

pass/fail classmates. Nonetheless, the aggregate mean difference is of only marginal practical significance. From this practical perspective, the data lend substantial support to the null hypothesis that there is no *meaningful* difference between graded students' and pass/fail students' average paper scores.

The data indicate that there is a statistically and practically significant difference between the graded students' performance on the negotiation exercises and that of the pass/fail students. The author suggests that such observed differences do not mean that he should eliminate any option, as he does not have the impression that pass/fail students expend significantly less effort on the exercises. If everyone were to take the class pass/fail, the author would have no highly motivated graded students to keep the pass/fail students honest; the class would not be a truly competitive existence, and the participants would be less well prepared for competition in the legal world. Conversely, the author would not wish to mandate a traditional grade for everyone, because this could cause some risk-averse students to forgo his course entirely.

Those who teach legal negotiating courses through the use of simulation exercises that may influence student grades must recognise that the availability of a pass/fail option may affect performance on those exercises. One way to diminish the impact of the pass/fail option would be to assign partners for most or all of the class exercises. Their feelings of obligation toward one another would probably motivate each to work more diligently than they would work individually.

Teachers who wish to heighten student commitment and generate a modicum of real intergroup competition should consider a grading system in which the exercises determine one-half or two-thirds of the final grade. This induces most graded participants to

work diligently, and their commitment tends to generate reciprocal competition from their pass/fail classmates. By conducting gentle, but regular, post-exercise evaluations, the instructors can further encourage more serious participation by pass/fail students. Teachers of other lawyering skills courses through the use of simulation exercises must also consider the impact of a pass-fail option on class performance.

CLINICAL LEGAL EDUCATION

Developing a child advocacy law clinic: a law school clinical legal education opportunity

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31 *U Mich J L Reform* 1, 1997, pp 1–32

At the same time that law school deans and faculties are looking for programs that deliver an educationally meaningful experience for their students, there is an increasing unhappiness with the quality of legal services provided to children and a recognition of the need for a better trained bench and bar to handle children's legal cases. The ideal clinical program is not a passing fad but an element of the core curriculum that consistently achieves educational outcomes fundamental to a law school's mission. A good clinical experience integrates general legal practice skills with the study of legal doctrine. One cannot separate theory from practice, abstract knowledge from practical skill or understanding of the professional role from the experience of professional action.

A child advocacy law clinic can meet important community needs. Law schools can supplement the meagre resources of the juvenile and family courts by providing high quality representation. In some cases, the presence of law students in proceedings has improved

the level of lawyering in court. Like many clinical programs, a child advocacy clinic links the law school and the practising bar, narrowing the gap between the academy and the practice of law. Interdisciplinary opportunities for teaching and research are particularly rich in such programs.

Since 1976, the University of Michigan Law School Child Advocacy Law Clinic has offered law students a specialised clinical legal education in cases of alleged child abuse and neglect. The student attorneys handle cases in three distinct legal roles – attorney for the child, for the parents and for the agency. The Clinic seeks to introduce students to the substantive law and skills demanded of their new lawyer identity, along with the institutional framework within which lawyers operate. One goal is for students to develop habits of thought and standards of performance that will enable them to learn from experience in their future professional growth.

Selection of the right mix of cases is perhaps the most important component of a good clinical program. The ideal case is complex enough to challenge yet discrete enough to allow student attorneys to assume a substantial amount of responsibility. Each student team in the clinic is assigned at least one case representing the state child protection agency in a matter likely to go to a full trial. These cases are momentous in their consequences and provide reasonably complex litigation experiences for law students. They offer superlative learning experiences because the law students are responsible for fact investigation, petition drafting, discovery and a full trial that typically lasts from a half-day to three days.

Each student team is assigned three to five cases representing children, which provides excellent opportunities for legal education. First, it inspires and nurtures altruism. Law students see the

law and legal institutions as they affect predominantly poor children and come to understand the lawyer's obligation to serve the community and the disadvantaged. Second, this rapidly developing area of the law is hard to match as an intellectual experience. Children constitute a class of unrepresented or underrepresented persons in America, whose legal status and legal rights are continually being litigated.

The Clinic also represents parents accused of child abuse or neglect in six or eight cases per year. Representing a parent provides an essential perspective on the child welfare system. Law students are often tempted to become over involved with the parent and are forced to struggle with professional boundary issues.

Although students are very carefully supervised, the style of supervision is subtle and indirect. A substantial degree of student autonomy is very important to the educational goals. The student attorneys are the people responsible for their cases. Their responsibilities include analysing the case, developing a position for the client, interviewing and counselling clients, creating a theory of the case and strategising for and conducting the trial. However, students could not reach a level of competence and independence without careful in-class preparation and hours spent with the supervisor discussing and preparing the case.

Case demands are kept to a minimum in the first two weeks of a typical semester. During this time, the students work intensively to learn Michigan law and procedure, basic trial practice skills and the non-legal subject matter of child maltreatment, child development and the social services context in which they will be practising law. Interviewing and client counselling are taught in the context of the students' live cases. A class session introduces the students to the fundamentals of interviewing and the

legal and ethical issues of client counselling. The Clinic also satisfies the law school's professional responsibility requirement.

Clinical legal education is an essential complement to traditional law school curricula. Clinical education is uniquely able to integrate the teaching of lawyering skills and legal doctrine in a highly compelling format, elevating students' understanding of both. Specifically, a child advocacy law clinic can accomplish several basic objectives: teaching the range of practical skills deemed essential to competent legal education; benefiting the hosting law school through an interdisciplinary education not offered in other courses and providing a much needed public relations benefit; and serving an important need in most communities for quality representation for the parties in child abuse and neglect cases, where involved individuals are often underrepresented in society at large. Most importantly, participation in a child advocacy law clinic profoundly affects students as they come face to face with significant ethical, emotional and legal issues. These issues require that the students both learn quickly and engage in deep reflection.

Locating the clinic within the curriculum: thoughts from home and abroad

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7 *Griffith L Rev* 1, 1998, pp 62–78

This article was motivated by the author's appointment by the University of the South Pacific (USP) and by his experiences travelling to and talking with people from a variety of common law jurisdictions who incorporate a clinical element into their law programs.

An LLB program was launched at USP in 1994 and the first graduates from the program emerged in December 1997. The syllabus concentrates on identified core subjects, coupled with

legal systems and method, customary law, South Pacific focused humanities courses and a range of law and non-law electives. The whole is intended to give a wide ranging experience that meets internationally accepted academic standards and is tailored to the understanding of law in the South Pacific region.

The post of Coordinator of Vocational Legal Education was created to aid the transition of students from the academic stage of their legal education toward the practice of law. Not only was the post concerned with degree level studies, but it also included the design of a discreet vocational element in the form of an intensive postgraduate course.

The primary aim of clinical methodology is to expose students to a very particular and strategic learning model. The model requires them to identify issues, research facts and law, apply the results of their research and produce solutions or responses to problems. In simulated cases, the experience can be created and regulated by staff for the benefit of students.

It is learning in what has been referred to as the laboratory of lawyering. The unstructured nature of the problem, particularly in live-client work, requires students to address the process by which lawyering takes place. The experience of clinical work, coupled with structured reflection on that experience, are essential components of the methodology.

In the clinic students directly confront the need for, and application of, special skills. The practice of skills build self-confidence and fosters teamwork. The medium of the clinic is a breeding ground for the development of legal and related skills.

The student on a clinical program is required to research the law both in terms of substance and procedure. The advantage of working in a clinic is that the research takes place in the context