

CLINICAL LEGAL EDUCATION

Political interference with clinical legal education: denying access to justice

P A Joy
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A law student's representation of clients is made possible by the student practice rule in the jurisdiction where the student practises law through a clinical program. Every state in the United States of America has adopted student practice rules to facilitate law students representing clients as their clients' attorneys in legal proceedings. However, amendments to the Louisiana student practice rule prompted litigation in the federal district court by clinic clients, potential clinic clients, clinical law students and faculty, law student organisations and a donor to one clinical program.

In 1998, the Louisiana student practice rule was amended specifically to restrict law student representation of individuals and community organisations. It is difficult to consider the practical implications of the Louisiana Supreme Court's amendments to the student practice rule without reference to the circumstances preceding the amendments. In 1993, approximately four years after the Tulane Environmental Law Clinic (TELC) started representing clients, a former Louisiana Governor asked the Louisiana Supreme Court to investigate and change the student practice rule. In 1994, Louisiana's biggest business lobby was directly involved in judicial elections and there was political pressure on the Louisiana Supreme Court to change the student practice rule during the election campaign. This is the context that prompted the plaintiffs to allege that the amendments amounted to viewpoint discrimination against the TELC's clients as well as

interference with the academic freedom of law students and faculty at Louisiana's law schools.

There were no public hearings or a public comment period concerning the proposed changes to the student practice rule, nor were there any public proceedings or deliberations of the Louisiana Supreme Court over the requests for changes to the student practice rule. Furthermore, the court has not made public any reports or results of its investigations into the operation of the student practice rule in Louisiana.

The amendments to the student practice rule seriously infringe upon clinical learning opportunities and the academic freedom rights of clinical students and law faculty. By responding to the business groups' demands to impose restrictions on the types of clients, and therefore types of cases, that clinical faculty select for teaching purposes, the Louisiana Supreme Court has intruded significantly on how students learn and faculty teach. The amendments raise questions concerning the availability of legal counsel for all persons and groups with legal problems and the role of clinical legal education programs in providing access to the courts for those in need.

Political interference with law school clinical programs and efforts to curtail traditionally unrepresented persons' access to justice are not new. Attempting to provide equal access to justice in a society where a client's right to a lawyer is generally conditioned on the client's ability to pay is a project charged with conflict. Inevitably, clinical programs providing meaningful access to justice for poor clients, unpopular clients, or clients challenging the interests of governments officials or more powerful clients and institutions will suffer attacks like those attacks experienced by clinical programs in Louisiana.

The amendments to the student practice rule in Louisiana precipitate concerns about interference with clinical legal education programs, concerns about how the organised bar, the judiciary and our legal system provide access to justice for persons with legal claims and concerns about whether judges fairly treat the parties and issues before them. These underlying issues of fairness of the judicial system and the allocation and delivery of legal services are the most pressing issues for our society. Regrettably, the Louisiana Supreme Court's recent restrictions on the clinical programs have the practical effect of narrowing access to justice rather than broadening it, simultaneously intruding on the academic freedom of law students and faculty.

CURRICULUM

Cognitive bridges: law courses structured for application and knowledge transfer

N Oppenheim
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The most common organisations of legal textbooks and syllabi adopt legal experts' substantive knowledge networks. This assumes that teaching law is like transplanting the legal expert's knowledge networks into his/her students. Instead of using specific disputes, such as the car accident, and abstracting from such an event how it would be analysed from a legal perspective, law texts attempt to teach from the abstract. Without concrete examples, the novice's legal knowledge network floats unconnected, fragile, and unprepared for application to new business contexts.

By shifting the organisation of introductory law classes from legal experts' knowledge organisations to students' legal knowledge networks, pro-