

Book Review

Leah Wortham, Alexander Scherr, Nancy Maurer, and Susan L. Brooks, eds., *Learning from Practice: A Text for Experiential Legal Education*, St. Paul, Minn.: West Academic Publishing; 3d ed., 2016, pp. 869 \$98.00.

Reviewed by Lisa Radtke Bliss

Experiential education is indisputably an essential part of the law school curriculum. This is so thanks to a long history of clinical legal education and scholarship of clinical pedagogy, and to a continually growing number of publications,¹ reports,² studies,³ and standards⁴ that emphasize the importance of developing professional competencies and skills to prepare students for success in the legal profession. Experiential education includes law clinics, externships, simulations, and courses that may have combined characteristics of these three major types. With the rise of experiential education, scholars have published ideas about how best to conceptualize, deliver, and integrate experiential education into the curriculum.⁵ Among the range of different experiential offerings, externships have undergone significant growth and development. At the same time, scholarship about integrating professional

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1. ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP* (2007); *BUILDING ON BEST PRACTICES: TRANSFORMING LEGAL EDUCATION IN A CHANGING WORLD* (Deborah Maranville et al. eds. 2015) [hereinafter *BUILDING ON BEST PRACTICES*].
2. WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PRACTICE OF LAW* (2007); *LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP* (1992); ALLI GERKMAN & LOGAN CORNETT, *FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT* (2016), http://iaals.du.edu/sites/default/files/reports/foundations_for_practice_whole_lawyer_character_quotient.pdf [https://perma.cc/GH2T-RSDN].
3. See MARJORIE M. SHULTZ & SHELDON ZEDECK, *FINAL RESEARCH REPORT: IDENTIFICATION, DEVELOPMENT, AND VALIDATION OF PREDICTORS FOR SUCCESSFUL LAWYERING* (2008), http://works.bepress.com/marjorie_shultz/14/; Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admission Decisions*, 36 *LAW & SOC. INQUIRY* 620 (2011).
4. See SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, AM. BAR ASS'N, *ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2016-2017* (2016) [hereinafter *ABA STANDARDS 2016-2017*] Standard 303(a)(3), at 16, now requires that law students satisfactorily complete “one or more experiential course(s) totaling at least six credit hours.”
5. See, e.g., *BUILDING ON BEST PRACTICES*, *supra* note 1.

identity formation as part of preparing students for practice has proliferated.⁶ The formation of professional identity has long been an integral part of clinical legal education through students' exploration of what it means to inhabit the role of lawyer in context.

The third edition of *Learning from Practice: A Text for Experiential Legal Education* brings together these two goals of contemporary legal education and provides a comprehensive, student-centered collection of reading, exercises, and questions designed to promote student reflection. While the book begins with an introduction to students in an externship, and the book in general is designed as a resource to accompany student learning in the externship context, the editors understood the third edition might also have broader application, hence the editors' inclusion of the subtitle, "A Text for Experiential Legal Education." The editors recognized that given the expansion of different forms of experiential education, and changes in the delivery of legal services, the concepts and topics addressed in the book could serve as a resource for multiple types of courses and experiences, particularly those courses that involve some form of real legal practice (ix).

The editors identify and support their confidence in "well-designed and carefully delivered externship courses,"⁷ and this thoughtful book provides the resources necessary to provide an excellent externship seminar. The book captures and highlights the richness of experience that comes from exploring the world of practice through field placements. It provides concrete tools, focused on reflection, to help students make meaning of those experiences.

Successful Externships from Start to Finish

Learning from Practice leads students through their first day of working and learning in the externship placement to the end of a placement, when students can look back and reflect on the experience as a whole and identify what they can take away from it. One challenge for externship seminar teachers is that students enrolled in the seminar are simultaneously having different experiences at different field placements and working with different supervisors. To meet this challenge, the book aims to support students in working effectively in a variety of environments, and its overall focus is on maximizing the externship experience so that students extract lessons from their externships and apply them to their future professional lives. The book has twenty-eight chapters on

6. Timothy Floyd & Kendall Kerew, *Marking the Path from Law Student to Lawyer: Using Field Placement Courses to Facilitate the Deliberate Exploration of Professional Identity and Purpose*, 68 MERCER L. REV. 767 (2017); Neil Hamilton, *A Professional Formation/Professionalism Challenge: Many Students Need Help with Self-Directed Learning Concerning Their Professional Development Toward Excellence*, 27 REGENT U. L. REV. 225 (2015); David I.C. Thomson, "Teaching" Formation of Professional Identity, 27 REGENT U. L. REV. 303 (2015); Timothy W. Floyd, *Moral Vision, Moral Courage, and the Formation of the Lawyer's Professional Identity*, 28 MISS. C. L. REV. 339 (2009).
7. The necessary components to a well-designed externship course are outlined in Carolyn Wilkes Kaas with Cynthia Batt, Dena Bautman & Daniel Schaffzin, *Delivering Effective Education in Externship Programs*, in BUILDING ON BEST PRACTICES, *supra* note 1, at 216-44.

topics relating to professional development and work as a legal professional. While the work is designed for use in the seminar component of an externship course, the editors acknowledge that given the book's length, and depending upon the particular course with which it is used, not all twenty-eight chapters need be assigned. Thus, the editors arranged with the publisher to allow the purchase of individual chapters or groups of chapters as needed, which helpfully allows teachers to customize their use of this text, depending upon their goals and context (xi).

The book is organized into the following five major sections: General Topics, Professionalism and Ethics, Lawyering and Skill Development, Practice Contexts, and Your Future as a Lawyer.

To orient students and to help them prepare for a successful externship, the early chapters focus on matters foundational to the externship experience: identifying student goals, learning how to work with a supervisor, and the importance of feedback. The book also provides chapters on multiple aspects of learning from practice, including a very detailed chapter on maximizing and reflecting on learning that comes from observation. While some may argue that learning from observation is not a primary goal of experiential courses, author Sandy Ogilvy's chapter on observation explores how observation is humans' primary mode of learning. To the extent that externships provide opportunities for learning through observation, this chapter contains a thoughtful analysis of what happens in human interactions, and how context and other factors influence shared understanding. This chapter, like others in the book, contains useful diagrams, exercises, examples, and questions for discussion.

Among the most valuable chapters for helping students develop as professionals are Chapter 5, "Effective Communication and Professional Relationships," and Chapter 9, "Professionalism." Effective communication is a critical skill for success in both our personal and professional lives. Moreover, Chapter 5 helps the reader understand fundamental aspects of communication. It explores different definitions of communication, and explains the historical evolution of communication and language as they evolved from humans' first primary need to work together for survival to the present, in which humans use multiple technologies to facilitate communication for any number of reasons. In today's world, it is critically important that students understand how to communicate effectively and how communication shapes relationships. The chapter breaks down the ingredients of an interaction as follows: (a) context; (b) intention; (c) perception; (d) interpretation; (e) feelings/feelings about feelings; and (f) action (88-96). The chapter then explores the concept of "Communication as Dialogue" (96), identifying the kinds of relationships students may be developing and exploring potential challenges. It examines how to shape conversations into creative dialogue using four types of behavior, including (a) listening; (b) respecting; (c) suspending; and (d) voicing. These concepts will help students be more thoughtful about their interactions with others and increase their self-awareness (101-05). Communication is also enhanced when communicators understand and appreciate concepts

of cultural difference, cross-cultural lawyering, and bias. These concepts are effectively addressed in Chapter 6, “Navigating Cultural Difference,” and Chapter 7, “Bias in the Legal Profession.”

Chapter 9 provides a useful introduction to professionalism. The concept of professionalism has different meanings to different people. It is regularly a topic of conversation within law faculties and among lawyers. More seasoned professionals often lament the “lack of professionalism” of the younger generation. Such conversations may have occurred since time immemorial, with older generations dismayed by the relaxed standards of a younger generation. Law schools have a responsibility to ensure that students learn about professionalism as part of their preparation for a career in the legal field, and externships are an ideal way for students to explore what professionalism means. It is also critical for students to understand how to be professional before they engage with the profession. This chapter helps students understand why professionalism is a serious topic. Using realistic scenarios, it illustrates how the concept of professionalism comes into play in a variety of contexts, and gives students concrete guidelines for professional behavior that will benefit them in their externship placement and beyond.

Ethical issues that arise in externships are carefully examined in four chapters. The duty of confidentiality, conflicts of interest, and duties to tribunals and third parties are fully explained. Knowing the ethical issues they may confront is especially important for externship students before they become embedded in their externship placements. Each of these chapters also has exercises using concrete, realistic scenarios that test students’ understanding of the lessons they impart. These examples of dilemmas students may face force students to engage in the process of solving challenging problems, thus preparing them for the sometime messiness of real-world encounters and the challenges they may confront.

The section on lawyering and skill development covers essential skills for students, including chapters on learning about lawyering, client relationships, collaboration and teamwork, writing for practice, and making presentations. While such topics are frequently covered in many other books about practice, the range and depth of coverage in *Learning from Practice* is impressive. If an externship course that makes full use of the book and its exercises is the only experiential course a student ever takes, the student will have had exposure to considered treatment of critical lawyering topics that should be covered in experiential courses. The topics covered include decision-making, uncertainty, bias, lack of control over outcomes, styles of lawyering and types of advocacy, collaboration, and writing for practice. The chapter on making presentations is also useful, given the range of contexts in which a practicing lawyer may now be called upon to do so.

The final portion of the book, Section V (“Your Future as a Lawyer”), takes a wide view of student experience, and using the lens of the externship seminar forces students to think about their chosen career and what they want their professional lives to look like. This section includes chapters on professional

identity and formation, work and well-being, career development, and the future of the legal profession itself. While the entire book engages students in reflection as a habit and as a learning tool, this section provides particularly salient opportunities for students to reflect on what they have learned and how to engage in thoughtful planning for their career beyond the externship experience and through a lifetime as a lawyer.

Connecting with Students

This book speaks directly to students in a way that they are likely to find respectful, motivating, and educational. The authors are transparent about their reasons for including chapters on topics such as professionalism, ethics, cultural bias, navigating cultural difference, and reflection, thereby explicitly connecting the content to the reader's professional interests. The different types of legal work represented in the chapters on practice contexts are helpful for students who have already targeted their preferred practice area, because any student can likely find an individual chapter that provides focused discussion relevant to the student's professional interest. The variety of practice contexts represented is especially valuable for students who may be in a more exploratory phase of planning their professional life. Students using this book may explore different contexts and develop understanding through their study and reflection on their own placement as well as through their study of different kinds of contexts.

For example, the section on transactional lawyering outlines the varieties of transactional law practice settings; identifies the kinds of work that transactional lawyers perform; and isolates the core competencies necessary for transactional lawyers regardless of their practice context. The chapter includes helpful advice for students to get the most out of their placement. Though the chapter focuses on transactional practice settings, the recommendations apply equally to any other placement. The authors advise students to review and understand the organizational chart and to make meeting people an intentional strategy for maximizing their opportunity to work on projects of interest. Finally, the chapter includes an exercise designed to help students keep track of those they meet to be used later for networking.

The "Public Service Lawyering" chapter begins with the authors acknowledging and identifying stereotypes and misconceptions about public-service practice that students may hold, followed by a clear explanation of the range of work in which public-service lawyers may engage. The chapter explores the different types of clients and constituents whom different public-service lawyers serve, and how the identity of the client shapes a lawyer's work.

Finally, the visual presentation of the book is appealing. The layout and visual presentation of the book are helpful in counterbalancing the length of the book, at twenty-eight chapters. The use of color, headings and subheadings, blue boxes for exercises, gray boxes for questions, and occasional quotes sprinkled throughout aid navigation. Each chapter is divided into smaller sections that may include multiple student exercises and targeted questions for

students to consider relating to the particular subject under discussion. The grouping of information into smaller “chunks” makes the text more appealing and user-friendly for students. The book also refers students to outside learning opportunities that go beyond the legal profession, such as TED talks and the implicit-association test.⁸ Short conclusions at the end of each chapter serve to solidify the lessons of the chapter, and the insertion of a section on “further resources” in some sections allows students to further pursue topics of special interest. The impact of the overall layout and organization makes the book accessible, modern, and user-friendly.

Although the book’s strength is that it covers every possible topic that could be relevant to an externship course, that strength is also its weakness. If the book is used as the text to accompany the classroom instructional component of an externship, now required under ABA Standard 304(c)(v)⁹, students may find the length of the book at 869 pages to be excessive. Busy law students absorbed in the daily work of their externship may have less time or be less motivated to read the entire chapters of any section, especially those in Section V, “Your Future as a Lawyer,” because students tend to be focused on the present. Although students using the book may have the ability to purchase electronic versions of only the chapters selected by their externship teacher, there is not ability to shorten those chapters. Editors of future editions could consider whether there are ways to streamline any chapters without sacrificing content.

Made by Teachers for Teachers

Learning from Practice contains contributions from experts in externship pedagogy. That expertise is best reflected in the comprehensive Teacher’s Manual. The manual not only summarizes each chapter, but offers background reading, explanations of what the material is designed to achieve, and explanations about how the exercises can be used. The Teacher’s Manual is useful to new teachers, yet remains of value to those who have been teaching for a long time. Any reader who cares about teaching will appreciate the comprehensive explanations found in the manual.

While the book’s subtitle, “A Text for Experiential Legal Education,” reflects the fact that material from the book may be useful for experiential courses apart from externships, the chapters that might be used in other contexts are written assuming that the reader is learning from an externship, and refer to externship, or “placement.” Thus, a teacher who might wish to assign select chapters to be used in connection with a course other than an externship will be forced to explain that although those chapters are written to the externship student, they also apply in the teacher’s context. In future editions, references

8. The Implicit Association Test, designed to identify unconscious preferences, attitudes or beliefs, can be found at PROJECT IMPLICIT, <https://implicit.harvard.edu/implicit/takeatest.html> (last visited August 15, 2017).

9. ABA STANDARDS 2016-2017, *supra* note 4, at 18.

to “externship” or “placement” could be edited out to make general chapters more experiential-course neutral.

Conclusion

Externships and other forms of experiential education that place students in real law practice settings and in the role of lawyer are fundamental to a student’s successful transition to the role of practicing lawyer. *Learning from Practice* is a comprehensive, focused text that offers a thoughtful structure to accompany the learning in a student externship experience, and individual chapters, such as the chapter on bias in the legal profession, have potential for application in other experiential courses. This book is an ambitious project that meets its stated goals. Providing all the resources necessary to teachers supporting student learning through externship placements, it is fully aligned with the best practices identified for externships.¹⁰ Teachers might well find this book to be an essential accompaniment to externship courses that aim to provide students a deep learning experience that integrates their work with others, reflects on their career goals and professional development, and focuses on specific essential skills such as communication and writing. It offers externship teachers as well as teachers of other experiential courses a wide range of useful topics to explore and provides the essential tools necessary to achieve multiple goals both inside and outside the classroom. Most important, the book’s content and style reflect a love of teaching and a level of thoughtfulness and intentionality about the process of learning from experience that its users will surely recognize. This book works for all students, regardless of their professional ambitions or the context of their field placements.

10. See BUILDING ON BEST PRACTICES, *supra* note 7.