Clinical and Experiential Law Program Directors Workshop

Teaching the Next Generation of Lawyer Leaders in a Time of Polarization

May 3 – 4, 2019 | San Francisco, CA
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CONFERENCE EVALUATION
The Evaluation Form will be emailed to you soon after the conclusion of the Conference.
Welcome to **Teaching the Next Generation of Lawyer Leaders in a Time of Polarization**, the AALS Clinical and Experiential Law Program Directors Workshop! As we all grapple with a highly polarized climate both within and outside our law schools, we come together as program Directors to reflect on and apply what we’ve learned over the last several years of change:

- What has worked/not worked as we have expanded the curricular offerings in our experiential programs
- How do we deal with the increase in political interference in our clinics and externships
- How can we best understand and work with our law school Deans during a time of budgetary contraction and divisions among faculty
- Has the role and title of Experiential Dean made a difference, and what should that role entail
- What is the impact of paid externships and other standard changes on our teaching
- How is live-client clinic design responding to the changed workplace and law school environment

This is an exciting and challenging time to be an experiential law program leader. We hope you will take this time together to forge new friendships and collaborations as we meet the challenges and opportunities during these polarized times.

**Planning Committee for 2019 AALS Clinical and Experiential Law Program Directors Workshop and Conference on Clinical Legal Education**

Alina Ball, University of California, Hastings College of the Law  
Lisa Brodoff, Seattle University School of Law, *Chair*  
Lisa Martin, University of South Carolina School of Law  
David Moss, Wayne State University Law School  
Carol Suzuki, University of New Mexico School of Law  
Mary Tate, University of Richmond School of Law  
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Gillian L. Lester, Columbia Law School  
Camille A. Nelson, American University Washington College of Law  
L. Song Richardson, University of California, Irvine School of Law
Workshop Schedule

Friday, May 3

4 – 7 pm
AALS Registration
Yosemite Foyer, Ballroom Level

6 – 7:30 pm
AALS Reception
Yosemite B, Ballroom Level

Saturday, May 4

7 am – 4 pm
AALS Registration
Yosemite Foyer, Ballroom Level

8:45 – 9 am
Welcome and Introduction
Imperial A, Ballroom Level

Sean M. Scott, Association of American Law Schools
Lisa Brodoff, Chair, Planning Committee for 2019 AALS
Conference on Clinical Legal Education and Seattle
University School of Law

9 - 10:30 am
Plenary Session: Reflecting on Recent
Expansions and Experimentations in
Experiential Learning
Imperial A, Ballroom Level

Eduardo R. Capulong, Alexander Blewett III School of
Law at the University of Montana
Allison Korn, University of California, Los Angeles
School of Law
Donna H. Lee, City University of New York School of Law

This plenary session will consider what we have learned from efforts during the past several years to expand experiential offerings and better prepare students for practice. What curricular and faculty course-load models for expansion have proved successful? What unexpected challenges have arisen? How have decisions about new experiential course offerings proceeded? And how can we implement the lessons we have learned in the future? The discussion will be informed by panelist experiences at their own institutions as well as results from a recent survey of law school experiential course offerings.

10:30 – 10:45 am
Refreshment Break
Yosemite Foyer, Ballroom Level

10:45 am – 12:15 pm
Plenary Session: Planning for and
Responding to Political Interference
Imperial A, Ballroom Level

Matthew Fraidin, University of the District of Columbia,
David A. Clarke School of Law
Robert R. Kuehn, Washington University in St. Louis
School of Law
Erika Wilson, University of North Carolina School of Law

This plenary session will explore the role of experiential deans and directors in planning for and responding to political interference with clinics and externship programs. Topics addressed will include the various forms that political interference has taken and is likely to take in this time of intense polarization, whether and how to design clinics and externship programs to reduce the likelihood of political interference, how to support experiential faculty and staff who are facing or might face political interference, how to respond when political interference occurs, and how to build relationships over time that will help your program overcome efforts at political interference when they occur.

12:15 – 1:45 pm
AALS Luncheon: The View from the
Dean’s Suite
Imperial B, Ballroom Level

Robert D. Dinerstein, American University, Washington
College of Law
1:45 – 3:15 pm

**Concurrent Sessions/Small Group Discussions**

**Exploring the Meaning of Experiential Deaning**
Union Square 13, 4th Floor

Robert D. Dinerstein, American University, Washington College of Law
Phyllis Goldfarb, George Washington University School of Law
Peggy Maisel, Boston University School of Law

This session will focus on the evolving role of the experiential dean/director in legal education. The presenters will draw on a 2016 survey they administered to experiential deans and an accompanying article they published in the *Journal of Legal Education*, “Exploring the Meaning of Experiential Deaning” (abstract and article available at clinical.aals.org), to engage attendees in considering the nature and benefits of the experiential dean and director positions that many law schools have created, sometimes only in the past decade or so. Among the questions this session will address are the responsibilities and priorities that experiential deans and directors can undertake, the importance of these goals and projects to the functioning of experiential programs in particular and to law schools in general, and the challenges that experiential deans and directors may face in fulfilling these goals and priorities.

This discussion will lay the groundwork for identifying the structural features of the experiential dean position that can enhance its accomplishments and reduce its challenges. Identifying these structural features may help in: consolidating experiential leadership positions in law school administrations, cultivating understanding among institutional administrators about the particular value of various models for these positions, and planning through institutional processes for the future of experiential programs, including in situations of turnover among deans and experiential deans/directors. Among the purposes of the session is to build on the presenters’ previously published article to generate a thinking process and a set of ideas for attendees to take with them that can strengthen experiential leadership in law schools, facilitate its institutional accomplishments, and provide support for those holding these leadership posts.

**Paid Externships: The Lay of the Land**
Union Square 12, 4th Floor

Kendall L. Kerew, Georgia State University College of Law
Alexander Scherr, University of Georgia School of Law

This session will consider responses to a March 2018 survey on law schools’ handling of changes to ABA Standards on paid externships. Participants will have the chance to discuss this question as well as other significant changes in the Standards on externships.

**Live-Client Clinics**
Imperial A, Ballroom Level

Kim Diana Connolly, University at Buffalo School of Law
Mary B. Spector, Southern Methodist University, Dedman School of Law

This concurrent session and discussion group will explore current challenges in the design, staffing, administration, and coordination of live-client clinics. Specific topics addressed may include how to balance the traditional social justice mission of clinics with the desire to prepare students for the types of jobs and careers that most of them hope to pursue after graduation; whether and how to use clinics to respond to emergency community needs; the role, if any, that clinics should play in preparing students to pass the bar; how to ensure appropriate coverage of clinic cases/matters when clinical faculty members/supervisors go on leave or depart unexpectedly; how to meet the needs of students who require or seem to require more support than their peers; and other matters important to attendees.
This session will consider responses to a March 2018 survey on law schools' handling of changes to ABA Standards on paid externships. Participants will have the chance to discuss this question as well as other significant changes in the Standards on externships. The session will begin with a review of a survey of paid externship developments recently concluded by the Externship Committee of the Clinical Legal Education Association. As time allows, we will also discuss other issues involving the regulation of field placement courses by the ABA.

SESSION OUTLINE

I. Paid Externships
   A. CLEA Paid Externship Survey
   B. Review of participant experiences
   C. Discussion

II. Field Placements and the ABA Standards
   A. Recent changes to ABA Standards relating to field placements
   B. Selected Issues in the Regulation of Field Placements:
      1. Faculty status: Standard 304; Standard 405(c)
      2. Seminar or “ongoing, contemporaneous, faculty-guided reflection”: Standard 304(a)(5)
      3. “Written understandings”: Standard 304(d)(i)
      4. Hours in regularly scheduled class sessions: Standard 311(a); Interpretation 311-1(a), (b)(1)
      5. Externships as experiential courses: Standard 303, 304, 305
      6. Calculating hours per credit in field placements: Standard 310
      7. Distance and international externships: Standards 306 & 307
   C. Open Discussion

STANDARD 303. CURRICULUM

(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:
   (1) one course of at least two credit hours in professional responsibility that includes substantial instruction in rules of professional conduct, and the values and responsibilities of the legal profession and its members;
   (2) one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty supervised; and
   (3) one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or a field placement, as defined in Standard 304.

(b) A law school shall provide substantial opportunities to students for:
   (1) law clinics or field placement(s); and
   (2) student participation in pro bono legal services, including law-related public service activities.

Interpretation 303-1

A law school may not permit a student to use a course to satisfy more than one requirement under this Standard. For example, a course that includes a writing experience used to satisfy the upper-class writing requirement [see 303(a)(2)] cannot be counted as one of the experiential courses required in Standard 303(a)(3). This does not preclude a law school from offering a course that may count either as an upper-class writing requirement [see 303(a)(2)] or as a simulation course [see 304(a) and 304(b)] provided the course meets all of the requirements of both types of courses and the law school permits a student to use the course to satisfy only one requirement under this Standard.

STANDARD 304. EXPERIENTIAL COURSES: SIMULATION COURSES, LAW CLINICS, AND FIELD PLACEMENTS

(a) Experiential courses satisfying Standard 303(a) are simulation courses, law clinics, and field placements that must be primarily experiential in nature and must:
   (1) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302;
   (2) develop the concepts underlying those being taught;
   (3) provide multiple opportunities for performance;
   (4) provide opportunities for student performance, self-evaluation, and feedback from a faculty member, or, for a field placement, a site supervisor;
   (5) provide a classroom instructional component; or, for a field placement, a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection; and
   (6) provide direct supervision of the student’s performance by the faculty member; or, for a field placement, provide direct supervision of the student’s performance by a faculty member or a site supervisor.

(b) A simulation course provides substantial experience not involving an actual client, that is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a set of facts and circumstances devised or adopted by a faculty member.
STANDARD 305. OTHER ACADEMIC STUDY

(a) A law school may grant credit toward the J.D. degree for courses that involve student participation in studies or activities in a format that does not involve attendance at regularly scheduled class sessions, including, but not limited to, moot court, law review, and directed research.

(b) Credit granted for such a course shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.

(c) Each student's educational achievement in such a course shall be evaluated by a faculty member.

STANDARD 306. DISTANCE EDUCATION

(a) A distance education course is one in which students are separated from the faculty member or each other for more than one-third of the instruction and the instruction involves the use of technology to support regular and substantive interaction among students and between the students and the faculty member, either synchronously or asynchronously.

(b) Credit for a distance education course shall be awarded only if the academic content, the method of course delivery, and the method of evaluating student performance are approved as part of the school's regular curriculum approval process.

(c) A law school shall have the technological capacity, staff, information resources, and facilities necessary to assure the educational quality of distance education.

(d) A law school may award credit for distance education and may count that credit toward the 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction required by Standard 311(b) if:

1. there is opportunity for regular and substantive interaction between faculty member and student and among students;
2. there is regular monitoring of student effort by the faculty member and opportunity for communication about that effort; and
3. the learning outcomes for the course are consistent with Standard 302.

STANDARD 307. STUDIES, ACTIVITIES, AND FIELD PLACEMENTS OUTSIDE THE UNITED STATES

(a) A law school may grant credit for study outside the United States that meets the requirements of the Criteria adopted by the Council.

(b) A law school may grant credit for field placements outside the United States that meet the requirements of Standard 304.

STANDARD 310. DETERMINATION OF CREDIT HOURS FOR COURSEWORK

(a) A law school shall adopt, publish, and adhere to written policies and procedures for determining the credit hours that it awards for coursework.

(b) A “credit hour” is an amount of work that reasonably approximates:

1. not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time; or
2. at least an equivalent amount of work as required in subparagraph (1) of this definition for other academic activities as established by the institution, including simulation, field placement, clinical, co-curricular, and other academic work leading to the award of credit hours.
Interpretation 310-1

For purposes of this Standard, fifty minutes suffices for one hour of classroom or direct faculty instruction. An “hour” for out-of-class student work is sixty minutes. The fifteen-week period may include one week for a final examination.

Interpretation 310-2

A school may award credit hours for coursework that extends over any period of time, if the coursework entails no less than the minimum total amounts of classroom or direct faculty instruction and of out-of-class student work specified in Standard 310(b).

STANDARD 311. ACADEMIC PROGRAM AND ACADEMIC CALENDAR

(a) A law school shall require, as a condition for graduation, successful completion of a course of study of not fewer than 83 credit hours. At least 64 of these credit hours shall be in courses that require attendance in regularly scheduled classroom sessions or direct faculty instruction.

Interpretation 311-1

(a) In calculating the 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction for the purpose of Standard 311(a), the credit hours may include:

1. Credit hours earned by attendance in regularly scheduled classroom sessions or direct faculty instruction;
2. Credit hours earned by participation in a simulation course or law clinic in compliance with Standard 304;
3. Credit hours earned through distance education in compliance with Standard 306; and
4. Credit hours earned by participation in law-related studies or activities in a country outside the United States in compliance with Standard 307.

(b) In calculating the 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction for the purpose of Standard 311(a), the credit hours shall not include any other coursework, including, but not limited to:

1. Credit hours earned through field placements in compliance with Standard 304 and other study outside of the classroom in compliance with Standard 305;
2. Credit hours earned in another department, school, or college of the university with which the law school is affiliated, or at another institution of higher learning;
3. Credit hours earned for participation in co-curricular activities such as law review, moot court, and trial competition; and
4. Credit hours earned by participation in studies or activities in a country outside the United States in compliance with Standard 307 for studies or activities that are not law-related.

STANDARD 405. PROFESSIONAL ENVIRONMENT

(a) ...

(b) A law school shall have an established and announced policy with respect to academic freedom and tenure of which Appendix 1 herein is an example but is not obligatory.

(c) A law school shall afford to full-time clinical faculty members a form of security of position reasonably similar to tenure, and non-compensatory perquisites reasonably similar to those provided other full-time faculty members. A law school may require these faculty members to meet standards and obligations reasonably similar to those required of other full-time faculty members. However, this Standard does not preclude a limited number of fixed, short-term appointments in a clinical program predominantly staffed by full-time faculty members, or in an experimental program of limited duration.

...

Interpretation 405-6

A form of security of position reasonably similar to tenure includes a separate tenure track or a program of renewable long-term contracts. Under a separate tenure track, a full-time clinical faculty member, after a probationary period reasonably similar to that for other full-time faculty, may be granted tenure. After tenure is granted, the faculty member may be terminated only for good cause, including termination or material modification of the entire clinical program. A program of renewable long-term contracts shall provide that, after a probationary period reasonably similar to that for other full-time faculty, during which the clinical faculty member may be employed on short-term contracts, the services of a faculty member in a clinical program may be either terminated or continued by the granting of a long-term renewable contract. For the purposes of this Interpretation, “long-term contract” means at least a five-year contract that is presumptively renewable or other arrangement sufficient to ensure academic freedom. During the initial long-term contract or any renewal period, the contract may be terminated for good cause, including termination or material modification of the entire clinical program.
CONSENT TO USE OF PHOTOGRAPHIC, VIDEO, AND AUDIO MATERIALS
AALS will have a photographer at sessions during the conference. Photos taken during the conference will remain the property of AALS and may be distributed or used in future marketing materials. Your attendance at the conference indicates your acceptance to be photographed, filmed, or recorded, and to AALS’s use of your image, without payment of any kind, in program(s) and for other purposes designated by AALS in the future.

PRIVATE ROOM FOR PARENTS
Nursing parents may use the Executive Board Room, Ballroom Level, for private space with electrical power, a refrigerator, and a locking door. Please visit AALS Registration (Yosemite Foyer, Lobby Level) for access.

WALKING DIRECTIONS TO UC HASTINGS RECEPTION
(1.7 mile – 13-minute walk)
• Head west on O’Farrell Street, .3 mile
• Turn left on Hyde Street, .3 mile
• Reception located at 198 McAllister Street

CONTINUING EDUCATION CREDIT
After the conference, AALS can provide you with an attendance confirmation letter to support other continuing education documentation as required by your specific state’s accrediting agency. To request a letter, email cleattendance@aals.org.

2020 AALS CLINICAL CONFERENCE
Saturday, May 1 – Wednesday, May 6
Renaissance Orlando at SeaWorld
Orlando, Florida
Carolina Academic Press publishes a wide range of casebooks, course books, treatises, and monographs for the legal education community. As of January 1, 2016, these offerings have expanded, with CAP's acquisition of the LexisNexis law school list. You may be familiar with our widely adopted legal writing offerings, such as *Plain English for Lawyers* and the online learning tool Core Grammar for Lawyers. Our popular series include the groundbreaking *Context and Practice Series* and the *Understanding, Q&A, Skills and Values* and *Mastering* series.

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Hilton San Francisco – Lobby Level and Grand Ballroom Level
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COLOR KEY

- **Escalators and Stairs to Ballroom Levels**
- **Lobby Level**
  - Golden Gate, Urban Tavern, Lobby Bar, Herb n' Kitchen, Poached, Plaza A/B and Executive Conference Center (Seadaff, Presidio, Sunset, Marina)
- **Ballroom Level**
  - Continental, Imperial, Yosemite, Franciscan, Executive Boardroom
- **Grand Ballroom Level**
  - Grand Ballroom and Green Room
- **Union Ballroom Level**
  - Union Square Rooms (4th Floor)
    - Rooms 1-25
- **Nob Hill Rooms (6th Floor)**
  - Rooms 1-10

ACCESSIBLE FACILITIES

Accessible restrooms are located on the following levels: L (Lobby), B (Ballroom), M (Grand Ballroom, Mezzanine)

* Package Express located in Tower 3, Garage Level
* Pool located in Tower 3, 16th Floor
* Chiropractic and Masseuse located at Top of Tower 1
AALS CALENDAR

Workshop for New Law School Teachers
Thurs., June 6 – Sat., June 8, 2019, Washington, DC
Thurs., June 4 – Sat., June 6, 2020, Washington, DC

Faculty Recruitment Conference

Annual Meeting
Tues., Jan. 5 – Sat., Jan 9, 2021, San Francisco, CA

Conference on Clinical Legal Education
Sun., May 3 – Wed., May 6, 2020, Orlando, FL