

2017

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## Recommended Citation

Miller, Binny (2017) "Cultural Brokers in the Changing Landscape of Legal Education: Associate Deans for Experiential Education," *Journal of Experiential Learning*: Vol. 2 : Iss. 1 , Article 8.

Available at: <http://digitalcommons.tourolaw.edu/jel/vol2/iss1/8>

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# CULTURAL BROKERS IN THE CHANGING LANDSCAPE OF LEGAL EDUCATION: ASSOCIATE DEANS FOR EXPERIENTIAL EDUCATION

BINNY MILLER\*

## INTRODUCTION

While experiential education is not new,<sup>1</sup> a sea change has occurred in the status of experiential education in law schools in the past several years. Experiential education has multiple definitions, but most emphasize the active nature of the teaching method and the integration of theory and practice.<sup>2</sup> Once considered the “softer” part of the curriculum, when compared to “harder” doctrinal courses, experiential learning opportunities are now central to the law school curriculum.<sup>3</sup>

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<sup>1</sup> Stephen Ellmann, Katherine R. Kruse, Jeffrey C. Brooks, Barbara K. Bucholtz, Kim Diana, Connolly, Elizabeth Ford, Nancy M. Maurer, Vanessa H. Morton, Linda H. Morton and Jeff Pokorak, *Measuring the Values and Costs of Experiential Education, Report of the Working Group on Cost and Sustainability*, 7 ELON L. REV. 23, 25 (2015) (“[i]n the past forty years, legal education has greatly expanded its reach into teaching lawyering skills other than legal analysis and issue-spotting”). This report and others cited in my article are included in the excellent symposium issue, *Experience the Future: Papers from the Second National Symposium on Experiential Education in Law* [hereinafter *Second National Symposium*], published in 2015 in Volume 7 of the *Elon Law Review*. The reports were written by working groups from the Alliance for Experiential Learning in Law, a group of educational leaders that meet to discuss issues concerning experiential education in law schools. For information about this organization, see <http://www.northeastern.edu/law/experience/leadership/alliance.html> (last visited April 5, 2016).

<sup>2</sup> See *infra* Part II. A.

<sup>3</sup> See, e.g., Cynthia Adcock, Cynthia Batt, Susan L. Brooks, Justine Dunlap, Carrie Kaas, Katherine R. Kruse, Susan Maze Rothstein & Ruth Anne Robbins, *A Glossary for Experiential Education in Law Schools, Report of the Working Group on Vocabulary and Collaboration*, 7 ELON L. REV. 1, 13 (2015) (noting “sudden shift” in favor of experiential education); see also Lincoln Caplan, *An Existential Crisis for Law Schools*, N.Y. TIMES (July 15, 2012). For an excellent description of the wide variety of courses in many law schools’ experiential education curriculum, see the articles in the symposium issue published by the Alliance for Experiential Learning in Law. See *Second National Symposium, supra* note 1.

As law students face an increasingly challenging job market, experiential education courses provide a means of making students more competitive in the market. While some commentators have called for reducing the time required for a legal education from three years to two years to decrease the cost of legal education,<sup>4</sup> advocates of experiential education have proposed other alternatives to eliminating the third year of law school. Some commentators have argued for an experiential third year where students participate in clinics or externships in lieu of traditional courses. Washington and Lee has adopted this approach as a requirement for all students; New York law school offers it as an elective.<sup>5</sup> Other law schools have adopted a 15-credit experiential requirement.<sup>6</sup> The apprenticeship model, once seen as a quaint anachronism, is now an alternative to the traditional three-year law school curriculum; for example, in New Hampshire, this model is an alternative means of admission to the bar in lieu of a bar examination.<sup>7</sup>

Calls to reform legal education are not new. Long before the declining market for legal services, commentators urged legal education to integrate theory and practice. The MacCrate Report,<sup>8</sup> the Carnegie Report,<sup>9</sup> the Best Practices Report,<sup>10</sup> and the American Bar

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<sup>4</sup> See Caplan, *supra* note 3, at 10.

<sup>5</sup> Stephen Ellmann, *The Clinical Year Begins*, 21 CLIN. L. REV. 337 (2015) (describing new “Clinical Year” course based on field placement rotations); Washington and Lee’s New Third Year Reform, <http://law2.wlu.edu/thirdyear/> (last visited Apr. 5, 2016).

<sup>6</sup> These include California Western, CUNY, University of Columbia Dave Clarke School of Law, and Pepperdine.

<sup>7</sup> David I.C. Thomson, *Defining Experiential Legal Education*, 1 J. EXPERIENTIAL LEARNING 1, 19 (2014) (describing Daniel Webster Scholars program); Elizabeth Olson, *Bar Exam, the Standard to Become a Lawyer, Comes Under Fire*, N.Y. TIMES (March 19, 2015), [http://www.nytimes.com/2015/03/20/business/dealbook/bar-exam-the-standard-to-become-a-lawyer-comes-under-fire.html?ref=dealbook&\\_r=1](http://www.nytimes.com/2015/03/20/business/dealbook/bar-exam-the-standard-to-become-a-lawyer-comes-under-fire.html?ref=dealbook&_r=1) (describing the Daniel Webster Scholars Program as a “kind of apprenticeship”); DANIEL WEBSTER SCHOLAR PROGRAM, <https://law.unh.edu/academics/experiential-education/daniel-webster-scholar-program-ds> (last visited Apr. 5, 2016).

<sup>8</sup> AMERICAN BAR ASSOCIATION, SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, *Legal Education and Professional Development—An Educational Continuum, Report of The Task Force on Law Schools and the Profession: Narrowing the Gap* (1992).

<sup>9</sup> William M. Sullivan, Ann Colby, Judith Welch Wegner, Lloyd Bond & Lee S. Shulman, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007); R. Michael Cassidy, *Reforming the Law School Curriculum from the Top Down*, 64 J. LEGAL ED. 428 (2015).

<sup>10</sup> Roy Stuckey, et al., *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROADMAP* (2007). The title page lists Roy Stuckey and “others” as the authors, without identify the other authors. *See id.* at ix (“Roy Stuckey is the principal author of the document, but many people contributed to the final product.”). A follow-up to this work was recently published, see Deborah Maranville, Lisa Radtke Bliss, Carolyn Wilkes Kaas,

Association's ("ABA") law school accreditation committee<sup>11</sup> are the four primary instigators behind the expansion of experiential education in law schools.<sup>12</sup> The state bars, and organizations founded by law school faculty involved in experiential education, including the Clinical Legal Education Association ("CLEA"), have also played an important role.<sup>13</sup>

Among these actors, only the ABA and the state bars have the authority to require reform. The ABA has revisited its standards for accrediting law schools and has recently increased the numbers of experiential credits required for graduation from one credit to six credits.<sup>14</sup> Some state bars have gone further than the ABA in proposing additional skills credits for graduation.<sup>15</sup> New York, for example, has taken a different approach in requiring bar applicants to complete 50 hours of pro bono work; those who pledge to complete 500 hours of pro bono work in the last semester of law school can take the New York bar in February of that semester.<sup>16</sup>

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& Antoinette Sedillo López (eds.), *BUILDING ON BEST PRACTICES: TRANSFORMING LEGAL EDUCATION IN A CHANGING WORLD* (2015).

<sup>11</sup> The formal name of this committee is the American Bar Association Section of Legal Education and Admissions to the Bar. For a description of its responsibilities and activities, see [http://www.americanbar.org/groups/legal\\_education.html](http://www.americanbar.org/groups/legal_education.html) (last visited Apr. 5, 2016).

<sup>12</sup> Thomson, *supra* note 7, at 19.

<sup>13</sup> CLEA's mission is "to advocate for clinical legal education as fundamental to the education of lawyers, <http://www.cleaweb.org/mission> and its reform proposals can be found on the organization's website. <http://www.cleaweb.org/advocacy> (last visited Apr. 5, 2016); Robert Jones, Jr., Marianne Wesson, Cynthia Batt, Isaac Borenstein, Lisa Brodoff, Margaret Drew, John Erbes, Jay Finkelstein, Steven Friedland, Carol Grumbach, Deborah Kenn, Brian Landsberg, Susan Maze-Rothstein, Barbara McAadoo, Jessica Rubin & Elizabeth Thornburg, *Integrating Experiential Learning into the Law School Curriculum*, 7 *ELON L. REV.* 43,49 n. 99 (2015) ("[s]tate bars are beginning to pressure law schools to offer more experiential education opportunities by imposing experiential requirements for admission to the bar").

<sup>14</sup> ABA STAND. & R.P. APPROV. L. SCH. 2014-2015, Rule 303 (a) (3); Adcock, *supra* note 3, at 12-13 (describing law schools' response to ABA regulators); see Tony Mauro, *ABA Delegates Approve Law School Reform*, *NAT'L. L.J.* (Aug. 11, 2014).

<sup>15</sup> The California Bar has proposed 15 units of experiential practice-based credits. The California Bar Task Force Report can be found at [http://www.calbar.ca.gov/Portals/0/documents/bog/bot\\_ExecDir/STATE\\_BAR\\_TASK\\_FORCE\\_REPORT\\_%28FINAL\\_AS\\_APPROVED\\_6\\_11\\_13%29\\_062413.pdf](http://www.calbar.ca.gov/Portals/0/documents/bog/bot_ExecDir/STATE_BAR_TASK_FORCE_REPORT_%28FINAL_AS_APPROVED_6_11_13%29_062413.pdf) (last visited Apr. 29, 2016). This proposal is pending before the California Supreme Court. The New York requirements, while not explicitly designed as skills credits, require the support of experiential education courses.

<sup>16</sup> N.Y. CT. APP. R. FOR ADMISSION OF ATT'YS. & COUNSELORS AT LAW, 22 N.Y. C.R.R. § 520.16 9 (rule that requires applicants to complete 50 hours of pro bono practice experience before applying to the bar); <http://www.nycourts.gov/attorneys/probonoscholars/index.shtml> (describing Pro Bono Scholars program and 500 hour requirement); Mary Lynch, *NY Chief Judge Lippman Announces Pro Bono Scholars Program For Final Semester of Law School*, *BEST PRACTICES FOR LEGAL EDUCATION*

The reasons behind these proposals for curricular change are many and varied. In some instances, the desire to provide legal services to underserved populations is a more explicit goal than the desire to make law students more practice-ready. The New York requirement is perhaps the best example of this type of proposal. Other proposals are rooted more deeply in the market. As the market for legal services has shrunk, the competition for the available positions has increased, and law schools want their graduates to be the most practice-ready.

The law school curriculum must adapt to these calls for reform. New, or at least more, experiential education courses are required to meet the new ABA mandate for additional course credits in experiential education. Law school courses are also necessary to support the pro bono work required of some state bar initiatives. For example, the admissions process in New York envisions that law schools would play a key role in providing structure and supervision for students who pursue a pro bono semester as a *quid pro quo* for taking the bar before graduation. This is a tumultuous time in legal education with possibilities for meaningful curricular reform. This time period also carries the risk that these reforms will not be realized in a way that provides high quality experiential education.

This essay examines the leadership structures adopted for experiential education and the role of the law school administrators charged with the responsibility for the experiential legal education curriculum. In the past several years, a large number of law schools have created these administrative positions.<sup>17</sup> Specifically, this essay discusses the newly-emerging role of associate deans charged with the responsibility of overseeing the program of experiential education in law schools.

This essay builds on related themes that I explored in an earlier essay about the roles and governance responsibilities of directors of law school clinical programs.<sup>18</sup> There I suggested that “the ambiguity inherent in the role of a clinic director may simply be subsumed – or perhaps even magnified – in the way that these positions are reconstructed as associate deanships.”<sup>19</sup> My thinking about these issues is informed by my experiences as a clinical teacher and a former director of a clinical program, as well as my experience in a law school that has

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(Feb. 11, 2014), <http://bestpracticeslegaled.albanylawblogs.org/2014/02/11/ny-chief-judge-lippman-announces-pro-bono-scholars-program-for-final-semester-of-law-school/>.

<sup>17</sup> Adcock, et al., *supra* note 3, at 13.

<sup>18</sup> See generally Binny Miller, *Herdin Cats: Role Ambiguity, Governance, and Law School Clinical Programs*, 41 U. BALT. L. REV. 523 (2012) (examining similar issues in the context of directors of law school clinics).

<sup>19</sup> *Id.* at 555.

relatively recently adopted an associate dean model for experiential education.<sup>20</sup> But I cannot speak to the experience of being an experiential associate dean; the issues that I discuss would benefit greatly from the contributions of those who are leading experiential education programs.

In Part I, I discuss the structure for managing experiential programs and the overall responsibilities of experiential associate deans, and highlight the growth in these positions in the past several years. In Part II, I discuss one aspect of the role of experiential associate deans: the coordination of the different programs that comprise experiential education. I begin with a discussion of emerging conceptions of experiential education, then turn to the perspectives offered by Howard Gardner, law school deans and cultural anthropology, and conclude with a discussion of the challenge of coordinating programs within experiential education whose cultures are distinct. I propose a three-part framework for thinking about the various programs that fall under the big tent of experiential education: the programs operate as separate spheres, as separate but overlapping in some respects, or as fully integrated programs.

The other essays in this volume address experiential education at the undergraduate level.<sup>21</sup> While none of these essays describe undergraduate programs that seek to bring experiential education under one umbrella, as law schools have done, some lessons from these programs nonetheless are relevant to law schools' efforts. As one author notes, "[e]xperiential learning has been explored, for many years, as a pedagogical strategy in political science – a discipline that traditionally has been the choice of aspiring law students – and other programs of study."<sup>22</sup> Another author cites the MacCrate report for the proposition that "the skills and value of a competent and responsible lawyer are developed along a continuum that starts before law school, reaches its formative and intensive stage during the law school experi-

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<sup>20</sup> *Id.* at 551 (noting that the Dean at American University's Washington College of Law created this associate deanship to begin in the Fall of 2012).

<sup>21</sup> Karen Graziano, *Implementing a Professional Development Approach to Pre-Law Advising: How to Build a Bridge to Law School and the Legal Profession through Legal and Professional Development Course, Professional Societies, and Mentoring*, 2 J. EXPERIENTIAL LEARNING 35 (2017); Kyle Kopko, Grant Keener, Paula Knudsen-Burke, Dianne McDonald, William S. Schweers & Michael Vitlip, *Four Variations in Delivery and Design of Mock Trial for the Undergraduate Student*, 2 J. EXPERIENTIAL LEARNING 63 (2017); Sandi DiMola & Allyson M. Lowe, *Research Note: Using Experiential Learning in a Pipeline to Careers in Law Program for First-Generation University Women*, 2 J. EXPERIENTIAL LEARNING 24 (2017).; Tom Rozinski, *Experiential Legal Writing Before Law School: Judicial Opinions*, 2 J. EXPERIENTIAL LEARNING 83 (2017).

<sup>22</sup> DiMola & Lowe, *supra* note 21, at 29.

ence, and continues through a lawyer's professional career."<sup>23</sup> Law schools are inevitably building on these earlier experiential education efforts, even if they may not recognize that they are doing so.

This essay is informed by two aspects of these articles. First, they reveal some of the definitional problems that affect law school experiential education: what is it that we mean by the terms we use and how do understandings about these terms differ? Second, in discussing the features of undergraduate trial advocacy programs and the history of the development of legal writing programs in law schools, two of these articles provide support for the idea that there are cultural differences between different types of experiential education programs.

## I.

### LEADERSHIP STRUCTURE AND RESPONSIBILITIES

Some law schools have no centralized leadership structure for experiential education courses.<sup>24</sup> Instead, leadership is provided, as it is for many other law school functions, by an associate dean for faculty, or another individual with general administrative responsibilities. Individual programs focused on experiential learning, such as clinics or externships, may have a designated individual in charge of these programs. But there is no overarching leadership for experiential education as a whole.<sup>25</sup>

This essay focuses on those law schools that have sought to centralize, in some fashion, the leadership role for experiential education. While the titles for these positions vary, individuals who hold these positions are typically referred to as the Associate Dean for Experiential Education, or alternatively, Experiential Learning. Other schools have designated Director or Chair positions to oversee experiential education.<sup>26</sup>

Structure is not only provided by designated leadership positions, but also by more fluid means. Recently, law schools have undertaken

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<sup>23</sup> Graziano, *supra* note 21, at 35 (citing McCrate Report, *supra* note 7).

<sup>24</sup> Robert R. Kuehn & David A. Santacroce, CENTER FOR THE STUDY OF APPLIED LEGAL EDUCATION, 2013-14 SURVEY OF APPLIED LEGAL EDUCATION [hereinafter 2013-2014 CSALE SURVEY].

<sup>25</sup> Indeed, some programs lack a centralized structure even at the individual program level. In some clinical programs, no one person is designated as the head of the program. *Id.* at 6. The individual clinics operate separately under the auspices of faculty members teaching in the clinics.

<sup>26</sup> Christine Cimini, Robert Corrada, Mulligan Burleson, Myra Berman, Christine Cerniglia Brown, and Katherine R. Kruse, *Creative Initiatives at U.S. Law Schools: Report of the Working Group on Creative Initiatives*, 7 *ELON L. REV.* 57, 74-75 (2015).

curricular mapping efforts, sometimes referred to as pathways,<sup>27</sup> which organize the curriculum in ways that are more understandable to students and thus allow them to make more informed choices in course selection. Law school curricula grow in deliberate and not so deliberate ways, and not all involve a designated administrative structure.

In an earlier essay, I traced the development of experiential education leadership positions, beginning with directors of clinical programs, followed by the appointment of associate deans for clinic.<sup>28</sup> While information about the origins of these associate dean positions is incomplete, the first associate dean positions for clinic appear to have been created at Georgetown in 1989,<sup>29</sup> and seven years later at the University of Michigan.<sup>30</sup> These positions long predated the expansion of experiential learning and appear to have included responsibility only for clinical programs. Now, many of these positions have expanded to include responsibility for a broader array of experiential learning opportunities.

While data about the number and nature of these leadership positions is incomplete, two surveys conducted by the Center for the Study of Applied Legal Education (“CSALE”), and a study conducted by a working group of the Alliance for Experiential Learning in Law (“Alliance”),<sup>31</sup> has helped to fill in these gaps. The CSALE surveys are based on data gathered between 2010 and 2011,<sup>32</sup> and a

<sup>27</sup> WELCOME TO THE WCL PATHWAYS THROUGH THE CURRICULUM WEBSITE, <http://pathways.wcl.american.edu/> (last visited Apr. 5, 2016); Susan L. Brooks, Robert D. Dinerstein & Deborah Epstein, *A Blueprint for Experiential Education Reform: Report of the Working Group on Vision and Mission Subcommittee*, 7 ELON L. REV. 5, 5-6 (identifying learning goals as part of the curricular mapping process and providing an example from Georgetown University Law Center).

<sup>28</sup> See Miller, *supra* note 18.

<sup>29</sup> ASSOCIATION OF AMERICAN LAW SCHOOLS, DIRECTORY OF LAW TEACHERS 1003 (2011-2012) (noting that Professor Mlyniec became an associate dean in 1989); Wallace J. Mlyniec, FULL-TIME FACULTY PROFILES, [www.law.georgetown.edu/faculty/mlyniec-wallace-j.cfm#](http://www.law.georgetown.edu/faculty/mlyniec-wallace-j.cfm#) (last visited Mar. 30, 2015).

<sup>30</sup> Scarnecchia Named Associate Dean of Clinical Affairs, 39 L. QUADRANGLE NOTES 30 (1996), [http://www.law.umich.edu/historyandtraditions/faculty/Faculty\\_Lists/Alpha\\_Faculty/Documents/Law\\_QuadNotes/Scarnecchia\\_Suellyn\\_1996\\_summer.pdf](http://www.law.umich.edu/historyandtraditions/faculty/Faculty_Lists/Alpha_Faculty/Documents/Law_QuadNotes/Scarnecchia_Suellyn_1996_summer.pdf).

<sup>31</sup> See Cimini, et al., *supra* note 26, at 74-75.

<sup>32</sup> David A. Santacroce & Robert R. Kuehn, CTR. FOR THE STUDY OF APPLIED LEGAL EDUC., THE 2010-2011 SURVEY OF APPLIED LEGAL EDUCATION, <http://www.northeastern.edu/law/experience/leadership/alliance.html> [hereinafter 2010-11 CSALE SURVEY]. The survey provided data concerning the number of schools where a single individual with the title of Dean is responsible for overseeing the clinical program, and the number of schools where a single individual with the title of dean is responsible for overseeing all applied legal education programs (in CSALE terms, clinics and field placement programs). *Id.* at 6. My calculations, based on this data, can be found at Miller, *supra* note 18, at 552 n.92.



follow up survey where data was gathered between 2013 and 2014.<sup>33</sup> While the CSALE surveys address centralized leadership structures for law clinics and field placements, not experiential education more broadly, the surveys are valuable in showing a trend favoring centralized leadership structures. Indeed, some of these leadership positions may also include responsibility for a broader array of experiential learning, although the number is unknown because the survey questions did not seek to gather this information.

The report from the most recent CSALE survey concludes that almost half (47%) of the 174 law schools who responded to the survey had appointed associate deans with responsibilities for both clinics and externships, compared to 30% in the survey conducted three years earlier.<sup>34</sup> If these leadership positions are counted without regard to whether the title includes the term “associate dean,” more than half (53%) of the responding law schools have created these positions, compared to 45% three years earlier.<sup>35</sup> Based on raw numbers, as of 2014, approximately 82 law schools had appointed associate deans to oversee clinics and externships, while an additional 10 schools had appointed an individual with a different title to oversee these programs.<sup>36</sup>

In contrast, the study published in 2015 by the Alliance working group compiled data for the number of individuals who oversee experiential education programs more broadly, not limited to clinics and externships. The study concludes that thirty two law schools have created positions with the designation of associate dean, director or chair.<sup>37</sup> While the authors do not explain the methodology for this report, these numbers apparently were gathered by reviewing the titles for these positions to determine whether the title included the word “experiential,”<sup>38</sup> rather than seeking information about the actual oversight responsibilities of the position, as the CSALE survey did.<sup>39</sup>

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<sup>33</sup> 2013-2014 CSALE SURVEY, *supra* note 24.

<sup>34</sup> 2013-2014 CSALE SURVEY, *supra* note 24, at 1, 6.

<sup>35</sup> *Id.*

<sup>36</sup> The report does not specify the number of these positions, but they are easily computed by multiplying the number of respondents (174), *id.* at 1, by the percentage of schools with these positions. *Id.* at 6.

<sup>37</sup> See Cimini, et al., *supra* note 26, at 74-75 (sixteen law schools have created an associate dean position and sixteen schools have created a Director or Chair position).

<sup>38</sup> See *id.* nn.203, 205 (noting titles of the individuals). In a few instances, the title does not include the term “experiential,” *id.* n.205 (naming one individual as the Director, Center for Engaged Learning) but the context makes it clear that the oversight responsibilities are for experiential education.

<sup>39</sup> The results of a survey promulgated for the 2014 clinical conference, see *infra* notes 79-80, are more ambiguous. In that survey, respondents were asked “What person at your

While the data gathered in the two CSALE surveys and the Alliance study differ, all three sets of data indicate a trend in favor of a centralized leadership structure for experiential education and increased status for these positions. In the words of one clinician, the creation of these decanal positions “elevate[s] the leadership of experiential education.”<sup>40</sup> The move represents a significant change from the more “traditional” form of experiential leadership in which an individual had oversight responsibility for an in-house, “live-client” clinical program, and typically had the title of director of clinics or director of the clinical program.<sup>41</sup> In this chronology, individual clinics first operated rather autonomously within the larger law school, then moved to a model in which a single individual had responsibility for coordinating the clinical program (and sometimes the externship program), and finally to a model in which a single individual has responsibility for coordinating all of experiential education at her institution.

Titles matter because they often reveal something about status, and the interplay between different types of experiential education. Including the phrase “experiential education” in a title suggests gravitas together with wide ranging responsibilities. To add the word “clinic” to this title, for example, “Associate Dean for Clinic and Experiential Education,” may suggest that clinics have a unique status among the many programs that comprise experiential education. In contrast, not including the word “clinic” in a title may suggest that all forms of experiential education are on a level playing field.

Legal education, like the rest of higher education, has experienced exponential growth in the size of its administrative structures.<sup>42</sup> In my own law school, the number of faculty involved in administration has increased drastically. We have grown from a law school with four faculty administrators (a Dean, one associate dean for faculty, and two program directors, including the director of the clinical pro-

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institution supervises or directs your experiential learning program?” Respondents answered with titles for 18 different positions, and only 13% responded “no one person” or “none.” This would mean that at 87% of the schools one individual had oversight responsibilities for all of experiential education. This result is wildly at odds with the other data, and suggests that many of the respondents identified individuals who directed programs, rather than experiential education more broadly.

<sup>40</sup> Posting of Ragini N. Shah, rnshah@suffolk.edu, to lawclinic@lists.washlaw.edu (April 5, 2016) (on file with author) (noting the appointment of Kim McLaurin to the new position of Associate Dean for Experiential Education and Director of Clinical Programs). See Posting of Andrew Pollis, asp47@case.edu, to lawclinic@lists.washlaw.edu (Jan. 21, 2014) (noting the “ascension” of Professor Judy Lipton, from clinic co-director to Associate Dean for Experiential Education) (on file with author).

<sup>41</sup> Miller, *supra* note 18, at 524 (citing CSALE data).

<sup>42</sup> Brian Z. Tamanaha, *FAILING LAW SCHOOLS* (2012).

gram and the director of our international legal studies program) to a school with one vice dean and four faculty associate deans and multiple faculty program directors.<sup>43</sup> An important structural consideration is how the position of an associate dean for experiential education intersects with the traditional positions of associate deans for faculty, as well as other associate dean positions.<sup>44</sup> What aspects of the curriculum are carved out of the responsibilities of these actors and assigned to experiential associate deans?

These associate dean positions can be viewed as either general or specialized. The former includes associate deans with general responsibility for faculty and academic affairs; the later includes associate deans with responsibility for the library, scholarship and experiential education, among other things. To the extent that associate deans for faculty are responsible for overseeing the curriculum, and managing the overall administrative structure of the law school, experiential associate deans often have responsibility for a specialized area of the curriculum. The experiential side of legal education is carved out of the larger institutional structure and assigned to a faculty administrator with expertise in experiential education. These responsibilities could include expanding the experiential curriculum to include additional courses, creating a track or concentration in experiential education, rationalizing or integrating the existing curriculum, assigning faculty members to teach these courses, hiring adjunct faculty and supervising staff who work in these areas.

This description of the range of responsibilities of an experiential associate dean is supported by anecdotal sources. In announcing the newly-created position of Associate Dean for Experiential Education, one law school noted that the associate dean “will oversee more than 20 clinical and externship programs in which more than 250 students participate annually. She will also advance curriculum initiatives, pedagogical practices and academic research that strengthen linkages

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<sup>43</sup> More details about this staffing structure can be found on the law school’s website, see SENIOR STAFF, [http://www.wcl.american.edu/dean/sr\\_staff.cfm](http://www.wcl.american.edu/dean/sr_staff.cfm) (last visited Apr., 2016). In addition to the faculty director of the clinical program, who is also the associate dean for experiential education, faculty direct programs in trial advocacy, business law, international legal studies, international and comparative environmental law, international organizations, law and diplomacy, public international law and policy, information justice and intellectual property, legal rhetoric, law and government, women and the law, and health law and justice, as well as the S.J.D and Humphrey Fellows programs).

<sup>44</sup> Miller, *supra* note 18, at 539 (describing how faculty associate deans view their institutional roles).

between the School's experiential education program and its traditional academic curriculum."<sup>45</sup>

From this announcement, we can infer that the responsibilities include some of the traditional administrative duties of a clinic director,<sup>46</sup> expanded to include responsibility for a broader array of programs and a more explicit focus on curricular development.<sup>47</sup> Implicit in this description may be other roles: expanding experiential learning opportunities beyond the traditional form of clinics and externships, rationalizing the different types of experiential learning opportunities, and exploring the connections between experiential learning and more traditional doctrinal learning. This position description provides just one formulation of the possible roles played by an associate dean for experiential education.

Finally, it is important to note that the formal title of the associate dean position may not accurately describe the scope of the responsibilities. A case in point is associate dean titles that refer only to clinics,<sup>48</sup> using titles such as "associate dean for clinics" or "clinical education."<sup>49</sup> It is likely that the responsibilities of individuals in those positions at some schools extend beyond these formal titles to include broader issues concerning experiential education.

Who are the individuals appointed to these experiential associate dean positions? The professional trajectory of individuals holding these positions varies. Many of these positions grew out of clinic directorships, and thus, many individuals holding these positions were promoted from clinic director positions. Some of these promotions were in-house promotions where the individual in charge of clinics in the law school was given a new title with increased responsibilities. Examples of these promotions include the experiential associate deanships at American,<sup>50</sup> Georgetown,<sup>51</sup> Fordham,<sup>52</sup> Notre Dame,<sup>53</sup> Syra-

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<sup>45</sup> Posting of Lois H. Knight, lknight@bu.edu, to lawclinic@lists.washlaw.edu (Mar. 25, 2014) (describing the position at Boston University (on file with author)).

<sup>46</sup> Miller, *supra* note 18, at 527.

<sup>47</sup> Clinical director duties can include "convening clinic faculty on curricular development and other issues affecting legal education (both within the law school and more broadly outside)." *Id.* at 527. However, these are often subsumed in the more administrative aspects of the role.

<sup>48</sup> Some law schools include the term "clinic" in the title, together with experiential education, naming the position "Associate Dean for Clinic and Experiential Education." Some law schools have deputy deans rather than associate deans. See OUR FACULTY MICHAEL WISHNIE, [www.law.yale.edu/faculty/MWishnie.htm](http://www.law.yale.edu/faculty/MWishnie.htm) (last visited April 2, 2016).

<sup>49</sup> For the range of job titles used to describe clinic directorships, see 2010-2011 CSALE SURVEY, *supra* note 32, at 11-12, 15-20, and 25-30.

<sup>50</sup> Posting of Brenda Smith, bvsmith@wcl.american.edu, to lawclinic@lists.washlaw.edu (May 8, 2012) (on file with author) (noting that Robert Dinerstein was appointed to this new decanal position).

cuse,<sup>54</sup> and Case Western Reserve University.<sup>55</sup> In other instances, a different clinic faculty member is appointed to this position.<sup>56</sup>

In many schools, experiential associate deans have not been appointed from among the existing faculty. Instead, the law school conducted a search for an experiential associate dean, and hired a faculty member from outside of that institution. Examples of this include Boston University,<sup>57</sup> George Washington University,<sup>58</sup> and UCLA.<sup>59</sup> These faculty members were not associate deans in their earlier appointments, and were promoted to these positions in their new institutions. As a larger number of law schools create experiential associate dean positions, lateral transfers—where an individual who holds an experiential associate dean position at one school is hired for a comparable position at a different law school—will likely become more common.<sup>60</sup>

The study by a working group affiliated with the Alliance for Experiential Learning shows that a significant number of associate dean positions are held by individuals who are not currently teaching

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<sup>51</sup> *Professor Aiken Appointed Associate Dean for Clinical Education* (May 12, 2012) [www.law.georgetown.edu/news/professor-aiken-appointed-associate-dean-for-clinical-education.cfm](http://www.law.georgetown.edu/news/professor-aiken-appointed-associate-dean-for-clinical-education.cfm).

<sup>52</sup> *Ian Weinstein Named Associate Dean for Clinical and Experiential Programs*, [law.fordham.edu/newsroom/16734.htm](http://law.fordham.edu/newsroom/16734.htm) (last visited Apr. 5, 2016) (noting appointment to “newly established” position).

<sup>53</sup> ROBERT JONES, <http://law.nd.edu/directory/robert-jones/> (last visited Apr.5, 2016).

<sup>54</sup> See Posting of Mary Helen McNeal, [mhmneal@law.syr.edu](mailto:mhmneal@law.syr.edu), to [lawclinic@lists.washlaw.edu](mailto:lawclinic@lists.washlaw.edu) (Apr. 27, 2011) (on file with author).

<sup>55</sup> Posting of Andrew Pollis, *supra* note 40 (noting promotion from clinic co-director to Associate Dean for Experiential Education).

<sup>56</sup> Posting of Ragini N. Shaw, [rnshaw@suffolk.edu](mailto:rnshaw@suffolk.edu), to [lawclinic@lists.washlaw.edu](mailto:lawclinic@lists.washlaw.edu) (Apr. 27, 2016) (noting that Shaw is stepping down from her clinical director position and Kim McLaurin is being appointed associate dean).

<sup>57</sup> Posting of Lois H. Knight, *supra* note 45 (announcing the appointment of Professor Peggy Maisel, formerly the director of clinics at Florida International University, to the position of Associate Dean for Experiential Education at Boston University School of Law).

<sup>58</sup> PHYLLIS GOLDFARB, <http://www.law.gwu.edu/Faculty/profile.aspx?id=12504> (last visited Mar. 29, 2016) (noting that Professor Goldfarb directed the criminal justice clinic at Boston College Law School before being appointed associate dean at George Washington).

<sup>59</sup> Posting of Scott Cummings, [cummings@law.ucla.edu](mailto:cummings@law.ucla.edu), to [lawclinic@lists.washlaw.edu](mailto:lawclinic@lists.washlaw.edu) (Mar. 20, 2014) (noting the appointment of Luz Herrera, formerly the director of the Small Business Law Center and Solo Practice Incubator Program at Thomas Jefferson, as Assistant Dean for Clinical Education, Experiential Learning and Public Service at UCLA) (on file with author).

<sup>60</sup> See Posting of Justine Dunlap, [jdunlap@umassd.edu](mailto:jdunlap@umassd.edu), to [lawclinic@lists.washlaw.edu](mailto:lawclinic@lists.washlaw.edu) (Mar. 6, 2014) (noting the appointment of Margaret Drew, formerly the director of clinics and experiential learning at the University of Cincinnati College of Law to the position of Director of Clinical and Experiential Learning at University of Massachusetts School of Law-Dartmouth) (on file with author).

in a clinic, or in other areas of experiential education.<sup>61</sup> Some teach lawyering skills or trial practice, while others teach doctrinal classes. In the group of individuals holding associate dean, chair or director positions, sixteen individuals teach clinical courses, four teach lawyering skills or trial practice, and eleven teach doctrinal classes.<sup>62</sup> The data is limited in that it does not reveal whether the individuals teaching in non-clinic areas have any clinical teaching experience, but the data may represent a trend in which these positions are less likely to be linked to past experience teaching in, or directing, a clinic. There are law school deans who might prefer an experiential associate dean less closely linked to clinics,<sup>63</sup> for any number of reasons, including the perception that an associate dean from “outside” the clinic might be more open to the idea of a broader array of experiential learning opportunities.

It may seem puzzling that more experiential associate deans teach doctrinal classes than teach skills classes. A doctrinal teacher who integrates experiential learning opportunities into her courses might be an expert in experiential techniques, but would lack the broader knowledge gained from directing a clinic or an externship program. Others might lack the law practice experience possessed by clinical and skills teachers. The dearth of experiential associate deans with a skills background may reflect the status differences between lawyering skills and trial practice teachers on the one hand, and clinical and doctrinal teachers on the other.<sup>64</sup> A director of a skills program would possess management experience, and likely practice experience, but might lack the connections gained through status. The meaning of this data in the Alliance study is unclear, and it is information that is worth tracking in future surveys.

I offer a few thoughts on the nature of the transition from faculty member, or faculty director of a program, to an associate dean for experiential education. Broad engagement in the larger law school is not only useful, it is essential to the position. At my law school the “clinical” faculty and the nonclinical faculty have equal status and the clinical faculty are fully integrated into the “academic” side of the institution. In a number of schools, clinical faculty members have daily interactions with nonclinical faculty members, serve on key law

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<sup>61</sup> Cimini, et al., *supra* note 26, at 74-75.

<sup>62</sup> *Id.*

<sup>63</sup> In a conversation, one law school dean, not the dean of my law school, expressed this view of the criteria for the position.

<sup>64</sup> See Michael Pinard, *A Brief Reflection on the Multiple Identities and Roles of the Twenty-First Century Clinician*, 4 U.M.D. J. OF RACE, RELIGION, GENDER AND CLASS 285, 287 (2004) (noting increased status for clinicians).

school committees and are as familiar with the workings of the institution as any other faculty member.<sup>65</sup> In these schools, the transition from clinic director to experiential associate dean is less daunting than it would be in a law school with a different culture.

## II.

### LEADERSHIP CHALLENGES WITHIN EXPERIENTIAL EDUCATION PROGRAMS

In leading experiential education programs, associate deans face many challenges. Here, I share my thoughts about the challenges of leading *within* experiential programs and guiding the separate components (clinic, externships, lawyering skills, including trial advocacy, and others) that are different from one another. Associate deans have a host of other responsibilities in the larger institution and beyond, but I do not address those here. Within the program of experiential education, associate deans navigate different conceptions of experiential education, develop approaches to the parameters of their roles, and consider whether and how to integrate the disparate programs under the big umbrella of experiential education.

#### A. *Shifting Conceptions of Experiential Education*

Despite the fact the experiential education is not new, the parameters of the term “experiential education” are still taking shape. Scholars and organizations have recently offered some definitions of this “complex and problematic” concept.<sup>66</sup> In addition to definitions of experiential education, other formulations focus on students’ interactions with the real world or view experiential education as a continuum. These definitions and formulations are not identical, and it is not my goal to present a definitive understanding of experiential education. Indeed, as one of the participants in a recent project to develop a glossary of experiential education terms notes, “any attempt to reach such linguistic commonality is difficult (perhaps an understatement).”<sup>67</sup> The relevant point is that experiential associate deans must navigate this complex landscape in order to perform their roles in their respective institutions.

The ABA defines an experiential course as “a simulation course, a law clinic, or a field placement” and must, among other things “inte-

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<sup>65</sup> *Id.* at 287 (observing that clinicians “are immersed in all aspects of institutional life”).

<sup>66</sup> Thomson, *supra* note 7, at 19.

<sup>67</sup> Posting of Ragini N. Shaw, *supra* note 56 (describing the work of the Policy Committee of the AALS Clinical Section) (on file with author).

grate doctrine, theory, skills and legal ethics, and engage students in performance of one or more professional skills identified in Standard 302.”<sup>68</sup> While this definition will guide legal education as law schools seek to fulfill the ABA mandate for experiential education credits, it is not the only definition of the term.

Most definitions of the term emphasize the active nature of the teaching method as the ABA does,<sup>69</sup> and focus on practice or the integration of theory and practice. The authors of *Best Practices* emphasize an active teaching method that “integrates theory and practice by combining academic inquiry with actual experience.”<sup>70</sup> Similarly, the Association for Experiential Education emphasizes that experiential education uses methodologies that utilize “direct experience and focused reflection.”<sup>71</sup> Another commentator offers a more comprehensive definition of experiential learning that builds on many of these themes, noting that it includes methods of instruction that:

regularly or primarily place students in the role of attorneys, whether through simulations, clinics, or externships. Such forms of instruction integrate theory and practice by providing numerous opportunities for students to learn and apply lawyering skills as they are used in legal practice (or similar professional settings). These learning opportunities are also designed to encourage students to begin to form their professional identities as lawyers, through experience or role-playing with guided self-reflection, so that they can become skilled, ethical, and professional life-long learners of the law.<sup>72</sup>

Another approach equates experiential education with experiences in the real world, and focuses on experiences where students deal with “real” people rather than read and discuss texts.<sup>73</sup> A text

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<sup>68</sup> ABA STAND. & R.P. APPROV. L. SCH. 2014-2015, 303 (a)(3). The definition goes on to provide (ii) develop the concepts underlying the professional skills being taught; (iii) provide multiple opportunities for performance; and (iv) provide opportunities for self-evaluation.” The ABA goes on to define a simulation course and a law clinic in Standard 304.

<sup>69</sup> ABA RULE 303 (a) (3) (iii)(a course must “provide multiple opportunities for performance”).

<sup>70</sup> Stuckey et al., *supra* note 10, at 165.

<sup>71</sup> *What is Experiential Education?*, ASS’N FOR EXPERIENTIAL EDUC., <http://www.aee.org/what-is-ee> (last visited Apr. 5, 2016).

<sup>72</sup> Thomson, *supra* note 7, at 20.

<sup>73</sup> See, e.g., D. Christopher Kayes, *Experiential Learning and Its Critics: Preserving the Role of Experience in Management Learning and Education*, 1 ACAD. OF MGMT. LEARNING & EDUC. 137, 138 (Dec. 2002); Peter Jaszi, Ann Shalleck, Marlana Valdez & Susan Carle, *Experience as Text: The History of Externship Pedagogy at the Washington College of Law, American University*, 5 CLINICAL L. REV. 403, 419–20 (1999); Peter A. Joy, *The MacCrate Report: Moving Toward Integrated Learning Experiences*, 1 CLINICAL L. REV. 401, 404 (1994).



can be experienced, as literary theory has shown,<sup>74</sup> but reading a text is a more vicarious experience than direct experience in the world. In this approach, the focus is on learning that takes place outside of the traditional classroom. Thus, a clinic is a type of experiential education because much of the learning occurs in interactions with actors outside of the classroom (clients, judges, bureaucrats, adversaries, etc.). The same is true of externships where the student works in a law office to learn from attorneys and other co-workers, and indeed may interact with many of the same individuals as she would in a clinical setting.

The authors of the CSALE study take this approach in coining the term “applied legal education” for clinics and externships.<sup>75</sup> They define an in-house, live-client clinic as a program in which “students represent actual clients (individuals or organizations), are supervised by an attorney who is employed by the law school (faculty, adjunct, fellow, staff attorney, etc.), and the course includes a classroom component.”<sup>76</sup> Field placement programs are “externships or internships (typically off-site) that are field supervised by persons not employed by the law school for which students receive credit and may or may not include a classroom component.”<sup>77</sup>

Another aspect of experiential education involves putting students “in role,” so that rather than being readers of texts or discussers of doctrine, they are in the role of attorneys, or judges, or clients, or witnesses.<sup>78</sup> These roles may be more or less “real.” These roles may involve representing actual clients in actual cases, as in a clinic, or working in law offices, as in an externship. Or these roles may be simulated, working with materials or case files based on actual cases, but modified either to improve the learning value of the materials, or to protect confidentiality.

Finally, experiential education can be seen as a continuum of different kinds of experience, some more experiential than others. Even without a working definition of experiential education, we can examine different courses, pedagogical methods or settings to determine where they fall on this continuum. This approach is exemplified in a survey promulgated by the organizers of a presentation entitled “Preserving the Integrity of Experiential Learning Curriculum Reform Track,” at the 2014 Association of American Law Schools

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<sup>74</sup> Louise M. Rosenblatt, *THE READER, THE TEXT, THE POEM: THE TRANSACTIONAL THEORY OF THE LITERARY WORK* (1994).

<sup>75</sup> See 2010-2011 CSALE SURVEY, *supra* note 32.

<sup>76</sup> *Id.* at 3 n.5.

<sup>77</sup> *Id.* at 3 n.6.

<sup>78</sup> Deborah Epstein, Jane H. Aiken & Wallace J. Mlyniec, *THE CLINIC SEMINAR* (2014).

clinical teachers conference.<sup>79</sup> The survey asked responders to rank eleven courses or activities in terms of whether they “best qualified” as experiential learning. Respondents could list more than one item on the list, which included clinics, externships, simulation exercises in traditional classes, simulation courses, practicums (attaching field-based components to a traditional class), legal writing courses, moot court, law journal, skills-based intersession programs and hybrid programs, and one open-ended “other” item which required the responder to describe the activity or course. Respondents ranked real experiences more highly than simulated experiences. Nearly 97% listed clinics as “best qualifying” and nearly 54% listed externships, while slightly fewer than 30% listed simulation courses.<sup>80</sup> The results are perhaps not surprising, since the survey was sent to participants in the clinical listserv, most of whom are clinical or externship teachers.

Other articles in this volume demonstrate how legal educators’ concepts of common terms in experiential education may differ from those employed at the undergraduate level. For example, in legal education the term “professionalism” is often used to encompass all of the skills that a lawyer needs to practice as a professional, which is how the MacCrate report employs the term.<sup>81</sup> But as Graziano’s article demonstrates, “professionalism” in the undergraduate context often focuses on civility, behavior and courtesy,<sup>82</sup> rather than a broader sense of what it means to be a professional. The article by DiMola and Lowe describes the creation of an experiential learning program at the undergraduate level whose goal was to “promote a pipeline for non-traditional and first-generation college women and recent graduates who are interested in careers in the law.”<sup>83</sup> The course includes

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<sup>79</sup> For a copy of the survey, see Posting of Robert Lancaster, Robert.Lancaster@law.lsu.edu to lawclinic@lists.washlaw.edu (Mar. 18, 2014) (on file with author). The authors of the survey include Professor Roberto Corrada, Professor Janet Thompson Jackson, Professor Robert Lancaster and Professor Reena E. Parambath. The conference program can be found at [https://memberaccess.aals.org/eweb/DynamicPage.aspx?Site=AALS&WebKey=7da8c691-ea9f-4dcb-bbff-14f8d0acf5c8&RegPath=eventRegFees&REg\\_evt\\_key=262c8f3c-e018-4562-8e0c-91b67e2ebe78](https://memberaccess.aals.org/eweb/DynamicPage.aspx?Site=AALS&WebKey=7da8c691-ea9f-4dcb-bbff-14f8d0acf5c8&RegPath=eventRegFees&REg_evt_key=262c8f3c-e018-4562-8e0c-91b67e2ebe78) (last visited Apr. 5, 2016).

<sup>80</sup> The percentage of participants who listed the other items as “best qualifying” are as follows: simulation exercises in traditional classes (24.79), practicums (40.48), legal writing courses (20.17), moot court (27.97), law journal (2.61), skills-based intersession programs (34.48), hybrid programs (30.77), and “other” (5.88).

<sup>81</sup> Joy, *supra* note 73, at 404.

<sup>82</sup> Graziano, *supra* note 21, at 40 (citations omitted); *see also* Paula Hannaford, *The National Action Plan on Lawyer Conduct: A Role for the Judge In Improving Professionalism In the Legal System*, COURT REVIEW 36 (Fall 1999) available at <http://aja.ncsc.dni.us/courtrv/cr36-3/CR%2036-3%20Hannaford.pdf>; Sandra Day O’Connor, *Professionalism*, 76 WASH. U. L. Q. 5 (1998).

<sup>83</sup> DiMola & Lowe, *supra* note 21, at 25.

instruction in LSAT preparation, applying to law school, reading cases and legal research and writing. The actual content of the course is not experiential in the way that the term is used in legal education.

*B. The parameters of the role: perspectives from Howard Gardner, law school deans and cultural anthropology*

To explore the leadership role of experiential associate deans, I turn to three quite different sources: Howard Gardner's classic work, the writings of law school deans, and cultural anthropology. These diverse sources provide different perspectives on how associate deans might view their roles.

Howard Gardner's book *Leading Minds* sets out the classic definition of leadership. Leaders are "persons who, by word, and/or personal example, markedly influence the behaviors, thoughts, and/or feelings of a significant number of their fellow human beings."<sup>84</sup> In contrast, another commentator notes that managing "requires organizing, planning, motivating, economizing, and careful attention to detail."<sup>85</sup>

Gardner has influenced formulations of leadership in many settings, ranging from large corporations to academia.<sup>86</sup> In an annual issue of the University of Toledo Law Review devoted to the job of "deaning," law school deans have explored the dimension of their roles. While associate deans are senior administrators who play a supporting role to the law school dean in leading and managing institutions, many of the themes identified by deans are also relevant to the conception of an associate dean's role.

Some law school deans see leadership and managerial skills as both essential to the job of a dean,<sup>87</sup> while others see the leadership role as preeminent.<sup>88</sup> Two deans, Thomas Sullivan and William Treanor, adopt Gardner's conception of leadership. Sullivan explains that "a leader must be visionary and have the ability to communicate the visions and aspirations for the institution,"<sup>89</sup> while Treanor adds that the dean as leader "constructs an account of what the law school

<sup>84</sup> HOWARD GARDNER, *LEADING MINDS: AN ANATOMY OF LEADERSHIP* (1995).

<sup>85</sup> E.T. Sullivan, *Decanal Leadership: Managing Relationships*, 31 U. TOL. L. REV. 749, 749 (2000).

<sup>86</sup> *Id.*; William M. Treanor, *Deans and Stories*, 36 U. TOL. L. REV. 207, 207 (2004)

<sup>87</sup> Sullivan, *supra* note 86, at 750; Rodney A. Smolla, *Nineteen Rules to Dean By*, 36 U. TOL. L. REV. 183, 187 (2004)

<sup>88</sup> Treanor, *supra* note 86, at 207; Robert H. Jerry, II, *Reflections on Leadership*, 38 U. TOL. L. REV. 539, 539 (2007); Hon. John L. Carroll, *Words of Wisdom for Deans from Mick Jagger and Others*, 36 U. TOL. L. REV. 29, 31 (2004) (viewing the dean's most important role as that of emotional leader of the institution).

<sup>89</sup> Sullivan, *supra* note 85, at 749.

is about and where it is going.”<sup>90</sup> Through these stories, a successful dean can “inspire[ ], educate[ ], and ultimately influence[ ] the law school’s constituencies in a way that shapes the law school’s future.”<sup>91</sup>

Other deans argue that different law schools need different types of deans, and that a law school may need different types of deans at different points in time.<sup>92</sup> Images of leadership styles of deans include cat herders, conductors, tour guides and fearless leaders.<sup>93</sup> A few cynics argue that deaning is not about leadership at all, but rather about marketing.<sup>94</sup>

Within the general framework of the role of leader and manager, a law school dean navigates multiple constituencies: faculty, students, alumni, the legal profession, and the larger university of which the law school is a part.<sup>95</sup> These constituencies have different interests and needs, and the process of working with these constituencies is a complex endeavor.<sup>96</sup> Thus, the nature of these relationships dominates much of the deanship literature.

The relationship with faculty is particularly complex. Many deans were once members of the faculty that they now lead. In moving from being a member of the faculty to leading an institution, deans are no longer as involved in the typical faculty role of teaching,<sup>97</sup> writing, and committee service.<sup>98</sup> Law school deans determine the resources available to faculty and the programs that they are affiliated with.<sup>99</sup> They resolve differences between individual faculty members and other members of the law school community.<sup>100</sup> The faculty is not one con-

<sup>90</sup> Treanor, *supra* note 86, at 207–08.

<sup>91</sup> *Id.*

<sup>92</sup> Nancy B. Rapoport, *Of Cat-Herders, Conductors, Fearless Leaders, and Tour Guides*, 33 U. TOL. L. REV. 161, 161 (2001).

<sup>93</sup> *Id.*

<sup>94</sup> Joan E. Mahoney, *The Future of Legal Education*, 33 U. TOL. L. REV. 113, 113 (2001).

<sup>95</sup> Thomas Buergenthal, *A Law School with a Heart*, 45 AM. U. L. REV. 983, 985–86 (1996).

<sup>96</sup> *Id.*; Carroll, *supra* note 88, at 31 (noting the need to “articulat[e] a vision that the many communities of the law school can understand and embrace.”).

<sup>97</sup> H. Reese Hansen, *Except for the Problems, Being a Dean Is a Very Good Job*, 33 U. TOL. L. REV. 77, 80 (2001) (describing “missing the personal joy of the classroom and sharing teaching experiences with the faculty.”).

<sup>98</sup> Mahoney, *supra* note 94, at 113 (lamenting the loss of the kind of influence she exerted as a faculty member as a member of a committee).

<sup>99</sup> *Id.* (noting her role as a dean in ensuring that “faculty members have secretaries, summer research money, and travel budgets”).

<sup>100</sup> *Id.*

stituency, but many constituencies, and individuals within those constituencies operate relatively autonomously.<sup>101</sup>

The writing of anthropologists also provides insight on leadership that are relevant to the context of experiential education. Anthropology offers narratives and stories—a method which is similar to how clinicians have written about their programs and about experiential education.<sup>102</sup> Anthropology's focus on culture is a good fit for thinking about the place of experiential education within the broad field of legal education. Clinicians have sometimes considered themselves to be part of a subculture within a law school,<sup>103</sup> and other experiential education programs also can be viewed this way.

Stories about leadership in Mexican villages and the Okanagan tribe in North America ring true to the way leadership is exercised in legal academic institutions. John Krejci's study looked at leadership change in two Mexican villages.<sup>104</sup> In the village of San Sebastian, a single individual, the director of the school, exercised leadership.<sup>105</sup> He came to the village as an outsider, and the absence of organization among leaders, coupled with the outside influence, meant that local leaders were timid and hesitant to fill the leadership vacuum.<sup>106</sup> The school director functioned as a "cultural broker," an intermediary between the local community and the national culture.<sup>107</sup> But his isolation from the local community allowed factions to arise, and he was ultimately dismissed from his position before creating any real change.<sup>108</sup>

In Rojas, a group of successful dairy farmers joined together to form a small, cohesive group of leaders. The formal leadership structures were similar to those in San Sebastian, but leadership was exercised very differently.<sup>109</sup> Rojas leaders operated largely by consensus.<sup>110</sup> They were able to do so because the organizational network bound the leaders together, and the leaders generally supported

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<sup>101</sup> AALS President-elect Michael A. Olivas on the Role of Faculty in Legal Education, 1 AALS NEWS 1, 17 (March 2010), <http://www.aals.org/wp-content/uploads/2014/04/february2010.pdf> (Professor Jack Chin noting that about the "one of the greatest benefits of being a law faculty member is discretion, autonomy, and flexibility" in discussing the direction of legal education with AALS President-elect Michael Olivas ).

<sup>102</sup> See Miller, *supra* note 18 at 529-546.

<sup>103</sup> See Miller, *supra* note 18, at 533.

<sup>104</sup> See generally John Krejci, *Leadership and Change in Two Mexican Villages*, 49:3 ANTHROPOLOGICAL Q. 185 (1976).

<sup>105</sup> *Id.* at 191.

<sup>106</sup> *Id.* at 192.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.* at 189.

<sup>110</sup> *Id.* at 190.

each other's ideas in order to avoid conflict and build cooperation. The network promoted "cooperation, coordination, and mutual support among leaders," which in turn led to more innovative leadership.<sup>111</sup> This leadership style was positively related to the ability of the leaders to integrate change into community life.<sup>112</sup> Change was often slow because projects were not initiated efficiently with consensus decision-making, but change was better integrated into the structure of the village.<sup>113</sup>

The story of leadership in three periods of the Okanagan indigenous tribes, who resided in Montana, Washington, and Canada, reveals how leadership structures evolve over time.<sup>114</sup> Early on, authority was exercised in an "elaborate division of labour and division of power," involving multiple bands of people, each lead by a headman.<sup>115</sup> The band network also involved other dignitaries, including war chiefs, hunting chiefs and shamans.<sup>116</sup>

The advent of the fur trade, and the rise of the Hudson's Bay Company, changed the political structure of the Okanagan.<sup>117</sup> A leadership role termed the "Double Chief" emerged, an individual who served both the Okanagan community and the Hudson's Bay Company.<sup>118</sup> The Double Chief acted as a kind of cultural broker in the style of the school director in the village of San Sebastian, but he was a more successful broker.<sup>119</sup> The Double Chief had two spheres of influence, one with the neighboring bands and the other with the Hudson's Bay Company.<sup>120</sup> He used his power with the Hudson's Bay Company to leverage influence over the bands, and in so doing changed the local society from a group of bands to a more integrated community.<sup>121</sup>

The lessons from Gardner, the law school deans, and anthropology help to frame the role of an experiential associate dean. The insights of deans do not perfectly translate to the job of an associate dean because these associate deans are expected to be managers more than leaders, or at least to protect the dean from some day-to-day

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<sup>111</sup> *Id.* at 192.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.* at 194–95.

<sup>114</sup> Peter Carstens, *Leaders, Followers, and Supporters: The Okanagan Experience*, 29 *ANTHROPOLOGICA* 7, 7 (1987).

<sup>115</sup> *Id.* at 10.

<sup>116</sup> *Id.* at 9–10.

<sup>117</sup> *Id.* at 10–11.

<sup>118</sup> *Id.* at 11.

<sup>119</sup> Compare Carstens, *supra* note 114, at 11, with Krejci, *supra* note 104, at 192.

<sup>120</sup> Carstens, *supra* note 114, at 11.

<sup>121</sup> *Id.* at 12.

management responsibilities. But associate deans do work with different constituencies in the law school, and in the case of experiential associate deans, different constituencies within their own programs. And the deans' stories, like the story of the Okanagan people, show that different leaders are needed at different points in the life of an institution, or a program. This point seems particularly apt as experiential education programs grow and change.

The stories from both the Mexican villages and the Okanagan tribes, present different ways of thinking about leadership for experiential education. The individual components of an experiential program (clinic, externships, trial advocacy, etc.) and their leaders can be analogized to the local leaders in the Mexican villages and the neighboring bands of the Okanagan. In the San Sebastian and Okanagan model, the experiential associate dean serves as a kind of cultural broker, seeking to relate the "local" community of experiential educators to the mainstream law school culture. In so doing, the single leader risks isolation from his community, and an inability to effect real change. The risk of isolation and failure may be compounded if the leader is an "outsider"; in other words, a legal educator whose roots are in doctrinal rather than experiential education. But a leader could also use her power, as the Double Chief of the Okanagan did, to create a more integrated community of experiential educators.

In contrast, the Rojas scenario lacked a figure comparable to an associate dean. Instead, the leaders exercised leadership as a group in an egalitarian fashion. With this model in a law school, change may happen more slowly than it would with a more hierarchical form of leadership. But whatever change occurred might be more fully integrated into the experiential education community.

*C. Coordinating experiential programs: separate spheres, overlapping spheres or fully integrated programs?*

An important part of the role of an experiential associate dean is the job of coordinating disparate parts of the experiential curriculum. The promise of these deanships is that they "can help foster a coherent and well-integrated experiential curriculum."<sup>122</sup> Whether or not that promise is realized depends on a number of factors, including the existing structure for experiential education in the law school. At the outset, experiential education leaders need to determine whether they are simply seeking to coordinate the various experiential education offerings, or whether the goal is something more akin to integration.

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<sup>122</sup> Jones, et al., *supra* note 13, at 44.

An experiential associate dean needs an understanding of the curriculum that is deep and broad if she is to play any significant role in bringing the experiential educational curriculum under one umbrella. Which courses offer “real” experiences, whether labelled clinics, externships or practicums? Which courses utilize simulation as a tool to enhance those experiences? How do courses that are primarily simulation or skill-based, such as trial advocacy, or interviewing, counseling and negotiation fit under this umbrella? Do any of these distinctions matter if the goal is to develop a curriculum that exposes students to a broad range of pedagogies in a variety of settings, including large classrooms, seminars and even smaller settings, some using “real” experience, others using simulation, and still others using traditional texts?

The distinctive cultures of the different pedagogies that comprise experiential education poses a big challenge to integration. In institutions where these cultures exist in long-standing, established parts of the curriculum, coordination is particularly challenging. Thinking about these cultures as “spheres” can help us think about how the various components of experiential education might be integrated – or not. I propose three different formulations: (1) separate spheres, (2) overlapping spheres, and (3) fully integrated spheres. The first two formulations are descriptive in that they account for existing experiential education programs, while the third formulation does not yet exist. The separate spheres formulation represents experiential programs that may be valuable in their own right but are completely unintegrated. The overlapping spheres formulation represents some degree of integration, or at least collaboration, while we can only imagine the contours of a fully integrated experiential education program.

Tom Rozinski’s article in this volume provides support for the idea that the components of experiential education developed in separate “spheres” from the mainstream law school culture.<sup>123</sup> While legal writing programs are sometimes included in experiential education, and sometimes not,<sup>124</sup> they are no doubt skills programs that share features in common with experiential education. In contrasting the history of legal writing with that of traditional legal education, Rozinski notes that legal writing faculty belonged to a “lower caste” in law schools, and “develop[ed] practices and institutions that were dis-

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<sup>123</sup> Rozinski, *supra* note 21. While Rozinski does not use the term “culture” in his article, his discussion of the distinct practices and institutions shared by legal writing faculty is in fact a discussion of culture.

<sup>124</sup> See <https://www.wcl.american.edu/dean/> (last visited Apr. 5, 2016) (listing Legal Rhetoric under “programs” rather “experiential”),



tinct from those of doctrinal professors.”<sup>125</sup> In terms of pedagogical practices, legal writing instructors work collaboratively, provide extensive feedback on student work, and use less intimidating teaching methods than doctrinal faculty. He concludes by noting that “[a]t most law schools no one could confuse a doctrinal course with a legal writing course.”<sup>126</sup>

Legal writing faculty created organizations, including the Legal Writing Institute (“LWI”) and the Association of Legal Writing Directors (“ALWD”), which in turn sponsored journals devoted to scholarship about legal writing.<sup>127</sup> The Legal Writing Institute sponsors a biennial conference for legal writing professors,<sup>128</sup> and co-sponsors, with ALWD and the Clinical Legal Education Association, the biennial Applied Legal Storytelling conferences.<sup>129</sup>

Not only have legal writing programs developed separately from the mainstream law school culture, they also have distinct practices from clinics. According to one commentator, clinics and legal writing programs follow two divergent approaches in which the clinic side embraces “progressive, client-centered and reflective learning” and the legal research and writing side embraces “traditional, lawyer-centered, and forward-looking teaching methodologies.”<sup>130</sup> Clinical programs utilize a participatory framework that involves the real client in the representation, with an emphasis on how the lawyer’s advocacy will further the client’s interests. In this participatory or “client-centered” model, the lawyer collaborates with the client to achieve the client’s goals.<sup>131</sup> In legal research and writing classes, clients are absent. In this traditional model,<sup>132</sup> students are taught to “think like

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<sup>125</sup> Rozinski, *supra* note 21, at 91 (citations omitted). Rozinski uses the terms “instructors” and “professors” to refer to legal writing *faculty*. *Id.* I use the term “faculty” or “professors” to reflect the fact that legal writing teachers now have this status at many law schools.

<sup>126</sup> *Id.*

<sup>127</sup> The journals include the Journal of the Association of Legal Writing Directors, <http://www.alwd.org/publications> (last visited Apr.5, 2016) and the Journal of the Legal Writing Institute, *see* [http://www.lwionline.org/journal\\_of\\_the\\_lwi.html](http://www.lwionline.org/journal_of_the_lwi.html) (last visited Apr. 5, 2016).

<sup>128</sup> Rozinski, *supra* note 21, at 91.

<sup>129</sup> *Fifth Biennial Conference on Applied Legal Story Telling*, [http://lwionline.org/applied\\_storytelling\\_conferences.html](http://lwionline.org/applied_storytelling_conferences.html) (last visited Apr. 5, 2016).

<sup>130</sup> Sarah O’Rourke Schrup, *The Clinical Divide: Overcoming Barriers to Collaboration Between Clinics and Legal Writing Programs*, 14 CLINICAL L. REV. 301, 301 (2007); *see* Stefan H. Krieger & Richard K. Neumann Jr., *ESSENTIAL LAWYERING SKILLS* (5th ed. 2015) (describing the lawyer in the traditional model as a “powerful professional” versus in the participatory model as a collaborator with the client).

<sup>131</sup> *See* Schrup, *supra* note 130, at 308-10.

<sup>132</sup> *Id.* at 313 n.64 (comparing regnant lawyering to rebellious lawyering).

a lawyer” and focus on writing for, as well as speaking to, a “lawyer audience” rather than the client.<sup>133</sup>

In some respects, the separate spheres of clinic and trial advocacy programs may present an even greater challenge to integration. Like legal writing programs, trial advocacy programs follow the traditional lawyer-client paradigm where the lawyer’s expertise is dominant, as opposed to a more participatory model. Not only is the lawyer dominant in trial practice, but the judge is the audience. In addition, there are explicit differences in many of the goals and methods of clinics and trial advocacy courses. This is true even in comparing litigation clinics to trial advocacy courses, where more similarities might be expected. Transactional and other types of clinics, which have grown in increasing numbers,<sup>134</sup> present even greater differences.

In a clinic, the client is the focus of the pedagogy.<sup>135</sup> While most clinics involve a classroom component,<sup>136</sup> and many rely on simulation,<sup>137</sup> a clinic student deals with real clients and real cases. Most clinics are organized around lawyering tasks, such as litigation generally, or subject matter areas, which involve a broad range of skills.<sup>138</sup> Most of the “classroom” takes place outside of a traditional classroom, during an investigation in the community, a visit to the client’s home, a negotiation with opposing counsel or a visit to a courtroom. The experience is grounded in indeterminacy and uncertainty.<sup>139</sup>

In contrast, a trial advocacy class relies on simulation to teach lawyering. The curriculum of a trial advocacy class is controllable in the same way that the curriculum in a traditional law school course is controllable and predictable. Exercises can be assigned at specific times to be performed by particular students; it is entirely a classroom experience.

Trial advocacy courses are designed to teach discrete skills, including “opening statements, closing arguments, direct and cross-examination of witnesses, admitting exhibits into evidence, and

<sup>133</sup> *Id.* at 314.

<sup>134</sup> Susan R. Jones & Jacqueline Lainez, *Enriching the Law School Curriculum: The Rise of Transactional Legal Clinics in U.S. Law Schools*, 43 WASH. U. J. L. & POL’Y 85 (2014).

<sup>135</sup> SUSAN BRYANT, ELLIOTT S. MILSTEIN & ANN C. SHALLECK, *TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY* (2014).

<sup>136</sup> Susan Bryant, Elliott Milstein and Ann Shalleck, *The Whole is Greater than the Sum of Its Parts: Clinical Methodologies and Perspectives in* BRYANT ET AL., *supra* note 135, 3, 4 (describing the four methodologies of clinical legal education).

<sup>137</sup> Susan Bryant & Elliott Milstein, *Planning and Teaching the Seminar Class in* BRYANT ET AL., *supra* note 135, 57, 77-80.

<sup>138</sup> Susan Bryant & Conrad Johnson, *Fieldwork: The Experience That Sparks the Learning*, in BRYANT ET AL., *supra* note 135, 251, 269.

<sup>139</sup> Robert D. Dinerstein & Elliott Milstein, *Learning to Be a Lawyer: Embracing Indeterminacy and Uncertainty*, in BRYANT ET AL., *supra* note 135, 327-347.

making proper objections during the course of a trial.”<sup>140</sup> By the end of a trial advocacy course, students are expected to know, among other things, “when to call or not call a witness, the strategy of when to object, or not to object, when one is finished questioning a witness, when to ask a question on re-direct and when not to ask, etc.”<sup>141</sup> These skills are complex, but they are practiced during a discrete period of time, bounded in time and space.

The “real” versus “simulated” differences between a clinic and a trial advocacy course are obvious. A more subtle point is that in teaching skills clinics are more focused on process and trial advocacy on performance. This difference manifests itself in the emphasis in a clinical setting on reflection rather than critique, and a less hierarchical setting in which client goals and desires dominate.<sup>142</sup>

An early critique of trial advocacy programs picks up on this “performance” theme in arguing that trial advocacy emphasizes presentation skills at the expense of what some commentators refer to as “preparation” and “foundational” skills.<sup>143</sup> Presentation skills include the opening statement, jury voir dire, direct examination, cross examination, making objections/motions, introducing exhibits, and the closing argument. Even where the trial is the ultimate focus, preparation skills are the building blocks for the trial. These include interviewing and counseling, fact-finding, issue identification, negotiation and mediation, legal research, and drafting. Foundational skills include communication skills, planning skills, decision-making, analysis, research, writing, and character assessment.<sup>144</sup> Other commentators have noted that the traditional teaching of trial advocacy often ignores case theory for a singular emphasis on skills development.<sup>145</sup>

Now, many trial advocacy programs have added courses in preparation skills, or have incorporated some of the foundational skills into other courses offered in the program. The curriculum has broadened to capture a broader range of skills than courtroom skills, but the bundling of these skills in discrete packages often treats these skills as separate and distinct.

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<sup>140</sup> See Malachy E. Mannion, *Objections Overruled: The Trial Advocacy Course Should be Mandatory*, 30 PACE L. REV. 1195, n.1 (2010).

<sup>141</sup> *Id.* at 1206

<sup>142</sup> Jane H. Aiken & Ann Shalleck, *The Practice of Supervision*, in BRYANT ET AL., *supra* note 135, 205.

<sup>143</sup> Jeffrey S. Wolfe, *Exploring Trial Advocacy: Tradition, Education, and Litigation*, 16 TULSA L.J. 209, 220 (1980).

<sup>144</sup> *Id.*

<sup>145</sup> See generally Edward D. Ohlbaum, *Basic Instinct: Case Theory and Courtroom Performance*, 66 TEMPLE L. REV. 1 (1993).

In addition, the emphasis on mastering skills through drills is an essential aspect of trial advocacy simulation courses. While drills can help students learn specific skills, they run the risk of conveying the message that the key to being a successful advocate is in the details, not in the big picture.<sup>146</sup>

Finally, a culture of competition is what may most differentiate trial advocacy programs from clinical programs. This culture of competition thrives among the mock trial teams that are an integral part of most trial advocacy programs. While many students participate in trial advocacy courses without participating on a team that competes with other law schools, these teams often are the most visible aspect of the program to the larger law school community. As is likely true at many law schools, at my school I receive many emails about the performance of mock trial and moot court teams. These include teams sponsored by the student honor societies, as well as independent teams. The emails emphasize where the teams placed in the competition, the status of schools whose teams were defeated by our teams, and the awards won by individual competitors.<sup>147</sup> Some emails provide information on how teams have compared to past years' teams, noting that "this may be a record year" for our students competing in "national advocacy competitions," with "seven first place wins" in competitions including moot court, mock trial and alternative dispute resolution competition teams.<sup>148</sup>

This emphasis on winning is not surprising, given that performance in these competitions drives not only how the teams and the program are perceived in the law school, but also how they are perceived nationally. Winning competitions is the bread and butter of perceptions of trial advocacy programs. The Assistant Director of the trial advocacy program emphasized that after trying for six years "an invitation to one the most prestigious mock trial competitions" was "truly a huge accomplishment for WCL." She went on to say that "[o]ur national reputation for trial advocacy increases every year in large part due to the dedication and work of our competition team students

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<sup>146</sup> See generally Binny Miller, *Give Them Back Their Lives: Recognizing Client Narrative in Case Theory*, 93 U. MICH. L. REV. 485 (1995).

<sup>147</sup> See Email from Susana SaCouto, Professorial Lecturer-in-Residence & Director, War Crimes Research Office, to the faculty, staff and students at American University, Washington College of Law (Mar. 23, 2015) (reporting results from the International Criminal Court (ICC) Moot Competition) (on file with author);

<sup>148</sup> See Email from David Aaronson, Professor of Law and Director, Trial Advocacy Program, to the faculty, staff and students at American University, Washington College of Law (Mar. 23, 2015) (on file with author).

and coaches!”<sup>149</sup> It is not my aim to criticize this emphasis on winning. Friends and colleagues coach these teams, and I coached a team some years ago and was proud when they defeated a school from a higher ranked program. But it is worth noting the difference from clinic culture, where lawyering does not represent a head-to-head competition with another team, and apart from trials, most lawyering does not result in clear winners and clear losers.

The authors of another essay in this volume, Kyle Kopko, Grant Keener, Paula Kundsén-Burke, Dianne McDonald, William S. Schweers and Michael Vitlip, demonstrate that a competition culture is also a feature of undergraduate mock trial programs.<sup>150</sup> The essay profiles mock trial programs at four undergraduate institutions in Pennsylvania, including Bucknell University, Carlow University, Drexel University and Elizabethtown College. Despite differences in the size, institutional settings and program history of these undergraduate institutions, the authors point out that the programs “offer a range of common approaches to undergraduate mock trial.”<sup>151</sup> While the goals of the programs at the four schools differ to some extent, they all embrace the idea that mock trial is a “competitive experiential learning activity.”<sup>152</sup> At Drexel, students try out for the mock trial team in a process where no more than half of the students who try out are selected.<sup>153</sup> Students are then placed on one of three teams, the “A,” “B,” or “C” team, with the A team designated as the “flagship” team.<sup>154</sup> The mock trial teams at these institutions operate under the auspices of the American Mock Trial Association (AMTA) which provides case packets and hosts competitions at the regional and national level.<sup>155</sup> These tournaments are a massive undertaking; 656 teams from 358 institutions competed during the 2014-2015 competition season.<sup>156</sup>

At this point in time, most schools likely have experiential education courses and programs that utilize a separate spheres model. This

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<sup>149</sup> Email from Liz Lippy, Assistant Director, Trial Advocacy Program, to the faculty, staff and students at American University, Washington College of Law (Aug. 5, 2015) (on file with author).

<sup>150</sup> Kopko, et al., *supra* note 21.

<sup>151</sup> *Id.* at 71.

<sup>152</sup> *Id.* at 64.

<sup>153</sup> *Id.* at 76-77. The process for selection at the other schools is not described.

<sup>154</sup> *Id.* at 78. In this respect, mock trial follows a system common in competitive sports, where teams with the same club are labelled with this grade designation. For example, in basketball clubs affiliated with the Amateur Athletic Union (“AAU”), these labels are used as early as fourth grade. <http://classicsbasketball.d1scout.com/index.cfm?page=ModPages&sec=view&pageid=49&Teamid=1923> (last visited Apr. 5, 2016).

<sup>155</sup> *Id.* at 65.

<sup>156</sup> *Id.* at 66, n.14.

is certainly the case for schools in which individual clinics do not operate under the rubric of a single clinical program. But even for law schools where the clinics operate as a single program, many other experiential programs are separately run and operated.<sup>157</sup> Rutgers Law School in Camden provides an example of an overlapping spheres model where the clinical program and the legal writing program explicitly integrate teaching goals,<sup>158</sup> and where faculty teaching in the legal writing program sometimes teach in the clinic.<sup>159</sup>

At this point in time, there are likely no examples of a fully integrated model. With the exception of a few schools, until recently, no one faculty member had the responsibility for coordinating the experiential education curriculum. While it is possible that the faculty teaching these courses may have thought of themselves as engaging in a common enterprise, without some leadership mechanism for coordinating these courses, it can be expected that faculty and programs operated relatively autonomously.

If the goal is greater integration of the various programs within experiential education, how might we go about it? In addition to the Rutgers approach, in which some faculty teach in more than one experiential program, there are more modest approaches to integration involving creating a hybrid course, or co-teaching an existing course. Sarah Schrup writes about her efforts to design a hybrid legal writing-clinical course at her law school. In order to foster integration between programs, Schrup recommends increased communication between these programs and a purposeful commitment to “incorporating principles of each other’s teaching into their own pedagogy.”<sup>160</sup> This commitment is enhanced when programs can focus on an area of common interest, which in this case was faculty members “mutual dissatisfaction with student performance” in legal writing.<sup>161</sup> These strategies can overcome some of the the collaboration challenges that she encountered.

Co-teaching an existing course is less daunting than designing a new course. When I was the clinic director at my law school, I co-

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<sup>157</sup> My own law school is an example of this phenomenon, where there are different directors of the clinic, <https://www.wcl.american.edu/clinical/faculty.cfm>, externships, <https://www.wcl.american.edu/externship/hours.cfm>, and trial advocacy programs, <https://www.wcl.american.edu/trial/faculty.cfm>, as well as other experiential education programs.

<sup>158</sup> *Legal Writing*, <https://camlaw.rutgers.edu/legal-analysis-writing-research> (last visited Mar. 29, 2016).

<sup>159</sup> *Id.* (“a student might easily see their legal writing professor again in a clinical or skill course or in a pro bono project.”).

<sup>160</sup> Schrup, *supra* note 130, at 310.

<sup>161</sup> *Id.* at 302. Schrup’s specific recommendations focus on how collaboration between the law school programs can best improve student writing.

taught a course with the associate director of our trial advocacy program. I had no responsibility for overseeing experiential education, but I wanted to better understand the goals and methods of that program, and learn from a different approach to teaching. The course, Evidentiary Foundations, was designed differently than most courses in the trial advocacy program in that the primary goal of the course was to teach the rules of evidence through simulation rather than to teach trial skills. The course was not clinical in any traditional sense, but it provided students many opportunities to perform a lawyer role, with extensive feedback and many writing opportunities. I had taught a “pure” simulation course in the past focused on interviewing and counseling, both to first year students and upper level students, and at different points have included trial skills as part of my clinic seminar, but this was my first effort to collaborate across programs.

My experience co-teaching the evidence course taught me that while I thought that I understood the trial advocacy program, there were many things that I did not know. I learned a lot from the experience, and really appreciated the design of the course and the collaboration with my co-teacher. The students also liked the fact that a professor from the trial advocacy program and a professor from the clinical program were teaching the course together. Several students commented that the combination of perspectives added to the quality of their experience.

In addition to these curricular endeavors, the different experiential programs could meet from time to time, either at the leadership level involving the directors of programs or at the faculty level involving all of the faculty teaching in two or more programs. Within the clinical program at my law school, weekly meetings have been very valuable in fostering a sense of community and exchanging ideas about pedagogy and program design. Nonetheless, my view is that working together on concrete projects is likely to be more valuable than meetings where the goals may not be shared, or at least where the goals are ambiguous.

One example of a specific site where legal writing professors and professors who teach in clinics and other types of experiential education collaborate are the biennial conferences on applied legal storytelling.<sup>162</sup> While most of the organizers of the conference are legal writing professors, and most of the attendees are from the legal writing community, there is also representation from the clinical community and occasional attendance by doctrinal professors and others. I have attended and presented at four of these conferences, and they

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<sup>162</sup> See *supra* note 129.

work in large part because the theme of storytelling cuts across each of these disciplines, and provides a reason to attend the conference and learn from each other. These conferences have, among other things, completely changed my view of what legal writing is, how it can be taught, and its relationship to clinical teaching. These conferences are collaborations among faculty at different law schools, not collaborations across programs at the same law school, but they can open doors to more intra law school collaborations.

This essay does not advocate for more integration of experiential education programs. Integration may make sense at some schools, and not at others. Integration can lead to assimilation where the important features of culturally distinct programs are lost. But at a minimum, it is important that the existing experiential education programs at law schools be studied to determine how, if at all, they should move from programs operating as separate spheres to programs that are more fully integrated. It is important that we move beyond the incantation of the term “integration” to determine what exactly this means at each institution.

#### CONCLUSION

In this era of legal education, experiential education is trendy. To move beyond the rhetoric of experiential education, we need to carefully consider the leadership choices involved in coordinating experiential education. These choices include the leadership structure, as well as how leadership is exercised within a given leadership structure. The decisions that are made will determine whether law schools can deliver on the promises of experiential education.