

WHY NOT A 1L CLINIC?

JACLYN KELLEY-WIDMER*

This article explores the benefits and challenges of offering a clinical course for first-year law students. Currently, only five percent of law schools permit 1Ls to take clinical courses, and only two law schools offer clinics specifically designed for 1Ls. Drawing from the author's experience teaching a 1L clinic and contextualizing this project within experiential education pedagogy and the broader law-school curriculum, the article explores reasons a law school might opt to develop a clinical course for 1Ls. The article provides a snapshot of the student perspective through data analysis of students' self-reported reasons for enrolling in the clinic and experiences gained in the course. Further, the article discusses specific pedagogical innovations and benefits of a 1L clinic, and it frankly assesses and strategizes around the inherent challenges in such a project. Finally, the article presents concrete ideas for how schools might build on this knowledge to design new clinical programs and other credited experiential work for first-year law students.

INTRODUCTION

First-year law students have very limited opportunities to engage in live-client clinics¹ for credit. The first year of law school remains focused on traditional doctrinal classes such as property, civil procedure, contracts, and tort law, along with legal writing.² True, many law schools now

* Clinical Professor of Law, Cornell Law School. In working on this project and later this piece, I had invaluable support from far too many Cornell Law colleagues to name here, and to whom I am so grateful. Thanks to Beth Lyon for her support; to my incredible co-teacher, Alisa Whitfield; and to fantastic research assistants Sarahi Rivas and Allayne Thomas. Finally, enormous thanks to the students and clients who trusted me with this project, especially my very first class of 1L Clinic students.

¹ I use the term “clinic” in this article to refer to curricular courses taught by law-school faculty in which students engage in lawyering for academic credit on behalf of clients and communities and which include a seminar component. See Lindsay M. Harris, *Learning in “Baby Jail”: Lessons from Law School Engagement in Family Detention Centers*, 25 CLIN. L. REV. 155, 168 (2018); Elliot S. Milstein, *Clinical Legal Education in the United States: In-House Clinics, Externships, and Simulations*, 51 J. LEGAL EDUC. 375, 376 (2001) (describing “in-house, live-client clinics.”); Margaret Martin Barry, Rachel Camp, Margaret E. Johnson, Catherine Klein & Lisa Martin, *Teaching Social Justice Lawyering: Systematically Including Community Legal Education in Law School Clinics*, 18 CLINICAL L. REV. 401, 404 (2012) (discussing how “community legal education can be a powerful means to pursue the clinical legal education mission.”).

² See, e.g., Michael A. Milleman & Eduardo R.C. Capulong, *Introduction*, in THE NEW 1L: FIRST YEAR LAWYERING WITH CLIENTS 3, 7 (Eduardo R.C. Capulong, Michael A. Milleman, Sara Rankin & Nantiya Ruan eds., 2015) (describing the typical first-year doctrinal courses taught at law schools since the 1870s that remain largely the same today); Harris, *supra* note 1, at 168 (noting that “traditional legal education, which has involved studying appellate cases,

permit electives in the second semester,³ and some have moved certain core classes into elective options that can be taken beyond the first year.⁴ Nevertheless, the overall curricular structure remains traditional,⁵ despite calls to more concretely prepare students for practice⁶ and an ongoing movement to integrate more experiential education⁷ into the curriculum.⁸

Many incoming law students are motivated by a passion for justice and have an idealistic desire to use their law degree to help others,⁹ as is possible in experiential settings. Today's law students, mostly of

through engaging in the Socratic method of questioning, by a 'podium' professor, typically with a high student to faculty ratio"—the "opposite" of clinical pedagogical models).

³ Schools permitting an elective in second semester of law school include, for example, the University of Chicago Law <https://www.law.uchicago.edu/prospective/1Lcourses>; Duke Law School, <https://law.duke.edu/study/firstyear/>.

⁴ For example, New York University Law permits students to take constitutional law and property as upper-level electives (but they remain graduation requirements), <https://www.law.nyu.edu/academics/courses/requiredfirstyearcourses>; Michigan Law School no longer requires property in the first year, <https://michigan.law.umich.edu/academics/programs-study/jd-program>.

⁵ See, e.g., Milleman & Capulong, *supra* note 2, at 7; Margaret Martin Barry, *Practice Ready: Are We There Yet?*, 32 B.C.J.L. & Soc. JUST. 247, 250 (2012) ("Despite almost a century of critique that [the traditional] approach does not provide enough preparation for the profession, law schools have been reluctant to substantially modify it.").

⁶ See Cynthia Batt, *A Practice Continuum: Integrating Experiential Education into the Curriculum*, 7 ELON L. REV. 119, 120 (2015) (arguing that "[l]egal education continues to struggle with the basic question of how best to educate law students for the professional lives they will face post-graduation" and explaining several catalysts for reexamination of the curriculum); see also Barry, *supra* note 5, at 251-52 ("[l]aw schools are beginning to process a new reality that calls for relevance and effective professional preparation.").

⁷ The exact parameters of the term "experiential education" is a subject of debate beyond the scope of this article, but it most commonly includes clinics, externships, and simulations, and sometimes includes legal research and writing courses and other pro bono projects that are a formal part of the curriculum—which is how I use the term here. See also Batt, *supra* note 6, at 124 (noting that schools define the concept differently, but a unifying principle is that "[e]xperiential education in law schools often is considered the vehicle by which students are transformed into practitioners through the acquisition of lawyering skills."); Deborah A. Maranville, Mary A. Lynch, Susan L. Kay, Phyllis Goldfarb & Russell Engler, *Re-Vision Quest: A Law School Guide to Designing Experiential Courses Involving Real Lawyering*, 56 N.Y.L. SCH. L. REV. 517, 519 (2012) (experiential education includes a "wide array of options for structuring an educational experience in which law students are performing as professionals by serving people involved in legal matters.").

⁸ See Erwin Chemerinsky, *Why Not Clinical Education?*, 16 CLIN. L. REV. 35, 37 (2009) (describing the history of law-school curricular critiques and the current effort for reform in which "experiential training is increasingly being emphasized"); Rebecca Sandefur & Jeffrey Selbin, *The Clinic Effect*, 16 CLIN. L. REV. 57, 59 (2009).

⁹ A 2018 study by the Association of American Law Schools found that at least a third of aspiring law students are motivated by public-interest aspirations when they apply to law school. Ass'n. of Am. L. Schs., *Highlights from Before the J.D.: Undergraduate Views on Law School* 3, <https://www.aals.org/research/bjd/> (35% applying to law school out of a desire to help others; 32% interested in being an advocate for social change). This motivation has been true for some time, of course, as observed by Prof. William Quigley: "Many come to law school because they want in some way to help the elderly, children, people with disabilities, undernourished people around the world, victims of genocide, or victims of racism, economic injustice, religious persecution or gender discrimination." William P. Quigley, *Letter to a Law Student Interested in Social Justice*, 1 DEPAUL J. FOR SOC. JUST. 7, 9 (2007).

Generation Z,¹⁰ aspire to “change the world,” and are “willing to mobilize to achieve justice and equality.”¹¹ The current generation’s diversity and engagement with activism¹² means that today’s students are more eager than ever before to engage in social-justice-oriented work on behalf of others.¹³ But law schools’ traditional curricular focus and competitive culture, paired with the dominant postgraduate career opportunities in corporate law, can cause law students to become disillusioned early in their law school careers,¹⁴ as their goals may not match their educational experience. However, early involvement in live-client public-service work can provide balance and inspiration for students.

Further, experiential work, especially early on, makes students better learners and sets them up for their legal careers. Whether they go directly into public service after law school, into corporate law, or into fields like academia or government, law-school opportunities to engage in practical projects “for the greater good” are formative, often profound experiences that may establish a student’s career path or pro bono practice area.¹⁵ At the very least, public-interest work in law school can color students’ understanding of systemic injustices and broader societal challenges, providing a formative experience that can contextualize and inform their future work in any field, legal or otherwise.

Innovative legal educators have been moving law school—especially the second and third years—towards more practical, skills- and

¹⁰ Gen Z includes persons born between 1995 and 2010. Laura P. Graham, *Generation Z Goes to Law School: Teaching and Reaching Law Students in the Post-Millennial Generation*, 41 U. ARK. LITTLE ROCK L. REV. 29, 37 (2018).

¹¹ Tiffany D. Atkins, #fortheculture: *Generation Z and the Future of Legal Education*, 26 MICH. J. RACE & L. 115, 129 (2020); Nathan Peart & Jacqueline Bokser LeFebvre, *Gen-Z: Now Influencing Today’s Law Firm Culture*, Major, Lindsey & Africa 7 (May 10, 2023) <https://www.mlglobal.com/en/insights/research/genz-now-influencing-todays-law-firm-culture> (Report by a legal search firm found that Gen Z is “a generation whose members are motivated deeply by their intrinsic values and seek work that aligns with these values.”).

¹² See Atkins, *supra* note 11, at 127-30 (describing the typical traits of “Gen Zers”).

¹³ *Id.* at 133; see also Corey Seemiller & Meghan Grace, *GENERATION Z: A CENTURY IN THE MAKING* 278-80 (2019) (Gen Z desires to change the world and has a high level of civil engagement and motivation towards activism on behalf of social causes).

¹⁴ See Quiqley, *supra* note 9, at 9-10 (“The repeated emphasis in law school on the subtleties of substantive law and many layers of procedure . . . can grind down the idealism with which students first arrived.”); see also Harris, *supra* note 1, at 192 (explaining that experiential learning is “particularly important for first-year law students, who can become disillusioned, confused, and overwhelmed by the traditional first year curriculum”).

¹⁵ See Sandefur & Selbin, *supra* note 8, at 57 (study showing a strong correlation between clinic participation and public service work, and showing that clinical training may be a strong factor in graduates’ longer-term engagement with civic work); see also Matt Reynolds, *BigLaw is Losing its Appeal, New Survey of Gen Z Lawyers and Law Students Says*, ABA JOURNAL (May 10, 2023, 8:35 AM), <https://www.abajournal.com/web/article/a-survey-of-gen-z-lawyers-and-law-students-suggests-biglaw-is-losing-its-appeal> (“[i]n the long term, a majority of Generation Z attorneys and law students plan on eschewing a traditional BigLaw career path for in-house, government or nonprofit work” according to a 2023 study).

service-focused work for decades.¹⁶ The American Bar Association (ABA) has issued various requirements in areas such as experiential learning and assessments in the last 15 years¹⁷ that have built more skills-based pedagogy into the curriculum. Most recently, in 2022, the ABA affirmed the value of experiential education in standard 303(b), which requires law schools to offer “substantial opportunities” for work in law clinics, field placements, and other public service activities.¹⁸ Historically, most of this practical work has been available to students in their second and third years of law school.¹⁹ However, in recent years, law schools have been creative in expanding and diversifying ways for first-year students to engage in practical, experiential work.²⁰ And some law schools—Cornell and Michigan—have created clinical courses specifically for first-year law students.²¹

In spring 2020,²² I launched the first clinic for first-year students at Cornell Law School: the 1L Immigration Law & Advocacy Clinic (the 1L Clinic).²³ The 1L Clinic at Cornell was begun as a pilot and later made a permanent part of the curriculum, where I run it as a spring-semester elective.

Over the last four years of the 1L Clinic (including during the height of the pandemic), the Clinic has experienced numerous successes and

¹⁶ See Kimberly E. O’Leary, *Weaving Threads of Clinical Legal Scholarship into the First-Year Curriculum: How the Clinical Law Movement is Strengthening the Fabric of Legal Education*, 26 CLINICAL L. REV. 357, 358 (2019); see also Gerald Lopez, *Transform—Don’t Just Tinker With—Legal Education*, 23 CLINICAL L. REV. 471 (2017); Gerald Lopez, *Transform—Don’t Just Tinker With—Legal Education (Part II)*, 24 CLINICAL L. REV. 247 (2018).

¹⁷ O’Leary, *supra* note 16, at 359.

¹⁸ ABA SECTION ON LEGAL EDUCATION AND ADMISSIONS TO THE BAR, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2023-2024, at 17-27 (2023).

¹⁹ See discussion *infra* Part I.

²⁰ See generally THE NEW 1L: FIRST YEAR LAWYERING WITH CLIENTS (Eduardo R.C. Capulong et al. eds., 2015).

²¹ According to the Center for the Study of Applied Legal Education (CSALE), only five percent of law schools permit first-year students to enroll in clinics. See Robert R. Kuehn, David A. Santacroce, Margaret Reuter, June T. Tai & G.S. Hans, *2022-23 Survey of Applied Legal Education* at 9, <https://www.csale.org/#results> (last visited Sept. 13, 2023). The only law schools I am aware of that permit first years to take credited clinical courses are Michigan Law School and Cornell Law School. See *infra* Part I.A. While Yale Law School has permitted first-year students to participate in clinics for about fifty years, Yale and others integrate 1Ls into existing clinics rather than running a 1L-specific clinic. See Michael J. Wishnie, *The First-Year Clinic: Forty Years of First-Year Students Representing Clients*, in THE NEW 1L: FIRST YEAR LAWYERING WITH CLIENTS 93, 93 (Eduardo R.C. Capulong et al. eds., 2015). Antioch Law School, which was the predecessor to the University of the District of Columbia David A. Clarke School of Law, involved all law students in clinics in the 1970s and 1980s. See *Antioch University: History*, Antioch University, <https://www.antioch.edu/about/history/> (last visited Dec. 18, 2023). Other law schools do currently permit 1Ls to engage in various client projects, discussed *infra* Part I.B., but not in credited clinical courses.

²² Louis Chuang, *Legal Clinics Offer Real World Practice for Cornell Law Students*, THE CORNELL DAILY SUN (Dec. 1, 2019), <https://cornellsun.com/2019/12/01/legal-clinics-offer-real-world-practice-for-cornell-law-students/>.

²³ *1L Immigration Law and Advocacy Clinic*, CORNELL L. SCH., <https://www.lawschool.cornell.edu/academics/experiential-learning/clinical-program/1l-immigration-law-and-advocacy-clinic/> (last visited Sept. 13, 2023).

managed numerous challenges. Like most clinicians, with each iteration of the course, I have revised my approaches and adjusted my docket and course content. But for a 1L Clinic, these adaptations are particularly essential because of the uniquely challenging nature of the first year of law school and the critical importance of the first-year outcomes as students seek summer jobs that may lead to long-term job placements.

In this article, I draw from my experience teaching Cornell's 1L Clinic and the rich scholarly literature on clinical education to demonstrate the importance of a first-year clinical experience and advocate for the expansion of such programming at Cornell and beyond. Part I briefly explains the existing opportunities for 1Ls to participate in live-client experiential learning, including an overview of experiential programs and clinics that include 1Ls. Part II articulates reasons to include 1Ls in clinics, drawing on both faculty and administration motivations for (and reservations about) creating the clinic and students' reasons for taking the clinic, as expressed in their clinic applications and post-clinic course evaluations and surveys. Part III draws from the experience of the Cornell 1L Clinic to discuss different course models and their pros and cons, highlight successes possible in a 1L clinic, and offer insight into the challenges. Finally, Part IV offers a vision for 1L clinical programs going forward.

I. EXPERIENTIAL LEARNING FOR FIRST-YEAR LAW STUDENTS

The term "experiential education" covers a broad variety of programs, with live-client clinical programs and externships as the two most common options.²⁴ Various programs for experiential education, primarily for upper-class students, have been a fixture in virtually all law schools since the 1990s,²⁵ though the first law school clinics were developed in the 1960s.²⁶ Clinics are defined as credited courses that serve as part of the curriculum, provide work experience and professional identity formation for students, and deliver client services under the supervision of a licensed attorney and/or under a relevant student practice rule.²⁷ While not all clinics have clear

²⁴ "Live-client clinics" in which students work on cases under professor supervision, and "externships," programs in which students are placed in a law office outside the academy, are currently the two primary modes of experiential education. See Maranville et al., *supra* note 7, at 518.

²⁵ See Martina E. Cartwright & Thelma Harmon, *Fifty Plus Years and Counting: A History of Experiential Learning and Clinical Opportunities at Thurgood Marshall School of Law*, 39 T. MARSHALL L. REV. 187, 192–93 (2014).

²⁶ There were earlier law-school clinics, but the modern movement that resulted in clinics in all law schools across the country emerged in the late 1960s. See Wallace J. Mlyniec, *Where to Begin? Training New Teachers in the Art of Clinical Pedagogy*, 18 CLIN. L. REV. 505, 506 (2012); see also Jerome Frank, *Why Not a Clinical Lawyer-School?*, 81 U. PA. L. REV. 907, 917 (1933) (articulating perhaps the earliest argument for integrating clinics into the law-school curriculum).

²⁷ Professional responsibility rules permit non-lawyers to engage in legal work when adequately supervised by an attorney. MODEL RULES OF PRO. CONDUCT R. 5.3 (AM. BAR ASS'N 2023).

public-service goals, most are serving the public interest in some way.²⁸ Today, clinics exist in nearly every law school.²⁹ However, the vast majority of law-school clinics and experiential programs do not admit 1Ls.³⁰

A. *Clinical Programs for 1Ls*

Because of their careful pedagogy and professor supervision, public-interest focus, and prevalence across law schools, clinics are an ideal site for today's students interested in "making the world a better place."³¹ Though clinics are typically not available to 1Ls, several law schools have developed clinical programming for first-year law students. Yale Law School, a trailblazer in this area, has integrated 1Ls into its clinics since the early 1970s.³² This programming is made possible in part by Connecticut's more liberal student practice rule, which allows a law-school dean to certify first-year law students to practice before Connecticut courts.³³ In 2021, two clinics at Berkeley Law began accepting first-year students.³⁴

²⁸ Maranville et al., *supra* note 7, at 523 (discussing law-school clinics' "social justice roots"); Jon C. Dubin, *Clinical Design for Social Justice Imperatives*, 51 SMU L. REV. 1461, 1473-75 (1998) (discussing the "paramount social justice goals" of some clinics and general public-interest motivations of clinical legal education); Colleen F. Shanahan, Jeffrey Selbin, Alyx Mark, & Anna E. Carpenter, *Measuring Law School Clinics*, 92 TUL. L. REV. 547, 550 (2018) (describing the dual teaching-service mission of law schools).

²⁹ Cartwright & Harmon, *supra* note 25, at 193.

³⁰ See Maranville et al., *supra* note 7, at 531 ("Throughout U.S. law schools, real experiential education has most often been available to upper-level J.D. students."); Sara K. Rankin, Lisa Brodoff, & Mary Nicol Bowman, *We Have a Dream: Integrating Skills Courses and Public Interest Work in the First Year of Law School (and Beyond)*, 17 CHAPMAN L. REV. 89, 89 (2013) ("first-year students rarely receive clinical learning opportunities.").

³¹ See Catherine Fisk, Carrie Hempel & Erwin Chemerinsky, *Building An Experiential Law School*, in *THE NEW 1L: FIRST YEAR LAWYERING WITH CLIENTS* 147 (Eduardo R.C. Capulong et al. eds., 2015).

³² See Wishnie, *supra* note 21, at 98. Yale has used various formats to include 1Ls in clinics, and today offers about 20 clinics to first-year, second-semester law students. *Id.* at 100; see additional discussion of this programming *infra* Part III.

³³ Connecticut permits 1Ls to practice before its courts. See Conn. Prac. Book § 3-16(a)(2) (permitting law students to practice before a court under attorney supervision after completing at least two semesters of credit, or students with less than two semesters if certified by the dean of the law school). The Executive Office for Immigration Review (EOIR) also permits any properly supervised law student to appear. 8 C.F.R. § 1292.1(a)(2)(ii); EOIR Practice Manual, Rule 2.5(a) (permitting law students to practice before the court when they are in a clinic, with no reference to number of semesters of study completed). In contrast, states like Michigan require students to have completed two semesters of law school before they can appear in court. Michigan Court Rules Ch. 8.120(A)-(D) (permitting law students to staff legal aid clinics within law schools under the supervision of an attorney; but requiring law students to have completed the first year of law school with passing grades). See also Wallace J. Mlyniec & Haley D. Etchison, *Conceptualizing Student Practice for the 21st Century: Educational and Ethical Considerations in Modernizing the District of Columbia Student Practice Rules*, 28 GEO. J. LEGAL ETHICS 207, 227 (2015) ("In formulating their student practice rules, several states have recognized that the foundational skill of legal analysis is essentially mastered by the end of the first year of law school.").

³⁴ *Apply to the Clinics*, BERKELEY L., <https://www.law.berkeley.edu/experiential/clinics/apply-to-the-clinics/> (last visited September 12, 2023); e-mail from Jeffrey Selbin, Chancellor's

However, only two law schools, to my knowledge, currently have clinical courses designed specifically for 1Ls: the University of Michigan Law School and Cornell Law School.³⁵ Michigan Law developed a first-year Workers' Rights Clinic for students in their second semester of law school, which began around 2015 and ran for approximately seven years³⁶ before it was replaced by Michigan's current 1L Advocacy Clinic.³⁷ Both Michigan and Cornell offer three-credit clinics through which 1Ls represent real clients under faculty supervision and receive a letter grade.³⁸

B. Other Experiential Projects and Programs

Many creative professors and advocates have developed a catalog of first-year experiential offerings that contain the breadth and depth of live-client work but take place outside of clinics and without the legal licensure student practice rules can grant to student attorneys. In *The New 1L: First-Year Lawyering with Clients*, these professors describe the different models they use to integrate live-client work into legal research and writing (LRW) and doctrinal courses and into stand-alone projects.³⁹

Several law schools have developed experiential modules embedded in first-year legal writing and research courses, such as Michigan Law School and the University of California Irvine Law.⁴⁰ Seattle

Clinical Prof. of L., Berkeley L., to author (May 20, 2020, 4:23 PM EST) (on file with author); e-mail from Laura Riley, Clinical Program Dir., Berkeley L., to author (Jul. 25, 2023, 5:29 PM EST) (on file with author); see additional discussion of this programming *infra* Part IV.

³⁵ This is my impression after much research and discussion with other clinicians. For example, in 2020, an email thread from the much-used LawClinic listserv identified only Michigan and Cornell. See e-mail from Jeffrey Selbin, Chancellor's Clinical Prof. of L., Berkeley L., to author (May 20, 2020, 4:23 PM EST) (on file with author) and additional replies. However, I'd be happy to be wrong, and glad to know of others which may have been started since 2020 or located at law schools that are less involved with the LawClinic listserv.

³⁶ *Workers' Rights Clinic I*, UNIV. OF MICH., <https://michigan.law.umich.edu/courses/workers-rights-clinic-i> (last visited Sept. 12, 2023); interview with Rachael Kohl, Assistant Prof. of L., Wayne State Univ., March 25, 2021 (notes on file with author); e-mail from Joshua Kay, Clinical Prof. of L., Univ. of Mich. L. Sch., to author (June 28, 2023, 1:48 PM EST) (on file with author).

³⁷ *1L Advocacy Clinic*, UNIV. OF MICH. <https://michigan.law.umich.edu/academics/experiential-learning/clinics/1l-advocacy-clinic> (last visited Sept. 12, 2023); Professor Joshua Kay explained that Michigan discontinued the Workers' Rights Clinic due to a changing legal landscape in conflict with pedagogical goals, choosing instead to design a new iteration of a 1L-specific clinic that would allow for "meaningful, real-world practice experiences that help [students] build core lawyering skills in four areas: interviewing, investigation, legal writing, and oral presentation to the court." See e-mail from Joshua Kay, Clinical Prof. of L., Univ. of Mich. L. Sch., to author (June 28, 2023, 1:48 PM EST) (on file with author).

³⁸ See e-mail from Joshua Kay, Clinical Prof. of L., Univ. of Mich. L. Sch., to author (Jun. 28, 2023, 1:48 PM EST) (on file with author) (discussing Michigan's grading scheme and credits); see *1L Immigration Law and Advocacy Clinic*, *supra* note 23 (indicating that the course is three credits and graded on a curve).

³⁹ See generally *THE NEW 1L: FIRST YEAR LAWYERING WITH CLIENTS*, *supra* note 20.

⁴⁰ See, e.g., Mary Bowman, Lisa Brodoff, Sara Rankin & Nantiya Ruan, *Adding Practice Experiences to Legal Research and Writing Courses*, in *THE NEW 1L: FIRST YEAR LAWYERING*

University School of Law has braided legal-writing courses together with clinical experiences.⁴¹ Case Western Reserve Law School's 1L First Client Contact Experience includes all 1Ls in at least one live-client legal intake or related project with a community partner, similar to an abbreviated externship.⁴² These opportunities are like clinics in that they are part of credited courses and formally embedded in the curriculum, but different in that they usually do not involve an on-going seminar related to the clinic or have students manage cases over the course of the entire semester as clinics do, and they may not involve student representation before a tribunal.

Several scholars have argued for greater inclusion of skills learning in traditional 1L doctrinal courses such as torts and civil procedure.⁴³ Some clinicians have actively woven typical clinical-teaching methods, like the use of simulations and self-assessments, into doctrinal classes like property and contracts.⁴⁴

Other law schools offer optional, non-credited first-year projects, such as the Access to Justice Service Learning Program at Indiana Maurer School of Law⁴⁵ and Columbia Law's 1L Advocates Program at its Human Rights Institute.⁴⁶ Still others make pro bono projects

WITH CLIENTS 51, 51-63, 153 (Eduardo R.C. Capulong, et al. eds., 2015) (describing the integration of live-client work into first-year legal writing courses, including at UC Irvine); *Lawyering Skills Curriculum*, UNIV. CAL. IRVINE L., <https://www.law.uci.edu/academics/lawyering-skills/curriculum.html> (last visited June 1, 2023) (stating that all first-year students will "conduct intake interviews of actual clients for organizations" in their second semester of law school); *Legal Practice Program*, UNIV. OF MICH., <https://michigan.law.umich.edu/academics/experiential-learning/legal-practice-program> (last visited June 1, 2023) (noting that "[i]n numerous Legal Practice sections, students may have the opportunity to put their newly developed skills into play by performing legal work for real clients in the Ann Arbor area."); see also Nancy Vettorello & Beth Hirschfelder Wilensky, *Reimagining Legal Education: Incorporating Live-Client Work into the First-Year Curriculum*, 96 MICH. BAR. J. 56, 56-57 (Aug. 2017).

⁴¹ Rankin et al., *supra* note 30, at 89-90.

⁴² *1L First Client Contact Experience*, CASE W. RSRV. UNIV. SCH. OF L., <https://case.edu/law/practical-training/1l-first-client-contact-experience> (last visited Sept. 12, 2023).

⁴³ See generally Michael A. Millemann & Steven D. Schwinn, *Mainstreaming Experiential Education*, in THE NEW 1L: FIRST-YEAR LAWYERING WITH CLIENTS 65, 65-77 (Eduardo R.C. Capulong, et al. eds., 2015); Raleigh Hannah Levine, *Of Learning Civil Procedure, Practicing Civil Practice, and Studying A Civil Action: A Low-Cost Proposal to Introduce First-Year Law Students to the Neglected MacCrate Skills*, 31 SETON HALL L. REV. 479, 480 (2000).

⁴⁴ O'Leary, *supra* note 16, at 361-63.

⁴⁵ Victor D. Quintanilla, Joan K. Middendorf, Francesca L. Hoffmann, Emily Kile-Maxwell, Danielle M. Sweet & Kaelyne Yumul Wietelman, *Experiential Education and Access-to-Justice within U.S. Law Schools: Designing and Evaluating an Access-to-Justice Service Learning Program within the First-Year Curriculum*, 7 IND. J.L. & SOC. EQUAL. 88, 88 (2019); see also Zoe Niesel, *Putting Poverty Law into Context: Using the First Year Experience to Educate New Lawyers for Social Change*, 76 N.Y.U. ANN. SURV. AM. L. 97, 99 (2020) (describing how "first year law students engage in a year-long 'soft' simulation exercise addressing poverty in the local community" at St. Mary's University School of Law in San Antonio, Texas).

⁴⁶ *HRI 1L Advocates Program*, COLUMBIA L. SCH.: HUM. RTS. INST., <https://hri.law.columbia.edu/students/hri-1l-advocates-program> (last visited Sept. 12, 2023).

available to 1Ls as well as upper-class students, such as at Duke Law,⁴⁷ Harvard Law School,⁴⁸ and the University of Texas at Austin.⁴⁹

Nevertheless, though more law schools have developed first-year opportunities to engage in live-client experiential work,⁵⁰ most still do not include 1Ls in experiential work, especially credited coursework.⁵¹

II. WHY HAVE A CLINIC FOR 1LS?

Law students should learn about how the law impacts real people every day⁵² and how to work with the law on behalf of their clients. Just as medical students spend time in clinical settings working with actual patients,⁵³ law students too can prepare to represent clients by actually practicing, working through how the law might be used to solve a problem, and identifying where the law might be unfair or cumbersome (and what to do about that).⁵⁴ Various scholars have commented that, while simulations can be effective teaching tools,⁵⁵ only work with actual clients can convey the high stakes of a real case, the complexity of decision-making required, and the interpersonal dynamics that are part of the practice of law.⁵⁶ Clinical work can also remind students why they went to law school⁵⁷ and keep them engaged. Thus, live-client work is the cornerstone of preparing students for the actual and sustained practice of law.

⁴⁷ *Public Interest & Pro-Bono*, DUKE L., <https://law.duke.edu/publicinterest/> (last visited Sept. 12, 2023).

⁴⁸ *Pro Bono Program*, HARV. L. SCH., <https://hls.harvard.edu/pro-bono/> (last visited Sept. 12, 2023).

⁴⁹ UT Austin has brought 1Ls and 2Ls to volunteer in immigration detention centers. See Harris, *supra* note 1, at 182.

⁵⁰ See, e.g., Eduardo R.C. Capulong, ‘Clinicalizing’ the First Year: Working With Actual Clients at the University of Montana, in *THE NEW 1L: FIRST YEAR LAWYERING WITH CLIENTS* 121, 121-27 (Eduardo R.C. Capulong, et al. eds., 2015) (describing the efforts of the University of Montana to integrate live-client projects into doctrinal courses such as civil procedure, criminal law, and torts); Mary Nicol Bowman, *Engaging First-Year Law Students Through Pro Bono Collaborations in Legal Writing*, 62 J. LEGAL EDUC. 586, 586 (2013).

⁵¹ See, e.g., Milleman & Capulong, *supra* note 2, at 4 (“the substantial majority of law schools” do not offer any course engaging with live clients in the first year).

⁵² See O’Leary, *supra* note 16, at 366.

⁵³ Chemerinsky, *supra* note 8, at 36 (noting that a “core aspect of medical education is clinical education,” but while medical students engage with patients under supervision over several years of schooling, most law students do not engage in the actual practice of law unless they take a clinical course).

⁵⁴ See O’Leary, *supra* note 16, at 367.

⁵⁵ Simulations may be most effective when offering nuanced client needs such as would arise in practice. See *id.* at 366.

⁵⁶ See Cheryl Bratt, *Livening up 1L Year: Moving Beyond Simulations to Engage 1L Students in Live-Client Work*, 33 SECOND DRAFT 21, 22 (2020); Fisk et al., *supra* note 31, at 149.

⁵⁷ Harris, *supra* note 1, at 187 (noting that, because law-school clinics are usually not offered to 1Ls, first-year law students unfortunately miss out on the “power” of live-client work to connect them to the reasons they enrolled in law school).

A. *Why the 1L Clinic Started at Cornell*

In 2019, I proposed that the law school offer a new clinical course designed for first-year students that would provide direct legal services to underserved immigrants on campus and engage in advocacy in the community. This project would have distinct benefits for Cornell and its students while taking advantage of my particular pedagogical and practice background. The 1L Clinic would be integrated as a spring-semester elective, easily slotting into the curricular space created when Cornell began to require all 1Ls to take a spring-semester elective.

The 1L Clinic proposal was met with mixed reviews. A substantial contingent of the faculty resisted the idea of a 1L clinic, opining that the 1L curriculum was established to give students necessary background in legal theory and doctrine, and this structure should not be disrupted by a clinic. Some argued that the spring-semester elective was established to allow students to choose from “core” classes, like evidence and administrative law, and this should not be widened to include clinics. Further, the small size of a 1L clinic run by a single professor with other simultaneous courses (the proposal limited the clinic to six students) meant that the average 1L would not have a meaningful chance at getting into the clinic, potentially creating student discontent and other administrative challenges.

However, I and others on the faculty supported the 1L clinic for several primary reasons: attracting and retaining students; supporting public-interest work for 1Ls; and innovating pedagogically, as few clinics nationwide⁵⁸ were open to 1Ls. Once launched, the presence of a 1L Clinic would contribute to a stronger public-service ethos and tone, both for students with public-interest career aspirations and those planning to go into corporate law and engage in pro bono work. Early clinical experience could also enhance students' resumes, making them more competitive for summer jobs, both in the sometimes-insular public interest field and in law-firm positions, where few 1L summer associates would already have live-client experience.⁵⁹ And for students with limited or no prior work experience before law school, an early clinical experience could also help prepare them for the practical realities of a work environment. Additionally, students who may find the first-year doctrinal classes to be discouraging or divorced from the reasons they came to law school might be retained if they could engage in practical work in their first year.

Further, I developed the 1L Clinic to build on my own work and interests and add depth to Cornell's public-service focused offerings.

⁵⁸ See *supra* Part I.A.

⁵⁹ Indeed, studies show a strong correlation between clinic participation and public-service employment. See Sandefur & Selbin, *supra* note 8, at 59, 98, 101.

I also teach Lawyering⁶⁰ at Cornell, a full-year, required 1L legal research and writing course. Lawyering professors also teach an additional, one-semester skills course—which can be a clinic or a course such as client counseling and depositions.⁶¹ As a Lawyering professor, I have particular insight into the legal skills (and limitations) of first-year students, and thus could tailor a clinical opportunity for 1Ls with dual goals of providing a meaningful learning experience to 1Ls and quality representation to underserved populations. And as a recent practitioner who had entered academia directly from practice during the height of the Trump administration, I had been quickly tapped to work on urgent immigration issues on campus and thus already had some live-client work in progress under the auspices of existing clinics.⁶²

Still, although there were strong reasons to establish the 1L Clinic, some faculty resistance meant that this project was hotly debated during several lengthy faculty meetings and discussed in many more informal conversations. Ultimately, the faculty cautiously approved the 1L Clinic as a one-year pilot in spring 2020. The pilot period was extended for another year due to the pandemic.

By late spring 2021, when the 1L Clinic was most of the way through the second iteration, support for the 1L Clinic had significantly increased. I presented an update to the faculty which was received with great enthusiasm. Those who were excited about the original idea were thrilled by the successes of the 1L Clinic, and those who had been hesitant were largely won over by the innovative pedagogy and inspiring nature of the work. Several faculty opined that the law school should expand the 1L Clinic, or offer additional 1L Clinics in different subject areas, or perhaps rotate the subject matter of the 1L Clinic (though none of these ideas have yet come to fruition). Ultimately, Cornell renewed the 1L Clinic on a permanent basis.

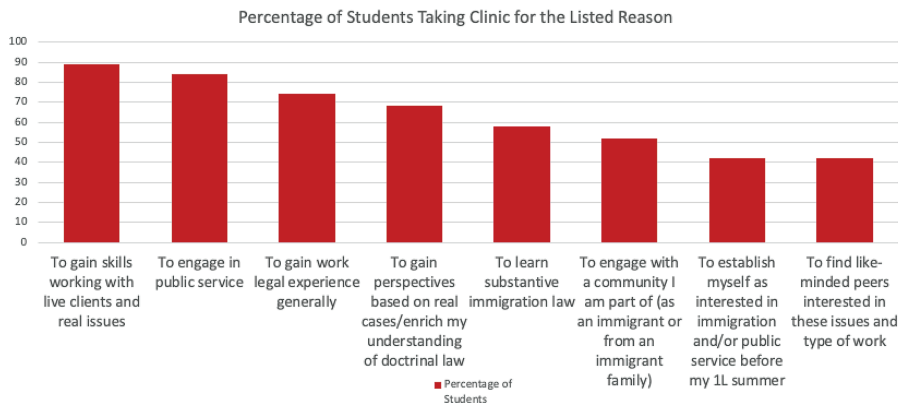
⁶⁰ *Lawyering Program*, CORNELL L. SCH., <https://www.lawschool.cornell.edu/academics/experiential-learning/lawyering-program/> (last visited July 18, 2023).

⁶¹ *2023-2024 Course Offerings*, CORNELL L. SCH., <https://support.law.cornell.edu/CourseCatalog/> (last visited July 18, 2023).

⁶² In my first semester, I started representing undocumented Cornell students and those with Deferred Action for Childhood Arrivals (DACA) in their immigration cases, eventually incorporating students into the work through existing clinics. Ian McGullam, *The Law Professors Helping Cornell Immigrants*, 44 FORUM 12, 16 (2018), https://www.lawschool.cornell.edu/wp-content/uploads/2022/11/2018_fall.pdf (discussing my arrival at Cornell in 2017, immediate work with DACA students, and initial incorporation of law students in the work in 2018). I also led a service trip to the border for a week-long immigration representation project in 2019. Winny Sun, *At the Border, Cornell Law Students and Professor Help Detained Mothers and Children Seek Asylum*, CORNELL DAILY SUN (Jan. 22, 2019), <https://cornellsun.com/2019/01/22/at-the-border-cornell-law-students-and-professor-help-detained-mothers-and-children-seek-asylum/>; *Cornell Law Students Go to Border to Help Mothers, Children Seeking Asylum*, WSKG (Jan. 11, 2019, 10:43 AM), <https://wskg.org/cornell-law-students-go-to-border-to-help-mothers-children-seeking-asylum/>.

B. Why Students Want to Take the Clinic

What were some reasons you wanted to take the 1L Clinic as a first-year student? Check all that apply.



In spring 2023, Cornell conducted a study of prior 1L Clinic applications to evaluate student motivations to take the Clinic.⁶³ We wanted to see what students' self-reported reasons for interest might be during the application period and determine whether the Clinic is meeting those expectations. Simultaneously, we conducted a survey of all 1L Clinic alumni about their experiences in the 1L Clinic.⁶⁴

For applicants, we analyzed their anonymized personal statements and resumes (when available)⁶⁵ and coded them for their expressions of interest for reasons such as desire for skills training; desire to offer their existing skills, such as prior work with marginalized communities or language abilities; desire to engage in public service; interest in immigration work specifically; or other motivations. We also coded the data for whether applicants mentioned their long-term career plans (public interest or corporate work) and various personal experiences, such as their relevant work or life experience (such as personal interaction

⁶³ Special thanks to Sarahi Rivas, Cornell University Class of 2023, for her work on this project.

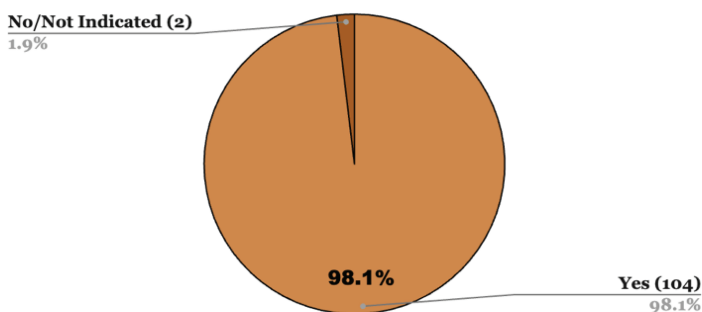
⁶⁴ In May 2023, I invited all students who were either alumni of the 1L Clinic (twenty-six total students across four semesters) or had worked with the 1L Clinic as an advanced student after taking a different clinic at the law school (two students) to take a survey titled "2023 1L/Advanced Immigration Clinic Survey." Nineteen 1L Clinic alumni replied, as did the two advanced-only students. The charts in this piece indicate their responses, with the two advanced-only students omitted when the question was irrelevant to them.

⁶⁵ We had resumes only from the class of 2022 (1L Clinic year 2020); for the classes of 2023, 2024, and 2025, (clinic years 2021, 2022, and 2023, respectively) we had both personal statements and resumes.

with the immigration system). Finally, we examined personal traits of the applicants, such as their race, ethnicity, gender identity, nationality, and other characteristics that could be gleaned from the anonymized applications.

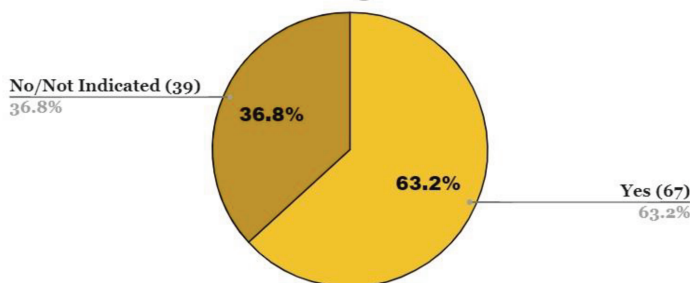
Across the applications for clinic semesters 2020, 2021, 2022, and 2023, we had 105 total applications. Unsurprisingly, the overwhelming majority of students were interested in taking the clinic because of a desire to engage in public service—98 percent—and a desire for skills training—63 percent.

Percentage of Total Applicants Indicating a Desire to do Public Service



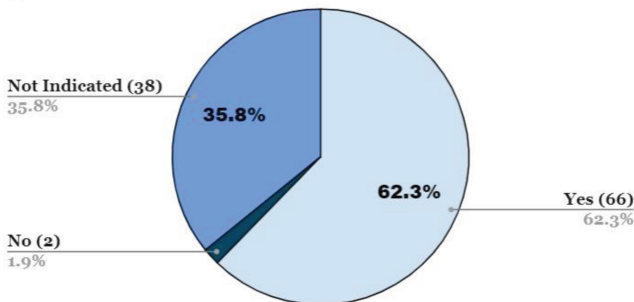
These reasons for taking the clinic would be likely applicable for any public-interest focused clinic, regardless of legal practice area.⁶⁶ About 62 percent stated that they planned to go into a public-interest career after law school and named this as a reason to take the clinic.

Percentage of Total Applicants Indicating a Desire for Skills Training



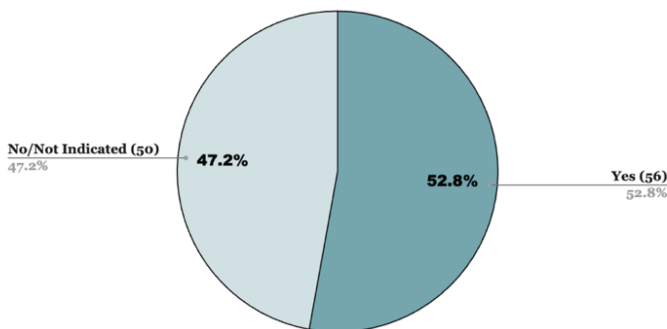
⁶⁶ Indeed, many law students are interested in clinics because they believe clinics build skills and improve employment opportunities. See Robert R. Kuehn, David A. Santacroce, Margaret Reuter, June T. Tai, and G.S. Hans, *2022-23 Survey of Applied Legal Education*, Center for the Study of Applied Legal Education 15-16, <https://www.csale.org/#results> (last visited Sept. 13, 2023).

Percentage of Total Applicants Planning to go into a Public Interest Career

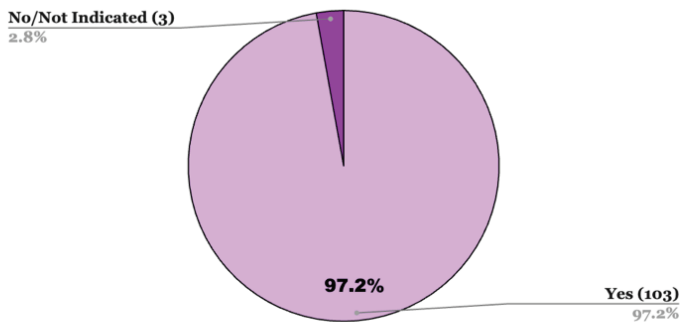


Further, we analyzed the role that the practice area of immigration may have played in student interest. More than half of applicants indicated a personal connection to the topic as a member of an immigrant family or as an immigrant themselves, contributing to their interest in an immigration-focused clinic. Virtually all students, regardless of immigration history, indicated an interest in immigration law specifically.

Percentage of Total Applicants with Relevant Life Experience (as an immigrant or from an immigrant family)



Percentage of Total Applicants Indicating an Interest in Immigration



In our survey of 1L Clinic alumni, we asked respondents to consider their past motivations for applying to the 1L Clinic. Their responses also show that students wish to gain skills, engage in public service, and set themselves on public-service paths in their first year of law school. Further, in looking back on their experiences, students also indicate that they wished to enrich their understanding of doctrinal courses—not something most applicants indicated in their application materials.

We also examined the demographics of all applicants as best we could given the information provided, since applications often indicated certain identity affiliations, but this information was not explicitly requested. We found that nearly sixty percent of applicants were students of color (whether African American, Asian, Latine, native/indigenous, or other). Fifteen percent of applicants indicated an LGBTQI+ identity.

A clinic for 1Ls (and/or for immigration) seems to have a special appeal for students of color, as such students were somewhat overrepresented in the applicant pool as compared to the entire law school student population. When comparing our applicant demographics with the demographic data for the incoming Cornell Law classes for the same years as these applicant pools, we found that, for example, Cornell's incoming classes between fall 2019 and fall 2022 were on average 6.75 percent African American, compared with 15.1 percent of clinic applicants, and 12.5 percent Hispanic/Latino, compared with 19 percent of clinic applicants over the same period.⁶⁷

III. SUCCESSES AND CHALLENGES OF THE 1L CLINIC

This Part first explains what types of cases and projects are generally best for 1Ls and which are less manageable, drawing from Cornell's experience. Second, this Part discusses some of the major successes of the 1L Clinic, building on the reasons hypothesized above about why 1Ls should get to take clinics. Third, this Part reviews significant challenges inherent in 1L Clinics and suggests ways to ameliorate those concerns.

A. *1L Clinic Cases and Projects*

The 1L Clinic has structured its docket around a mix of several components: casework, service trips, and advocacy projects. Each semester, the balance of components has been adapted to adjust for issues such as the pandemic and to incorporate student feedback and professor experiences. This section describes the best practices I have developed for casework, service-learning trips, and advocacy projects—all components that future 1L Clinics may wish to incorporate.

⁶⁷ See e-mail from Michael Cummings, Interim Assistant Dean of Admissions, to author (Jul. 14, 2023, 9:24 AM EST) (on file with author) (containing this data and study results).

1. Course Structure and Casework

Cornell's 1L Clinic is three credits, with a weekly two-hour seminar requiring about two hours of reading per week. The third teaching hour is a weekly one-hour supervision meeting between the professor and each student team. However, some weeks, we style supervision as a "big meeting" with all the clinic students together, instead of with each team separately (discussed further below). Students are expected to spend about 50 hours on their casework and advocacy projects over the course of the semester.

In creating the 1L Clinic docket and timing of casework and project assignments, I have found that the 1L Clinic runs most smoothly when all student teams are assigned cases of the same type in the same (or similar) procedural posture. First-year students are best prepared to succeed on their cases when the in-class seminar topics closely match the cases and tasks they are assigned, rather than, for example, generalized instruction in an area of law and then a wide variety of cases within that area, as in some upper-level clinics. I start students with an overview of the immigration legal scheme, introductory lectures that home in on the type of cases on our docket, and exercises to develop skills, such as client interviewing, before they meet their first clients.

Then, student teams set up their first client meeting, always with a client who has already been screened and whose likely form of relief has been identified. Early client assignments are very structured, with a specific goal pre-assigned to the students. Due dates are crafted around Lawyering deadlines to allow students the ability to focus on those critical assignments; later clinic assignments build on the persuasive argument skills and more complex writing they have recently completed in Lawyering.⁶⁸

Because 1Ls require more rigid case planning and predictable structure,⁶⁹ aligning the case types as much as possible allows the instructor to cover much of the needed content in class. Supervision meetings can then focus on the case-specific questions that arise. In designing a case docket, a mix of simpler cases and more complex matters allows students to scaffold their skills, staying challenged and engaged.

In managing these cases, as stated above, students attend one hour of supervision per week. The 1L Clinic has also used a combination for team and group supervisions, periodically holding full-class or large-group supervision "big meetings" or "workshops" instead of individual team supervision meetings. When cases are generally aligned, these workshop supervisions are very useful because 1Ls often have the same questions, and they enjoy the collaborative atmosphere. Further,

⁶⁸ See Part III.C.3. *infra* for a discussion of the challenges of working around Lawyering assignments—and teaching Lawyering at the same time as the 1L Clinic; see also Part III.C.5. *infra*.

⁶⁹ See Part III.C.4., *infra*.

the predictability of the 1L schedule, while a drawback in some ways,⁷⁰ means that professors can easily choose an additional non-class time during the week when the entire class is available. Additionally, the teaching assistant for the Clinic (a 2L or 3L who has taken the Clinic) holds weekly office hours for student questions, which they can then raise to the supervisor as well. This overlapping structure of supervision spaces and other opportunities for guidance helps ensure that 1Ls are adequately supervised as required by rules of professional conduct.

Below, I describe the two types of cases I assign in the 1L Clinic.

a. Less-Complex, Agency-Level Immigration Matters

Cases that involve straightforward application procedures and minimal, relatively simple legal analysis are a good fit for 1Ls. In the immigration space, this includes cases like Deferred Action for Childhood Arrivals (DACA) renewals, advance parole for DACA recipients, and naturalization. These applications are advantageous for first-year students new to clinical work because they are the most legally straightforward cases, where the primary tasks are brief interviewing of clients, screening for relief, preparing filings, and occasional predictive memos. Further, professors can train students on the nuts and bolts of these applications over relatively few sessions, preparing students to answer most client questions and to competently complete forms prior to supervisor review. Additionally, these simpler, administrative cases are a great introduction to clinic work for 1Ls because of their lower-stakes nature (in comparison to, for example, asylum cases) and the ease of client communication (clients typically speak English and are used to conventions such as email).

b. More Complex Litigation Matters: Asylum

As the semester progresses, students are ready for more legally complex work—in my clinic, this is usually asylum cases. The 1L Clinic has engaged in asylum work ranging from limited-scope services to affirmative asylum filings before the administrative agency to full defensive representation,⁷¹ finding that limited-scope and affirmative cases work best for 1Ls.

Asylum cases typically involve extensive fact development and evidence gathering, such as creating the client's declaration (their written

⁷⁰ See *infra* Part III.C.3.

⁷¹ Affirmative asylum cases are for individuals who are not in removal proceedings before an immigration judge, while defensive immigration cases are for clients in the United States, who may be detained or non-detained, and who have a case pending before an immigration court. For more on the structure of the United States asylum system, see American Immigration Council, *Fact Sheet: Asylum in the United States* (August 16, 2022), <https://www.americanimmigrationcouncil.org/research/asylum-united-states>.

personal statement);⁷² interviewing other witnesses, such as family members, and creating declarations; gathering and organizing personal documents such as identity documents, medical and education records, and news articles relevant to the case; and researching country conditions to create an index of sources demonstrating the potential persecution and government stance.⁷³ Evidence-related tasks necessary to asylum cases are well-suited to first-year students, who often excel at building connections with their clients to develop their stories and who think creatively about what additional evidence might be useful. As the semester progresses, 1Ls can spot more issues and refine their interviewing and client communication techniques.

While such complex cases are of great interest to 1Ls, they require more careful balancing and collaboration than the simpler cases. In addition to fact development, asylum cases require robust legal analysis, including persuasive briefing, on a wide variety of substantive elements and procedural issues—tasks that can push the boundaries of 1L skills. First-year students in their spring semester have typically not yet written a persuasive brief in their legal writing class until partway through the semester, and their capacity to get up to speed on legal analysis is limited by their otherwise heavy course load and relative newness to the law. While some 1L students are ready for the robust research and analysis required for asylum claims and are excited to create persuasive arguments, 1Ls generally are not fully prepared for this work. Even when I have assigned single-issue predictive memos or small components of a legal brief to 1Ls, they often express feeling overwhelmed, and their work product needs significant oversight.

Therefore, I have found that any case involving extensive written legal analysis essentially requires collaboration with advanced students. I usually take on advanced students, partner with another Cornell clinic that admits upper-class students,⁷⁴ and/or partner with a community agency. The strongest legal analysis has resulted when upper-class clinic students work together with 1L students to provide representation across law student experience levels and across clinical areas of expertise, while community partner attorneys provide additional insights and supervision. Specifically, an advanced student is typically tasked with writing the briefing, while the first-year student team conducts fact gathering. Through team meetings, the advanced student will ask for information that prods the 1L team to ask the client certain questions,

⁷² An asylum declaration is a distinct genre of legal writing as a first-person narrative and a common project for students in immigration clinics. See Stacy Caplow, *Putting the "I" in Writing: Drafting an A/Effective Personal Statement to Tell a Winning Refugee Story*, 14 J. LEGAL WRITING INST. 249, 249 (2008).

⁷³ See Jaelyn Kelley-Widmer & Estelle McKee, *Essentializing Cultures in U.S. Asylum Law*, BROOKLYN L. REV. (forthcoming 2024).

⁷⁴ The 1L Clinic has partnered with Cornell's Farmworker Legal Assistance Clinic, Asylum and Convention Against Torture Appellate Clinic, Afghan Assistance Clinic, and Gender Justice Clinic on various cases and projects over the years.

while the 1L team raises facts from client interviews that, in turn, prompt the advanced student to conduct further legal research. Later in the semester, the 1L team will be asked to write an application section of the brief, or the Statement of Facts—on which they are the experts.

Further, the 1L Clinic has taken on only one case involving court hearings: a full-representation defensive asylum case. I found this level of complexity and stakes to be beyond what 1Ls could handle alone—they could not be fully brought up to speed on both the fundamentals of asylum law and of trial practice in only one semester with the limited time they have. Even with additional faculty involvement and immediate integration of upper-class students on the team, this case was very difficult. I recommend that faculty considering a 1L Clinic limit 1L participation in cases with active court appearances, instead focusing on cases before administrative agencies. Cases before administrative agencies often have more manageable timelines and simpler evidentiary requirements, in part because there is no opposing counsel.

2. *Service Trips*

Service-learning trips⁷⁵ are a format of clinical casework that can fit well with the 1L schedule if they are timed advantageously. Such trips permit an encapsulated, intensive casework experience that is pedagogically meaningful and minimally interferes with their other courses. In Spring 2020, I planned for a clinic service trip over spring break to work in the South Texas Family Residential Center, an immigration detention center in Dilley, Texas⁷⁶—a trip that was ultimately cancelled.

Spring 2023 was the first post-pandemic opportunity to plan a trip for 1L Clinic students. Together with an adjunct instructor brought on to increase student volume and help supervise and innovate projects, I developed a partnership with the Southeast Immigrant Freedom Initiative (SIFI),⁷⁷ a project of the Southern Poverty Law Center operating in Louisiana and other Southern states. We spent spring break of April 2023 in Louisiana, providing legal orientation programming and individual consults to people detained in two remote, rural detention

⁷⁵ See Harris, *supra* note 1, at 175-77 (describing service-learning models and arguing that intensive trips as casework is different from regular clinical courses); Laurie Morin & Susan Waysdorf, *The Service-Learning Model in the Law School Curriculum*, 56 N.Y.L. SCH. L. REV. 561, 565 (2011/12) (referring to service-learning as a “capstone educational experience” that bring together doctrinal and practical law.)

⁷⁶ Many law-school clinics visited this detention center to provide short-term legal services to detained mothers and their children. See Harris, *supra* note 1, at 170. I had previously taken students on a week-long trip to this facility in January 2019.

⁷⁷ *Southeast Immigrant Freedom Initiative (SIFI)*, S. POVERTY L. CTR., <https://www.spl-center.org/our-issues/immigrant-justice/sifi> (last visited Jun. 12, 2023).

centers.⁷⁸ Earlier in the semester, clinic faculty provided students training on the substantive law of detention and habeas relief, as well as skills training students had been putting into practice already with local asylum clients in upstate New York. SIFI staff also provided a remote orientation prior to the trip. Students worked in two teams, alternating a day spent in the detention centers with a day spent in the hotel completing follow-up tasks for the cases encountered in the centers and for on-going affirmative cases they were already handling for the clients in New York.

The Louisiana trip proved to be an excellent vehicle for the students to bring together the skills they had developed over the semester, including client communication, substantive asylum knowledge, and team collaboration. They had to bring those skills to bear in a more demanding environment, with detained clients in significant distress; higher-stakes, quicker interviewing either through an interpreter or in another language; and implementation of more challenging issue spotting a wider variety of potential legal (and non-legal) problems.⁷⁹ Overall, this project was incredibly impactful for students and provided essential services to immigrants detained in a remote area of the country.

Faculty considering designing a 1L clinic to include service-learning should carefully consider structural concerns, such as the timing of spring break within the semester. At Cornell, spring break is during the first week of April. I found this timing to be both too close to finals—causing additional 1L stress—and too late in the semester to permit adequate case follow-up. With no other break in the spring semester, Cornell likely cannot take future 1L Clinic students on an extended service trip; however, schools with spring breaks in March may find this to be an excellent option for 1Ls. Alternatively, weekend trips or one-day trips could provide similar benefits with reduced logistical and economic costs. In Spring 2024, Cornell's 1L Clinic will visit a nearby detention center as a day trip.

3. *Advocacy Projects*

Advocacy projects are an excellent way to involve students in legal issues and the community without the pressure and logistics of casework. At Cornell, 1L students engage in community advocacy⁸⁰ through presentations such as Know Your Rights, immigration law updates, and Immigrant

⁷⁸ Eileen Korey, *1L Students Counsel Hundreds in Detention Centers During Spring Break “Reality” Experience*, CORNELL L. SCH. (Jun. 7, 2023), <https://www.lawschool.cornell.edu/news/1l-students-counsel-detained-immigrants/>.

⁷⁹ *Id.*

⁸⁰ These projects could also be considered “community education,” a “form of systemic advocacy that aims to educate a segment of the community about its rights in a particular legal context to advance the empowerment of that community.” Barry et. al., *supra* note 1 at 404.

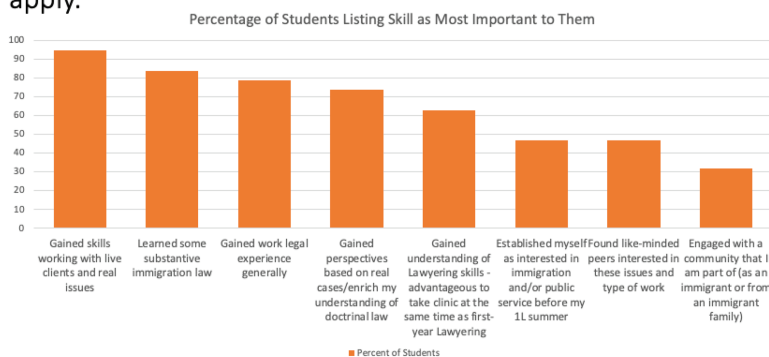
Allyship on campus and in the community. Students keep abreast of developments in immigration law and create fact-sheet documents, guides, and/or presentations for affected communities. Audiences for students' public-facing work have included impacted immigrants; immigration attorneys; lawmakers; Cornell students, faculty, and staff; and members of the general public.⁸¹ Students have also participated in events with notable immigration-related speakers, such as author Karla Cornejo Villavicencio⁸² and speaker and undocumented attorney Lizbeth Mateo. Each semester provides distinct opportunities for such advocacy projects and outreach tailored to the needs of the community and the interests of the students.

Faculty considering starting a 1L clinic should strongly consider incorporating legal advocacy projects into their dockets to give students another perspective on the relevant legal issues, integrate more flexible work deadlines, and engage them with the communities they serve. While these projects may not directly engage individual clients, they can often be structured to allow students to support organizational clients, as many clinics do.

B. Successes and Benefits

Inclusion of 1Ls in live-client experiential work has an expansive catalog of potential benefits.⁸³ Below, I identify some of the key benefits from the 1L Clinic.

Which of the below skills did you both gain through the clinic as a 1L and have been most important to you? Check all that apply.



⁸¹ For example, law students presented to a nationwide audience of practitioners on the new public charge immigration rule in 2020. Cornell Law School Staff, *Cornell Law Immigration Clinic Presents "Immigrants, Public Benefits, and COVID-19" via Webinar Attended by Over 1,000*, CORNELL L. SCH. (Apr. 24, 2020), <https://www.lawschool.cornell.edu/news/cornell-law-immigration-clinic-presents-immigrants-public-benefits-and-covid-19-via-webinar-attended-by-over-1000/>.

⁸² Karla Cornejo Villavicencio, *The Undocumented Americans: In Conversation with Author Karla Cornejo Villavicencio* at Cornell Law School (Apr. 1, 2021), <https://ecornell.cornell.edu/keynotes/overview/K040121a>.

⁸³ See, e.g., Rankin et al., *supra* note 30, at 94-96 (discussing benefits of a first-year live-client project for students, faculty, and the educational institution).

1. *Pedagogical Innovation and Student Learning*

Developing a clinic for first-year students has been an opportunity to join the movement to integrate experiential education as a critical component of the early law school experience.⁸⁴ It also has provided a chance to be creative with the curriculum, envisioning a course that meets needs of first-year students as yet unaddressed.

In building the progression of legal theory, practical skills, and integration of casework, I have drawn on my experiences teaching first-year Lawyering.⁸⁵ I work closely with my section of first-year law students each year over the course of the entire year, giving me insights into the particular skills and training 1Ls have at any given point in the semester, as well as the distinctive stressors, other assignments (such as for Lawyering), and special 1L challenges that they are experiencing.

However, because of the limitations of first-year students, 1Ls do not work on legal arguments alone. Instead, I pair 1L teams with an advanced clinic student, who will typically take on the more complex legal research tasks and write the majority of the brief.⁸⁶ 1L students contribute to the brief as well, focusing on components such as the statement of facts and writing selected pieces of the legal argument. The unique opportunity to take a clinic as a 1L positions students for an especially robust mentoring-mentorship relationship among students across all three class years in the J.D. program and fosters opportunities for leadership.⁸⁷

Overall, the scaffolding of work and cross-student collaboration on cases is an effective structure to provide first-year students with the means to learn practical client skills, apply and enrich their research and writing knowledge, and engage with substantive law.

Further, 1Ls report several other takeaways that are only possible because the clinic occurs during their first year. During a year focused on doctrinal courses, seventy-four percent of clinic alumni surveyed in 2023 valued that the clinic allowed them to gain perspectives on legal concepts as applied to real cases—not just cases from the casebook—and enriched their understanding of doctrinal law. For example, an administrative law course, held in the first year at some law schools, could

⁸⁴ See, e.g., Milleman & Capulong, *supra* note 2, at 4 (describing the various ways law schools and law professors have been innovating to integrate real client work into the first year).

⁸⁵ I have taught Cornell's LRW course, Lawyering, every year since 2017. Previously, I taught legal writing at Berkeley Law.

⁸⁶ See *supra* Part III.A.1.b.

⁸⁷ See Paul Radvany, *Experiential Leadership: Teaching Collaboration Through a Shared Leadership Model*, 27 CLIN. L. REV. 309, 313-14 (2021) (discussing shared leadership model of collaboration, where different team members take the lead in different components of a case or project but ultimately need all parts to move forward to succeed).

be illuminated by administrative practice experience. Sixty-one percent of alumni appreciated taking the 1L Clinic at the same time as first-year Lawyering, finding it advantageous to have two skills courses simultaneously. Indeed, students who take a clinic in their first year may be more successful in their law school learning generally after the grounding, eye-opening experience of applying real law to real cases.

2. Professional Identity Formation

Clinical courses have long been a site for professional identity formation,⁸⁸ a competency recently formalized into required legal education. The 2022 American Bar Association Standards require law schools to “provide substantial opportunities to students” for “the development of a professional identity,”⁸⁹ including an “intentional exploration of the values, guiding principles, and well-being practices considered foundational to successful legal practice.”⁹⁰ Law schools may meet this standard through existing courses and have developed a variety of other applicable programs, such as leadership programs specifically designed to address professional identity formation⁹¹ and teaching assistantships.⁹² Clinical courses, while not specifically designed for leadership training, are often the site of leadership development and professional identity formation⁹³ as students navigate the meaning and methods to being a principled lawyer. Further, students often receive close mentorship from clinical professors in particular, helping them gain direction on their path.⁹⁴

Most first-year doctrinal courses do not engage directly with professional identity formulation. Doctrinal courses help students begin to “think like lawyers” with regard to legal reasoning and core analytical moves, but they do not require students to engage in legal decision-making.⁹⁵ Legal

⁸⁸ See Susan L. Brooks, *Meeting the Professional Identity Challenge in Legal Education Through a Relationship-Centered Experiential Curriculum*, 41 U. BALT. L. REV. 395, 395 (2012); Susan L. Brooks, *Fostering Wholehearted Lawyers: Practical Guidance for Supporting Law Students’ Professional Identity Formation*, 14 U. ST. THOMAS L.J. 412, 412-14 (2018).

⁸⁹ ABA SECTION ON LEGAL EDUCATION AND ADMISSIONS TO THE BAR, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2023-2024, Std. 303(b)(3).

⁹⁰ ABA SECTION ON LEGAL EDUCATION AND ADMISSIONS TO THE BAR, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2023-2024, Interp. 303-5.

⁹¹ See Leah Teague, *Growing Number of Leadership Programs and Courses Supports Professional Identity Formation*, 62 SANTA CLARA L. REV. 149, 162 (2022) (leadership programs exist at almost half of American law schools).

⁹² See generally Lara G. Freed & Rachel T. Goldberg, *Cultivating Teaching Assistants’ Professional Identities*, 18 CHARLESTON L. REV. (forthcoming 2024).

⁹³ See Teague, *supra* note 91, at 163 (2022) (“clinical experiences . . . provide fertile ground for leadership training”).

⁹⁴ See O’Leary, *supra* note 16 at 370.

⁹⁵ See, e.g., Milleman & Capulong, *supra* note 2, at 9.

writing courses are often the primary site of professional identity formation in the first year, as these courses often incorporate discussion of professionalism and the role of the lawyer.⁹⁶ Some engage with well-being in the practice of law.⁹⁷ However, these courses are usually focused on core writing and analytical skills through engagement with hypothetical cases,⁹⁸ so they provide only limited engagement with professional decision-making and legal ethics. Interpretation 303-5 notes that “developing a professional identity requires reflection and growth over time,” so law students “should have frequent opportunities for such development during each year of law school and in a variety of courses...”⁹⁹

Having a clinical course in the first year of law school is an exceptional opportunity for 1Ls to develop professional identity and competency. They get to see lawyers in action dealing with real legal problems and see how the law can be a tool to help others.¹⁰⁰ Working with a professor in the role of advocate, or with lawyers from community partners, can provide students with role models of how to be both an effective advocate and how to confront the real challenges of lawyering.¹⁰¹ Students have the opportunities to see their mentors work through ethical dilemmas, client counseling, and how to handle emerging and novel issues—all on cases that the students are intimately familiar with and invested in. Further, clinical courses typically build in reflective practices, so students and their mentors engage in discussion of whether they made the best possible decision and consider professional competency and the personal impact of the cases on the advocate.¹⁰² This engagement with experienced, expert advocates on real case work thus provides students essential models of how to be a lawyer and foments the development of their own professional identities. Providing this opportunity in a first-year experiential setting allows students to envision their lives as lawyers in a concrete way that no other 1L curricular course affords.

⁹⁶ See Bratt, *supra* note 58, at 22-24.

⁹⁷ Rankin et al., *supra* note 30, at 94.

⁹⁸ *Id.* at 89 (“[L]egal writing courses tend to focus students on carefully constructed legal problems rather than ‘real time, real life’ legal problems.”).

⁹⁹ ABA SECTION ON LEGAL EDUCATION AND ADMISSIONS TO THE BAR, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2023-2024, Interp. 303-5.

¹⁰⁰ Michigan Law has seen similar benefits with their 1L Advocacy Clinic. See e-mail from Joshua Kay, Clinical Prof. of L., Univ. of Mich. L. Sch., to author (Jun. 28, 2023, 1:48 PM EST) (on file with author).

¹⁰¹ See, e.g., Milleman & Capulong, *supra* note 2, at 9.

¹⁰² Timothy Casey, *Reflective Practice in Legal Education: The Stages of Reflection*, 20 CLIN. L. REV. 317, 319-20 (2014) (describing reflection as a professional skill and introducing a model for teaching it in law-school clinics); Monika Batra Kashyap, *Rebellious Reflection: Supporting Community Lawyering Practice*, 43 N.Y.U. REV. L. & SOC. CHANGE 403, 406 (2019) (describing a “regular practice of self-scrutiny and self-reflection” as essential to the work of community lawyers).

3. Career Building and Practice Readiness

Engaging in clinical work in the first year significantly helps students in their career trajectories. First, the 1L Clinic supports public-interest students, as the mere presence of the Clinic provides a sort of implicit support for public interest in the law school, and studies show “significant positive correlation. . . between clinic participation and subsequent public service employment.”¹⁰³ Because many elite law schools, Cornell included, send most of their students into corporate law and provide extensive programming aimed at this goal, students focused on public interest may not feel as supported. While law schools also offer various resources for public interest students, such as career services counseling, social events, and student affinity groups, public interest can still seem under-resourced to many students.¹⁰⁴ Clear signposts of support for public-service work can thus be very impactful for students. While most clinics telegraph a public-service ethos,¹⁰⁵ having the unique presence of a clinic dedicated to marginalized communities available in the first year sends a particularly strong signal of support for this work. Thus, the 1L Clinic can support public-interest students more broadly, even if they are not admitted into the Clinic as a 1L.

For those students who are admitted to the 1L Clinic, the community created within the course, both with 1Ls and advanced students, has helped public-interest students find that common ground with others.¹⁰⁶ Indeed, most clinic applicants and alumni indicate that public interest was a strong reason to take the clinic.¹⁰⁷ For example, one student commented in an anonymous course evaluation, “[t]his course has solidified my commitment in public interest, now that I see the internal workings and some of the things that can be accomplished.”¹⁰⁸

In general, students find that an early clinic experience helps them find their personal direction for their career, whether or not their focus

¹⁰³ Sandefur & Selbin, *supra* note 8 at 59, 98.

¹⁰⁴ I have served on Cornell Law School’s Public Interest Committee for five years, including several years as chair, and thus engaged deeply with these issues, hearing both the administrative and general student perspective.

¹⁰⁵ See *supra* Part I.

¹⁰⁶ One student commented that a major positive takeaway from the course was that they “gained a mentor and belonging in a larger public interest community.” 2023 1L/Advanced Immigration Clinic Survey results discussed *supra* Part II.B. (on file with author).

¹⁰⁷ See *supra* Part II.B.

¹⁰⁸ 2021 course evaluations for Law 7841, 1L Immigration Law & Advocacy Clinic (on file with author); see also statement from 2020 Clinic student Siunik Moradian on the 1L Clinic website: “Working in the clinic was an invaluable opportunity to have so early in my legal career. Having hands on experience with clients on a variety of immigration related issues and the hurdles they face helped me solidify the type of legal work I wanted to do.” *1L Immigration Law and Advocacy Clinic*, CORNELL L. SCH., <https://www.lawschool.cornell.edu/academics/experiential-learning/clinical-program/1l-immigration-law-and-advocacy-clinic/> (last visited Sept. 13, 2023).

is public interest. One exemplary comment from an anonymous course evaluation stated, “[t]he clinic is one of the things that got me ‘off the fence’ in terms of my orientation toward my future career. This has been one of the most valuable learning experiences of my life and I look forward to continuing to take clinical courses in the future.”¹⁰⁹ Another student wrote that they took the Clinic “[f]or meaning and purpose—an opportunity to recenter my law school education around some of the reasons I came to law school and to remind myself of those reason[s]. Further, for application—to find a forum to apply the substantive lawyering skills I was learning into practical problems in the real world.”

Second, 1L Clinic alumni draw on their early experience in their job interviews, whether for public interest or for law firm positions—especially for their 2L summers, for which interviews are held prior to the start of the 1L year, and having already done a clinic in 1L greatly sets them apart. For example, a Clinic alum commented on an anonymous survey, “[c]linic enabled me to distinguish myself from my peers, and this was significant in my job interviews, as my doctrinal grades were often median at best, but I excelled in clinic work.”¹¹⁰ Students also draw on the clinic work in pro bono opportunities that arise in corporate law firms. One student told me that, in their first-year summer firm job, they were one of the most experienced people in the room when it came time to discuss a pro-bono asylum case.¹¹¹

Third, regardless of career direction, all clinical students build specific skills that help make them especially “practice ready.”¹¹² Most law-school courses, especially the traditional first-year courses other than legal writing, focus on skills such as legal analysis and synthesis of texts, but do not teach students the practical skills they will need to employ as soon as their first summer job.¹¹³ In contrast, experiential education courses such as legal writing and clinics teach students skills like problem-solving, fact investigation, drafting, and professional collaboration.¹¹⁴ Further, like all clinical experiences, their value appreciates with time. For example, a 2019 law-school graduate who worked on clinical cases with me prior to the 1L Clinic has since

¹⁰⁹ 2023 course evaluations for Law 7841, 1L Immigration Law & Advocacy Clinic (on file with author).

¹¹⁰ 2023 1L/Advanced Immigration Survey results discussed *supra* Part II.B., on file with author.

¹¹¹ Conversation with Donaldson Izekor, Cornell Alumnus ‘23 (August 2021).

¹¹² *See, e.g.*, Milleman & Capulong, *supra* note 2, at 5 (explaining that clients and potential employers “seek practical problem-solvers” ready for practice); Batt, *supra* note 6, at 119 (“[L]aw schools continue to grapple with the most fundamental question: how to educate law students so that they can enter the legal market as competent, ethical lawyers” who are practice-ready); Barry, *supra* note 5, at 248 (describing critiques of legal education that note students spend more time deconstructing cases than learning how to represent actual clients); Sandefur & Selbin, *supra* note 8, (explaining that clinics “play an important bridge function between law school and law practice”).

¹¹³ *See, e.g.*, Milleman & Capulong, *supra* note 2.

¹¹⁴ *Id.* at 7.

transitioned from big law into administrative litigation. She recently reported that she continues to draw on her clinical experience in immigration court every time she has an administrative hearing at her small boutique firm.¹¹⁵

4. *Student Recruitment and Retention*

As noted in the Introduction, students are intrigued by clinical work and motivated to engage in public-facing advocacy. Indeed, since I began the Clinic, I have received regular communication from prospective and admitted students wishing to learn more,¹¹⁶ and from current 1Ls hoping to take the clinic in their first year.¹¹⁷ Further, Cornell Law School has enjoyed positive publicity around the work, similar to any successful clinic but enhanced by the unique nature of the incorporation of 1Ls in the work.¹¹⁸

Finally, hands-on work helps students maintain full engagement in their legal education.¹¹⁹ The early connection to real cases and clients is essential for some students, who find this engagement to be so grounding and meaningful that it keeps them in law school when they might otherwise have departed.¹²⁰ Many law students who start working with the 1L Clinic in their first year go on to additional clinics at Cornell, and/or stay on as advanced students in Immigration Law & Advocacy Clinic II and III.

5. *Casework Successes*

First-year students can meaningfully assist clients, leading to both their personal satisfaction and positive outcomes for clients. Students complete this work within the boundaries of professional ethics, as they may engage in legal tasks as long as they are adequately supervised by

¹¹⁵ E-mail from Amanda Wong, Cornell Alumnus (June 15, 2023) (on file with author).

¹¹⁶ See, e.g., e-mail from IP, Prospective Student (Sept. 14, 2021) (on file with author) (“I’m applying to Cornell Law this fall and I’m really interested in the Immigration Law and Advocacy Clinic that you run” and related questions); e-mail from HZ, Cornell Law Admitted Student (Oct. 4, 2021) (on file with author) (similar); e-mail from MF, Cornell Law Student (May 31, 2023) (an admitted student interested in learning about the 1L Clinic). I have used only the initials of students in this section to protect their privacy.

¹¹⁷ See, e.g., e-mail from LM, Cornell Law Student (Aug. 19, 2021) (on file with author) (new 1L student expressing interest in taking the clinic during her first year); e-mail from CP, Cornell Law Admitted Student (November 30, 2020) (on file with author) (similar).

¹¹⁸ Since the beginning of the clinic, Cornell Law publications have highlighted the uniqueness of this 1L clinic and its work as a positive element of the curriculum. See, e.g., Sherrie Negrea, *New Clinical Courses Mean More Hands-On Experiences for Students*, Cornell Law Forum (Fall 2021) (on file with author).

¹¹⁹ See e-mail from Joshua Kay, Clinical Prof. of L., Univ. of Mich. L. Sch., to author (Jun. 28, 2023, 1:48 PM EST) (on file with author).

¹²⁰ I have learned this in multiple confidential conversations with students, and this has been noted by others in the field. *Id.*

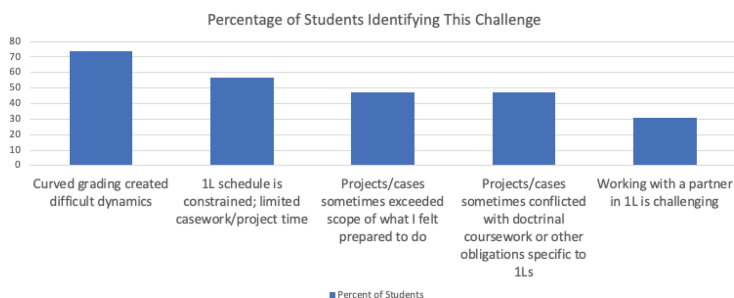
a lawyer.¹²¹ Across the first four years of the 1L Clinic so far, students represented and/or advised over fifty total clients on an individual basis. Most clients were Cornell students, faculty, or staff who needed assistance in DACA cases, citizenship applications, asylum, and related matters. We also represented and/or advised non-Cornell clients also based in upstate New York on their cases for asylum, Special Immigrant Juvenile Status, and more. Further, on our 2023 spring break trip, we advised about 800 detainees in collaboration with our community partner in Louisiana.¹²²

Many of these cases presented unique issues, such as substantive red flags requiring research or unique client situations requiring delicate interviewing skills. Some cases required detailed document preparation, while others involved more complex legal research and writing. Students enjoyed working with a wide variety of clients from different campus departments, from undergraduates in philosophy and faculty in computer science to recently arrived asylum seekers from around the world. We have worked with clients from approximately twenty-five different countries in the last four years. Further, the advocacy projects have reached a wide variety of audiences who otherwise would not be served.¹²³

Casework and projects must be constantly adapted as the immigration landscape fluctuates and needs of the local community change (discussed above), along with substantive constraints of the 1L schedule (discussed below), but each semester, the Clinic adds substantial value to the legal services offerings in upstate New York and beyond.

C. Challenges

When you took this class as a 1L, what were some of the main challenges? Check all that apply.



¹²¹ See *supra* notes 27 and 33, discussing various practice rules including ABA Model Rule 5.3 requiring adequate supervision of non-lawyers, and the Executive Office for Immigration Review rule permitting law students in clinics to represent clients before the court.

¹²² Eileen Korey, *1L Students Counsel Hundreds in Detention Centers During Spring Break ‘Reality’ Experience*, CORNELL L. SCH. NEWS (June 7, 2023), <https://www.lawschool.cornell.edu/news/1l-students-counsel-detained-immigrants/>.

¹²³ See discussion *supra* Part III.A.3.

Clinic alumni surveyed in 2023 identified the main challenges of clinic from their perspective, illustrated in the graph above. This section discusses an array of challenges 1L clinics face and suggests strategies for ameliorating them.

1. *Limited Enrollment*

Many students are interested in first-year clinical work, but the class size at Cornell is small. In light of the constraints described below, I have limited the 1L Clinic enrollment to six-to-eight 1Ls,¹²⁴ about three percent of the 1L class,¹²⁵ while about fifteen percent of the class apply. The 1L Advocacy Clinic at Michigan has employed a similar student-professor ratio (about 1:6), but with four professors and 26 students in Winter 2023.¹²⁶

While eight students is perhaps an ideal number for intimate seminar discussion and for two professors with significant other obligations, it means that the 1L Clinic is practically very difficult for students to get into. Administratively, the ability to enroll a larger number of students into 1L Clinics would be preferred so that there is a more realistic opportunity for students to get in. Enrolling more students would also improve some of the issues created by curved grading, described below.

Further, student selection can be challenging. With extremely limited enrollment, students are concerned that they will not be admitted to the clinic, and they may be on alert for perceived unfairness in the selection process. Therefore, to select students, I use a partially random selection process agreed upon by the entire faculty. Students apply to the Clinic by submitting their resume and a statement of interest. I do not have information about the students' grades when they apply, as they have not yet taken final exams for their first semester. I review the applications and remove the weakest candidates from the pool—generally, students whose materials suggest that they are not prepared for the clinic, such as those with especially weak writing skills. I then use an online random-selection tool to select students, in part to relieve the perception by students that I am more likely to choose students I already know well from my other 1L course.

Faculty considering how to admit 1Ls may wish to examine applicants' materials for interest and relevant work experience, as many

¹²⁴ I have admitted eight students only when joined by an adjunct for the semester. The adjunct instructor has an additional, full-time job in immigration law.

¹²⁵ Cornell typically enrolls around 200 1L students. In Fall 2022, Cornell enrolled a slightly bigger class than usual with 211 students. *Facts and Statistics*, CORNELL L. SCH., <https://www.lawschool.cornell.edu/about-cornell-law-school/facts-and-statistics/> (last visited Jun. 22, 2023).

¹²⁶ E-mail from Joshua Kay, Clinical Prof. of L., Univ. of Mich. L. Sch., to author (Jun. 28, 2023, 1:48 PM EST) (on file with author).

clinicians do.¹²⁷ However, for 1Ls, its especially important that they be particularly ready to work with a partner and handle the professional obligations of live-client work, such as meeting deadlines. These traits are important for all lawyers, but 1L Clinic students are under higher grade pressure than upper-class students and thus are even more sensitive to partner work challenges.

2. *First-Year Knowledge Base*

First-year law students have extraordinary energy and enthusiasm for live-client work. The students I have been privileged to teach have been uniformly dedicated to their clients and striven for excellence in their work. Nevertheless, there are specific curricular experiences they do not yet have when they start the clinic, which sets them behind upper-class students in some ways. Indeed, Professor Joshua Kay of Michigan's 1L Clinic noted that, while Michigan professors have been very impressed by their 1L Clinic students, 1Ls are naturally a bit "green."¹²⁸ Without a second semester of legal writing under their belts (which usually involves their first persuasive writing assignment), only half as many doctrinal courses, and no summer legal internship experience, they are significantly less trained than the average 2L taking a clinic for the first time the following fall. The 1L Clinic caseload must take into account these substantive limitations and seek projects that can be scaled for 1L knowledge and skill levels.

Further, first-year students may also be less aware of their own limitations, given their reduced level of experience in the legal world. Students will not yet have taken professional responsibility or worked in a legal environment. Instructors designing and managing 1Ls in live-client work must therefore be especially aware of ethical challenges the potential pitfalls around unauthorized practice of law and ensure adequate supervision, just as they would for any non-lawyer member of a legal team.¹²⁹ And in the case of a "K to JD" student who came directly to law school from undergrad, students may not have any professional work experience at all—even a 1L summer internship. Students thus may also need training in basic office etiquette and in skills such as using a photocopier.

¹²⁷ Clinical faculty in general "often select . . . students because of interest or talent." See Mlyniec, *supra* note 26, at 566.

¹²⁸ E-mail from Joshua Kay, Clinical Prof. of L., Univ. of Mich. L. Sch., to author (Jun. 28, 2023, 1:48 PM EST) (on file with author).

¹²⁹ Nantiya Ruan, Jason Cohen & Victoria Chase, *Ethical Considerations in 1L Collaborative Classrooms*, in *THE NEW 1L: FIRST YEAR LAWYERING WITH CLIENTS* 173, 175 (Eduardo R.C. Capulong et al. eds. 2015); *see also* MODEL RULES OF PRO. CONDUCT R. 5.3 (AM. BAR ASS'N 2023).

To adjust for these substantive limitations of 1Ls, I have developed a system of strategic inclusion of advanced students in the casework, as described above.¹³⁰ Advanced students have even worked cases in early stages over winter break, conducting the initial client interviews so that we could hand 1Ls a pre-vetted case package ready for their skill levels, aligned procedurally¹³¹ for substantive ease and fairness of workload.

To handle the 1Ls' higher need for supervision and support, I have also brought on a teaching assistant for several semesters and, most recently, an adjunct professor.¹³² Still, scaling the clinical projects to the 1L skill level and time capacity remains an ongoing challenge given the mismatch between the 1L structure and the nature of real legal work.

3. *First-Year Curricular Structure*

As noted above, the curricular structure of the first year of law school has changed little since the initial set of doctrinal courses was established, save the universal requirement of a legal research and writing course.¹³³ Most law schools place students into "sections," or fixed groups of fifteen to forty students, which have all their classes together for the first year. The one exception from the standardized schedule is the spring-semester elective course, which some law schools permit or require (though others do not allow an elective). Further, dates of major exams, job application cycles, and moot court competitions are typically coordinated, placing the entire 1L class on the same broad timeline. In particular, legal-writing assignments for classes like the Lawyering course I teach define the rhythm of the first-year schedule and, if synced across sections, create periodic stressful deadlines for the entire class. Thus, first-year law students have almost no control over their schedule, and they move in lockstep with their entire class.

Law schools that permit or require electives are likely the ideal site for 1L clinics because they provide a natural opening in which 1Ls can fit a clinic into their schedule. Law schools that do not have an elective option would need to do more reconfiguring of the curriculum to create such an opportunity.

Still, even with an elective, the typical 1L schedule is very constrained. This limitation in flexibility is at odds with clinical work, which is inherently unpredictable—the exact trajectory of litigation, or availability, temperament, or story of a client cannot be determined in

¹³⁰ *Supra* Part III.A.1.b.

¹³¹ See more detailed discussion of case selection *infra* Part III.C.4.

¹³² Alisa Whitfield, CORNELL L. SCH.: FACULTY DIRECTORY, <https://www.lawschool.cornell.edu/faculty-research/faculty-directory/alisa-whitfield/> (last visited July 18, 2023).

¹³³ See *supra* Part I.

advance of the semester.¹³⁴ Clinic work also varies by semester or year; while other 1L courses can cover the same content annually, with only minor changes for a new case or legal-writing assignment topic, live-client cases cannot be predicted in this way. Indeed, the very strength that clinics provide—the “urgency to deal[] with a real client’s problems that no simulation can approximate”¹³⁵ and the attendant skills and professional identity formulation that come with this task—is also at odds with the rest of the obligations of 1L. Professors teaching 1Ls in clinics note that they seem “more overwhelmed” than students in upper-class clinical students, who are better able to balance clinic work with their other obligations.¹³⁶

Some schools, committed to prioritizing first-year experiential learning, have modified the classic first-year structure to accommodate it. At UC Irvine, a law school launched in 2009,¹³⁷ this was possible because the founding faculty started with a “blank slate” and intentionally designed a first-year curriculum with the flexibility needed for experiential education.¹³⁸ Other schools have adjusted certain first-year courses to allow for live-client work within the existing paradigm of doctrinal and legal research classes.¹³⁹ Yale, which admits about fifty percent of its 1Ls into clinics, does not have any required 1L courses in 1L spring, permitting students to create schedules that are designed to accommodate clinic work if they so choose.¹⁴⁰

However, some faculty may oppose a redesign of the curriculum to permit clinics, which could distract 1Ls from their doctrinal studies. Indeed, live-client work often becomes a top priority for students, who take their duties seriously and wish to provide high-quality

¹³⁴ In reflecting on integrated live-client work into the Lawyering Program at the University of Montana, Prof. Eduardo R.C. Capulong noted, “the relative unpredictability of our work affected other deadlines, the reading and exam periods, and students’ and colleagues’ nerves.” Capulong, *supra* note 50, at 140.

¹³⁵ Fisk et al., *supra* note 31, at 149.

¹³⁶ See interview with Julianna Lee, Clinical Assistant Professor of Law, Michigan L. Sch. (July 19, 2023) (notes on file with author).

¹³⁷ *Our History*, UNIV. CAL. IRVINE L., <https://www.law.uci.edu/about/our-history/>.

¹³⁸ Fisk et al., *supra* note 31, at 149, 152-54 (describing the meetings held by ten founding faculty members during which they determined the key competencies they wanted their law students to learn and planning the curriculum around these goals. One hallmark of the curricular structure is that all first-year students have one entire morning free per week, at a time that works for legal aid offices, so that they can assist with live-client work in the office during that time).

¹³⁹ For example, University of Maryland Law and John Marshall Law integrate real legal work into courses such as torts, property, and civil procedure through a “Legal Theory and Practice” course model. Millemann & Schwinn, *supra* note 43, at 65-67. Further, Seattle University and the University of Denver incorporate client work into the second semester of the LRW course. Bowman et al., *supra* note 40, at 58-59.

¹⁴⁰ Yale Law Women, *The 2020 Guide to Academics*, at 4, <https://ylw.yale.edu/wp-content/uploads/2020/08/411-from-YLW-Academics-2020.pdf> (last accessed Aug. 26, 2023).

representation for their clients—sometimes at the expense of tasks like studying for their other classes. Further, students who are already struggling in doctrinal courses might be hindered by the different pressures of clinical work. Those who may be at risk for challenges with bar passage should perhaps focus on doctrinal work; on the other hand, sometimes struggling students gain confidence through clinical work that raises their performance in other courses and could thus help them on the bar. Schools concerned about the academic impact of a 1L clinic could consider a GPA minimum for enrollment, and potentially lift or adjust that requirement over time.

4. *Case Planning and Docket Design*

While all clinicians must intentionally and methodically design their docket of cases and projects with student time and knowledge in mind, these issues are heightened when running a 1L clinic. Because of the curricular constraints in most law schools, professors directing a 1L clinic should design a 1L clinic docket that is planned around the other major deadlines and projects 1Ls have, such as Lawyering assignments. If a 1L clinic professor is not already teaching in the first-year curriculum and thus aware of these deadlines and the unique stressors their 1L students face, a mentor from the legal writing faculty could be beneficial as the clinic professor plans for and navigates these issues.

Further, 1Ls benefit from greater structure than upper-class students, with pre-planned deadlines throughout the semester rather than assigning the students to create their own case plan and deadlines. For example, I review the 1L spring schedule closely each year and plan deadlines for work product drafts (e.g., “declaration draft #1” in week three, then “declaration draft #2” in week five) around these deadlines and on the same timeline for all clinic students. Although this sacrifices some of the self-direction that clinic students often have in upper-class clinics, it creates a more predictable and manageable schedule for 1Ls and reduces their anxiety. Of course, I advise them that the schedule is subject to change, but having a plan in place staves off the more frantic questions and keeps their workload even across teams.

In choosing cases and projects for 1Ls, instructors should aim for a casework difficulty level that balance stakes, complexity, and intensity so that students find the work challenging but manageable.¹⁴¹ For my immigration-focused clinic, this has meant a mix of simpler administrative cases, affirmative asylum cases with work mostly limited to fact

¹⁴¹ For example, across various semesters, I have tried strategies including focusing on affirmative asylum instead of defensive; partnering with additional community organizations; and keeping most of the work to spring break. *See supra* Part III.A.

investigation, and advocacy projects, like a relatively low-stakes, low-intensity memo for a community partner on a recurring issue.¹⁴² I have tried incorporating trial-level court cases and tried limiting most of the casework to spring break, but have found these options overly difficult. Court work is too high-stakes for 1Ls to handle alone, while pushing most work to spring break—week ten in Cornell’s semester—means that there is not enough other work to engage students for three quarters of the semester or time to complete follow-up casework after the trip.

Further, to keep the workload fair to students in a curved, letter-graded class, I strive to assign an evenly balanced caseload, with approximately the same types of cases and level of complexity for each team. Still, the casework and advocacy projects will necessarily vary. Instructors must be prepared to grapple with the student concern that arises over any perceived unfairness, especially in the curved grading universe that is 1L.

Like any non-lawyer member of a legal team, 1L students can assist with numerous non-court aspects of cases, such as research, client interviewing, and providing advice to a client under attorney supervision. Some states’ practice rules also permit 1Ls to appear in court. For example, Connecticut allows law students who have completed one semester of law school to practice in that state,¹⁴³ enabling Yale’s 1Ls to fully participate in all clinical projects, including court appearances. However, most states require two semesters of courses.¹⁴⁴ Administrative agencies often do not have a limitation for student practice,¹⁴⁵ enabling 1L students in clinics that deal with agencies, like my immigration clinic, to fully participate. Schools interested in integrating 1Ls into clinics, or creating a 1L-specific clinic, should examine their states’ practice rules and consider advocating for a one-semester student practice rule, particularly if they are interested in incorporating 1Ls into court work.

5. Faculty Time

Faculty members are also constrained by the limits of the 1L curriculum, either by dint of teaching another course in it or by the limits it places on their students’ time and capacity to meet unpredictable casework demands

¹⁴² Bowman et al., *supra* note 40, at 55 (providing a visual model for thinking about intensity level, scope of projects, and management/supervision demands). I have assigned lower-stakes work like this to clinic students in the form of advocacy projects. *See supra* Part III.A.3.

¹⁴³ *See* Conn. Prac. Book § 3-16(a)(2); *see also* Wishnie, *supra* note 21, at 100 (describing advocacy by Yale professors in the late 1960s to establish this “liberal student practice rule”).

¹⁴⁴ *See Student Practice Rules – Clinical Research Guide*, GEO. L. LIBR., <https://guides.ll.georgetown.edu/c.php?g=271042&p=1808947> (last accessed Aug. 26, 2023) (research guide listing the applicable student practice rules for every state).

¹⁴⁵ For example, a law student participating in a legal aid program or clinic conducted by a law school or non-profit organization may appear in immigration court proceedings under the direct supervision of a registered attorney or accredited representative. 8 C.F.R. § 1292.1(a)(2)(ii).

(or both, as in my case). In particular, faculty with other immovable obligations, such as my own simultaneous teaching of first-year Lawyering, may grapple with the volume of student supervision.¹⁴⁶ As other clinicians have noted, “[t]he intensive nature of [clinical] work . . . means that supervising faculty are always on call,” as “the key to a successful clinical experience is effective, timely supervision.”¹⁴⁷ This is even more essential for 1L supervision in light of their comparatively less experience.

Therefore, in determining which faculty teach a 1L clinic, law schools should consider lightening the teaching load of that faculty member in other regards to make the work manageable. For example, as a professor in Lawyering, my teaching load is already very student-focused, involving numerous in-person student conferences and extensive, high-volume feedback delivered on fast-paced timelines—similar to what the 1L clinic students require in supervision. Because of this high teaching load, after four years of teaching a full Lawyering course (about 35 students per semester) together with the 1L Clinic in the spring, I have proposed either teaching the 1L clinic only in alternating years, or teaching only the 1L clinic without Lawyering, to create a more sustainable long-term workload.

Additionally, 1Ls in any experiential setting typically engage in live-client work only in the second semester of law school.¹⁴⁸ 1L Clinics thus experience all the challenges of any single-semester clinic: student projects must fit within about three months of the year, have meaningful work timed to occur during that specific window, and minimize the workload for the other nine months of the year when students are not available to staff cases (or the clinic structure must include a staff attorney, legal fellow, or faculty member with primarily clinic commitments who can carry the case load). When faculty teach a clinic only in the spring, they often bear the ongoing casework in the months outside their clinic semester, which can come at heavy personal cost as they juggle additional casework beyond their teaching load. Faculty may also take on summer interns or term-time advanced students—though this work still requires supervision time and may be uncompensated.¹⁴⁹

6. Grading

Though grading is part of the 1L curricular structure, I address it separately here because of its impact on the course. The 1L Clinic at

¹⁴⁶ See Capulong, *supra* note 50, at 142.

¹⁴⁷ *Id.*

¹⁴⁸ See Bowman et al., *supra* note 40, at 58 (students in LRW programs work with real clients in the spring); see also Capulong, *supra* note 50, at 124 (students work with live clients during a six-week period in the spring).

¹⁴⁹ Because I routinely face casework that stretches far beyond the semester, with no way to slot that into my teaching load, I have worked to take more limited projects and collaborate with community partners to whom I can return the cases at semesters' end.

Cornell is graded on a curve, which aligns it with other 1L electives but distinguishes it from all other law school courses of its size.¹⁵⁰ The curved grading scheme undergirds the clinical experience for 1Ls in a way that many upper-course clinics avoid by keeping their enrollment under the limit for curved grading—an option not available to the 1L Clinic at Cornell because the faculty policy is to keep all 1Ls in all curved classes.¹⁵¹

Grading on a curve for such a small class size in a course that involves such detailed, personal work, including teamwork, is a challenge for numerous reasons:¹⁵² 1. this scheme carries the strong possibility that students will perform well and yet receive a lower grade, and 2. curved grading can create more difficult, competitive team dynamics that work against the interests of the client.

First, the clinic website notes that the course is curved,¹⁵³ and students are reminded at the start of the curve restraints. Still, this limitation is particularly problematic for the public-interest-focused students that the Clinic is designed to lift, as public-interest employers will be most interested in a student's clinic grade because it reflects ability to engage in practical work. Thus, an artificially lowered grade in the Clinic can harm strong public-interest focused students who otherwise would be given a significant leg up via participation in the Clinic. Further, for high-performing students who wish to engage in practical work, the grading scheme has chilled participation. Several students have declined admission to the Clinic or decided not to apply to avoid the risk to their GPAs.

¹⁵⁰ Cornell Law School policy is to curve all classes enrolling ten or more students.

¹⁵¹ In contrast, other schools that allow 1Ls in clinics do not use curved grading systems for the reasons described above. Yale Law School permits 1Ls to take any clinic, and about half do so. They are graded on a standard grading system (Honors, Pass, Low Pass, and Fail) with no mandatory curve. See e-mail from Muneer Ahmad, Sol Goldman Clinical Prof. of L., to author (April 14, 2021, 2:51 PM EST) (on file with author). Michigan Law School's 1L Workers' Rights Clinic graded clinic students on an S/U system. Interview with Rachael Kohl, Assistant Prof. of L., Wayne State Univ. (March 25, 2021) (notes on file with author). Now, Michigan's 1L Advocacy Clinic uses letter grades but is not mandated to adhere to a curve. E-mail from Joshua Kay, Clinical Prof. of L., Univ. of Mich. L. Sch., to author (Jun. 30, 2023, 9:40 AM EST) (on file with author). Berkeley Law admits some 1Ls into clinics, and they are graded credit/no credit, like all students in clinics. E-mail from Laura Riley, Clinical Program Dir., Berkeley L., to author (Jul. 25, 2023, 5:29 PM EST) (on file with author). Further, many law schools use alternative grading structures for all clinics, such as pass/fail, or, for a full-year clinic, pass/fail for the first semester and letter grades for the second semester. Richard H. Frankel, Nicole Godfrey, Michael Harris, Kevin Lynch, Laurie Mikva, Wallace J. Mlyniec, Adam Stevenson, Brian Wilson & Sarah H. Wolking, Presentation at American Association of Law Schools Clinical Conference, San Francisco, California, Grading & The Curve: Rebuilding Hope and Confidence in Students Fighting to Abolish Systems of Oppression (Apr. 29, 2023).

¹⁵² Mlyniec, *supra* note 26, at 566 (describing eight reasons curved grading is inappropriate in a clinical course, including both of these).

¹⁵³ *1L Immigration Law and Advocacy Clinic*, *supra* note 23.

Second, grading on a curve inherently pits students against one another, which can create a difficult dynamic in a small class and due to the nature of the Clinic structure. Indeed, seventy-four percent of 2023 survey respondents listed curved grading as a main challenge to the 1L Clinic,¹⁵⁴ making it the most-frequently selected challenge. In Clinic, students work in pairs or groups of three on their docket of cases—a structure used by many clinics and which ensures more robust representation by new lawyers while teaching collaborative skills. However, most clinics do not grade on a curve, avoiding perverse incentives to “out-do” one’s clinic partner to gain favor with the professor, or to avoid raising difficulties with one’s partner to avoid impacting that person’s potential grade. First-year grades matter more than any other year of law school because of the pattern of hiring practices, with most students applying to firms or other grade-conscious 2L summer placements like non-profit organizations and judges for summer clerkships after only one year of grades. The pressure to perform well is extreme and cuts against the goals of the Clinic, both pedagogically and in the spirit of service to clients.¹⁵⁵

IV. THE FUTURE OF 1LS IN CLINIC

Since the launch of Cornell’s 1L Clinic in spring 2020, followed by a report-back and significant excitement for and approval of the Clinic in spring 2021, the 1L Clinic has become an established part of Cornell’s 1L curriculum. However, the project of both the 1L Clinic in particular and the integration of 1Ls into experiential work is ongoing. First, the 1L Clinic is a heavy course to teach, necessitating some adjustments in frequency of the course or in professor teaching load.¹⁵⁶ Second, the Clinic does not currently provide a widely available opportunity for 1Ls, as only eight students are admitted; therefore, Cornell’s faculty Experiential Committee is currently considering other methods for making live-client work available to 1Ls, elaborating on the successes of the Clinic and scaling up the opportunities. Below are clinical models to try with first-year law students.

A. *Multi-Practice 1L-Specific Clinic*

Michigan Law School runs the only other 1L-specific clinic currently operating. Previously, Michigan ran its Workers’ Rights Clinic

¹⁵⁴ Challenges Graph, *supra* Part III.C.

¹⁵⁵ See Mlyniec, *supra* note 26, at 566 (“legal work in the modern world is collegial and collaborative, not competitive,” making individual grades anathema to actual practice; and “the practice of law deserves a high and consistent level of work” on behalf of clients.).

¹⁵⁶ See *supra* Part III.C.5.

for 1Ls, focusing on quick turnaround unemployment insurance cases 1Ls handled in teams during their spring semester, together with mentorship from upper-class students who had taken the clinic.¹⁵⁷ In 2023, Michigan launched a new iteration of a 1L-specific clinic called the 1L Advocacy Clinic. This clinic is co-taught by four professors, allowing greater enrollment than Cornell's 1L Clinic (twenty-six students compared to eight), and incorporating a wider variety of legal expertise. In its first semester, the 1L Advocacy Clinic handled mostly guardian ad litem cases, with a few immigration cases handled by a smaller group of students enrolled in the clinic and given separate instruction.¹⁵⁸ Because of the time required to handle the cases and the disparate substantive topics, the 1L Advocacy Clinic held a limited series of seminar sessions in the early weeks of the semester and then transitioned to providing most of the teaching in supervision, with optional group case rounds offered later in the term.¹⁵⁹

Future 1L clinics could build on Michigan's approach to create a multi-practice clinic with several distinct practice areas taught by various professors. This way, some of the broadly applicable skills (e.g., intercultural communication, client interviewing) could be taught together, and then later group case rounds could allow more student interaction. In between, students in each practice area could receive specific training and supervision from the relevant professor(s).

Such an approach could allow clinicians who teach a typical upper-level clinic to create a 1L-specific module of their clinic to be taught in this semi-collaborative way in the spring, bringing more professors and subject areas into the 1L experience and permitting admission of higher numbers of 1Ls. More variety in 1L clinic offerings would lead to both greater student interest and increased adaptability, as different practice areas could be offered if and when suitable projects arise. Further, this approach better integrates a larger proportion of the clinical teaching faculty, which bodes well for long-term sustainability, as professors may not be able to (or wish to) take on the challenging task of supervising 1Ls every year.

Another way to create a multi-practice 1L clinic that takes less coordination among faculty and avoids the risk of too little substantive overlap to be useful would be to rotate the topic of the 1L clinic. Clinical professors could opt to teach a 1L-version of their clinic in the spring every two to four years, for example. This model would allow more variety in student experience over time and contribute to sustainability by

¹⁵⁷ The Workers' Rights Clinic was discontinued around 2022; see discussion *supra* Part I.

¹⁵⁸ Interview with Julianna Lee, Clinical Assistant Professor of Law, Michigan L. Sch. (Jul. 19, 2023).

¹⁵⁹ *Id.*

not placing the challenge of teaching the 1L clinic on the same professor every year. It would also allow clinic faculty to experiment with working with 1Ls, perhaps opening slots for 1Ls in upper-class clinics the future.

B. Limited-Scope Representation in 1L-Specific Clinic

Limited-scope representation could be a viable model on which to base a 1L-specific clinic, avoiding some of the challenges inherent in more complex casework while still providing a meaningful learning experience for students¹⁶⁰ and provide vital access to justice for clients.¹⁶¹ Limited-scope work typically means that the advocate does not perform all necessary assistance for the case, such as appearing in court for the client, but does assist the client in preparing for one or more components of the case.¹⁶² Limited-scope work has long been permitted

¹⁶⁰ Some law schools have clinical programs and projects that revolve around limited-scope representation. *See, e.g.*, the completed “Unger Project” at Maryland Francis Carey School of Law, described in Michael Millemann, Rebecca Bowman-Rivas & Elizabeth Smith, *Digging Them Out Alive*, 25 CLIN. L. REV. 365, 387 (2019) (explaining why the clinic provided only limited-scope legal representation to their particular cohort of clients); *Community Law Project*, CAL. W. SCH. OF L., https://www.cwsl.edu/experiential_learning/clinics/community_law_project.html (last accessed July 18, 2023); *About Pro Se Legal Assistance Program*, HOFSTRA UNIV. MAURICE A. DEAN. SCH. OF L., <https://proseprogram.law.hofstra.edu/about/> (last accessed July 18, 2023). Many ideas in this section came from, or were supplemented by, the following talk: Ted Janowsky & Dana Sisitsky, *Practice Makes Perfect – How a High-Volume Legal Advice and Referral Clinic Helps Students Develop Practical Lawyering Skills*, Presentation at the American Association of Law Schools Clinical Conference, San Francisco, California (Apr. 28, 2023). *See also* Kristy D’Angelo-Corker, *When Less Is More: The Limitless Potential of Limited Scope Representation to Increase Access to Justice for Low-to Moderate-Income Individuals*, 103 MARQ. L. REV. 111, 116, 148-49 (2019) (arguing that law schools should integrate limited-scope work into pro bono projects and clinics).

¹⁶¹ Many people cannot afford or do not need attorneys for full representation of their cases. *See* Kristen M. Blankley, *Adding by Subtracting: How Limited Scope Agreements for Dispute Resolution Representation Can Increase Access to Attorney Services*, 28 OHIO ST. J. ON DISP. RESOL. 659, 661 (2013) (“If more attorneys would consider providing these types of limited services, additional clients (i.e., people considered ‘nobody’s clients’ now) could be served in the way that matters most to them.”). Further, public-interest organizations often operate at capacity and cannot take enough cases at full scope to provide sufficient access to justice. *See* Norah Rexer, *A Professional Responsibility: The Role of Lawyers in Closing the Justice Gap*, 22 GEO. J. ON POVERTY L. & POL’Y 585, 585 (2015) (“In the United States, there is one attorney for every 429 people living above the poverty line, but only one legal aid attorney for every 6415 individuals living in poverty.”).

¹⁶² Lianne S. Pinchuk, *Limited Scope Lottery: Playing the Odds on Your Ability to Withdraw*, 85 BROOK. L. REV. 699, 703 (2020) (defining both limited-scope and full-scope representation); *see also* *Limited Scope Representation*, AM. BAR ASS’N., https://www.americanbar.org/groups/legal_aid_indigent_defense/resource_center_for_access_to_justice/resources--information-on-key-atj-issues/limited_scope_unbundling/#:~:text=%20Limited%20Scope%20Representation%22%20refers%20to,this%20method%20of%20client%20service (last accessed July 18, 2023) (“‘Limited Scope Representation’ refers to the concept of a lawyer agreeing with a client to handle only some part(s) of the client’s legal matter. The term ‘unbundling’ is sometimes used to refer to this method of client service.”).

by the American Bar Association,¹⁶³ and a wide variety of limited-scope projects in various legal disciplines have developed nationwide¹⁶⁴ as the demand for legal services far outstrips the existing capacity to handle cases at full-scope and as access-to-justice projects for civil litigants who cannot afford counsel.¹⁶⁵

Limited-scope projects may be ideal for 1L clinics because these projects can be less-complex and more contained. First-year students can conduct these projects without advanced students,¹⁶⁶ reducing logistical complexity and allowing more 1L ownership over the work. The projects can operate on shorter timelines, allowing students to complete projects within a semester.

Although many, perhaps most, law-school clinics focus on full-scope representation,¹⁶⁷ limited-scope work can be a formative learning experience for students.¹⁶⁸ Students get to engage in substantive work of a wider variety (rather than extensive depth on a single case). Meeting with more clients means students practice adopting different approaches based on client needs and modify their interviewing techniques accordingly. Students may learn issue spotting across a wider range of issues and settings,¹⁶⁹ developing both substantive and professional skills.

¹⁶³ Blankley, *supra* note 163, at 662; Rexer, *supra* note 163, at 599 (2015) (limited-scope work has been common since at least the 1970s).

¹⁶⁴ For example, the American Bar Association developed a limited-scope project to assist the thousands of Afghans who were evacuated after the fall of Kabul in 2021. *Assist Afghan Families Filing Asylum Applications*, <https://drive.google.com/file/d/1hyZx4M4oHWeiuyhmQaQCOsNDG-F0JnQ50/view>, (last accessed Sept. 13, 2023); the New York Legal Assistance Group runs a pro se project providing limited-scope assistance to pro se litigants in federal civil cases. *Legal Clinic for Pro Se Litigants in the SDNY*, N.Y. LEGAL ASSISTANCE GRP., <https://nylag.org/pro-se-clinic/> (last accessed Jun. 28, 2023). Various legal aid organizations run brief advice “hotlines” as a form of limited service. Jessica K. Steinberg, *In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services*, 18 GEO. J. ON POVERTY L. & POL’Y 453, 463 (2011). Numerous projects of this nature exist nationwide. See *Articles*, AM. BAR ASS’N., https://www.americanbar.org/groups/delivery_legal_services/resources/pro_se_unbundling_resource_center/articles/ (last accessed Jun. 28, 2023) (compiling dozens of articles on unbundled legal services from around the country).

¹⁶⁵ Steinberg, *supra* note 166, at 453 (describing the “‘justice gap’ between rich and poor litigants”).

¹⁶⁶ See e.g. *supra* Part III.A.1.b.; III.B.3.; and III.C.2. discussing collaboration between advanced students and 1L clinic students.

¹⁶⁷ See, e.g., Shanahan et. al., *supra* note 28, at 567 (in a study involving four law-school clinics, only one clinic reported giving limited advice to clients, while the rest presumably provided full representation); Steinberg, *supra* note 166, at 478-79 (describing the full-representation model of the Stanford Community Law Clinic in detail).

¹⁶⁸ See Millemann, Bowman-Rivas, & Smith, *supra* note 162, at 406-07 (discussing lessons learned by students in limited-scope client interviewing work); James G. Mandilk, Book Note, *Attorney for the Day: Measuring the Efficacy of In-Court Limited-Scope Representation*, 127 YALE L. J. 1828, 1854-55 (describing a typical day for clinical law students working in a limited-scope housing clinic at Yale Law, who would interview clients, consult with supervisors, and sometimes draft and file motions).

¹⁶⁹ See Harris, *supra* note 1, at 189 (describing the learning that comes from a limited-scope project in immigration detention centers: “students must learn how to exercise independent

Further, limited-scope work allows the clinic to reach a higher volume of clients and make a difference for clients who might otherwise go unrepresented.

Partnership between clinical programs and community agencies¹⁷⁰ on limited-scope cases is usually necessary so that the clinic students can either handle a part of the case for the attorney.¹⁷¹ This close work with community partners may allow students to be mentored by both faculty and lawyers in practice, increasing their exposure to lawyering styles. Students can also situate their clients within a broader universe of cases or within a community, fostering a community lawyering ethos as well.¹⁷²

However, drawbacks to limited-scope representation from a pedagogical perspective include the inability to follow up with the client and to provide holistic services. Clinic participants may not learn the outcomes of the cases, and students can feel frustrated by their incapacity to do more for each individual client, as they handle a higher volume of cases.¹⁷³ From a client perspective, limited-scope service may be insufficient to meet their needs or less likely to result in optimal outcomes.¹⁷⁴ Limited-scope cases can also come with complex ethical dilemmas and challenges in maintaining the boundaries of representation.¹⁷⁵ Limited-scope representation can also be discouraged by courts, who prefer clients who are fully represented so that they are fully prepared and not confused by the scope of representation, which may be ambiguous.¹⁷⁶

judgment in a fastpaced environment, juggling multiple clients, with high stakes and incredibly limited resources, in a hostile environment where the rules are arbitrary and in constant flux.”).

¹⁷⁰ Law clinics commonly partner with community agencies, especially in immigration detention projects. *See id.* at 196-97, 201 (describing many specific partnerships between law schools and community agencies and why this partnership is essential to the work).

¹⁷¹ Cornell’s 1L Clinic has conducted limited-scope work with organizations such as Journey’s End Refugee Services and the Southeast Immigrant Freedom Initiative, discussed *supra* Part III.

¹⁷² *See* Alina Ball, *Transactional Community Lawyering*, 94 *TEMP. L. REV.* 397, 418-19 (2022) (describing how clinical legal education incorporates community lawyering).

¹⁷³ *See, e.g.,* Millemann, Bowman-Rivas & Smith, *supra* note 162, at 394 (discussing potential drawbacks to high-volume clinics).

¹⁷⁴ Steinberg, *supra* note 166, at 500-01 (“Only a lawyer who has accepted a case for full representation can provide the tailored assistance necessary to bring the legal problem to a successful resolution, particularly as the nature of the problem shifts and develops over the course of time.”).

¹⁷⁵ *See, e.g.,* D’Angelo-Corker, *supra* note 162, at 115 (discussing challenging issues such as how to manage the attorney’s duty of candor and honesty to the court in a limited-scope context); Pinchuk, *supra* note 164, at 716 (noting that “[a]ttorneys attempting to appear for some, but not all, hearings, or draft some, but not all, submissions, may find themselves mired in the rules of withdrawal.”); Peter C. Angelica, *Limited Scope Representation When an Appearance Is Made and the Ethics of Lawyering*, 49 *FORDHAM URB. L.J.* 1203, 1242 (2022) (discussing limits on unbundling services under a “reasonableness” standard that has been applied differently across jurisdictions).

¹⁷⁶ *See Villar v. City of New York*, 540 F. Supp. 3d 437, 440 (S.D.N.Y. 2021) (“The traditional model of full-scope representation sets clear expectations for all involved . . . limited-scope

C. *Integrate 1Ls into Existing Clinics*

Perhaps one of the most accessible ways to involve 1Ls in clinical work without overhauling the curriculum and designing a new course could be to integrate 1Ls into existing clinics. This strategy is advantageous in that professors teaching established clinics already have a strong base from which to build in 1Ls. These professors can identify projects and matters that would be well-suited to 1Ls. They can assign 1Ls to work with upper-class students, providing built-in mentors and involving students with more curricular flexibility to handle unanticipated, time-consuming case issues. 1Ls who are interested in the clinics can review the clinic website and speak with current clinic students and recent alumni to gain a robust understanding of the clinic experience, which is more difficult with an entirely new clinic.

However, challenges to this approach include the high demand for clinics in general, which are often oversubscribed. To deal with this interest, some professors favor upper-class students who have fewer future opportunities to take clinics, meaning 2Ls—and potentially 1Ls—are unlikely to gain admittance. For example, although Berkeley Law decided to open two of its fourteen clinics to 1Ls in 2021, 1L enrollment has been extremely rare. High demand from 2Ls and 3Ls has resulted in each of these two clinics only ever enrolling a maximum of one 1L per semester.¹⁷⁷ And unlike Yale, where the 1L second-semester curriculum is as flexible as upper-class course schedules, most law schools considering integrating second-semester 1Ls will need to consider how to ensure that 1Ls who are mixed in with upper-class students do not fall behind because of their lesser legal experience mixed with their more rigid course load. Professors will have to contend with the 1L-specific challenges detailed above.¹⁷⁸ However, these challenges could be lessened by pairing 1Ls with upper-class students as described above, and by having fewer 1Ls enrolled overall.

Further, many schools offer year-long clinics, where new enrollments are only possible in the fall.¹⁷⁹ Only semester-long clinics already use a structure in which 1Ls could be admitted for spring, so the advantages inherent in integrating 1Ls into existing clinics are diminished by the need to adapt the format of some clinics. Finally, professors who are

representation does not . . . it is imperative that the scope of the attorney-client relationship be described with the utmost clarity.”).

¹⁷⁷ E-mail from Laura Riley, Clinical Program Dir., Berkeley L., to author (Jul. 25, 2023, 5:29 PM EST) (on file with author).

¹⁷⁸ See *supra* Part III.C.

¹⁷⁹ See e-mail from Jeffrey Selbin, Chancellor’s Clinical Prof. of L., Berkeley L., to author (Jul. 21, 2023, 5:13 PM EST) (describing lack of semester-long clinic option as a barrier to admitting 1Ls) (on file with author).

accustomed to working with more experienced students may not want to admit 1Ls, for whom they may need to adapt their seminar content or other pedagogical choices.

D. Non-Clinic Experiential Options for 1Ls Interested in Live Client, Public-Service-Focused Work

As law schools continue to progress in the field of clinical legal education, the next wave may be inclusion of 1Ls in clinics, or at least in live-client projects. Many law schools have already developed non-clinical experiential programs that involve live-client, public-service work.¹⁸⁰

Going forward, law schools may consider whether a live-client clinical course, another experiential model, or a combination may be best to serve their students. While an extensive discussion of these models is beyond the scope of this article, ideally, schools would offer a credited clinical or experiential course for 1Ls. This way, first-year students could engage in an extended practical experience under close supervision, with an accompanying seminar, and for course credit. However, not all students will want the potential complication or distraction from their doctrinal courses, so offering a lower-stakes or more limited-commitment experiential option would allow more students to participate. This could look like an intensive live-client project over a break or a weekend, perhaps in conjunction with an existing clinic and for a single credit, or a one-credit research project connected to a clinic.

CONCLUSION

First-year law students would greatly benefit from expanded opportunities to engage in clinics early in their law-school careers. Such students are inspired, grounded learners who revel in using their new legal skills in the service of others. Law schools considering 1L clinical options should examine their pedagogical goals, 1L curricular constraints, and client service goals. With 1L clinics only just beginning in a few law schools, but with student interest and pedagogical value high, now is the time for law schools to innovate around including 1Ls in clinics.

¹⁸⁰ See *supra* Part I.B.

