

# Improving the Training and Supervision of Lawyers in Law Firms through Insights from Law School Clinics

by Michelle Sonu

*Here are a few of the ways law firm PD professionals and senior lawyers can take advantage of the knowledge, experiences, and pedagogy developed by law school clinics.*

The conventional wisdom among many experienced lawyers and lawyer PD professionals is that the curriculum at most law schools still largely focuses on arcane topics that have little bearing on actual practice. Students spend most of their time reading, analyzing, and discussing cases with professors in a large classroom setting. They don't collaborate with one another and don't learn how to represent actual clients. Law students do spend time writing, but the bulk of their deliverables consist of anonymous final exams and research papers, neither of which bear much resemblance to the actual work products of practicing lawyers, such as emails to clients, contracts, or discovery requests. The opportunities to build practical and professional skills are limited.

As a result, large law firms do not expect recent graduates to have enough practical experience or substantive knowledge to hit the ground running. To address this problem, law firms have developed extensive formal training programs covering not only substantive law and practical lawyering skills but also topics like networking, leadership, business development, work-life balance, and so on. The need for training is particularly acute for business lawyers since the law school curriculum is oriented to litigation.

Many of the law firms' formal training sessions, particularly for substantive legal topics, are conducted by senior lawyers in the firm. Senior lawyers are also responsible for supervising and training new associates in an informal or one-on-one manner while working on matters for clients. While these lawyers are

subject matter experts or have demonstrated top-notch professional skills with clients and working groups over the years, often they have only limited time to think about teaching and training methods, including ways to convey information or deepen a student's understanding. How often do practicing lawyers utter the word "pedagogy"? Under pressure to bill clients efficiently and juggle multiple complex engagements, even senior lawyers who have exhibited talent or expressed interest in training and mentoring new associates do not have the time to do so — or to explore different methods for training them more effectively.

## Law School Clinics

Instructors in law school clinics think about these things all the time.

In recent years, law schools have expanded their programs substantially to include experiential learning opportunities to better prepare students for practice. In fact, experiential education has recently become a requirement for ABA accreditation of law schools.<sup>1</sup> Experiential learning includes clinics, externships, simulation courses, pro bono programs, practicums, and professional development workshops and seminars, to name a few of the options.

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In law school clinics, students represent actual clients under the close supervision of experienced attorneys and instructors. Clinical education has grown dramatically. All ABA-accredited law schools now offer in-house clinics, and the number of faculty members teaching in them is substantial.<sup>2</sup> Beginning in the 1960s, many law schools established clinics, but early clinics typically focused only on social justice and poverty. Now, the types of clinics offered are incredibly diverse, providing students with opportunities in transactions, intellectual property, criminal defense, international human rights, appellate litigation, death penalty appeals, community economic development, immigration, and more.

Clinical instructors have unique, dual responsibilities. Like any practicing lawyer, they represent and serve clients and are subject to applicable professional rules. In addition, they serve to train and prepare law students to become lawyers. As a result, these attorneys spend a lot of time learning about, developing, and experimenting with teaching methodologies. Over the years, they have developed a distinct and sophisticated pedagogy, resulting in hundreds of books and articles,<sup>3</sup> frequent conferences, and ongoing online discourse about lawyering, teaching methods, supervision, and related topics. The challenge faced by clinical instructors is described by one prominent clinical professor as follows:

*“Teaching is hard work. It requires a deep understanding of educational motivators, an appreciation of and for different learning styles, a thorough knowledge of legal theory and practice, and the ability to convey that knowledge in an understandable fashion to others... It also demands an understanding of which techniques best convey the knowledge and the insights the faculty member seeks to impart to ensure that students learn and that clients’ needs are met.”<sup>4</sup>*

The pedagogy continues to evolve as the nature of lawyering changes (for example, using technology to communicate) or as the law students change (for example, adapting for millennials). Instructors develop detailed and practically oriented evaluation criteria and rubrics, which must be updated from term to term to address

these and other changes. To further keep clinical instructors on their toes, while working with students and clients the instructors must continually adapt their teaching methods in real-time based on the needs of particular clients, changes in the law, students’ learning styles, and many other variables. The bottom line: figuring out how to teach lawyers is challenging and constantly evolving.

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The growth of experiential programs in law schools presents an opportunity for law firms and PD professionals to take a fresh and deep look at what’s going on in the law schools. This growth will certainly continue, in part due to the ABA’s experiential education requirements described above. Some law schools are considering adopting requirements that go beyond the ABA’s standards. In addition, the New York state bar requires that law students engage in pro bono service before being admitted, and other states are considering adopting a similar rule,<sup>5</sup> providing yet another reason that law students will engage in learning outside the classroom.

This article offers some ideas for improving the training and supervision of lawyers in law firms, based on clinical pedagogy, resources available to clinical instructors, and the experience of clinical instructors in their dual roles as practitioners and educators. While teaching in a law school clinic is different from training lawyers in a professional setting, and while law schools and law firms have very different missions, they do share a common task of educating and training lawyers.

## Reflection

Reflection is at the core of clinical pedagogy. Clinical instructors view reflection as a critical way for students to develop self-awareness, deepen learnings, build confidence, improve upon

mistakes, affirm strengths, and develop an identity as a lawyer, among other things.<sup>6</sup> Students reflect by taking a moment to debrief on their own performance of a task, project, meeting, or other experience, and then expressing their resulting thoughts, observations, “ah ha” moments, or learnings.

Left to their own devices, most students won't take the time to assess themselves or would do so only episodically and inconsistently. As part of a clinic's design, instructors establish requirements to engage students in reflection. These reflections often take a written form with specific prompts, such as “What did I do well?” or “What did I learn from this experience?” Some clinics require students to document their reflections over time in a journal they maintain throughout the term, and other clinics have students submit short, discrete papers immediately following a particular event, such as a meeting with a client. In either case, the process of reflecting and reducing reflection to writing doesn't take much time — particularly when the experience is still fresh. Many clinics have students reflect more deeply and holistically by requiring them to prepare a longer reflection paper following their time in the clinic.

The Organizations and Transactions Clinic at Stanford Law School asks that a one-page Client Meeting reflection form be completed and emailed to the clinic instructors within 24 hours after a student is involved in a substantive client meeting. The form asks three questions:

- What did you like about your performance in the meeting?
- What did you not like about your performance in the meeting?
- What's the key observation or lesson you took from the meeting?

Clinical instructors also encourage reflection during live, one-on-one meetings by asking students to respond to specific questions about their performance and lessons learned. “How would you have handled the meeting differently?” “What surprised you about the client's reaction?” “Do you feel like you're learning?”

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Students often report that the reflection process is eye-opening, uncomfortable at times, affirming, and ultimately useful. Reflection may at first seem touchy-feely or like a waste of time to some students, but, more often than not, by the end of the term students realize and appreciate its value. For example, in Autumn 2015 one student in Stanford Law School's Organizations and Transactions Clinic concluded her final, end-of-term self-evaluation as follows:

*“Nothing contained in the pages above would have been immediately obvious without reflecting. As hard as it was to reflect on my own performance, I don't think I would have realized half of these things had I not taken the time to reflect — no matter how obvious they seem now that I have them written down. And I certainly wouldn't have taken the time to think about the implications they hold for me, how I can improve upon certain skills and habits, and what I need to become more conscious of and work to change.”<sup>7</sup>*

While clinics aim to help students establish reflection as a life-long practice, the opportunities to reflect after joining a large firm can be limited, particularly in light of the high volume and intensity of day-to-day work. Many law firms do include a self-evaluation as part of an associate's annual or semi-annual performance review. However, associates may simply not have time to complete the self-evaluation satisfactorily or likely will not recall details about their performance on every project or task during the six- or twelve-month evaluation period.

Law firms can promote and develop reflection practices among associates in a couple of ways:

**In writing.** Firms can provide associates with reflection forms to be completed following the conclusion of a case, transaction, or project. Alternatively, firms can encourage or require

associates to complete reflection forms at set time periods (e.g., weekly). The forms can include a few simple prompts, such as:

- What did I like about my performance?
- What did I not like about my performance?
- What did I learn?

If the associate completes the reflection form promptly after the project concludes, when the experience is fresh, then the exercise should not take much time. The exercise would also provide quick feedback to the associate, which can be hard to come by in a busy firm. Most importantly, it gives the associate fodder for growth and improvement. For example, an associate who realizes he did a poor job of paying attention to detail on his work product will resolve to do better next time.

Over time, the associate can collect the individual reflection forms into a journal or binder, which she can draw upon when preparing for her annual performance evaluation or otherwise review from time to time on her own. Reviewing the collection can be eye-opening because it will show the associate's growth (or lack thereof) in particular areas over a longer time period.

If the firm requires that associates submit their reflections to the PD department or other senior lawyers, written reflection can also provide a way for the firm to keep an eye on the associate and supervise him or her more effectively, as well as to develop and improve formal training sessions going forward. It can also provide an avenue for quieter associates to voice concerns.

**In person.** Firms can encourage senior lawyers to promote reflection when delivering in-person feedback to associates. The idea is to have the junior associate do most of the thinking and talking, in response to questions posed by the senior lawyer. Because the junior associate is more deeply engaged, he can learn and grow more. For example, a senior lawyer unilaterally telling an associate, "I didn't feel like you 'owned' that document," provides only limited information. On the other hand, asking an associate, "Did you feel a sense of ownership over that

document?" would encourage the associate to consider not only the initial yes-no answer to the question, but also why ownership matters, how it impacts the quality of the work product, how it can benefit others on the legal team and the client, and how he could improve the next time.

Ideally, these conversations would occur frequently, such as immediately following completion of a substantial case, transaction, or other project. Given the press of business, it's understandable that making time for these sessions is a challenge. That being said, this technique could still be used for an annual or semi-annual performance evaluation.

Firms would have to think about how and to what extent to train the senior lawyers in this technique. PD departments could send an email with some basic information, host fuller training sessions, or something in between. These efforts will depend on the firm's existing culture for promoting associate growth and development and the PD department's bandwidth and resources. In many firms or practice groups, getting senior lawyers to deliver feedback at all is already a challenge, so training them on how to do it better may be virtually impossible. Firms considering moving away from annual performance reviews to a model where employees receive feedback more frequently throughout the year<sup>8</sup> may consider including training on reflection practices as part of the transition.

## Group Training Sessions

Nearly every law school clinical course includes a classroom instructional component, as required by ABA-accreditation standards.<sup>9</sup> Unlike traditional classes taught by podium professors, these class sessions cover a variety of different areas to prepare students for practice, such as skills training, substantive law, project or case management, and professional responsibility. In addition, clinics use classroom sessions as a forum for collaborative work or feedback on current clinic projects.

When crafting the classroom component of the curriculum, many clinical instructors use a "backward design" approach.

Simply put, this involves identifying the goals or desired results and then planning learning experiences to achieve those goals or results.<sup>10</sup> Once they've determined the learning goals, then the instructors can choose from a variety of teaching techniques, such as in-class group exercises or discussions, homework assignments, role plays, or lectures.<sup>11</sup>

For example, many of the class sessions in the Stanford Law School's Organizations and Transactions Clinic aim to orient students to corporate practice. In some of these sessions, one goal is to demonstrate that business transactions and legal documents reflect a lot of common sense. In one session, the instructors pose a series of questions to the students about a hypothetical simple loan, such as "What would you worry about if you were loaning money to somebody?"; "How would you make sure you were repaid?"; and so on. After the students articulate their responses based on common sense and instinct, then the instructors walk through portions of a complex, lengthy credit agreement that demonstrates those common sense concerns. This experience can help demystify that ugly credit agreement and give students confidence to comprehend other difficult materials they will encounter in practice.<sup>12</sup>

*PD professionals can serve as a resource by coaching the senior lawyers to take the time to identify and articulate the key learning goals for the session, as opposed to simply covering a topic.*

Many law firms' formal training sessions are led by senior lawyers with expertise in a particular subject matter. These sessions are highly relevant to practice but are often one-sided, with the lawyer lecturing on what she knows, perhaps using a PowerPoint presentation or telling war stories based on her experiences. Presumably, when developing these sessions most senior lawyers have not had time to engage in any meaningful "backward design" process that focuses on the learning goals for the junior associates. PD professionals can serve as a resource by coaching the senior lawyers to take the time to

identify and articulate the key learning goals for the session, as opposed to simply covering a topic. With any luck, the senior lawyers can focus their teachings and make these sessions more effective.

Once the senior lawyers have identified the learning goals, then they can craft activities, experiences, and teaching materials designed to achieve those goals. Certain techniques will often be more effective or appropriate than others. For example, to train junior litigators on deposition skills, engaging them in a mock deposition followed by feedback will be more effective than lecturing about depositions. Quite often there is no single teaching method that is ideally fitted to a particular learning goal. As a result, from term to term clinical instructors are constantly tinkering with and developing the classroom component of the clinic.

Listed below are some learning activities that senior lawyers may consider using for formal training sessions. In addition to thinking about what would best achieve the learning goals, the senior lawyers must also consider time and location constraints, the number of participants, and other similar factors.

- **Quick-write.** The senior lawyer poses a question and asks associates to write down responses during a short period, perhaps on an index card. Even if only a few minutes are allocated for this exercise, the writing process will help clarify thinking and also helps to warm up the group for more in-depth learning.
- **Slide presentation with lecture.** This technique is often most effective when the goal is to convey a lot of new information. A paper copy of the slides, which includes notes taken during the session, can serve as a useful reference for the associate to use afterward.
- **Role play.** The senior lawyer designs an activity in which associates perform assigned roles. This activity is typically used to prepare for live interactions with clients, opposing counsel, or witnesses — for example, a witness interview or contract negotiation. After the role play, participants discuss results, provide feedback, and reflect on the experience.

- **In-class exercise and homework.** The senior lawyer presents a problem for associates to solve. The problem could be a set of facts to issue spot, a “bad” document (or even a sentence) to fix, or something else. Associates can analyze the problem and consider solutions as a group or break up into smaller groups, and then express their responses orally or on a whiteboard. If time is not sufficient, the senior lawyer may choose to have associates consider the problem in advance as a homework assignment.
- **Document walk-through.** The senior lawyer circulates to each associate a complex document commonly encountered in large firm practice, such as an SEC filing or merger agreement. The document could be annotated with handwritten notes that point out specific features or other notable aspects. During the session, the senior lawyer flips through the document and explains various aspects such as how it is structured or how particular sections function and interact with one another.<sup>13</sup>
- **Quizzes.** Following a presentation of a substantive topic, associates take a short quiz with true/false, multiple-choice, or fill-in-the-blank questions. They can be self-graded and not collected, to make them a formative rather than summative exercise that does not count for formal evaluation purposes. Quizzes can be useful for reinforcing new vocabulary and basic concepts.<sup>14</sup>

Because these types of activities require more engagement with the associates, they provide a way for a senior lawyer to get a diagnostic on the associates and sense how they’re seeing the materials or grasping concepts. As a result, these activities provide an opportunity for a senior lawyer to riff in a way that’s different from a one-sided lecture.

## Direct Supervision

“Supervision is the essence of clinical education, and all new teachers must learn appropriate intervention techniques to maximize student learning and client satisfaction.”<sup>15</sup> Clinical

instructors have published countless law review articles about supervision, some of which contradict and challenge one another. This is not surprising, since supervising students is one of the most, if not the most, challenging task for clinical instructors. Every day during the term, multiple times a day, instructors make choices, often in real-time, about which teaching method will help students learn while at the same time serve a client’s best interests. For example, instructors could simply tell a student what to do, role model a task, use a Socratic-style questioning method, explain a concept orally or in an email, or moot a client interview. Experienced instructors make these choices based on the needs of a client and the student’s style of learning and current ability and understanding.

Supervision encompasses every interaction between the instructor and student. In addition to formal, regular meetings, it can include informal, unplanned interactions that arise from quick questions, conversations in the car on the way to a client meeting, or emails. These events present teachable moments that can be as instructive and meaningful as a formal supervision session.

Oftentimes in a large law firm, the best training for a junior associate occurs through direct interaction with senior lawyers on a client team. The associates’ experiences can vary substantially based on the nature of the matter and a senior lawyer’s availability and teaching talent. In a busy firm, these senior lawyers simply aren’t available to supervise and train the junior associates; moreover, clients may refuse to pay for this time.

Listed below are some suggestions for senior lawyers to consider to improve training and supervision efforts. These will all take time, something many senior attorneys and clients don’t have. However, some of them can be done concurrently while performing billable work, resulting in minimal additional time or cost to a client and enhanced learning for the junior associate. In any event, PD professionals can be a resource to senior lawyers on these techniques.

- **Work-product markup.** The junior associate has drafted a document and the senior lawyer reviews it. Instead of simply

taking over the draft and sending it to the client, the senior lawyer marks it up, either by hand or using “track changes,” with the expectation that the junior associate will revise the document herself. Ideally, the revisions are accompanied by explanations or even questions. The junior associate will process various learnings while revising the document; she will fix mistakes she made, ponder different approaches, check statutes and cases, exercise judgment, appreciate quality standards for large firm work, and so on.

- **Work-product walk-through.** The junior associate has drafted a document and the senior lawyer revises it directly. The senior associate sits down with the junior associate and explains the revisions using a redlined version of the document. This technique can be used in conjunction with the scenario described in the first bullet.
- **Reviewing work-product.** The junior associate reviews a draft prepared by the senior lawyer and offers comments. The review exposes the associate to an experienced attorney’s analysis and presentation, and gives him the experience of thinking critically and paying attention to detail when developing comments on another lawyer’s written work-product.
- **Debriefings.** Immediately following a meeting or call, the senior lawyer provides direct feedback or explanations to the junior associate.
- **Shadowing.** The senior lawyer allows the junior associate to “shadow” a case, transaction, or project. Junior associates participate in every meeting and are cc’d on every email. Junior associates learn by watching, and senior lawyers serve as role models. A number of law firms have implemented formal shadowing programs that allow associates to use a non-billable code, which makes these opportunities more readily available.

## Conclusion

Law firm PD professionals and senior lawyers can take advantage of the knowledge, experiences, and pedagogy developed

by law school clinics. Both communities are deeply invested in educating new lawyers while concurrently serving clients.

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I hope the guidance provided above provokes further thought and would be happy to continue the conversation with any interested readers. Further, I encourage law firm PD professionals to consider the law school clinical community as a possible resource through its extensive literature, conferences, or even direct interaction with clinical instructors at local law schools. I can be reached at [msonu@law.stanford.edu](mailto:msonu@law.stanford.edu).

## Endnotes

1. Starting in the 2016-17 academic year, students will be required under the ABA’s standards to complete at least six credits of experiential learning. A.B.A. Standards and Rules of Procedure for Approval of Law Schools § 303 (2015-16).
2. The Clinical Legal Education section of the Association of American Law Schools, also known as AALS, is the largest section. Many clinical instructors are also members of the Clinical Legal Education Association, which identifies over 1,300 clinicians on its website. [Clinician Locator](#), Clinical Legal Educ. Ass’n (last visited May 7, 2016).
3. Much of the clinical literature is rooted in adult learning theory. For an extensive list of clinical books and articles, see J.P. Ogilvy & Karen Czapanskiy, [Clinical Legal Education: An Annotated Bibliography](#), Catholic University of America (last visited May 7, 2016).
4. Wallace J. Mylniec, “Where to Begin? Training New Teachers in the Art of Clinical Pedagogy,” 18 *Clinical L. Rev.* 505, 507 (2012).
5. The New York courts require that individuals admitted to the

bar on or after January 1, 2015, must complete at least 50 hours of “qualifying pro bono service” prior to filing an application for admission. N.Y. Comp. Codes R. & Regs. 22, § 520.16 (2015). The California bar is considering adopting a requirement that new lawyers engage in supervised provision of at least 50 hours of pro bono service before admission to the bar or during the first year of practice. See [Task Force on Admissions Regulation Reform](#) (TFARR), St. B. Cal. (2015).

6. See generally Susan Bryant, Elliott S. Milstein & Ann C. Shalleck, *Transforming the Education of Lawyers: The Theory and Practice of Clinical Pedagogy* 23-24 (2014); Roy Stuckey, “Teaching with Purpose: Defining and Achieving Desired Outcomes in Clinical Law Courses,” 13 *Clinical L. Rev.* 807, 822-24 (2009).
7. Final Self Evaluation submitted by student in Stanford Law School Organizations and Transactions Clinic, Autumn 2015 Quarter (Dec. 18, 2015) (on file with author).
8. This type of change has gained significant traction among companies and professional service firms, such as Gap, Microsoft, Adobe, Accenture, and Deloitte. Vauhini Vara, “[The Push Against Performance Reviews](#),” *The New Yorker* (July 24, 2015).
9. A.B.A. Standards and Rules of Procedure for Approval of Law Schools § 304 (2015-16).
10. For a more detailed and refined explanation of backward design, see Grant P. Wiggins & Jay McGighe, *Understanding by Design* 17-23 (2d ed. 2005).
11. See Bryant & Milstein, *supra* note 6, at 57-80.
12. Jay A. Mitchell & Michelle Sonu, “Food Banks and Investment Banks: Clinic Design for Corporate Practice,” 19 *Lewis & Clark L. Rev.* 267, 289-92 (2015). See also Jay A. Mitchell, *Picturing Corporate Practice* 82-83 (2016).
13. See Mitchell & Sonu, *supra* note 12, at 289-290.

14. See *id.* at 291-292.

15. Mylniec, *supra* note 4, at 517.

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## About the Author



Michelle Sonu is Clinical Supervising Attorney and Lecturer in Law at Stanford Law School’s Organizations and Transactions Clinic. In that role, Michelle is responsible for instructing and overseeing second- and third-year law students as they serve the clinic’s clients. The clinic works on corporate governance, contract, structural, and programmatic matters for established nonprofit entities. Michelle also leads class sessions on law practice and corporate and transactional law. Before joining Stanford Law School, Michelle practiced law at Cooley LLP in Palo Alto, California, for over ten years, focusing primarily on M&A as well as general corporate law and securities transactions. At Cooley, Michelle led formal training sessions on various topics in corporate law and directly supervised and mentored many junior and summer associates. She is a graduate of the Massachusetts Institute of Technology and Harvard Law School.

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