poydras Street towards the steps of the Louisiana Supreme Court.

We made a statement in Louisiana. We can only hope that it will help persuade the court to right its unfortunate pivot away from access to justice.

While others of us were marching to the steps of the Supreme Court, Linda Morton (California Western) and Mark Heyerman, were testifying on behalf of CLEA at the public hearing on proposed changes to Chapter 3 of the accreditation

standards before the ABA Standards Review Committee, also at the Annual Meeting in New Orleans. Jay Pottenger (Yale), Bob Seibel and Sue Bryant (CUNY), and Linda Morton continue to work on this matter.

Carrie Kaas (Quinnipiac) is developing the New Teachers workshop, scheduled for May 5, 1999, at the same location as the Section on Clinical Legal Education Workshop. Check the list-serv for more details from Carrie.

As you will read from Roy Stuckey, GAJE is planning an international clinical teaching conference in Trivandrum, India. I believe that it is important for CLEA to participate in that program. CLEA has always viewed itself as an international organization and the GAJE conference offers an excellent opportunity to reach out to clinical teachers outside of the U.S. More on this later.

Please welcome the new CLEA Board Members, Jon Dubin (St. Mary's), Carrie Kaas (Quinnipiac), Suzanne Levitt (Tulsa) and Calvin Pang (Hawaii), and President-Elect, Stacy Caplow (Brooklyn). I look forward to working with them and with the other members of the CLEA Board to make this a productive and inspiring year for our membership. Keep your energy and ideas flowing!

Items for the Newsletter may be sent to the Editor: Larry R. Spain, University of North Dakota School of Law, P.O. Box 9003, Grand Forks, ND 58202 (701) 777-2510; (701) 777-2217 (FAX); larry.spain@thor.law.und.nodak.edu

**THE CLEA WEBSITE IS  
BACK ON LINE WITH A  
NEW ADDRESS:  
clinic.law.cuny.  
edu/clea.clea.html**

**PLEASE VISIT THE SITE AND  
BOOKMARK IT ON YOUR  
BROWSER---THE ADDRESS IS  
A BIT LONG TO REMEMBER.**

**WATCH FOR CHANGES AND  
ADDITIONS IN THE NEAR  
FUTURE. IF YOU HAVE  
QUESTIONS OR SUGGESTIONS  
FOR THE WEBSITE, CONTACT  
BOB SEIBEL AT CUNY  
OR  
CONRAD JOHNSON AT  
COLUMBIA**

The CLEA Board submitted comments and suggestions to the ABA Section of Legal Education and Admissions to the Bar on the Accreditation Standards. A complete copy of the comments is attached to this newsletter.

## CLEA's March and Rally at the Louisiana Supreme Court

(Photos courtesy of Susan Rutberg, Golden Gate)

Additional coverage of activities at the AALS Annual Meeting, including the March, the Clinical Section Dinner and the Clinical Section Program will appear in the next issue of the AALS Clinical Section Newsletter.





# Election 98

In November and December, 1998, CLEA held its annual election for members of the Board of Directors and officers. **Stacy Caplow (Brooklyn)** was elected vice-president. **Mark J. Heyrman (Chicago)** was re-elected Secretary-treasurer. **Jon Dubin (St. Mary's)**, **Carolyn Kaas (Quinnipiac)**, **Suzanne Levitt (Tulsa)** and **Calvin Pang (Hawaii)** were elected as new members of the Board. Effective with the January meeting, last year's vice-president, **Margaret Martin Barry (Catholic)** assumed the presidency of CLEA from outgoing co-presidents, **Sue Bryant (CUNY)** and **Robert Seibel (CUNY)**. Outgoing Board Members include **Vanessa Merton (Pace)** and **Nina Tarr (Illinois)**

Applications should be mailed or faxed to the Selection Committee Co-Chair:

Deborah Maranville  
University of Washington School  
of Law  
Clinical Law Program  
4045 Brooklyn Avenue NE  
Box 354563  
Seattle, WA 98105  
Fax: (206) 685-2388  
Phone: (206) 543-3434  
E-mail: [maran@u.washington.edu](mailto:maran@u.washington.edu)

Applications must be received by **March 1, 1999**. As provided in the Review's by-laws, the Selection Committee is made up of two representatives appointed by each of the three sponsoring organizations: AALS, CLEA, and NYU School of Law. The Selection Committee Chair is appointed by the current Board. For this year, the Board has appointed as co-chairs outgoing Board members Bob Dinerstein and Debbie Maranville. Other members of the committee are Jane Aiken, Richard Boswell, Darryl Brown, Marty Guggenheim, Randy Hertz, and Antoinette Sedillo Lopez.

Applicants should send a resume and a letter explaining their interest in the position and highlighting the aspects of their experience that they

## **CLINICAL LAW REVIEW**

Applications are open for two vacancies on the Board of Editors of the Clinical Law Review. The Selection Committee and the Board of Editors urge you to think about whether you are interested, and about others whom you would like to encourage to apply.

believe are the most relevant. The Selection Committee seeks applications from people committed to the work of the Review and strives to select a board and editorial staff with diverse backgrounds and varying experiences in and approaches to clinical education.

Members of the Board of Editors have four-year terms. Board meetings are held twice a year—once at the AALS annual meeting and once at the AALS spring clinical workshop or conference. Board members must attend at least one of these meetings per year to remain a member. Policy matters for the Review and status of upcoming issues are discussed in these meetings. Between meetings Board members are asked to review manuscripts and to make a recommendation on whether to accept or reject the submission. The reviewing Board member is expected to give a quick recommendation to the Editors-in-Chief on the acceptance decision, to forward more substantial editorial comments later, and to write rejection letters with substantive comments. Board Members also may take part in editing articles.

Deborah Maranville and Bob Dinerstein finish their terms on the Board in May. Either of them, as well as returning Board Members (Minna Kotkin, Marty

Guggenheim, Peter Hoffman, Jon Dubin, Gay Gellhorn, Paul Tremblay, and Rod Uphoff), former Board Members (Nina Tarr, Tony Alfieri, Paul Reingold, Leah Wortham, Bev Balos, Jim Stark, and Steve Ellmann), or the co-Editors-in-Chief (Isabelle Gunning, Randy Hertz, and Richard Boswell) can be contacted for more information about what is expected in the positions.

Again, resumes and letters of interest for the two Board positions should be received by Deborah Maranville at the address shown above no later than March 1, 1999. Decisions will be made in April in order for the new appointees to attend their first meeting at the May AALS workshop.

*Deborah Maranville*

*Robert Dinerstein*

*Co-Chairs, Selection Committee*

## COMMITTEES

<b>Conference Committee</b>
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**Carrie Kaas, Quinnipiac**

**The CLEA Conference Committee  
Announces**

**New Clinical Teacher's Conference  
At Lake Tahoe on May 5, 1999**

CLEA will sponsor a one-day orientation for new clinical teachers on Wednesday, May 5, immediately preceding the regular annual AALS workshop. The last

New Clinician session was in 1996 in Miami. CLEA hopes to begin a regular tradition of running these orientation meetings every other year, tagging on to the shorter AALS workshops.

We are designing the program for new teachers with a range of 0-3 years experience, and for both in-house and externship clinic teachers. The program will provide an introduction to the history and current political posture of clinical teaching, including the burning accreditation and status issues. We will try to communicate some of the lore, as well. Who is Nina Tarr and why do we all ask her where the good dancing spots are? Why does everyone ask that Bob Seibel guy how the llamas like the City? What are some of Bob Dinerstein's more famous parody hits? Who are the members of the "Small Group Leaders' Hall of Fame"? What is the Blocks Exercise?

But seriously, the program will also give our new colleagues a notion of some of the teaching and program design choices that we all face. (General caseload or specialty clinic? Just how to keep case rounds meaningful?) We will provide a good, basic "first-year" bibliography, and descriptions of some of the more well-known clinics, with which we all seem to assume everyone is familiar. The main thrust of the program will be an introduction

to and practice of supervision skills, in both in-house and externship settings, taught in the grand clinical method.

Details are still in the works. This much we do know: the program will run roughly from 9 to 5 on Wednesday, May 5, with lunch included. The conference will be at the same facility as the main workshop, and we don't expect anyone to have trouble booking a room one night in advance. There will be a modest registration fee (as yet undetermined), which participants will have to pay separately, to cover the lunch, the room rental & snacks. We do have to run this program opposite the Director's Conference, and apologize to any new clinicians who are also directors, but, well, what's up with that, anyway?

So, please, if you or someone you know is a new clinical teacher, plan on coming a day early to Squaw Valley. As soon as the program and the registration details are set, we will be posting announcements on the CLEA Website, the clinic listserv, and will mail materials to every clinical director and dean. For those of you who have volunteered or are thinking of volunteering to be a presenter, thank you. We will be contacting you soon. Questions? Suggestions? You may contact Carrie Kaas at Quinnipiac, [kaas@quinnipiac.edu](mailto:kaas@quinnipiac.edu);



(203) 287-3234 or FAX, (203) 287-3237.

#### **Other Conference Committee**

**Business:** This is to remind everyone that CLEA has small grants available to enable and encourage clinicians to sponsor topic-area conferences at their schools. CLEA can also provide some technical suggestions and act as a clearinghouse and/or networking agent. We have collected some names and areas of interest back in Portland, and will do so again at Lake Tahoe. So, if you have an idea for a conference but feel very alone, you can contact the Committee and see if anyone else has expressed a similar area of interest. For now, the contact person is Carrie Kaas, as above.

#### **Clinical Scholarship**

**Ann Juergens, William Mitchell**

#### **CALL FOR PAPERS**

The Clinical Scholarship Committee is calling for papers from clinical teachers, members of the Section and CLEA. Our aim is to have one or two people present their works in progress at the May Clinical Section Conference in California for discussion. If there is time, we hope to put together a small panel of people to discuss the work after you

have presented it. If you are working on an idea and it is NOT in final form, you should send an outline or draft to either: Isabelle Gunning at Southwestern University School of Law, 675 South Westmoreland Ave., Los Angeles, CA 90005 or to Ann Juergens at William Mitchell College of Law, 875 Summit Ave., St. Paul, MN 55105. Please send things right away, but in any event no later than February 15th. We ask for works in progress so that this forum may actually be of some help to people's writing work, rather than after-the-fact critique. Questions? Call or email Ann or Isabelle.

#### **Externship Committee**

**Mary Jo Eyster, Brooklyn**

Beginning in November, 1998, there has been a flurry of activity concerning the ABA Standards for Approval of Law Schools. Specifically, Standard 305 and Interpretation 2, which apply to approval of programs with a field placement component, have been the focus of some discussion and debate. In November, a task force of the Externship Committee sent proposals to the Standards Review Committee of the ABA to suggest modifications that were agreed upon by the task force, and that we felt would have

strengthened the quality of externship clinics. However, the Standards Review Committee promulgated a draft revision of these standards that seems to undercut the gains that externship programs have made in recent years by eliminating some of the quality assurance provisions that are in the current Standards.

Essentially, the revisions could undermine the quality of externships by (1) allowing adjuncts rather than full time faculty to serve as program directors, as well as eliminating existing requirements for full time faculty involvement; and (2) eliminating the current provision which requires that teaching credit be given commensurate to instructional responsibilities. We also have concerns that the revisions do not require classroom components or tutorials for externship programs. All of this means a potential return to "clinical programs on the cheap" - programs run on a shoestring budget, with no quality assurance provided by full time faculty and commensurate teaching credit. We have a final concern that the new revisions still require site visits for programs over 6 credits. Although this does not directly undercut quality, it does force a director to choose site visits over other potentially more effective uses of her

or his teaching and supervision time. We believe program directors, not the ABA, should determine the method and frequency of communications with students and supervisors.

To address these concerns, a group of externship directors drafted a letter, which was sent to the Standards Review Committee on January 20th to be considered at its meeting on January 30th and 31st. If the revised standards are approved, they go to the Council for final approval during its meeting this summer in either June or August.

In this same connection, on Friday, Feb 5th, the ABA Annual Dean's Workshop is taking place in Los Angeles. Hearings will be held on Standard 305 at that meeting. Bill Patton (the new co-chair of the Externship Committee) has agreed to attend (4:45-5:50 pm) and offer a statement supporting our position on Standard 305, Interpretation 2.

We will have further discussions of the ABA's action at the AALS Clinical Conference in Lake Tahoe this May. A meeting of our externship subcommittee is currently being planned. The date and time will be on the listserve, as well as in the AALS Clinical Newsletter. If you have any questions or suggestions for agenda items, please contact Bill Patton, our new incoming chair, (714-444-4141; bpatton@LAW.WHITTIER.EDU) or Linda Morton

(619-525-1464; lm@cwsl.edu).

Mary Jo Eyster will be ending her term as chair as Bill takes over.

The following is the text of the letter that was sent to the Standards Review Committee. As of the date of this column, we do not know the outcome of either their meeting or the meeting at the Dean's Workshop. However, final action on these matters will not take place until the meeting of the ABA Council sometime this summer. We expect that we will take further action, as necessary, prior to that time.

January 19, 1999

Standards Review Committee, ABA  
Section of Legal Education and  
Admissions to the Bar  
c/o Office of the Consultant on  
Legal Education  
Indiana University  
550 West North Street, Suite 349  
Indianapolis, IN 46202-3162

Dear Members of the Committee:

We are a group of directors of externship programs and experienced externship teachers who write to you to address some of the proposed changes to Standard 305. Our basic understanding of the history of this Standard is that the existing detailed requirements were put in place because there was concern about abuses in field placement programs in which there were many

students, many credits, and little contact with faculty to ensure appropriate educational content. We also understand the difficulty of crafting adequate safeguards without micro-managing specific courses or parts of the law school curriculum. We believe that we share with the Committee a desire to have standards which prevent abuses but which allow flexibility consistent with diverse educational goals.

With this in mind we believe that an appropriate approach to setting standards should involve requiring oversight by a full time member of the faculty who receives adequate teaching credit for his or her work in the field placement program. More than anything else, putting field placements under the watchful eye of a full time faculty member who has adequate time to do the requisite work will ensure that those programs have the necessary educational content and would eliminate the need for too many specific requirements within the standards.

Similarly, requiring a classroom component or tutorial, with latitude for schools to craft that component in a way that fits the schools' particular needs, would put in place a cornerstone of a structurally sound program, without unduly intruding into the academic freedom and flexibility that are critical to maintain.

Finally, site visits may be helpful in many situations and should be encouraged, but the standards should also recognize that there are many ways to ensure quality placements. One benefit of having a full time faculty member overseeing field placement programs is that decisions about whether or not to visit a site could be safely left to that faculty member.

More specifically, we suggest 4 changes in the proposed revisions:

1. A statement requiring all directors of field placement programs to be either full time faculty (as defined in 405(c)) or part time faculty under extraordinary circumstances, rather than adjuncts, should be added to Revised Standard 305 (d).

It is essential that every field placement program director be a full time faculty member. Only full time faculty have the continuous presence, stature within the law school community, and background in legal education required to assure the educational quality that students deserve. Issues arise on a daily basis within field placement programs. Frequently, it is necessary to make decisions that are unpopular with either the students or with outside law offices in order to maintain program quality and integrity. An adjunct faculty member, who is not continuously present at the

law school, would not be able to field, delegate, or decide upon the barrage of issues, including ethical dilemmas, student or supervisor dissatisfaction, and even regulatory infractions, which occur within field placement programs. Further, without the status and presence that attends a full time faculty position, field placement programs have no hope for competing for scarce resources among the law school faculty and administration. Absent the knowledge and continuing educational resources, including books, conferences, and peer discussions, which occur among full time faculty, the existing regulatory emphasis on assuring educational quality in field placement programs is likely to be drastically undermined at many schools. The current regulations were created to insure that law students receive an education comparable in quality to their instruction inside the institutional walls. The proposed revisions would undercut much of that which has been achieved since the inception of Standard 306.

2. Former section (e)(6) of the Interpretation to Standard 305, which states, "Teaching credit shall be commensurate with the instructional responsibilities of the full time faculty member in relation to the number of students and the credit

hours granted," should be re-inserted.

In the past, abuses have occurred when field placement direction was added to the already full teaching loads of in-house clinical or classroom faculty, part-time administrators with many other responsibilities and little background in teaching, or adjuncts at the school only infrequently. The current section (e)(6) of the Interpretation was drafted precisely to prevent these abuses. Without it, program administration will once again be handed down to individuals already overburdened and potentially uninterested in field placement pedagogy. In order to prevent such abuse from re-occurring, this provision must remain intact, or re-written to assure that faculty are not so overburdened that they cannot adequately supervise their students.

3. A classroom component or tutorial- before, during or after the field placement- should be required for all field placement programs.

Education in the field must be combined with pedagogically sound oversight by law school faculty in order to merit academic credit. Without the mandate that all field placement programs have some form of classroom component or tutorial before, during, or following a

student's field placement experience, the experience becomes nothing more than a volunteer experience for which the student must pay tuition. Such abuses have occurred in the past. We offer this proposed revision to ensure that a substantial academic experience takes place for all students enrolled in field placement programs.

4. Site visits should be treated as one possible method of communication in all field placement programs, rather than as a requirement for all programs over six credits.

The need for site visits to each field placement is broadly dependent upon factors such as programmatic goals and methods, type of placements, numbers of students in each placement, length of time the placement has existed, the placement supervisor, and previous problems with the placement, not simply credit allocation. In certain programs of six credits and under, site visits may be more necessary than in other programs over six credits. For example, in a 5 credit program at a Public Defender's office which has just undergone a change in management, a site visit may be more important than in a seven credit judicial placement in which the judge and the tasks allocated to students have been stable. Because the need for placement visits is

dependent upon numerous program factors, their necessity should be evaluated by the program director, rather than mandated by regulation. As described in CLEA's proposed revision (c)(9) of the Interpretation to Standard 305, site visits should be viewed in all programs as one beneficial method of communicating with field supervisors and monitoring the field placements. Other alternatives, such as student journals, phone calls to students and supervisors, evaluations by students and supervisors, supervisor trainings, and the classroom component, can be equally beneficial methods of program monitoring. The utility of each method should be determined by the program director in light of each program's goals and methods.

We appreciate the opportunity for comment. It is our hope that the Standards Review Committee gives each of our suggestions the thoughtful consideration it has used in originally crafting these regulations. It is our mutual goal that law school field placement programs maintain the quality they have achieved.

<b>International Committee</b>
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**Roy Stuckey, South Carolina**

Clinical legal education continues to be a hot commodity

in the world market as law schools around the world search for ways to make their curriculums more relevant to the needs of their students. I have heard rumors that there will be at least five conferences on clinical legal education in central and eastern Europe this Spring. At least two of these are well past the rumor stage.

**Catherine Klein** of Catholic reports that there will be a conference in Poland this Spring to follow-up on the three-week colloquium there last September. There are a number of law schools in Poland that are either actually beginning or just on the verge of beginning clinics. Catherine and **Leah Wortham** have been mentoring clinicians at Jagiellonian University since 1996, and they hope to foster mentoring relationships between other schools in Poland and U.S. clinicians. **Jane Picker** at Cleveland State is one of the primary planners of a conference on clinical legal education to be held in Nogorod, Russia, in May. As I write this in late January, the planners were expecting imminent approval of funding for the conference.

**GAJE** continues planning for its inaugural conference which will take place in Trivandrum, India, for 5-7 days in December, 1999, including the weekend of December 11-12. Planning for the conference is open to all GAJE members and it is taking place on

the GAJE listserv. There is no fee to join GAJE. To join, send your name, address, phone, fax number and e-mail address (if available) along with any relevant job title or organizational affiliation and a brief statement of activities and interests relevant to the mission of GAJE (e.g. clinical teaching), to Robin Palmer (palmer@law.und.ac.za), Republic of South Africa; listserv, a copy of the e-mail should be sent to: [blasi@law.ucla.edu](mailto:blasi@law.ucla.edu).

Some of the themes emerging for the GAJE conference include "training the trainers", some sort of community-based topic, cross-national clinical collaborations using the internet and other technologies, "justice education," and a variety of practical topics related to teaching and materials. Additional themes for the conference and volunteers to take some leadership are still being solicited. Offers to help with the conference should be posted on the GAJE listserv or communicated to **Frank Bloch** at Vanderbilt (fbloch@law.vanderbilt.edu).

Clinical teachers from the United States continue to spread the gospel to the farthest corners of the Earth. **Bob Golten** of Denver spent eight weeks in Kampala, Uganda, last spring helping start a law school clinic that is representing children,

juvenile offenders, and petty criminals. **Louise Trubek** of Wisconsin attended a regional conference (S.E. and East Asian) in Bangkok, Thailand during July. **Carol Liebman** of Columbia participated in a negotiation workshop for the faculty of law at Ho Chi Min City University in Vietnam last February, and she offered a mini course in negotiation and mediation to the Hebrew University law faculty in Jerusalem during April and May. **Bob Burns** of Northwestern helped present a NITA program in Israel and Palestine during January to prepare Israeli and Palestinian lawyers for the anticipated Palestinian trial court system.

**Martin Geer** of Baltimore worked with law schools in Parjim, Delhi, and Lucknow, India, on the development of human rights clinics for several weeks at the beginning of 1998, and he finished the year in Brazil working with law schools and courts on law reform issues. **Jane Schukoske** of Baltimore visited universities in Delhi and Lucknow, India, in December, 1998, to exchange ideas on community development and the role of NGO's. She also spoke in Patna on 'Community Lawyering in Villages and Urban Slums' at the Sulabh Institute for Developing Studies, cosponsored by USIS. In Delhi, she also spoke at the opening of the first National Client Counseling Competition.

I have to believe that the clinical teacher who accumulated the most frequent flyer miles in 1998 was **David Barnhizer** of Cleveland State. In February and March, he was in Cartagena and jungles of Colombia negotiating with Columbian and Ecuadorian business leaders over improved methods for environmentally sound shrimp aquaculture. In May and June, he returned to Ulaanbaatar, Mongolia (he was also there in August-September, 1997) in his ongoing capacity as a consultant to the Mongolian government regarding its efforts to "create its sustainable development/ Agenda 21 strategy." He followed his visit to Mongolia with a sojourn at St. Petersburg State University where he taught international environmental law during June and July. November found David in Guayaquil, Ecuador, working for a week with NGO's from 20 countries on strategies for mitigating the social and environmental impacts of coastal zone aquaculture.

Georgetown University has found a way for clinical students to participate in international clinic work without leaving home. A new clinic that was started in January, 1999, uses internet and teleconferencing with African women's rights lawyers to advance the legal status of women in their countries. The clinic is supervised by **Sue Ross** and **Johanna Bond**.

Please keep me informed about your international activities (fill out the survey form included as an attachment to this newsletter). I will try to report what you've done during the past year in these newsletter columns, and I will add those and even older activities to my database. By the time you read this, the complete database should be on CLEA's new website (<http://clinic.law.cuny.edu/clea/clea.html>), or you can obtain a hard copy from me. Thanks.

#### Technology Committee

**Marjorie McDiarmid, West Virginia**

Conrad Johnson and Marjorie McDiarmid of the technology committee of the AALS Clinical Section made a presentation at the AALS conference in New Orleans on "Electrifying Your Teaching". As part of that presentation, the committee put together a Website which contains a lot of examples of the use of electronic materials in teaching and supervision. Anyone is welcome to visit this site for new ideas. The address is <http://www.wvu.edu/~law/clinic/electrify.html>. If there are any questions, please drop an e-mail to Conrad Johnson at [CJohnson@lawmail.law.columbia.edu](mailto:CJohnson@lawmail.law.columbia.edu) or Marjorie McDiarmid [mcdiarm@wvnm.wvnet.edu](mailto:mcdiarm@wvnm.wvnet.edu).



## CONFERENCES

### **Community Organizing Skills Workshop for Clinical Legal Instructors June 24-26, 1999**

Clinics which include community organizing as a component for student placements face a number of challenges. Foremost among them is a lack of training for instructors who must supervise, and sometimes, initiate, community involvement. Parkdale Community Legal Services, in conjunction with CLEA, will hold a workshop which will provide an opportunity for skills training, an opportunity for clinicians to canvas issues relating to student involvement in community organizing.

The program has not yet been finalized, but might include the following:

**Skills Training:** working with the media; community organizing; community participation on the board of directors; how to teach students to speak to community groups or chair public meetings.

**Panel Discussions:** supervision of students; relations with the law school

**Small Groups:** drafting an evaluation form for community work; drafting criteria for deciding which types of community work will take priority.

Because of space limitations, it is anticipated that enrollment will be limited to approximately fifty participants.

Parkdale Community Legal Services is located in a very culturally and economically diverse area of Toronto. Hotel accomodation is available close to Parkdale in downtown Toronto. While there are many things to do in Toronto, you may want to know that the workshop will coincide with the Lesbian and Gay Pride Weekend.

Please watch for more details. Anyone with questions, or suggestions, is free to contact any of the co-chairs. If you would like to be put on the mailing list for further program information, please send a note to Nancy Cook at Cornell Law School, Myron Taylor Hall, Ithaca, NY 14850.

*Co-Chairs: Shelly Gavigan,  
Osgoode Hall Law School,  
(416) 736-5558 [sgavigan@york.ca](mailto:sgavigan@york.ca) ;*

*Shin Imai, Academic Director,  
Parkdale Community Legal  
Services, (416) 736-5274  
[Simai@york.ca](mailto:Simai@york.ca);*

*Nancy Cook, Cornell Law School,  
(607) 255-4196 [cook@law.  
mail.cornell.edu](mailto:cook@law.mail.cornell.edu)*

**CUNY School of Law Immigrant  
Initiatives**

and

**S.A.L.T.**, co-sponsor,

Present

**Enriching Legal Education for the  
21st Century: Integrating  
Immigrant Perspectives Throughout  
the Curriculum and Connecting  
with Immigrant Communities**

CUNY School of Law Immigrant Initiatives announces our upcoming conference to be held April 9- 10, 1999 at the City University of New York School of Law in New York City.

The conference will:

- Demonstrate innovative curricular modules which incorporate immigrant perspectives into required and elective curricula in a variety of doctrinal areas including: Contract Law, Constitutional Law, Criminal Law, Labor Law, Health Law, Street Law and Family law;
- Present Teaching tools addressing the barriers of culture and language in lawyering;
- Explore ways to combine classroom instruction with service to immigrant communities and community activism;
- Investigate coordinated *pro bono* efforts between alumni and community groups.

Conference presenters will offer substantive information and teaching demonstrations, and will facilitate discussion and working

groups to build on available materials and models.

+ We are also soliciting proposals for conference presentations that incorporate immigrant perspectives in the law curriculum in large classroom settings, in seminars, or in clinical programs; or that utilize a hands-on service approach for students as a practical component of a seminar, a course, or on a volunteer basis.

Please contact us with information about similar programs or efforts. Contact Alizabeth Newman, Director of CUNY School of Law Immigrant Initiatives at 718 340-4300 or by E-mail at the following address: Newman@maclaw.law.cuny.edu.

CUNY School of Law Immigrant Initiatives was established in 1997 through a generous grant from the Emma Lazarus Fund of the Open Society Institute to design models enabling law schools to broaden their students' experience with immigrant issues and expand legal resources into newcomer communities.

**CONFERENCE ON THE DEVELOPMENT AND  
OPERATION OF A SECURITIES  
ARBITRATION CLINIC**

PACE UNIVERSITY SCHOOL OF LAW  
WHITE PLAINS, NEW YORK  
SATURDAY, APRIL 17

Many law schools are thinking about offering more clinical opportunities in business-related areas. Law schools with evening divisions also seek more clinical opportunities appropriate for part-time students. A securities arbitration clinic, currently in its second year of operation at Pace Law School, has proven quite successful in meeting both these objectives. Students represent small investors in arbitrating their disputes with broker-dealers before the industry-sponsored arbitration forums, which are located across the country.

The claims involve allegations of securities fraud, breach of fiduciary duty and other forms of broker-dealer misconduct. Since the arbitration hearing typically is completed in one day, the Securities Arbitration Clinic is suitable for many evening students, if they can plan their work schedules to accommodate a hearing scheduled in advance.

This one-day Conference has two complementary purposes and seeks to assist two types of law faculty:

(1) For the many experienced clinicians who are not familiar with this type of case, the Conference will provide an introduction to the basics of securities arbitration practice and enable them to assess the feasibility and desirability of

securities arbitration clinic; and

(2) Since at the law schools currently operating securities arbitration clinics, all are taught by faculty with no prior clinical teaching experience, the conference will provide a basic introduction to the theory, practice, and literature of clinical education, with concrete examples of how to adapt these ideas and techniques to the securities arbitration setting.

The final line-up of topics and participants is still in formation and subject to confirmation, but in substance the Conference will address the following areas. All sessions will include substantial question and discussion periods. Participants will be invited to sit together at lunch with others from their geographic region, with the hope that mutually beneficial contacts will be facilitated. If possible, the program may also include simulation of part of a hearing, followed by discussion and critique, and a separate session on mediation in the securities context, another rapidly developing area.

A. Curricular Objectives and Concrete Plans for the Securities Arbitration Clinic ("SAC") Pace Associate Dean for Clinical Education Vanessa Merton will provide a brief review of the curricular objectives and fundamental theory of any program of

clinical education, with specific application to designing a SAC, and then describe some key steps in planning for a SAC, such as: obtaining faculty approval and participation; amending the student practice order, determining appropriate criteria for client eligibility, and selecting students (prerequisites, etc.); providing space and facilities; and budgeting for the clinic. Sample materials, including syllabi, will be provided.

B. The Need for the SAC:  
Finding Prospective Clients,  
Serving a Different Population of  
Law Students

The Executive Director of the Legal Referral Service the Association of the Bar of the City of New York will discuss its arrangements for referring prospective clients to the metropolitan law school clinics. He will discuss the Association's reasons for its support of these programs, including the widely-perceived need to assist small investors who otherwise would not be able to obtain representation.

In addition, the SAC (like most clinical programs) helps law students develop reflective judgment, professional responsibility, and time management, areas that often are pitfalls for inexperienced attorneys. By virtue of its subject-matter, however, a SAC may attract a different set of students, and thus expose them to these dis-

tinctive aspects of the clinical curriculum, which otherwise they might miss.

C. How Securities Arbitration Works: The Perspectives of Regulators

1. A staff attorney from the Securities and Exchange Commission will present background on the reasons investor disputes go to arbitration, review the Supreme Court's major decisions on securities arbitration, and discuss the SEC's interest in assuring a level playing field for small investors.

2. Staff attorneys from the National Association of Securities Dealers and the New York Stock Exchange will discuss the basic process of securities arbitration in their forums, identifying some key evidentiary and tactical issues.

D. How Securities Arbitration Works: Selecting Appropriate Cases and Working With the Small Investor Client

A New York City practitioner specializing in securities arbitration will discuss evaluation of the merits of potential claims and the special needs and concerns of the small investor client.

E. The Nuts and Bolts of the Securities Industry

Representatives of the securities industry will describe (in terms accessible to the non-securities practitioner) the

basics of the industry, with specific focus on the duty of a securities firm to supervise its employees and the role of the compliance office. This is important in securities cases as one basis of responsibility for broker-dealer misconduct is lack of proper supervision.

#### F. How It's Going:

##### Experiences from the Clinic

A panel of faculty who were new to clinical teaching, but who have taken on the challenge of developing and operating these clinics, will discuss choices they made for their programs and what they have learned.

The panel will likely include Professor Barbara Black, Pace; Professor Pamela Rogers Chepiga, Fordham; Professor Romaine Gardner, Brooklyn; and Professor Cheryl Nichols, Buffalo.

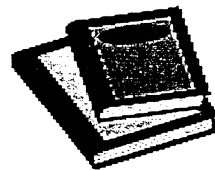
The panel will address topics such as: The Clinical Seminar; Teaching Law Students to Work With Securities Account Statements; Clinical Supervision in Securities Arbitration Practice; and Evaluation of the Client Service/Educational Performance of the SAC Student and the SAC Program.

#### HOTEL INFORMATION

A convenient hotel is the Crowne Plaza Holiday Inn, in White Plains. Singles/doubles are available at the rate of \$107. Pace has reserved a block of 50 rooms for Friday night, April 16,

and 30 rooms for Saturday night, April 17. To reserve one of these rooms, please call: 1-800-Plains2 or 914-682-0050 and give Reservations the following code: Pace Securities Conference.

For additional information, please feel free to contact Vanessa Merton at Pace Law School, 914-422-4333 or [vmerton@law.pace.edu](mailto:vmerton@law.pace.edu).



#### BOOKS & PUBLICATIONS

**Robert Dinerstein (American), Stan Herr (Maryland), Joan O'Sullivan (Maryland)**, eds., *A Guide to Consent* (American Association of Mental Retardation, 1998). [The book addresses the issues of consent by those with mental retardation, such as informed consent for health care, consent to sexual activity, consent to legal representation, and capacity and the courts]

**Alan M. Lerner (Pennsylvania)**, "Law & Lawyering in the Workplace: Building Better Lawyers by Teaching Students to Exercise Critical Judgment as Creative Problem Solvers" 32 *Akron L. Rev.* 107 (1999) [a revised and expanded version of

the paper I gave at the UCLA/IAS Fourth International Conference at Lake Arrowhead, Calif. in October, 1997. The article deals with the course which my colleague, Prof. Susan Sturm, and I designed and gave based on our conscious effort to build a course around the teaching of specific aspects of critical judgment required of lawyers]

**Alan M. Lerner (Pennsylvania)**

"LEGAL INTERVIEWING: A Video Workshop" which consists of a two hour teaching video designed and led by clinical psychologist Dr. Algrund Hermann and myself, and a manual written by the two of us and Bruce Bellingham, Ph.D., J.D., will be published shortly by NITA. It is designed as an introduction to legal interviewing for law students and lawyers, and can be used either as a self-contained, self-teaching tool, or as part of a teacher led course which includes interviewing. The manual is well documented for anyone wishing to do further reading in the literature on interviewing.

**Irene Scharf (So. New England)**

commentaries on two important immigration-related decisions in *Bender's Immigration Bulletin* Anderson v. Conboy, Vol. 3, No. 21, Nov. 1, 1998  
United States v. Balsys, Vol 3., No. 17, Sept. 1, 1998

**Suzanne J. Schmitz (Southern Illinois)** "Mediation and the Elderly: What Mediators Need to Know" *Mediation Quarterly*, vol. 16, no. 1, Fall 1998, pp. 71-84.

**Ian Weinstein (Fordham),**

"Lawyering in the State of Nature: Instinct and Automaticity in Legal Problem Solving", 23 *Vermont Law Review* 1 (1998).

[The article reports on a study applying the cognitive science Human Problem Solving Model to legal problem solving. I argue that inexperienced and experienced legal thinkers reason about a legal problem in predictably different ways, determined in part by the way our minds work and in part by the particular structure of legal problems. I suggest some ways that understanding the mechanics of inexperienced and experienced solvers can help us improve our teaching.]



**Barbara Babb (Baltimore)** received the "Distinguished Service Award" from the Maryland Legal Services Corporation for leadership in the provision of civil legal services and outstanding advocacy on behalf of Maryland's poor.

**Russell Gabriel**, director of U. of Georgia's Defender Clinic, received the Equal Justice Award for being Georgia's Outstanding Public Interest Attorney.

Associate Dean of Clinical Education and Public Service at Georgetown, **Wallace J. Mlyniec**, has been named to the first endowed professorship in clinical legal studies, in honor of Edward Ricci ('73) and his wife, Judge Mary Lupo ('74).

**Don Peters**, Director of University of Florida's Civil Clinics, and **Bob Golten**, Director of the University of Denver's Institute of International Human Rights/Advocacy Center, will spend two weeks at the beginning of February in Uganda providing technical assistance to that country's law school's human rights legal clinic. Golten helped start that clinic at the Law Development Center in Kampala while with the ABA's "African Law Initiative" (an African analog to the CEELI program) in February-March 1998. Peters, and the University of Florida Law School, have had an episodic presence in Uganda over the last several years, providing ongoing curriculum advice and assistance in the U. Makerere law faculty, both with the ABA's ALI project and under a direct US AID grant. Peters was most recently in Kampala in July, 1998 for two

weeks helping develop clinical initiatives at Makerere. He had also participated as the clinical "point man" in a Florida-Makerere Workshop on Human Rights in July-August, 1996.

Golten's work at DU's Human Rights Institute involves, in part, helping to initiate and then support new law school clinics in the developing world, especially but not only in sub-Saharan Africa. After leaving the University of Colorado law school in 1996, he has spent time in both eastern Europe (Slovakia) and Africa (Uganda), under the aegis of the ABA, helping to start new clinical programs in those emerging democracies. Clinicians interested in exploring opportunities to participate in the development of new clinics abroad, especially in Africa, are invited to contact Golten, with resume, c/o Institute of International Human Rights, 2200 S. Josephine, Denver, CO 80228, by e-mail: [bgolten@du.edu](mailto:bgolten@du.edu) or by fax at 303-444-4910.

### **University of Denver**

#### Bittersweet Victory for Clemency Project

On January 11, 1999 the Battered Women's Clemency Reform Project, a clinical course in the Student Law Office of the University of Denver College of Law, succeeded in convincing Roy Romer, the

outgoing Governor of Colorado, to grant clemency requests for three battered women and the son of one of the women. These four people are currently serving prison sentences for homicides in the deaths of abusive husbands and a father. The Governor denied four other petitions for clemency that the project filed on behalf of four additional battered women.

In this clinical course, which was offered during the spring and summer semesters of 1998, seven students worked under the close supervision of three faculty members (Nancy Ehrenreich, Peggy Walker, and Jackie St. Joan) and one clinical psychologist (Nina Sokol). These students teamed up to represent three clients. They investigated, wrote petitions, and in July presented oral arguments to the Executive Clemency Advisory Board. The opportunities for teaching lawyering skills and reflection were profound in this course. Ultimately, five additional petitions were submitted to the board by local volunteer attorneys and law students who were recruited and trained by the project, bringing the total number of petitions to eight.

Student Law Office Awarded  
\$231,877 Violence Against  
Women Grant

Along with several other law school clinics around the

country, the University of Denver College of Law was awarded an 18-month federal grant to create a Domestic Violence Civil Justice Clinic. With the \$231,877 award, our clinical program plans to gather an outstanding team of experienced teachers and service providers to create a lasting impact on the delivery of a full range of legal services to domestic violence victims in Adams County, Colorado. The project will place 16 student lawyers and four social work interns from the school of social work in the Student Law Office to provide legal representation and social work services to approximately 150 domestic violence victims. The project will provide domestic violence training for psychology students involved in psychotherapy and/or assessment through the University's Psychology Service Center. The project will have a profound impact on a community in need, on the professional education of its students, and on the professional direction of its faculty and future clinical collaboration.

The project will take place in two stages: a two semester curriculum (fall-spring 1999) and a one-semester curriculum (fall 2000). A series of intensive interdisciplinary faculty cross-training led by a team of experienced domestic violence professionals will provide a



theoretical continuity across the programs.

Second Annual Northwest  
Clinicians Conference

The Northwest Clinicians held their Second Annual Conference on September 11-13, 1998 at Sleeping Lady in Leavenworth, Washington. It was a great success and included staff as well as profs from from Gonzaga, Lewis and Clark, Seattle University, University of Idaho, University of Montana and University of Washington.

The program began with improvisation exercises led by **Sandy Hansberger (Lewis and Clark)**. These 'games' are geared to facilitate communication and were used in the Lewis and Clark clinic as part of their curriculum. **Raven Lidman (Seattle University)** and **Alan Mcneil (Gonzaga)** lead a session on how we approach teaching within student conferences. As a follow up to Portland (AALS, 5/98), **Bonnie Hodgson (Seattle University staff)** lead a session on the teaching function of clinical staff. We had a session moderated by **Terry Wright (Lewis & Clark)** discussing externships and bringing back information from the March externship conference at Catholic. **Debbie Maranville (University of Washington)** and **Betsy Hollingworth (Seattle University)**

also reprised a Portland session on conflicts arising in clinics. This time they focused more directly on issues arising in the 4 states of the attendees. We also has a session on the nuts and bolts of publishing facilitated by **John Mitchell (Seattle University)**.

This conference received financial support from both the Clinical Law Section of AALS and CLEA. Our thanks for the support. It is anticipated that we will have our 3rd annual conference fall of 1999.

**Rugers-Newark**

Rutgers Women and Aids Clinic

One of the newest clinical programs at Rutgers Law School-Newark, the Women and AIDS Clinic, initiated in 1998, helps HIV-positive women and their children in a variety of ways. The Clinic has just received another year's funding as the result of new grants from the New Jersey AIDS Partnership, the Eddie Blanks Foundation, and the Prudential Foundation to provide legal services to Newark-area women and children infected with, or affected by, HIV/AIDS.

Under the direction of **Cynthia M. Dennis**, a clinical staff attorney, students help guide these women through administrative and judicial proceedings to obtain public

benefits, arrange guardianships, file bankruptcy, and prepare medical directives and wills. Clinic students enrolled in the project perform community outreach and education on issues affecting people living with HIV/AIDS and also may conduct more complex litigation to address discrimination.



### Employment Opportunities

## ABA/CEELI

### Clinical Legal Education Specialists

The Central and East European Law Initiative (CEELI), a public service project of the American Bar Association, is seeking experienced legal educators to serve as Clinical Legal Education Specialists in Macedonia, Russia, and Ukraine.

Duties: Assist law schools throughout Macedonia, Russia, and Ukraine in developing practice-based education programs, e.g. externships and *pro bono* live client clinical programs. Transfer experience and knowledge on the fundamentals of practice-based education. Train faculty members on clinical supervision and skills development techniques. Help to integrate skills training and skills-based simulations into

existing courses. Develop written materials on model forms and procedures. Conduct roundtables discussion on the importance of professional responsibility and legal services. Develop and/or teach legal writing courses.

Benefits: Round-trip international airfare; In-country business travel; Housing allowance; General living stipend; Health insurance premiums reimbursement; Medical evacuation insurance; Associated business expenses; Student loan deferment.

Qualifications: Minimum five years of clinical legal education teaching experience. JD or LLM from a U.S. law school; U.S. bar membership; Strong interpersonal skills; High level of energy and initiative; International experience and foreign language skills preferred.

Position locations: Skopje, Macedonia for 1 - 2 months beginning February 1999; Kyiv, Ukraine for 4 - 12 months beginning June 1999; Moscow, Russia for 6 - 12 months beginning June 1999.

To request an application, please contact:

ABA/CEELI

*Liaison and Legal Specialist Program*

*740 Fifteenth Street, NW  
Washington, DC 20005-1022*

*E-mail: ceeli@abanet.org*

*Telephone: 1-800-98CEELI or (202) 662-1754; Fax: (202) 662-1597*

## AALS

### **Project Director on Pro Bono Opportunities**

The Association of American Law Schools has received a one-year grant to promote pro bono projects for students at American law schools. We are seeking as Project Director a person with experience as a faculty member or administrator in administering a pro bono program in a law school, but will consider others with comparable experience.

The tasks of the Project Director will include: helping launch a permanent section of the AALS on Pro Bono programs; working directly with law schools to help them plan expanded pro bono programs; collecting and disseminating materials that can be used by law schools involved in pro bono programs; and coordinating relationships between the AALS and other organizations working on pro bono issues or providing legal services to the poor; and overseeing a support person.

The Project Director will report to the Executive Director of the Association and work with the executive committee of the new AALS Section on Pro Bono Programs and an advisory committee established under the grant. This position might be especially

suitable for a law school administrator or faculty person who is able to arrange a leave or sabbatical from her or his institution. It is possible that the grant will be extended for a second year. The AALS is an Equal Opportunity Employer.

Send resumes with salary requirement to AALS, 1201 Connecticut Avenue, NW, Suite 800, Washington, D.C. 20015 or FAX to (202)296-8869 Attn: Pro Bono Project Director Position.

## GEORGIA

### **Clinical Instructor Family Violence Clinic**

The Civil Clinics at the University of Georgia School of Law seek an experienced attorney for a non-tenure track clinical instructor position. Primary responsibilities will include: management of a Family Violence Clinic, which represents victims of family violence, and trains law students in counseling, advocacy, and community education; teaching of civil clinical courses; and supervision of law students in direct service and externship programs. Prior law practice experience required, preferably representing victims of domestic violence; administrative and teaching experience preferred. Salary DOE; 12 month renewable appointment; position

to start on or about July 1, 1999. To assure full consideration, apply before March 1, 1999. Send resume to Alexander Scherr, Director of Civil Clinics, University of Georgia School of Law, Herty Drive, Athens, GA, 30602. An AA/EEO Institution.

## **GEORGE WASHINGTON**

### **Domestic Violence Clinic Supervisor**

The George Washington University Law School invites applications for the position of supervisor and clinical teacher in the law school's Domestic Violence Advocacy Project. The DVAP is an in-house clinical program in which court-certified law students represent low-income victims of domestic violence seeking and enforcing civil protection orders in court. The clinical supervisor will work closely with the DVAP's Director and clinical psychologist in administering and teaching the DVAP. Primary responsibilities will include close supervision of students on their court cases and co-teaching of the clinic seminar. To a lesser extent, the new supervisor will also (1) work with psychology graduate students who will be teamed with the law students on cases and (2) assist in administering, training, and supervising the "DEM Project", in which law students respond to

patients in the GW Department of Emergency Medicine who have experienced battering.

Qualifications: Applicants must have a strong academic record, significant litigation experience, and experience in and commitment to working with victims of domestic violence. They must either be licensed to practice in the District of Columbia, able to waive in, or be prepared to take the D.C. Bar exam in February or the summer of 1999. Knowledge of civil protection order practice, family law issues affecting victims of domestic violence, and clinical experience are also strongly preferred.

Status: This position is a non-tenure track clinical faculty position, currently funded by a Violence Against Women Act (VAWA) grant from the Department of Justice. The current grant will cover the first year of appointment and has the possibility of renewal. Salary is \$65,000/year.

Applicants should send a cover letter and resume to:  
Professor Robert J. Peroni,  
Chair, Appointments Committee  
George Washington University Law  
School  
2000 H. Street, N.W.  
Washington, D.C. 20052.  
Applications will be accepted  
until the position is filled.

## **GEORGETOWN**

### **Clinical Fellowships**

The Georgetown University Law Center is pleased to announce the availability of graduate law fellowships to commence in the summer of 1999. This Fellowship program is unique in American legal education. Each fellowship is associated with one of the Law Center's clinical programs, and each offers the opportunity to combine study with practice in the fields of clinical legal education and public interest advocacy.

The fellowships vary considerably in purpose, requirements and duties. They all share, however, a common goal. All fellowships offer interaction among faculty, students, and clients, and provide an opportunity for personal education and professional development. Each is designed to provide highly motivated lawyers the opportunity to develop skills as teachers and litigators within an exciting and supportive educational environment.

Typically, fellows enroll in a two-year program during which they are in residence at a specific Georgetown clinic. Upon completing the residence and the requirements for graduation, a fellow is awarded the degree of

Master of Laws (Advocacy). The fellowships usually begin in the late summer with an intensive orientation. The training program is designed to immerse the new fellow in the substantive law applicable to a particular clinic and to train the fellow for the specific tasks to be undertaken in the clinical setting.

We expect fellowships to be available in the following subjects: appellate litigation, criminal and juvenile defense, political asylum, domestic violence, federal legislation, housing and development, communications law, environmental law, civil rights law. The Fellowship program offers a stipend in excess of \$32,000 (taxable) per annum, plus all tuition and fees associated with the LL.M. program. Additional information may be obtained from Wallace J. Mlyniec, Associate Dean for Clinical Education.

## **HARVARD**

### **Clinical Instructor Criminal Justice Institute**

Duties and Responsibilities:  
Reporting to the Director of the Criminal Justice Institute, provides law students with rigorous educational experience

while providing high quality representation of clients accused or convicted of crime and/or delinquency. Instructor will supervise law students each semester in all aspects of client representation, assist in classroom teaching and curriculum development provide written evaluations and grades for students, cover student cases when necessary, serve as lead counsel in some cases, coordinate programs in area of juvenile justice and prison reform, assist in variety of Institute projects, including conferences, research, amicus briefs on criminal justice issues, and other written projects.

Minimum Requirements: JD and admission to Massachusetts Bar or must pass next exam; five or more years of criminal and/or juvenile law practice required; excellent writing, oral communication, and interpersonal skills required; supervisory and/or clinical teaching experience preferred. Note: Clinical instructors are hired on term contracts for one, two, or, three years, with an initial one year term. This is a one-year appointment, through the summer of 2000. Eligibility for subsequent terms are based on performance and program needs. Salary: DOE Position begins summer, 1999. Please send cover letter and resume to:  
Mary Prosser, Deputy Director,

Criminal Justice Institute,  
Harvard Law School; Austin Hall,  
Room 302, Cambridge, MA 02138.  
Deadline for applications is  
March 1, 1999.

## **HOFSTRA**

### **Visiting Professor Child Advocacy Clinic**

The Hofstra University School of Law is pleased to announce a visiting faculty position to commence in the fall of 1999 for one or possibly two years. The Child Advocacy Clinic is an interdisciplinary clinic that has been formed as part of the Child and Family Advocacy Center created by Hofstra Law School and the North Shore-Long Island Jewish Health Systems. The Center will engage in education, research and community service. The clinic has been created to represent children in custody, abuse and neglect cases, and other situations in which the interdisciplinary resources of the clinic can create valuable learning experiences. The Visiting Professor is being hired to direct and to assist in the development of this new clinic, and, also, to participate in the work of the Center.

Specifically, the position will entail supervising about ten students in the Clinic each semester, reviewing cases with the students, and teaching a

weekly seminar related to the students' clinical work. The successful applicant will help mold the Clinic's caseload and will be responsible for establishing a working relationship with mental health professionals working with the Clinic.

The Child Advocacy Clinic will operate as part of Hofstra Law School's existing clinical program, the Community Legal Assistance Corporation, which runs Criminal Justice and Housing Rights clinics.

Applicants must have a J.D. degree and substantial experience representing children. Applicants with clinical teaching experience will be preferred. Experience in working with mental health professionals and with alternative dispute resolution in family contexts is also desirable.

Interested applicants should send a cover letter and curriculum vitae, as soon as possible, to:

Professor Lawrence Kessler,  
Chair, Clinical Appointments  
Committee  
Hofstra Law School  
121 Hofstra University  
Hempstead, NY 11549-1210 or by e-  
mail to Professor Kessler  
at [LAWLWK@hofstra.edu](mailto:LAWLWK@hofstra.edu).

## MARYLAND

UNIVERSITY OF MARYLAND SCHOOL OF LAW invites applications for a contractual clinical teaching position for the 1999-2000 academic year. The person will develop, administer, assume primary practice responsibility for and supervise students in a health care and elder law clinical practice and will also teach advanced seminars in health law with a clinical component. The person will supervise 20-30 second and third year students annually, handling a wide variety of legal problems encountered by the elderly and others receiving health care for debilitating conditions. Candidates must demonstrate an ability to teach the substantive law that underlies such cases, including consumer protection, bankruptcy, estate planning, guardianship, health care decisions, eligibility for medical assistance and Medicare. Candidates should have substantial practice experience outside a clinical program; substantial in-house clinical teaching experience; demonstrate excellence as a lawyer and clinical teacher; and have the ability to work effectively with the State's judges, administrators of the State's health care system, and other practi-

tioners in the same area of specialty. The person must be a member of the Maryland bar or be qualified and willing to take the July, 1999 Attorney's Examination for admission by February, 2000. Resumes should be forwarded to:

Professor Rena Steinzor  
University of Maryland School of  
Law  
500 W. Baltimore Street  
Baltimore, MD 21201

## MISSOURI-COLUMBIA

### Director-Family Violence Clinic

The University of Missouri-Columbia School of Law invites applications for the position of Director of the Family Violence Clinic. Now in its 5<sup>th</sup> year of operation, this in-house program allows third-year law students to represent abused individuals who seek protective orders and children who are wards of the court who come from families that have experienced domestic violence.

Duties of the Director include responsibility for operation of the clinic, classroom teaching and supervision of students in client representation.

The offer may, at the option of the faculty, be either a tenure-track or non-tenure track clinical faculty appointment, at

the rank of Associate Professor or Clinical Associate Professor, with an expected date of employment of mid-August, 1999. Factors affecting the tenure or clinical track nature of the appointment will include the applicant's credentials and her or his interest in, record of, and future promise for research and writing. Minimum qualifications include a JD, admission to the Missouri Bar (or the ability to be admitted within the Fall Semester), and significant practice experience in the field of domestic violence. Prior law school teaching experience and grant-writing expertise are desirable. Appointment period would be for 9 or 11 months, at the option of the Dean, after consultation with the successful candidate.

Applications will be accepted until the position is filled. Interested applicants should send a cover letter and vitae. The University of Missouri values diversity and encourages applications from minorities and women. Contact: Kandice Johnson  
Clinical Professor of Law  
Director of Clinical Programs  
104 Hulston Hall  
University of Missouri School  
of Law  
Columbia, MO 65211  
Telephone: 573/882-1198  
Fax: 573/884-4368



## OHIO NORTHERN

### **Assistant Director of Clinical Programs/ Staff Attorney**

The Ohio Northern University College of Law is seeking to appoint an Assistant Director of Clinical Programs/Staff Attorney of the Lima Legal Clinic to begin in the summer 1999. Candidates must hold at least the J.D., be experienced in related areas, and be licensed to practice in Ohio or eligible to seek admission by motion. A detailed job description will be provided upon request. Candidates should submit an introductory letter, resume, transcripts, and names of three references with addresses and telephone numbers to:

Katharine Van Tassel  
Director of Clinical Programs  
Pettit College of Law  
Ohio Northern University  
Ada, Ohio 45180-1599.

Women and minority candidates are encouraged to apply. Applications should be submitted no later than February 15, 1999, to receive full consideration but will be accepted until the position is filled.

The Assistant Director of Clinical Programs/Staff Attorney for the Ohio Northern University

Legal Clinic in Lima works in the clinic full-time, handling an active civil case load, representing clients, and supervising upper level law students in those activities. The Staff Attorney also normally will teach the seminar component of the clinic course and will have an opportunity to engage in scholarship and service activities. The Assistant Director works under the supervision of the Director of Clinical Programs and may be assigned administrative responsibilities by the Director.

## SYRACUSE

### **Visiting Faculty**

Syracuse University College of Law is pleased to announce two or three positions for visiting faculty to replace faculty who will be on leave during the 1999-2000 academic year. One or two of the visitors may be assigned to teach required first year courses such as property, contracts, public law processes, or torts as well as upper level courses in the general areas of tax, business and corporate law, professional ethics, health law, labor law, environmental law, or public or private international law. In addition, one visitor may be hired to direct the Housing and

Finance Clinic. This clinic, which began in 1988, provides legal assistance to Syracuse area community development and housing organizations, as well as representation of first time home buyers purchasing housing renovated or built with state or federal housing grants. Applicants for the visiting position in the Housing and Finance Clinic must have experience representing not-for-profit or for-profit corporations and expertise in tax, real estate, corporate, cooperative, landlord-tenant, and administrative law, and be licensed to practice law, preferably in New York State. Clinic teaching experience is also preferable for this position since the visitor will supervise up to ten students each semester and teach the weekly clinic seminars and case reviews. The Housing and Finance Clinic visiting position is for the full calendar year, from July 1, 1999 through June 30, 2000. The remaining visiting positions may be for one or two semesters during the 1999-2000 academic year, depending on course coverage needs. Syracuse University College of Law is an EEO/AA employer and is committed to diversity. Interested applicants should send a cover letter and curriculum vitae as soon as possible to Arlene S. Kanter, Associate Dean for Academic Affairs, Syracuse University College of Law,

Syracuse, New York 13244-1030, or by e-mail to Dean Kanter at [kantera@law.syr.edu](mailto:kantera@law.syr.edu).

## TULANE

### **Clinical Professor Environmental Law Clinic**

Tulane Law School invites applications for the position of Clinical Professor to direct the Tulane Environmental Law Clinic. We seek candidates with substantial experience in civil litigation and with academic and/or practical training in environmental law; experience with clinical education and with representation of community organizations and/or government agencies is also desirable but not required. Duties include supervision of Clinic fellows and students and the conduct of a skills class in Environmental Advocacy. Additional classroom teaching opportunities may be available. Tulane Law School is committed to diversity and equality in employment; women, members of minority groups and physically-handicapped persons are encouraged to apply. We will begin reviewing applications on **March 1, 1999**. **Contact:** Mark Wessman, Chair, Faculty Appointments Committee, Tulane Law School, 6329 Feret Street, New Orleans, LA 70118

**CLINICAL LEGAL EDUCATION ASSOCIATION**

6020 South University Avenue  
Chicago, Illinois 60637  
(773) 702 9611  
FAX: (773) 702 2063

November 10, 1998

Standards Review Committee, ABA Section of Legal Education and Admissions to the Bar  
c/o Office of the Consultant on Legal Education  
Indiana University  
550 West North Street Suite 349  
Indianapolis, IN 46202-3162

Dear Members of the Committee:

We have asked Jim White to forward to you this letter and the enclosed specific suggestions for your consideration as you review the Standards in Chapters 3 and 4. This is a follow up to our prior more general suggested guidelines for the review process. Our suggestions are offered in the context of a heartfelt belief in the overall mission of the accreditation process as embodied in the Preamble to the Standards. We are also mindful of the important role that the ABA, as the voice of the practicing bar, continues to play in guiding the legal education process toward the end goal of preparing law students for the practice of law.

In addition to the suggestions which are enclosed, we have some concerns about Standard 305, however we are not quite prepared to make our suggestions about it. We did not want to delay sharing with you the enclosed material, since we know that you are proceeding as quickly as possible. We will shortly submit some additional material and request that you address the other standards first, in order to allow time for receipt of our comments on 305.

We are grateful for this opportunity to offer our suggestions regarding the curriculum standards review process that you are now beginning. We would very much like to hear from you regarding our suggestions, any further information the committee might find helpful regarding our proposals and any thoughts as to how our organization might continue to have input into the standards revision process. You can communicate with us directly at CUNY School of Law.

Sincerely,

Robert F. Seibel

Susan J. Bryant  
CLEA Co-Presidents  
c/o CUNY School of Law  
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(718) 340 4300

**THE CLINICAL LEGAL EDUCATION ASSOCIATION'S  
COMMENTS AND SUGGESTIONS ON CHANGES IN  
STANDARDS IN CHAPTERS 3 AND 4<sup>1</sup>**

**COMMENTS ON THE PROPOSAL TO AMEND STANDARD 405(C)**

Standard 405(c) provides:

A law school shall afford to full-time clinical faculty members a form of security of position reasonably similar to tenure and non-compensatory perquisites reasonably similar to those provided other full-time faculty members. A law school may require these faculty members to meet standards and obligations reasonably similar to those required of other full-time faculty members. However, this Standard does not preclude a limited number of fixed, short-term appointments in a clinical program primarily staffed by full-time faculty members, or in an experimental program of limited duration.

A group of law school deans has proposed that Standard 405(c) be amended to remove the mandatory requirement that clinical faculty be afforded "a form of security of position reasonably similar to tenure." The Clinical Legal Education Association (CLEA) opposes this proposal for the reasons which follow.

**The History of Standard 405(c)**

In order to understand the role and importance of Standard 405(c), one must understand the history behind its enactment. This standard was enacted in 1985. Prior to its enactment, there were no special arrangements for clinical teachers. However, Standard 405(b) was in effect which required law schools to "have an established and announced policy with respect to academic freedom and tenure..." In compliance with Standard 405(b), virtually every law school had a policy which granted tenure to its faculty.

Beginning in the 1960's and 1970's more and more clinical teachers were hired by law schools. However, law schools regularly refused to apply their tenure policies to clinical teachers. Approximately two decades ago, the American Bar Association's accreditation site visit teams began to notice these violations of Standard 405(b) and the matter was brought to the attention of the Accreditation Committee of the Council of the Section on Legal Education and Admissions to the Bar. The Accreditation Committee decided that clinical teachers were entitled to tenure just like other faculty members. However, the Council disagreed and appointed a special committee to study the matter. That committee recommended the creation of a special standard for clinical teachers which was substantially similar to the present standard 405(c).<sup>2</sup> However, in response to heavy special interest lobbying by law school deans, the council changed the mandatory "shall" to the aspirational "should" in the first sentence of standard 405(c). The Council prevailed when this

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<sup>1</sup> Suggestions for added material are underlined and bold, suggestions for deletions are [bracketed]

<sup>2</sup> The special rule for clinical teachers was originally codified at 405(e).

issue was brought to the ABA House of Delegates and the standard was enacted with the aspirational “should” in 1985.

During the debate in the Council over “should” versus “shall” it was argued that law schools should be allowed a transitional period within which to accommodate this change before the ABA mandated security of position for clinicians. That is why there was relatively little controversy attendant to the change from “should” to “shall” in the 1996 Recodification of the Standards. A mandatory standard had been intended from the outset. Moreover, the negative consequences forecast by the opponents had not, in fact, come to pass. That is, schools did not close clinics rather than assuming the burden of giving clinical teachers security of contract. Since the adoption of the “should” standard there has been a steady march toward compliance. However, the long-intended conversion to a mandatory standard was necessary because some schools have continued to deny clinical teachers even the limited protections outlined in 405(c).

This history is important because it undermines the suggestion of many opponents of 405(c) that this standard was created due to “special pleading” by clinical teachers. In fact the rule was created as an exception to the general rule for all law teachers and this exception was crafted by deans not clinicians.

### **Clinical Teaching and Academic Freedom**

Tenure has primarily been justified as necessary to enable faculty members to teach and write freely without fear that their views will result in loss of employment. This goal is no less important for clinical teachers than for traditional academic teachers. To the extent that clinicians engage in traditional legal scholarship, they are no less likely to offend, annoy or embarrass their employers than other faculty members. Moreover, the one thing which separates clinical teachers from others is that much of the work of clinical teachers involves teaching law students how to practice law by having those students engage in litigation and other advocacy under the supervision of the clinical teacher. Recent events have only underlined the obvious point that clinical teaching is quite apt to threaten institutional interests. The recent efforts of the Governor and Supreme Court of Louisiana to restrict the activities of clinical teachers at Tulane Law School are predicated solely upon the content and subject matter of that clinical program. This controversy is not the first. Clinical teachers at many other schools, including the University of Oregon, Rutgers and the University of Chicago have been threatened by outside interests due to the content of their clinical teaching. Thus, if anything, clinical teachers are more in need of security of position than are non-clinical teachers.

### **Clinical Teaching and Institutional Interests**

Another objection to the mandatory nature of Standard 405(c) is that it interferes with legitimate institutional interests, including the right to experiment, and with useful competition and variability among law schools. Unfortunately, this argument proves too much. Mandatory accreditation standards are by definition somewhat inflexible. A proponent of flexibility for clinical teachers must show why such flexibility is uniquely needed with regard to this standard. However, non-clinical teachers comprise the vast majority of law teachers. Thus, Standard 405 (b), which requires tenure for non-clinical teachers, imposes a much greater restriction on the flexibility of law schools. Yet there is no movement to repeal this provision.

Indeed, even with the change from “should” to “shall”, Standard 405(c) still affords law schools much greater flexibility with regard to the employment of clinical teachers than other faculty members. Standard 405(c), as interpreted, already provides the following exceptions which

uniquely deprive clinical teachers of protections available to all other faculty and afford law schools flexibility in their employment which does not exist for the employment of non-clinical teachers:

- (10) Tenure is not actually required; just security of position. This allows schools to give clinical teachers long-term contracts instead of the life tenure awarded to other faculty members. Interpretation 405-6.
- (11) Clinical teachers need not be paid the same as other teachers. The standard expressly excludes compensation from the requirement that clinicians be given benefits “reasonably similar” to other teachers.
- (12) A law school may make short-term clinical appointments so long as the “clinical program [is] predominantly staffed by full-time faculty members...”
- (13) A law school may make clinical appointments without security of position “in an experimental program of limited duration.”
- (14) A law school may “afford to clinical faculty members an opportunity to participate in law school governance in a manner **reasonably similar** to other full-time faculty members” (Emphasis added.) Interpretation 405-8. This interpretation notably does not require identical rights of governance.
- (15) A law school need only give clinical teachers “non-compensatory perquisites **reasonably similar** to other full-time faculty members.” Here again the standard does not give clinical teachers the same perquisites as other faculty members.

CLEA is skeptical that any law school can show that this very flexible standard has had any negative effect on its ability to operate a program of legal education which meets the objectives set forth in Standard 301 or in the Preamble to the Standards. Indeed, if changes are to be made in Standard 405(c), CLEA recommends that many, if not all, of the distinctions listed above between the rights of clinical teachers and non-clinical teachers be eliminated. Alternatively, CLEA suggests the adoption of a standard requiring law schools which employ any of the six provisions listed above to demonstrate the necessity for doing so.

### **Clinical Teaching and the Role of Law Schools in Preparing Students to Practice Law Effectively**

Standard 301(a) requires law schools to “maintain an educational program that is designed to...prepare [its graduates] to participate effectively in the legal profession.”

Providing security of position for clinical teachers is necessary in order to insure that law schools serve this primary goal of legal education for a number of reasons.

First, clinical teaching is a difficult endeavor. Unsurprisingly, experience is important to the talent with which it is performed. Requiring law schools to provide security of positions helps insure that law school clinical programs will be “predominately staffed” by experienced clinical teachers and, thereby, improves the quality of clinical teaching.

Second, clinical programs, rooted as they are in the practice of law in specific communities, require time to develop productive relationships to specific legal and other institutions. This is necessary in order to insure that the programs can attract cases and clients which provide a variety of legal experiences with a range of difficulty and sophistication and engage non-clinical teachers and persons from other disciplines in the program. Only in this manner can a clinical program insure that students are learning a broad array of skills and values and are given every more challenging assignments during their clinical experiences. Clinic teachers who are employed for short periods are unlikely to be able to design and implement clinical experiences which provide complex and rigorous experiences for students.

The number of clinical teachers has risen dramatically during the past two decades. As a general matter, the longer one remains in an institution, the more likely that one will have influence within that institution. Standard 405(c) has meant that clinicians have made modest gains in influence within law schools. So long as clinicians have security of position, these gains may continue. Most clinical teachers are of the view that the MacCrate Commission<sup>3</sup> was right in suggesting that law schools need to place greater emphasis on the goal of preparing law students to participate competently, effectively and ethically in the legal profession. On average, clinical teachers are more likely than non-clinical teachers to pursue that goal throughout all of their institutional activities, including work on law school appointments and curriculum committees. The Standards should be drafted and interpreted to enhance the ability of clinicians to advance the primary goal of accreditation. Security of position is an important element of that struggle.

## **STANDARD 301**

### Objectives

- (a) A law school shall maintain an educational program that is [designed] **effective** to qualify its graduates for admission to the bar and to prepare them to participate effectively in the legal profession **in a multicultural, global society.**
- (b) The educational program of a law school shall [be designed] **effectively** [to] prepare the students to deal with both current and anticipated legal problems **and to deal with legal problems of a variety of segments of society .**
- (c) A law school may offer an educational program designed to emphasize certain aspects of the law or the legal profession.

COMMENT: The proposed changes impose no specific requirements. The use of the term “effective” instead of “designed” acknowledges that it is not sufficient for a school to have proper intentions and good plans, but that the school must make sure that the program it offers is actually producing the required result of preparing students for the legal profession. The other added language is a recognition that lawyers who are admitted to the profession are likely to encounter a range of cultures, both among the clients served and the other parties involved in a client’s legal affairs. Like the need to prepare for anticipated as well as current legal problems, students need to be prepared to deal with legal problem solving in a variety of cultural contexts and with people

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<sup>3</sup> The ABA Task Force on Law Schools and the Profession: Narrowing the Gap is commonly known as the MacCrate Commission. It’s report entitled “Legal Education and Professional Development—An Education Continuum” was released in 1992.

from a variety of backgrounds, and they need to learn to examine law from the viewpoints of a variety of cultural perspectives.

These suggestions also follow directly from the mandate in Preamble (2)(iii) that an educational program ensure that graduates receive basic education in a curriculum that develops: “understanding of the basic principles of public and private law...”. The proposed language will encourage law schools and law faculty to include attention to the relation of law to under-represented and diverse non-dominant groups. In addition the suggestions are linked to, and supportive of, paragraph (3) of the preamble regarding pro bono legal service obligations, and Standard 302(d) which addresses pro bono opportunities specifically.

Since there are no specific requirements, law schools are left with wide flexibility to meet the standard. The added language should encourage law schools to give regular and serious consideration to the inter-relationship between having diversity among the members of its faculty and student body and the diversity of courses included in its curriculum. Individual faculty members should be encouraged by the standard to include in their courses some attention to the legal and policy implications for traditionally under-represented groups in relation to each subject that they teach.

### **STANDARD 302(a)**

(a) A law school shall offer to all students:

(1) instruction in those subjects, **including substantive law, skills and values**, generally regarded as the core of the [law school curriculum] **practice of law**.

no proposed changes in the rest of (a)

### **Interpretation 302-3**

**Instruction in those subjects generally regarded as the core of the practice of law should include: analysis of doctrine; skills needed for the application of doctrine through lawyering activities relevant to the subject; the problem solving, policy, and ethical issues likely to be arise in connection with that subject or skill and the professional values that are relevant to the practice of law in that subject. Not every core course need include all of these things, but the total instructional program in the core curriculum should address all of them.**

COMMENT: The existing standard requires instruction to be offered in subjects that are at the core of the curriculum. This is essentially a tautology--it is difficult to see how a law school could fail to meet this standard. If the intent is to impose some norm, then “the curriculum” should be changed to “a curriculum” or “a sound curriculum”. In any event, CLEA suggests that the emphasis should be on what is the core of the practice of law.

The proposed changes in the standard essentially make explicit that “subjects” are not limited to areas of substantive law, but include skills and values. Ideally every course should include exposure to doctrine, skills and professional values that are at the core of the particular area of law. Flexibility is maintained, however, so that no individual course is actually required to address all of these topics. The standard and the interpretation impose no specific requirements, but the faculty should be mindful of the need to address all aspects of each core area of law somewhere within the courses offered in that area.



The underlying justification for the entire ABA accreditation process and its consequent restriction on access to the legal profession is its effectiveness in assuring that accredited law schools are to a certain minimum degree preparing their students for their initial roles as practitioners of law. Yet, the accreditation process now requires law schools to make very little showing that they are effectively performing this justifying mission. Most important, the accreditation process does not require law schools to demonstrate that their curricula have been rationally planned and updated to take into account what students need to know and to be able to do in order to perform their initial professional roles competently and ethically. The proposed language is a modest step toward clarifying that the law schools are required to effectively prepare students for the practice of law.

The proposed changes also should encourage law schools to value and evaluate a wider variety of faculty activities and interests. Judge Edwards and a host of other commentators have pointed out how the current structure of legal academia does not assure that faculty will adequately prepare students for their professional roles. Faculties need to devote the time and effort that is required both to learn what needs to be taught in order to prepare students for the initial challenges of modern law practice and adopt the appropriate and innovative pedagogical methods that are needed to prepare students to meet those challenges. The additional language proposed for the standard should allow law schools to extend recognition to all faculty activities which may be oriented toward the study, understanding, and teaching of those critical aspects of lawyering that go beyond mere knowledge of laws. Providing proper recognition and incentives to faculty is a key part of maintaining a curriculum that is effective for the preparation students for the practice of law.

#### **STANDARD 302(d)**

(d) A law school shall **make available** [offer] **clinical** [live-client or other real-life practice] experience[s] to every law student. [This might be accomplished through clinics or externships. A law school need not offer this experience to all students]

A group of law school deans has proposed that this standard be rescinded. The Clinical Legal Education Association (CLEA) opposes rescission for the following reasons:

Historically, the American Bar Association (ABA) has played the major role in establishing and strengthening standards for improving legal education in the United States. The "Preamble" to the ABA Standards for Approval of Law Schools notes that law schools are the "gateway to the legal profession" and that a basic legal education must provide both an understanding for legal theory as well as the opportunity to develop fundamental lawyering skills and professional values. Standard 302 is a good articulation of the basic components of a sound curriculum of law studies calculated to prepare law students to enter the legal profession.

In particular, Standard 302(d), adopted in 1996, reflects an incremental step toward fulfilling the recommendations of the 1992 MacCrate Report that effective lawyering skills and professional values instruction include opportunities for students to perform legal tasks and problem solving in role as legal interns. As the MacCrate Report notes [page 238], clinics "are a key component in the development and advancement of skills and values throughout the profession. Their role in the curricular mix of courses is vital." The MacCrate report and most legal educators acknowledge that much learning occurs after law school, but such post law school learning should be based on a foundation provided by law school. Doctrinal courses in the law school provide a basis for future learning by practicing lawyers, with an emphasis on substantive law. Clinical courses in the law school provide a basis for future learning by practicing lawyers, with an emphasis on professional skills and values.

The proposal of some law school deans to repeal Standard 302(d) is a repudiation of the work of the ABA and the MacCrate Task Force to narrow the gap between law schools and the legal profession. Rather than making legal education more effective to better educate entering members of the legal profession, the deans' proposal discourages law schools from meeting the needs of their law students, the legal profession, and the clients their students will serve.

Standard 302 (d) should not only be preserved, it should be strengthened. CLEA's proposed changes would require that law schools offer enough real lawyering experience opportunities so that every student can have one, and at the same time it uses the broadest term, "clinical", to allow law schools flexibility to meet the standard. Interpretation 302-2 would remain in force, so this standard would not require that every student actually take a clinical experience or the clinical experience of their choice, only that the law schools offer enough opportunities to accommodate all their students in some way.

Based upon anecdotal information provided to CLEA by its members, there is significant unmet student demand for clinical courses at nearly every law school in the United States. Since the ABA Annual Questionnaire does not survey the number of students denied an opportunity to participate in a clinical course, it is presently impossible to accurately predict the full extent of this unmet demand. In light of CLEA's present understanding of this unmet need, and in light of the importance for law students to have adequate skills and values instruction in the context of actual client representation, CLEA believes the only change to Standard 302(d) that is consistent with improving legal education is the requirement that law school make available a clinical experience to every law student.

If the ABA believes that more data is necessary before taking the step of strengthening Standard 302(d), CLEA strongly recommends that the ABA amend the ABA Annual Questionnaire to ask the number of students who are on waiting lists for clinical experiences, as well as the percentage of graduates who have had at least one clinical course during their law school career.

## **STANDARD 302(e)**

A law school shall [should] encourage its students and faculty to participate in pro bono activities and provide opportunities for them to do so.

We believe that every law school should be required to encourage students and faculty to do pro bono service and to provide opportunities for students to do these activities. By providing encouragement and opportunities, the laws school send an important message about professional norms.

As the first socializer of professional norms, law schools which establish voluntary or mandatory pro bono programs send a strong message that public service is the professional responsibility of every lawyer. Moreover, by providing opportunities to work on behalf of indigent clients and under-represented communities, pro bono programs further the goals in the Preamble to these Standards that "an approved law school . . . must provide an educational program that ensures that its graduates: (1) understand their ethical responsibilities as representatives of clients, officers of the courts, and public citizens responsible for the quality and availability of justice . . ."

Rule 6.1 of the ABA Model Rules of Professional Conduct expressly states that "a lawyer should aspire to render at least (50) hours of pro bono publico legal services per year." The professional benefits and satisfactions that grow out of the pro bono service that are recommended in the rules and the ABA standards are difficult for students and recent graduates to comprehend in the abstract. A pro bono experience in law school will teach students far more about this responsibility than will a class or other discussions focused on pro bono responsibilities.

Pro bono service provides students an opportunity to explore their own ideas of justice in a variety of settings outside of the classroom. While pro bono projects do not provide the intensive

reflective learning found in law school clinics, law students often report that assisting practitioners in the representation of clients has increased their awareness of the role the legal system plays in the lives of people in need. It also enhances their understanding and appreciation of the material in their courses.

Faculty should also be encouraged to provide pro bono service. When faculty engage in pro bono service, they provide role models for students and reinforce the law school's message about the value of pro bono service.

Many students do not know about pro bono opportunities and the law school is in a better position to gather this information, therefore the requirement that law schools provide opportunities for students is necessary. The Standard allows Law schools flexibility about how to provide these opportunities. They may provide them through a pro bono office located at the school or they may give the students information about opportunities that exist off campus. With the assistance of law schools more students and faculty can be expected to provide service.

#### **CLINICAL LEGAL EDUCATION ASSOCIATION**

6020 South University Avenue  
Chicago, Illinois 60637  
(773) 702 9611  
FAX: (773) 702 2063

November 18, 1998

Standards Review Committee, ABA Section of Legal Education and Admissions to the Bar  
c/o Office of the Consultant on Legal Education  
Indiana University  
550 West North Street Suite 349  
Indianapolis, IN 46202-3162

Dear Members of the Committee:

As we mentioned in our letter of November 10, we have some suggestions regarding Standard 305, specifically the interpretations. Our suggestions are enclosed.

As you will see, we are suggesting, among other things, that all externships have a classroom requirement, that a full-time faculty member be responsible for the externship programs at each law school, and that in view of these and other changes, the distinction between clinics with more than 6 credits and those with less can be eliminated. Our hope is that our suggestions will allow an appropriate level of scrutiny to assure quality educational experiences for the students enrolled in externships, while at the same time allowing law schools to be creative and innovative in structuring experiential learning for their students. As before, we have put our new language in **bold and underlined format** and we have [bracketed] language to be deleted.

We are again grateful for this opportunity to offer our suggestions regarding the curriculum standards review process. You can communicate with us directly at CUNY School of Law.

Sincerely,

Robert F. Seibel

Susan J. Bryant  
CLEA Co-Presidents  
c/o CUNY School of Law  
65-21 Main Street  
Flushing, NY 11367  
(718) 340 4300

#### Interpretation 305-2

(a) A law school that has a program that permits or requires student participation in studies or activities away from the law school, except foreign programs, shall develop and publish a statement that describes the educational objectives of the program. Among the objectives of these programs may be instruction in professional skills, legal writing, professional responsibilities, specific areas of the law, and legal process. The educational objectives shall be communicated to the students and field instructors.

(b) These programs shall be approved by the same procedures established by a law school for the approval of other parts of its curriculum and shall be reviewed periodically in accordance with those procedures and in light of the educational objectives of the program.

(c) A field instructor, **part-time faculty member, adjunct** or a full-time faculty member shall engage the student on a regular basis throughout the term in a critical evaluation of the student's field experience.

(d) In a field placement program, as the number of students involved or the number of credits awarded increase, the level of instructional resources devoted to the program should also increase. The school and the Accreditation Committee shall evaluate **the program[s]** in light of **its stated goals and methods using** the following factors:

- (1) adequacy of instructional resources,
- (2) classroom component,
- (3) prerequisites for student participation,
- (4) number of students participating,
- (5) amount of credit awarded to each student,

(6) evaluation of student academic achievement,

(7) qualifications and training of field instructors,

(8) evaluation of field instructors, [and]

(9) visits to field placements or other communication among faculty, students and field instructors, and

(16) stated goals and methods of the externship program.

(17)

COMMENT: Visits to field placements are but one means of communication that may occur and be appropriate for a particular field placement clinic, as detailed in proposal 305-2(e)(3) below. The stated goals and methods of the program should serve as the basis for any evaluation, and all of the listed factors should be considered in light of the programmatic objectives.

(e) In a field placement for which a field instructor is responsible for the direct supervision of students, the following criteria apply:

(1) A student may not participate before successful completion of at least one academic year of study.

(2) The law school shall appoint at least one full time faculty member to have overall direction of the law school's externship program. The oversight and administration of the externship program by the full-time faculty member can be accomplished through the assistance of part-time faculty, adjunct faculty and field instructors. The full-time faculty member shall review the program periodically to ensure that the [law school and the faculty] part-time faculty, adjunct faculty and field instructors exercise their responsibilities in the implementation of the program and that it meets the stated educational objectives. Full-time faculty member is defined to mean "an individual employed by the law school whose primary professional role is as an educator and who is employed either as a tenure-track faculty member or, where appropriate, a long term contract employee pursuant to Standard 405(c)."

COMMENT: Although the existing regulations impose certain responsibilities on full time faculty, there is not explicit requirement that the overall program be directed by a member of the full-time faculty. The proposed revision requires overall direction by a full-time faculty member in order to ensure program quality. The use of adjuncts, part-time faculty and field instructors would be permitted under the overall direction of the full-time faculty member. The waiver provision of 305-2(f) is preserved.

(3) Established and regularized communication shall occur among full-time faculty member, student, and field instructor during the field placement experience. [An on-site visit by a full-time faculty member during the course of each field placement is preferred. The field instructor should participate with the full-time faculty member in the evaluation of student's scholastic achievement.] Dependent upon program objectives, externship faculty may use a combination of e-mail, correspondence, fax communication, training sessions at the law school, site visits, and telephone conversations with both the student and the field supervisor to assess the quality of the student's experience and to promote interaction by the full time faculty member with the

student and field supervisor. A law school may use its faculty members, qualified administrators who have knowledge of the law school's externship program or faculty from other law schools to conduct site visits, wehre appropriate to the program's objectives.

COMMENT: On-site visits are not always necessary or appropriate to programmatic objectives. The methods of communication should be determined by the externship director, and be dependent upon the externship program's goals and methods. The need for and propriety of any of a number of means of communication should be determined by the full-time faculty director, and should take into account a variety of factors.

(4)In conducting a review of the program and the participation of each student required by Standard 306(c), the full-time faculty member shall consider the following factors:

- (i) the time devoted by a student to the field placement;
- (ii)the tasks assigned to a student;
- (iii)work products of a student, consistent with applicable confidentiality constraints; and
- (iv)the field instructor's performance.

Comment: It should be clearly stated that externship teachers are bound by the constraints of attorney/client confidentiality, and may be prevented from reviewing some or all work product of a student performed for the field placement. If such review is consistent with the goals and the methods fo the program, means must be employed to protect client confidences.

(5)A [contemporaneous] classroom component is [preferred] **required. The classroom component may precede, be contemporaneous with, or follow the student's externship experience. It may be fulfilled by classroom experience or by tutorial based on any of the methods described in (e) (3).**

COMMENT: Classroom components should be mandatory for all programs. Their timing, process and content should be dependent on programmatic goals and methods. This proposal takes the provisions of (h)(1), requiring classroom components for programs over 6 units of credit and applies them to all programs. The proposed provision mirrors the flexibility (h)(1) currently offers as to the timing, process, and content of the classroom component. The proposal references communication methods described in (e)(3) as possible methods of tutorial in order to encourage both flexibility and innovation in program formats. The program format, as designed by the full-time faculty director, should clearly reflect the overall goals and methods of the externship program.

(6)Teaching credit given shall be commensurate with the instructional responsibilities of the full-time faculty member in relation to the number of students and the credit hours granted.

(f)In extraordinary circumstances a law school may apply to the Accreditation Committee for permission to use a law school administrator or a part-time faculty member whose experience makes the individual qualified to fulfill the functions of a full-time faculty member within the meaning of this Standard.

(g)The Accreditation Committee shall closely scrutinize field placement programs in which the amount of academic credit awarded is substantial, the student/ faculty ratio of the placement is high, the field placement is at a significant distance from the school, or the field placement is initiated by a student rather than by the faculty.

[(h)In a field placement program that awards academic credit of more than six credit hours per semester, the following additional criteria apply:

(1)A classroom component is required. If the classroom component is not contemporaneous, the law school shall demonstrate that its alternative is a functionally and educationally equivalent classroom experience involving full-time faculty members. The alternative may be a meaningful pre- or post-field placement experience involving full-time faculty members. The classroom component may be satisfied by regular tutorials conducted by a full-time faculty member.

(2)The law school shall conduct a written appraisal of each program at least every three years to evaluate whether the program is meeting its stated educational objectives.

(3)The law school shall ensure that there is careful and persistent monitoring by a full-time faculty member of the academic achievement of each student. This shall include an on-site visit in each field placement by a full-time faculty member in the course of the field placement. The school shall document this monitoring.]

COMMENT: The entirety of (h) should be eliminated. The prior suggested changes incorporate for all programs most of the substance of (h), and the distinction between programs of over 6 credits and those with less than 6 is arbitrary and unnecessary. Assuming that the scrutiny of the programs will increase according to Interpretation 305-2(g), and that the programs will be evaluated according to the criteria set forth in Interpretation 305-2(d), there seems to be no particular advantage to imposing additional rigid restrictions on programs of more than 6 credits. Not only does this restrict the ability of the full-time faculty director to experiment with effective and creative alternatives to such requirements, but it also supports a false sense of security for programs not in the six credit and higher category. In some instances the "safe haven" of a lower credit program might encourage directors to do less than is pedagogically sound. The addition of a mandatory classroom requirement for all programs and the requirement of a full-time faculty director for all programs, together with the requirement of faculty oversight will provide adequate assurance that the externship clinics of whatever credit level will be designed and implemented in accordance with sound and appropriate pedagogical practices.

CLINICAL LEGAL EDUCATION ASSOCIATION  
December, 1998

	MONTH	YEAR-TO-DATE
<b>BEGINNING BALANCE:</b>	\$10,547.75	\$13,308.21
<b>EXPENSES</b>		
Conferences		
Facilities		\$ 2,400
Photocopying		
Postage		
Professional Fees		
Registration refund		
Newsletter		
Printing		
Postage		\$ 1,423.53
Other Postage		
Other Printing		
Telephone		\$ 1,290.37
Journal		\$ 7,995.00
Meetings		\$ 118.97
Bank Fees		\$ 45.00
CLEA Merchandise		
Supplies		
Dues Refund		
Trophies		\$ 94.55
Website		\$ 1,000.00
Travel		
<hr/>		
<b>TOTAL</b>		<b>\$14,367.42</b>
<b>INCOME</b>		
Advertisements		\$ 2,400.00
Conference Registrations		
Miscellaneous		
Dues	\$ 705.00	\$ 9,911.96
Merchandise Sales		
<hr/>		
<b>TOTAL</b>	<b>\$ 705.00</b>	<b>\$ 12,311.96</b>
Net Income (Loss)	\$ 705.00	\$ (2055.46)
<b>ENDING BALANCE</b>		<b>\$11,252.75</b>



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**CONTINUING SURVEY OF CLINICIANS  
WHO HAVE CONSULTED OR TAUGHT IN A FOREIGN COUNTRY**

This is part of an ongoing project to identify clinical teachers who have served as consultants on legal education or who have taught in any capacity in other countries (including their own schools' semester abroad or foreign summer programs). This compilation now includes approximately 120 clinicians and 60 countries. If you have consulted or taught in other countries, or have confirmed plans to do so, please fill out this form (or report the information in any format) and send it to:

Roy Stuckey  
USC School of Law  
Columbia, SC 29208  
803/777-2278; FAX 803/777-3401  
email: Roy@Law.Law.SC.EDU

Listings from Canadian members of the AALS Section on Clinical Legal Education are welcome.

If you want to report more than one international teaching or consulting experience, please complete multiple copies of the survey or write on the back of this form.

Your Name: \_\_\_\_\_ School: \_\_\_\_\_

Country: \_\_\_\_\_

City: \_\_\_\_\_

Institution: \_\_\_\_\_

Duration/Dates: \_\_\_\_\_

Source of Funding (circle as many as apply): sabbatical; CEELI/AFLI;  
Foreign school; foreign government; Fulbright; other: \_\_\_\_\_

Brief Description of Purpose (including subjects taught):

