

THE MYTH OF THE APOLITICAL CLINIC

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*In their foundational article, *Building a Law-and-Political-Economy Framework: Beyond the Twentieth-Century Synthesis*,¹ argue that we are living through a multiplicity of interconnected crises-political, economic, social, and ecological. Among these, the authors highlight the economic precarity in which most inhabitants of the United States live, the widening of inequality, and the rise in markers of despair across the population. These conditions have, in turn, precipitated a crisis of care and social reproduction that disproportionately affects communities of color, while the accelerating climate crisis threatens to exacerbate all of these challenges. The authors further observe that democratic responses to these problems have proven insufficient; the influence of money in politics deepens the crisis of representation and perpetuates a system in which government policy reflects the preferences of economic elites.*

In light of these converging crises, each of which has only intensified since the article's publication, the authors call for a fundamental reorientation of legal education, particularly in those fields that have reorganized their analytical frameworks around efficiency at the expense of other normative commitments (corporate law, antitrust, property, contracts, etc.). As they note, students entering law schools are invited "to join a conversation shaped by the depoliticization and naturalization of market-mediated inequalities."² The authors challenge those legal subfields that have come to anchor both their descriptive and normative analyses in efficiency, observing that "[e]fficiency itself is typically defined-in practice if not always in theory-as a kind of 'wealth maximization' that works to structurally prioritize the interests of those with more resources." This methodological orientation, they argue, "offers no framework for thinking systematically about the interrelationships between political and economic power. Its commitment to summative conceptions provides it no means to analyze, let alone counter, contemporary concentrations of wealth and power, except insofar as they interfere with overall efficiency."³ The implications for legal education are stark: a first-year law student may arrive

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¹ Jedediah Britton-Purdy, David Singh Grewal, Amy Kapczynski & K. Sabeel Rahman, *Building a Law-and-Political-Economy Framework: Beyond the Twentieth-Century Synthesis*, 129 YALE L.J. 1784 (2020).

² Id.1789

³ It.1790

at an elite institution acutely aware of these obvious crises, only to encounter an intellectual framework that offers no means of connecting them to the legal structures that shape and sustain them.

In parallel and perhaps in complement to these systemic crises, attacks on faculty members and universities have intensified, increasingly targeting higher education and now encompassing mechanisms by which academics who engage in teaching through critical lenses may face professional reprimand. These attacks focus predominantly on instruction that examines structural problems, particularly systemic racism and sexism.

These contemporary assaults on legal education create powerful incentives for institutions to adopt a strategy of blending in: avoiding terminology that could be characterized as divisive, eschewing controversial framings, and presenting themselves as neutral. Yet the crises identified in the foundational Law and Political Economy literature provide an urgent countervailing imperative to be more forceful in our framings-to offer students a perspective on how concentrations of wealth and power are connected to the larger crises we face. Nowhere should these framings be more robust than in the clinical space, and I would argue, in particular, in those clinics that serve organizational clients.

Although the Law and Political Economy authors did not address clinical education directly, their critique can be applied to it as well. Clinical education originated as a bridge between the academy and practice, and as a site for meaningful engagement with clients and the communities they inhabit. Yet a parallel reorientation has taken hold in transactional clinics: market-based solutions and efficiency rationales have become unquestioned foundations for their design. Whatever is framed as necessary for wealth maximization in the benefit of our clients is treated as a matter for technical management rather than political judgment. In this way, transactional clinics risk reproducing the limitations that the Law and Political Economy framework seeks to expose. We are in many ways foreclosing critical inquiry into the structures of power and inequality that foster these crises.

Transactional law clinics offer a compelling case study of the choice to engage in strategic neutrality and to anchor all of our propositions in efficiency. Many transactional clinics have progressively erased social justice language from their missions, removed normative framings from their pedagogical and client service descriptions, and increasingly rebranded themselves as “skills-based clinics”—as though transactional skills were exercised in a vacuum, in service of invisible clients, divorced from questions about economic power and distributive concerns. This article traces that evolution: the contested entry of transactional clinics into the clinical community, the gradual disappearance of social justice language from mission statements, the rise of purely transactional and IP clinics, and the decline of the more holistic community economic development model. The

article goes on to propose reasons for this strategic neutrality and demonstrates that strategic neutrality is both illusory and counterproductive it harms clinical education by negating the very reason it exists, undermines access to justice commitments, harms both clients and students, and offers no meaningful protection from political scrutiny.

Discourse surrounding transactional legal clinics has failed to engage meaningfully with two critical dimensions. First, it has insufficiently challenged the narrative that frames transactional clinics—and ““skills-based” clinics more broadly—as apolitical and neutral enterprises. Within this framing, clinical faculty are encouraged to adopt professional neutrality as a virtue, avoiding articulation of political commitments or normative orientations. The transactional clinic becomes reduced to—or perhaps idealized as—a miniature corporate law firm: a pedagogical space designed primarily for students uninterested in litigation to learn how to “do deals,” unencumbered by questions of equity, access to justice, or the distribution of economic power.

Second, existing discourse has insufficiently examined what is lost when clinics abandon explicit social justice frameworks in favor of ostensibly neutral language—and what interests are served by that abandonment. While terms such as movement lawyering, community lawyering, rebellious lawyering, and poverty lawyering appear frequently in clinical scholarship, there has been little effort to analyze how mission statements constitute the reality of what clinics are and do. As a result, a false binary persists: the Community Economic Development clinician, committed to structural economic justice and community empowerment, stands opposed to the transactional practice clinician, presumed to focus exclusively on technical competence and efficient deal execution.

This binary is both inaccurate and harmful. There is no such thing as an apolitical clinic. A clinic that serves only nonprofit organizations raising over one million dollars annually is making political choices about which communities deserve legal services and which economic models merit support. Every client selection, every deal structure, and every pedagogical choice is shaped by—and contributes to—broader social, economic, and political structures. To teach otherwise misleads our students, particularly in an era when clinical programs face intensifying institutional pressures, shifting philanthropic priorities, and escalating governmental oversight. Moreover, claiming neutrality does not protect clinics from political attack—it simply renders their normative commitments invisible and therefore unchallengeable.

This Article makes two primary contributions. First, it demonstrates empirically that transactional clinics have systematically adopted strategic neutrality in their mission statements, eschewing explicit social justice commitments even when serving marginalized clients and advancing

economic justice substantively. Drawing on constitutive language theory and signaling theory, I argue that this shift represents not neutral description but a deliberate choice to signal political safety to external stakeholders—legislators, donors, administrators—while simultaneously constructing a pedagogical world in which technical skills are divorced from questions of purpose and values.

Second, this Article examines the concrete harms caused by strategic neutrality. By obscuring normative commitments, transactional clinics damage clients who lose access to justice-oriented legal services; students who receive incomplete professional formation divorced from questions of power and inequality; and the broader clinical community whose collective mission is undermined by fragmentation and values ambiguity. Furthermore, I argue that ostensibly “skills-based” transactional clinics are not neutral—they encode strong normative commitments derived from mainstream corporate law pedagogy, which relies heavily on law and economics scholarship and its false claim to value neutrality and apoliticism. When clinics adopt neutral framings while implicitly endorsing efficiency, profit maximization, and market-based solutions, they engage in ideological pedagogy that is all the more powerful for being unmarked.

The Article proceeds in four Parts. Part I develops the history of transactional clinics and their contested integration into clinical legal education, tracing the evolution from Community Economic Development clinics—which explicitly centered economic justice—to the rise of ostensibly neutral transactional practice clinics. Part II presents empirical findings from a comprehensive database of transactional clinic mission statements, demonstrating through quantitative text analysis that clinics have systematically erased social justice language. Part III develops the theoretical framework, drawing on constitutive language theory, institutional theory, and signaling theory to explain why and how clinics adopt strategic neutrality. Part IV examines the harm this produces for clients, students, and the clinical community.

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INTRODUCTION

In recent years, debates over academic freedom and pedagogical boundaries have intensified across American legal education. Faculty members now face heightened scrutiny and censorship across virtually every dimension of their professional roles: curriculum design,⁴ grading practices⁵,

⁴ For ways in which the Federal government has sought to interfere with curriculum design you can follow the interference with the implementation of Standard 303” ABA Guidance, Standard 303 *U.S. Attorney General presses ABA to drop law school DEI rule or risk losing accreditor status*, Reuters (Mar. 5, 2025); *ABA keeps law school diversity rule on hold into 2026 amid Trump crackdown*, Reuters (May 9, 2025). ([Reuters](#)) or the Dear Colleague letter.

⁵ See, e.g., Sean Murphy, *University of Oklahoma Fires Adjunct Instructor Over Essay Critical of Trump's Bible Purchase Initiative*, Associated Press (Jan. 29, 2026), <https://apnews.com/article/oklahoma-bible-essay-instructor-fulneckydei->

classroom instruction⁶, extramural speech,⁷ student discourse inside the classroom, and even institutional appointments.⁸ For clinical professors, these attacks have landed particularly close to home, with multiple law school clinics targeted for their work.⁹

Teaching through race-conscious or anti-racist lenses has been met with threats of legal action that recast efforts to address structural racism as discrimination itself, claiming that any consideration of race—whether in explaining observable social outcomes like inequality or in informing decisions—constitutes a form of discrimination.¹⁰ Furthermore, in 2025, the Attorney General's office challenged the American Bar Association's (ABA) authority to regulate law school accreditation standards related to diversity, equity, and inclusion. Specifically, the Department of Justice contested ABA Standard 206, which requires law schools to “demonstrate by concrete action a commitment to diversity and inclusion,”¹¹ and Standard 303(c), which mandates that law schools provide education on “bias, cross-cultural competency, and racism.”¹² This pressure resulted in the ABA Council of the

[f37ba4b8afdc9d9aba3b73b124f13b9b](#); Univ. of Okla. (@UofOklahoma), X (Jan. 29, 2026, 4:32 PM), <https://x.com/UofOklahoma/status/2003209457195741653/photo/1> (university statement regarding termination).

⁶ See for example the sanctions imposed against Professor Ken Levy after commenting about President Trump in Class <https://www.insidehighered.com/news/quick-takes/2025/01/31/judge-reinstates-professor-lsu-suspended-after-trump-remarks> or Professor Wax, from University of Pennsylvania Carey Law School <https://abcnews.go.com/US/penn-imposes-major-sanctions-controversial-law-professor-amy/story?id=113955753>

⁷ Clinical Professor Felicia Branch, who directs and teaches in the law school’s Low Income Taxpayer Clinic was suspended over comments made in her private social networks over the death of a right-wing activist <https://www.abajournal.com/web/article/law-prof-is-suspended-and-investigated-for-charlie-kirk-comments-is-there-a-hate-speech-exception-to-first-amendment>

⁸ Arkansas new dean appointment was removed after it came out that she had signed an amici curiae supporting trans people <https://www.nytimes.com/2026/01/15/us/politics/university-of-arkansas-dean-emily-suski-transgender.html>

⁹ Professor Gautam Hans, amongst others, has done an amazing job recapping the multiple instances of interference with Clinical Legal Education: <https://lpeproject.org/blog/clinics-under-fire-defending-legal-education-from-political-interference/>

¹⁰ Jo Zhou, *CRT Forward Trends as of October 2024*, CRT Forward Tracking Project (Oct. 31, 2024), <https://crtforward.law.ucla.edu/crt-forward-trends-as-of-october-2024/>.

¹¹ Letter from the Office of the Att'y Gen. to the Am. Bar Ass'n regarding ABA Standard 206, U.S. Dep't of Justice (Jan. 2025), <https://www.justice.gov/ag/media/1392081/dl?inline> (challenging ABA’s diversity and inclusion accreditation standards as potentially violating federal anti-discrimination law).

¹² Am. Bar Ass'n, Council of the Section of Legal Educ. & Admissions to the Bar, Guidance Memo: Standards 303 and 304 (June 2023), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissi

Section of Legal Education and Admissions to the Bar suspending implementation of Standard 206 until August 31, 2026.¹³ These federal interventions occurred alongside a broader local legislative effort to limit teaching and classroom content that touched on critical race theory (CRT)¹⁴, gender or sex mentions and DEI principles.¹⁵ Which has been increasingly focused on higher education and the implementation of sanction and reporting mechanisms. The Administration reinforced this approach in February 2025 by issuing guidance to educational institutions broadly prohibiting race-conscious practices in admissions, hiring, financial aid, and other institutional operations, while threatening sanctions for noncompliance.¹⁶ Those sanctions include the withholding of federal funding, and the establishment of a mechanism through which individuals may bring complaints alleging harm from race-conscious decision-making.¹⁷ This reframing, has been amplified by formal legal opinions from state attorneys general which have repeatedly held that CRT and “antiracism” programming constitutes discrimination on the basis of race, color, or national origin in violation of the Equal Protection Clause of the Fourteenth

[ons_to_the_bar/guidance-memos/23-june-guidance-memo-303-304.pdf](#) (providing guidance on curriculum and experiential learning requirements).

¹³ Am. Bar Ass'n, ABA Council Extends Standard 206 Suspension (May 9, 2025), <https://www.americanbar.org/news/abanews/aba-news-archives/2025/05/aba-council-extends-206-suspension/>.

¹⁴ According to the CRT Forward Tracking Project at UCLA Law School, by October 2024, a total of 862 anti-CRT measures had been introduced across local, state, and federal governments since September 2020.¹⁴ Although the volume of new anti-CRT measures declined sharply in 2024, falling 71% from the prior year, the substance and enforcement approach to these measures also underwent a significant transformation: 41% targeted higher education (up from 28% in 2023), 57% of new measures specifically addressed DEI or antiracism policies (up from 32% in 2023), and 66% (up from 36 % in 2023) incorporated concrete enforcement mechanisms including funding withholding, the creation of private rights of action, revoking teaching licenses and tenure denials. Jo Zhou, *CRT Forward Trends as of October 2024*, CRT Forward Tracking Project (Oct. 31, 2024), <https://crtforward.law.ucla.edu/crt-forward-trends-as-of-october-2024/>.

¹⁵ For a broader discussion on divisive concepts legislation and its effects on legal education, see Karen Tokarz, Becky L. Jacobs, Sherley Cruz, Kendall Kerew, Andrew King-Ries & Carwina Weng, *ABA Standard 303(c) and Divisive Concepts Legislation and Policies: Challenges and Opportunities*, 73 Wash. U. J.L. & Pol'y 247 (2024). However, as an immigrant, and as someone who has both volunteered with a local Lawyer Referral Service and been a recipient of legal services, I would add that the claim that competent legal representation in a country as diverse as the United States can be provided without training students in cross-cultural lawyering is itself a deeply value-laden proposition.

¹⁶ U.S. Dep't of Educ., Office for C.R., Dear Colleague Letter: Civil Rights Implications of *Students for Fair Admissions v. President and Fellows of Harvard College and Students for Fair Admissions v. University of North Carolina* (Feb. 14, 2025), <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf>.

¹⁷ Id.

Amendment.¹⁸ These laws and regulations have created significant compliance pressures for law schools navigating conflicting regulatory demands. Understandably, faculty members may feel increasingly reluctant to frame their teaching around critical race theory, antiracism, or other structural analyses of inequality that could expose them to institutional sanctions or heightened scrutiny. Conversely, these measures create powerful incentives for institutions to adopt a strategy of blending in, avoiding terminology that could be characterized as divisive, eschewing controversial framing, and presenting themselves as neutral.

Using transactional law clinics as a case study, this article argues that whitewashing law school teaching in general, and teaching transactional law through a purportedly neutral “skills based” lens in particular, can result in unintended harms to the very constituencies this type of “strategic neutrality” is meant to protect. Transactional law clinics offer a compelling case study of strategic neutrality precisely because many have engaged in it for decades, well before the emergence of anti-CRT and anti-DEI legislation. Historically, many transactional clinics have refrained from espousing social justice language in their missions and have removed normative framings from their pedagogical and client-service descriptions, often in contrast to other segments of the clinical community. Transactional and intellectual property clinics have increasingly rebranded themselves as “skills-based clinics” in an apparent effort to distance transactional skills from broader questions of economic power, structural inequality, and distributive concerns. This article traces that evolution, including the contested entry of transactional clinics into the clinical community, the gradual disappearance of social justice language from mission statements, the rise of purely transactional and IP clinics, and the decline of the more holistic community economic development model. The article demonstrates that strategic neutrality is both illusory and counterproductive. It reduces the impact and role of clinical

¹⁸ See, e.g., Ark. Att'y Gen. Op. No. 2021-075 (Aug. 6, 2021), https://content.govdelivery.com/attachments/ARAG/2021/08/16/file_attachments/1907584/2021-042%20%2808.16.21%29.pdf (concluding that the implementation of practices based on critical race theory or “antiracism” in Arkansas public schools and universities may violate Title VI of the Civil Rights Act of 1964, the Equal Protection Clause of the Fourteenth Amendment, and article II of the Arkansas Constitution); Request for Opinion RQ-0421-KP, Letter from James White to Hon. Ken Paxton, Tex. Att'y Gen. (Aug. 3, 2021), <https://www.texasattorneygeneral.gov/sites/default/files/request-files/request/2021/RQ0421KP.pdf>; Montana Att'y Gen. Op. No. 1, Vol. 58 (May 27, 2021), <https://dojmt.gov/wp-content/uploads/AGO-V58-O1-5.27.21-FINAL.pdf> (concluding that, in many instances, the use of “Critical Race Theory” and “antiracism” programming constitutes discrimination on the basis of race, color, or national origin in violation of the Equal Protection Clause of the Fourteenth Amendment, Title VI of the Civil Rights Act of 1964, art. II, § 4 of the Montana Constitution, and the Montana Human Rights Act).

education within legal education, undermines access to justice commitments, harms both clients and students, and offers no meaningful protection from political scrutiny.

This article makes two primary contributions. First, it engages with an area that remains largely untheorized: the construction of transactional clinics as politically neutral enterprises. Discourse surrounding transactional clinical pedagogy has failed to meaningfully challenge the narrative that frames transactional clinics and “skills-based” clinics, and more broadly as value-neutral spaces. This framing encourages clinical faculty to adopt professional neutrality as a virtue, avoiding articulation of political commitments or normative orientations in an effort to be an inclusive space for students across the political spectrum. The transactional clinic becomes reduced to, or perhaps idealized as, a miniature corporate law firm: a pedagogical space designed primarily for students uninterested in litigation to learn how to “do deals,” unencumbered by questions of equity, access to justice, or the distribution of economic power.

Second, this article examines the unacknowledged consequences of treating neutrality as achievable and abandoning explicit normative frameworks as desirable. Existing scholarship has insufficiently examined what is lost when clinics shed social justice language in favor of ostensibly neutral framings and what narratives are advanced by that abandonment. This article demonstrates that the supposedly neutral transactional / intellectual property clinic is neither apolitical nor pedagogically superior. Rather, it embeds particular values while obscuring the normative choices inherent in all legal education, and in doing so deprives students of critical context necessary to become more effective attorneys. I analyze the steps that go in to designing and implementing a transactional clinic and make plain the many normative choices inherent in the process of forming and running one such clinic.

The article proceeds in four parts. Part I develops the history of transactional clinics and their contested integration into the broader clinical community. It traces the evolution from community economic development (CED) clinics, which explicitly centered economic justice and community empowerment, to the rise of purely transactional and intellectual property clinics, which present themselves as skills-focused and mission-agnostic. This Part defines what constitutes a transactional clinic, distinguishes CED clinics from their more recent counterparts, and examines the growth of transactional clinics alongside the decline of the more holistic CED model.

Part II examines the construction and deployment of strategic neutrality

within transactional clinics. First, through quantitative text analysis of mission statements, I demonstrate that these programs systematically avoid explicit value commitments, consistently employing the rhetoric of strategic neutrality. Second, drawing on law and language scholarship, I analyze the constitutive effects of this rhetorical strategy. Third, using signaling theory, I explain why clinics might rationally choose this approach despite its consequences.

Part IV examines the harm caused by obscuring normative commitments in transactional clinics. This retreat into strategic neutrality damages both our constituencies: clients and students and the clinical community more broadly. First, it obscures much-needed narratives about who our clients actually are, replicating common but empirically unsupported assumptions about entrepreneurship in the United States. As Priya Baskaran and Alicia Plerhoples note in their critique of entrepreneurship myths, the dominant narrative which is rooted in male whiteness holds that, in Scott Shane's words, "entrepreneurs are very special people" who are "heroes who stand alone and overcome great odds to build companies through superhuman efforts."¹⁹ Second, it diminishes student agency by shielding them from clients who might challenge their assumptions, potentially depriving them of essential lawyering skills such as cross-cultural competency. Third, and perhaps most importantly, it removes critical debates from the classroom about the relationship between technical skills and normative purpose. Students in "neutral" clinics receive training that divorces legal technique from questions of values and professional responsibility, while the clinical community loses its collective ability to articulate and defend a vision of legal education grounded in public service and access to justice.

I. FROM TIE-DYE TO PATAGONIA VESTS: THE CHANGING IDENTITY OF THE TRANSACTIONAL CLINIC

In 2016, Priya Baskaran and Mike Huber published an article positioning transactional legal clinics as a potential site of resistance in response to the first Trump administration.²⁰ Their argument—that transactional clinics were ideally positioned to act as tools to confront regressive policies and structural inequities—feels even more urgent today. In 2025 it is becoming more obvious that we can no longer ignore the central role that corporations and

¹⁹ Priya Baskaran & Alicia E. Plerhoples, *Race and Entrepreneurship: Reclaiming Narratives*, 30 Clinical L. Rev. 7, [7] (2023)

²⁰ Priya Baskaran & Michael Haber, *Transactional Clinics as Change Agents in the Trump Era: Lessons from Two Contexts*, 24 J. AFFORDABLE HOUSING & CMTY. DEV. L. 335 (2018).

economic power play in shaping our political system. The vision of the corporate lawyer as a neutral apolitical actor is increasingly weak.

Importantly, this transformative vision of community lawyering is not new. The field of Community and Economic Development (CED) lawyering has deep roots in the social justice movements of the 1960s and 70s. Likewise, the idea that transactional lawyering can serve as a form of poverty lawyering—aimed at redistributing power and resources to marginalized communities—has a long history. Yet over the past decade, the rapid expansion of transactional clinics has increasingly been framed through the lens of “skills-based” education, often divorcing clinical pedagogy from its social justice-oriented foundations. The result has been a narrowing of focus, where the transactional clinic is treated primarily as a site for building on transactional skills that could be practiced in service of any client.

In defining transactional clinics, I draw on the excellent scholarship of others who have undertaken substantial work in describing the nature and function of the programs we run. Much of this literature highlights three recurring dimensions: the type of clients served, the nature of the work performed on their behalf, and the abilities and competencies that clinics seek to instill in students. I use two examples here to illustrate these approaches.

Professors Pantin and Kosuri focus indirectly on the type of work performed and the clients served: *“We use the term ‘transactional law clinics’ to reference primarily small business and entrepreneurship clinics, but nonetheless, acknowledge that the label is broader than that and includes community economic development, nonprofit, and intellectual property clinics. We also recognize that these categories are fluid and many transactional law clinics engage in multiple workstreams.”*²¹

Professor Ball emphasizes the use of clinical pedagogy in service of organizational clients: *“The term business law clinic is used in this Article to describe a live-client, clinical program that employs clinical pedagogy and clinical legal theory in the practice of business, corporate, or transactional law. For this reason, the Article describes those specific educational programs that not only identify themselves as a business law clinic, but are also utilizing the foundational theories and practices of clinical pedagogy. ... the Article intentionally uses the term business law clinic to emphasize the clinic’s focus on advising and representing company clients in financial and business transactions.”*²²

²¹ Praveen Kosuri & Lynnise Pantin, *Nowhere to Run to, Nowhere to Hide*, 28 CLINICAL L. REV. 199 (Fall 2021)

²² Alina S. Ball, *Disruptive Pedagogy: Incorporating Critical Theory in Business Law Clinics*, 22 Clinical L. Rev. 1 (2015)

Beyond definitional debates, transactional clinicians have also advanced shared critiques of legal education—and even of clinical legal education—arguing that curricula have long suffered from a lack of transactional offerings²³, an excessive focus on litigation skills, and a narrow vision of lawyering. Across the board, however, transactional clinicians share a common value proposition: the application of clinical pedagogy and methods to teach students how to represent organizational clients.

A. Origins of Clinical Education

B. Origins of Transactional Clinics and Evolution

C. The numbers

Drawing on data from the Center for the Study of Applied Legal Education (CSALE) Triennial Survey²⁴ and supplementing it with information from university websites in late 2025 and early 2026, we documented significant growth in clinical legal education programs overall, though with important nuances within the transactional clinic category. The total number of clinics increased steadily from 1,232 in 2019 to 1,629 in 2026. As of 2026, nearly all (98%) ABA-approved law schools offered clinical programs, averaging 8.49 clinics per institution.

To examine transactional clinics more closely, we created a comprehensive database identifying all transactional law clinics across ABA-approved J.D. programs. Our database documents 255 transactional law clinics, reflecting the growing institutionalization of experiential learning in business, nonprofit, and community-focused legal practice. Three-quarters (76%) of law schools provided at least one transactional clinic, with an average of 1.21 transactional clinics per school. However, despite claims by some authors that these clinics would continue to grow, transactional clinics have actually declined as a proportion of all clinics, falling from 19% in 2019 to 18% in 2022 and 16% in 2026.

Within the transactional clinic category itself, we observed notable shifts

²³ Crowder

²⁴ Robert R. Kuehn, David A. Santacroce, Margaret Reuter, June T. Tai & G.S. Hans, 2022-23 Survey of Applied Legal Education, CTR. FOR THE STUDY OF APPLIED LEGAL EDUC. (2023), <https://www.csale.org/#results>.

in focus areas. Clinics concentrating on Entrepreneurship, Startups, and Small Business grew substantially, rising from 29% of transactional clinics in 2016 to 58% in 2026. Similarly, Intellectual Property (IP) and Technology clinics increased from 23% to 36% during the same period. Conversely, Community Development clinics declined from 30% in 2013 to 23% in 2016 and further to 21% in 2026, representing a sustained downward trend.

The geographic distribution of transactional clinics is notably uneven: California and New York host the highest concentration nationwide, a pattern that likely reflects the density of ABA-accredited law schools in those states, the scale and diversity of their commercial ecosystems, and longstanding commitments to clinical legal education in some of those institutions. Of the 255 transactional clinics in our database, 77—roughly one-third—explicitly articulate a social or community-oriented mission, such as serving low-income entrepreneurs, nonprofits, or historically underserved communities. This suggests that a significant subset of transactional clinics understand transactional lawyering as a vehicle for access to justice rather than solely as preparation for practice at corporate law firms.

II. QUANTITATIVE ANALYSIS OF CLINICAL NEUTRALITY: PATTERNS IN TRANSACTIONAL CLINIC MISSION STATEMENTS

Clinicians play an important role in shaping our students’ professional identities. As discussed in the previous section, clinics’ function is to teach students how to be lawyers in “real life.” The framing of our clinics helps shape the transactional lawyer role that our students will enact when they join the legal profession. Clinicians bring to their attention particular scenarios that play out in real life and thus provide the lens through which they will, to a degree, view their clients in future. By avoiding explicit normative framings and distancing our clinics from lived reality, we limit both the world to which they will assign value and the contexts in which they will engage in the core lawyering purpose of storytelling.

To determine patterns in how transactional clinics describe their work, I constructed a comprehensive database of mission statements from all transactional and intellectual property law clinics at ABA-accredited institutions in the United States and applied quantitative text analysis. Drawing on law and language scholarship, I argue that clinic mission statements do not merely describe pre-existing pedagogical objectives but actively determine the reality of what these clinics are and do. Language creates worlds, identities, and relationships; accordingly, the missions that clinics articulate help materialize particular visions of transactional lawyering. I further argue that the well-documented relationship between mainstream law and economics provides transactional clinicians with the building blocks for the neutrality façade that constructs the so-called “skills-based” clinic. These mission statements signal what our clinics value and

prioritize and, just as importantly, what and who they exclude. This Part demonstrates that the shift toward “skills-based” language represents not a neutral description but a constitutive choice that creates a particular kind of clinic and a particular kind of lawyer. Using a Spearman correlation.²⁵ I analyze how the presence an explicit social mission statement influences the type of clients we serve and the type of services we offer. Finally I will propose a brief theory of why transactional clinics might engage in strategic neutrality.

The conceptual framework of this analysis rests on three related propositions. First, I draw on White’s argument that our acts of language are actions in the world, not merely mental exercises.²⁶ Even when we believe we are simply communicating information or engaging in rigorous intellectual discourse, “we are in fact engaged in performances in relation to others, that are ethical and political in character and that can be judged as such.”²⁷ This is true in private life and in public life.²⁸ It is especially true in law, “which is above all the creation of a world of meaning: a world with its own actors, its own forms and occasions of speech, and its own language. Whenever we talk we create a character for ourselves and a relation with others: we offer to constitute a community of a certain kind, for good or ill, and this is often the most important part of what we do.”²⁹ In a country with such a deeply embedded narrative surrounding entrepreneurship and innovation as the building blocks of the United States’ greatness, the clinic may be a site of resistance.

Second, as Michael Sandel argues, the philosophies we articulate inevitably materialize in institutional practice. One might dismiss mission statements as mere signaling, performative gestures designed to attract donors, satisfy campus stakeholders, or, increasingly, appease local legislatures. Indeed, institutions often rely on such signals: mission statements, branding, vocabulary, and framing to communicate alignment, competence, or neutrality to external audiences. However, “philosophy inhabits the world from the start: our practices and institutions are embodiments of theory.”³⁰ He explains that “institutions are not simply instruments that implement ideas independently conceived: they are

²⁵ Spearman’s ρ measures the monotonic relationship between two variables—whether they consistently move in the same or opposite directions—without requiring a linear relationship. A non-linear relationship means the variables don’t change at a constant rate relative to each other.

²⁶ James Boyd White, *Justice as Translation: An Essay in Cultural and Legal Criticism* ix (1990)

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Michael J. Sandel, *Democracy’s Discontent: America in Search of a Public Philosophy* [ix] (1996).

themselves embodiments of ideas. For all we may resist such ultimate questions as the meaning of justice and the nature of a good life, what we cannot escape is that we live some answer to these questions—we live some theory—all the time.”³¹ Refraining from articulating a philosophy in our mission statements does not mean we lack one. Our clinics embody a theory through every choice we make—which clients we serve, which skills we teach, which legal problems we deem worthy of attention. The absence of explicit normative framing does not create neutrality; it simply means the theory we live remains unarticulated, unexamined, and immune to critique.

Third, borrowing from the LPE framework I offer a criticism of why these rooting of our curriculum, client selection and services in corporate law’s deep entanglement with law and economics imports economics’ false claim to value neutrality. As White argues, economics is concerning “not only for the self-interest that it directly asserts, but for the very neutrality, the ‘value freedom,’ that it claims.”³² To adopt a neutral stance on all questions beyond acquisitive and competitive motives “is to be silent on all the great questions of human life: questions of beauty and ugliness in art and music, sincerity and falsity in human relations, wisdom and folly in conduct and judgment and on the greatest of all questions, which is how we ought to lead our lives.”³³ White goes on to say that economics’ claim to value freedom is itself a value commitment. Economic discourse “necessarily values the reduction of life to terms such as I describe, for this is what it achieves. It values thinking about human beings as self-interested creatures, each struggling to maximize its own ‘wealth’: it values quantitative reasoning and competition for dominance.”³⁴ As White concludes, “value-free economics is actually committed to certain values, both in the assumptions it makes about the world and in the conventions by which its own discourse operates.”³⁵ Indeed, “every discourse is a way of being and acting in the world, a way of constituting a character for oneself and a community with others: every discourse is a system of motive and meaning that commits its users to what we call ‘values’ and it does so in both domains, that is, in one’s account of the ‘other world’ one talks about and in the here-and-now world one creates by talking.”³⁶

Law and economics has profoundly influenced corporate law teaching, clinical education included. This pedagogy imports economics discourse’s false claim to value freedom. Transactional clinics framed as “skills-based”

³¹ *Id.*

³² James Boyd White, *Justice as Translation: An Essay in Cultural and Legal Criticism* 58 (1990).

³³ *Id.* at 58–59

³⁴ *Id.* at 59.

³⁵ *Id.* at 59.

³⁶ *Id.*

thus inherit particular normative commitments while denying their political character: they privilege efficiency and profit maximization, treat market mechanisms as superior to regulatory intervention, and frame private ordering as the default solution to social problems, for example. All while presenting these values as neutral technical competencies rather than as contested normative choices.

A. Analysis

To empirically test whether transactional clinics have adopted strategic neutrality in their self-presentation, I constructed a comprehensive database of all transactional law clinics at ABA-accredited institutions. This database includes clinic mission statements, structural characteristics, and geographic location, allowing for systematic analysis of how transactional clinics frame their work. I conducted both quantitative analysis of clinic characteristics and text analysis of mission statements to identify patterns in how clinics describe their purposes, clientele, and normative commitments. The methodology and detailed findings are presented in the Appendix A. This Part summarizes the key findings and their implications for understanding strategic neutrality in transactional clinical legal education.

1. Bivariate Analysis: Correlates of Explicit Social Justice Mission Statements

Clinics with explicitly stated social justice missions demonstrate statistically significant associations with specific structural characteristics, client populations, and state-level conditions.

Positive associations exist between having an explicit social justice mission and: serving low-income populations; engaging in public policy work; working with social enterprises (notably, no significant association exists with serving nonprofit organizations); adopting a community-based model; operating in states with higher Native American poverty rates; operating in states with higher rates of school discrimination; operating in states with higher rates of disability discrimination in government facilities; and operating in states with larger populations reporting problems with government benefit claims (Table 1, 2, and 3).

Negative associations exist between having an explicit social justice mission and: serving startups; adopting an intellectual property or technology-focused model; being located in states that voted Republican in the 2024 presidential election; has a Republican governor; and operating in states with higher bankruptcy rates (Table 1, 2, and 3)

when serving particular client populations (low-income individuals and social enterprises rather than startups) and when operating in contexts characterized by greater structural inequality and civil legal needs. Conversely, clinics serving growth-oriented startups or operating in Republican-controlled states are significantly less likely to articulate explicit social justice missions, even when their work may substantively advance economic opportunity or access to justice.

Table 1.

Main objective of Transactional Clinic			
Stated Social Mission			
	No	Yes	p-value
Entrepreneur			
No	80.7%	19.3%	
Ye	86.2%	13.8%	
S	%	%	0.249
IP / Technology			
No	76.5%	25.5%	
Ye	95.5%		
S	%	4.5%	<0.001
Community based			
No	89.0%	11.0%	
Ye	62.8%	37.5%	
S	%	%	<0.001
Policy / Legislative			
No	84.9%	15.1%	
Ye	69.6%	30.4%	
S	%	%	0.059
Other			
No	83.2%	16.8%	
Ye	90.0%	10.0%	
S	%	%	0.570

Table 2.

Type of population/enterprises it attends

Stated Social Mission			
	No	Yes	p-value
Nonprofits			
No	87.2%	12.8%	
Yes	77.7%	22.3%	0.052
Social enterprises			
No	85.7%	14.4%	
Yes	57.9%	42.1%	0.002
Startups			
No	80.3%	19.7%	
Yes	97.7%	2.3%	0.005
Low-income population			
No	86.0%	14.0%	
Yes	64.3%	35.7%	0.004
Other			
No	83.2%	16.8%	
Yes	90.0%	10.0%	0.570

Table 3.

Characteristics of the State			
Stated Social Mission			
	No	Yes	p-value
Party voted in presidential elections			
Democrat	79.4%	20.6%	
Republican	89.5%	10.5%	0.042
State Governor's Party			
Democrat	83.2%	16.8%	
Republican	85.3%	14.8%	<0.001
State Population			
		1.37	
Mean	mill	1.13mill	
		0.79	
SD	mill	1.6mill	0.205
Poverty Rate			
Mean	12.2%	12.6%	
SD	0.1%	0.4%	0.293
Female Poverty Rate			
Mean	13.3%	13.7%	
SD	0.1%	0.4%	0.267
Male Poverty Rate			

Mean	11.1%	11.4%	
SD	0.1%	0.4%	0.359
Black Poverty Rate			
Mean	21.5%	21.1%	
SD	0.3%	0.7%	0.551
White Poverty Rate			
Mean	9.7%	9.2%	
SD	0.1%	0.4%	0.124
Native American Poverty Rate			
Mean	20.4%	22.4%	
SD	0.4%	0.9%	0.045
Asian Poverty Rate			
Mean	11.1%	11.5%	
SD	0.2%	0.4%	0.276
Native American Islander Poverty Rate			
Mean	18.4%	18.4%	
SD	0.5%	1.2%	0.977
Hispanic Poverty Rate			
Mean	18.1%	18.2%	
SD	0.3%	0.6%	0.900
Disability Poverty Rate			
Mean	24.6%	25.2%	
SD	0.2%	0.5%	0.229
School Discrimination			
Mean	10.1%	13.3%	
SD	0.4%	1.6%	0.004
Disability Discrimination in Government			
Mean	8.7%	0.4%	
SD	11.3%	1.0%	0.005
Disability Discrimination in Stores			
Mean	9.4%	11.1%	
SD	0.4%	1.2%	0.086
Problems with student loans			
Mean	10.1%	10.1%	
SD	0.2%	0.6%	0.972
Harrasment from credit companies			
Mean	10.6%	10.2%	
SD	0.3%	0.8%	0.570
Bankruptcy Rate			
Mean	5.6%	4.5%	

	SD	0.2%	0.5%	0.043
Utility Disconnected				
Mean		9.9%	10.0%	
SD		0.3%	0.7%	0.835
Problems with Government Claims				
Mean		25.9%	27.4%	
SD		0.3%	1.0%	0.047
Problems related with civil litigation				
Mean		18.8%	17.7%	
SD		0.4%	1.0%	0.065
Sought Legal Help				
Mean		10.9%	11.0%	
SD		0.4%	0.9%	0.870
Disability Poverty Rate				
Mean		24.6%	25.2%	
SD		0.2%	0.5%	0.229

A. Signaling Theory and Strategic Neutrality

In this section, I have argued that economic frameworks fall short in accounting for legal phenomena and that transactional clinicians nonetheless draw substantively from this methodology in their practice. I argue here that by framing their clinics outside explicit normative commitments, transactional clinicians signal to external stakeholders—donors, politicians, university administrators—that they will refrain from engaging in “controversial” topics and thus represent a “safe” approach to serving underserved communities.

Eric Posner's signaling theory provides a framework for understanding this strategic framing. In *Law and Social Norms*, Posner argues that under conditions of asymmetric information, individuals engage in costly behaviors to signal that they are cooperative and trustworthy partners³⁷. Posner argues that the reason why social norms exist is the individuals' need to demonstrate that they value the formation of a sustained cooperative relationship enough to forego the immediate benefits of defection.³⁸ Posner sets aside internalized values and normative motivations, focusing instead on strategic signaling as the justification for cooperative behavior amongst people.³⁹ This theory

³⁷ Eric A. Posner, *Law and Social Norms* 18–19 (2000).

³⁸ *Id.*

³⁹ *Id.*

adequately describes the conditions faced by transactional clinics. There are information asymmetries: it would be costly for outside actors to fully monitor and observe what happens inside the clinic. Outside actors such as, legislators considering sanctions under divisive concepts legislation, donors evaluating funding priorities, and administrators assessing institutional risk, cannot directly monitor what we teach in seminar or the work we perform on behalf of clients. Consequently, these actors rely on signals: mission statements, branding, vocabulary, and framing to assess alignment, competence, or political neutrality. By adopting “skills-based” framing and eschewing explicit social justice language, transactional clinics signal that they are safe, cooperative institutional actors who will not generate political controversy. Clinics sacrifice clarity about their values and purposes to communicate: we will not be the clinic that triggers legislative scrutiny, donor backlash, or administrative intervention.

Although, I do not agree that this theory explains social norms, I think that this framework explains, at least partly, transactional clinics' adoption of “skills-based” language. My argument is not that these clinics necessarily avoid social justice work substantively—many serve marginalized clients and advance economic justice—but rather that they strategically avoid claiming any social justice related mission or explain their work in normative terms.⁴⁰

Figure 1. Relationship between Stated Social Mission and Transactional Clinic Type

⁴⁰ See, e.g., Willow S. Dixon, *Values Ambiguity and the Problem of Definition in Transactional Clinical Legal Education*, [Volume] Clinical L. Rev. 385, 385 (Year). Dixon illustrates the ambiguity inherent in “business clinic” framing by contrasting two clinics with similar practices but different presumed values: “Despite these similarities the CED Clinic would be more likely to be presumed to be carrying out this work for a social justice purpose, while the Business Law Clinic’s underlying values-commitments might be seen as ambiguous. It may be the case that in fact the Business Law Clinic had the same social justice orientation as the CED Clinic, or a different but equally foundational values commitment, or no social justice orientation at all. But whatever the case may be, we would likely not presume, absent additional information, that the Business Law Clinic had a foundational social justice commitment. I would therefore describe the Business Law Clinic, but not the CED Clinic, as values-ambiguous.” *Id.* Dixon notes that “although CED clinics usually are transactional, CED clinics are often excluded from values-based critiques of transactional clinics.” *Id.*

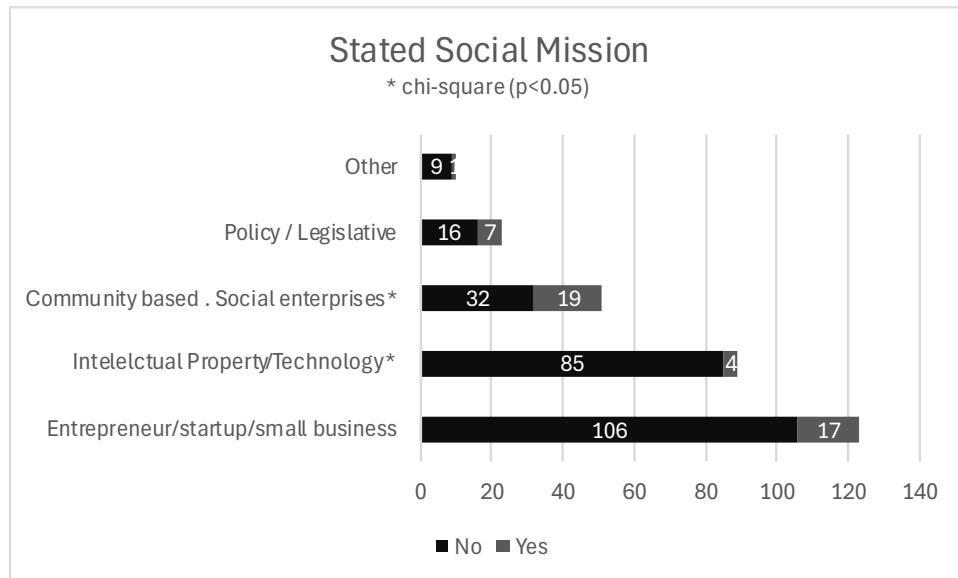


Figure 2. The Mission Framing Analysis Framework

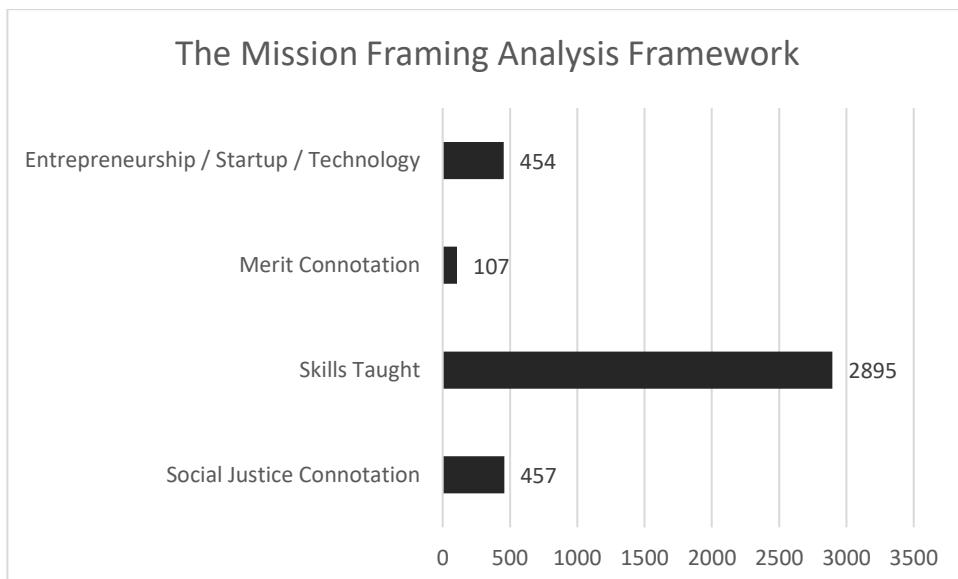


Figure 3, World Cloud of most common used word in Mission Statements 100 words



If then, a clinic can engage in whatever work they want without announcing it to the world, some could argue that strategic neutrality is costless—that the right people will interpret the right signals regardless of explicit articulation. In the following section, I will demonstrate that this assumption is false. In this section, I have shown that there is a statistically significant relationship between a clinic's embrace of a social justice mission and the populations they serve.

Yet this strategic silence has constitutive consequences. As demonstrated in this section, mission statements do not merely describe what clinics do—they create the reality of the clinic and shape the professional identities students develop. By refusing to name social justice commitments, clinics signal political safety to external audiences while simultaneously constructing a pedagogical world in which efficiency, technical competence, and client service are divorced from questions of power, inequality, and structural justice.

Under signaling theory, the adoption of “skills-based,” entrepreneurship-focused language functions as a reputational signal. It communicates that the clinic is focused on technical training rather than “ideological” commitments. Whether or not this reflects the full substance of the clinic's work is less important than the signal it sends. I would argue that in today's environment, this dynamic is problematic in itself. But for the purposes of this section, I will conclude that there is a relationship between the normative commitments a clinic embraces, the population it serves, and the political environment in which it operates.

III. DECONSTRUCTING NEUTRALITY: HOW AND WHERE NORMATIVE CHOICES GET MADE

Having demonstrated in the previous section that transactional clinics have shifted toward neutral phrasing and mission statements that avoid

articulating “macroscopic objectives,” I now show that focusing on “skills” does not mean clinics lack values or specific normative commitments. Even clinics that avoid explicit ideological framing make strong value-laden propositions and signal these to students. A clinic need not brand itself as “social justice” or “skills-based” to operate within explicit normative frameworks—thus, claiming neutrality would be misleading.

Table [X] below presents three clinics across the spectrum of explicit value articulation: Clinic A, an ostensibly neutral transactional clinic serving “high-growth” startups and venture capital firms; Clinic B, occupying a middle position by serving nonprofit clients (which by definition pursue stated social purposes); and Clinic C, which explicitly names its target clients as disenfranchised individuals and communities and articulates an intent to explore the limitations of market-based mechanisms.

Table X. Information for Students: Three Different Clinics

Clinic	Mission Framing	Services Offered
A	Clinic A focuses on innovation and startups; serves high-growth ventures and VC firms	Entity formations, conversions, and re-domestications; contract drafting/negotiation and risk management; shareholders agreements, founders agreements, operating agreements, and internal governance documentation; federal and state tax matters; employee and independent contractor agreements, including equity grants; equity incentive plans; compliance with federal, state, and local laws; drafting and reviewing commercial agreements with vendors, suppliers, customers; corporate governance; terms of service and privacy policies; trademark and copyright issues; software and IP licenses; manufacturing, design, and co-branding agreements; seed-stage

Clinic	Mission Framing	Services Offered
		financing documentation (SAFEs and convertible notes)
B Clinic	Serves clients	Contract drafting and analysis; real estate matters; regulatory nonprofit compliance; corporate structure advising; entity formation; applying for tax-exempt status; employment and other policies
C Clinic	Explicit social justice mission; serves disenfranchised individuals and communities; explores limitations of market-based mechanisms	Contract drafting and analysis; real estate matters; regulatory compliance; corporate structure advising; entity formation; employment and other policies

At first glance, students choosing among these clinics might expect to learn similar skills across all three programs: entity formation and corporate governance documentation, contract drafting and negotiation, regulatory compliance, and employment law matters. However, even in how clinic information is presented to students, we make value-laden choices that signal our position on an ideological spectrum. By the time students engage in actual formation work and drafting, numerous normative decisions have already shaped their experience. Using Professor Crowder's article "Designing a Transactional Law Clinic for Life-Long Learning" as a model, I outline the multiplicity of normative and political choices embedded in designing a transactional clinic.

A. Designing What Type of Transactional Legal Services to Provide

The services themselves signal priorities. Clinic A's extensive menu—ranging from Delaware C-Corp formations to SAFE agreements and venture capital documentation—signals expertise in high-growth entrepreneurship and sophisticated capital markets. Clinic C's more limited service offerings reflect different resource allocations and client needs.

B. Student Recruitment

The information presented in "information for students" sections constitutes an exercise in signaling that can create pathways or barriers. Students with higher GPAs who believe they have better prospects at large law firms may gravitate toward Clinic A, perceiving it as more aligned with corporate practice. Students who feel deprioritized by career services offices may assume they are "out of the running" for prestigious transactional work.

Conversely, explicitly naming underserved communities can attract

students who might otherwise assume transactional law is not for them. During my time at Berkeley, our clinic attracted a significant number of Latina/o students because we explicitly stated we worked in the Central Valley with many Spanish-speaking clients. This signaling opened doors for students who might not have otherwise considered transactional practice.

C. Client Recruitment, Selection, and Management

Client selection represents perhaps the most consequential value-laden decision. If the skill we are aiming to teach is entity formation, the student experience will differ dramatically based on the client base: Are students forming primarily LLCs for undocumented immigrants trying to make a living or Delaware C-Corps for startups? Where are clients obtaining funding venture capital, community development financial institutions, or bootstrapping? What types of agreements require drafting? Will students need to provide translations into other languages?

For Clinic A, clients are high-growth startups (meaning they intend to scale rapidly) and venture capital firms. This client base necessitates familiarity with sophisticated financing instruments, equity compensation structures, and Delaware corporate law.

For Clinic C, clients are drawn from marginalized or undercapitalized communities engaged in community-based revitalization, microfinance, social enterprise, or mission-driven businesses. Students learn to navigate capital scarcity, alternative ownership structures (cooperatives, benefit corporations), and community accountability mechanisms.

The same “skill”—entity formation—thus carries radically different normative content depending on whom the clinic serves.

D. Representative Clients

E. Administrative concerns

F. Task Framing as Signaling to Multiple Constituencies

How clinics describe their work signals values to multiple audiences: prospective students, other stakeholders within the law school and university, potential donors, and legislative observers. Clinic A's emphasis on “innovation” and “high-growth ventures” signals alignment with entrepreneurial ecosystems and economic development priorities. Clinic C's explicit social justice framing signals commitments to equity and structural critique.

2. Student Recruitment and Selection

What we lose when we hide the ball

Client stories
Failing to teach our students

WHAT WE LOSE WHEN WE HIDE OUR VALUES

A. We Produce Ineffective Lawyers

In his paper, Fleischer identifies three main challenges in bridging the gap between legal education and practice, the first being the “Lack of Conceptual Framework for Teaching Transactions.” Fleischer notes the difficulty of defining what business lawyers actually do: “How can students be introduced to transactions in a coherent way, with consistent themes that apply to a wide range of transactions? Without a conceptual framework, it's hard to know exactly what to teach.” He warns that without such a framework, teaching transactions risks becoming “dry and tedious” or devolving into “a paint-by-numbers approach in which students learn to find a form agreement and change the names of the parties.”

This problem has intensified with the rise of legal technology and automation. Where law firms are already looking to replace first year associates with , transactional lawyers must increasingly provide value through critical thinking and judgment rather than mechanical drafting. Students trained in an environment where their assumptions are never questioned, whose critical thinking has not been exercised or to connect what they are doing with bib picture thinking because as one examplewhere they never grapple with the political and ethical dimensions of their work—will be ill-equipped to protect their clients from complex risks, including reputational ones. If we obscure the normative choices embedded in transactional work, we fail to develop the critical faculties our students need to navigate an evolving legal marketplace.

B. We Isolate Ourselves Within the Clinical Community

Obscuring our mission does not make our clinics more appealing; it makes them irrelevant. Without an express acknowledgment of our values, we render our clinics isolated islands within a broader clinical community that seeks to advance social justice goals. If we fail to recognize the connection between what we do and broader normative commitments, it is no wonder that other clinicians might question our value. If we stand for nothing more than providing seamless transitions into corporate law firms—stitutions that already have extensive training programs—why should law schools allocate scarce resources to subsidize private sector training?

This isolation has material consequences. It is perhaps no coincidence that the number of community economic development clinics has declined in parallel with the rise of transactional and IP clinics. To meaningfully collaborate with other clinics and clinicians, we must clearly articulate what we stand for and how our work advances shared goals within clinical legal

education.

C. The Legitimacy Cost of Studied Neutrality

The crises that plague the US have to be acknowledged and a position has to be adopted otherwise we risk losing legitimacy and credibility. In a country with an increasingly diminished social safety net, where only market-based mechanisms are recognized by large segments of the population as legitimate pathways out of poverty, clinics that employ these very mechanisms should be essential. Consider recent debates over SNAP benefits and other social programs: as traditional forms of public assistance face political attack, community economic development becomes more, not less, critical.

Multiple scholars—including Alicia Alvarez and Paul Tremblay—have advanced the concept of transactional lawyering as poverty lawyering. Community economic development clinics are uniquely positioned to help people in a country where other forms of assistance are increasingly curtailed. Yet the proportion of clinics doing this work has declined from 30% in 2013 to 21% in 2026. If we cannot articulate why this work matters, we cannot defend its necessity or recruit students and resources to sustain it.

D. We risk Making Ourselves Obsolete

Transactional clinics that refuse to articulate distinctive values face replacement. The suite of transactional services now provided online continues to expand. Startup clinics that serve exclusively founders may find themselves supplanted by law firms that have developed workarounds to represent founders in exchange for equity stakes. Without a clear mission beyond skill-building, we offer nothing that cannot be replicated, and often more efficiently by technology or the private market.

E. We Fail Our Clients

Much has been written about how progressive lawyers sometimes reproduce hierarchical structures of domination, leaving clients more disempowered. When we erase our normative commitments from our clinic mission statements, we also erase the people we serve.

1. On How We Tell Their Stories

Lawyering's symbolic and narrative dimensions are well-established in legal scholarship. James Boyd White captures this in *The Legal Imagination* through the classical rhetorical concept of *ingenium*—“the power to make something new.” This power operates on two levels: “the power to ask new questions of the world, of the client and the witnesses and the files—to ask questions that will generate new material; and the capacity to organize it all in new ways, as a new story, with its own starting point, direction, movement, and ending—the capacity, that is, to recreate or represent the world in language.” But if we understand institutions as “the rules of the game”—the structures that shape social interactions and outcomes—then teaching students to ask questions and construct narratives is never politically neutral.

The legal imagination we cultivate determines which institutional arrangements students will challenge and which they will take as given.

2. On How We Provide Services

If we refuse to teach students to engage with complicated topics of race and other divisive issues, we hinder their effectiveness. Research demonstrates that race-neutral training in interviewing and counseling skills may actually lead to continued marginalization of clients of color. As one scholar examining racially neutral client-centered counseling models notes, these models create difficulties “by failing to incorporate the concept of race particularly as it relates to the models' treatment of the 'difficult' client.” Empirical data gathered by social scientists demonstrate that race plays a significant role in counselor-client interaction, and that “the race and behavior of the counselor can have an equally serious impact on the relationship as can the race and behavior of the client.” Without explicit attention to these dynamics, we prepare students to perpetuate rather than remedy existing inequalities in lawyer-client relationships.

3. We Exacerbate the Access to Justice Crisis

The concentration of transactional clinics in states like California and New York raises questions about regional disparities in access to transactional clinical training and, more critically, community-oriented business legal services in underserved regions of the country. When we fail to articulate that access to quality transactional legal services is itself a justice issue, we cannot make the case for expanding such services to underserved communities. We cannot advocate for resources to address geographic inequities if we cannot explain why such inequities matter.

CONCLUSION

APPENDIX A. METHODOLOGICAL NOTE

Methodological Note

We conducted a descriptive cross-sectional analysis of clinical programs offered by law schools whose Juris Doctor programs were approved by the Council of the American Bar Association, as listed on the ABA website in February 2026.

Sample and Variables

We constructed our database by accessing each law school's official website and identifying its clinical programs and offered clinics. Externships and miniclinics were excluded from the analysis.

For schools with clinical programs, we examined whether they offered transactional clinics and, if so, how many. A clinic was classified as transactional if its objectives did not involve litigation and if it was not limited

to general legal education for communities or students.

We reviewed the stated mission of each clinic to determine whether it contained an explicit social justice statement. Based on the clinic name and mission statement, we also assessed whether the clinic worked with nonprofit organizations, social enterprises, startups, low-income businesses or organizations, and whether it engaged in policy- or legislation-oriented activities.

For further analysis, we identified whether the states in which each ABA-approved JD-granting university was located were classified as Republican or Democratic based on their electoral votes in the 2024 presidential election, and whether the state governor was Republican or Democratic. Additionally, using data from the Legal Services Corporation's Justice Gap Report published by America's Partners for Equal Justice, we added state information regarding poverty rates (general poverty rate and poverty rates disaggregated by gender, race, ethnicity, and disability status) and civil legal problems (discrimination in schools, discrimination against people with disabilities in government facilities and commercial establishments, student loan issues, creditor harassment, bankruptcy rates, utility disconnections due to economic hardship, government benefit claims problems, civil litigation matters, and whether individuals sought legal assistance for these problems). We measured the frequency of each constructed variable, including the total number of clinics and transactional clinics in each state and their characteristics. We conducted bivariate analyses using Spearman correlation to assess whether statistically significant associations existed between our variables and whether the university was located in a Democratic or Republican state, as well as Justice Gap Report variables. We then conducted bivariate analyses to identify statistically significant relationships between having an explicitly stated social justice mission and clinic characteristics variables and state-related variables, using chi-squared tests for categorical variables and Student's t-tests for numerical variables.

We also conducted quantitative text analysis of the mission statements of identified transactional clinics. First, we copied verbatim each mission statement as presented on the respective websites and compiled them into a single file. We actively searched for the presence of four categories: (1) Social Justice Connotation; (2) Skills Taught; (3) Merit Connotation; and (4) Entrepreneurship, Startups, or Technology Connotation. The specific words and terms included in each category are listed in the Supplementary Material. We report the frequencies for each category.

Second, we conducted word frequency analysis and generated word clouds. Words related to general curricular descriptions and routine educational language were excluded; the complete list of excluded terms is provided in the Supplementary Material. The objective of the text analysis was to compare the extent to which transactional clinics emphasize meritocratic and

profit-oriented terminology compared to social justice and equity terminology in their stated missions.