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Introduction: Exploring Undergraduate Experiential Learning

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EXPLORING UNDERGRADUATE EXPERIENTIAL LEARNING

DIANA D'AMICO JUETTNER*

Experiential learning enhances students' chances of success in the legal field. It gives students the opportunity to take the skills they have learned in the classroom and apply them in the legal setting, whether it be a law office, corporate environment or governmental setting. In our program at Mercy College, we give our students the skills they will need to flourish in the legal community. Additionally, we invite lawyers and paralegals to come to the classroom to discuss what it is like to work in a law office. As an outgrowth of this activity, students have been given the opportunity to visit the attorneys in their work environments. After many years of teaching paralegal and pre-law students, it became evident to me that students are more successful in obtaining career positions if they are able to do an internship, participate in a cooperative education program or volunteer in an appropriate legal setting. This led me to encourage all students to obtain this valuable experience. Unfortunately, not all of our students can take advantage of unpaid internships because of work and family commitments.

In reading the Touro Alumni Bulletin I was excited to learn about the creation of a new position, Associate Dean for Experiential Learning, and the emergence of a new journal on Experiential Learning. It was encouraging to see that our law school colleagues were acknowledging the need for a scholarly journal that included

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experiential learning as an important part of legal education. I was inspired by the scholarship that has emerged from the first issue of the Journal. Dean Patricia Salkin's introductory article entitled, "Learning From Experience: An Introduction to the Journal of Experiential Learning," elicited the excitement that I have witnessed in my students who come to college with a burning desire to become lawyers.

What is so rewarding about my position at Mercy College is that I have the extraordinary opportunity to teach students who are the first generation to go to college; they are a mosaic of many cultures, races, and religions. It has been exciting for me to see them grapple with the law as they bring their life experiences and unique perspectives from their diverse cultures into the discussion and analysis of past cases and those that are currently before the courts. Integrating the life struggles of the non-traditional student into the discussion helps to enrich the learning experience by raising issues that have not been considered before.

In her article, Dean Salkin describes how she "hit the ground running" when she entered college and experienced her college courses and the opportunity to work with legislators in Washington and Albany. We are pleased that we have been able to place some of our students in local government offices to help them acquire some of these experiences since they don't have the flexibility to spend time in Washington or Albany due to other obligations. Although these students are rewarding to teach, they also bring challenges because they don't possess the skills necessary to develop a professional network, an important attribute for success. So it is something that we work into the curriculum.

After teaching the introductory course in Legal Studies for a number of years, I found that New York's court system created quite a challenge for these students. It was difficult for them to understand the differences between the local courts and the supreme courts in our state, especially since our supreme courts are not our highest court as in other jurisdictions. This led me to creating a course entitled "Exploring the New York Courts," where students could study the court's structure and then see firsthand what kinds of cases were heard at each level of the courts we visited. We spend one week preparing for the court visit and then visit the court the following week. Each student is assigned a reflection paper about the prior week's experience. Before we prepare for the next court visit, we discuss the students' experiences and what they learned from the visit. We found that the courts come alive for them and are not merely seen as a box on a chart entitled "Court Structure."

Bartholomew and Howard,¹ undergraduate faculty members at Utah Valley University, have also discovered that observing court proceedings is beneficial for their students. They included court observation in their curriculum and found over five years that it not only enhanced their new students' understanding of how the courts work, but it also improved their more advanced students' grasp of the litigation process. Understanding these processes is important for the pre-law student as well as for the paralegal students who will be working alongside the attorneys in the law office.

Another obstacle that we face with non-traditional students is a lack of funding to help students who don't have the monetary resources to do an unpaid internship and who also incur the expense of getting to and from their placements. We are grateful to those who have given our students the opportunity to experience the law at the college level.

Some important associations that have encouraged faculty to write papers and conduct panel discussions about experiential learning are the American Association for Paralegal Education, Association of Pre-Law Advisors and the Academy of Legal Studies in Business.

DIVERSITY OF ARTICLES IN THIS ISSUE OF THE JOURNAL

I am encouraged by the definition of Experiential Learning that Professor David Thomson set forth in his article for the Inaugural Volume of this Journal. This definition expands the scope of experience that law students should receive as part of their legal education. It is one that those of us who teach undergraduate pre-law students can use and have incorporated into our curriculum. His definition reads as follows:

The term "Experiential Learning" refers to 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

¹ Bartholomew & Howard (Winter 2013), "Going to Court: Observation of Court Proceedings as a Teaching Tool," *The Paralegal Educator*, AMERICAN ASSOCIATION FOR PARALEGAL EDUCATION, at www.aafpe.org.

become skilled, ethical, and professional life-long learners of the law.²

This issue explores the challenges facing the faculty who teach law courses at the undergraduate level of higher education. The articles discuss some of the ways that undergraduate faculty have incorporated experiential learning into their curricula. Topics range from creating opportunities for minority and non-traditional students to attend law school; using the mock trial to teach advocacy skills; developing and providing training in professionalism skills; experiential legal writing; the newly emerging role of associate deans of experiential education; and the opportunities provided by K-12 law-related education.

DIVERSIFYING THE LEGAL PROFESSION

The DiMola and Lowe article focuses on a very important issue: diversifying the legal profession and creating opportunities for minority and non-traditional students — particularly, female students — to enter the legal profession and be successful. The authors outline beautifully the stumbling blocks these students face as they make their ways toward their Bachelor's degrees. I have worked with many students who needed the support the authors discuss and have found that an important part of what we can do for them is to give them confidence — confidence that they can succeed if they focus on each success while working toward developing the skills necessary to enter law school. By providing our students with emotional as well as academic support, we have seen more of them enter and graduate from law school. There are other undergraduate programs that train students to become paralegals, and the American Association for Paralegal Education (AAfPE) has set forth rigorous standards for the schools that are part of this Association. Many paralegal students decide to go to law school as they develop the legal skills required to be successful. These students have an additional advantage because they learn to draft legal documents. Their successes help to build their confidence and make them more likely to achieve their goals. Some of the students enter law school later, after they have worked as paralegals and have had time to save money to help reduce the financial pressure as they take on the challenge of law school.

DiMola and Lowe describe a successful program offered by Carlow University, entitled “The Summer Advocates Academy,”

² Thomson, David I. C. “Defining Experiential Legal Education,” *Journal of Experiential Learning*, 1 JEL 20 (2015). Available at <http://digitalcommons.tourolaw.edu/jel/vol1/iss1/2>.

which was developed to provide a pathway for students to enter law school and graduate programs in law (e.g. MLS programs). It would be beneficial for other undergraduate institutions to understand in more detail how the program is funded and how the students are able to take the time to enroll in the program. Time is the biggest obstacle that non-traditional students face because of all of the responsibilities they have to juggle in their lives. If undergraduate legal studies faculty and law school faculty could meet to discuss the biggest challenges that our students will face in law school, we could work together to find ways to improve the skills and increase the opportunities for success of the non-traditional student.

DELIVERY AND DESIGN OF MOCK TRIAL FOR THE UNDERGRADUATE STUDENT

The article on Delivery and Design of Mock Trial for the Undergraduate Student by Kopko et al. explores the educational value of a mock trial program. The mock trial provides students with the opportunity to participate in a simulated civil or criminal court case. Mock trials are also an excellent way for students of different majors to gain confidence and poise. Science students can make good expert witnesses; drama students can portray witnesses to gain experience; and pre-law students will learn basic trial advocacy skills. The mock trial is an outstanding opportunity for students interested in law school to learn how to apply the rules of evidence and other basic litigation skills in a hands-on setting.

The authors discuss four undergraduate programs for institutions to consider if they wish to implement the program in their schools. A mock trial program can be included in the curriculum and/or developed in a club format. Inclusion of a mock trial program also gives the institution the opportunity to recruit students who have participated in high school mock trial programs and the ability to include lawyers and judges from the local community.

Although the mock trial is a powerful experiential learning experience, participating in the tournaments can be quite costly. Some institutions have the funds to support the program totally, while others may support it partially and others not at all. This leaves the fundraising to student activity fees, college and department budgets if available, student contributions, alumni support, local law firms and bar associations. This can create challenges for the institutions that don't have the funding available or enough full-time faculty to coach the team. Many students in these institutions also don't have the time

to devote to preparing for the competition because of their heavy work schedules and parenting responsibilities.

IMPLEMENTING A PROFESSIONAL DEVELOPMENT APPROACH TO PRE-LAW ADVISING

Prof. Graziano looks at an essential subject for law students: how to teach students to act like lawyers and not just think like lawyers. Her article, “Implementing a Professional Development Approach to Pre-Law Advising: How to Build a Bridge to Law School and the Profession through Legal and Professional Development Courses, Professional Societies, and Mentoring,” examines the issues addressed more than 20 years ago by the ABA Task Force on Law Schools and the Profession, known as the MacCrate Report. In its groundbreaking report, the Task Force discussed how to teach and instill professionalism in law students as they study the law so they will adhere to the highest ethical standards when they enter the practice of law. Importantly, the Report devoted a full chapter to “The Process Prior to Law School.” Prof. Graziano points out that the Report sets forth that professionalism is developed on a continuum and that these skills should be highlighted in the pre-law curriculum as well.

The author also discusses how the legal profession has been working to redefine lawyer professionalism. This is so important because societal issues have become so complex that many firms have devoted their practice of the law to specialty areas of the law. Additionally, computers and other forms of electronic technology have changed the way we practice law. Use of technology has added to the challenges that lawyers face every day as they engage in the practice of law. The critical issue is how to enhance pre-law education and begin to incorporate the skills necessary to keep up with changes and new developments.

Prof. Graziano explains how she created a Law Advising Program at Villanova University and provides a template for other undergraduate advisors to work from. She also discusses how she designed and included professional development in the Legal Analysis and Writing course by offering workshops that teach students how to network and develop relationships with attorneys. Students learn how to create effective resumes and cover letters, and how to present pertinent information to recommenders so that they can write an informative and persuasive letter to the law school admissions committee. These workshops led to the creation of a 1 credit Professional Development course. The author’s suggestions are helpful for those who wish to develop a comparable program at their own institutions. The

challenge is for the small to medium college or university to implement these worthwhile programs without sufficient financial support and access to full-time faculty to carry them out. At our institution, we have reached out to members of our Legal Studies Advisory Committee for volunteers to mentor our students. We were delighted by the outpouring of support that we have received from members of the Committee and are looking forward to working with them in the upcoming academic year.

EXPERIENTIAL LEGAL WRITING BEFORE LAW SCHOOL: JUDICIAL OPINIONS

In his article on experiential legal writing, Tom Rozinski traces the evolution of legal writing courses in law school and reflects on the pros and cons of the evolution of the pedagogy used to teach law students how to write. He notes that even though legal writing courses have been developed over the years, the Carnegie Reports have documented that law school graduates still have poor writing skills.

Rozinski also discusses how he has challenged his undergraduate students by charging them with the task of writing a judicial opinion. In doing so, he found that his students were gaining a better understanding of the legal reasoning needed to write an opinion. The students reported that learning how to write a judicial opinion was helping them to understand the Supreme Court opinions they were reading in their Constitutional Law classes. They were developing their analytical skills as well as their writing proficiencies.

Rozinski proposes that colleges and law schools work in collaboration with one another to improve legal writing skills. He suggests that law schools recommend that pre-law students take one or two legal writing courses as part of their undergraduate studies to give them the preliminary skills they need to flourish in law school. Moreover, by advocating for and supporting programs and activities that provide for experiential legal writing, students can be better prepared to succeed in law school and ultimately the practice of law.³

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

In her Introduction, Prof. Miller underscores the value of experiential education courses as a means of making law students more com-

³ See also Ershler, Jeff (Spring/Summer 2013) "Administrative and Teaching Strategies for Facilitating Legal Writing Classes with Diverse Legal Studies Populations," *The Paralegal Educator*, AAfPE, Altamonte Springs, Florida.

petitive in the current job market. She also stresses the importance of this type of education to law schools as they compete for students.

Prof. Miller's article focuses on the newly emerging role of associate deans for experiential education, an important part of which is coordinating the experiential education program into the existing structure of the law school. The leadership structure involved in delivering experiential education to law students may differ greatly among law schools, although some schools have no centralized leadership structure for experiential education courses. How the associate dean for experiential education position interacts with traditional positions of associate deans for faculty and other associate dean positions is an essential structural consideration. The responsibilities of an experiential associate dean may include integrating the existing experiential education curriculum, expanding the curriculum to include additional courses, and assigning faculty members or hiring adjunct faculty to teach experiential education courses, among other administrative duties.

Prof. Miller states that associate deans face many challenges in leading experiential learning programs. One aspect of their role is coordinating the different programs that comprise the experiential education curriculum. This can pose a big challenge to integration due to the distinctive cultures of the different pedagogies that comprise experiential education. Prof. Miller suggests that thinking about the cultures as "spheres" may help us to consider how the various components of experiential education might be integrated. She proposes three different formulations: separate spheres, overlapping spheres, and fully integrated spheres. Separate spheres are capable of functioning independently, while overlapping spheres represent some degree of integration or collaboration. According to Prof. Miller, most schools likely have experiential education courses and programs that utilize a separate spheres model. Rutgers Law School in Camden, New Jersey, is one institution that employs an overlapping spheres model. As yet, no schools have a fully integrated spheres model. Prof. Miller provides two examples of experiential education courses: the clinic class, which deals with real clients and real cases, and the trial advocacy class, which relies on simulation to teach discrete skills.

In the Rutgers approach to integration, some faculty teach in more than one experiential program. Other, more modest approaches involve creating a hybrid course and co-teaching an existing course. Prof. Miller describes her experience in co-teaching an Evidentiary Foundations course with the associate director of the trial advocacy program at her law school when she was the clinic director at the school. She found that the students seemed to embrace co-teaching

involving a professor from the trial advocacy program and a professor from the clinical program. Several students commented that the combination of perspectives added to the quality of their learning experience.

Dean Miller has provided us with excellent food for thought as we work to continue to provide experiential opportunities for our students. It would be great if law schools would work with undergraduate programs as a bridge for those students interested in pursuing a career in the law. A program that provided a clinic for law students and paralegal students to work together would provide an enrichment to students at both levels. Knowing how to utilize paralegals efficiently is an important skill for a lawyer to have.

A LAWYER'S EXPERIENCE IN K-12 LAW-RELATED EDUCATION: LESSONS AND OPPORTUNITIES

I was energized by David Scott's article to enhance law-related education at all levels of our educational system. His article should be a stimulus for us to rally for a high-quality civics education in all schools. At the undergraduate and graduate levels, I see that these skills are sorely lacking in the courses that I teach. As such, I have to spend time laying a basic foundation of our governmental processes before addressing the substance of the course. I look forward to the opportunity to encounter a David Scott student in my legal studies classes.

In 2011, Justice Sandra Day O'Connor stated, "Because an understanding of and appreciation for democracy is not an inherited trait that is passed along through the gene pool, it has to be taught anew to each generation." (Mark Hansen, "Flunking Civics: Why America's Kids Know So Little," *ABA Journal*, May 1, 2011.)

David Scott brings another important perspective to the topic of experiential education as a law and civics teacher of K-12 law-related education. He highlights an area of legal education for students at the elementary and high school levels of learning. It is so important to instill an appreciation and understanding of the political and legal process for students at the earliest levels of education.

According to Scott, one of the most common goals in K-12 law-related classrooms is to connect students in the classroom to law professionals through community partnerships. Scott experienced first-hand the importance of community partnerships when working at Nassau County's Board of Cooperative Educational Services (BOCES). He found that students' career aspirations ultimately

became more meaningful and attainable when students were able to interact with people actually working in the legal field.

As a new teacher in an inner city school, Scott worked with students who, as he put it, “faced some of life’s toughest obstacles.” It is these students who are working their way through college and some to law school.

Legal educators should take notice of comments of Thomas O’Donnell, a veteran teacher who was considered a legend in the field of law-related education. He told Scott, “[I]f you want to have a successful program, keep your eye on the elementary schools; in baseball the big leagues watch the minors, you have to watch the little league.”

At the invitation of an elementary school principal in Nassau County, Scott created a mock trial class for fifth graders, using a book that contained the “characters, facts, and plot twists” to serve as a foundation for both a civil trial and a criminal trial. By participating in the class, the students gained a greater understanding of the law and the legal system, as they had the opportunity to submit evidence, conduct a direct or cross-examination, object, provide witness testimony, and deliver an opening statement or a summation, to help prove their side of the case. According to Scott, “these students weren’t just playing a role in a school project, they were learning about the critical functions of the judiciary in our democracy.”

Scott also developed a fifth grade moot court initiative that involved taking apart the first 45 words of the First Amendment to gain a better understanding of the five freedoms that the First Amendment protects. The students are taught the Tinker Test, which is still used by lawyers, courts, and school administrators to determine whether or not the speech or expression of a student is constitutionally protected. Scott has found that after participating in the class, the students are more open to and more comfortable discussing ideas that differ from theirs. Further, they are able to apply the values inherent in the First Amendment to formulate arguments for or against the speech of a student in a particular instance. As a law-related educator, Scott sees his mission as that of preparing his students to be informed, responsible citizens who will go on to actively participate in our nation’s democracy.

SOME THOUGHTS FOR ACTION

The articles included in this issue are a great resource for faculty who teach and mentor pre-law students. From the articles presented, it is evident that if faculty work together at all levels of the educational process, we will be able to improve the writing and analytical

skills of our students providing more prepared students to enter the practice of law. Undergraduate faculty should request meetings with law school faculty to find a way to offer workshops or conferences where some of these suggestions can be discussed and other ideas explored.

The Fall/Winter edition of the 2016 Paralegal Educator featured an article on Experiential Learning for Paralegals: Shaping Vanguard for Social Justice Advocacy.⁴ In his article, Allison points out the importance of legal clinics to our society; however, he also discusses their shortcomings as well. In his study of the topic he has developed a new approach to clinical practice known as the L.A.W.L.E.S.S. model⁵ where he proposed legal empowerment clinics to provide services to the public. The first clinic using this model is in Pomona, California. Allison has developed a program that provides lawyers with the opportunity to spend their time assisting clients not on administrative work. He discusses integrating his model into the paralegal curriculum. Why couldn't this be one place we could start to develop joint clinics? Why couldn't this be a topic for discussion for legal educators from elementary school to law school? We should open up this dialogue to include those who teach students at the elementary and high school levels and find ways to work with them as well.

Currently undergraduate legal studies programs teach students legal research and writing skills, document drafting techniques as well as developing analytical skills. An ideal outcome would be continued interaction with all faculty who are interested in helping students understand the legal process so that we can develop a curriculum that will improve the writing and analytical skills for all of our students. By collaborating, we can expand experiential learning and address the issues raised by the MacCrate Report, the 2007 Carnegie Report, the Best Practices Report and the American Bar Association Section of Legal Education and Admissions to the Bar, Revised Standards for Approval of Law Schools, 2014, to name a few.

⁴ Allison, Thomas D. "Experiential Learning for Paralegals: Shaping Vanguard for Social Justice Advocacy," *The Paralegal Educator* (Fall/Winter 2016).

⁵ Lawyers Allied With Legal Empowerment as a Social Solution (L.A.W.L.E.S.S.)