



SECTION ON

CLINICAL LEGAL EDUCATION

NEWSLETTER

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This NEWSLETTER is a forum for the exchange of points of view. Opinions expressed here are not necessarily those of the Section on Clinical Legal Education and do not necessarily represent the position of the Association of American Law Schools.

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MESSAGE FROM THE CHAIR
Susan D. Kovac (Tennessee)

Those of you who attended our Section business meeting in New Orleans last January heard me expound on my concerns about extern programs and heard my charge to the Extern Committee. I was tired of the focus on "what the ABA is trying to do to us" and wanted to hear something positive. I resist being forced into a defensive posture. Don't we all teach our students that it is weak trial strategy merely to respond to your opponent rather than aggressively to pursue your own theory of the case? As a political matter, we know that change is rarely accomplished by a recital of complaints; solutions and alternatives have to be proposed, justified and supported. Yet we seemed to be devoting a tremendous amount of energy to responding to Interpretation 2 of ABA Standard 306 rather than defining our own agenda. I knew some venting would be necessary, but I hoped we would get beyond that to focus on our own goals and aspirations as legal educators and to think about how those can best be achieved in the context of extern clinics.

The Committee didn't get very far in New Orleans, but we gathered again in Washington, D.C., last May on the afternoon before the clinical workshop. At that meeting we actually started talking about possibilities, about the many educational objectives one might choose and the methodologies one might consider to accomplish them. Have you always thought of extern programs as an inexpensive way of exposing students to professional skills? What about a field placement designed to teach substantive law instead? Or legal writing? or to provide perspective on the legal system? I plead guilty to rather narrow thinking about the purpose of extern programs, perhaps because my teaching focuses on professional skills, and because that has always been the focus of this Section.

The assumption that all extern programs must be teaching professional skills has also been fostered by ABA Standard 302(a)(iii), which requires law schools to "offer instruction in professional skills." Extern programs never designed to teach skills nevertheless ended up being evaluated as skills courses because the deans and faculties knew little about their programs and simply assumed that any extern placement must be an appropriate vehicle for teaching skills. Those of you who have participated in site evaluation teams know that the instructions on evaluating field placement programs assume that those programs have but one purpose -- teaching professional skills -- and organize the questions about field placements along with other professional skills courses, separate from the rest of the curriculum. And some extern programs fostered this narrow vision themselves by the absence of clearly defined educational objectives. Despite all the fuss about the ABA, I still end up at schools where I am told that the extern placements have no particular educational objectives at all!

I am now convinced that extern placements offer many exciting possibilities for effective teaching, different from those offered by live client clinics. Years ago David Binder convinced me that good teaching could be done with simulation. It would cost just as much as live-client supervision and be just as time-consuming for the teacher. It would miss those peak moments that sometimes happen for students in a live-client clinic, but it would also eliminate those semesters when every case fizzles and the student learns very little. I concluded that much of my criticism of simulation had to do with

seeing it done badly. Perhaps my frustration with extern programs has also been based on seeing them done badly.

The Committee's discussion about objectives and methodologies for extern programs has made me think about my own teaching as well. To all of you who teach live-client clinics I offer a challenge: could you meet the requirements of Interpretation 2 of Standard 306? Do you have a published statement "which defines the educational objectives of the program." Something more than a catalog description? How often do you review your program in light of those stated objectives? How well does your selection of cases actually match what you say you want to teach. How much of your time do you spend conveying substantive law and procedure when you claim to be teaching interviewing and counseling?

Enough. We will return to these questions, to the process of selecting educational objectives and matching them with appropriate methodologies, at the AALS Conference on Clinical Legal Education in Ann Arbor next June. I'm sure we'll have a lot to talk about. In the meantime, I've asked Sandy to print the following statement from Leah Wortham as part of my column. It speaks to our need for a new focus.

THE GREAT EXTERN DEBATE: LET'S CAN THE RERUNS

by Leah Wortham

Columbus School of Law, The Catholic University of America

How about retiring the rerun and syndication of the "great extern debate"? I, for one, am not interested in sitting through one more showing of "The Problem with Extern Programs," "Why In-House Programs Are Better Than Extern Programs" (and its sequel, "Why Extern Programs Are Better Than In-House Programs"), and "How to Comply with § 306," subtitled, "Have Accreditation Teams Ever Met An Extern Program They Liked?"

In the place of these themes, I would like to see some new features. What educational objectives have particular extern programs tried to meet? What objectives seem well suited to extern methodology? What teaching methods have clinics used or considered? What have faculty, students, and field supervisors done in particular programs? What were good, and bad, experiences with the experiments? What frameworks have people developed for organizing and thinking about extern experiences? What ideas do people have but for which they have not yet found material? What kinds of exciting collaborations and cross-fertilizations might there be with the teaching experiences, methods, and materials from in-house clinics, adult learning theory, other academic disciplines, other professional schools that use internships as part of their teaching method, in-house training programs tried by law firms or other employers, and other sources?

Having been to at least three meetings that began with the promise of the second paragraph, but ended up with yet one more replay of the first, it was refreshing and energizing when a meeting before the D.C. clinical workshop in May leaped out of the familiar rut. Our stated task was to consider the kind of regulatory framework for extern programs that extern clinicians would find constructive and helpful. Interpretation 2 of § 306 (or at least the street

interpretation of Interpretation 2) sets up a few specific teaching methods as the litmus test of educational legitimacy. We saw the need not as establishing paths to orthodoxy but rather encouraging experimentation, documentation of experience, and cross-fertilization and critique of that experience.

We brainstormed not about a unitary "good extern program" but about the range of questions and possibilities one should consider in designing an extern program. We envisioned a handbook or guide for a school that wanted to consider changes in its existing extern program or set up a new one. This generated a tantalizing list of many kinds of educational objectives and methodologies that people had used or considered using.

Critics bemoan legal education's failure to address some educational needs of future lawyers for which externships offer tremendous potential. Law schools are faulted for failing to give students tools for learning from the experience of practicing law, more particularly for failing to foster independent learning and the ability to teach oneself without constant supervision, for encouraging passive and dependent work habits, for failing to help students understand what lawyers actually do, for failing to prod exploration of what it means to be a professional, for failing to provide a route to individual learning goals when learning theory suggests adults learn best with this motivation, and for failing to help students consider what may be necessary for life as a lawyer to bring them personal satisfaction.

Externships are not the only possibility for addressing such goals, but they are a potentially powerful tool. Externs work in the kinds of settings where they will begin their careers. They observe what lawyers do and how the profession functions. Externships can be tailored to students' individual objectives. Students can be encouraged to take initiatives that enhance learning from their experience. Their role assumption can encourage student thinking about what they want their lives as lawyers to be.

Extern programs will choose different goals among the ones previously stated or altogether different ones. Like any kind of teaching, it takes research, thought, and creativity to structure a program that meets stated goals. We need to call at least a temporary halt to debates about externships' legitimacy and get on with exploring ways to run valuable programs.

Many kinds of educational purposes might be sought, and multiple methods might serve any purpose. To the degree the accreditation process urges choice of particular teaching methods as proof of quality, it misses the mark. Worse than that, it stifles creativity in an area where encouragement is needed desperately.

Extern programs perceive the current accreditation process as something like this:

Accreditor: Oh, you have an extern program. (Green eye shade and thick gloves used for handling something distasteful go on.) We'd better take a close look at that. Tell me for how many hours the classroom component is scheduled and what the student faculty ratio is.

We envisioned the mind expanding alternative of:

Accreditor: Oh, you have an extern program. (Smiles interestedly).
Tell me more about its place in the curriculum. What do you
want students to achieve? What methods do you use? What
has been your experience?

(The characterization of the current process refers to aggregate perception of
an attitude to externships not the actions or intentions of any specific site
team or the Council.)

Many faculties have no interest in learning anything about the educational
substance of their clinics. (And clinics often do not mind this neglect so long
as it remains benign.) When the ABA catches such faculties' attention, they
want a quick, no-fuss answer. That prompts the calls I have gotten, "My faculty
says I have to have an academic component. What do you do in yours?" To which
I always answer, "What are you trying to do in your course? What you would do
in a classroom component, or whether you would have one at all, should depend on
what you are trying to achieve."

Faculties also respond like the Dean who proudly told my Dean, "Oh, we have
abolished all our extern programs," — as if that were the sure indicia of
quality legal education. The green eye shade and thick gloves approach to
accreditation suggests to law schools that eliminating extern programs is the
prudent course.

Some political realities fuel the in-house vs. extern debate. We all have
heard rumors of extern (and simulation) programs being seen as a cheap
alternative to in-house programs with a consequential cut back or abolition of
in-house clinics. I do not know how many times this actually has happened, but
even the possibility would explain a wariness among in-house clinicians about
enthusiasm for extern programs.

In many schools, clinicians are vulnerable and the extern clinicians are
the most vulnerable. Thus, it is not surprising that extern clinicians rise to
debate when their legitimacy is questioned.

My point is not that extern programs are per se good, and that all existing
programs are everything they could be. Rather that the case for their potential
is strong enough to encourage experimentation. Exploration of ways to achieve
that potential and experience in doing so largely are undocumented. We do not
know enough to say that inclusion of a particular methodology is the touchstone
of quality. Legal education should not take actions that point in a single
direction rather than encouraging experimentation. Accrediting teams should
look at the substance of what extern programs do, but that should be grounded in
support for trying the method followed by an exploration of success in meeting a
particular program's educational objectives. An assessment of weaknesses and
suggestions for strengthening should be tailored to the school's program in
context, not a mindless application of student faculty ratios or counting
classroom contact hours.

Critics assail children's television as encouraging passivity, numbing
creativity, and promoting violence. The same criticisms could be applied to the
reruns of "the great extern debate" (at least if one substitutes dissension for
violence). Commercial realities explain why much children's television is as it
is. Some family realities explain why my kids watch Teenage Mutant Ninja

Turtles. Political realities explain why the great extern debate is still in syndication, but time would be better spent on new scripts, new shows, and thoughtful criticism of those efforts.

NOTICE OF WORKSHOP -- THE ART OF STUDENT CRITIQUE !

The Western region of the AALS Section on Clinical Legal Education will sponsor a full day workshop on the art of student critique on Wednesday, January 3, 1990 (the day before the AALS national meeting) in San Francisco. The program is intended to assist new (and newish) clinical teachers in developing their critiquing skills. Some of the country's most experienced clinicians have agreed to teach in the program.

All participants will have several opportunities to be video-taped critiquing a student performance, have the critique critiqued by experienced critiquers, review the taped critique with one or more additional experienced critiquers, and observe other participants' critiques being critiqued.

The workshop will be held at the University of California, Hastings College of the Law. Hastings is conveniently located in the civic center area of San Francisco, close to the hotels hosting the annual meeting. A minimal registration fee may be charged to cover lunch and materials.

The number of participants will be limited. To register please contact the program director, David Oppenheimer at the University of San Francisco School of Law, Kendrick Hall, San Francisco, California 94117 (415) 666-6752.

NOTICE OF WORKSHOP II -- USING THE MBTI IN RESEARCH

On Wednesday January 3, 1990, the day before the clinical day of the AALS annual meeting in San Francisco, 30 participants will have an opportunity to learn how to use the Myers-Briggs Type Indicator in educational research. The session, designed for people already familiar with the MBTI will be funded by the Law Practice Management Section of the ABA. Leary Davis of Campbell Law School will be sending letters to all Deans announcing the availability of scholarships for this session. If you are interested in attending this session, get in touch with Leary Davis at (919) 893-4111, ext. 2342, or, if you have difficulty reaching him, call Liz Ryan Cole (Vermont) at (802) 763-8303. Leary also believes there will be 10 more scholarships for MBTI certification later this year. You don't have to be certified to attend the session in San Francisco.

ANNUAL MEETING PROGRAM, SECTION ON CLINICAL LEGAL EDUCATION

With much thanks to Bea Moulton (Hastings) and Jane Aiken (Arizona State) who have served as Co-Chairs of the Annual Meeting Planning Committee.

WEDNESDAY, January 3, 1990

Come a day early! Participate as a student or teacher in the Western Regional conference on the art of critique (see p. 7). Or spend the day learning more about Meyers-Briggs (see p. 7). Join us in the evening for the annual open meeting of the Section Executive Committee and a reception.

THURSDAY, January 4, 1990

READ THIS CAREFULLY: Clinical teachers are encouraged to attend the first two hours of the AALS Mini-Workshop on Teaching the Law and Ethics of Lawyering throughout the Law Curriculum. In order to do this, you will need to register for that mini-workshop. This year there will be no additional fee. AALS will be expecting us (and they will be expecting us to leave to go to our own program at the morning break). Our separate morning session, which begins at 10:30, will assume a familiarity with the subjects covered earlier in the mini-workshop.

8:15 to 8:30 (with the mini-workshop)
Welcome and Introduction

Thomas D. Morgan, George Washington University and
President-Elect, AALS

Roger C. Crampton, Cornell Law School and Chair, AALS Planning
Committee for Mini-Workshop on Teaching the Law and Ethics of
Lawyering throughout the Law Curriculum

8:30 to 9:00 (with the mini-workshop)
Keynote: Can a Law Teacher Avoid Teaching Legal Ethics?

Carrie J. Menkel-Meadow, University of California, Los Angeles

The law school classroom has its "ordinary religion": a complex web of premises, assumptions, and operational practices that transmit powerful messages concerning the nature of law, the function of lawyers in society, and the roles and behavior of lawyers in dealing with clients, legal officials, and third persons. Should law teachers be more overt and self-conscious in teaching and discussing these messages?

9:00 to 10:15 (with the mini-workshop)
The Lawyer's Role in the Adversary System

David J. Luban, University of Maryland
Charles Fried, Harvard Law School

Professional codes, the adversary system, and the law of lawyering embody the "traditional conception" of the lawyer's role or roles in the courtroom and law office. The traditional conception will be critiqued (Luban) and defended (Fried) in this portion of the program.

10:15 to 10:30 (on your own)

Refreshment break. We'll have refreshments set up down the hall, so you can move on down and be ready for our separate program.

10:30 to 12:00

Teaching Ethics in the Clinic: The Carryover from Clinics to Careers

Peter Gabel, New College of California School of Law
David Oppenheimer, University of San Francisco School of Law
Howard Lesnick, University of Pennsylvania Law School
Moderator: Bea Moulton, University of California, Hastings

Even when ethics is not an explicit focus, clinical teachers cannot avoid transmitting their views about the appropriate means and ends of legal representation. While zealous advocacy may be justified on behalf of indigent clients most clinics serve, it may not be justified in other settings, and should not be carried over unthinkingly. How can we help our students prepare for the ethical dilemmas they will encounter in practice?

12:15 to 2:00

AALS Section on Clinical Legal Education Luncheon

Speaker: John Kramer, Tulane University School of Law
(Advance reservation and separate fee to Graham Strong, UCLA School of Law, 405 Hilgard Avenue, Los Angeles, California 90024 — we'll let you know the details on this after we've finished making the arrangements.)

2:00 to 3:30

Concurrent Sessions

The Role of the Law School Clinic in Fostering Public Interest Careers and Pro Bono Involvement

Gary Laser, ITT, Chicago-Kent College of Law
Henry Rose, Loyola University School of Law, Chicago
Nina Tarr, Washburn University School of Law

Empirical Research for Clinicians: Issues and Answers in Study Design and Implementation

Philip Shuchman, Rutgers Law School, Newark

Rita Simon, School of Public Affairs and College of Law, American University

The Supervisor as Therapist? Dealing with Psychological and Social Problems in the Law School Clinic

Steven Hartwell, University of San Diego School of Law

Jack Himmelstein, CUNY Law School at Queens College

Conrad Johnson, Columbia University School of Law

Vanessa Merton, Pace University School of Law

Teaching Ethics in the Law School Clinic: Some Practical Approaches

David Koplow, Georgetown University Law Center

Carrie Menkel-Meadow, UCLA School of Law

Paul Wohlmuth, University of San Diego School of Law

3:30 to 3:40

Refreshment Break

3:40 to 5:15

Concurrent Sessions

All four of the sessions listed for 2:00 to 3:30 will be repeated in this time slot. That way you will be able to attend two of the four sessions in their entirety.

We also anticipate that the ABA will be sponsoring a program this afternoon for people interested in doing site evaluations. We hope their schedule will address issues of concern to deans and librarians first, so clinicians can attend one of our early afternoon sessions and then consider the ABA program as another option for the late afternoon.

5:30 to 6:30

Business Meeting

FRIDAY, January 5

3:30 to 5:00

Teaching and Learning Methods: The Process of Creation

We are cosponsoring this session with the AALS Section on Legal Writing, Reasoning and Research. Thanks to Richard Neumann, Hofstra, for his work on this program.

COMMITTEE REPORTS

The Nominating Committee consisting of Nancy Daniels (Florida State), Peter Hoffman (Nebraska), Kathy Sullivan (Brooklyn), Nina Tarr (Washburn), and Chuck Weisselberg (Southern Cal.) has nominated the following candidates for Section offices in 1990:

Chair-Elect: Jeff Hartje (Denver)

Executive Committee:

(To serve Jeff Hartje's unexpired term): Mark Heyrman (Chicago)

Three-year terms (to replace Terry Player and Liz Ryan Cole):

Karen Tokarz (Washington Univ., St. Louis)

Jane Aiken (Arizona State)

Awards Committee. As is customary, the Section Executive Committee will function as the Awards Committee. Nominations are open. Our by-laws, as we amended them last January, provide: "The purpose of the award is to honor either an individual or an institution for effecting an outstanding contribution to the cause of clinical legal education. The criteria will be based on service, scholarship, program, or political work." If you have suggestions, please contact:

Susan Kovac

(Tennessee 615-974-2331)

Graham Strong

(UCLA 213-825-7460)

William Greenhalgh

(Georgetown 202-662-9080)

Terry Player

(San Diego 619-260-4532)

Liz Ryan Cole

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John Elson

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(Denver 303-871-6105)

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Sandy Ogilvy

(Texas Southern 713-639-1027)

Political Interference Group (PIG)

The conflict of interest case involving the Rutgers Constitutional Litigation Clinic was decided by the New Jersey Supreme Court on August 2, 1989. It was close, but WE WON! An intermediate appellate court had ruled that a state conflict of interest statute barred Rutgers clinicians from representing a coalition of low and moderate income groups before a state agency. In a 4-3 decision, the state Supreme Court reversed.

The Court held that the statute does not apply to Rutgers clinicians. The majority opinion cites the development of clinical legal education, and then focuses upon the reasons for the conflict of interest statute. The statute was enacted to avoid violations of the public trust. The Legislature could not have intended that the statute apply to Rutgers Clinicians.

The majority opinion is terrific. As Justice O'Hern wrote for the Court:

"Clinical training is one of the most significant developments in legal education. Generations of law students, trained on the case method, were believed to be skilled in analysis but unskilled in serving client needs. The response has been for law schools to afford students "hands-on" experience in representing clients. That means participating in client interviews, investigations, preparation of pleadings, and in permitted circumstances, appearing in court. We have changed our Court Rules to permit the supervised practice of law by third-year law students . . .

As noted, the Rule permits students, under the supervision of a member of the bar, to represent clients in need of legal services. For example, the Rutgers Environmental Law Clinic's mission is to provide students with an

introduction to the nature of environmental law practice. To do so, it must interact with the Department of Environmental Protection as well as other State administrative agencies. In order to accept the . . . ruling [below], we would have to assume that an environmental law clinic at a State University (unlike one at a privately-funded university) would not be able to interact with any of the agencies essential to such practice. Nor would the Women's Rights Litigation Clinic of Rutgers University be able to represent women subjected to sexual harassment in related employment hearings or to act in child-advocacy issues before the Division of Youth and Family Services, the State agency that provides protective services for children. Nor would the Urban Law Clinic at Rutgers be able to handle its clients' housing, employment, and income-assistance claims when they must go before the operative State agencies. Nor, finally, would the Rutgers University School of Law Constitutional Litigation Clinic (Clinic) be able to appear before [the Council on Affordable Housing]. We cannot attribute such an intention to the Legislature." Determination of Executive Commission on Ethical Standards Re: Appearance of Rutgers Attorneys Before the Council on Affordable Housing On Behalf of the Civic League Plaintiffs, 116 N.J. 216, 561 A.2d 542, 543-44 (1989).

The New Jersey Attorney General filed a motion for reconsideration. As of September 19, the motion was still pending.

Otherwise, all has been quiet on the PIG front.

OF INTEREST TO CLINICIANS

Leo Romero (New Mexico) reports that the 1990 Conference on Clinical Legal Education is scheduled for June 2-7, 1990, at the University of Michigan in

Ann Arbor. More information about the AALS Clinical Teaching Conference will be forthcoming. Clinicians should reserve those dates for what promises to be a stimulating conference and an opportunity to get together and share ideas.

The Texas Equal Access to Justice Foundation awarded 1989 IOLTA grants to St. Mary's Legal Aid Clinic and to the Elderly Law Clinic at Thurgood Marshall School of Law, Texas Southern University. Both clinics focus on the needs of low income elderly persons.

The United States District Court for the Southern District of New York recently held (1)that an attorney fee award in a civil rights action was not precluded on the ground that the plaintiff was represented by a law school clinical program overseen by faculty members and staffed by students; (2)the small award of damages (\$693.55) did not preclude award of fees; and (3)fees for student time would be awarded based on market rate which law firms charge clients for time of student clerks, and not merely for actual wages paid. See Proulx v. Citibank, N.A., 709 F. Supp. 396 (S.D. N.Y. 1989). The plaintiff was represented by the Brooklyn Law School Federal Civil Rights Law Clinic.

AMONG OURSELVES

Anthony Amsterdam (NYU) was named a five year MacArthur Fellow on July 18th by the John D. and Catherine T. MacArthur Foundation. He will receive \$320,000 over five years.

Karen Czapanskiy (Maryland) gave the keynote address, "Gender Bias in the

Richard J. Wilson (American). "The New Legal Education in North and South America." 25 Stan. J. Int'l L. 375 (1989)(comparing the development of clinical education on the two continents). "State Post Conviction Representation of Defendants Sentenced to Death." 72 Judicature 331 (1989),

with Robert L. Spangenberg. "Nicaragua and Its New Constitution." 16 Human Rights (fall 1989). "The Constitution and Crime in the New Nicaragua." In The 1987 Nicaragua Constitution: Official Translation and Varied Commentary (K. Mijeski, ed. 1990).

...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...

The University of Chicago Law School has an opening for July, 1990 for a clinical teacher. Strong academic credentials are required. Litigation experience is preferred. Applicants must have the ability to supervise law students representing indigent clients in state and federal courts and administrative agencies. Applicant must be licensed to practice law in Illinois or able to become licensed prior to October 1, 1990. Send resume to Mark J. Heyrman, The University of Chicago Law School, 1111 East 60th Street, Chicago, IL 60637 (312/702-9611).

Georgetown Law Center is accepting applications for Fellowships in its various clinical programs. The Fellowships last two years and pay in excess of \$20,500 per year. At the end of the two years, the Fellow is awarded an LLM degree in Advocacy. This year, we are accepting applications for Fellows to work with the Appellate Litigation Clinic, Criminal Justice Clinic, Juvenile Justice Clinic, Center for Applied Legal Studies, Harrison Institute, the Institute for Public Representation, and Street Law. Georgetown also administers the Women's Public Policy Fellowship Program. This is a one year Fellowship that does not lead to an LLM degree. Recent graduates as well as those graduating in June, 1989, are invited to apply. Persons interested should apply directly to the clinical program in which they are interested. Applications are due in December. For more information, contact Professor Wallace Mlyniec, Associate Dean for Clinical Education, Georgetown University Law Center, 600 New Jersey Avenue, N.W., Washington, D.C. 20002 (202/662-9590).

The University of Kansas School of Law is seeking well qualified lawyers for positions beginning with academic year 1990-91. These positions are contingent upon the availability of funding and include permanent, visiting, 12-month, 9-month, semester, and summer session appointments. Positions can include tenure-track appointments in clinical education. Applicants must hold J.D. or LL.B. from an accredited law school and have an outstanding academic record. Significant legal experience is preferred. Contact Professor Edwin W. Hecker, Faculty Recruitment Comm., School of Law, Univ. of Kansas, Lawrence, KN 66045.

Marquette University Law School is seeking candidates for the position of Director of Clinical Programs beginning July 15, 1990. Faculty rank and compensation are subject to individual qualifications. Distinguished academic and professional background and superior scholarly promise expected. Duties include directing and administering the Law School's legal clinic for the elderly, supervising law students enrolled in clinical programs and developing funding sources for clinical programs. Candidates must be members of the Wisconsin Bar or eligible for admission to the Wisconsin Bar. Contact: Professor John J. Kircher, Chair, Faculty Appointments Committee, Law School, Marquette University, 1103 West Wisconsin Avenue, Milwaukee, Wisconsin 53233.

Courts," at a seminar entitled "Money, Power and Gender, The Economic Impact of Divorce," at Baltimore Law School on September 23.

Steve Emens (Alabama) has been appointed Associate Dean for Law School Programs at Alabama.

Leonard Cavise (DePaul) received a special award from his school for excellence in teaching.

John Sonsteng (William Mitchell) received an award from the Association of Trial Lawyers of America for his contribution to trial advocacy, legal education and justice in society.

The AALS 1989 Workshop on Alternative Dispute Resolution, July 6 - 8, in Washington, D.C. featured several clinicians: Carrie Menkel-Meadow (UCLA), Robert Condlin (Maryland), Joe Harbaugh (Richmond), Michele Hermann (New Mexico), Leonard Riskin (Missouri), Carol Liebman (Boston College), and Steven Pepe (formerly at Michigan and now a U.S. Magistrate).

Marie A. Failinger (Hamline) will participate in a symposium at Hamline, October 26-27, entitled "Diversity, Authority and Empowerment: Cross-Currents in Law and Religion." Marie is also the editor of the Journal of Law and Religion at Hamline.

Richard J. Wilson (American) is the Reporter for the ABA's 3rd Edition update of its Criminal Justice

Standards, Chapter 5, "Providing Defense Services." The new edition, including updates on "The Defense Function" and "The Prosecution Function" chapters, is scheduled for completion in August of 1990.

PUBLICATIONS BY CLINICIANS

Laura Berend (San Diego). Appendix B, 1989 Cumm. Supp., to Materials for the Study of Evidence by Carlson, Imwinkelreid & Kionka (Michie Co.).

Karen Czapanskiy (Maryland). "Child Support and Visitation: Rethinking the Connections." 20 Rutgers L. J. 619 (1989).

Katherine Hunt Federle (Hawaii). "Putting Children On The Stand." TRIAL MAGAZINE 30 (August 1989).

Philip M. Genty (Columbia). "Protecting the Parental Rights of Incarcerated Mothers Whose Children Are in Foster Care: Proposed Changes to New York's Termination of Parental Rights Law." 17 Fordham U. L. J. 1 (1988-89).

David A. Koplow (Georgetown). "Constitutional Bait and Switch: Executive Reinterpretation of Arms Control Treaties." 137 U. Penn. L. R. 1353 (1989).

David B. Oppenheimer (San Francisco). "Employment Discrimination and Wrongful Discharge: Does the California Fair Employment and Housing Act Displace Common Law Remedies?" 23 U. San Francisco L. R. 145 (1989), with Margaret M. Baumgartner, and "Distinguishing Five Models of Affirmative Action." 4 Berkeley Women's L. J. 42 (1988-89).

Roy D. Simon, Jr. (Washington Univ., St. Louis). "Fee Sharing Between Lawyers and Public Interest Groups." 98 Yale L. J. 1069 (1989).

The New York University School of Law is seeking to fill a clinical tenure track position. The position is available beginning in the Academic Year 1990-91. Interested persons should send a resume with references, a law school transcript, and a writing sample to Professor Martin Guggenheim, New York University School of Law, 249 Sullivan Street, New York 10012 by November 15, 1989. The position includes primary responsibilities in the Civil Rights Clinic, including direct supervision of student fieldwork in state and federal courts on civil rights cases, and classroom teaching and supervision of lawyering and litigation skills in advanced simulation exercises. Applicants having substantial litigation experience and some experience in supervising students or attorneys are strongly preferred. Applicants should be capable of securing admission to practice in New York state and federal courts. The clinical tenure track position offers full sabbatical rights and opportunity for research leaves and research assistance.

Thurgood Marshall School of Law, Texas Southern University, invites applications for both tenure-track and visiting faculty positions. The positions will become available beginning fall 1990. Interested applicants should send a letter of application and curriculum vitae, with references to Associate Professor James W. Beard, Jr., Chair, Faculty Appointments Committee, Thurgood Marshall School of Law, Texas Southern University, 3100 Cleburne, Houston, Texas 77004.

The University of Toledo College of Law invites applications for a regular tenure track position for academic year 1990-91 that involves both clinical and core curriculum classroom instruction. Excellent academic credentials, commitment to legal scholarship and prior clinical teaching or legal practice experience is desired. The clinical teaching is in a general practice in-house program located in the College of Law and the traditional course assignment is relatively flexible. Contact Professor William Richman, Chair, Personnel Committee, University of Toledo College of Law, Toledo, OH 43606.

West Virginia University College of Law has a tenure-track opening in a strong civil practice clinical program. Applicant must have standard tenure qualifications and significant practice experience. Clinical teaching background is also desirable. It is expected that the professor will teach in areas other than clinic. In exchange, the WVU College of Law offers and educational community with a real commitment to professional skills education. The Dean is a former clinician, as are many members of the faculty. We already have one tenure-track clinician, so you will not be alone. Applications should be sent to Professor Gerald Ashdown, Chair, Faculty Appointments Committee, West Virginia University College of law, P. O. Box 6130, Morgantown, WV 26506-6130, by January 10, 1990.

All of the above are Equal Opportunity/Affirmative Action Employers. Minorities and women are especially encouraged to apply.

...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...

To: Clinical Supervisors
From: Jim Stark and Jon Bauer
Re: Questionnaire on Case Supervision

The attached questionnaire attempts to survey the attitudes of clinical supervisors about case supervision. We would very much appreciate your taking the time to fill it in.

We think that the issues raised by the questionnaire will be of genuine interest to clinical teachers who supervise students in live client clinics. We hope that data produced by the questionnaire will lead to a better understanding of clinical teachers' views of case supervision theory and practice. Needless to say, the wider the dissemination of the questionnaire, the more meaningful the results we will obtain. If you have clinic colleagues who do not receive the newsletter, we would appreciate you photocopying the questionnaire and distributing it to them.

If you cannot take the time to answer the narrative questions in this questionnaire, we would appreciate it if you could nevertheless fill in the multiple choice portions and biographical information and return the questionnaire to us. The address is:

University of Connecticut
School of Law
65 Elizabeth Street
Hartford, CT 06105

Many thanks for your help.

QUESTIONNAIRE ON CLINICAL CASE SUPERVISION

For each question, please circle only one answer. Circle the best answer even if you agree with none of, or more than one of, the choices. Comments in the margin are welcome.

1. Most people learn to perform tasks best when:
 - a. they receive clear instruction on how to perform the task in question before doing it
 - b. they emulate successful role models
 - c. they perform the task in question and then reflect on the success or failure of their performance
 - d. people's learning styles vary so much that there is no one best way for most people to learn

2. The supervising attorney in a law school clinic is responsible for ensuring a lawyering product for the client that is:
 - a. the best that the student(s) can reasonably accomplish, utilizing their own skills and resources to the fullest, as long as their work is at least minimally competent
 - b. the best that students and supervisors can reasonably accomplish, utilizing their combined skills and resources to the fullest

3. Which of the following best describes the proper decision-making relationship between a student and a supervisor in a law school clinic?
 - a. the supervisor has the last word on particularly difficult or important decisions
 - b. students and supervisors cooperate naturally and spontaneously in the decision-making process
 - c. students and supervisors negotiate in advance the kinds of decisions that will be made by students and the kinds of decisions that will be made by the supervisor
 - d. students are required to make decisions on their own and all reasonably competent student decisions are final

4. When supervising attorneys express their views on tactics, it becomes less likely that students will take responsibility for making decisions in cases.
 - a. strongly agree
 - b. agree
 - c. disagree
 - d. strongly disagree
 - e. no opinion

5. The relative decision-making responsibilities of supervisor and student should vary according to the supervisor's assessment of the particular student's abilities.
 - a. strongly agree
 - b. agree
 - c. disagree
 - d. strongly disagree
 - e. no opinion

6. Supervisors should generally assume greater responsibility for decision-making when students are new to the clinic and less responsibility as time goes on.
 - a. strongly agree
 - b. agree
 - c. disagree
 - d. strongly disagree
 - e. no opinion

7. Supervisors should withhold information and advice from passive students to force them to become more active.
 - a. strongly agree
 - b. agree
 - c. disagree
 - d. strongly disagree
 - e. no opinion

8. In general, the more complex the case, the greater the supervisor's role should be in the decision-making process.
 - a. strongly agree
 - b. agree
 - c. disagree
 - d. strongly disagree
 - e. no opinion

9. In general, even if supervising attorneys know the law, they should make students find it themselves.
- a. strongly agree
 - b. agree
 - c. disagree
 - d. strongly disagree
 - e. no opinion
10. The ideal role for a clinical supervisor in an initial client interview is:
- a. coequal participant
 - b. active intervenor to ensure major interview goals met
 - c. intervenor only in cases of serious student error or oversight
 - d. passive observer
 - e. not present
11. Throughout the supervisory relationship, supervising attorneys should freely share their ideas on tactics with students.
- a. strongly agree
 - b. agree
 - c. disagree
 - d. strongly disagree
 - e. no opinion
12. In general, supervising attorneys should not share their ideas on tactics with students until students have developed and articulated their own tactical ideas.
- a. strongly agree
 - b. agree
 - c. disagree
 - d. strongly disagree
 - e. no opinion
13. As long as a student's written work product is legally and tactically sound and reasonably clear, supervisors should not make stylistic changes.
- a. strongly agree
 - b. agree
 - c. disagree
 - d. strongly disagree
 - e. no opinion

14. In general, decisions on ethical matters should be made by students, except when those decisions
- clearly violate ethics codes
 - possibly violate ethics codes
 - do not violate ethics codes, but nevertheless seem inappropriate to the supervisor
 - in general, decisions on ethical matters should be made by the supervisor
 - no opinion
15. More often than not, anxiety is conducive to effective learning.
- strongly agree
 - agree
 - disagree
 - strongly disagree
 - no opinion
16. In general, important tactical decisions should be made by students, except when those decisions are
- positively harmful to the client
 - clearly less effective than other available choices
 - somewhat less effective than other available choices
 - not optimal for the client
 - no opinion
17. When priorities are in conflict, the highest priority of a clinical program is to promote student growth and learning, not to provide the best possible legal service to the client.
- strongly agree
 - agree
 - disagree
 - strongly disagree
 - no opinion
18. Of the following possible goals of a law school clinic, rate the following in terms of their importance in your program (1 = very important; 2 = important; 3 = of little significance; 4 = not significant at all)
- teach students generalizable lawyering skills _____
 - provide high quality service to clients _____
 - teach efficient work habits _____

- d. train students to accept professional responsibility for clients _____
 - e. make legal services available to under-represented groups _____
 - f. teach effective collaboration _____
 - g. provide a critical perspective on legal institutions _____
 - h. train future lawyers in a particular area of practice _____
 - i. explore feelings associated with being a lawyer _____
 - j. teach students to learn from experience _____
 - k. encourage students to do public interest or pro bono work in their future careers _____
19. In your relationship with clients, describe the extent to which you regard yourself as committed to the goal of client-centered decision-making.
- a. wholeheartedly committed
 - b. strongly committed, with minor reservations
 - c. somewhat committed
 - d. significant reservations
 - e. not committed at all
20. In terms of professional self-image, indicate, in percentage terms, the extent you see yourself as a:
- a. teacher _____%
 - b. lawyer _____%
 - c. scholar _____%
 - d. other (specify) _____%
- (total should equal 100%)
21. In my clinical supervision, I am more directive with students than I think I should be.
- a. never
 - b. rarely
 - c. sometimes
 - d. often
 - e. always

22. In my clinical supervision, I am less directive with students than I think I should be.
- a. never
 - b. rarely
 - c. sometimes
 - d. often
 - e. always
23. I worry about directiveness issues in my clinical supervision.
- a. never
 - b. rarely
 - c. sometimes
 - d. often
 - e. always
24. In my clinical supervision, I tell students what the law is, even if there is time for students to find the law themselves.
- a. never
 - b. rarely
 - c. sometimes
 - d. often
 - e. always
25. When a student is examining a witness at a hearing or trial, I ask the witness questions of my own.
- a. never
 - b. rarely
 - c. sometimes
 - d. often
 - e. not applicable in my clinic
26. When sitting in with students on client interviews, I am an active participant.
- a. never
 - b. rarely
 - c. sometimes
 - d. often
 - e. not applicable in my clinic

27. When reviewing students' written work product, I make minor editorial changes (such as stylistic changes in wording or punctuation.)
- a. never
 - b. rarely
 - c. sometimes
 - d. often
 - e. always
28. In my clinical supervision, I allow students to make decisions I personally disagree with.
- a. never
 - b. rarely
 - c. sometimes
 - d. often
 - e. always
29. I tend to assume more responsibility for decision-making in cases where students step into an ongoing case, than in cases where students start from the beginning with a new client.
- a. strongly agree
 - b. agree
 - c. disagree
 - d. strongly disagree
 - e. not applicable in my clinic
30. I vary my directiveness with particular students depending on their own preferences or learning styles.
- a. never
 - b. rarely
 - c. sometimes
 - d. often
 - e. always

31. What kinds of decisions are you more likely or less likely to allow students to make? What are your criteria for allowing students to make decisions?

32. How would you describe the ideal decision-making relationship between a student and a supervisor in a law school clinic?

33. If you are more directive with your students in practice than you would like to be, rate, in terms of importance, all the factors that influence you. (1 = very important; 2 = important; 3 = of little significance; 4 = not significant at all)

- a. time pressures _____
- b. student discomfort with nondirective process _____
- c. my discomfort with nondirective process _____
- d. concern for client interests _____
- e. desire to see my ideas implemented _____
- f. impatience with students _____
- g. concern about my reputation or reputation of clinic _____
- h. desire to relieve student anxieties _____
- i. others? _____

34. If you are less directive with your students in practice than you would like to be, please state why.

35. If you have been influenced in your thinking about directiveness in clinical teaching by any particular experiences you have had, please describe them.

Biographical Information *

1. Name _____
2. School _____
3. List all types of cases clinic handles _____

4. How many cases on average do you personally supervise each year? _____
5. What is the average student teacher ratio in your clinic?

6. Estimated average duration of cases _____
7. Duration of clinic (full year or semester program) _____
8. Do students work singly on cases or in teams of 2 or more?

9. Number of years since graduation from law school? _____
10. Number of years teaching clinic _____
11. Number of years handling present type caseload _____
12. Would you be willing to talk to us further about your reactions and responses to this questionnaire?
 - a. interested _____
 - b. willing if necessary _____
 - c. leave me the hell alone _____

* No personally identifying information will be disclosed to anyone but the authors. If this questionnaire leads to publication of an article, all data will be presented without identifying any of the respondents.

Thank you for your cooperation.