

grams are superior to traditional or simulated classroom experiences.

A field placement program can meet any of the goals which clinical legal education addresses: skills instruction, professionalism, understanding the law in a practice context, learning to learn from experience, exploring lawyering roles, and institutional critique.

The structures of field placement programs range along a continuum from individually arranged and designed experiences to completely pre-packaged programs. Each structure facilitates certain pedagogical goals and calls for certain oversight and instructional methods. It is incumbent upon the law school to plan for and possibly structure the students' experiences in the field. However, the effort required to do this will depend directly upon the educational goals selected and the overall structure of the program.

In a tailor-made program with specific and individualised learning goals, a law school will need to employ relatively more effort to ensure that the desired activities will be undertaken by each new student. However, where the learning goals are very general (learning to learn from experience, learning about individual strengths as a professional, learning about professionalism) or where placements work regularly with the law school within an agreed programmatic structure, the law school needs to employ much less effort to ensure the student will obtain appropriate experiences at the placement. Where various placements are part of an on-going program with pre-defined educational goals and methods, a good placement supervisor will quickly learn what work to assign students to comply with the curricular design.

One way in which the school may insure its students obtain the desired experiences is to agree upon experiences which the placement already asks clerks or novice attorneys to perform. Another approach to the challenge of structuring field experiences is to sim-

ply permit any lawyering experiences of a professional nature. In that case, the law school would need to have learning goals which would be appropriate whether the student drafts interrogatories, attends eviction hearings or writes memoranda. The individual focus upon learning to be self-critical and learning to learn from experience is one approach.

An extern program should follow three crucial steps to ensure that a student has acquired meaningful and accurate learning experiences from the fieldwork. It should: 1) oversee to ensure that the specified educational activities do, in fact, occur; 2) arrange for the student to communicate rich information and thoughts about their experiences to the faculty member; and 3) provide a mechanism for the faculty member to guide and respond to the student's reflection and the further study of his experiences. The forum for reflection may be a class or tutorial.

The supervisor must bear in mind activities the students would enjoy and learn from, career goals the work might advance and curricular needs the students currently possess. A law office that suggests that students will engage primarily in library research and report to attorneys through memos may need to be re-directed. Most students already have ample opportunities through legal writing, law review, moot court and paid clerkships to engage in library research and memo drafting. Such clinical opportunities may add little to the students' educational menu. Substantive law is probably most efficiently learned in a traditional classroom; but understanding that law in an applied setting may be accomplished through a combination of focused readings, field placement work and tutorial discussion.

While an in-house model might guarantee more excellent lawyering, it will not better train the student to be a critical observer. It requires a particularly skilled and confident faculty su-

ervisor to welcome and encourage a student's critical reflection on the supervisor's performance. If teaching skills that will last a life-time or instilling life-long learning from experience are goals, there is significant educational benefit from exposing students to the good, the bad and the ugly while giving them materials and a forum to reflect upon their experience in the real world. Direct involvement in the actual legal institutions of the community is something only available with a field placement program.

There are various educational structures that can be created for any one placement or combination of placements. No one design is best for all law schools because of their different missions, as well as the different legal communities with which they work.

The design of a field placement program should progressively consider the available placements and the opportunities they offer to acquire skills, understand legal institutions and lawyering roles, put doctrinal knowledge in a practical context, and solve problems which require substantive and procedural knowledge as well as lawyering skills. Potential field placement programs should be compared with existing courses which aspire to (or neglect) these same educational aims. The law school should think critically about how necessary or desirable to students it is to have these educational goals addressed through a field placement program.

Pedagogy: using faculty tutorials to foster externship students' critical reflection

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5 Clinical L Rev 2 1999, p 437

Supervision is an issue of concern in externship pedagogy. Clinicians have focused over many years on the relationship between supervisor and student as a critical aspect of clinical legal education. Among the educational goals of clinical legal education, supervision

is believed to have an important, though not uncomplicated relationship to teaching students to think critically about legal practice. Externships tend to separate the supervision functions between the placements and the campus, making coherent supervision challenging. In addition, externship faculty often have relatively large numbers of students. Can student understanding of those critical thinking goals that are especially appropriate to the unique advantages of fieldwork be improved by joining members of the non-clinical law school faculty in the teaching effort?

In a fieldwork-based clinical program, in which students work in a law setting not connected to the law school, supervision tasks are roughly divided between one or more on-site attorneys and the on-campus faculty, while the students also play an important role in independently pursuing established and individual learning goals.

Overall, then, supervising attorneys at the placement provide task and technical supervision, an invaluable real-world context for student experience and some critical discussion of experience. On-campus supervision by faculty is the main vehicle for identifying students' individualised goals and supporting students' critical reflection on what they have learned. In addition to this spread of teaching tasks, students work in settings with a wide range of legal subject matters. The faculty's additional legal expertise should be particularly valuable in a program in which students work in many areas of practice.

There are significant barriers to careful critical thinking in a fieldwork setting, including career anxiety, naiveté, and supervisors or agency culture in which agency attorneys do not, or no longer, question policy or practice assumptions. Third-year students, who often exhibit academic fatigue, are often re-energised by the real world work setting of externship, yet they contin-

ue to resist intellectualising their experience. In addition, many externship students, committed to a fundamental learning goal of skills development, long-awaited in their legal education to that point, may not make critique a priority. Finally, novices in a practice setting may simply have some difficulty achieving in-depth critical thinking about their experiences as they are overwhelmed with new data that they are unable to analyse.

Programs using non-clinical faculty to augment teaching vary in the range of teaching responsibilities that professors are asked to provide. In the integrated model, participating faculty take on many of the teaching tasks of externship, such as meeting with students in classes or individually and reading student journals. In a consultative framework, the faculty provide assistance targeted to specific needs of students, such as conferring with the student on a topic related to particular legal tasks the student is working on or teaching one session of an externship seminar.

Effective use of the general faculty to augment externship teaching faces several challenges, especially in the consultative model. There are limits on the motivation of both teachers and students deriving in part from the structure of the program. Both faculty and students may assume unhelpful teaching paradigms, especially when involved faculty do not have clinical teaching experience and are not familiar with clinical models or goals of education.

The structure of externship naturally tends to have an impact on the effectiveness of any on-campus faculty guidance. In contrast to lawyer supervisors at the external legal placement, or to a clinical faculty supervisor in an on-campus clinic, the consulting professor has no professional responsibility for lawyering work being discussed. This fact undoubtedly creates psychological distance from the work being considered. While this dis-

tance could advance a critical discussion by supporting a disinterested perspective, it certainly contrasts with the urgency that is felt by a supervisor who is professionally responsible for student work, and may reduce both the professor and the student's motivation to fully engage in such discussion.

Experiential learning, historically a central feature of lawyers' education, became disrespected following the development of the modern law school. As a result, it is believed, many law school faculty have a limited notion of what students can learn from work experience, or at least see mentoring as a process that should remain substantially separated from law school.

Program design will either integrate relatively more teaching tasks, or will target specific tasks that can be effectively done by participating faculty. Under an integrated model, general faculty will take responsibility for substantial educational oversight of the placement. These tasks may include contact with field supervisors and individual review with the student by such means as dialogue journals and personal meetings. This model of full scale involvement in the program would work well if the faculty is interested in and committed to learning from fieldwork as clinical education, and the school can acknowledge this work as a substantial teaching responsibility.

On the other hand, the consultative model may be preferable if the clinical staff prefers to, or is able to, handle well all but specific aspects of academic support, and has concluded that faculty interest or student need suggest that a more narrowly targeted role for the non-clinical faculty is adequate and realistic. Choice of structure will depend on judgment about the expertise and interests of available faculty as well as evaluation of student need that is to be met.

Ideally, professors who are more involved in the externship experience will understand what professional stu-

dents learn from work in their field, and thereby increase their appreciation of its academic value. They will focus on the student's experience and goals because the professor appreciates that the learning goals of fieldwork programs are individualised. They will respect the complexity of lawyering skills and values and of legal concepts, as experienced in context.

CONTINUING EDUCATION

REVIEW ARTICLE

Foundations for continuing legal education: a guide to research, theories and ideas underlying continuing education for lawyers

C Roper

Centre for Legal Education, 1999

214pp

The objective of Christopher Roper's recent book is an extremely ambitious one. It is stated simply in the preface as *to encourage those involved in CLE, in whatever way, to examine critically their practice and theory, and to develop frameworks for acting on and understanding their work.* (p.x) Roper recognises that too much of the activity of CLE professionals is based on instinct, when there is a body of well established theory and research which can provide them with a surer footing when designing and delivering their programs. His goal is to make the literature more accessible to CLE practitioners by surveying the most important writings about relevant theories, concepts and ideas, as well as the reports of the most significant research, and reducing them into the compass of this one book.

Accordingly, the book does not profess to be a how-to-do-it manual. It does not contain helpful hints, practical suggestions, guidelines or precedents as to how CLE practitioners should set about their daily work. There are no practical examples of how the theory and research can be translated

into action. Had the author proceeded to this important next stage, then it must be admitted that the book would have been of even more use to the CLE professional. But this is what he has deliberately chosen not to do. As a consequence, this is a book for thought and reflection, for gaining an understanding of the guiding principles underlying best CLE practice or, as he brands it, *the intellectual framework on which CLE rests* (p.ix).

The chapters in the book are assigned to three parts: 1 - Theoretical issues; 2 - Practical implications; and 3 - Contemporary issues. Chapter 1 sets the scene by bedding CLE in the wider concepts of adult education, continuing professional education and development, lifelong learning and human resource development. Chapter 2 provides a very thorough distillation of the salient adult learning theories, including the characteristics of the adult learner, how adults learn and, especially important in the realm of voluntary CLE, the reasons why adults choose to participate or not to participate in learning activities. It is no mean feat to be able to map successfully the main features of the very extensive body of adult learning literature within the scope of a chapter of only 25 pages.

In chapter 3 the author transposes these adult learning theories into the world of the lawyer as a member of a profession. As a preliminary step, he examines what the literature has to say about the characteristics of a profession and asks, when the learner is a professional, what does this mean for education and training. There is a brief discussion on the nature of professional knowledge and the features distinguishing the novice from the expert practitioner, followed by a very short summary of the theories of how professional expertise is acquired and what research has revealed about the pattern of CLE participation and deterrents to participation.

The focus in chapter 4 moves from the professional in the generic sense to the lawyer as one category of professional. It discusses the world of work of the lawyer by examining the characteristics of lawyering and legal practice. Several empirical studies into what lawyers do in their practices are reported from the United States and Australia. This is followed by a consideration of seven separate models, identified from the literature, which attempt to categorise the attributes of legal practice, as well as a discussion of the practice settings in which lawyers work. Finally, the author sets out the results of the limited research on participation and non-participation in CLE.

The first chapter in the second part of the book which is concerned with the practical implications (chapter 5) looks at all the dimensions of the competency debate: what competence means generally, as well as lawyer competence specifically; the distinction between competence and performance; how to measure competence; and competency-based training. This is an extremely useful summary of a very complex area which should be of paramount importance to all CLE professionals. Chapter 6 examines the contents of what is taught in CLE programs under the familiar headings of knowledge, skills and attitudes.

In this reviewer's opinion, chapters 7 to 9 are the most important in the book to the work of the CLE practitioner, because they open up the vast literature on instructional design and program development, through all the well recognised stages from needs assessment to evaluation. These are the best examples of areas where CLE professionals tend to act by instinct, as the author identified when stating the goal for this book, neglecting to observe that there is a wealth of practical guidance to be found in the literature that will assist with the development of their programs. These chapters will repay close study, as will the follow-up read-