



SECTION ON

CLINICAL LEGAL EDUCATION

Reply to: Roy T. Stuckey
U.S.C. School of Law
Columbia, S. C. 29208
(803) 777-2278

TO: Section Members
FROM: Roy Stuckey, Newsletter editor
DATE: February, 1981

I am including an index for this issue due to the unusually large size of this edition. Many people are responsible for providing the information found in each Newsletter and I greatly appreciate the help. Whenever something happens that you think would be of interest to other clinical teachers, please remember to let me know. I plan to have another issue ready for distribution in early May.

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CHAIRPERSONS' MESSAGE

It's an unusual experience to chair an organization of which there are no members, but this is what has happened to us - sort of. Just before we became cochairpersons at the business meeting in San Antonio, the Section decided that dues should be required for membership. The AALS maintains its section rolls on a calendar year basis; therefore, the Clinical Legal Education Section will be memberless until we pay our dues for 1981.

The funds generated by the dues will enable the Section to sponsor and help support some of the activities in which clinicians participate each year. We hope most of the dues will be spent on regional training workshops. The AALS Executive Committee recently granted permission for sections to sponsor regional meetings and we are grateful for the opportunity which this will provide to involve many more clinical teachers in our Section's activities.

The participation and support of all clinical teachers will never be more important, for we can resolve the complex issues which lie ahead only through cooperation and cohesiveness. As evidenced by the lists of committee members which appear later in the Newsletter, there are already many clinical teachers who will be working for the Section during the year. We and the Executive Committee were pleased at the many indications of support and willingness to help which we received from persons who volunteered to serve on the Section's committees. We were not able to appoint everyone who volunteered to serve, but we tried to provide a representative variety of viewpoints on each committee.

Finally, we can't begin our year in the chair without paying tribute to Joe Harbaugh. Most of the Section's committees did not exist before Joe invented them as one way of increasing the number of clinicians who could have a direct voice in the business of the Section. Not only was Joe successful in making the Section more open and in distributing more information to the Section's members through the Newsletter, he was very effective as our advocate with the AALS and other groups that have an interest in clinical education. We thank Joe for his dedicated work as chairperson, and we hope to be able to build on his accomplishments.

One final note. We want to hear from any of you who would like to make suggestions or ask questions about our plans for this year. Please call or write either of us.

Dean Rivkin
University of Tennessee
Legal Clinic
1505 W. Cumberland Avenue
Knoxville, Tennessee, 37916
615/974-2331

Judy Potter
University of Maine
246 Deering Ave.
Portland, Maine, 04102
207/780-4376

HIGHLIGHTS OF SAN ANTONIO MEETING

a. Day Long Program a Success

The experimental day long workshop for clinical teachers which was held on Saturday, January 3rd was an overwhelming success with attendance far surpassing room capacities. Bill Greenhalgh and the other members of the planning committee are to be commended for their work.

The previous Newsletter did not include the names of the people who volunteered their time to present the various workshops, and that will be remedied here. Joe Harbaugh presented an overview of the state of the art of clinical teaching and identified changing trends in clinical education. Dean David S. Ruder talked to us about tenure policies in law schools.

A workshop for new clinicians was conducted by Bill Greenhalgh at the same time that Elliott Milstein and David Binder were leading a discussion about the development of teaching materials for dissemination to clinical teachers on a national basis.

The afternoon program began with two more workshops being presented simultaneously: while Roy Stuckey and Gary Palm were covering some of the problems encountered in the administration of clinical programs, Sue Bryant and Rod Jones were discussing theories and techniques that could be useful to clinical teachers in the classroom. The program concluded with demonstrations on how to teach fact investigation (Mike Sheldon) and direct and cross examination (James Doyle).

The day long format is expected to be repeated at next year's AALS meeting in Philadelphia. Suggestions about the program should be sent to Jerry Black (Tennessee) who will chair the planning committee.

b. Penegar Speaks at Luncheon

The Clinical Section's luncheon on January 3rd featured a talk by Dean Kenneth L. Penegar of Tennessee (on leave at Harvard for 1980-81). Dean Penegar served on the AALS Special Committee on Clinical Education and is expected to be appointed to the Standing Committee.

Dean Penegar began his talk by giving recognition to the great advances which clinical education has achieved during the past decade, and then turned to his opinion of the reasons why clinical education is still held in low esteem by many legal educators. (Dean Penegar credited many of his views about this

to the influence of Frank Allen's article "The New Anti-Intellectualism in American Legal Education," 28 Mercer Law Review 447 (1975), which should be mandatory reading for all clinical teachers.)

Dean Penegar suggested steps we can take to enhance the prestige of clinical education: 1) engage in more speculation and experimentation about law practice; 2) lead the movement to simplify law practice and to educate the public about law and its practice; 3) experiment with interdisciplinary team services; 4) develop case histories; 5) expand our reach to include clients beyond the indigent; 6) stimulate experiments with mediation; and 7) consider and test alternatives to the traditional role of the professional.

Dean Penegar pointed out that the two traps into which clinical teachers can easily fall are 1) becoming overly concerned with learning and teaching how law is currently being practiced without considering first if alternative approaches would be better; and 2) teaching skills without also teaching the theories and purposes underlying them. In his conclusory remarks, he urged us to make our clinics the place where one looks beyond the "is" and explores new alternatives and theories on our way to developing new conceptions and definitions about the legal profession.

c. Bylaws Adopted.

At its business meeting on Saturday, January 3rd, the Section adopted the Bylaws which are set forth below. If you have questions about the intent or history of any provision, please contact the editor of the Newsletter.

ASSOCIATION OF AMERICAN LAW SCHOOLS

Bylaws of the Section on

CLINICAL LEGAL EDUCATION

Article I. Name and Purpose

Section 1. Name.

This section shall be known as the section on Clinical Legal Education (hereinafter referred to as the section).

Section 2. Purpose.

The purpose of this section is to promote the communication of ideas, interests and activities among members of the section and to make recommendations on matters concerning clinical legal education.

Article II. Membership

Section 1. Membership.

(a) Membership in the section is open to a faculty member of a law school that is a member of the Association of American Law Schools (hereinafter referred to as AALS) and to Canadian Associates.

(b) Associate membership is open to any other person who is concerned with the teaching, administration and advancement of clinical legal education.

Section 2. Privileges of Members.

(a) Regular members shall be eligible to vote in person at a section meeting and to hold office in the section.

(b) Associate members may participate in the programs, meetings and activities of the section, but may not vote or hold office in the section.

Article III. Officers and Committees

Section 1. Officers.

The officers of this section are the chairperson and the chairperson-elect. The chairperson and chairperson-elect shall be elected to single, one-year terms by the membership of the section at each annual meeting of the AALS. The section may elect two members to serve as co-chairpersons and co-chairpersons-elect.

Section 2. Executive Committee.

(a) The executive committee is comprised of the section chairperson, chairperson-elect, six elected members, and one appointed member.

(b) The six elected, non-officer members of the executive committee shall be elected to three-year terms by the membership of the section at each AALS annual meeting. Such members terms shall be staggered to provide for the election of two non-officer members each year. Elected, non-officer members shall be ineligible to serve successive three-year terms. In the event of a vacancy, the chairperson shall appoint someone to serve until the next annual meeting at which time a member shall be elected to serve any remaining portion of the term.

(c) The appointed, non-officer member of the executive committee shall be appointed to a one-year term by the chairperson and shall serve as editor of the section publication. The member shall be appointed at or immediately following the annual meeting and shall be eligible to serve successive terms.

(d) The immediate past chairperson of the section shall serve a one-year term as an ex officio member of the executive committee.

(e) The executive committee shall determine the size of standing committees and may create any special committees it deems appropriate. In the interval between annual meetings, the executive committee shall discuss issues relating to section governance and clinical legal education, shall make recommendation policies affecting clinical legal education to the AALS Standing Committee on Clinical Legal Education and to the AALS Executive Committee, and shall solicit and receive reports from standing and special committees of the section.

Section 3. Standing Committees.

(a) Nominating Committee. (1) shall solicit from section membership the names of potential nominees for section officers and executive committee members; (2) shall consider the suitability of the potential candidates for office and select nominees; and (3) shall report the names of the nominees to the section chairperson and to the AALS Executive Director.

(b) Annual Meeting Program Committee. (1) shall determine the nature, format and content of the section program for the next annual meeting; (2) shall arrange for speakers, participants and materials for the annual meeting; and (3) shall notify section members regarding the annual meeting.

(c) National and Regional Training Program Committee. (1) shall develop, support and coordinate a comprehensive training program for clinical educators; (2) shall represent the section in the implementation of national training conferences; and (3) shall promote the establishment of regional training programs, encourage the formation of regional program committees, and provide support for regional training programs.

(d) Awards Committee. (1) shall propose to the section executive committee criteria and procedures for making awards for distinguished achievement or service consistent with AALS Executive Committee Regulations; and (2) solicit nominees for awards and nominate recipients of awards in compliance with such regulations.

Article IV. Nominations and Elections

Section 1. Nominations by Committee.

In nominating members to serve on the executive committee, the nominating committee should strive to have the executive committee reflect the different geographical regions, different clinical program types and different genders and ethnic and racial backgrounds within the section membership. Not less than 90 days before the annual meeting, the nominating committee shall notify the section chairperson and the AALS Executive Director of the names of the persons nominated to fill the officer and executive committee positions. The section membership shall receive notification of the identity of the nominees submitted by the nominating committee not less than 30 days before the annual meeting.

Section 2. Nominations by Petition.

A regular member of the section may be nominated for an elected position on the executive committee by a petition signed by three other regular members and submitted to the section chairperson and the AALS Executive Director not less than 15 days before the annual meeting.

Section 3. Elections.

All officers and other elected members of the executive committee shall be elected at the annual meeting. Elections may be by voice or secret ballot, as determined by the chairperson.

Article V. Duties of Officers

Section 1. Chairperson.

The chairperson shall preside at all meetings of the section and the executive committee. The chairperson shall present at the annual meeting the report of the section for the prior year. The chairperson shall appoint members of standing and special committees. The membership of such committees should reflect the different geographical regions, different clinical program types and different genders and ethnic and racial backgrounds within the section membership. The executive committee also shall designate members of the executive committee to serve as liaison between the section and the AALS Standing Committee on Clinical Legal Education, the Clinical Committee of the American Bar Association's Section of Legal Education and Admission to the Bar and other organizations whose activities bear on clinical legal education.

Section 2. Chairperson-Elect

The chairperson-elect of the section shall assist the chairperson, as the chairperson may request, and shall perform the duties of the chairperson during absence or disability of the chairperson. If the office of the chairperson becomes vacant, the chairperson-elect shall succeed to the office of chairperson.

Article VI. Dues

Section 1. Dues.

Each regular member of the section shall pay annual dues in the amount of \$15.00. Each associate member of the section shall pay annual dues in the amount of \$10.00.

Article VII. Policy Statements

Section 1. Policy Statements.

Because sections are part of the AALS, statements of policy or positions adopted by a section may be made public only after they are approved by the AALS Executive Committee.

Article VIII. Amendments

Section 1. Amendments.

These bylaws may be amended at the annual meeting of the section by a majority of the regular members of the section present and voting. The amendment takes effect when it is approved by the Executive Committee of the AALS.

d. Milstein Elected

Elliott Milstein (American) was elected unanimously to become chairperson of the Section at the 1982 annual meeting.

e. Barnhizer Honored

David Barnhizer was awarded the first annual Clinical Section Award for Outstanding Contributions to Clinical Legal Education.

David is now working with the National Resources Defense Council in Washington, D.C., but while teaching at Cleveland State from 1972-1980, he was an instrumental force in the development and dissemination of modern clinical education theories and techniques. He served as vice chairperson of the Section in 1976 and chaired the Section from 1977-1980.

f. Executive Committee Elected

The following people were elected to staggered terms on the executive committee: Rod Jones, Southwestern (3 years); Lonnie Rose, Kansas (3 years); Gary Lowenthal, Arizona State (2 years); Susan Bryant, Hofstra (2 years); Jack Sammons, Mercer (1 year); and Bill Kerr, Maryland (1 year).

g. Section's Committees Appointed

The following committees were created through the Bylaws or by the Executive Committee at its meeting on January 4th when committee members were appointed. One member of the Executive Committee was included on each committee in order to increase communication and coordination within the committees of the Section.

Nominating Committee

This Committee nominates persons to serve as Chairperson and on the Executive Committee for election at the Section's annual meeting which is to be held in January, 1982. It accepts suggestions from the Section's membership of persons who would serve and do a good job.

Chairperson: Susan Kupfer, Harvard
Ken Gould, University of Arkansas
at Little Rock
Jack Sammons, Mercer
Peter Hoffman, University of Nebraska
Arnold Siegel, Loyola, L.A.

Awards Committee

This Committee accepts nominations of persons to receive the Section's annual award for exceptional service in the field of Clinical Legal education:

Chairperson: Bob Doyel, University of Mississippi
Ron Belfon, North Carolina Central
Lonnie Rose, University of Kansas
Kandis Scott, University of Santa Clara

Teaching Materials Committee

This Committee solicits, receives, edits and organizes teaching materials for distribution to the Section membership. Its first task is to collect and edit syllabi of the clinical courses taught by Section members. Such syllabi should include the organization of the course, the materials used, and the assignments made. A brief narrative of the teaching methodology, demonstrations and problems used should also be included. We are particularly interested in obtaining descriptions of video tape problems used. If there are any materials which are used which are not generally available, then the place from which items can be gotten or purchased should be stated on the syllabus.

Chairperson: Norman Stein, University of Arkansas
 at Little Rock
 John Barkai, University of Hawaii
 Bea Frank, New York University
 Richard Newman, Hofstra University
 Elliott Milstein, American University

The materials are to be sent to Elliott Milstein at American University, Washington College of Law, 4900 Massachusetts Avenue, N.W., Washington, D.C. 20016.

Program for Annual Meeting - 1982

This Committee will immediately commence putting the program together and requesting persons to be responsible for various portions of the program. The goal of the Committee is to give all the program participants adequate opportunity to develop quality materials and presentations. Ample notice is particularly critical for clinicians who usually do not have a lot of free time to devote to these types of projects. The Committee will solicit ideas from the Section membership as to what workshops the membership would like presented.

Chairperson: Jerry Black, University of Tennessee
 Mike Kaye, Washburn Law School, Kansas
 Robert Bloom, Boston College
 Sue Bryant, Hofstra University
 Lisa Blitman, New York University
 Bill Greenhalgh, Georgetown University
 Mark Schoenfield, Northwestern University

Guidelines

This Committee is a small study group which will study the various guidelines, reports and recommendations concerning clinical education of the ABA, AALS and any other entity to identify and report the critical issues which should be called to the Section and its Executive Committee's attention.

Chairperson: Gary Palm, University of Chicago
Rod Jones, Southwestern University
Stacy Caplow, Brooklyn Law School

National & Regional Workshops

This committee is responsible for reporting on and giving assistance, information and suggestions to persons organizing and running the regional and national workshops. It will determine the criteria for, if, when and how regional workshops could receive financial assistance from the Section.

Chairperson: Bob Seibel, Drake University
Roy Stuckey, University of South Carolina
Dave Gottlieb, University of Kansas
Eva Nielson, Boston University
Jim Klein, University of Toledo
Paul Bergman, UCLA

h. Key Biscayne Group Meets

A hastily-arranged meeting of the Key Biscayne Group was held on Sunday, January 4th. The agenda included updates about activities during the past year and a discussion of the future of the KBG.

When the KBG was formed during the CLEPR conference at Key Biscayne in October, 1979, its stated purpose was to consider the needs of clinical legal education during the next five to ten years and to propose mechanisms and strategies to respond to those needs. The Key Biscayne Group can claim at least partial responsibility for some events that are expected to have a positive effect on clinical education, including: 1) the establishment by the AALS of a standing committee on clinical education; 2) some protection for live client clinics in the legislative history and regulations of Title IX; 3) the existence and planning of the national conference for clinical

teachers to be held in Washington, D.C. in March; 4) the revitalization of the ABA Clinical Committee which has been dormant for years; and 5) increased general awareness of the contributions which clinical teachers are making to legal education.

In San Antonio, the Group made no specific plans other than to investigate the feasibility of forming a separate permanent organization for clinical teachers. Four people volunteered to be a committee for this purpose. They are: Gary Palm (Chicago); David Barnhizer (National Resources Defense Council); Peter Hoffman (Nebraska) and Frank Bloch (Vanderbilt).

During the meeting, the point was raised that some clinical teachers might view the KBG as a closed, semi-secret group from which they are excluded. Membership in the KBG has been open to all clinical teachers, and everyone who has attended one of its three meetings has been automatically included on its membership list (now up to forty-five). If you have any questions about the KBG, please feel free to contact the editor of the Newsletter.

i. Society of American Law Teachers Meets

SALT's annual meeting was held in San Antonio on Monday, January 5th. One of its programs dealt with status and tenure issues facing clinical educators. It had planned to include an exchange of views about the new ABA/AALS Guidelines for Clinical Legal Education between Robert McKay, chairman of the committee which wrote the Guidelines, and Dave Barnhizer, past chairperson of the AALS Clinical Section. However, Dave injured his back and could not participate, so Mr. McKay made a brief presentation about the Guidelines and answered questions from the audience.

Stacy Caplow reported the results of her survey on the status of clinical teachers (a summary of her findings is included in this Newsletter), and John Hyman provided his insights on the comparison of clinical training in law with clinical training in other disciplines.

SALT is considering the formation of a committee on clinical education (an ad hoc group was organized to plan the San Antonio meeting). If you have thoughts about whether such a committee is needed and what it should try to accomplish, please communicate your ideas to Professor John Hyman, Rutgers/Newark School of Law, 15 Washington Street, Newark, New Jersey, 07102. (201) 648-5687.

j. ABA Clinical Committee Meets

The initial meeting of the newly revitalized Clinical Committee of the ABA's Section of Legal Education and Admissions to the Bar was held on Monday, January 5 in San Antonio. (members include: Robert McKay, chair, Dean Rivkin, David Binder, Marilyn Ainsworth, Laurence Katz, Mildred Ravenell, Alfred Conrad, Tom Stoel, and Frank Walwer.)

The purpose of the meeting was to review the charge to the Committee and to plan for the future. Although there were some frank exchanges of opinion, a broad range of topics was discussed during the meeting and the following results were reported:

The Committee saw no need for it to make any review or evaluation of the ABA/AALS Clinical Education Guidelines, but there was some consensus that the ABA should provide a "process" for reviewing them.

The committee discussed the possibility of ABA monitoring and support of or opposition to federal legislation that may be relevant to clinical studies, and Dean Katz volunteered to take lead responsibility for keeping current on developments.

The committee will keep on its agenda the issue of ABA support for research into clinical methodology and teaching techniques, and it recognized a need for specific information about the development of and support for regional and national teaching clinics and forums on current topics relevant to clinical legal education.

The Committee would also like to receive information about experiences of clinicians who have moved into practice for "refresher" activities and of practitioners who have moved into clinical programs. If you participated in or have knowledge about people who crossed the lines on a temporary basis, please let Dean Rivkin or Dave Binder know the circumstances and results.

The Committee also decided that closer cooperation with the AALS Clinical Legal Education Section and the AALS Committee on Clinical Education would be desirable, and Mildred Ravenell will act as liaison to these groups. The Committee also recognized the need for better communication among clinical teachers and will try to help improve dissemination of information about ABA activities. Some poorly advertised recent events, for example, were the ALI-ABA "National Conference for Enhancing the Competency of Lawyers" which was held in conjunction with the ABA's mid-winter meeting in Houston and the conference on "Legal Education in the 1980's" which is scheduled for March 21-22 in Chicago.

The Clinical Committee will probably not meet again before May.

ABA HOLDS MID-WINTER MEETING

The following events at the ABA meeting in Houston may be of interest to clinicians:

a. A public hearing was held on proposed accreditation standard 302.a (would require law schools to offer instruction in a variety of lawyering skills). (The public hearing which was scheduled to be held in San Antonio had been cancelled.) Only three people took the opportunity to speak: Dean Norman Redlich of NYU; Dean Howard Kalodner of Western New England; and Ronald J. Foulis, chairperson of the ABA Special Committee for a Study of Legal Education which had released its report and recommendations in December. Written comments on 302.a are encouraged by the ABA and should be sent to Fred Franklin at the ABA in Chicago.

b. The recommendations of the Foulis committee, which were to have been acted on by the house of delegates in Houston (report no. 107) were withdrawn.

c. William Greenhalgh of Georgetown was nominated to become chairperson-elect of the Criminal Justice Section. If elected at the ABA annual meeting in August in New Orleans, Bill will become chairperson of the Section in 1982.

d. During the days immediately preceding the ABA meeting, ALI-ABA staged the "National Conference on Enhancing the Competency of Lawyers." Reports are that no clinical teachers participated in the programs and very few clinicians attended the conference. One who did was Joe Harbaugh, who concluded from the experience that we have done a very poor job communicating to lawyers, judges, and our own deans information about what we're doing in law schools and how sophisticated our clinical program have become.

e. The ABA conducted a deans' workshop on 302.a and the Clinical Guidelines. If yours was there, you may want to talk to him about it.

STATUS AND TENURE SURVEY RESULTS

The following report was prepared by Stacy Caplow of Brooklyn Law School from the responses to the survey printed in last September's issue of the Newsletter. Stacy made a preliminary report on the survey during the SALI program in San Antonio and she has updated the data to include additional surveys that came in late. The information may be of particular importance since it was gathered coincidentally with the release of the Clinical Education Guidelines and will provide some comparative data in future years to help identify any changes that might occur as a result of the Guidelines.

THE RESPONSES

Seventy-nine individuals from fifty-three law schools responded to the questionnaire distributed by this Section¹. Their answers showed that 45 clinical teachers at 35 different institutions were eligible for, or had already received, tenure. Several people reported a cross-over from the non-tenure to the tenure track after periods ranging between 1 - 4 years. For some, the change allowed them to teach classroom courses, a previously unavailable option. For others, the transfer brought no change in teaching responsibilities.

Those who are tenure eligible replied that the standards applicable to them in the tenure decision were generally identical to all other faculty members. Some mentioned a certain relaxation of the requirements permitting fewer publications. None of the respondents were clear that different standards would necessarily be preferable. It is arguable that such standards might only perpetuate appearances of inequality. On the other hand, identical standards might impose an insurmountable burden and require individuals to pursue traditional scholarly routes which do not interest them.

Even this relatively small sampling revealed some key dissimilarities in the status of certain clinical educators. The discussion which follows highlights some of the most striking points.

I. Hiring Practices

All but two of the tenure eligible faculty were hired by the same method as other tenure track professors at their respective law schools, generally by an interview and vote of the full faculty. In contrast, only four or five of the non-tenure eligible clinicians were hired by the regular faculty appointments procedures. Although the process varied from school to school, most were hired by either the Dean, the Clinical Director, a special clinical committee, or a combination.

¹ There are many individuals who are known to be tenure eligible or tenured who did not complete the questionnaire. Tables listing the institutions of the people who responded are attached.

II. Type of Appointment

The majority (26) of the tenure eligible clinicians are employed on the basis of a nine month academic year. Several (4) work for 10 months. Only 9 work for a 12 month year, minus vacations.

All except 2 of the non-tenure eligible clinicians work a 12 month year.

III. A. Title and Rank

Another marked disparity was seen in the titles conferred on clinicians. All of the tenure line teachers have traditional professorial rankings: 5 are Assistants, 6 are Associates, and 11 are full. Thirteen identified themselves as a director, co-, or associate director of all or some specific clinical program in addition to their traditional title, eg. Assistant Professor and Director of Clinics.

In sharp contrast, only 6 of the non-tenure track teachers enjoyed professorial titles. Of those, two were ranked Associates, the balance were Assistants. As noted in the CLEPR reports, a variety of new titles such as adjunct clinical professor, clinical professor, clinical lecturer, supervising or staff attorney and clinical dean or director have been coined to describe this hybrid species of legal educator.

B. Influence

Non-tenure eligible clinicians fared somewhat better in the matter of influence on academic policy. Only 16 presently do not have voting rights. 13 of those 16 reported that they are permitted to attend and speak at faculty meetings on all issues.

Not surprisingly, all of the tenure track faculty members attend faculty meetings and vote on all issues of law school governance. A few mentioned minor limitations which seemed to be related to their more junior faculty positions rather than their identities as clinicians.

C. Teaching Responsibilities

Of the 45 teachers who are tenure eligible, 29 also teach traditional classroom courses including Torts, Criminal Law, Criminal Procedure, Civil Procedure, Federal or Constitutional Litigation, Constitutional Law, Environmental Law, Employment Discrimination, Evidence, Family Law, and Consumer Law. Almost all teach lawyering skills courses such as interviewing, counseling, negotiation, and trial or appellate advocacy. Many teach

courses in the Legal Profession or Legal Ethics which are considered to be classroom courses at their law schools.

It is particularly significant to note in connection with issues of status that many of the professors who teach a combination of clinical and traditional courses are assigned first year courses or core electives. Most individuals who teach a course in addition to their clinical responsibilities teach only one per semester while also conducting a clinical seminar(s) or case supervision or both.

Of the 34 people who are not tenure eligible, only 6 reported that they were able to teach traditional courses. In most cases the courses, while a part of the regular curriculum, were either skills oriented (Trial Advocacy), related to the lawyering profession (Ethics), or highly specialized (Immigration, Prisoners' Rights).

IV. Salary

Most tenure eligible clinicians have salary parity with their colleagues. Only 3 reported an actual salary differential between their earnings and those of other non-clinical teachers. Several senior clinicians mentioned that the salaries of junior staff at their schools are probably lower, yet none of the clinicians about whom these speculations were made replied personally.

Some answers revealed that clinicians occasionally are better paid than their non-clinical colleagues because summer stipends for clinical supervision augment their nine month salary.

16 of the non-tenure eligible clinicians stated that their salaries were inferior to those of other faculty members of comparable seniority. Many others guessed that this fact was true but had no evidence to back up their guesses since compensation was not openly discussed.

Some clinicians made the point that while their pay might be the same as non-clinical faculty, it was lower in real dollar value since their working year lasted for 12 rather than 9 months.

V. Future Expectations

Almost all clinicians regard their teaching as a career commitment regardless of tenure eligibility. This is further evidence of the high degree of motivation and enthusiasm expressed generally by clinical educators about the substance of their work.

Some responses anticipated future problems with salary levels, burn-out or boredom. Some tenure eligible clinicians were concerned

about fulfilling tenure requirements given their strenuous schedules of teaching, fieldwork supervision, one-on-one teaching, and summer responsibilities.

Those who wanted to continue clinical teaching, but not at their current law schools, attributed this feeling to disadvantageous hiring terms, prohibitions against clinicians transferring to tenure lines, and the fatigue which often accompanies intensive clinical supervision. These people suggested that they might be interested in pursuing clinical teaching at other law schools under more favorable conditions or at their own schools if better status were attainable.

CONCLUSION

Any discussion of the status of clinical educators is like The Naked City ---for every person, every program, every school there is a different story. Despite this variety, which is based on such factors as school size, location, university affiliation, funding, faculty size and general attitude toward clinical education, many law schools are attempting to come to terms with the place of clinical programs in the curriculum and the status of the people who teach in them. Standards for hiring and retention, entitlement, and tenure eligibility and requirements are central topics in any formal or informal reports.

After almost ten years of unstandardized, poorly defined existence, clinical legal education is being systematically reviewed.² Several clinicians supplied committee reports prepared at their schools which addressed all of the broad issues of clinical legal education including the status of clinical teachers.³ These documents seem not only thorough, honest and supportive of clinical education, but also attempt to define an educationally sound role for clinical educators.

2 The long awaited Report on Clinical Legal Education by The AALS/ABA Committee on Guidelines for Clinical Legal Education was distributed in San Antonio.

3 Noteworthy reports have been prepared by Boston College, Harvard and University of Michigan

Stacy's full report includes a list which tentatively categorizes the emerging models within which clinicians are working. She has also prepared tables identifying the law schools at which clinicians are eligible or ineligible for tenure. If you are interested in this information, contact Stacy.

As with any survey, many questions which need to be asked became obvious after the survey was circulated. If there are areas about which you would like to have information gathered in the next survey, please send your ideas to Associate Clinical Professor Stacy Caplow, Brooklyn Law School, 250 Joralemon Street, Brooklyn, New York, 11201.

TITLE XI CONFERENCE PLANNED FOR MARCH

Last summer, a group of clinicians was invited to Washington by the Department of Education to help evaluate Title XI grant proposals. Some of these readers concluded that the quality of the programs could generally be improved if there was a greater exchange of information and that generally the Title XI program could be strengthened if all Title XI recipients were to meet together. The result was that all Title XI grant recipients were given special travel grants to attend a national conference and, subsequently, a group of clinicians volunteered to sponsor and plan the meeting.

The Conference will be held on March 13 and 14, 1981, at American University Law School. All Title XI grant recipients should have received a package which sets forth the details of the conference. A summary of the agenda follows:

Friday, March 13

- A. morning Clinical Teaching Methodology (will focus on how to teach negotiation)
 Panelists: Robert Condlin, Stephen Pepe and David Barnhizer.

- B. afternoon: Administration of Title XI Grants
 - 1. Application Process - Rod Jones
 - 2. Administration Issues - Dr. Donald Bigelow
 - 3. The New Regulations - Elliott Milstein
 - 4. Small Group Meetings

(will focus on relationship between the criteria used in the granting process and high quality clinical education)

C. evening: dinner speaker is Rep. Neal Smith

Saturday, March 14

D. morning: Political Issues in Legal Education

1. Panel Discussion: "Who Controls Legal Education and What are They Doing?"
Joe Harbaugh, Bill Greenhalgh,
Judy Potter and Roy Stuckey.
2. Panel Discussion: "Does Proposed Accreditation Standard 302.a Go Far Enough?"
Discussants: Joe Harbaugh
and others to be announced.
3. Floor Discussion

Title XI grant recipients will be given registration priority, but others will be allowed to attend on a space available basis. For more information, contact Elliott Milstein, American University, Washington College of Law, Massachusetts and Nebraska Avenues, N.W., Washington, D.C. 20016. 202/686-2629.

The sponsors of the conference are Elliott Milstein, Carlton Bailey, Susan Bryant, Bill Greenhalgh, Joe Harbaugh, Caliph Johnson, Rod Jones, Susan Kupfer, Gary Palm, Judy Potter, Dean Rivkin, Peter Smith and Roy Stuckey.

NATIONAL TRAINING CONFERENCE BEING PLANNED

Information about this June's AALS-sponsored National Clinical Teachers Training Conference should be available in March. Dean Rivkin (Tennessee) is this year's project director and he is being assisted in planning the conference by Joe Harbaugh (Temple) and Peter Winograd (New Mexico). This will be the fifth year for the conference which has become the most important annual meeting for clinical teachers, and everyone who can, should attend.

MORE DETAILS ABOUT REGIONAL CONFERENCES

Three well-attended regional workshops for clinicians were held during the Fall. A day long conference for California clinicians was hosted by McGeorge Law School on November 14. A number of people were involved in planning it, but Glendalee Scully (McGeorge) was in charge of putting it together.

Midwest clinical teachers convened for a day and a half at the Legal Services Center of IIT/Chicago Kent College of Law on November 14 and 15 for a workshop planned largely by Bob Seibel (Drake) and Dave Gottlieb (Kansas). The Southeastern group was a little slower but got it together in style at Kiawah Island, S.C., for a two day meeting on November 21 and 22. This conference was hosted by the Law School of the University of South Carolina and was the only meeting of the three to have any funding support (from CLEPR).

It is expected that more regional meetings will be held this year, therefore, a capsule of each program's agenda is set forth below for the information of any of you who may be thinking about planning one and to give credit to those clinicians who donated their time to present the various topics.

A. California

1. A Look at California Bar Rules Governing the Practical Training of Law Students. Arnie Siegel, Loyola (L.A.); and Glee Scully (McGeorge).
2. Report on Status of Federal Practice Rules. Paul Boland (UCLA).
3. Round Table Discussion with Gordon Schaber (Dean, McGeorge) on AALS/ABA Guidelines.
4. Evaluator's Views of Title XI Funding. Rod Jones (Southwestern).
5. Expanding Views of Clinical Education - New Directions for the Eighties. Paul Boland (UCLA); Kandis Scott (Santa Clara); Lee Campbell (Southern California); and Rod Jones (Southwestern).

B. Midwest

1. Goals of Clinical Programs. Gary Palm (Chicago); Mike Kaye (Washburn); and Linda Long (Valparaiso).
2. Teaching Negotiation. Mark Schoenfield (Northwestern).
3. Teaching Professional Responsibility. Gary Laser (Chicago-Kent) and Bob Seibel.

FEDERAL FUNDING UPDATE

Money for clinical legal education (Title IX) has been appropriated, and the regulations under which it would be distributed have been proposed. However, President Carter's January 15th recession message included a request to rescind \$3,000,000 from the Law School Clinical Experience program. As of February 10, 1981, the situation was described as follows by Associate Dean John Kramer of Georgetown:

Under the rules governing rescissions which require that the recession proposal die unless approved by both houses of Congress within forty-five calendar days of the request (exclusive of Congressional recesses longer than three days), it is our best estimate that the recession will terminate by the middle of March.

If, however, as is likely, President Reagan resubmits the proposal, the issue could come before Congress sometime in March or April as part of a very broad multibillion dollar recession request. At that point we will indeed be in bad shape.

There is nothing to be done now but wait for the President to act. Even if the program is not on his list or we are able to have it removed, the likelihood of early notice of grant awards for next year is nil.

We hope to know more by the time of the Title XI Conference in March.

OREGON CLINIC UNDER ATTACK

The environmental law clinic at the School of Law of the University of Oregon may need your help. The five year old in-house clinic (one of five at Oregon) filed a lawsuit against the Forest Service trying to halt timber-cutting practices in Idaho that threaten spawning areas of salmon. The suit was filed on behalf of the Idaho Wildlife Federation, a grant from which provides about 55 percent of the clinic's funding.

A small lumber company has intervened as a defendant, and it moved recently to have the University of Oregon substituted as the "real party in interest" under F.R.C.P. Rule 17 or an "indispensable party" under F.R.C.P. Rule 19. As a result, the

defendant-intervenor has been allowed to depose the co-directors of the clinic, the Dean of the Law School, two former clinic students and three University officials.

The thrust of the defendant-intervenor's theory is that the clinic is being operated as an arm of the National Wildlife Federation principally on University funds and assets and has been generating litigation all over the Northwest behind the veil of numerous front organizations. In other words, there is no real attorney-client relationship. A question has also been raised about the propriety of the clinic existing at all on the theory that it is one and the same as the University of Oregon, which by state law cannot bring its own litigation except through the state attorney general.

Political pressure is also being applied in the form of efforts to persuade University officials and state legislators to curtail the work of the program.

Associate Professor John E. Bonine, a co-director of the clinic, would welcome any suggestions or assistance, especially in the form of amicus curiae briefs if the "real party in interest" issue goes to the Ninth Circuit. Contact him for more details: School of Law, University of Oregon, Eugene, Oregon, 97403. (503) 686-3837.

MORE ABOUT CALIFORNIA SKILLS EXAM

The results and evaluation of the experimental skills portion of the California Bar exam which was administered last summer have not been received. However, more details about the structure of the examination are available.

The applicants who were selected to participate in the experiment were tested over two consecutive days. On one day they performed six tasks as attorney for defendant. On the other, they did five tasks as attorney for plaintiff. The tasks were as follows:

<u>Attorney for Plaintiff</u>	<u>Attorney for Defendant</u>
1) Client Interview (oral)	1) Memorandum for the File (written)
2) Discovery Plan and Interrogatories (written)	2) Client Interviewing and Counseling (oral)
3) Preparation of Client for Direct Examination (oral)	3) Draft of Counter Proposal and Letter to Client (written)

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| 4) Trial Brief (written) | 4) Opening Statement (oral) |
| 5) Closing Argument (oral) | 5) Reply to Points and Authorities Memorandum (written) |
| | 6) Cross-Examination (oral) |

The roles of clients and witnesses were performed by actors who were specially prepared for the roles. The instructions for one of the tasks are reproduced below:

TASK: A-1
TITLE: Initial Client Interview
TIME: 35 minutes (5 preparation & 30 meeting)
MATERIALS: Memo from Legal Secretary

In this task, you will meet with your client for the first time. The objectives of this interview are to:

- (1) Obtain basic facts about your client's problem and information on where to obtain additional information.
- (2) Obtain client's objectives and reasons for seeking legal advice.
- (3) Establish a harmonious relationship with your client.

A meeting that elicits facts but fails to respond to your client's concerns will not be satisfactory. Similarly, a meeting that does little more than establish rapport will not be sufficient.

Thus, in conducting the interview, you should:

- (1) Have client tell story in client's own words.
- (2) Be sensitive to ethical issues that may arise.
- (3) Communicate in terms that are likely to be understood by your client.
- (4) Discuss next steps to be taken by you and/or your client.

Assume that your law firm has agreed to represent the client and that arrangements for fees have been made. You should not discuss your fees with your client.

JOBS AVAILABLE

1. The University of California, Davis, School of Law, is seeking a Clinical Law Professor beginning in the 1981-82 academic year on tenure track. Substantial flexibility in professorial requisites and related curriculum development is available. Involvement in clinical administration, skills simulation, trial advocacy, and real client supervision are all possible. Send cover letter and resumes to Floyd Feeney, Chair., Clinical Advisory Committee, U.C. Davis, School of Law, Davis, Ca. 95616.

2. Rutgers Law School, Newark, seeks a Director of its Urban Legal Clinic. Full-time, tenure-track professorship with primarily clinical teaching responsibilities. Qualifications include distinguished academic and professional credentials, and experience in substantive areas of poverty law. Prior teaching experience is preferred.

Please send resume, including academic and professional references, to: Professor Norman Cantor, c/o Rutgers Law School, 15 Washington Street, Newark, New Jersey 07102.

TRANSITIONS:

Tony Amsterdam has resigned from Stanford's faculty and will leave this summer probably to join another school's faculty. Barbara Caulfield changed her mind and remained at Hastings instead of visiting at Georgetown this semester. Brent Taylor will leave South Carolina to become clinical director at Wake Forest.

MEMBERSHIP IN SECTION SOLICITED

As explained in the chairpersons' message, the dues for 1981 should be paid now. The procedure is simple: fill out the attached "Membership in Sections" form and send it with the appropriate fee to the AALS. (\$15.00 for regular membership; \$10.00 for associate membership.)

Please help the Section by making sure that all clinical teachers at your school know about the dues requirement and are given a chance to join the Section.

A large number of clinical teachers have been excluded from participation in Section activities simply because they never knew they could join. Each summer, AALS-approved law schools submit data to the AALS which includes biographical

information about faculty members for inclusion in the AALS Directory of Law Teachers (1980-81 issue is overdue). At the same time, faculty members can fill out a "Membership in Sections" form to indicate their desire to join one or more AALS Sections. Once the form is submitted, they become Section members and their names and addresses are placed on the AALS computer which maintains the mailing lists for the Sections.

A problem for many clinical teachers has been that the individual law schools, not the AALS, define which teachers are "faculty" and, unfortunately, some full time clinicians are not defined as such by their schools. As a result, they are not only excluded from the Directory but are not even given notice of their right to join AALS Sections.

Please make sure that all clinical teachers at your school are given an opportunity to join the Section.

Don't put off sending in your membership dues. The Section's mailing list will be purged, and anyone who doesn't pay the dues may not receive the next copy of the Newsletter or other notices of Section activities (e.g., the National Training Conference).

MEMBERSHIP IN SECTIONS

There are now 47 active AALS Sections. Membership in the Sections is no longer automatic for those listed in the Directory of Law Teachers as teaching given subjects. Under the new rules established by the AALS Executive Committee on recommendation of the Committee on Sections, for faculty at AALS member and ABA approved service fee paid law schools and Canadian Associates, section membership will be determined by indications on forms for inclusion in the Law Teachers Directory or by writing the national office. Only faculty at AALS member schools and Canadian Associates may vote and hold office in AALS Sections. Although there is no general participation fee, in cases where a Section has elected to charge dues, membership will be contingent on payment of dues.

Those who are not on the faculty of an AALS member or ABA approved service fee paid law school will be assessed a fee for participation in Sections as associate members. The following fee schedule is in effect: \$10.00 to join 1 section; \$20.00 to join 2 sections; \$25.00 to join three to five sections and \$5.00 to join each additional section. The revenue this produces will go into a general Section fund.

Section memberships are for one year beginning on July 1 and running through June 30 of the following year.

Listed below are all of the current sections. Please indicate those in which you wish to participate and have not so indicated on the 1979 Directory of Law Teachers form. Mail directly to the national office.

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| <input type="checkbox"/> Administration of Law Schools | <input type="checkbox"/> Law and the Arts |
| <input type="checkbox"/> Administrative Law | <input type="checkbox"/> Law and Economics |
| <input type="checkbox"/> Antitrust and Economic Regulation | <input type="checkbox"/> Law and Education |
| <input type="checkbox"/> Aviation and Space Law | <input type="checkbox"/> Law and the Humanities |
| <input type="checkbox"/> Business Associations | <input type="checkbox"/> Law and Medicine |
| <input type="checkbox"/> Civil Procedure | <input type="checkbox"/> Law and Psychiatry |
| <input type="checkbox"/> Clinical Legal Education | <input type="checkbox"/> Law and Religion |
| <input type="checkbox"/> Commercial, Contract and Related | <input type="checkbox"/> Legal History |
| <input type="checkbox"/> Consumer Law | <input type="checkbox"/> Legal Writing, Reasoning and |
| <input type="checkbox"/> Community Services | <input type="checkbox"/> Research |
| <input type="checkbox"/> Comparative Law | <input type="checkbox"/> Local Government |
| <input type="checkbox"/> Conflict of Laws | <input type="checkbox"/> Maritime Law |
| <input type="checkbox"/> Constitutional Law | <input type="checkbox"/> Mass Communications Law |
| <input type="checkbox"/> Creditors' and Debtors' Rights | <input type="checkbox"/> Minority Groups (dues \$15.00) |
| <input type="checkbox"/> Criminal Justice (dues \$10.00 -- | <input type="checkbox"/> Native American Rights |
| <input type="checkbox"/> faculty at AALS & ABA service | <input type="checkbox"/> Prelegal Education |
| <input type="checkbox"/> paid; \$5.00 -- Assoc. members) | <input type="checkbox"/> Professional Responsibility |
| <input type="checkbox"/> Economics of Legal Education | <input type="checkbox"/> Property |
| <input type="checkbox"/> Environmental Law | <input type="checkbox"/> Remedies |
| <input type="checkbox"/> Evidence | <input type="checkbox"/> Taxation |
| <input type="checkbox"/> Family and Juvenile Law | <input type="checkbox"/> Teaching Law Outside of Law |
| <input type="checkbox"/> Graduate Studies | <input type="checkbox"/> Schools |
| <input type="checkbox"/> International Law | <input type="checkbox"/> Teaching Methods |
| <input type="checkbox"/> International Legal Exchanges | <input type="checkbox"/> Torts-Compensation Systems |
| <input type="checkbox"/> Jurisprudence | <input type="checkbox"/> Trial Advocacy |
| <input type="checkbox"/> Labor Relations Law | <input type="checkbox"/> Women in Legal Education |

NAME: _____

ADDRESS: _____

FACULTY MEMBER AT: _____

Fees for faculty at ABA approved non service fee paid and faculty at non ABA approved schools and others:

- \$10.00 to join 1 section
 - \$20.00 to join 2 sections
 - \$25.00 to join 3 to 5 sections
 - \$ 5.00 to join each additional section
- Please enclose check or money order

Clinical Legal Education Section dues are \$15.00 for regular membership (faculty at AALS and ABA approved service fee paid law schools) and \$10.00 for associate membership.

Total Remitted: \$ _____

Mail to: Jane LaBarbara, Associate Director, AALS, Suite 370,
One Dupont Circle, N.W., Washington, D.C., 20036.