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## A Role for Regulations, Standards, Best Practices and Monitoring in Enhancing Quality in Clinical Legal Education Programs

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# **A ROLE FOR REGULATIONS, STANDARDS, BEST PRACTICES, AND MONITORING IN ENHANCING QUALITY IN CLINICAL LEGAL EDUCATION PROGRAMS**

**Contract No.** AID-OAA-I-13-00032, **Task Order No.** AID-121-TO-16-00003

**Nove Pravosuddya Justice Sector Reform Program (New Justice)**

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**Submitted by:**  
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## I. BACKGROUND

This report analyzes and makes recommendations regarding three related documents: the Draft Model Regulation on Legal Clinic of a Higher Educational Institution as posted by the Ukrainian Ministry of Education and Science on April 19, 2017 (hereafter Regulation); the Standards for Legal Clinics Functioning in Ukraine developed by the Association of Legal Clinics of Ukraine (hereafter Standards); and an instrument to monitor law school clinics being developed by the Association (hereafter Monitoring Instrument). The report also makes recommendations about how the Association Legal Clinics of Ukraine (hereafter ALCU or Association) might be strengthened to enhance its impact in building strong clinical legal education programs in Ukraine, both for the value of legal experiential education itself and for the role that clinical education may play in legal education reform.

I received English translations of the Regulation and Standards prior to visiting Ukraine from May 9-16, 2017. During the visit, I attended the ALCU meeting held in Dnipro, Ukraine from May 11-13. I was one of the speakers opening the conference with a Power Point presentation called *The Global Clinical Movement*. The objectives of the presentation were to demonstrate the breadth and history of clinical education throughout the world and hence show clinical education's place in contemporary legal education; introduce the U.S. system of law school accreditation including how and why the American Bar Association (ABA) is the designated accreditor; review the requirements for experiential education within the ABA standards; stress the value of national networks in strengthening clinical programs; and give examples of the scholarly foundation for clinical education with examples of books and journals devoted to the subject.

I also participated in the strategic planning session for the board and interested members of the Association conducted by Iryna Ivankiv of OSCE, which was held prior to the conference with a follow-up session on Saturday, May 13.

The legal clinics stream of the Dnipro conference focused on operationalizing the Association's Standards into a monitoring instrument. On Friday, May 12, ALCU Board Member Maria Tsypiashchuk reported on the piloting of a Independent On-site Legal Education Quality Assessment methodology developed with support from USAID FAIR Projects and New Justice. Ms. Tsypiashchuk was part of a team that visited Odessa University in an initial pilot of the methodology. During the visit, she focused particularly on the clinical program. After her presentation, I talked about how the U.S.-quality-assurance process for legal education works in the United States including the role of the ABA and its standards for legal education; why the ABA's role as accreditor means that law schools heed their Standards; and how the annual reporting, self-study for seven-year visit, site visit, and accreditation process work.

The major portion of Friday afternoon and Saturday sessions at the conference was led by Andrii Halay, the ALCU's Executive Director, and focused on creating an instrument to monitor the compliance of law clinics with the Standards. Some of the comments I made about the Monitoring Process and Standards are mentioned below and expanded upon more fully later in the report.

I made suggestions during a discussion of what information should be noted about prospective clients who are not accepted by the clinic, and my suggestion was adopted in the tentative draft.

The substance of that recommendation with the reasons for appears in Section IV of this report in the recommendation regarding the Regulation's Article III paragraph 18. I also mentioned in the session that my report would include information on the distinction that U.S. legal ethics makes regarding prospective, current, and future clients, which I think is very helpful in any legal system. That point is outlined in Section V, which follows.

In addition, I contributed to the discussion of what type of assessment of clinics should result from monitoring. I agree with the four-tier system of that has been tentatively adopted and is described in Section V, which would assess criteria in the standards with the following assessment: (1) does not meet the standard; (2) partially meets with some concerns; (3) fully meets; (4) is exemplary in this regard. My reservations about numerical ratings and rankings are outlined in Section VI of this report.

During the discussion, I expanded on a point made in my Friday-morning presentation on the U.S. accreditation ABA-AALS accreditation and membership review system: how many, if not most problems law schools have with Standards are remedied in the process of completing the required law school self-study in preparation for the team visit. I assume in the Ukrainian system that clinical programs will be aware of the criteria on which they will be assessed, and I think it will be very useful if they are asked to make a self-assessment prior to the visit.

I mentioned the point more fully developed in Section V below about the differences in a Standard requiring that a component be in place, e.g., existence of a conflict-of-interest policy, notice to students about their minimum required commitment to the clinic, versus specifying what a policy or procedure should be. I suggestion in Section V that the process of finalizing, piloting, and working with the Monitoring Instrument and Process could be a useful way to rethink what should be minimum "standards" versus detail about possible ways to fulfil a required component that might become suggested Best Practices.

The conference participants were thoughtful in considering how the Monitoring Process should be conducted to appropriately protected client confidentiality. In a discussion of the monitor reviewing some randomly selected client files to assess quality of service and appropriate completeness of records, I mentioned the possibility of redaction of client name and identifying information to preserve confidentiality.

On May 15, I attended a meeting with Roman Greba, Deputy Minister of Education and Science, and two of his staff, namely the Head of the Legal Department, Maksym Yarmystyi, and Leading Specialist, Petro Vasiunyk. The meeting was also attended by New Justice Legal and Judicial Specialist Ashot Agaian and Andrii Halay. I presented views on the regulation as posted on the Ministry's website from the English translation I had. Those views are detailed in this report, and the English translation of the Regulation is an appendix to this report. Both prior and after the Ministry meeting, I met with Mr. Halay and other Association Board members to discuss the Association's view of the substance of the draft Model Regulation and their views about useful follow-up.



## II. SOME CLINICAL EDUCATION DEFINITIONS

I find useful the definition of clinical education developed by Harvard Law School professor Gary Bellow, who was a primary force in the development of clinical education in the United States:

- 1) The student's assumption and performance of a recognized role within the legal system;
- 2) the teacher's reliance on this experience as the focal point for intellectual inquiry and speculation; and
- 3) a number of identifiable tensions which arise out of ordering the teaching-learning process in this way.<sup>1</sup>

This definition encompasses:

- simulation programs for which students are given materials on situations that would arise in law practice or otherwise prepare students with regard to needed lawyering skills. Students though work on “simulated” situations, not “real” ones;
- externship programs (also called field placement programs) in which a student performs and observes legal work in a setting outside the law school and for which the student’s day-to-day supervisor is not a staff member of the law school. Depending on the educational goals of the program, placements might include legal aid providers, non-governmental organizations, prosecutors’ offices, government offices, judicial chambers, private law practice, or other places in people use a legal education in law-related work;
- clinical experiences in which students are the “primary” person representing or advising the client on “real” matters while working under the supervision of someone employed by the law school. Some common names for this type of clinical education are representation clinics, law clinics, or in-house clinics;
- public education activities in which students educate members of the public about their rights and responsibilities under the law as well as how the ways they might encounter and employ the law in their lives. Public education is also sometimes called legal awareness, legal literacy, or street law. Common audiences for public education are students at varying levels of school, inmates of prison or juvenile detention facilities, and groups of low-income people who may have common legal problems, e.g., tenants, immigrants.

Clinical courses often combine aspects of these modes of clinical education. For example, most U.S. externship, in-house clinics, and street law programs use simulation for students to practice skills before using them in “real” settings. Many U.S. in-house clinics involve students in public education projects in addition to students’ representation of individual clients. Some clinics are “hybrids” bridging the externship and in-house model with students working in a setting outside

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<sup>1</sup> Gary Bellow, *On Teaching the Teachers: Some Preliminary Reflections on Clinical Education Methodology*, COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, CLINICAL EDUCATION FOR THE LAW STUDENT 371, 379 (1973).

the law school but with a supervisor employed by the law school, e.g., a prosecution clinic in which the student prosecutes actual cases but with a supervisor chosen and at least partially compensated by the law school.

### III. PARTICIPATION IN CLINICAL COURSES IN UNITED STATES LAW SCHOOLS

Standard 303 (a) of the ABA Standards on Legal Education, adopted effective 2015-16, uses the term “experiential courses.”<sup>2</sup> This Standard requires all graduating law students to have at least six credit hours (within a law degree of at least 83 credit hours over the three-year, post-graduate J.D. degree) of “experiential courses” with that term including “a simulation course, a law clinic, or a field placement.”<sup>3</sup> The Standard goes on to say “[t]o satisfy this requirement, a course must be primarily experiential in nature and must:

- integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302;
- develop the concepts underlying the professional skills being taught;
- provide multiple opportunities for performance; and
- provide opportunities for self-evaluation.”

While this standard requires six credits of experiential courses, it does not require that every student take a “live” law clinic/in-house clinic or field placement/externship clinic because the requirement can be satisfied by simulation courses.

Standard 303(b), however, also requires that:

A law school shall provide substantial opportunities to students for:

law clinics or field placement(s); and

student participation in pro bono legal services, including law-related public service activities.

Although “substantial opportunity” is not defined in any of the interpretations accompanying Standard 303, the language presumably requires that a “substantial” number of “slots” exist in law clinic or field placement courses such that at least much of the student demand for such courses could be satisfied. In discussing the reference to pro bono legal services, Interpretation 303-3 refers to Rule 6.1 of the ABA Rules of Professional Conduct, which discusses lawyers’ ethical obligation to provide pro bono services. Pro bono activities are discussed separately from for-credit experiential courses because, by definition, pro bono is performed without compensation, i.e., money or academic credit. The definition of public service activities in Interpretation 303-4 encompasses public education activities.

While the new 6-credit-for-graduation experiential education requirement became effective only for students beginning their law school educations in 2015-16, data from the Center for Applied Legal Studies (CSALE) based at the University of Michigan’s 2013-14 survey shows how many

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<sup>2</sup>[www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2016\\_2017\\_standards\\_chapter3.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2016_2017_standards_chapter3.authcheckdam.pdf)

<sup>3</sup> The 83-credit requirement for graduation is found in Standard 311(a). Credit hour is defined in Standard 310(b).

students were already taking in-house and externship courses. 174 of the then 198 ABA-accredited law schools returned the survey answering at least some of the questions. 48.5% of the schools reported that 40% or more of their students took an in-house clinical course before graduation. 63% reported that 40% or more of their students took an externship course before graduation.<sup>4</sup>

Becoming a licensed lawyer in the U.S. means admission to a state bar. There is no general federal bar. In December 2015, the New York State Bar, one of the largest in the United States, adopted a skills competency and professional values requirement with a stated purpose of “ensur[ing] that prospective attorneys possess the requisite skills and are familiar with the professional values required for effective, ethical and responsible practice in New York.” The requirement made New York the first state to require bar applicants to demonstrate, in addition to passage of the bar exam, “that they had essential practical skills training and gained sufficient understanding of professional values.” The new requirement provides five alternative pathways for demonstrating this proficiency one of which is 15 credits of “practice based experiential coursework designed to foster professional competency training.” The California Bar, the largest in the US, also considered at 15-credit experiential requirement but, for the moment, has deferred further consideration, in part because of the ABA’s recent adoption of the new 6-credit experiential course requirement.

#### **IV. DEVELOPING A NATION’S CLINICAL LEGAL EDUCATION PROGRAM**

As the note on my perspective at the end of this report indicates, I have worked in 30 countries outside the U.S. in the related areas of clinical legal education, teaching legal ethics, legal profession reform, and legal education reform.

The client service aspect of an adequate in-house clinic in which students provide direct service to clients requires a setting in which exemplary professional legal standards are observed including adequate physical facilities and resources and a framework of policies and procedures such that client representation and advice is competently provided within the home jurisdiction’s law and ethical guidelines and with adequate supervision of student work.

As recognized in the ABA Standard quoted above, the educational mission of a clinic requires a structure that will help guide students in integrating doctrine, theory, skills and legal ethics. Learning from experience is not the same as merely “experiencing.” Faculty working in clinical education must identify the learning outcomes desired from a particular course and design a curriculum such that students will have experiences from which they can learn; the necessary preparation; prompts for reflection and self-evaluation; and guidance and feedback from their supervisors on their work.

Designing clinical programs that meet at least minimum standards with regard to client service and student education is labor intensive and not “easy.” While much can be learned from the experience of other countries, models will vary with country’s legal systems, the types of legal problems faced by client populations seeking help from a law school clinic, the rest of the legal education curriculum, and other ways that national and local situations may differ.

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<sup>4</sup> [http://www.csale.org/files/2013-14\\_CSALE\\_Survey\\_All\\_Parts.pdf](http://www.csale.org/files/2013-14_CSALE_Survey_All_Parts.pdf).

Once a country's leaders are convinced clinical education is a "good thing," this sometimes prompts an initiative to make clinical education part of the required national legal education curriculum. In my view, a more prudent initial step is requiring that all law schools develop "some" in-house and externship programs meeting minimum quality standards. Once clinics exist generally students ask for more clinical education, and programs are able to share experience and learn from each other. With large law student populations, requiring a "live" clinical experience for all students at an early stage of clinical education likely would result in "in name only" clinics without a meaningful practice experience for students, adequate supervision, and a thoughtful structure assuring the educational mission of the clinic course is met.<sup>5</sup>

At least many countries in the former Soviet sphere, as well as other countries with civil law systems, require a practice experience outside the law school before graduation. When law student populations were small, that requirement might have functioned well. As law student enrollments in many countries have greatly increased, it is doubtful if many of those students are getting a useful educational experience, and indeed it is likely that at least some merely have "supervisors" who "sign off." As discussed in the next section, some countries have taken the sensible course included within the Model Regulation of providing that experience in an in-house clinic can satisfy the practice requirement. Some law schools also have studied externship programs with seminar or other types of reflective components that have been developed in the U.S. and elsewhere and worked on strengthening the existing practice requirement structure to assure students receive valuable learning experiences.

I understand that at least some Ukrainian law schools have developed a classroom course in Basics of Legal Clinic Practice. While any experiential course generally is more intensive than a lecture-based one, a simulation course can be structured in ways that will provide some student benefit with use of fewer resources than ones in which students require supervision on "real" matters. Such a classroom course can reach students for whom there are not yet resources to provide a "live" experience and provide training for those students who may subsequently work in a "live" clinic.

## **V. THE UKRAINIAN MINISTRY OF EDUCATION & SCIENCE'S APRIL 2017 MODEL REGULATION ON LEGAL CLINICS**

As expressed in this section, the proposed Model Regulation is a positive development, and enacting it "as is" would be an important step forward for clinical education and legal education more generally. I saw nothing in the Model Regulation that would be critical to revise before enactment.

Below I list the important "positives" I see in the Model Regulation. I then note a couple of drafting alternatives, but I do not see them as crucial changes that should delay enacting the Regulation as proposed.

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<sup>5</sup> As previously discussed, while ABA Standards do not require law schools to require students to take an in-house clinic or externship program, some law schools have taken that step. Bradley T. Borden & Robert J. Rhee, *The Law School Firm*, 63 S.C. L. REV. 1, 2 n. 8 (2011). Schools Requiring Experiential Courses, Albany Law School, [http://www.albanylaw.edu/sub.php?navigation\\_id=1737](http://www.albanylaw.edu/sub.php?navigation_id=1737) (2011) (listing mandatory clinic or externship requirements at Northeastern, Drexel, Washington & Lee, and Maryland Schools of Law, among others).

First in Article I paragraph 6 the Regulation wisely states important values on which it is grounded including a strong statement about adherence to principles of legal ethics and Ukrainian legal clinics ethics. The values listed are “rule of law, legality, objectivity, humanism, provision of free legal aid, confidentiality, competence and conscientiousness in the process of performing students’ duties, professional autonomy and mobility.”

Throughout their history, a strong justification for U.S. clinical education has been its power in teaching legal ethics and instilling a sense of responsibility in future legal professionals so the skills and knowledge students acquire not only assure competency but also direct students to the habit of reflection on the ways skills and knowledge are used. As emphasized in the critique of the Law and Development movement of the 1960s and 1970s and elsewhere, “teaching skills,” unmoored from values, can do more harm than good.<sup>6</sup> The legal education report from the Carnegie Commission’s study of legal education, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW*, emphasizes the importance of the integration of skills, substantive knowledge, and values.<sup>7</sup>

Second, as stated in Article I paragraph 5, clinical education is based on the dual mission of teaching students and the social function of access to legal service and information for those who would not otherwise receive that. The Model Regulation wisely concludes this paragraph by stating that the educational function is primary.

Third, given clinics’ important role in educating students and providing service and information to the public, it is important that they be stable institutions. Teacher-supervisors must be providing guidance throughout and assuring that the quality of service to clients and public education provided to the public are of sufficient, and indeed, high quality. Adequate resources in terms of premises, access to research sources, materials, technology, and so on must be available. Students and faculty often eagerly volunteer to work in clinics because they know how much educational value there will be for students and how much the client service and information is needed. For sustainability year-after-year, however, clinics need to be part of the institutional structure of higher education institutions. Teacher-supervisors and other clinic staff also need to have their work in the clinic credited toward the workload requirements of their positions. Article I paragraphs 2 and 7 as well as Article II paragraph 5 and Article V paragraphs 11 and 12 provide important guidance in those regards.

Fourth, Article IV wisely affirms the importance of Public Education in the work of clinics. Some of the need for client service can be averted by people’s greater awareness of the law and actions they may be able to take on their own. Furthermore, rule of law and the proper functioning of a democracy is based in people’s awareness and stake in the legal system.

Fifth, Article V provides the option for a practice traineeship in the clinic to be one of the ways to satisfy the practice traineeship requirement. As previously mentioned, this option provides one way for students to satisfy the national practice/traineeship requirement with a supervised, quality experience. Hence the provisions in Article V paragraphs 1, 8, and 9 are valuable ones.

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<sup>6</sup> Leah Wortham, *Aiding Clinical Education Abroad: What Can Be Gained and The Learning Curve on How to Do So Effectively*, 12 CLIN. L. REV. 615, 632-637 (2006).

<sup>7</sup> WILLIAM M. SULLIVAN ET. AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007).

Sixth, the Model Regulation strikes a balance between specifying indicia and mechanisms necessary for adequate quality in student education and service to clients and retaining autonomy in universities. The Regulation leaves scope for individual Higher Education Institutions and legal clinics to meet those indicia and implement the required mechanisms in alternative ways. The following Section V discusses the mix in quality assurance in specifying components that must be in an educational program while leaving universities free to consider and experiment with alternatives to satisfy those components. As the Monitoring Process develops in Ukraine, it will be useful to continually reevaluate what is “basic” and should be required in the Regulation and Standards while gathering information about “Best Practices” that can be shared among clinical programs to encourage programs to learn from each other and enhance quality.

Finally, as above, the Regulation supports clinical education in important ways. While stopping short of mandatory “shall” language and requiring clinical education as a licensing criteria, the Regulation is a useful and strong endorsement of clinical education and specifies components necessary to strengthen clinical education in Ukraine and support valuable legal education reform through greater integration of legal clinics within higher educational institutions.

I made the following drafting suggestion to the Ministry of Education. Article III paragraphs 17-20 concerns prospective clients whom the clinic does not accept as clients. Article III paragraph 17 appropriately recognizes the clinic’s discretion to reject a prospective clinic according to the clinic’s internal policies. Article III paragraphs 19 and 20 are useful sections on information the clinic may give a prospective client who is not accepted regarding possible alternative services. The English translation of Article III paragraph 18 says, “A decision on such rejection will be made by the legal clinic manager or another so authorized person in writing with substantiation of reasons for the rejection.” In part because the next two paragraphs concern information to be given to a rejected prospective client, my first reading was that the reason for rejection must be given to the rejected prospective client although this is not explicit. I suggest that Article III paragraph 18 be reworded to say the following: “The names of prospective clients (with other adequate identifying information) who are not accepted as clients by the clinic shall be kept in clinic records with a notation in the clinics’ records of the reason for the rejection. The prospective client shall be clearly informed that the clinic has not accepted the case.”

The proposed redraft affirms the professionally prudent practice of keeping records of those who approach a lawyer for service and whom the lawyer does not accept as clients. It also provides that prospective clients who are not accepted should be informed clearly that they have not become clients so they do not mistakenly think the clinic is handling their matter and fail to take additional steps that may be necessary. The redraft, though, makes clear the notation required is an internal one. It does not require the client be given reasons for the rejection.

In my second overall point above, I commended the Model Regulation for its affirmation of the educational mission of the clinics as primary. With this in mind, clients may be rejected for educational reasons such as the type of case cannot be handled within the academic year time frame, provide a useful type of case from which students can learn, or that the clinic already has too many cases to take on more and still provide adequate supervision of student work and time for students to work on cases in a deliberate and reflective manner. While a clinic might choose to give explanations why a client’s case is not accepted, the clinic is not a public legal services provider to which prospective clients are “entitled” to services if they meet eligibility criteria. The required information to prospective clients who are not accepted should be only clear information that the case has not been accepted, and the person should not consider herself a

clinic client. Article III paragraphs 19-20 give useful guidance on referral to other services when appropriate.

As an example of a “housekeeping” drafting suggestion if I were “writing on a clean slate,” I would suggest that the defined terms in Article I paragraph 2 be reordered so they proceed from the most general to more specific, e.g., beginning with the definition of legal clinic (which is now last), moving through the various roles of people within the clinic (teacher-supervisor, legal clinic manager, coordinator, student-consultant), next to clinic clients, and then to components of the clinic’s work like necessary consent, components of interview and consultation, and so on. This, however, is an example of the kind of nonsubstantive change that I think should not delay promulgating the regulation.

I suggest later in my discussion of the Standards that the ALCU consider adopting in the Standards and incorporating in training materials on legal ethics, the concepts of prospective, current, and former client. Now the definition of Client of the Legal Clinic Article I paragraph 2 refers to people who have applied for service, while I recommend that a person in that status be called a “prospective client” and only those who have been accepted as clinic clients be referred to as “clients.” This seems, however, something to be addressed in the Standards and not an item of significance to be changed now in the Regulation.

## **VI. THE ASSOCIATION OF LEGAL CLINICS OF UKRAINE STANDARDS AND DEVELOPMENT OF THEIR USE IN A MONITORING PROCESS**

The May 2017 Dnipro conference made important strides in preparing a draft a Monitoring Instrument to implement the ALCU Standards and how use of the Instrument in a Monitoring Process might proceed.

This section suggests that completion of the initial Monitoring Instrument, piloting that Instrument, and an on-going Monitoring Process should be a dynamic, evolving enterprise rather than a static one. Like the Regulation, the Standards are a considerable achievement and an excellent basis for moving forward. The Standards need revision before completing the initial Monitoring Instrument and testing it in pilot uses. After the initial pilots of the Instrument, it will be useful to review the Instrument for improvement and to consider whether use of the Standards in monitoring suggests possible revisions. The Monitoring Process should be structured so it not only gives feedback to the clinic being reviewed but also “captures” ways exemplary ways clinics are functioning so they can be recognized and their practices can be shared among clinics.

As the Monitoring Instrument is used and a Monitoring Process is developed, the Standards might evolve in three ways:

- (1) the Standards might be pared down by focusing on the basic component that should be in place for a clinical program to meet a minimum acceptable standard with detail about desirable ways to satisfy that component being moved to a “Best Practices” document;
- (2) design of the Monitoring Process could include provision for monitoring teams to gather information on such “Best Practices” so clinics can be recognized for exceptional work and such practices can be shared, e.g., in training conferences;

(3) consideration be given to grouping the Standards in the four categories that are being considered for the Monitoring Instrument and are described below. The means that Standards regarding professional office management and meeting ethical standards on things like confidentiality and avoiding conflicts of interest might be gathered together while Standards related to the how the clinic works with students in the educational process might be collected in another section.

An important fundamental question about any standard-setting and monitoring process is the purposes they initially are meant to serve and what additional purposes might serve in the future. From the Dnipro conference and discussions surrounding it, I understand the ALCU's primary purpose is to establish strong minimum standards for clinic operation with regard the two purposes of clinical education described previously: the educational mission regarding students and the social function of client service to those who would otherwise not receive it. As discussed concerning the Regulation, meeting these dual purposes requires that clinics are stable with resources sufficient to provide the necessary quality of education and client service. Hence, like the Regulation, parts of the Standards are directed to the place of clinics in Higher Educational Institutions, credit of the work of the teachers within their work for these Institutions, and the option for students to use their work in the clinic to satisfy the practice traineeship requirement.

As discussed in this Section and the following Section VI on ranking, these purposes seem well served by a Monitoring Instrument and Process that establishes whether a clinic currently meets the basic standard, and if not, what will be necessary to bring the clinic to that standard. As described above, the Process also should have a mechanism for gathering information on clinics that have exemplary practices that should be recorded, can be the basis for a clinic's recognition, and can be shared to help all clinics to be more effective.

Once a strong Monitoring Instrument and Process are in place, they could serve other purposes if they are found valid to do so. As described in this report, the ABA Standards and accreditation process provide what is necessary in a legal education for a law graduate to be allowed to sit for a state bar exam and used by the U.S. Department of Education to decide whether a student can obtain a federally-insured student loan to pursue a law program. The ABA is a voluntary nonprofit organization with no governmental status. The highest tribunals in states who set bar admission standards and the U.S. Department of Education "use" the ABA Standards and accreditation process for achieving official purposes. Likewise, a Ukrainian government agency could decide, at some future point, that the Monitoring Process developed by ALCU was appropriate as a condition related to an educational or professional license. Section VI describes questions regarding validity and reliability of quality-assessment instruments that should be bases for deciding whether a Monitoring Instrument and Monitoring Process are legitimate and appropriate bases for decision that have consequences, e.g., the license for an educational program, distribution of funds.

As described in the following section, I have worked with the clinics in Poland since their founding in 1996. Having been to Poland 34 times, it is the country, aside from the US, about which I know the most with regard to my areas of interest of clinical education, teaching legal ethics, the legal professions, and legal education. The ALCU looked in part to the Polish Standards as a model. I begin the discussion below with information on the Polish Clinics Foundation and their Standards.



In December 2001, the Ford Foundation funded some Polish clinical education pioneers to attend the Global Alliance for Justice Education (GAJE) Second International Conference in Durban, South Africa and to study the South African clinics association and trust. This visit prompted creation of the Polish Legal Clinics Foundation in 2002, which has been a major support to the growth of clinics in Poland, their stability, and their quality. There are now clinics in all the public law schools in Poland and some of the private ones as well. The Foundation and Polish clinic have hosted visitors from many parts of the world to study their models. The Polish Foundation and their President Filip Czernicki have worked with the ALCU, and ALCU members have attended some Polish clinics' regular conferences. The Polish Foundation adopted Standards for clinics early in their history.

Initially the Polish Legal Clinical Foundation expected to receive substantial funds to distribute, and standards compliance was to be an initial requirement for grant eligibility. In addition, the foresighted founders realized that growth and legitimacy of clinical programs depended on their meeting appropriate standards in providing legal service and providing quality education to students. In the end, the Polish Legal Clinics Foundation only had modest amounts of money to award, never having given a grant of more than \$10,000 and awarding a grant as low as \$100. Their grants never funded office space or salaries, those being seen from the beginning as university's responsibility. In recent years, the Foundation no longer distributes funds, but clinics assume that the Standards must be met as a measure of quality. RZECZPOSPOLITA, a major Polish newspaper ranks law schools. At some point, the newspaper started including whether the law school had a clinical program as a rating factor. More recently, they have added compliance with clinical standards as a factor, which has led to some universities improving the ratio supervisors to students.

Using WORD's word-count function, I found that the Polish Legal Clinics Foundation Standards for clinics are 1294 words. ABA Standard 304 on requirements for Simulation and Law Clinics is 146 words, and Standard 305 on Field Placements is 395 words. The Ukrainian Standards are 5009 words, thus being somewhat more detailed than their Polish and U.S. counterparts. I suggest below that, as the Monitoring Instrument and Process are developed, piloted, and refined, the Standards might be pared down to more identification of components that must be present and the details about how Standards might be implemented moved to a Best Practices document. For the present, though, the ALCU Standards provide a good starting basis for developing a Monitoring Instrument and Process.

The Polish Standards include several provisions on minimum professional requirements for client service, while the Ukrainian Standards, like the U.S. Standards, focus more on clinic's educational program for students. I explain below why I think the U.S. ABA Standards do not address those issues and instead concentrate on the educational requirements for clinical programs.

First a quick review of the Polish approach.

Many of the Polish Standards address minimum professional requirements for providing client service including

- assuring necessary client confidentiality (Standard 4);
- safeguarding client documents (Standard 5);
- minimum client accessibility to service (Standard 6);
- information that must be provided to clients (Standard 7);
- additional requirements regarding the provision of service (Standard 7);
- a system to check for conflicts of interest (Standard 9);

--required liability insurance (Standard 10).

Other Polish Standards are directed to educational quality including

- requiring weekly seminars to discuss cases (Standard 1);
- requiring that students and supervisors not be so overburdened by case numbers that the quality of client service is threatened and requiring the clinic director to set the maximum number of cases for a student to handle at one time (Standard 1);
- providing legal ethics training to students (Standard 1);
- requirements related to adequate supervision, which also is related to professional standards of client service (Standard 2).

The Polish Standards, however, stop at setting minimum standards for conditions that must exist and do not address the specifics on the content of what is to be done on the specified components, e.g., what the content of weekly seminars or ethics training should be, the way students should be supervised, or the way in which students should work.

Turning to the U.S. approach, ABA Standard 304(b) requires the following regarding in-house clinical programs (called law clinics by the Standard):

A law clinic provides substantial lawyering experience that (1) involves advising or representing one or more actual clients or serving as a third-party neutral, and (2) includes the following:  
direct supervision of the student's performance by a faculty member;  
opportunities for performance, feedback from a faculty member, and self-evaluation; and  
a classroom instructional component.

ABA Standard 305(e) requires the following regarding externship (called field placement programs by the Standard):

A field placement program shall include:

- a clear statement of its goals and methods, and a demonstrated relationship between those goals and methods and the program in operation;
- adequate instructional resources, including faculty teaching in and supervising the program who devote the requisite time and attention to satisfy program goals and are sufficiently available to students;
- a clearly articulated method of evaluating each student's academic performance involving both a faculty member and the site supervisor;
- a method for selecting, training, evaluating, and communicating with site supervisors;
- for field placements that award three or more credit hours, regular contact between the faculty supervisor or law school administrator and the site supervisor to assure the quality of the student educational experience, including the appropriateness of the supervision and the student work;
- a requirement that each student has successfully completed sufficient prerequisites or contemporaneously receives sufficient training to assure the quality of the student educational experience in the field placement program; and
- opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student may earn three or more credit hours in a field placement program, the opportunity for student reflection must be provided contemporaneously.

Like the Polish Standards, the U.S. ABA Standards require the existence of “components,” e.g., that field placement programs provide an opportunity for student reflection and have a method for evaluating the student’s performance, but they do not specify the specifics of how those should be done.

The American Standards do not set requirements for client service as previously listed in the Polish requirement. American clinics operate within court-adopted student practice rules including requirements to follow the pertinent state’s lawyer’s rules of professional conduct, and American clinical supervisors are licensed members of a state bar who are governed by those rules as well. Hence, the Standards need not state that American clinics must serve clients within the considerable body of ethical rules and pertinent law regarding provision of client service in the US. State Rules of Professional Conduct, which are modeled on the ABA Model Rules of Professional Conduct.

While the U.S. body of ethical rules and law regulating the provision of legal services exist to protect clients and define standards for professional practice of law, the ABA Standards for Approval of Law Schools have different immediate purposes. The three-year postgraduate J.D. degree from an ABA-accredited law school is the primary educational credential qualifying a bar applicant to sit for state bar exams. (The highest tribunal in each state sets bar admission requirements. It is those state bar rules that specify a J.D. from an ABA-accredited law school as a qualifying academic credential to sit for the bar exam. There is no federal, “US” bar in the US. Lawyers practice in state and federal courts and before federal agencies through a state bar license.) In addition, the United States Department of Education designates the ABA as the accreditor for determining if a student can obtain federally-insured student loans to finance the student’s education for that educational program.

State bar admission ultimately is concerned in with client protection, i.e., that licensed lawyers possess relevant competence. ABA law school accreditation, however, particularly with its role as a designated accreditor for the Department of Education, is also concerned with student-consumer protection in the educational quality of the law school program.

For the reasons stated above, the ABA Standards assume, and do not need to state, professional practice standard for providing client service, e.g., observance of rules protecting client confidentiality and avoiding conflicts of interest. They instead concentrate on educational quality standards.

The Dnipro conference discussion about implementing the ALCU Standards in a Monitoring Instrument began with dividing the Standards’ concerns into four useful categories: #1 legal clinic organization and management; #2 the legal clinic’s educational process with students; #3 the legal clinics provision of legal assistance to clients; #4 the public awareness work of the clinic. There, of course, are overlaps in these categories. Operating clinical program with professional office management and professional practice standards also has an important educational function as well as the purpose of safeguarding clients (and the liability of the clinic providing the service). The model of what students “see” and in which they operate on a day-to-day basis likely will be as, or more, important than anything they are “told.”

Analytically, though, it seems useful to organize the monitoring process, as the ALCU draft has thus far: by sorting Standards into the four previously-stated categories and considering what evidence should be reviewed to consider if a Standard is met. The Standards already somewhat

are organized in this manner with much of the substance about ethical and other professional practice requirements regarding client service in Section 4 and requirements regarding the educational process in Section 3. The Monitoring Instrument discussion, though, more sharply brought out what is necessary regarding the treatment of prospective clients and their matters as distinct from enhancement of what students learn in clinical education, and some regrouping of standards may be useful in the future.

More significantly, I think completion of the Monitoring Instrument, piloting it, and reflections on its use once in place can help to sort out what is “basic” and should be in the Standards while deciding that some detail on how a requirement might be met would be better included in a Best Practices document. As above, I think the Standards will benefit from becoming “leaner” from the on-going discussion of what should be minimum required standards.

For example, paragraph 4.3 on Preparing and providing consultations and paragraph 4.4 on Drafting and formalizing legal and procedural documents of the Standards go into considerable detail about how student-consultants should do their work and interact with their supervising teacher. In contrast, the Polish Standards say nothing specific about the way the student proceeds with the client except providing in Standard 7 of what the client must be advised at the outset and that legal advice must be provided only in writing (which is integral to the Polish clinical system of providing written analyses while American clinics provide a broader array of client service).

As the development of the Ukrainian Monitoring Instrument and Process continue, I think it would be well to step back from paragraphs 4.3 and 4.4 and consider what are basic client service and educational quality requirements. Perhaps that would be something like, “Students must maintain case files with notes on each interaction with the client or other parties related to the case and actions taken to research and prepare the case.” This reinforces the important professional practice of contemporaneous case notes and an adequate record regarding a client’s matter. As suggested above, the detail in paragraphs 4.3 and 4.4 might be transferred to a “Best Practices” discussion about guidelines to students about how to handle cases. Such Best Practices could then be discussed and debated at conferences and training sessions of clinic supervisors. This could lead to further thought on an objective, e.g., that students always consider options rather than settling immediately on one course of action to be recommended, rather than specifying what a student should do step-by-step in representing a client.

While some of the Polish Standard’s “basics,” e.g., regarding confidentiality and conflicts of interest, can be found in the Ukrainian Standards, as stated above, it perhaps would be well to gather the basics for meeting client service standards into one location, e.g., observing confidentiality, having a space for confidential consultations, existence of a conflicts checking system, a conflict of interest policy, access to adequate research resources for competence. “Basic” requirements that should be in the Standards seem to me checking that there “is a policy,” and it is communicated to students rather than specifying the content of what the content should be. For example, a Standard could say that a clinic should have a policy on what particular actions must be discussed and approved by a supervisor. The nature of what should be approved by a supervisor, when, and in what manner appropriately might vary depending on things like the kind of cases a clinic does.

Likewise, there are comparable things regarding the educational structure of the clinics where it seems the appropriate “standard” is that there is a policy/guideline. For example, that the clinic

specifies to students what their minimum time/availability requirements will be with regard to things like weekly time physically in the clinic.

At the May Dnipro conference, the group discussed that a primary goal of monitoring would be to bring all clinics up to a minimum acceptable standard. In addition, the process also should be structured to gather information on good clinic management, client service, and educational processes that might be shared among clinics in Best Practices and encourage clinics to aspire to these higher standards. The group tentatively settled on a “rating” system with regard to factors in the Monitoring Instrument as: (1) does not meet the standard; (2) partially meets with some concerns; (3) fully meets; (4) is exemplary in this regard.

As previously mentioned, the U.S. system that, prior to an accreditation visit, law schools prepare a report on their practices pertinent to the Standards has quite salutary effects in that many, if not most, problems are corrected prior to the visit so never require a finding of non-compliance. It may be useful to ask clinics, prior to the visit, to make their own assessment regarding their level of compliance on a standard and perhaps to specify areas in which they would like advice and suggestions from the monitoring team. In Section VI, I suggest that developing verbal rubrics on what the four levels of compliance might mean on a particular indicator as useful both to the clinic in considering how to improve and to the assessment team in understanding for what they are looking and assuring that different assessors are judging by the same standards.

The discussion thus far has been about the specificity of standards and their organization. The following suggests one substantive change that could be built into the Standards in the future regarding sharpening the distinction in prospective, current, and future clients and clarifying clinics’ obligations to these three groups. I have not reviewed the Ukrainian ethics code for clinics. This also would be a place for these distinction and requirements and guidance about them.

In Part IV above, I suggested substitute language for the Regulation regarding a clinic’s obligation regarding a “prospective” client that the clinic does not accept. In U.S. ethics rules and law, lawyers have some types of obligations to prospective clients with whom they meet or to whom information on services is directed and to former clients. These, however, are not as extensive as those to current clients.

The distinction in prospective, current, and former clients has significance in U.S. ethics rules and law regarding confidentiality obligations, avoiding conflicts of interest, and whether reliance on the lawyer to provide service is justified. For example, U.S. law provides that lawyers have confidentiality duties to prospective clients who consult them for the purposes of seeking legal advice even if the lawyer does not accept the prospective client. And the ethical duty to keep client confidences and the protection of the attorney-client privilege for matters communicated between attorney and client to provide legal service extends past the client relationship and indeed even past the lifetimes of the client and the lawyer.<sup>8</sup>

Duties to prospective clients with regard to confidentiality and conflict of interest are spelled out in ABA Model Rule of Professional Conduct Rule 1.18. Conflict of interest duties with

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<sup>8</sup> *Swidler & Berlin v. United States*, 524 S. Ct. 399 (1998) (affirming that the attorney-client privilege extends beyond the client’s death).

regard to current clients are covered by Rules 1.7 and Rule 1.8 while the less stringent duties to former clients are specified in Rule 1.9.

The point here is not that Ukraine, or any other country, follows or should follow the U.S. pattern on obligations to prospective, current, or former client. Rather it is that the nature of law practice requires contemplating what obligations there may be to people who are seeking service but have not yet been accepted as clients versus current clients versus people who are no longer current clients of the practice.

The Regulation is sufficiently distant from day-to-day work of clinics that I do not think redrafting in this regard is important. I think, however, it would be useful to review the Standard to sharpen language distinguishing prospective, current, and former clients and consider where guidance should be given on the treatment of the three situations. Such a discussion also might suggest parallel revisions to the ALCU ethics code for clinics.

As mentioned above, the ALCU made considerable progress at their May 2017 conference in creating a Monitoring Instrument to implement the ALCU's Standards. While the first draft of the Monitoring Instrument was translated orally for me during the discussion, the Instrument was still in process at the completion of this report. I think it would be useful when the Monitoring Instrument and Process is ready to consider for piloting that it be translated into English for discussion with experts from other countries, e.g., perhaps the U.S. and Poland.

Consideration of the Monitoring Instrument and Process to be piloted should review various options for how information on the data collected is recorded and assessed. This needs to be considered carefully against the possible uses to which the data and assessments about it might be used and the goals that various parties might seek to achieve with the information. The following section on the U.S. experience with U.S. News and World Report rankings includes some cautionary tales about the "unintended consequences" of data reporting.

## VII. LAW SCHOOL RANKING SYSTEMS

The Dnipro conference's discussion of a Monitoring Instrument raised the question of whether numerical scores should be attached to factors on which clinics would be assessed; if so, the weight that would be assigned to various factors; and for what purpose those numerical scores would be used. That discussion touched on the ratings of law schools generally, as well as rankings law school programs including clinical education, that are published by U.S. News and World Report.<sup>9</sup>

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<sup>9</sup> U.S. NEWS was founded in 1933 as a weekly newspaper paper providing news on "national and international affairs." In 1940, the newspaper switched to a magazine format to attract more advertising and founded WORLD REPORT magazine in 1946. The publications merged in 1948. U.S. NEWS became an employee-owned company in 1962 but when it faced "a cash flow problem in the profit-sharing plan," it was sold to Mortimer Zuckerman a real estate developer and publisher in 1984. Under this new ownership, the publication expanded a "Best Colleges" ranking commenced in 1983 and began publishing rankings of graduate schools in 1987 and hospitals in 1990. U.S. NEWS AND WORLD REPORT's "best" publications now extend to places to retire (added in 2007) cars and trucks (added in 2007), nursing homes (added in 2009), and diets (2011). In 2010, it ceased publishing a magazine and sells its various "best" ranking in hard copy. <https://www.usnews.com/info/features/about-usnews?int=a60f09> It also maintains a website with limited data accessible for free and more information available behind a paywall for a fee.

A sound quality-assessment instrument should be considered against several questions.

First, to whom will it supply information and for what intended purposes? For example, presumably, at least when clinics are part of higher educational institutions, monitoring results would be given the educational institutions with whom clinics work so those institutions would know whether the clinics meet accepted standards and aspects of operation where more resources may be needed to meet the standards. Information about whether a law faculty's clinical programs meet quality standards might be of interest to prospective students as a basis upon which to select a school to which to apply and attend. For a government ministry, the question might be what schools should be authorized to offer a particular educational program or how public education funds should be allocated.

Second, measurement instruments need to be considered as to the validity of their criteria and the reliability of their measurement. Validity means whether the indicators chosen are appropriately related to what they are supposed to measure and the data points chosen are reasonable ones to measure the indicator. Reliability means whether the data used to measure the indicator is accurate. If a measurement is based on the assessment of human assessors, reliability requires some norming to seek that assessors will be giving like assessment of like things.

Third, when quality-assessment measures have consequences, e.g., student applications, government funding, or intangibles like approval and prestige, those being assessed presumably will think about how to enhance their assessment. Hence one also wants to consider the types of behaviors that assessment instruments encourage, and measures used should encourage actions that promote greater social good.<sup>10</sup>

As previously discussed, the tentative decision regarding the measurement scale from Monitoring was four categories: (1) does not meet the standard; (2) partially meets with some concerns; (3) fully meets; (4) is exemplary in this regard. I support the decision made thus far of no publication of numerical scores or rankings among programs.

The group discussed use of a point system to help measure in which of the categories above a program would fall on a particular criterion. I think assigning "points" to factors raises difficult questions regarding relative weights of criteria. I think a more useful approach would be to develop verbal rubrics for what constitutes failing to meet a monitoring criterion, meeting partially, fully meeting, and being exemplary and above the standard. This kind of verbal rubric prompts the "raters" to think through for what they are looking and provides guidance to those being assessed on what to do to improve. Rubric discussion would test out "validity" regarding the indicators chosen and the data points considered in assessing the indicator. Rubrics also support reliability in greater likelihood that different assessors will evaluate the information they are given similarly. Furthermore, as previously mentioned, they help clinics to better understand the minimum standard and what would be going beyond the standard to excellent performance.

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<sup>10</sup> For an article making this point regarding U.S. NEWS & WORLD REPORT rankings of U.S. law schools, see Russell Korobkin, *Harnessing the Positive Power of Rankings: A Response to Posner and Sunstein*, 81 IND. L. J. 35 (2006).

While I am dubious about the usefulness of any numerical point systems in this type of assessment, I am particularly concerned about attempts to fit a point system into a 100-point total. I think this makes weighting even more arbitrary as one tries to add up to 100, and I am wary of people having an intuitive sense of what a percentage of 100 “means.”

The Dnipro session mentioned several times the U.S. News & World Report (USN&WR) ranking of law schools. I asked my law school reference librarian for information on articles discussing this ranking system. He reported more than 250 articles discussing the subject, most of them negatively. For a good summary of the criticisms, see Jeffrey Evans Stake, *The Interplay between Law School Rankings, Reputations, and Resource Allocation: Ways Rankings Mislead*, 81 *Ind. L. J.* 229 (2006). The criticisms include assessments of the lack of validity of the measures and reliability of the data upon which the rankings are based as well as the distortions in law school operation that have resulted from the incentives they create for law school operation.

Competition for recognition for “good work” can be harnessed in ways other than a ranking. Periodically Filip Czernicki, President of the Polish Legal Clinics Foundations, speaks at the meeting of Polish law deans. In addition to the general report on the activities of Polish clinics, he reviews accomplishments of individual clinics. He reports this generates deans feeling the competitive pressure to be among the “commended.” As previously discussed, Best Practices compilations can identify and credit clinics that have developed particularly good operations in client service or educational materials.

### VIII. FEE-GENERATING CLINICS

When considering the resources necessary for in-house clinical programs, people sometimes think of whether structures could be created where clients pay fees. At least in the US, many university medical schools have “teaching hospitals” in which their faculty and students provide service to fee-paying patients.

Law school clinics, however, do not follow model. The IIT Chicago-Kent College of Law has had a fee-generating clinic model for more than 35 years.<sup>11</sup> To my knowledge, however, this is the only such clinic operating in the United States, and I am unaware of fee-for-service clinics sponsored by law schools in other parts of the world.<sup>12</sup>

In recent years, law schools, though, have looked to create “incubator” programs to train graduates interested in running solo or small law practices. Clients served are sometimes called “low-bono” to describe people who “cannot afford normal legal market rates” and pay “usually

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<sup>11</sup> IIT Chicago-Kent’s fee-generating model was described in by Gary Laser, the Director of Clinical Education in the law school in *Significant Curricular Developments: The MacCrate Report and Beyond*, 1 *CLINICAL L. REV.* 425 (1994) and in an article by the law school’s dean, Richard A. Matasar, *The MacCrate Report from the Dean’s Perspective*, 1 *CLINICAL L. REV.* 457 (1994). For a vigorous criticism of this model, see Martin Guggenheim, *Fee-Generating Clinics: Can We Bear the Costs?*, 1 *CLINICAL L. REV.* 677 (1994-1995). In 2015, Professor Laser, still IIT’s Director of Clinical Education continued to advocate the virtues of the model, but as described in this article, the model has not expanded to the other almost 200 law schools in the United States. Harold J. Krent & Gary S. Laser, *Meeting the Experiential Challenge: A Fee-Generating Law Clinic*, 46 *U. TOL. L. REV.* 351 (2015).

<sup>12</sup> The Santa Clara Law School also experimented with a fee-paying clinic in employment law, but I understand that it no longer exists. For an article about that experiment, see Patricia Pierce & Kathleen Ridolfi, *The Santa Clara Experiment: A New Fee-Generating Model for Clinical Legal Education*, 3 *CLINICAL L. REV.* 439 (1997).



forty to fifty percent lower than the market rate in a specific region.”<sup>13</sup> These programs have been founded because of concern for the lack of access to legal services for clients above the eligibility level for legal aid and clinic services in the U.S. but who cannot afford to pay market rates. These programs provide training to the law graduates who work in them, not only in legal skills, but in functioning in a private law practice setting. Their major purpose, however, is enhanced access to justice rather than a primary educational purpose. Rather than even covering their cost, incubators generally rely on support from outside funding or the law schools’ budget. In other words, they need subsidies rather than being self-supporting.<sup>14</sup> A pioneering effort in incubator programs was the Law School Consortium Project (LSCP) founded in 1997 with sixteen law schools working with law firms in their area to serve low-to-moderate income clients.<sup>15</sup>

## **IX. RECOMMENDATIONS REGARDING THE ASSOCIATION OF LEGAL CLINICS OF UKRAINE**

The Global Clinical Movement, published by Oxford University Press in 2011, includes a chapter on The Role of National and Regional Clinical Organizations in the Clinical Movement, which reviews the ways that such organizations have helped to strengthen the development of clinical legal education programs throughout the world.<sup>16</sup> This includes analysis of different types of organizational structure and functions among such organizations.

As described in the chapter, such organizations play an important role in facilitating exchange of knowledge and best practices among clinical programs and advocating with regarding initiatives important to quality clinical education with governmental or other entities involved in legal education.

Ukraine was one of the first countries in Central and Eastern Europe to establish clinical programs, and some programs began as long as 20 years ago with a few of the original pioneers still involved. Clinical education has been the subject of Ukrainian PhD and candidate theses, and clinicians have written books and articles about the subject. Hence Ukraine has a history and foundation on which to build.

The Association of Legal Clinics of Ukraine (ALCU) began to function as an informal social community in 2002. From that time, the ALCU worked periodically with the Ukrainian Ministry of Justice and the Ministry of Education and Science on initiatives regarding clinical education as well as working on initiatives including an ethical code for legal clinics and development of a plan for a course on Fundamentals of Legal Clinic Practice.

The ALCU faces geographical challenges with the large size of the country. As previously discussed, many Ukrainian clinics are not yet formal units within higher education institutions

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<sup>13</sup> John Christian Waites & Fred Rooney, *What We Know and Need to Know about Law School Incubators*, 67 S. C. L. REV. 503, 503 n. 6 (2016) citing Luz Herrera, *Encouraging the Development of “Low Bono” Law Practices*, 14 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 1, 3 (2014).

<sup>14</sup> Waites & Rooney, *supra* note 13 at 509-513.

<sup>15</sup> Steven A. Krieger, *Low Bono Legal Counsel: Closing the Access to Justice Gap by Providing the Middle Class with Affordable Attorneys*, 18 SCHOLAR: ST. MARY’S LAW REV. ON RACE & SOCIAL JUSTICE 143, nns. 175-191 and accompanying text (2016).

<sup>16</sup> Margaret Martin Barry, Filip Czernicki, Izabela Kraśnicka, & Mao Ling, *The Role of National and Regional Clinical Organizations in the Clinical Movement*, 279-296, in THE GLOBAL CLINICAL MOVEMENT Frank Block ed. (2011).

receiving resources from those institutions. A number of Ukrainian clinical teachers still teach and supervise students as “volunteers” without that time counting toward their work contracts with education institutions. Hence asking “volunteer” teachers to volunteer still more time in support of a national association is challenging. Nonetheless, a number of people have devoted substantial time to the Association and its activities.

At the May 2017 meeting in Dnipro, it was announced that the ALCU had been registered as a legal entity Civil Society Organization, the “Association of Legal Clinics of Ukraine.” The ACLU will now be in a position to apply for and receive funds.

The ACLU has sufficient history and foundation in accomplishments to be supported. It faces the challenges of all volunteer organizations, and indeed all organizations that must stabilize themselves as the generations of “founders” move on.

I recommend that New Justice, perhaps with other interested organizations, consult with ACLU about organizational development support that might be useful in supporting and recruiting additional people as active participants and future leaders. A set of specific goals for the ACLU in the near and longer-term should be adopted. The Strategic Planning session in Dnipro focused in part on entities and groups of people who have reason to be interested in clinical programs and with whom ALCU and its clinical program members building strong relationships could be mutually beneficial. The Strategic Planning process should go forward in this regard by further considering possible goals for these relationships and assigning specific people to work on parts of a plan in this regard.

As discussed above, the ACLU already has made strong progress toward translating their Standards into a Monitoring Instrument and Process. New Justice and other interested entities should discuss with ACLU what steps will efficiently and effectively result in a Monitoring Instrument that can be piloted in the 2018-19 academic year. Attendees at the Dnipro conference were actively involved and contributing constructively to developing the draft Monitoring Instrument and Process. Completion and piloting of this is a significant, concrete project — the accomplishment of which could go a long way in building the organization.

The Global Alliance for Justice Education (GAJE) Ninth International Conference will take place in Mexico in December 2017. Founded in 1999, GAJE has become the preeminent international organization bringing together clinical educators from around the world. Recent conferences have drawn more than 300 attendees from more than 60 countries. Connections made at these conferences have led to creation of books, articles, exchange of teaching materials, and partnerships among clinics on clients’ legal problems that cross national borders.

The 2017 GAJE conference will include a main conference with plenaries and concurrent sessions on a number of topics as well as a two-day Train-the-Trainer on clinical education methods. I recommended that a group of Ukrainian clinicians be funded to attend. This not only would allow them to gather information about other national associations and clinical education programs around the world but also would give the group time together to discuss what they were learning and consider how to apply it in Ukraine.

Much of the international discourse on clinical education takes place in English. A Ukrainian group going to GAJE should include at least a couple of strong English speakers. Others though, who comprehend English reasonably well could benefit, with some translation assistance, and attending could develop the motivation of attendees to build stronger English capacity. It will be

of assistance to the ACLU and Ukrainian clinics generally to have a core of English speakers who are able to attend, not only GAJE, but also the annual International Journal of Clinical Legal Education (IJCLE) conference and meetings of the European Network of Clinical Legal Education (ENCLE). Like GAJE, the activities of IJCLE and ENCLE take place in English. Considerable information passes at those meetings and relationships formed through meeting there assist programs in strengthening clinical programs in various ways. In addition, it is useful to have Ukrainian clinical teachers who can transmit information in the considerable English-language literature on clinical education to those in the organization who do not speak English.

## **X. THE PERSPECTIVE UPON WHICH THESE COMMENTS ARE BASED**

I am a Professor Emerita of Law at The Catholic University of America (CUA) in Washington, D.C. where I began teaching in 1981. From 1981-1990, I was the Clinical Coordinator at CUA, with responsibility for coordination, curriculum development, and student information about CUA's in-house and externship clinical programs and directly responsibility for the externship clinical program. Throughout my career, I taught both in CUA's clinical programs and doctrinal courses, most frequently Professional Responsibility (the required legal ethics course) and Criminal Law. I am an author and editor of *LEARNING FROM PRACTICE: A TEXT FOR LEGAL EXPERIENTIAL EDUCATION*, published in March 2016 in its 3<sup>rd</sup> edition by West Academic publishing.

In 1996, a CUA colleague and I assisted faculty from Jagiellonian University (JU) in Krakow, Poland in creating the first legal clinic still successfully in existence in Central Europe. The JU clinic rapidly was joined by others in Poland and the region including pioneering Ukrainian clinics. Some Ukrainian clinicians were leaders in an effort to support the growth of quality clinical legal education through a project implemented by the Public Interest Law Initiative (now PILNET) with funding from the Constitutional and Legislative Policy Institute (COLPI), an affiliate of the Open Society Institute with which I worked from 1998 through 2001 and another PILNET project funded by the Higher Education Support Program of the Open Society Foundation from 2007-2009.

I have served as a member of nine site teams implementing the U.S. system for accreditation of U.S. law schools. The U.S. Department of Education designates the American Bar Association (ABA) as the accreditor of U.S. law schools. Accreditation is necessary for a student to obtain federally-insured student loans to attend. The great majority of American students borrow funds for higher education so ABA accreditation is vital to law schools. In addition, all states deem receipt of a Juris Doctor (three-year post graduate) law degree from an ABA-accredited law school to satisfy the education requirement qualifying a law graduate to sit for a state bar exam. There is no U.S. national bar so American lawyers are licensed by being members of a state bar. There is no professional apprenticeship for any legal profession so passage of the bar exam and admission to a state bar is the point at which law graduates become qualified to represent clients or become prosecutors. (Americans lawyers normally become judges at a later stage in their career after some years working as lawyers, including as prosecutors.) The ABA Section of Legal Education and Admissions to the Bar promulgates Standards for Legal Education, which are the criteria upon which ABA-site visit teams review law schools every seven years and file a report with the Council of the ABA Section, which makes accreditation decisions based on those reports. Prior to an accreditation visit, a law school undertakes a "self-study" over the course of about a year. Many instances in which law a law school might fall short of ABA standards are corrected by the law schools themselves in preparation for the visit.

Building on my U.S. experience and work with the growth and development of clinical education in Central and Eastern Europe, I now have worked with law school faculty and students, university administrators, and government officials on initiatives related to clinical education, teaching of legal ethics and professional responsibility, the legal framework for legal professions, and legal education reform in 30 countries.



# ANNEX A. DRAFT MODEL REGULATION ON LEGAL CLINIC OF A HIGHER EDUCATION INSTITUTION

DRAFT

Approved by

Order of the Ministry of Education and Science of Ukraine

# \_\_\_\_\_ dated \_\_\_\_\_

## Model Regulation on Legal Clinic of a Higher Education Institution

### I. General Principles and Organization of Activities of Legal Clinics of Higher Education Institutions

1. The Model Regulation defines major principles of activities of legal clinics which are set up in Ukrainian higher education institutions preparing specialists in law irrespective of ownership and subordination.

2. Terms which concern activities of legal clinics of higher education institutions and are used in this Regulation will have the following meaning:

Teacher-Supervisor will mean a research-and-pedagogical staff member of a higher education institution (the "HEI") being a specialist in law or another specialist in law, for instance, an attorney who is engaged in the legal clinic activities according to an established procedure for the purpose of providing necessary methodological and practical assistance to student-consultants.

Client's Consent will mean a document evidencing client's willingness to receive legal assistance in the legal clinic to be provided by student-consultants on the conditions set forth by the legal clinic.

Interviewing of the Client will mean the interview the student-consultant conducts with the client for the purposes of finding out circumstance of client's problem and obtaining information on the client.

Client of the Legal Clinic will mean an individual who has applied to the legal clinic for explanation or protection of his/her rights and cannot afford paying for legal assistance or his/her case presents an educational interest to the legal clinic.

Clinical Practice (traineeship) will mean a practice (traineeship) that takes place simultaneously with the education process during an academic year and which, provided certain conditions are met, may be credited toward an academic practice (traineeship).

Legal Clinic Manager will mean an individual who is responsible for organizing and managing the legal clinic by decision of the HEI Director and according to his/her official duties.

Consulting of the Client will mean a process of cooperation between the student-consultant and client aimed at finding the optimal legal solution to the client's problem.

Coordinator (administrator, laboratory assistance) will mean an individual whom the Legal Clinic Manager has charged with organization or management of a selected task or areas of activities of the legal clinic.

Protocol Conversation will mean a primary element of interviewing the client, a conversation intended to establish an initial contact with the client during which the Student-Consultant gets acquainted with the Client, selects personal data, identifies sources of information serving a basis for application to the Legal Clinic, explains terms and conditions of the Legal Clinic's work, confidentiality terms etc.

Student-Consultant will mean a student who seeks a higher legal education and has been selected for the Legal Clinic.

Legal Clinic will mean a structural unit of a Ukrainian higher education institution preparing specialists in law which has been set up as a facility for practical training and academic practice (traineeship) of senior students by means of provision of legal assistance and public education.

3. The legal clinic will be set up in order to enable students to strengthen their theoretical knowledge, gain practical skills in the area of law, and develop respect to law principles; to develop the public law culture; and to provide legal assistance to individuals who need it.

4. Listed below are major tasks of the legal clinic:

- Acquiring practical skills of the legal profession by students;
- Creating opportunities whereby students could undertake academic and other practices (traineeship);
- Providing legal assistance to the needy;
- Conducting public education events in the sphere of law.

Activities of legal clinic may pursue other aims that are in line with its purpose.

5. The legal clinic of a higher education institution will perform both training and social functions:

- Training function means focusing activities on practical aspects of training, developing legal clinic participants into lawyers who would possess specific professional skills and do not need to be adapted to professional activities;
- Social function means (i) satisfaction of the society's need in accessible legal information and assistance and (ii) increase in lawyers' professional responsibility.

The training function of legal clinic is primary.

6. Legal clinics' activities will be based on the following principles: rule of law, legality, objectivity, humanism, provision of free legal aid, confidentiality, competence and conscientiousness in the process of performing students' duties, professional autonomy and mobility.

When carrying out human rights activities, the legal clinic staff will adhere to principles of legal ethics and Ukrainian legal clinic ethics.

7. The legal clinic will be a structural unit of a higher education institution and may have letterheads and stamps showing its name.

8. The legal clinic will not be a legal entity.

9. The legal clinic activities will be regulated by this Regulation, Charter of a higher education institution, and other regulations.

10. The higher education institution in whose structure the legal clinic operates will provide material and logistic support to the legal clinic. The legal clinic will use the property of the higher education institutions to attain its goals.

11. The legal clinic will be funded from budgets of higher education institutions, from grants of international and Ukrainian organizations, charity contributions of individuals and legal entities, and from other sources which are not prohibited by the current Ukrainian legislation.

12. The legal clinic will be located in a premise (premises) which is (are) adequate to place material resources needed to organize a training process and ensure confidentiality of serving people receiving legal aid.
13. The legal clinic will be provided with computers and other equipment enabling it to work with legal databases, Internet, telecommunication means, furniture, stationery etc.
14. Information on the legal clinic activities and the content of the regulation on the legal clinic will be open to the public. Such information will be posted on easily accessible information stands and may be disclosed in the mass media.
15. The legal clinic will disseminate information on its tasks and areas of activities and contact information in Internet.
16. Documents ensuring activities of the legal clinic will include constitutional documents, organizational documents as well as documents which are created in the process of providing legal assistance and public education.
17. The Charter of a higher education institution where the legal clinic is created and the regulation on the legal clinic will be constitutional documents of the legal clinic.
18. The responsibility for document flow, creation of the legal clinic archive and other documents ensuring its activities will rest with the coordinator (laboratory assistance, administrator) of the legal clinic or another person appointed by the legal clinic manager.

## II. Organizing Legal Clinic Activities

1. The responsibility for overall management of the legal clinic of a higher education institution (HEI) will rest with its head, namely, rector (president), manager, director etc.
2. The structure and number of staff members of the legal clinic will be defined by the HEI head with allowance for justified proposals of the legal clinic manager.
3. The legal clinic manager will be appointed by decision of the head of the higher education institution at the proposal of head of the department, institute, branch etc. The legal clinic manager must possess sufficient legal, managerial, and pedagogical competency.
4. Full time staff members of the legal clinic will include the manager, teacher-supervisors, coordinator(s) (administrator(s), laboratory assistant(s)), and other persons whose responsibilities are specified in their job descriptions. Teacher-supervisors – research-and-pedagogical fellows experienced in practical legal activities – will be engaged in the legal clinic activities as well. Such fellows will be engaged in the legal clinic activities by instruction of the HEI head at substantiated request of the legal clinic manager. Students will be engaged on a voluntary basis as may legal practitioners and other specialists.
5. Engagement of research-and-pedagogical fellows of a higher education institutions in the legal clinic activities will serve a basis for allocation of time in their work and teaching schedules. To this end, the legal clinic manager will make yearly planning and keep records of the workload of teacher-supervisors, support staff, student-consultants of the legal clinic and other engaged individuals. Based on work outcomes, he/she will advise the management of the HEI (institute, department) for the purposes of accounting the work- and teaching load of engaged individuals and initiate financial incentives for best staff members.
6. Teacher-supervisors of the legal clinic will guide student-consultants' work, check legal consultations prepared by them, help with preparation of public education classes, conduct additional classes with students of the legal clinic, and supervise them as they go through the academic practice (traineeship).
7. Qualification requirements to the legal clinic staff will include professional retraining events, professional skills, professional knowledge, and list of official duties and powers. The qualification requirements as well as grounds for holding the staff accountable will be defined by job descriptions and other internal acts of the legal clinic.



8. Participation in professional retraining events devoted to areas of the legal clinic activities or specific areas of human rights protection of public education activities no less frequently than once in five years is a necessary condition of full time staff of the legal clinic.

9. Student-consultants of the legal clinic are (senior) students of law schools who have been selected according to the established procedure and enrolled in the legal clinic for the purpose of accomplishing the tasks they were charged with and provide legal assistance under supervision of teachers-supervisors and the legal clinic manager. The rules for and duration of work at the legal clinic and the number of student-consultants will be determined according to the Regulation on the legal clinic of the higher education institution.

10. Students will be admitted to the legal clinic on the competitive selection basis. Terms and conditions of the competitive selection will be set forth by the legal clinic of a higher education institution.

11. A student-consultant of the legal clinic may:

- Acquire knowledge and practical skills to be applied in practice and used in his/her future profession;
- Obtain materials of legal cases and information on cases which are handled by the legal clinic take part in discussion of such cases; be present at consideration of cases which are handled by other students;
- Receive advisory assistance from teachers-supervisors of the legal clinic;
- Use the library and legal databases of the legal clinic;
- Take part in public awareness raising events, campaigns, projects, programs, and other events organized by the legal clinic;
- Undertake academic practice and internship under training program at the legal clinic facilities;
- Take part in resolution of organizational issues of the legal clinic activities and provide proposals on enhancing the legal clinic activities to the legal clinic management;
- Upon completion of the initial one year period of working at the legal clinic, receive a special document (certification) showing the duration of work and performance of the student-consultant;

12. A student-consultant of the legal clinic shall:

- Attend classes organized in the legal clinic under training program, additional seminars, training events; take part in other events which are held as part of the legal clinic activities;
- Deepen his/her professional knowledge and improve his/her professional skills on a regular basis;
- Be on duty at the legal clinic according to the approved schedule; take part in consulting of clients and public education events;
- Carry out decisions and instructions of the legal clinic management made/issued within its competence precisely, in a timely manner, and with good quality;
- Take part in representation of clients' interests before relevant agencies and institutions according to instructions of the legal management clinic and pursuant to requirements of the current legislation;
- Comply with internal regulations of the legal clinic and office manuals;
- Be guided by principles of work and tasks of the legal clinic in his/her activities;
- Handle cases in compliance with ethical norms and confidentiality rules;
- Provide a written report upon completion of a work cycle.

13. Performance of student-consultants of the legal clinic will be evaluated by the legal clinic management. Besides, it will be taken into regard in evaluation of practice based on which student-consultants may receive a job review.

14. Student-consultants may be provided with incentives envisaged by the legislation and internal regulations of the given higher education institution.

15. A student-consultant may be expelled from the legal clinic:

- Of his/her volition;
- According to the procedure envisaged by the legislation and internal regulations of the higher education institution.

16. The legal clinic manager will be held liable for:

- Quality and timeliness of accomplishment of tasks and performance of functions specified by this Regulation;
- Failure to fulfill responsibility or protect rights specified by internal regulations of the higher education institution and this Regulation;
- Poor performance of his/her official duties envisaged by this Regulation to the extent defined by current law;

Besides, the legal clinic manager will be responsible for:

- Ensuring timely and proper preparation for implementation of documents and ensuring proper document flow as required by internal regulations of the higher education institution;
- Ensuring safe keeping of assets located in the legal clinic facilities and compliance with fire and labor safety regulations.

17. Responsibilities and liabilities of other individuals engaged in the legal clinic activities will be defined according to the procedure envisaged by the legislation and internal regulations of the higher education institution.

### III. Providing Legal Assistance in the Legal Clinic

1. Student-consultants of the legal clinic will provide legal assistance in the following forms: legal information, consultations, preparation of legal and legal-procedural documents, legal assistance in the process of representing client's interest in the court, government authorities, local governments, other agencies and organizations in cases and on grounds envisaged by law.

2. Legal assistance in the forms of legal information, consultations, preparation of legal and legal-procedural documents will be provided on the condition of prior approval of their content by a teacher-supervisor according to the procedure set forth by the Regulation on the legal clinic of a higher education institution or other local regulations.

3. Legal assistance in the form of provision of legal assistance in the processes of settling administrative and civil cases in the court, representing client's interests before the court, government authorities, local government, other agencies and organizations will be provided on the condition that a legal position is agreed on with a teacher-supervisor in a way specified by the Regulation on the legal clinic of a higher education institution or other internal regulations.

4. In the process of providing legal assistance the legal clinic will interact with other providers of legal assistance in Ukraine, courts, law enforcement agencies, human rights organizations, executive authorities, local governments etc.

5. An individual who applied for legal assistance shall bear all costs associated with provision of legal assistance (payment of the stamp duty, court fee etc.).

6. The legal clinic will ensure provision of legal assistance within a reasonable timeframe.

7. Upon receiving an assignment to provide legal assistance, a student-consultant will compile a list of all regulations regulating legal relationships in question, study and analyze their content, make abstracts, draft a notice of consideration of the application for provision of legal assistance, and deliver it to the client.

8. The notice of consideration of the application for provision of legal assistance will contain a summary of the client's application, interpreted or cited provisions of the current

legislation, date, full name of the student-consultant, and his/her signature. Abstracts from relevant regulations may be attached to the notice.

9. Prior to holding a consultation, a student-consultant will prepare a workplan for advising and interviewing the client, describing the case background, and writing the text of the consultation.

10. The workplan will include a study and analysis of the current legislation regulating the given legal relationships and court practice; list of probable evidences to be obtained from the client and, as a need might be, from various institutions and organizations in order to prove circumstance reported by the client; list of questions put to the client.

11. During the interview, the student-consultant will find out the essence of emerged legal relationships and actual circumstance of the case, develop a plan of further actions together with the client and agree on the date and time of the next meeting with the client.

12. Once the interview has been completed, the student-consultant will prepare a description of the case background and draft the text of the consultation which should include a concise description of determined circumstances, explanation of relevant provisions of the current legislation, opinion on right violation or absence thereof, possible solutions to the problems, and protection methods.

13. When consulting the client, the student-consultant will explain to the client a consulting procedure, essence of the consultation, possible solutions to his/her problem, protection methods; help the client to choose the optimal ones; and explain how to submit legal and legal-procedural documents pursuant to requirements of procedural law and legal consequences of not following this procedure.

14. By the client's consent, the student-consultant will prepare relevant documents of the legal or legal-procedural nature in compliance with the current legislation and advise the client of the procedure and timeframe for submitting each document, legal consequences of not meeting the deadlines, and the process whereby agencies, organizations, and organizations consider such documents.

15. Should the client express a willingness to receive legal assistance at court or to have his/her interests be represented before the court, other agencies or organizations then a person who receives the client or provide legal assistance will explain to the client legal grounds for provision of legal assistance and representation, procedures for doing so, procedures for preparing and submitting documents needed for representation of the client's interest and advise the client of associated costs.

16. The extent of rights granted to the student-consultant with regard to representation of the client's interests will be agreed on with the client whereupon it will be shown in a power of attorney to be issued in the name of the student-consultant and certified according to the statutory procedure.

17. The legal clinic will be at liberty to reject a request for legal assistance for grounds envisaged by internal regulations of the legal clinic.

18. A decision on such rejection will be made by the legal clinic manager or another so authorized person in writing with substantiation of reasons for the rejection.

19. In the event of rejecting the request for legal assistance, the client will be provided with contact information of other legal clinics, local centers of legal assistance, bureaus, etc. if he/she asks for such information.

20. If issues raised in the request for legal assistance do not fall under competence of the legal clinic, an applicant will be provided with information on a competent entity.

#### IV. Public Education Activities of Legal Clinics

1. Legal clinics will carry out public education activities to enable student-consultants to gain professional legal skills through direct participation in development of the legal culture and knowledge of other people.

2. The legal clinic manager or another person responsible for public education activities will supervise and ensure proper quality of public education events including the feedback from participants to such events.
  3. There will be two forms of public education activities of legal clinics: direct and/or distant work with the audience.
  4. The direct work with audiences may involve interactive classes, trainings, master classes, lectures, group discussions, seminars, presentations, game labs, demonstration and discussion of video materials, and other forms practical law classes.
  5. The distant public education activities may be carried out by means of publications in the printed or electronic media, participation in radio or TV programs, administration of consulting columns or explanations in the media or other information resources; preparation of training or advocacy films or infomercials; operation of hot telephone lines; posting of legal information in Internet etc.
  6. Legal clinics may administer forum-theaters, art exhibitions and conduct other events for the purposes of educating the public on the human rights concept and problems in the sphere of human rights and liberties by culture means. To this end, legal clinics will undertake relevant training on their own or engage experts in this field (forum-theaters).
  7. Public education events held by legal clinics should meet the following requirements:
    - (1) Events are topical for a given audience;
    - (2) Audience is engaged in discussions during such sessions;
    - (3) Sessions should include examples from the everyday life;
    - (4) Content of materials complies with the current legislation and allows for specifics of the target audience (age, number of participants, pre-existence of knowledge and experience etc.).
  8. Equipment of the legal clinic, stationery, office supplies, and – if available – visualization and video recording equipment will serve a resource base of public education classes.
  9. Planning and reporting documents and methodological materials of public education classes will be the legal clinic's documents on public education activities.
  10. A legal clinic may have a separate regulation regulating major aspects of public education activities of the given clinic including external communications.
  11. The optimal set of methodological materials on public education will include a plan, scenario, and handouts for each topic.
  12. Methodological materials of public education classes will be saved at the legal clinic in a ready-to-use form.
  13. The responsibility for public education activities will rest with the legal clinic manager and another so appointed person if any.
  14. Reporting information on public education activities of the legal clinic will include information on the nature (type), number, topics of events, and beneficiaries (participants, students) of classes (events) as well as documentary evidences of one or another event. Depending on the type of an event, it will be evidenced by the schedule of classes, classes review register, material results of publications or other distant public education events (video materials, films, hard and/or soft copies of articles, consultants etc.).
  15. In their public education activities, legal clinics may be guided by other requirements to public education activities set forth in the Standards of Legal Clinic Activities in Ukraine which are developed and implemented by associations and organizations uniting authorized representatives of legal clinics.
- V. Practice (traineeship) in Legal Clinic as a Component of Licensing Conditions of a Higher Legal Education Institution
- I. A practice (traineeship) in the legal clinic is one of practice types and may be included in the licensing conditions of a higher education institution with a law school.

2. A training work in legal clinics will be ensured by means of organizing teaching of "Basics of Legal Clinical Practice" and engaging teachers of a higher legal education institution or law school as well as lawyer-practitioners for the purpose of assisting students-consultants. Additional forms of training and academic activities may be organized at the legal clinic facilities such as training, creative contests, debate tournaments, roundtables, professional re-training courses, specific events whereby individuals with higher legal education could gain practical experience.

3. The training subject titled "Basics of Legal Clinical Practice" is intended to train law students in rules for organizing and providing legal assistance to people, public education activities, rules for lawyers' public presentations, and other legal profession skills.

4. "Basics of Legal Clinical Practice" will be included in curricula of a higher education institution or law school as an optional subject.

5. The training program under "Basics of Legal Clinical Practice" will include the following recommended modules:

- General provision, ethics, and organization of legal clinic operations;
- Legal consulting as part of legal clinic operations;
- Legal public education and other areas of legal clinic activities.

It is recommended to set three credits for this subject.

6. In addition to the main teacher, an individual responsible for organizing activities in a relevant area will be engaged in control and evaluation of each module.

7. Forms of undertaking the practice (traineeship), duration and timeframe of the practice will be set forth in curricula of a higher education institution or a law school.

8. A specific form of students' practice (traineeship) in the legal clinic (clinical practice) may take place during an academic year (semester) for a specific group of students who participate in the legal clinic activities and are willing to undertake such form of practice in the legal clinic.

9. The practice (traineeship) in the legal clinic will be registered in a relevant structural unit of a higher education institution and documented as an act (order or instruction). The clinical practice (traineeship) in the legal clinic may begin no later than four months prior to completion of an academic year (semester).

10. During the practice (traineeship), students will carry out activities which are typical for the legal profession and are practiced in legal clinics.

11. The work of research-and-pedagogical fellows engaged in legal clinic activities will be included in their teaching load.

12. The above mentioned teaching load hours will be subject to regular personified record keeping using forms approved by a relevant higher education institution. The work performed by research-and-pedagogical fellows in the legal clinic will be credited toward their teaching load based on data provided by the legal clinic manager.

M.M. Yarmysty, Director of the Legal Department

# ANNEX B. STANDARDS OF OPERATIONS OF LEGAL CLINICS IN UKRAINE

**“APPROVED”**

**by the All-Ukrainian Congress of the Association  
of Legal Clinics of Ukraine**

**Protocol No 2 dated June 19, 2014**

## **STANDARDS OF OPERATIONS OF LEGAL CLINICS OF UKRAINE**

### **SECTION I. GENERAL PROVISIONS**

#### **I.1. Aim and principles of operations of legal clinics**

I.1.1. Standards of operations of legal clinics of Ukraine (hereinafter – the Standards) are a set of major characteristics inherent in a legal clinic, organization of its operations and activity on providing legal aid and raising legal awareness.

I.1.2. The aim of developing and implementing the Standards is to ensure:

- a unified model of organizational structure of legal clinic;
- uniform approaches to the organization of operations of legal clinic and its staff;
- an educational process focused on preparing students for professional practice;
- access of law students to traineeship during their studies;
- timely provision of quality free legal aid within a necessary scope; and
- organizing and conducting legal awareness work.

I.1.3. Operations of legal clinics shall be based on the principles of rule of law, legality, objectivity, humanity, free provision of legal aid, confidentiality, competence and fair practices in performing their duties by students-consultants, avoiding conflict of interests, predominance of client’s interests, providing full information to clients about the rules of operations of legal clinic, obtaining practice-oriented knowledge, understandability of legal materials, and focus on forming specific skills and abilities.

I.1.4. The Standards determine minimum requirements to the model of organizational structure of legal clinic of a higher educational institution of Ukraine. They characterize the organization of its operations, academic process and traineeship, provision of free legal aid and raising legal awareness.

I.1.5. The compliance with these standards is a requirement for legal clinics – members of the Association of Legal Clinics of Ukraine. Legal clinics which are not Association members may voluntarily use the Standards.

I.1.6. Evaluation of the compliance of organizational structure of legal clinic, organization of its operations and work of its staff, academic process and traineeship, providing free legal aid and raising legal awareness with these Standards shall be conducted within the procedure established by the Association of Legal Clinics of Ukraine.

## **1.2. Definition of terms**

1.2.1. For the purposes of these Standards the terms listed below shall mean the following:

- academic traineeship (practice) is a full-time traineeship which takes place according to the curriculum of a higher educational institution within the specified period of time;
- the teacher-supervisor is a person who is a lawyer or other professional in the field of law and who has been enrolled with legal clinic under the established procedure to provide required methodological and practical assistance to students-consultants;
- client's consent is a document which certifies client's willingness to receive legal aid in legal clinic, which will be provided by students-consultants of legal clinic under the terms established by legal clinic;
- interview with a client is a conversation of a student-consultant with a client in order to find out the circumstances of his/her problem and to receive information about the client, including his/her identity and mental condition;
- the client of legal clinic is a person who has applied to legal clinic for clarification or protection of his/her rights and who is not able to pay for legal aid or whose case is interesting to legal clinic in terms of education;
- clinical traineeship (practice) is an in-house traineeship which takes place during an academic year and which, upon the compliance with certain conditions, may be credited for academic traineeship;
- the manager of legal clinic is a person who, upon the decision of a head of a higher educational institution, ensures the organization and management of legal clinic in line with official duties;
- the legal clinic consultant is a person who is a specialist in the field of law and works at legal clinic in order to gain experience in legal profession;
- consulting a client is a process of cooperation of a student-consultant with a client in order to find an optimal solution to his/her problem by legal means;
- the legal clinic coordinator (administrator, laboratory assistant) is a person whom the head of legal clinic charged with the functions of organizing and managing a certain area of operations or task of legal clinic;
- protocol conversation is a primary element of the interview with a client, a conversation aimed at establishing a first contact with the client, during which the student-consultant gets to know the client, selects personal data, determines the sources of information which have become the ground for applying to legal clinic and clarifies the conditions of operations of legal clinic, confidentiality of work, etc.
- the student-consultant is a law student (cadet, attendee, master's student, postgraduate student, adjunct) who has passed a selection process established in a clinic and has been admitted to perform the functions entrusted to him/her;
- legal clinic is a structural unit of a higher educational institution of Ukraine of the III-IV levels of accreditation which trains specialists in the field of "Law" and is created as a base for practical studies and traineeship of students through providing free legal aid and raising legal awareness.

## **SECTION 2. ORGANIZATION OF OPERATIONS OF LEGAL CLINIC**

### **2.1. Functions of legal clinic**

2.1.1. Legal clinic performs educational and social functions. Educational function is primary.

2.1.2. Educational function of legal clinic is focusing the operations on practical studies with the aim of training legal specialists who have mastered specific professional skills and do not require additional adaptation to professional activity.

2.1.3. Social function of legal clinic is meeting the needs of society for accessible legal information and legal aid and increasing professional liability of lawyers.

### **2.2. Aim and major objectives of the operations of legal clinic**

2.2.1. Legal clinic is established in order for students to consolidate their theoretical knowledge and gain practical skills and abilities in legal profession, foster respect for the principles of law, raise the level of public legal awareness and provide free legal aid to persons who need it.

2.2.2. The major objectives of legal clinic are as follows:

- for students to obtain practical skills in legal profession;
- set up places for academic traineeship and other kinds of traineeship for students;
- provide low-income citizens with free legal aid; and
- conduct legal awareness events for the public.

2.2.3. The operations of legal clinic may follow other objectives linked with its aim.

### **2.3. Legal regulation of operations of legal clinic**

2.3.1. The procedure of operations of legal clinic is regulated by a Standard Regulation on Legal Clinic of Higher Educational Institution of Ukraine, regulation on legal clinic approved by a higher educational institution, internal acts of legal clinic, Statute of Higher Educational Institution and other legal and regulatory acts.

### **2.4. Information support of legal clinic**

2.4.1. Information on the operations of legal clinic is open and is published on public information media, including mass media, with reasonable regularity.

2.4.2. Legal clinic has e-mail and website (portal, page) where it disseminates information about its objectives, areas of operations and contacts for applications.

### **2.5. Material, technical and financial support to the operations of legal clinic**

2.5.1. Legal clinic is located in the facilities the conditions of which allow housing means and material resources necessary to organize academic process and ensure the confidentiality of reception of citizens in order to provide free legal aid.

2.5.2. Legal clinic is provided with computer and other equipment which allows working with legal databases and Internet, telephone communication means, furniture, office supplies, etc.

2.5.3. The higher educational institution under which legal clinic operates provides material and technical support to the operations of the legal clinic.

2.5.4. The operations of legal clinic are funded at the expense of the higher educational institution under which legal clinic operates, from funds received from the State Budget of Ukraine, local budgets, and other sources not prohibited by current legislation of Ukraine.



## **2.6. Documentation support to the operations of legal clinic**

2.6.1. Documents which support the operations of legal clinic include founding documents, organizational documents and documents which are formalized in the process of providing legal aid and raising legal awareness.

2.6.2. Founding documents of legal clinic is a statute of the higher educational institution under which it is established and regulation on legal clinic.

2.6.3. Organizational documents of legal clinic are:

- documents which determine HR procedures and performing operational activities;
- planning and reporting documentation; and
- documents related to the organization of educational process in legal clinic.

2.6.4. Documents of legal clinic which record the applications of citizens and provision of legal aid include:

- a log of citizen applications;
- a dossier based on citizen applications; and
- an archive of completed cases.

Documents which record raising legal awareness include logs of record of such events.

Standard samples of these documents are drafted and made familiar to legal clinics by the Board of the Association of Legal Clinics of Ukraine.

2.6.5. The coordinator (laboratory assistant, administrator) of legal clinic or another person appointed by the head of legal clinic is responsible for document management, document flow and forming the archive of legal clinic and other documents which support the operations of legal clinic.

## **2.7. Legal clinic staff**

2.7.1. The staff of legal clinic includes: manager, faculty – supervisors, coordinators (laboratory assistants, administrators), students-consultants and other persons whose work is mentioned in the Regulation on Legal Clinics and job descriptions.

Legal practitioners and other specialists may be engaged in the work of legal clinic *pro bono*.

2.7.2. Qualifications requirements to legal clinic staff, scope of professional skills and required level of knowledge, list of official duties and powers, and grounds for bringing to liability are determined in job descriptions and other internal acts of legal clinic.

2.7.3. Students are admitted to the activities of legal clinic following the selection procedure the conditions of which are established by legal clinic.

## **SECTION 3. SUPPORT TO EDUCATIONAL PROCESS IN LEGAL CLINICS**

### **3.1. Organization of educational process**

3.1.1. Educational process in legal clinic is supported through the organization of teaching of an academic discipline on “Basics of Legal Clinical Practice” and engaging the faculty of the higher educational institution or department which trains specialists in the field of law, as well as practicing lawyers with the aim of providing assistance to students-consultants.

3.1.2. The aim of the academic discipline on “Basics of Legal Clinical Practice” is for students-consultants to obtain the skills in organizing and providing legal aid to citizens, organizing and conducting legal awareness activity and other professional skills.

3.1.3. The academic discipline on “Basics of Legal Clinical Practice” shall be included to the syllabi of the higher educational institution or department which trains specialists in the field of law as an optional course.

3.1.4. Curriculum of the academic discipline on “Basics of Legal Clinical Practice” contains the following recommended modules:

Module 1. General provisions, ethics and organization of the operations of legal clinic:

- Legal clinics: history of establishment and development, aim and objectives thereof.
- Legal regulation of the operations of legal clinics and their provision of free legal aid in Ukraine.
- Organization and management model of legal clinic.
- Document management and documentation in legal clinic.
- Professional ethics and corporate culture in the operations of legal clinic.

Module 2. Legal consulting in the operations of legal clinic.

- Psychological aspects of work with client in legal clinics.
- Specifics of interviewing a client.
- Case analysis and presenting a case.
- Counseling a client.
- Drafting legal expert opinions and procedural and other documents.
- Alternative resolution of legal disputes.
- Representing a client in court, state bodies and local self-government bodies, enterprises, institutions and organizations.

Module 3. Legal awareness activity and other areas of operations of legal clinics.

- Content and forms of legal awareness activity of legal clinics.
- Developing and conducting interactive legal awareness events by legal clinics under the program on “Practical Law”.
- Considering cases of social interest in legal clinics.
- Drafting applications to the European Court of Human Rights by legal clinic.
- Other issues of operations of a specialized legal clinic (work with refugees, patients, convicted, etc.).

The recommended scope of the academic discipline is 2-3 credits.

3.1.5. Besides major teacher, a person who is directly involved in organizing the operations under a certain area is engaged in the oversight and evaluation of each module of the course.

### **3.2. Legal clinic as a base for practice (traineeship)**

3.2.1. The forms of practice (traineeship), their duration and terms are determined in curricula of the higher educational institution or department which trains students in the field of law.

3.2.2. Practice (traineeship) of students in legal clinic takes place in two organizational forms:

- an in-house clinical traineeship which takes place during an academic year; and
- a full-time academic traineeship which takes place according to the curriculum.

3.2.3. Practice (traineeship) of students in legal clinic is voluntary for students.

3.2.4. Practice (traineeship) in legal clinic is registered at the relevant division of the higher educational institution and formalized by the act (order or assignment). Clinical practice (traineeship) in legal clinic shall commence not later than six months before the end of academic year (term).

3.2.5. During traineeship students perform typical for legal profession activities which are in common practice of legal clinics.

### **3.3. Other forms of practical training of lawyers**

3.3.1. Ongoing training courses and courses aimed at gaining practical experience by persons with legal background may be organized on the base of legal clinic on a contractual basis.

3.3.2. Persons who wish to obtain a certificate on the right to practice law (under the supervision of a supervisor of legal clinic who is a lawyer) and other things may obtain practical experience on the base of legal clinic.

### **3.4. Record of workload of faculty staff and other specialists in the field of law engaged in the operations of legal clinic**

3.4.1. Work of faculty staff and other specialists in the field of law engaged in the operations of legal clinic must be included into academic workload of the mentioned persons.

The mentioned hours of academic workload are subject to systematic personalized record in the forms accepted in the higher educational institution and legal clinic.

3.4.2. It is recommended to include the work of faculty staff and other specialists in the field of in legal clinic in academic workload based on the following standards:

- for each consultation conducted with their assistance – two hours of consultations (extracurricular lessons);
- for each legal awareness lesson conducted with their methodological support and participation – one hour of consultations (extracurricular lessons);
- for each optional lesson with legal clinic students – one hour of practical lesson (in-class lesson);
- for supervision of traineeship – ten hours of academic workload for each week of traineeship (extracurricular lessons).

## **SECTION 4. PROVIDING FREE LEGAL AID IN LEGAL CLINIC**

### **4.1. Types and procedure of providing free legal aid**

4.1.1. Students-consultants of legal clinic provide legal aid in the following forms: legal information, consultations, drafting legal and procedural documents, providing legal aid in representing the interests of a client in state bodies, local self-government bodies, other bodies and organizations, providing legal aid in court and representing interests in court.

4.1.2. Documents of legal clinic which are formalized in the course of providing legal aid are a form of record of the mentioned area of its operations (log of record of citizen applications, dossier based on citizen applications, and archive of completed cases).

Each dossier or archive of completed cases contains an incoming (individual) file of a client of legal clinic, agreement (consent) on providing legal aid, written legal consultation, and legal and procedural documents drafted by student.

4.1.3. Application on providing legal aid is registered under a relevant procedure. A dossier is created for each application, except applications on providing legal information.

4.1.4. To provide legal aid, the higher educational institution ensures access to current legal and regulatory acts for legal clinic staff by giving them master copies of legal and regulatory acts or providing access to Internet or law e-libraries.

4.1.5. The student-consultant provides any type of legal aid upon prior agreement on its form and content with the supervising teacher.

4.1.6. After agreeing on the draft document with the supervising teacher, the student-consultant meets a client to give him/her the drafted documents and clarify content thereof.

## **4.2. Providing legal information**

4.2.1. Having received an assignment to provide legal information, the student-consultant makes a list of all legal and regulatory acts which regulate the mentioned legal relations and agrees on it with the supervising teacher. After that, he/she examines regulatory acts, makes excerpts thereof and drafts a notice on providing legal information which is handed over to the client after the approval of the supervising teacher.

4.2.2. The notice on providing legal information contains: a brief summary of client's application, interpreted or verbatim norms of current legislation which regulate the legal relations which have arisen with a reference to the point or article of a regulatory act, its title, date of adoption and adopting state body or local self-government body, date, last name, first name of the student-consultant, supervising teacher and signatures thereof. Excerpts from legal and regulatory acts may be attached to the notice.

## **4.3. Preparing and providing consultations**

4.3.1. Having received an assignment to provide legal information, within the established timelines, the student-consultant drafts a work plan on preparing a consultation and agrees on it with a supervising teacher.

4.3.2. The work plan includes:

- examination and analysis of the norms of current legislation which regulate the given legal relations and examination of case law;
- list of potential evidence which must be received from the client, and if needed – from enterprises, institutions and organizations in order to verify the circumstances mentioned by the client; and
- list of questions required to establish the facts of a case, facts which identify participants of a case, time and place of a case and other facts which identify motives, reasons, ways, etc.

4.3.3. During an interview the student-consultant establishes a first contact with a client by means of protocol conversation and establishes facts of a case in line with developed questions.

4.3.4. In order to verify the accuracy of information received from the client, the student-consultant summarizes the interview and jointly with the client develops a plan of further actions. He/she agrees on the date and time of the next meeting with the client.

4.3.5. After the end of the interview the student-consultant drafts a subject matter (version) of a case and drafts a consultation which must include: a brief summary of established facts, explanation of norms of current legislation, opinion on the violation of a right or absence thereof, and options of resolving the issue (ways of defense), which he/she submits to the supervising teacher for approval.

4.3.6. During next meeting with the client, the student-consultant clarifies the procedure of consulting and provides consultation, and then discusses the proposed options of resolving his/her issue.

4.3.7. After discussing the ways of protecting the violated right and selecting the most optimal among these, the student-consultant jointly with the client plans further joint actions, in particular, drafting legal and procedural documents, timelines of their drafting and submission, collection of evidence, etc.

4.3.8. The student-consultant clarifies to the client legal implications of submitting the drafted legal and procedural documents.

#### **4.4. Drafting and formalizing legal and procedural documents**

4.4.1. Upon the request of a client, the student-consultant drafts a relevant document of legal and procedural nature in line with provisions of current legislation.

4.4.2. The student-consultant also informs the client about the procedure and timelines of submitting the documents and their consideration by bodies, organizations or institutions, and legal implications for violation of submission timelines.

4.4.3. In case it is required to draft a procedural document, the student-consultant immediately informs the coordinator of legal clinic in order to comply with procedural timelines for submission of such documents.

#### **4.5. Representation of interests of a client in the state bodies, local self-government bodies, other bodies and organizations by legal clinic**

4.5.1. The issue on the possibility of representing the client's interests is determined in the regulation on legal clinic and is determined in each and every case by its coordinator.

4.5.2. If the client wishes to receive legal aid in the form of representation of his/her interests in the state bodies, local self-government bodies, other bodies and organizations, the student-consultant clarifies legal grounds for representation stipulated in current legislation.

4.5.3. The student-consultant is obligated to familiarize the client with the procedure of representation, procedure of formalizing and submitting documents required for representation in detail.

4.5.4. The scope of rights granted to the student-consultant with regard to representation of client's interests is agreed upon with him/her, after which this is reflected in the power of attorney in the name of the consultant, which is certified by notary. The draft of such power of attorney is preliminarily agreed upon with the supervising teacher of legal clinic.

4.5.5. All expenses related to formalization of the power of attorney for representation are born by the client, of which the consultant shall inform the client during the acceptance of the power of attorney.

#### **4.6. Providing legal aid in court in civil cases**

4.6.1. In case client selects the option of protection of a violated right – filing a suit (application, complaint) in court, the student-consultant shall clarify the forms of providing legal aid in court: by providing immediate legal aid in court (Art. 56 of the Civil Procedure Code of Ukraine) and by representation (Art. 38 of the Civil Procedure Code of Ukraine) and clarify the powers of a person who provides legal aid in court and powers of representative.

4.6.2. In case it is necessary to provide legal aid in line with provisions of Art. 56 of the Civil Procedure Code of Ukraine, i.e. directly in court, the student-consultant shall clarify to the client that such aid may be provided by a person who is a specialist in the field of law, and clarify the powers of such person. In case there is such consultant in legal clinic and his/her consent to provide legal aid, the latter shall assist the client in drafting an application to court on his/her admission to consideration of a case in the capacity of a person who provides legal aid.

4.6.3. After the court admits the consultant in the capacity of a person who provides legal aid in court, the latter (on his/her own or together with the client) gets familiarized with case files, makes excerpts thereof, makes copies of documents attached to the case and jointly with the client develops a position on a case and draft work plan on a case which is agreed upon with the supervising teacher.

4.6.4. In order to implement the developed position, the consultant drafts applications, motions, other legal and procedural documents, which, if necessary, are agreed upon with the supervising teacher and handed over to the client for signature and submission to court, and participates in court hearings in person.

#### **4.7. Providing legal aid on representation of client's interest in court**

4.7.1. In case client wishes to receive legal aid in civil or administrative cases in the form of representation in line with provisions of Art. 38 of the Civil Procedure Code of Ukraine or Art. 56 of Administrative Proceedings Code of Ukraine, the student-consultant clarifies to the client the powers of representative in court (Art. 44 of Civil Proceedings Code of Ukraine and Art. 59 of Administrative Proceedings Code of Ukraine) and explains that in order to ensure representation the power of attorney is required which is certified by a notary or official of organization where the proxy giver works, studies, is on service, undergoes in-patient treatment or at the place of his/her residence.

4.7.2. In case of reaching agreement on representation in court, the student-consultant, in order to ensure efficient representation of client's interests, jointly with the latter drafts a work plan which must include: revising normative materials, drafting objections to the claim (if he/she represents a defendant in a case), motions, other legal and procedural documents, as well as list of questions to the parties and witnesses during their explanations in court and thesis of an opening speech in court, and agree upon them with the supervising teacher.

4.7.3. The student-consultant drafts documents envisaged in work plan as well as the list of questions to the parties and witnesses during their explanations in court in advance and agrees upon them with the supervising teacher before the beginning of a court hearing on a case.

4.7.4. If the need for drafting any type of motions, legal or procedural documents arises in the course of consideration of a case, the student-consultant, upon the agreement with the client, files a motion on the postponement of case consideration to draft these documents appropriately and agree upon them with the supervising teacher.

4.7.5. In case of the completion of establishment of facts of the case and their verification with evidence, the student-consultant, if necessary, provides additional explanations which may supplement case files and files a motion on providing additional time for preparation for court debates.

4.7.6. During the time provided by court for preparation for court debates, the student-consultant, taking into account the established facts of the case, revises the previously drafted thesis of opening speech which must contain: the declaration of position, brief summary of facts established in court and supporting evidence, clarification of law, opinions on the validity of a claim and possibility of satisfying the claim or denying it. These provisions are agreed upon with the supervising teacher.

4.7.7. In case the decision adopted by court does not satisfy the client, the student-consultant, upon the availability of legal grounds, drafts in the name of the client or in his/her own name in the capacity of client's representative an appeal, agree upon it with the supervising teacher and file it to the court of appeals through a first instance court.

## **SECTION 5. LEGAL AWARENESS ACTIVITY OF LEGAL CLINICS**

### **5.1. Aim and forms of legal awareness in the operations of legal clinics**

5.1.1. The aim of legal awareness is for students-consultants of legal clinics to obtain professional legal skills by means of direct implementation of actions on fostering legal culture of persons.

5.1.2. Legal awareness activity of legal clinics is conducted in the form of direct and distance interaction with the audience.

5.1.3. The forms of direct interaction with the audience are as follows:

- traditional forms (lecture, workshop, group conversation, etc.);
- innovative forms (interactive lesson, training and other forms of lessons of legal clinic in practical law).

Traditional forms of direct interaction with the audience are a form of gaining experience in legal awareness activity of legal clinics; in the course of development of organization they are substituted with innovative. An interactive lesson in practical law is an optimal form of conducting legal awareness work of legal clinics.

5.1.4. The forms of distance interaction with the audience are as follows:

- publications;
- participation in radio or TV programs;
- consultation or clarification column in the media;
- filming educational and promotional movies and stories;
- help lines; and
- posting legal information on the Internet, etc.

### **5.2. Requirements to organizing and conducting forms of legal awareness in legal clinics**

5.2.1. Requirements to developing materials and conducting traditional forms of direct interaction with the audience (lecture, workshop, group conversation, etc.):

- mandatory requirements: issues topical for specific audience; lessons involve elements of dialogue and discussion; lessons must contain examples from everyday life; materials are developed under the supervision of teachers; and
- desirable requirements: accompaniment of lessons with multimedia presentations and educational videos; lessons contain elements of role play, consideration of legal situations and other interactive methods; during the lessons additional representative of legal clinic is present whose objective is to monitor the quality of the lesson.

5.2.2. The distance form of interaction with the audience is implemented under the control (mandatory requirement) and with participation (desirable requirement) of a teacher of legal clinic.

5.2.3. Requirements for quality lessons in practical law come of the following areas of organization of legal clinic of practical law: forming a well-designed curriculum for work; forming a competent project team; and creating efficient organizational mechanism of developing interactive lessons. Mandatory requirements: all mentioned areas, except lessons, are implemented, mainly, by teachers. Besides, teachers control the quality of lessons in practical law.

### **5.3. Requirements for providing resources to meet the organizational needs of legal clinic of practical law:**

- mandatory requirements: equipment to ensure the operations in the facilities of legal clinic, office supplies and consumables;
- desirable requirements: hardware kit to visualize lessons and for video recording.

### **5.4. Documental support to legal awareness work of legal clinic**

5.4.1. Documents of legal clinic related to legal awareness work are planning and reporting documents regarding its actions and methodological materials of legal awareness lessons.

5.4.2. Information about taken legal awareness actions is included in the form or report of legal clinic and is differentiated by different forms of legal awareness. It characterizes the number, topic of events and audience of beneficiaries (participants, attendees) of lessons.

5.4.3. The conducted legal awareness events in the form of direct interaction with the audience are evidenced by the availability of a schedule of these events and log of reviews of the lessons (mandatory requirements), their photo and video records (desirable requirement).

5.4.4. The conducted legal awareness events in the form of distance interaction with the audience are evidenced by the actual availability of their results (printed and/or saved in electronic form articles, videos, etc.) in legal clinic.

5.4.5. The optimal set of methodological materials for lessons in legal awareness includes a plan, scenario and handouts for each topic.

### **5.5. Quality of organizing and conducting legal awareness events in legal clinics**

5.5.1. The quality of organizing and conducting legal awareness events is determined by means of analysis of planning, reporting and methodological materials and conversation with their organizers and participants.

5.5.2. Major requirements for the evaluation of performance of legal clinic of practical law:

- conducting legal awareness lessons using interactive methods;



- conducting legal awareness lessons systematically, based on approved schedules;
- developing and storing methodological materials of legal awareness lessons in a ready-to-use form;
- evidencing control and support of students by a teacher in developing methodological materials of lessons;
- competence of legal clinic members who conduct lessons; and
- availability of control over the lessons by means of direct observation and maintaining a special log of lesson reviews.