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## ARTICLES

### RE-IMAGINING LAW SCHOOL CLINICS: LEVERAGING RESOURCES TO DO MORE, FOR MORE, UNDER A HYBRID MODEL

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## I. INTRODUCTION

In 2016, the American Bar Association (ABA) took a major step towards responding to the call for law schools to better prepare its graduates for the practice of law.<sup>1</sup> The ABA created Standard 303(a)(3), requiring each student to satisfactorily complete at least six credit hours of experiential courses (defined as “a simulation course, a law clinic, or a field placement”).<sup>2</sup> Law schools cannot just teach their students core doctrinal law and legal analysis; they must also provide them with substantial opportunities to represent clients and/or participate in simulations of that experience, so they will be more prepared for the practice of law upon graduation.<sup>3</sup> While questions were raised about the ability of law schools to train students to truly become *practice ready* upon graduation,<sup>4</sup> there is no question that law schools can and should be doing more to achieve this important goal.<sup>5</sup>

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coordinator in The John Marshall Law School’s Family Law & Domestic Violence Clinic.

1. See *Comment of Clinical Legal Education Association on Proposed Standard 303*, CLINICAL LEGAL EDUC. ASS’N 1 (Jan. 30, 2014), <http://www.cleaweb.org/Resources/Documents/2014-01-14%20CLEA%20Chapter%203%20comment.pdf> [https://perma.cc/3LKV-NH55]. (The Compton Report of 1979, MacCrate Report of 1992, and Carnegie Report of 2007, “urged much greater attention to professional experiences in law school curricula.”) See also *infra* note 3.

2. See AM. BAR ASS’N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2016–2017 16, (2016) [hereinafter *ABA STANDARDS*] (An interpretation of the rule states that students cannot “use [an experiential] course to satisfy more than one requirement under this Standard.”).

3. See AM. BAR ASS’N, REPORT AND RECOMMENDATIONS OF THE TASK FORCE ON LAWYER COMPETENCY: THE ROLE OF THE LAW SCHOOLS 14–16, 18 (1979) (Compton Report); AM. BAR ASS’N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOL AND THE PROFESSION 47, 54, 101–02 (1992) (MacCrate Report); WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 22 (2007) (Carnegie Report).

4. See Robert J. Condlin, “Practice Ready Graduates”: A Millennialist Fantasy, 31 TOURO L. REV. 75, 80–87, 98–100 (2014). See also Robert Steinbuch, *The Problem with Focusing on “Practice Ready” Graduates*, NAT’L JURIST, (July 2, 2015, 9:40 AM), <http://www.nationaljurist.com/national-jurist-magazine/problem-focusing-practice-ready-graduates> [http://perma.cc/458S-N4VH]. But see Christine Cerniglia Brown, *Is Experiential Education Simply a Trend in Law School or Is It Time for Legal Education to Take Flight?*, FED. LAW., Aug. 2013, at 43, 45.

5. See *Clinical Legal Education Association (CLEA) Comment to ABA Task Force on the Future of Legal Education*, CLINICAL LEGAL EDUC. ASS’N 4–5 (June 19, 2013), <http://www.cleaweb.org/Resources/Documents/CLEA%20COMMENT%20TO%20ABA>

However, obligating law schools to provide six experiential credits to *each* student, carries with it many challenges to successfully implement the ABA's new requirement. One key challenge is the cost to provide these experiential credits. Implicitly recognizing the difficulty of providing experiential skills to every law student through clinics and field placements, the ABA states in Standard 303(b) that "law school[s] shall provide *substantial opportunities* to students for . . . law clinics or field placement(s)," rather than require that each law school provide clinical or field placement opportunities to each student, relying instead on simulation courses to fill any gaps.<sup>6</sup> In meeting the challenges of ABA Standard 303, law schools need to determine which combination of clinics, externships, and simulation courses to maintain, expand upon, or offer.<sup>7</sup> Since each of these three forms of experiential learning have different benefits and drawbacks, it is likely law schools will rely upon and utilize a combination of all three.

Although many consider in-house clinics to be the "gold standard,"<sup>8</sup> in-house clinics, as currently designed, are more expensive; so many law schools may feel the need to expand on less expensive forms of experiential learning and not increase their in-house clinical offerings in a way that would make that experience available to each of their students.<sup>9</sup>

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[%20TASK%20FORCE.pdf \[http://perma.cc/9ZPU-4VNV\]](http://perma.cc/9ZPU-4VNV) (citing examples of three law schools with extensive clinical opportunities, with one of those schools including clinical opportunities for their part-time evening students and one requiring their participation).

6. *ABA STANDARDS*, *supra* note 2, at 16 (emphasis added) (alteration in original). *Implicitly* is used because Standard 303 does not discuss why it is limited in this way. Two possibilities come to mind: 1) the higher costs associated with operating a law school clinic, and 2) the difficulty of providing clinical or even field placement opportunities for part-time students who work during the day.

7. *See Comment of Clinical Legal Education Association on Proposed Standard 303*, *supra* note 1, at 1, 3 n.1 (stating that "[a]lmost 80% of law schools (158) currently have a combination of clinic slots and externship placements that exceed the number of students in their entering classes").

8. Brown, *supra* note 4, at 45 ("Ultimately, clinical education remains the gold standard for practical training, but very few schools require *all* of their students to enroll in a clinic." (emphasis in original)).

9. Indeed, as noted earlier, the American Bar Association anticipated this likelihood by only requiring in Section 303(b)(1) that law schools provide "substantial opportunities" to students for law clinics or field placements, rather than requiring those opportunities for *all* students and by including substantial opportunities for *either* law clinics or field placements. *ABA STANDARDS*, *supra* note 2, at 16. This may be due to the additional costs per student of running clinics or even well supervised field placement courses versus a large doctrinal course, and/or due to the difficulty for part-time evening students, who work forty hours per week during the daytime on Mondays through Fridays, to participate in a

According to the 2016 through 2017 survey by the Center for the Study of Applied Legal Education (the CSALE Survey), fifty-three percent of the law schools who responded to the survey reported that over the last three years the demand for participation in their clinics exceeded the amount of available spots.<sup>10</sup> Robert Kuehn, in his article on pricing clinical legal education, noted that “[s]imulation courses, which make up the bulk of practice-based experiential courses at most schools, are largely taught by adjunct faculty, who law schools pay very modestly.”<sup>11</sup>

But what if there was a way to combine the best features of simulation courses and field placements into a law school clinic experience that enhances the quality and scope of the training students receive, with a law firm and think tank model to expand the reach and value of the work the law school clinic performs? What if this experience could be structured, through leveraging resources, to operate at *revenue neutral*<sup>12</sup> or even a surplus?

In response to Standard 303(a)(3), this Article will demonstrate how to provide a robust in-house clinical experience for *every* law student by creating hybrid, in-house clinics utilizing a law firm and think tank model that even evening students can work in and benefit from. The hybrid model would leverage resources currently available but underutilized and combine the best features from clinics, externships, and simulations, providing enhanced training opportunities for students and enhanced access to justice outcomes for low-income individuals and other vulnerable communities. This hybrid clinic model was developed by the first author of this Article, and was inspired by Richard Susskind’s re-

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conventional legal clinic or in most field placements. As a result, part-time students may be forced to try to satisfy their required experiential hours solely through simulation courses. *Id.* at 16, 23. (Reasonably Comparable Opportunities states that “[a] law school providing more than one enrollment or scheduling option shall ensure that all students have reasonably comparable opportunities for access to the law school’s program of legal education [and] courses taught by full time-faculty . . . . Identical opportunities are not required.”)

10. Robert R. Kuehn et al., *Center for the Study of Applied Legal Education (CSALE): The 2016–17 Survey of Applied Legal Education*, CSALE 20 tbl.19 (2017), [http://www.csale.org/files/Report\\_on\\_2016-17\\_CSALE\\_Survey.pdf](http://www.csale.org/files/Report_on_2016-17_CSALE_Survey.pdf) [<https://perma.cc/FA3M-VEF6>].

11. Robert R. Kuehn, *Pricing Clinical Legal Education*, 92 DENV. U. L. REV. 1, 30 (2014).

12. *See infra* Part III. When we mention *revenue neutral*, we are referring to income from courses taught (clinical and non-clinical) and comparing it with the costs of salaries for those who teach the clinic course.

thinking of how law firms, and the way they deliver legal services, should be structured so they provide “better, quicker, [and] less costly” legal services.<sup>13</sup> Susskind’s ideas have contributed to the current *disruption* to how law firms provide legal services,<sup>14</sup> and a goal of this Article is to stimulate a similar positive *disruption* (re-conception) of how law schools can provide experiential training to their students.

Part II of this Article highlights data reflecting the kinds of skills and values that is sought to be developed with experiential training in law school and why the development of these skills and values is so important. Part III describes current law-school models for providing experiential training (in-house clinic, externships/field placements, and simulation courses) and the unique benefits and drawbacks of each model. Part IV describes key challenges facing clinics and ways to address those challenges, including how to: (i) provide pay and job security to full-time clinic faculty on a par with the full-time doctrinal faculty and still operate at or near revenue neutral, (ii) combine the best features of all three forms of experiential training in a hybrid, in-house clinic that operates like a *mini law firm* and *think tank*, (iii) provide greater clinical opportunities for evening students who work during the day, (iv) enhance student learning, and (v) enhance access to justice.

## II. LAW SCHOOL’S SHOULD PROVIDE OUTSTANDING TRAINING IN PRACTICE SKILLS AND PROFESSIONAL VALUES TO EVERY LAW STUDENT

There is substantial evidence that law-school applicants and graduates highly value the opportunity to train in a clinic and/or internship. “A 2012 Law School Admissions Council (LSAC) survey found that when applicants were asked what factors were most important in influencing them to apply to particular law schools they listed ‘[c]linics/internships’ third, behind only location and employment of recent graduates,” and

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13. RICHARD SUSSKIND, *THE END OF LAWYERS? RETHINKING THE NATURE OF LEGAL SERVICES* 3 (2008).

14. See, e.g., Anurag Bana, ‘Times are a-changin’: *Disruptive Innovation and the Legal Profession*, MANUPATRA 144 (July 2017), <http://docs.manupatra.in/newslines/articles/Upload/4DAAB6C8-7259-4BF0-9A18-84965B12AFB0.pdf> [<https://perma.cc/GUX9-E7D3>]; Jane Croft, *Artificial Intelligence Disrupting the Business of Law*, FIN. TIMES, (Oct. 5, 2016), <https://www.ft.com/content/5d96dd72-83eb-11e6-8897-2359a58ac7a5> [<https://perma.cc/AGQ7-N5EH>].

equal in importance to bar success.<sup>15</sup> And when asked after admitted, students rank “clinics/internships second, behind only location.”<sup>16</sup>

The *After the JD* study surveyed lawyers two to three years into their new careers [and] asked them to rate the importance of certain experiences and courses during law school in helping them [to] successfully transition to practice. Clinical courses were rated the third most helpful experience, trailing only summer and school year legal employment; legal writing and internships followed law clinics.<sup>17</sup>

Experienced, practicing attorneys have repeatedly called for law schools to commit resources to their clinics, internships, and simulation courses. This call was formalized in a series of reports issued by ABA committees<sup>18</sup> and by state bar associations over the past three decades. For example, the Illinois State Bar Association (ISBA) issued a report in 2013, concluding that “the training that law students receive in law school today [was] increasingly not worth its high cost.”<sup>19</sup> The report recommended that “[l]aw schools should prioritize [and make available to every student] simulation courses, live-client clinics, and other courses that give students the opportunity to learn and apply legal principles in the context of real life problems.”<sup>20</sup> In its report, the ISBA noted that it “received testimony [concerning] the tight job market [that] recent law school graduates may have [faced]—at least in part—*resulted from* the inadequate training of law students for the jobs that are available.”<sup>21</sup> In addition, direct surveys of lawyers indicate how important lawyers rate law school clinics for training law graduates on the practice of law.<sup>22</sup>

However, there are some lawyers who think helping students become

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15. Kuehn, *supra* note 13, at 11 (alteration in original) (quoting LAW SCHOOL ADMISSION COUNCIL, LAW SCHOOL APPLICANT STUDY 9 (2012)).

16. *Id.*

17. *Id.* at 18 (emphasis in original).

18. *See supra* note 3.

19. *See Final Report, Findings & Recommendations on the Impact of Law School Debt on the Delivery of Legal Services*, ILL. ST. B. ASS'N 3 (June 22, 2013), <https://www.isba.org/sites/default/files/committees/Law%20School%20Debt%20Report%20-%202013-8-13.pdf> [<https://perma.cc/V85C-JY7E>].

20. *Id.* at 5.

21. *Id.* at 3 (emphasis in original).

22. *Clinical Legal Education Association (CLEA) Comment to ABA Task Force on the Future of Legal Education*, *supra* note 5, at 2.

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*practice ready* is neither possible nor a good idea.<sup>23</sup> One critic seemed to think *practice ready* meant law schools would be encouraging their recent graduates to hang out their own shingle and “practice[e] law without guidance.”<sup>24</sup> But that is not what is intended when law schools and others speak about developing *practice-ready* graduates. Some recent graduates might need to hang out a shingle when they do not find employment, and when they do, they are likely to find the law school courses that emphasized experiential skills to be very helpful. Having said that, when working on client matters after they graduate, recent graduates should reach out for advice from the faculty mentors they met while in law school and from the lawyers they meet at bar association programs they attend, and then they will be better empowered to engage in the due diligence necessary for the new matters they take on, utilizing the strategic-case planning and reflective-learning principles they developed in their experiential courses in law school.

Others believe that providing time-consuming, practical training in clinics takes away important, necessary time from core-doctrinal knowledge.<sup>25</sup> But well run law-school clinics should be providing training on relevant doctrinal law on matters the clinic handles, or by requiring that the students have taken pre-requisite courses relating to the laws the clinic covers when the clinic is a specialty clinic. Furthermore, it is likely more difficult for recent graduates to learn sophisticated practice skills on their own after graduation than to learn new legal doctrine they did not cover while in law school. As discussed in Part III, clinics embrace and seek to inculcate practice skills that depend upon dispositions (habits informed by reflection) and the ability to think from an informed, dynamic, and strategic perspective, not just the mechanics of how to file an appearance or an U.C.C. statement. The critique that developing this disposition and skills takes longer than a law school course to develop<sup>26</sup> is likely accurate, but being introduced to it and starting to apply it is a critical use of a student’s time. As one author aptly stated this point, if all law students were not required or given adequate opportunities to work on actual cases, it would be equivalent to a flight school not requiring its graduates to have experience flying an airplane.<sup>27</sup>

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23. Steinbuch, *supra* note 4.

24. *Id.*

25. *Id.* See also, Condlin *supra* note 4, at 98.

26. See Steinbuch, *supra* note 4.

27. Brown, *supra* note 5, at 43, 45 (“Ultimately, clinical education remains the gold

For those who critique the use of the ambiguous phrase *practice ready*, it may be helpful to think more precisely about what set of skills and values successful attorneys draw upon and need. Using empirical methods drawn from industrial organization psychology, Shultz and Zedeck identified twenty-six lawyer effectiveness factors:

Analysis and Reasoning; Creativity/ Innovation; Problem Solving; Practical Judgment; Researching the Law; Fact Finding; Questioning and Interviewing; Influencing and Advocating; Writing; Speaking; Listening; Strategic Planning; Organizing and Managing One's Own Work; Organizing and Managing Others (Staff/Colleagues); Negotiation Skills; Able to See the World Through the Eyes of Others; Networking and Business Development; Providing Advice & Counsel & Building Relationships with Clients; Developing Relationships within the Legal Profession; Evaluation, Development, and Mentoring; Passion and Engagement; Diligence; Integrity/Honesty; Stress Management; Community Involvement and Service; [and] Self-Development.<sup>28</sup>

Some of these skills and values cannot be taught and developed by law students in traditional doctrinal course; they can only be developed when students represent real clients in a law school clinic or internship or perform a series of very well-designed simulations. Thus, it is critical for all law schools to prioritize the development of these skills. Indeed, while big law firms generally seek to hire law-student graduates from law schools at the top of the US News Rankings, they also want these law schools to provide their students the opportunity to develop practice skills. As a result, even students who can get into a top ranked law school will seek to find one that is also known for the sophisticated practical training it provides. And due to the growing focus on experiential education and the recent ABA expanded requirement to provide experiential education,

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standard for practical training, but very few schools require *all* of their students to enroll in a clinic. Clinical education is similar to flight schools requiring actual *flying time* before graduation. . . . [T]he student is flying the aircraft, but with an experienced co-pilot to ensure the enforcement of proper protocols or objectives." (emphasis added) (internal quotations omitted)).

28. Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admission Decisions*, 36 LAW & SOC. INQUIRY 620, 621, 630 tbl.1 (2011).



we predict that in the near future law school rankings will better take into account the range and quality of a law school's experiential course offerings, including what it offers evening students who work during the daytime.

The next part of this Article focuses on the three current forms of experiential skills courses that law schools offer. We assess the benefits, limitations, and costs of each and the ability of each to empower students to develop the practice skills and values they need to become successful attorneys.

### III. A COMPARATIVE ASSESSMENT OF THE THREE CURRENT MODELS FOR PROVIDING EXPERIENTIAL TRAINING

Currently, law schools principally provide experiential-skills-type training<sup>29</sup> through three distinct types of law school courses: (i) in-house clinics, (ii) internships/field placements, and (iii) simulation courses. In fact, ABA Standard 303(a)(3) defines its required six hours of experiential credits based upon these three types of courses.<sup>30</sup> There are different benefits, drawbacks, and costs of each model as currently defined and typically structured.

Scholars view law-school clinics as the *gold standard* for gaining experiential skills, but it can also be the costliest form of experiential training for law schools.<sup>31</sup> Law school clinics are considered the *gold standard* for a variety of reasons. First, unlike simulation courses, students work with real clients, which introduces them to realistic, dynamic situations and consequences.<sup>32</sup> In return, the work the students perform is more meaningful and likely leads to them putting even more effort into their work than they would in a simulation course.<sup>33</sup> Students in a clinic

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29. See Debra Pogrud Stark, *See Jane Graduate. Why Can't Jane Negotiate a Business Transaction?*, 73 ST. JOHN'S L. REV. 477, 481 (1999) (containing examples of incorporating negotiation and drafting exercises in doctrinal courses). We say *principally* because doctrinal courses can also help develop experiential skills too but not an immersive experience, which would have the biggest impact.

30. See ABA STANDARDS, *supra* note 2, at 16.

31. See, e.g., Brown, *supra* note 4, at 45.

32. *Id.*

33. Many of our students have expressed strong levels of enjoyment and learning from these simulations. The following are some quotes from our students from their semester-end reflection papers: "I know that, personally, the real client consultation that I participated in was made so much more manageable by the fact that I had done the simulation first. I felt confident that I could handle it because of the simulation!" (Student

can also learn more about how the legal system operates and are more likely to develop professional values from working with real clients than they would in a simulation.<sup>34</sup> Clinic work also provides valuable legal assistance to individuals who would otherwise not be able to afford to pay an attorney or able to find other pro bono legal assistance. Having students learn experiential skills while representing such individuals enhances the critical goal of access to justice and, as such, is a significant benefit over learning these skills in a simulation course.<sup>35</sup>

Second, the pace of the representation in a law school clinic is purposefully slowed down to ensure students are engaging in thoughtful, strategic-case planning throughout the process.<sup>36</sup> Strategic-case planning focuses on the client's issues, concerns, and problems, and then identifies various forms of legal relief to help achieve the client's goals. Strategic-case planning also focuses on developing and testing theories of the case based upon the applicable and dynamic facts and identifying relevant laws. Creating a plan on how to collect the necessary and relevant facts is part of strategic-case planning and the confirmation or re-evaluation of the case theory as those facts are developed. It should also consider the

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1) "The simulations and mock hearings we performed will prove to be invaluable as we become practicing attorneys. The simulation itself (the process of getting in front of a Judge, proffering questions, examining a witness, etc. . . .) was extremely helpful, but it wasn't even the most helpful exercise associated with these mock hearings. I believe the process by which we needed to prepare for each and every simulation is something I will never forget. As we become practicing attorneys, we will need to be able to assess facts, research the relevant statutory law and case law, apply the law to our facts, and prepare arguments based on those assessments. In this clinic, and by way of these simulations, we were able to take a set of facts and argue for a multitude of different remedies under various different hearings." (Student 2) "I learned *a lot* from the simulations that we performed in this clinic . . . . The clinic simulations that we performed helped us to get an idea of what a court hearing would really be like, and actually get feedback from professionals and judges currently practicing in the field." (Student 3).

34. See Elliott S. Milstein, *Clinical Legal Education in the United States: In-House Clinics, Externships, and Simulations*, 51 J. LEGAL EDUC. 375, 376 (2001).

35. See *Civil Legal Aid 101*, U.S. DEP'T OF JUST. (Oct. 24, 2018), <https://www.justice.gov/olp/civil-legal-aid-101> [https://perma.cc/4PB5-82WU]. According to the U.S. Department of Justice, "more than 50 percent of those seeking [free civil legal aid] are turned away because of the limited resources available." *Id.* This reflects the "63 million Americans—one in five—qualified for free civil legal assistance" and "do[es] not reflect the tens of millions of moderate[-]income Americans who also cannot afford legal help." *Id.*

36. See Emily A. Benfer & Colleen F. Shanahan, *Educating the Invincibles: Strategies for Teaching the Millennial Generation in Law School*, 20 CLINICAL L. REV. 1, 19–20 (2013).

consequences of different decisions, the steps involved in pursuing a claim, and non-law related options available to the client to achieve their goals. Experienced attorneys perform these tasks without thinking about it (these tasks are sometimes referred to as “invisible lawyering tasks”).<sup>37</sup> Consequently, in a field placement such as a law firm, it is possible the supervising attorney will not recognize the need to slow down the pace of the case to identify and explicitly perform this type of strategic-case planning with his or her students. But in clinics, this process is more visible to students through labeling what is being done and organizing its performance before and after client meetings, court appearances, and in case-rounds. And even if a supervising attorney is aware of the importance of taking the time to engage in this process to enhance student learning, the supervising attorney may be under pressure to move the matter along swiftly so they can cover more matters when that supervising attorney is working with the student in the context of their job at a law firm, government agency, or in-house.

Building on this theme of the pros and cons of field placements/internships versus law school clinics, one advantage of a field placement/externship is that a student may be able to secure employment after graduation with the very non-profit legal service provider, law firm, agency, or judge they interned with. Plus, what better way to prepare a student for the fast-paced working world outside of law school than by working for a legal service provider outside of a law school setting? But the quality and level of the work assigned and supervised is harder to monitor and control at a field placement site than in an in-house legal clinic. As noted earlier, it is less likely that the attorneys working with students in their non-profit organization, government agency, or law firm will have the ability to *slow down* the thinking process involved in each step of a legal matter. It is also less likely the off-site supervising attorney will engage students in the type of reflective thinking on their case experience that is so helpful to the development of practice skills and professional values.<sup>38</sup>

To address these potential problems with student training in field placement/externship courses, law schools should make sure that the

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37. SUSAN BRYANT ET AL., TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY 38–39 (2014).

38. See Milstein, *supra* note 34, at 377. This reflective learning leads to the ability to generalize from the experience, transfer it to other legal matters, and deepen a student’s development of practice skills and values.

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classroom component for the field placement/externship supplements the student-field work with a *slow-down-type* analysis of the *invisible lawyering process* and encourage *reflective thinking*. But to be effective, this requires the professor responsible for the field placements/externships to closely partner with the attorneys his or her students are working with, so the professor can be aware of the specific kinds of legal work the students are performing throughout the semester and work with each student on identifying and reflecting upon the invisible lawyering process. The current median number of students a professor supervises in a field placement/externship is fifteen, almost double the median number of students a professor supervises in an in-house clinic, which makes this kind of direct supervision very difficult to achieve.<sup>39</sup>

Simulation courses have two advantages when representing real clients in a clinic or externship. First, because so many cases settle on the courthouse steps, students sometimes prepare opening and closing statements, prepare direct and cross-examinations, and proffer exhibits into evidence, but they end up not performing these tasks due to the case settling, a default judgment, or even the judge taking over the questioning of the parties. This does not happen in a simulation. In addition, in the simulations we have our students perform in our clinic course, the judge (often a current or retired judge) hearing the matter not only allows a full presentation, but also provides highly valuable detailed feedback at the end of the simulation. After the simulation, many judges explain why they ruled the way that they did, explain what he or she found most compelling, why he or she ruled a certain way on objections, and answer any lingering student questions—something judges do not normally do.<sup>40</sup> Second, simulations can be performed in a night class, enabling part-time evening students who may not have time to work on cases during the weekdays to gain experiential skills at night from a series of simulations. But these two advantages must be weighed against the benefits of representing real, live clients.

There is a tradeoff of advantages and drawbacks among the three options for experiential education. While simulation courses and field placement/externships each have certain advantages over law school

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39. Robert R. Kuehn et al., *supra* note 10, at 25–26 tbl.26, 32 tbl.29 (compare page 32 tbl.29 with page 26 tbl.26).

40. For example, after presiding over an ex-party Emergency Order of Protection simulation, the judge from the Domestic Violence Division explained the mechanics of how she prefers to hear testimony about the incidents of abuse.

clinics, overall, law-school clinics, when operated as described earlier, can better develop a student's experiential skills. But concerns over the cost of law school clinics, even though such concerns may be unfounded,<sup>41</sup> may cause some law schools to seek to fulfill ABA Standard 303 primarily by expanding upon the number of simulation courses and fieldwork/externships opportunities rather than by primarily expanding clinical opportunities.

To seek to provide the benefits from each form of experiential education to each law student, one might wonder if there is a way to combine the best features of simulation courses and field placements into a law school clinic course that is structured in a way that is revenue neutral? In Part IV we detail this possibility and explain how the *hybrid* model we propose can be used by law schools throughout the country to address not only the cost issues with law-school clinics, but also other pressing challenges to the successful operation of law-school clinics from the perspective of the clients served, the students trained, and the clinical faculty who are responsible for the operations of law-school clinics.

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41. See Kuehn, *supra* note 11, at 23–24 (noting that it is difficult to determine the costs of clinics due to a “wide variety of clinical faculty salaries, teaching loads, and student-teacher ratios”). However, there is a possibility this could be offset “through attorney’s fees, grants, donations, or other income.” *Id.* at 23. Professor Kuehn also notes that today “two-thirds of clinical faculty [also] teach non-clinical courses, including traditional podium courses, averaging over one additional course per year.” *Id.* at 24. Using this assumption, and assuming the faculty member’s non-tenure or tenure track labor costs, the “labor cost for a law clinic is reduced by over 57% and is half the cost of a seminar and less than the cost of a traditional twenty-student class.” *Id.* at 24. See Part III for a fuller discussion on ways to pay full-time clinical faculty on a par with doctrinal faculty and still operate at revenue neutral. See also, Martin J. Katz, *Understanding the Costs of Experiential Legal Education*, 1 J. EXPERIENTIAL LEARNING 28 (2015).

“Assuming that the law clinic is taught by a tenured member of the faculty and paid the same as a non-clinical “podium” faculty member and that the clinic instructor only teaches two courses per year, compared to three and one-half courses per year for a non-clinical faculty member, [Martin Katz’s] ‘basic model’ estimates that the faculty cost per student credit for a law clinic is about 9% higher than the cost for a seminar.”

Kuehn, *supra* note 11, at 23.

## IV. MEETING CHALLENGES BY CREATING A HYBRID IN-HOUSE CLINIC THAT OPERATES LIKE A LAW FIRM AND THINK TANK

Perhaps the biggest challenge to providing in-house clinic courses for every law student is the costs associated with doing this. In our analysis of the costs/revenues of law school clinics, we compare the soft costs of the salaries and fringe benefits for the law professors and other attorneys hired by the law school to train and supervise the students' work, against the tuition revenue generated by these law professors and other clinic attorneys. We acknowledge there are other relevant costs, such as physical space, administrative costs, malpractice insurance, and litigation expenses when they are not waived by the court. But most law schools have already allocated physical space and administrators for their existing clinics, so increasing clinical opportunities in the way we propose should not significantly create additional costs.<sup>42</sup> As noted earlier, the median student to faculty ratio for a law school clinic per the CSALE Survey is eight to one.<sup>43</sup> So if a clinical law professor, on average, only teaches sixteen students over a year, this leads to far less tuition revenue than what a traditional doctrinal professor would produce teaching two large classes and two seminar classes each year.

Table 1 illustrates the large revenue a traditional doctrinal professor produces. It assumes, for illustrative purposes, that the professor teaches eighty students each semester in a large doctrinal three-credit course and ten students each semester in a small three-credit seminar course. In addition, all of the tables assume a revenue of \$1,500 per credit hour with a discount rate of 40% for student scholarships.<sup>44</sup> In calculating the expenses of the doctrinal professor's salary and benefits, we use the median full time law professor salary and benefits as reported in

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42. See Kuehn et al., *supra* note 10, at 43. We excluded from the calculation income from attorney's fees on some cases and income from grants and donations since they are highly variable, and while some clinics are funded by grants and donations, eighty-one percent of the funds for clinic salaries come from "hard money" ("tuition dollars, endowment income, or, at public institution, state subsidies"). And only eleven percent from "soft money" ("grants or other external funding"), and eight percent come from a combination of hard and soft money. *Id.*

43. *Id.* at 25.

44. *Tuition Discounting Study of Private Law Schools 2016*, NACUBE/ACCESSLEX INST. 4 (2016) [http://www.accesslex.org/sites/default/files/2017-10/NACUBOReport\\_%20%28002%29.pdf](http://www.accesslex.org/sites/default/files/2017-10/NACUBOReport_%20%28002%29.pdf) [<https://perma.cc/89C8-C4LR>] (calculating the overall average discount rate for 1Ls in the fall of 2016 at thirty-nine percent).

Salary.com.<sup>45</sup>

Table 1. Revenues of a Doctrinal Professor

<b>Revenues</b>	
2 large doctrinal courses (80 students X 3 credits = 240 credits X \$1,500 per credit = \$360,000/course)	\$720,000
Discount rate on doctrinal courses of 40% <sup>a</sup>	(\$288,000)
2 seminar courses (10 students X 3 credits = 30 credits X \$1,500 per credit = \$45,000/course)	\$90,000
Discount rate on seminar courses of 40%	(\$36,000)
Total revenues	\$486,000
<b>Expenses</b>	
Median professor's salary <sup>b</sup>	(\$164,700)
Median benefits of 25%	(\$41,175)
Total expenses	(\$205,875)
Net balance	\$280,125

*Note:* One doctrinal professor teaching two large three-credit doctrinal courses and two small three-credit seminar courses each year under the illustrative example above generates \$280,125 in tuition in excess of the doctrinal professor's salary and benefits – a *cash-cow* situation.

45. See *Law Professor Salary Details*, SALARY (Sep. 7, 2018), <https://swz.salary.com/SalaryWizard/Professor-Law-Salary-Details.aspx?hdcbxbonus=off&isshowpiechart=true&isshowjobchart=false&isshowsalarydetailcharts=false&isshownnextsteps=false&isshowscompanyfct=false&isshowaboutyou=false> (last visited Sep. 7, 2018) (The median salary of a law professor is \$164,700, and, even after adding in costs of required and very generous additional benefits of approximately twenty-five percent of the salary amount adds up to \$205,875, less than half of the revenue generated by that professor in actual tuition dollars received.).

The total revenue from a clinical professor teaching two clinical courses each year is far less (even after taking into account a median total of five credits in each clinic course for each student) than three credits in a large doctrinal course and a seminar course.<sup>46</sup> Assuming a total of sixteen students, based on the CSALE survey's reported median ratio of one clinical professor responsible to train and supervise eight clinical students in their clinic course, and applying the same discount rate to the tuition generated from teaching two clinical courses each year, the tuition revenue is only \$72,000 for a clinical course, as reflected in Table 2. And applying the twenty-five percent benefits-cost figure leads to the need to cap the full-time clinical professor's salary at \$57,600 for the salary and benefits not to exceed the income generated from the clinic courses the professor teaches. This results in an unfair and large disparity in salary between a full-time doctrinal professor and a full-time clinical professor (\$107,100 as show in the examples from Table 1 and Table 2) in light of the equal importance of teaching they each perform and the amount of time devoted to their course/clinic work.<sup>47</sup>

Table 2. Revenues of Clinical Professors

<b>Revenues</b>	
2 clinical courses	\$120,000
(8 students X 5 credits = 40 credits X \$1,500 per credit = \$60,000/course)	
	(\$48,000)
Discount rate on doctrinal courses of 40%	
Total Revenues	\$72,000
<b>Expenses</b>	
Clinical professor's salary	(\$57,600)
Median benefits of 25%	(\$14,400)
Total Expenses	(\$72,000)
Net Balance	\$0

46. Kuehn et al., *supra* note 10, at 22–23 (The median number of clinic classroom credits is two per term and median number of credits per term for case work is three credits.).

47. The first author, who has taught two traditional doctrinal courses (Property and Real Estate Transactions) for over twenty years and has served as director of the law school clinic for the past four years, can personally attest to the stronger demands of her time when teaching at the law-school clinic compared to her two doctrinal courses.



Today, many clinical professors teach more than two clinic courses each year.<sup>48</sup> Many now teach an additional course, such as Trial Advocacy or Professional Responsibility, usually without relief from their clinical teaching obligations.<sup>49</sup> In Table 3, we assume, for illustrative purposes, a clinical professor also teaches a small three credits skills-based simulation course with fifteen students one semester a year.

Table 3. Revenues of Clinical Professors Teaching an Additional Simulations Course

<b>Revenues</b>	
2 clinical courses (8 students X 5 credits = 40 credits X \$1,500 per credit = \$60,000/course)	\$120,000
Discount rate on doctrinal courses of 40%	(\$48,000)
1 skills course (15 students X 3 credits = 45 credits X \$1,500 per credit = \$67,500/course)	\$67,500
Discount rate on skills course of 40%	(\$27,000)
Total Revenues	\$112,500
<b>Expenses</b>	
Clinical professor's salary	(\$90,000)
Median benefits of 25%	(\$22,500)
Total Expenses	\$112,500
Net balance	\$0

*Note:* A clinical Professor also teaching one additional three credits skills-simulation-type course with fifteen students each year, leading to an increase in tuition revenue of \$40,500, allows for a salary of \$90,000 plus benefits for the clinical professor and the clinic to operate at revenue neutral when comparing salary/benefits with actual tuition generated.

So a clinical professor who teaches two clinical courses each year and a trial-advocacy-type simulation course one semester each academic year will create total tuition revenue of \$112,500 for illustrative purposes, assuming the various components listed in Table 3. This would enable an increase of the clinical professor's salary to \$90,000, which with benefits

48. Kuehn, *supra* note 11, at 23.

49. *Id.* at 24. At the first author's law school, a typical Trial Advocacy course had between eight to ten students, while a typical counseling and negotiations class had up to twenty-five students.

would cost the school the same amount as the tuition brought in, leading to it operating at revenue neutral when comparing the salary/benefits to the tuition brought in. Yet even here, there is still a large disparity between the reported median salary of a full-time law professor (\$164,700) and the full-time clinical professor (\$112,500) in Table 3.

If the goal is to have full-time clinical professors paid on a par with full-time doctrinal professors on tenure track or tenured and it is determined that this can only be accomplished by the tuition they generate funding their salary and benefits, it makes more sense for the clinical professor to teach a course with a larger number of students as his or her additional course, such as professional responsibility. As demonstrated in Table 4, if the clinical professor teaches a three-credits mid-sized doctrinal type course with fifty students instead, this would add \$135,000 in tuition revenue, after adjusting for the discount rate, for a total of \$207,000 in tuition revenue generated.<sup>50</sup> This sum of \$207,000 in tuition should enable the law school to pay the clinical professor salary and benefits on a par with a doctrinal professor (\$164,700 in salary, plus twenty-five percent of that in benefits for a cost to the law school of \$205,875), at a slight revenue surplus.

Table 4. Revenues of Clinical Professors Teaching One Additional Mid-Sized Course

<b>Revenues</b>	
2 clinical courses (8 students X 5 credits = 40 credits X \$1,500 per credit = \$60,000/course)	\$120,000
Discount rate on doctrinal courses of 40%	(\$48,000)
1 mid-sized doctrinal course (50 students X 3 credits = 150 credits X \$1,500 per credit = \$225,000)	\$225,000
Discount rate on skills course of 40%	(\$90,000)
<b>Total revenues</b>	<b>\$207,000</b>
<b>Expenses</b>	
Clinical professor's salary	\$164,700
Median benefits of 25%	\$41,175
<b>Total Expenses</b>	<b>\$205,875</b>
<b>Net balance</b>	<b>\$1,125</b>

*Note:* A clinical professor also teaching one additional three credits mid-sized course with fifty students each year leads to an additional \$135,000 in tuition revenue for a total revenue of \$207,000, which would support the median salary for law professors of \$164,700 plus benefits.

50. For example, the typical size of a Professional Responsibility course at The John Marshall Law School, the first author's law school, is between fifty and sixty students.

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By adding one mid-sized doctrinal course to the two clinical courses the clinical professor teaches each year, the tuition the professor generates will enable the law school to pay them on a par with doctrinal faculty.

But is it feasible for one clinical professor to train and supervise each of their eight clinical students on client matters in their classroom sessions and still pick up and start teaching a mid-sized doctrinal course one semester each year? Can they perform all of this at the high level of competence needed and expected of a professor? Data collected from CSALE reflects that the predominant mode of staffing a law-school clinic is with one clinical professor supervising eight students both in casework and classwork.<sup>51</sup> This is an incredibly time-consuming task, especially when compared with a professor teaching a doctrinal course, a seminar course, or even a legal writing course. It is hard to imagine that a clinical professor could easily fit additional duties into their schedule, while continuing to train and supervise their clinical students each semester.

Assuming clinicians spend forty hours per week training their students, supervising their students' clinical work, providing feedback, grading their students' work, and engaging in various forms of administrative duties in operating the clinic; then taking on an additional doctrinal course can be a major time burden, especially the first time the clinical professor teaches a new course. And even after teaching it several times, doctrinal courses can still be time consuming when creating, reviewing, and providing feedback to students on formative and summative assessments during the semester. Aside from preparing for each class session and performing work on formative and summative assessments, professors teaching doctrinal courses must also seek to get to know their students, respond to their questions before and after class, add updates to course materials and class sessions to account for legal developments, occasionally retool the course, and spend time creating and grading final exams.

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51. See Robert R. Kuehn & David A. Santacrose, *Center for the Study of Applied Legal Education: 2013–14 Survey of Applied Legal Education*, CSALE 17 (2015), [http://www.csale.org/files/Report\\_on\\_2013-14\\_CSALE\\_Survey.pdf](http://www.csale.org/files/Report_on_2013-14_CSALE_Survey.pdf) [perma] (stating “[t]he median enrollment each term is 7–8 students”). In addition, the median classroom “student-teacher ratios” are “8 to 1.” *Id.* at 19. “Ninety percent of the persons identified as being in charge of the clinic also teach the classroom component.” *Id.* at 21. The median “student-teacher ratios for the casework component . . . was 8 to 1.” *Id.* at 22. “Eighty-seven percent of those who supervise casework also teach the classroom component.” *Id.* at 24.

Moreover, if a clinical professor wants pay on par with the doctrinal faculty and tenure status, he or she may be expected to engage in very time-consuming, traditional forms of scholarship. For example, the first author of this Article averaged the production of one law review article (or peer-reviewed journal article, book chapter, or textbook) virtually every year from 1994 through 2014 while she was a doctrinal professor teaching two mid-sized doctrinal courses each semester by working on the development of article ideas, researching during the semesters, and doing the bulk of the writing over the summer. As a clinician, she found less time to work on this scholarship requirement and struggles mightily to complete law review articles at the same pace now.

Can a clinical professor in such circumstance be able to provide outstanding student training and supervision on their clinic's client matters? An alternative way to achieve the goal of clinics operating revenue neutral is to obtain grants and donations that could make up the difference between tuition revenues and the costs of operation. But this might also be very time consuming for a clinical professor if they are also the director of their clinic with responsibilities to help obtain grants and donations. Thus, the suggested solution to the problem of lower revenues from clinics will not truly work and the goal of parity will not be accomplished unless time constraints are addressed.

In fact, the major challenges to clinicians identified in the CSALE Survey were: (i) "lack of hard money (tuition dollars, endowment income, or, at a public institution, state subsidies)"; (ii) "other demands on clinical faculty's time"; (iii) "insufficient number of clinical faculty"; and (iv) "lack of administrative/secretarial support."<sup>52</sup> One way to address the time constraint issue is to leverage underutilized resources, such as reaching out to doctrinal and legal writing faculty who have substantial experience with one or more of the areas of law covered by a clinic to see if they would be interested in assisting with: (i) developing some of the in-class training, (ii) working with students on one or more of the clinic cases, and/or, if applicable, (iii) working on one or more of the clinic's special projects, such as developing law reform proposals, creating *pro se* materials, or making community presentations. These types of faculty collaborations will help the doctrinal faculty gain a better sense of what their students and the clinical faculty are working on, which may enhance the way they teach

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52. *Id.* at 14. Of the law schools surveyed, 64.1% identified the "lack of hard money," with 47.4% identifying the "insufficient number of clinically faculty" and 26.3% identifying the "lack of administrative/secretarial support." *Id.*

their doctrinal courses, and at the very least, lead to some new *war stories* to tell in class.

Another way to leverage underutilized resources is to work with a practicing attorney who can train, supervise, and work with students on one or more cases per semester as a volunteer, an adjunct professor, or a supervising attorney. They could receive a small honorarium for the time they spend on clinic cases or potentially continuing legal education credit too. These attorneys would first need to be trained on the clinic's procedures, operations, and mission. Once trained, these attorneys would be able, through their work with some of the students, to free up valuable time for full-time clinic professors to work on a doctrinal course, scholarship, grant or donation work, or other valuable clinic work. According to the CSALE Survey, most clinic courses and case work are supervised by a single clinical faculty member.<sup>53</sup> This is not only a huge demand on that faculty member's time, it also prevents his or her students from benefitting from the ability to confer with other seasoned attorneys and clinicians on their clinic work. In addition, the seasoned attorney can also benefit from working with another seasoned attorney. This point was well expressed by Philip Schrag in his article "Constructing a Clinic":

[A] clinic should have at least two instructors, because clinical teaching involves so many novel teaching problems, and is so stressful, that a clinical teacher needs at least one colleague with whom to share problems on virtually a daily basis. . . . [Therefore it is necessary to have] adjunct faculty members or graduate students co-teach with the clinic supervisors; or recruiting non-clinical teachers to participate with the faculty member in the supervision of a small number of cases.<sup>54</sup>

Equally important is the positive impact of a hybrid model on students' learning. By changing the clinical model to include a team of part-time supervising attorneys with substantial experience in one or more of the practice areas the clinic addresses, alongside the full-time clinical professor, can lead to enhanced student training and a more comprehensive, client-centered representation for clinic clients.

In 2015, the first author of this article founded a Family Law & Domestic Violence Clinic based upon a hybrid model. The use of this

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53. *Id.* at 21–24.

54. Philip G. Schrag, *Constructing a Clinic*, 3 CLINICAL L. REV. 175, 186 (1996).

model was initially client driven. Our domestic violence survivor clients typically require legal assistance that covers a large number of practice areas to overcome the many forms of abuse they experience.<sup>55</sup> In order to be able to cover the many areas of law domestic violence covers, we developed a hybrid model that includes employing a number of supervising attorneys in addition to a full-time clinic professor. A hybrid model would also work well with a general civil litigation clinic for indigent clients that covers many areas of law. The model can also work well for specialized clinics when the type of client focused on is likely to need legal assistance in a number of practice areas (for example, a veteran's clinic). One such specialty clinic is a domestic violence clinic mentioned above.

The bulk of the remainder of this Article will focus on how operating a domestic violence clinic that leverages resources in a hybrid model can enable law schools to do more, for more, but the Article will also go on to describe how another professor created a simpler hybrid model that relies upon mentor attorneys for a bankruptcy law clinic.

There are four key reasons why law schools should include among their clinical offerings a domestic violence clinic using a hybrid model. First, a hybrid domestic violence clinic representing clients in a broad range of practice area will be appealing to a broad range of students. Second, working in a clinic that emphasizes holistic, trauma informed, and comprehensive legal assistance, using a client-centered approach will deepen and enhance student learning. Third, because domestic violence is a pervasive and deeply pernicious societal problem, providing comprehensive legal assistance to, and systemic advocacy for, survivors of domestic violence is consistent with the goal of law schools to increase access to justice to highly victimized and vulnerable populations most in need of legal assistance. Finally, under this hybrid model, the clinic can be structured to provide opportunities for part-time evening students to

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55. Domestic violence survivors experience physical, emotional, and financial abuse, causing them to become isolated from friends and family and financially dependent upon their abusive intimate partner. Indeed, “lacking financial . . . resources [and information] is the number one indicator of whether a domestic violence victim will stay, leave, or return to an abusive relationship.” See *How Money Traps Victims of Domestic Violence*, ALLSTATE: ATLANTIC SPONSOR CONTENT (2019), <http://www.theatlantic.com/sponsored/allstate/how-money-traps-victims-of-domestic-violence/750/> [<https://perma.cc/D4P5-HB7P>]. **In addition, there are numerous other barriers domestic violence clients face to becoming safe and financially independent from their abusers.**

meaningfully participate in a clinic experience even when they need to work at a non-law related job from 9 a.m. to 5 p.m. on Mondays through Fridays.

Students in a hybrid model domestic violence clinic can work in one or more of the following areas of law on behalf of domestic violence survivors whose abuse has caused them to need legal assistance in one or more of these areas of law: (1) orders of protection (litigation), (2) divorce/parentage/child support, spousal support, maintenance, allocation of marital assets, and child custody (family law), (3) VAWA self-petitions, U-Visas, T-Visas, asylum cases (immigration law), (4) employment protections, (5) housing protections, (6) debt relief/consumer protection, (7) federal income tax liability relief, (8) crime victim compensation, (9) criminal defense and mitigation based upon domestic violence survivor status, and (10) estate planning. Offering to law students a broad range of areas of law to work in while working in a law school clinic is responsive to the desire of students to be able to work on cases and matters in the area of law they wish to work in when they graduate. It appears that law schools may currently be failing to provide this opportunity. A law professor took a survey and reported the results on his “blog asking students for the reasons why they did or did not participate in clinics in law school.”<sup>56</sup> After receiving 153 responses, 60.1% reported that they did participate in a clinic.<sup>57</sup> And out of those who participated, the main reason was because of their desire to learn practice skills (53.9%); only thirty percent indicated their reason for participating was “[i]nterest[] in practice areas of clinic.”<sup>58</sup> This indicates that seventy percent were not particularly interested in the practice areas of the clinics offered at their school, underscoring the need for law school clinics to cover more areas of law. By offering a hybrid domestic violence clinic, students can choose from ten different areas of law to work in on behalf of a single type of client and see firsthand how the law can be a seamless web of intersecting areas of law and not just a series of compartmentalized courses.

As noted earlier, no one clinical professor can have deep, substantial experience working in all of these practice areas. Consequently, the hybrid clinic model also operates with private-practice attorneys who are

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56. Robert Anderson, *Clinical Legal Education Survey Results*, WITNESSETH (Apr. 23, 2016), <https://witnesseth.typepad.com/blog/2016/04/clinical-legal-education-survey-results.html> [<https://perma.cc/8MGN-ZHXM>].

57. *Id.*

58. *Id.*

experienced in one or more of each of these areas of law. Each member of the team of attorneys<sup>59</sup> works with groupings of students on approximately three to five active cases in their practice area each semester. Some of the clients referred to the clinic seek legal consultations and further representation in just one of these practice areas, but most seek help with at least two or three of the practice areas, with some seeking consultations on as many as seven of the clinic practice areas. As in other clinics, the clinic agrees to provide further representation after the initial legal consultation when the client appears to fit the mission of the clinic, when they have a meritorious claim, and when there are sufficient resources to provide the further representation. We find that this process generates the right amount of work to keep the clinic students and supervising attorneys busy, but not overwhelmed.

If contemplating adding a hybrid domestic violence clinic to a law school's clinic offerings, there are several unique issues to address. First and foremost, safety issues of the clients must be assessed and addressed. In many cases, domestic violence involves a partner seeking to exert coercive control over their intimate partner, and if the abuser finds out that their intimate partner is seeking to stop such coercive control, especially to leave them, the abuse is likely to escalate.<sup>60</sup> Due to safety concerns, the hybrid model of the domestic violence clinic we operate partners with about a dozen domestic violence service organizations who refer clients to us only after providing a risk assessment and safety planning to the clients and certifying to us that they believe the client is a survivor of domestic violence, in need of legal assistance, and capable of benefiting from our legal assistance.<sup>61</sup> The hybrid model of domestic violence clinic we operate also includes a lengthy intake form that includes, among other things, the many areas of law the clinic provides legal assistance. The

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59. See *Family Law & Domestic Violence Clinic*, J. MARSHALL L. SCH. <https://www.jmls.edu/clinics/domestic-violence/public.php> [https://perma.cc/BG9P-Z6Y5] (discussing the post law school legal experiences of our team of lawyers from a diverse group of practice areas).

60. Shannan Catalano, *Intimate Partner Violence in the United States*, U.S. DEP'T JUST. 11 (2007).

61. As part of the safety planning, it is very important to determine if the abusive intimate partner will find out about any legal action taken on behalf of the domestic violence client, and we thus ask the domestic violence service organizations to assess this risk before having prospective clients meet with us. We also ask the domestic violence service organizations to consider whether there may be language barriers that cannot be addressed or cognitive or mental health issues that could interfere with our ability to communicate with a prospective client and provide beneficial legal services.



domestic violence service organizations help the prospective clients fill out this intake form, which seeks basic background information to perform a conflict check and identifies our ten practice areas and situations the client can check off that he or she need assistance with. Thus, the intake form itself is a form of education to domestic violence advocates and survivors on rights they have under the law that few are aware of, addressing the goal of enhancing access to justice. The intake form also asks the client to describe any legal questions he or she has so the clinic can better prepare for the initial client consultation. Students work with the clinic's domestic violence service organization partners and learn about the value of reaching out to other service providers to provide holistic assistance to their clients.

Students in the hybrid domestic violence clinic are not expected to train in and cover all ten practice areas. The students are initially grouped into two categories: family law (Group A) and practice areas relating to financial security (Group B—housing and employment protections, crime victim compensation, and debt and tax liability relief) with all of the students in both Groups receiving training on domestic violence and orders of protection. Those covering family law are required to take the course or receive comparable training through work in a law firm, and those working on tax matters are required to take income tax law or also receive comparable training before they can become eligible for the clinic. But we have found that students in the other practice areas are capable of participating in those areas after receiving training tailored to the practice areas they will be working on in the clinic.

To get students up to speed on the relevant laws and procedures they will be applying in their clinic matters, it is critical to develop extensive training materials for the students to turn to as issues arise and to learn through lecture, answering hypos, and performing simulations in some of the classroom sessions. The students and the supervising attorneys can create some of these training materials. For example, preparing relevant form pleadings as they work on client matters, or using the PowerPoints and FAQs created for community presentations as a form of training materials for future students in the clinic on the applicable federal and state laws that the clinic's clients need to navigate and/or can benefit from. With the assistance of the supervising attorneys, the hybrid clinic can also develop a series of simulations that the students observe and then perform to learn how to apply best practices when performing attorney client meetings, negotiation and drafting, routine court appearances on status and

prove-ups, ex parte court appearances, and contested hearings.<sup>62</sup>

Like other clinics, the hybrid clinic would also include training on professional values and strategic-case planning in case rounds and through the students' work on cases and special projects with their supervising attorneys. In the hybrid clinic, students would typically work in teams of two or three when assigned a client matter (with one student assigned as the lead student-lawyer for the matter) but would also work as part of a larger team when their client is receiving assistance in more than one practice area. The supervising attorneys should be trained on the importance of slowing down the process for the students on the matters they are working on and to cover the invisible legal thinking described earlier. By having each supervising attorney work with students on only a few client matters each semester, the supervising attorneys should have the time to provide substantial real-time feedback and guidance. Students also benefit from being exposed to the different stylistic approaches of the team of supervising attorneys they work with.

The hybrid clinic we recommend would operate very much like a law firm—by being truly client centered. To make sure the clients receive the highest level of legal assistance possible, the supervising attorney should be present at the initial client meeting when the client shares their situation, concerns, and goals with the clinic. The supervising attorneys should also be present at any subsequent important client meetings and at court appearances in order to assist the students as necessary. Some law school clinics do not have supervising attorneys present at the initial-legal consult with the client, so that the student can take ownership of the client matter.<sup>63</sup> We disagree with that approach and believe that the initial-client meeting, where one first learns about the client's underlying goals, concerns, and situation and then develops an initial theory of the case and decides whether to take on the matter, is the most important meeting with the client. Therefore, we believe not having an attorney present at that time could lead to serious deficiencies in the representation that might not be discovered and corrected thereafter by a supervising attorney.<sup>64</sup>

One law school professor described the tension between a client-

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62. See *Family Law & Domestic Violence Clinic*, *supra* note 59.

63. Ann Juergens, *Teach Your Students Well: Valuing Clients in the Law School Clinic*, 2 CORNELL J. L. & PUB. POL'Y 339, 343, 350–51 (1993) (“Under current norms of clinic practice, the errors most likely to remain undetected occur during interviewing because very few clinical teachers attend initial interviews with students and clients.”).

64. *Id.* at 351.

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centered model of legal representation versus a student-ownership model:

The clinical teacher feels a constant tension arise between duty to students and duty to clients. On the one hand, the teacher must yield control of the client's case so that the student may learn. On the other hand, the teacher must remain close enough to the case to protect the client's interests<sup>65</sup>

The professor described the client's interest as being to have the least number of mistakes made during the time of representation.<sup>66</sup>

When the work a clinic performs can affect the safety of the clinic's clients and their children, or when other important matters are at stake, and the legal issues to be handled are complicated, a clinic should not yield control of the client's case to the students working in the clinic. Supervising attorneys should be instructed that they are ultimately (and sometimes primarily) responsible for the client matters assigned to them. But the supervising attorneys should also be instructed to delegate as much as they prudently can to the clinic students. The supervising attorneys should be instructed to engage in strategic-case planning with the students assigned to work with them on a matter, but the attorney in partnership with the client should ultimately decide on what approaches to take in the case.<sup>67</sup> Clients in these situations should benefit from the attorney's deeper level of experience and judgment. It would be hard to imagine a first-year associate being told by a junior or senior partner that they are yielding control of a client's case to the first-year associate so that the associate can learn more, unless there was no chance of success in the case or very little at stake for the client. Indeed, one could argue that when a clinic focuses more on the goal of student ownership of a case in order to allegedly enhance student learning than they do on the goal of providing the best representation possible of the client, they are failing to properly teach their student about professionalism and the general obligation to place a client's interests ahead of the attorney's interests.

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65. *Id.* at 344.

66. *Id.* at 350.

67. Our students and attorneys are trained to take special care not to tell a client what they should do, but they work together with the client, in an empowerment model, to discuss how to best achieve the client's goals and meet the client's concerns, sharing with the client various possible causes of action. This is always good practice, but it is especially so when your clients have suffered years of abuse designed to take away their agency and autonomy.

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The need to focus on client-centered lawyering over student ownership of the case also can arise when a client matter requires swift action. In such circumstances, the supervising attorneys may need to take a stronger lead in the matter. For example, if a client would be harmed by not getting a pleading or other legal document completed right away, the student could create the first draft of the pleading, but then it may be appropriate for the attorney to swiftly thereafter complete the pleading. The supervising attorney would then share with the student any revisions they made and provide other feedback to the student on their work. Providing this client-centered focus of representation and explaining to the student why the attorney intervened as they did would model the ethical-legal duty to provide the best representation possible for one's clients.

Because some practice areas require years of practice and study to gain the requisite knowledge to answer questions and properly advise clients, students might not be properly equipped to take on the role as the person primarily responsible for a case. Supervising attorneys in our hybrid domestic violence clinic have shared with us that occasionally our students have provided incorrect explanations of how certain legal remedies work, what legal options are available, and misstated how the legal process works to clients that the supervising attorney needed to correct. Some examples include providing incorrect maintenance and child support calculations, stating an incorrect effective length of an order of protection, incorrectly telling the client who can be protected under an order of protection, incorrectly explaining what type of visa the client would be eligible for, or incorrectly telling a client she is eligible to apply for crime victim compensation. Because a supervising attorney is present during client meetings, he or she is able to jump in and immediately correct a misunderstanding. If a supervising attorney is not present at the consultation, the attorney may never even know incorrect advice was provided.

Students are often nervous during consultations and may not even realize they misspoke when providing legal advice or that they do not understand a client's answer. If a student realizes he or she provided incorrect information to a client, the student may be too embarrassed to tell the supervising attorney that he or she made a mistake and may withhold that information from the supervising attorney. It is also important to keep in mind that because our clients are referred to us by domestic violence service agencies, we often get complicated legal questions that the domestic violence advocates were not able to answer

themselves. If a domestic violence advocate, who spent years advocating on behalf of survivors cannot answer a particular question, it is likely a student might not be equipped to answer that question either, unless working closely with the supervising attorney in answering those questions. Also, students do not always ask sufficient follow-up questions. If a supervising attorney was not in the room to ask follow-up questions, the process could be substantially delayed for the client, potentially causing irreparable harm. If a supervising attorney is not present for a client meeting, most of the meeting could end up being, "I need to speak with my supervising attorney and get back to you on that question." On numerous occasions our students thank the supervising attorney for being there to jump in when the student is feeling overwhelmed because he or she does not know the answer to the client's question or what else to ask the client.

One student gave a detailed account of his experience during a client consultation while under the supervision of an attorney in his reflections paper:

While asking questions the client was crying and breaking down and was sitting there looking to me for answers to her horrible problem. At the end of the day that is why clients come to our doors, for help. Having the opportunity to ask questions and understand how to conduct myself and witness the sensitivity that goes into dealing with client's issues that to them are life shattering (and at times are very severe) is a great responsibility. I am grateful to have had this experience as I am certain that this is not the last time I will be sitting across the table from someone who is in crisis.

He expressed his gratitude to the supervising attorney for their support and assistance during the consultation.

Even when a clinic is structured for the supervising attorney to be present for all important client meetings and court appearances, this type of clinic model can still provide students with invaluable, hands-on legal experience. First, after students have observed such client meetings and performed simulations of such client meetings, they can thereafter lead such meetings. In addition, students can be primarily responsible for drafting pleadings, responses, court orders, and settlement agreements so long as the supervising attorney reviews and approves such student work before it is filed or circulated. Students can appear in court on behalf of

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the client, communicate with opposing counsel, play a central role in developing the case strategy, and be involved in all aspects of the case, so long as the supervising attorney is able to guide and supervise this work as they would in a law firm setting.

In addition to employing a law firm type model of client representation, another key feature of the hybrid clinic model we recommend is for the clinic to also function like a think tank by having students perform comparative and empirical based research when the clinic sees that the current laws fail to adequately protect the legitimate needs of their clients<sup>68</sup> or when the clinic learns from their community organization partners or when making community presentations of the situation of the harms that others are experiencing that the legal system seems not to be adequately responding to. When a clinic learns of such gaps in legal protections or problems with how statutes are being interpreted or implemented, it can be very helpful to have students research and analyze how other legal systems approach these issues to identify best practices and propose law reforms. This process creates a synergy that a think tank or a legal clinic alone cannot.

One benefit to students from working on these law-reform projects is for students to see firsthand that the law is not static, but is policy based; that such policy should be evidence-based, and how to engage in this type of research and policy analysis. They learn there are many ways to advocate on the behalf of a client and to think outside of the box when seeking to fulfill the goal of advocating for and providing outstanding legal assistance to ones' clients. It also teaches students to dream big and seek systemic reform in addition to representing a specific client.

Hybrid law school clinics are also in a better position than traditional law school clinics that focus only on direct client representation to promote access to justice by developing *pro se* resources to help the large number of people who cannot afford legal representation and who are not receiving pro bono legal representation either. It has recently been reported that "86% of the civil problems reported by low-income Americans received

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68. For example, we engaged in a fifty-state review of the requirements, if any, for judges, child representatives, and guardians ad litem to be trained on domestic violence, how to screen for it, and what protocols to put in place when it appears there has been a history of domestic violence by one parent against the other parent in a custody case. See Debra Pogrund Stark, Jessica M. Choplin, & Sarah Wellard, *Properly Accounting for Domestic Violence in Custody Cases: An Evidence-Based Analysis and reform Proposal*, 26 MICH. J. GENDER & L. 101 (forthcoming June 2019).

inadequate or no legal help.”<sup>69</sup> Further, “71% of low-income households experienced at least one civil legal problem [in the last year], including problems with domestic violence, veterans’ benefits, disability access, housing conditions, and health care. health care, housing conditions, and health care.”<sup>70</sup> A hybrid law school clinic can harness the expanded team of supervising attorneys to also supervise student work in developing innovative *pro se* resources that attempt to mimic the kind of legal assistance a client receives from an attorney to enable more people to exercise their rights under the law. For example, the hybrid legal clinic can develop online, interactive-legal resources that enables users to determine if they qualify for a specific form of legal relief, and if they do, to be directed to the legal form to exercise that right with pop-up tips on how to fill out the form for a favorable decision.<sup>71</sup> If they do not qualify for the initial, most favorable form of relief, the user can be directed to a series of FAQs on how they may qualify for other forms of relief.<sup>72</sup> Another innovative resource is to depict in a film the clinic creates what a *pro se* person seeking certain legal protections should expect in a court hearing with tips on how to prepare for such a hearing and what to do and say in court in different scenarios.<sup>73</sup> The students can then strategize on how best to widely disseminate these innovative *pro se* resources.

Students who work on these types of *pro se* resources gain valuable experiential-skills training. First, they have to thoroughly understand the law and then create a logical flow of the legal result from different fact patterns. In many ways, creating these two resources, especially the interactive online pre-qualifier questions, is more difficult than working with just one specific client. The students need to think through as many likely fact patterns as possible and the legal consequences of these fact patterns. They then need to describe what steps to take to exercise the

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69. *The Justice Gap: Executive Summary*, LEGAL SERVICES CORP. 1 (June 2017), <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-ExecutiveSummary.pdf> [perma].

70. *Id.*

71. See *Do You Qualify for Innocent Spouse Tax Relief*, J. MARSHALL L. SCH., <http://taxhelpdv.jmls.edu> [https://perma.cc/TVX3-68YF] (enabling users to determine whether they qualify for innocent spouse federal-income-tax liability and equitable relief due to domestic abuse).

72. See *id.*

73. John Marshall Law School Domestic Violence Clinic, *Seeking a Plenary Order of Protection: Tips & What to Expect in Court*, YOUTUBE (Apr. 7, 2017), <https://www.youtube.com/watch?v=jnWOoF7Q4&feature=youtu.be> [https://perma.cc/7MYH-VQGZ].

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client's rights under the law. To create these *pro se* resources, students utilize nine of the twenty-six lawyering effectiveness factors previously mentioned: Analysis and reasoning, creativity/innovation, problem solving, practical judgment, researching the law, influencing and advocating, writing, organizing and managing one's own work, and diligence.<sup>74</sup>

Another way to address the problem that many laypersons are unaware of the protections they may have under the law is for law school clinic students to make community presentations to inform laypersons of their rights. These presentations could enhance the students' ability to communicate what the law means and how it operates. And their knowledge of the law would deepen as they create PowerPoint presentations and prepare responses. Students should share drafts of their PowerPoints with their supervising attorneys and practice giving the presentations in front of their supervising attorneys. The supervising attorney should also attend the community presentation in case a student is asked a question they are not able to answer and to evaluate the student's presentation and provide feedback to the student on it. When preparing these community presentations, students utilize seventeen of the twenty-six lawyering effectiveness factors: Analysis and reasoning, creativity/innovation, problem solving, practical judgment, researching the law, writing, speaking, listening, organizing and managing one's own work, able to see the world through the eyes of others, networking and business development, providing advice, passion and engagement, diligence, stress management, community involvement and service, and self-development.<sup>75</sup> These supervising activities are very time intensive and better able to be performed by a team of supervising attorneys in a hybrid model legal clinic rather than by a single full-time clinical professor supervising eight students' legal work in a traditionally organized law school clinic.

Having students in hybrid law school clinics performing these types of activities (comparative law and empirical based law reform, the creation of innovative *pro se* resources, and presenting on the law to community organizations) has the added benefit of empowering part-time evening students to develop many of the experiential skills and professional values, noted earlier in the Article, on days and times that better fit their schedules (for example, at night or over the weekend). According to the CSALE

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74. See Shultz & Zedeck, *supra* note 28, at 630 tbls.1.

75. *Id.*



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Survey (a survey of all law schools with fifty-nine percent of the law schools responding and providing responses to the survey questions), sixty-nine percent of the law schools who responded to the survey reported they allow part-time evening students to participate in their law school's clinics.<sup>76</sup> Unfortunately, this survey did not seek data on the percentage of part-time students who *do* in fact participate in their law school's clinics or externships or how the clinics accommodate their schedules.<sup>77</sup> We are concerned the absence of this information in the survey may reflect a general lack of focus among law-school clinics on the challenge of providing in-house clinic experiences to their part-time evening students.

The major problem with enabling part-time students to participate in clinics is their schedules. If they have a full-time job where they are required to be at their place of employment 9 a.m. through 5 p.m., Monday through Friday, this makes normal court appearances and client meetings very difficult to perform. Indeed, according to the results from a law professor's blog survey, one of the main reasons why students did not participate in law-school clinics was "scheduling constraints."<sup>78</sup> A hybrid clinic that operates with the assistance of a team of supervising attorneys makes it easier to accommodate part-time students' schedules by scheduling the clinic's in-class training sessions one night of the work week and also offering client meetings on another night of the work week in addition to lunch time client meetings certain days of the week. Imposing this type of schedule on a single full-time clinical professor who is already working a regular 9 a.m. through 5 p.m., Monday through Friday, work schedule would be quite onerous.

The hybrid law school clinic we propose and have described combine the best features of simulation and field placements in an in-house law clinic course. The clinic should include in its classroom sessions a series of simulations to prepare them for the key practice skills they will need for the legal work they will be performing. As previously explained, a benefit of including simulations as part of the in-class training component of a clinical course is that student learning in this context can be the sole focus. In addition, the student will be able to fully perform their tasks because their simulated cases will not get settled or resolved by default. Students in simulations will also receive valuable feedback from the judge (often a

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76. Kuehn & Santacroce, *supra* note 51, at 5, 18.

77. *See id.* at 5.

78. Anderson, *supra* note 56.

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current or retired judge), something judges on real cases do not do, other than through their rulings. Another benefit is that part-time night students who work 9 a.m. through 5 p.m., Monday through Friday, can enjoy this courtroom-simulation experience that they otherwise might not be able to.

The main reason not to offer these types of simulations in a clinical course is that creating and running them takes up more time than case rounds do. However, by having a team of experienced attorneys as part of the clinic, or even just having one or two additional experienced attorneys added to an existing clinic, there are more people to assist with drafting, organizing, and conducting these simulations. Our clinical students have expressed strong satisfaction with the series of simulations we have them perform and how such simulations have been very helpful to them when later performing similar tasks for our actual clients.<sup>79</sup>

The hybrid model can also help students obtain law jobs similar to a field placement/internship. Under the hybrid clinic model we propose, our students are supervised by a team of attorneys with substantial experience in one or more practice areas. Because our law clinic operates like law firms do in many respects, the students in the clinic benefit from learning from and showing off what they know and can do before our many experienced attorneys who also work full-time or part-time in private practice outside of our clinic. This has led some of our students receiving law clerk positions from some of these attorneys. Clinics also have the

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79. The following are further comments in our students' reflections papers on how much they enjoyed and learned from the simulations: "I would like to say, the in class simulations were great! I don't think there's a single classmate that can say otherwise. It really helped us get a hands on experience. Preparing for mini direct examinations, conducting in class simulations and hearing simulations was all a great experience." (Student 4). "Beyond what I learned about domestic violence, the most valuable things I learned in this course were the real-world experiences that were gained through the simulation exercises. Not only did they give the experience of standing in front of a judge and putting on an argument, but they gave a sense of purpose to the preparation that can only be gained when preparing to go before a "judge." The simulations allowed us to find out how we prepare best, not only while doing the research, but when picking information out of a fact pattern and preparing for the direct examination of a client, the cross of the opposing party, and creating a path of the case through both the opening and closing statements. The simulations also helped get out some of the anxiety that comes with speaking in front of a larger group of people, by having half the class there watching you were working in front of your peers, but also an audience . . . [Y]ou didn't want to let your co-councils down, you were able to consult them, and pick up ideas from them about what they thought might work to your advantage. This experience was the most helpful aspect of the course in my opinion, although reading the statu[t]es was also enlightening." (Student 5).

ability to hire students upon graduation under a fellowship.

In designing the staffing of the Family Law & Domestic Violence Clinic (one example of a hybrid law school clinic), the first author sought to break down the various sets of knowledge and skills needed to: (i) establish relationships with domestic violence service organizations to have them refer to us appropriate prospective clients and provide prior risk assessment and safety planning to the referred clients, (ii) recruit, train and provide feedback to our students (including training through lecture, development of hypotheticals to analyze, and the development and implementation of simulations for the students to perform), (iii) work on cases in various practice areas, (iv) develop and implement ideas for empirical and comparative law research and policy reform, (v) develop and implement ideas for innovative online resources and community presentations, (vi) manage cases,, (vii) coordinate all of the case work, special projects, and in-class training, (viii) perform various administrative tasks as required by the law school and university , and (ix) publicize our work/ seek donations and grants.

Clearly no one person would have the time to adequately perform all of these tasks. Equally as important, these tasks require a variety of skills sets making it unlikely any one person would be equally talented at each of them. Through the use of a team approach, we are able to disaggregate these tasks so they can be allocated to the person best able to perform them.

Therefore, another advantage of breaking free from the prevailing model of one clinical professor providing in-class training and supervision to eight students on their client matters is the ability to bring in a team of experienced attorneys, not only with experience in different legal areas but also different skills sets. This enables a clinic to accomplish a multi-faceted and deep level of clinical training that covers many different areas of law of interest to law students, empowers part-time evening students to participate in the clinic, and enhances access to justice for underserved clients. Another benefit of creating a hybrid law school clinic that utilizes a team of supervising attorneys in partnership with a full-time clinical professor is that it provides an opportunity for practicing attorneys to engage in pro bono and academically oriented work and for law school professors and students to develop strong ties with practicing attorneys.

The biggest challenges for operating a hybrid law school clinic with a team of supervising attorneys that work with students on both direct client representation as well as on special projects (law reform, the development

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of innovative *pro se* resources, and community presentations)<sup>80</sup> is: (i) coordinating all of this work, (ii) making sure that the students and supervising attorneys are adequately trained, and (iii) dealing with unavoidable turnover of supervising attorneys and the rare dropped ball (failure to comply with clinic procedures). We have addressed these challenges in a variety of ways. First, we created a mission statement, detailed training materials for the students, and a series of forms used to standardize clinic procedures, promote safety for the clients, comply with ethical requirements, and improve the way we think through our cases as we process them. Second, we carefully vet our supervising attorneys. We check the level of experience they have in the practice areas they would be supervising in the clinic and try to assess their ability to be professional, work with and provide feedback to students, work as a team with the other supervising attorneys, follow procedures, and, most importantly, will devote adequate time to the cases they take on. Third, we provide detailed training to our attorneys and students on our mission and procedures. Fourth, we hired an experienced family-law attorney to act as our part-time case and training coordinator, co-teacher, and a lead attorney who works on the clinic's family-law cases (the largest practice area of the clinic). Finally, the director of this type of clinic needs to: (i) understand domestic violence and the special needs of domestic violence survivors and their children, (ii) be knowledgeable of the areas of law that can affect or help survivors of domestic violence, (iii) be able to clearly communicate the benefits and challenges of how the hybrid clinic operates to those the clinic works with or depends upon for its operation, (iv) be able to continuously assess whether the clinic is meeting its mission and complying with its procedures, (v) be able to identify and seek to harness the unique talents of each person who works in the clinic and engage in relationship management when problems arise, and (v) be dedicated and able to think about new ways to improve the clinic and the legal system's response to domestic violence. The director might also be called upon to teach an additional course each year beyond the hybrid clinic course taught each semester which may be of assistance in having the clinic operate at

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80. See *Family Law & Domestic Violence Clinic*, *supra* note 59. We typically have between twelve to fifteen students each semester and a team of eight supervising attorneys (with another three or four volunteer attorneys) working with the students each semester on a total of around thirty-five to forty client matters. We often handle more than one type of matter for our clients and sometimes provide legal assistance to a client in three or more practice areas.

or very close to revenue neutral as detailed in Table 5 below. It depicts how the tuition revenue and salary expenses can operate at very near revenue neutral under a hybrid domestic violence clinic when the full-time professor also teaches a mid-sized non-clinic course.

Table 5. Revenues for a Hybrid-Clinic Model with a Team of Experienced Attorneys and a Clinic Director Who Also Teaches One Mid-Sized Non-Clinic Course

<b>Revenues</b>	
2 clinical courses (12 students X 6 credits = 72 credits X \$1,500 per credit = \$108,000/course)	\$216,000
Discount rate on clinic courses of 40%	(\$86,400)
1 mid-sized doctrinal course (50 students X 3 credits = 150 credits X \$1,500 per credit = \$225,000/course)	\$225,000
Discount rate on skills course of 40%	(\$90,000)
Total revenues	\$264,600
<b>Expenses</b>	
Salaries of part-time Attorney Case & Training Coordinator and 8 Supervising Attorneys	(\$63,000)
Median professor's salary for full-time Clinical Director	(\$164,700)
Median benefits of 25%	(\$41,175)
Total Expenses	(\$268,875)
Net balance	(\$4,275)

Before concluding this Article on hybrid law school clinics, it is important to note that there are also simpler ways to leverage resources when designing a law school clinic that doctrinal faculty and clinicians can consider; for example, a clinic that focuses on only one practice area rather than multiple practice areas, but that still utilizes a team of supervising attorneys. Professor Jessica Gabel founded a bankruptcy law clinic that

utilizes what she refers to as “mentor attorneys” in a simpler and more scaled down clinic than The John Marshall Law School’s Family Law & Domestic Violence Clinic previously described.<sup>81</sup> Her clinic focuses on just one area of law and does not also engage in the previously described special projects and simulations.<sup>82</sup> Her clinic model utilizes a team of bankruptcy attorneys who have substantial experience working with individuals seeking to resolve their debt issues through a Chapter 7 Bankruptcy, with each such attorney working with a pair of students on two Chapter 7 Bankruptcy cases.<sup>83</sup> In her article, she notes that “[t]his model has been used successfully in several other law schools.”<sup>84</sup> “The mentor attorney model is great for a number of reasons: it saves on overhead, exposes students to different styles of practice, and energizes the bar—and in particular your institution’s alumni—to get involved in public service.”<sup>85</sup> Professor Gabel also notes the mentor attorney model’s biggest challenges:

It also, however, brings quality control issues with it. While I vetted and spoke with each and every mentor attorney, that did not mean that I did not have to have ongoing conversations with attorneys about their obligations, responsibilities, etc. One mentor dropped off the radar, another mentor canceled multiple meetings, and another mentor got angry over the slow reimbursement of a filing fee. All of these required phone calls and relationship management. Plus, if we were going to keep the program going, I needed to be able to tap the same well for future cases and delicately release the mentors who just did not work out.<sup>86</sup>

Professor Gabel further states that students are a good source of information for any problems, and she emphasizes to them she has an open door policy to come to her with issues and questions.<sup>87</sup> She describes her tasks (and sometimes challenges) in creating and operating this clinic as including: finding and recruiting attorney mentors and training them on

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81. Jessica D. Gabel, *The Lean Legal Clinic: Cost-Effective Methods of Implementing Experiential Education*, 7 ELON L. REV. 261, 294 (2015).

82. *Id.* at 261–62.

83. *Id.* at 283–84.

84. *Id.* at 283.

85. *Id.* at 313.

86. *Id.*

87. *Id.* at 314.

working with students, designing the classroom component, creating rubrics and mid-semester feedback to help determine when things are not working and when a pivot or change is needed, allowing a large number of students in the clinic (the clinic is popular and has sixteen students in it), recruiting clients, and obtaining bankruptcy court approval.<sup>88</sup> It appears Professor Gabel might have considered setting this up as an externship experience with a classroom component but noted at the time the article was published in 2015 that “[m]ost state bar rules prohibit law firms, of any size, including solo practitioners, from being externship placement sites.”<sup>89</sup> In re-capping the results at the end of the first semester, she noted the clinical experience she created had “served seventeen clients . . . with each student team handling two cases.”<sup>90</sup> In her second semester she had ten continuing students and her clinic took on fifteen more cases.<sup>91</sup> Professor Gabel also mentions that along with being the director of this clinic she was able to teach two other courses, so it appears that under her mentor attorney model the attorneys are able to perform the case work with the students without substantial involvement of her time.<sup>92</sup>

Some might argue that what Professor Gabel created is more of an externship than an in-house clinic. But the label clinic has been applied to blends that appear to be somewhere in between a traditional in-house clinic and a traditional externship.<sup>93</sup>

In comparing this bankruptcy law clinic to the hybrid Family Law & Domestic Violence Clinic previously described, while the student work in both is primarily supervised by a team of attorneys who also carry on a private law firm practice (or work in-house with a corporation), in our Family Law & Domestic Violence Clinic, the attorneys are under letter agreements with the law school relating to the number of cases and hours they will perform and receive an honorarium for the work they have agreed to undertake.<sup>94</sup> The client meetings take place at our law school’s

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88. *Id.* at 284.

89. *Id.* at 282.

90. *Id.* at 315.

91. *Id.* at 316.

92. *Id.*

93. See *Clinical Programs*, CUNY SCH. L., <https://www.law.cuny.edu/academics/clinics.html> [perma] (last visited Sep. 3, 2018); *Curriculum: Part-time J.D. Program*, U. D.C., <https://www.law.udc.edu/?page=PartTimeCurriculum> [perma] (last visited Sep. 3, 2018).

94. There are also a few attorneys who assist our clinic as volunteers and are not under a letter agreement or paid an honorarium.

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community legal-clinic space, and the pleadings are filed under our clinic name. Most important, the clinic director and the case and training coordinator, are very involved with the client matters the students and supervising attorneys take on in the early stages of the matter. The clinic director and case and training coordinator also discuss the progress on the cases and special projects with the students during weekly office hours, fieldwork meetings, and in-class case rounds. To make sure client matters taken on fulfill the clinic's mission and procedures, the clinic is structured so the initial stages of each client representation requires the attention and focus of the clinic director and case and training coordinator. At these early stages the director and/or case and training coordinator: (i) make the initial decision whether to offer a consultation based on their review of the referral form and lengthy intake form, (ii) review and approve the decision made by the attorney and student on whether to offer further legal assistance after the consultation, (iii) review and approve the student and attorney draft of the Next Steps form that gets filled out and sent to the client after the initial consultation form, which answers the clients questions and informs the client of what additional legal assistance will be provided, if any, (iv) review and approve the student and attorney draft amendment to limited scope engagement letter describing the expanded scope of the additional legal assistance to be provided, and (v) review the student and attorney drafted Strategic Case Plans for the matter. In light of the foregoing, we view our unique model, which combines some of the best features of simulation courses, field-placements, and in-house clinics, to be a hybrid in-house law-school clinic.

The main point of this Article is that there are many ways to shape experiential training for students and increase the reach of a clinic in terms of the number of people it can help and number of students it can train. In reflecting on the clinic Professor Gabel created, she advises that “[w]e need to rethink what our product is, how we offer it, and what we can do to make it better.”<sup>95</sup> We believe that leveraging resources in the various ways outlined in this Article can enable law school clinics to do more for more and do so in a way that law schools can afford.

## V. CONCLUSION

This Article detailed how to provide a robust in-house clinical experience for every law student by creating a hybrid, in-house law school

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95. Gabel, *supra* note 81, at 317.



clinic, using a client centered law firm and think tank model, that even part-time evening students with limited daytime availability can work in and benefit from. The hybrid model leverages resources currently available, but underutilized, and combines the best features from clinics, externships, and simulations. This model can enhance the quality and scope of the training students receive, can expand the ability of clinics to promote access to justice, and can improve the quality and value of the legal assistance provided. And the hybrid clinic can do this in a manner that enables law schools to pay their full-time clinical faculty on a par with doctrinal faculty and still operate the clinic at or very near revenue neutral.

As law schools respond to ABA Standard 303, the call for practice ready graduates, and the call to promote access to justice for those who cannot afford an attorney, we encourage them to add to their experiential offerings a hybrid in-house clinic as described in this Article as a positive disruptor to do more for more in experiential education and pro bono legal assistance.