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EXPERIENTIAL LEARNING IN THE FIRST-YEAR CURRICULUM: THE PUBLIC INTEREST PARTNERSHIP

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Experiential Learning in the First-Year Curriculum:

The Public-Interest Partnership

Nantiya Ruan*

Introduction

In the last several years, a number of comprehensive studies of legal education have made recommendations to enhance law teaching. One goal is to produce "practice ready" lawyers. This latest movement in legal education encourages law faculty to adopt a client-centered, ethically grounded first-year curriculum that teaches students lawyering skills and judgment along with doctrinal knowledge in contexts that mirror what students will face in legal practice.[1] This learning initiative encourages law professors to create integrated classes that join "lawyering" professionalism and legal skills explicitly, starting on the first day of law school.[2]

An important component of this theme of legal educators examining law school curricula, including the Carnegie Foundation's Educating Lawyers[3] and CLEA's Best Practices,[4] is the recommendation to foster law

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1 *See* Roy Stuckey et al., *Best Practices for Legal Education: a Vision and a Roadmap* (Clinical Leg. Educ. Assn. 2007) [hereinafter *Best Practices*]; William M. Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law* (Jossey-Bass 2007) [hereinafter *Carnegie Report*]; ABA Sec. Leg. Educ. & Admis. to B., *Legal Education and Professional Development—An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap* (ABA 1992) [hereinafter *MacCrate Commission Report*], *available at* http:// www.abanet.org/legaled/publications/onlinepubs/maccrate.html (accessed Mar. 7, 2011).

2 *See Carnegie Report*, *supra* n.1, at 87–88, 191–92.

3 *Carnegie Report*, *supra* n 1.

4 *Best Practices*, *supra* n. 1.

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students' professional identity from the first days of law school through experiential learning. In essence, the reports demand that legal education combine the "three pillars" or apprenticeships of legal professionalism—conceptual knowledge, skill, and moral discernment—into the capacity for judgment guided by a sense of professional responsibility.[5] On the heels of the Carnegie and Best Practices Reports has come a plethora of legal scholarship on how to integrate doctrine (the first and, traditionally, primary pillar of legal education) and skills (the second pillar, which is gaining prominence) in an experiential learning model throughout the first-year curriculum.[6] What has been less prominent in academic writings is how to best integrate the third pillar of "professional identity," which suffers from being the least supported learning objective in law school curricula.[7]

But professional identity is perhaps at the very core of what legal education is all about: developing the ability to "think like a professional," and this training should be an "intentional, explicit, and vibrant process that is taken seriously throughout each of a student's three years of legal education."[8] Thus far, students' development of professional identity has been left to clinical legal education, primarily through the use of the "live client" model,[9] and professional-responsibility courses, which have traditionally focused on learning the Model Rules of Professional Responsibility and, occasionally, incorporating "simulation" exercises to put the rules in context. Both approaches are successful in helping law students to develop their problem-solving and client-centered skills within

5 *Carnegie Report*, *supra* n. 1, at 12, 183–84.

6 *See* Erwin Chemerinsky, *Rethinking Legal Education*, 43 Harv. Civ. Rights–Civ. Liberties L. Rev. 595 (2008); Leah M. Christensen, *The Power of Skills: An Empirical Study of Lawyering Skills Grades as the Strongest Predictor of Law School Success (Or in Other Words, It's Time for Legal Education to Get Serious about Integrating Skills Training throughout the Law School Curriculum If We Care about How Our Students Learn)*, 83 St. John's L. Rev. 795 (2009); Jessica Dopierala, Student Author, *Bridging the Gap between Theory and Practice: Why are Students Falling off the Bridge and What Are Law Schools Doing to Catch Them?* 85 U. Det. Mercy L. Rev. 429 (2008); Stephen Ellmann, *The Clinical Year*, 53 N.Y. L. Sch. L. Rev. 877 (2008/2009); Harriet N. Katz, *Evaluating the Skills Curriculum: Challenges and Opportunities for Law Schools*, 59 Mercer L. Rev. 909 (2008); Rachel S. Arnow-Richman, *Employment as Transaction*, 39 Seton Hall L. Rev. 447 (2009); Mathew D. Staver, *Liberty University's Lawyering Skills Program: Integrating Legal Theory in a Practice-Oriented Curriculum*, 39 U. Toledo L. Rev. 383 (2008).

7 The Three Pillars (also referred to as apprenticeships) referenced in the *Carnegie Report* include "(1) The teaching of legal doctrine and analysis, which provides the basis for professional growth (2) Introduction to the several facets of practice included under the rubric of lawyering, leading to acting with responsibility for clients [and] (3) A theoretical and practical emphasis on . . . the identity, values and dispositions consonant with the fundamental purposes of the legal profession[.]" *Carnegie Report*, *supra* n. 1, at 194.

8 Joshua E. Perry, *Therapeutic Pedagogy: Thoughts on Integral Professional Formation*, 78 Rev. Juridica U.P.R. 176 (2009).

9 *See* Elliott S. Milstein, *Clinical Legal Education in the United States: In-House Clinics, Externships, and Simulations*, 51 J. Leg. Educ. 375, 376 (2001).

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a moral framework adopted by the American legal profession, but both come with recognized limitations.[10]

This article introduces a model[11] for integrating the three pillars of legal education (doctrine, skills, and professional identity) into the first-year curriculum: the public-interest partnership. In this model, law students in their first-year legal writing class partner with a preselected nonprofit organization to provide legal research and written advocacy in furthering the organization's impact-litigation or policy agenda. A public-interest partnership in a first-year course offers students the advantages of "live client" and "simulation" exercises and diminishes the negative aspects of both approaches. By partnering with a public-interest organization, law school professors can provide their students with a learning experience that encourages them to think like lawyers in a real-world, client-centered problem. The problem can be crafted both to promote student development of professional identity (through advocacy of the partnered nonprofit and creating the problem in a particular social context) and to teach the fundamental lawyering skills necessary to master in first-year of law school. Having used this public-interest partnership model for the last five years, I believe it meets the learning objectives of a first-year legal writing and research (LRW) class, while meeting the main objective of the new learning initiatives—developing a professional identity while learning critical lawyering skills (such as legal writing, legal research, and client advocacy and other client focused skills) in the context of a problem that demands knowledge of a particular legal doctrine.

Specifically, for the past five spring semesters, my first-year LRW class partnered with a national, public-interest, nonprofit organization (NPO) to provide legal research and writing to further its impact-litigation goals concerning a public-interest matter. In consultation with the NPO, I developed a legal problem with fictitious case facts that closely mirrored the type of litigation the NPO wished to investigate. From these facts, the students researched, wrote, negotiated, and advocated for their "client" (in both written communication and orally in mediation and appellate argument) but the ultimate recipient of their work was the NPO.

10 *See* Angela McCaffery, *Transforming Minnesota Nice Law Students into Vigorous yet Respectful Advocates: The Value in Simulations in Preparing Clinical Law Students for Ethical and Effective Client Representation*, 7 Thomas M. Cooley J. Prac & Clin. L. 91, 108–09 (2004-05); Milstein, *supra* n. 9, at 380–81; Steven H. Goldberg, *Bringing the Practice to the Classroom: An Approach to the Professionalism Problem*, 50 J. Leg. Educ. 414, 419 (2000).

11 I presented the concept of public-interest partnering in the legal writing classroom after a year of developing and implementing the concept at the Legal Writing Institute Biannual Conference in Atlanta, Georgia in 2006, in a session entitled, "*Making it Matter: Rethinking Legal Writing Problems and Integrating Pro Bono Briefs into the LRW Classroom*."

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This article examines the public-interest partnership model and the learning objectives of implementing the model in an LRW class within the context of the new learning initiatives.

Part I explores the third pillar of these new learning initiatives: professional identity. It addresses the need to encourage law students' development of their own professional identities and how public service assists students in gaining an understanding of the moral implications of the law as part of their professional responsibility.

Part II notes the history of the LRW classroom and situates LRW faculty at the forefront of the experiential-learning movement through its use of the simulation model adopted early in the legal writing pedagogy. This section examines the difficulty faced by LRW professors in motivating first-year law students to care or be passionate about client skills when the exercise is simulated with "canned" problems unrelated to real clients. Additionally, this section compares the simulation model with the live-client model used in clinical legal education and notes the many advantages and some disadvantages in relying on the live-client model as the sole approach to developing professional identity.

Part III introduces the public-interest-partnership model as an approach that best integrates the experiential learning of simulated and live client interactions, while lessening the impact of the negative aspects of both traditional approaches. This section outlines the teaching goals and learning objectives of the model, as well as the potential difficulties in successful implementation of the model. It provides reflections on my experience teaching this model for the past five years, as well as quantitative data from student-feedback forms from these classes. I also explore the potential disadvantages of the model that professors should consider before implementing the partnership in their class.

Part IV concludes with the lesson I learned from teaching the public-interest model and introduces the unexpected bonus of teaching this approach: minimizing teacher "burnout" by providing the professor with a way to integrate the teaching, practice, and scholarship aspects of her own professional identity. I conclude that the public-interest-partnership model is worth replicating throughout the first-year curriculum because it successfully integrates the three pillars of knowledge, skills, and professional identity espoused by the legal academy's new learning initiative.

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I. The Importance of Developing Law Students' Professional Identities

A. The Call of the New-Learning Initiatives: Integration of Professional Identity

The concept of professional identity, although extensively examined in legal scholarship, remains elusive and without a singular recognized definition.[12] This remains true despite the work done by legal educators for at least the last three decades in identifying and expounding on the importance of instilling law students with a sense of "professionalism."

An influential starting point in this area is the 1986 Report of the ABA's Commission on Professionalism (the Stanley Report), which stressed "the importance of competence among members of the profession, trustworthiness and accountability to the client, and devotion to the public good."[13] This Report's recommendations included "weav[ing] ethical and professional issues into courses in both substantive and procedural fields"[14] and specifically referenced the importance of teaching law students that the legal profession includes service to the public good.

Valuing professionalism as a core concept to integrate in law students' entire curriculum took on momentum when, in 1992, the ABA Section of Legal Education and Admissions to the Bar studied and issued extensive recommendations in a report entitled "Legal Education and Professional Development—An Educational Continuum" (the MacCrate Commission Report).[15] The MacCrate Commission Report identified many professional skills and four "fundamental values" that law schools must prepare students for in entering the legal profession.[16] Included in the Report's recommendations were teaching law students competent representation and professional self-development, and instilling in them a desire to "striv[e] to promote justice, fairness, and morality" and "improve the profession."[17]

The MacCrate Commission Report garnered serious attention in the legal academy, sparking innovative thinking on how to instill law students with these professional values.[18] As a follow up, in 1996, the ABA's

12 *See* Goldberg, *supra* n. 10, at 418.

13 David S. Walker, *Teaching and Learning Professionalism in the First-Year With Some Thoughts on the Role of the Dean*, 40 U. Toledo L. Rev. 421, 423-24 (2009) (citing ABA Comm'n on Professionalism, *"In the Spirit of Public Service:" A Blueprint for the Rekindling of Lawyer Professionalism* 10–11 (ABA 1986) [hereinafter *The Stanley Report*]).

14 *The Stanley Report*, *supra* n. 13, at 12.

15 *MacCrate Commission Report*, *supra* n.1.

16 *Id.* at 135–221

17 *Id.* at 140–41, 207–21.

18 *See e.g.* Russell Engler, *The MacCrate Report Turns 10: Assessing Its Impact and Identifying Gaps We Should Seek to Narrow,* 8 Clin. L. Rev. 109 (2001); Russell G. Pearce, *MacCrate's Missed Opportunity: The MacCrate Report's Failure to Advance Professional Values,* 23 Pace L. Rev. 575 (2003).

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Professionalism Committee issued "Teaching and Learning Professionalism."[19] By looking at "the purposes of the profession, the character of the practitioner, and supportive characteristics of professionalism," the Report listed six "essential characteristics" that law students must master before graduation.[20] The first three characteristics focus on the knowledge and skill needed to be a competent lawyer: (1) learned knowledge (doctrine), (2) skill in applying the applicable law to the factual context (analytical skill), and (3) thoroughness of preparation.[21] The last three reflect a greater sense of professional identity: (4) practical and prudential wisdom, (5) ethical conduct and integrity, and (6) dedication to justice and the public good.[22]

Attending to this broader sense of professional identity was the starting point for the latest round of legal education reports, including the Carnegie Report on Educating Lawyers (Carnegie Report)[23] and CLEA's Best Practices in Legal Education (Best Practices),[24] together our newest learning initiative.[25] The Carnegie Report begins with an overview of legal education and demands that law schools foster "civic professionalism": "linking the interests of educators with the needs of practitioners and with the public the profession is pledged to serve . . . ."[26] Both the Carnegie Report and Best Practices speak to legal education's "apprenticeship of professional identity."[27] For the Carnegie Report authors, professionalism inculcation has three pillars: (1) "cognitive, academic apprenticeship,"[28] which focuses on "the knowledge base" (doctrine or substantive content and theory of law); (2) "practical apprenticeship,"[29] which focuses on the development of professional skills and competencies such as legal reasoning and communication (writing and advocacy);[30] and (3) "ethical–social apprenticeship," including the moral dimension of the law, ethical issues, and matters of professionalism.[31]

As the Carnegie Report authors reveal, the third pillar of "ethical-social apprenticeship"—the professional identity—is subordinated in law school experiences to the first pillar of "cognitive apprenticeship."[32] To combat this subordinate position given to professional development

19 ABA Sec. Leg. Educ. & Admis. to B., *Teaching and Learning Professionalism* (ABA 1996) [hereinafter *Teaching and Learning Professionalism*].

20 *Id.* at 5–6.

21 *Id.* at 6.

22 *Id.* at 7.

23 *Carnegie Report, supra* n. 1.

24 *Best Practices, supra* n. 2.

25 *See supra* n. 3.

26 *Carnegie Report, supra* n. 1, at 4.

27 *Best Practices, supra* n. 1, at 27–29; *Carnegie Report, supra* n. 2, at 129.

28 *Carnegie Report, supra* n. 1, at 28, 48–84.

29 *Id.* at 28, 95–100.

30 *See id.* at 27–29.

31 *Id.* at 139–47.

32 *Id.* at 132–33.

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outside of doctrine and skills, the Carnegie Report provides several recommendations, beginning with the call for law schools to "offer an integrated curriculum" that "joins 'lawyering,' professionalism and legal analysis from the start."[33]

Another way to understand the mandate of the new learning initiatives is for law schools to integrate the third pillar (ethical–social apprenticeship) by beginning to develop law students' professional identity on Day One of law school. That is, law schools must provide opportunities for students to develop an understanding of their status as members of a profession that has ethical norms and moral dimensions at the very start of their law school careers, instead of relegating this vital aspect of students' education to clinical and externship opportunities and a single stand-alone course on professional responsibility.

B. The Loss of Law Students' Innate Passion to Develop Professional Identity

Assisting students to develop their own professional identity includes understanding the "moral dimension of the law"[34] as it pertains to the "public the profession is pledged to serve,"[35] and it includes developing practical wisdom, integrity, and dedication to the public good.[36] These are not understandings or characteristics that law students are able to develop overnight. Instead, professional identity requires fostering, offering students multiple opportunities in different contexts so that they may develop and grow.

The traditional method for teaching professional-identity core concepts has been through mandatory professional responsibility (PR) courses. These survey classes are typically offered to second- and third-year students only and cover the basic principles essential for ethical competence. But, because of time constraints and breadth of coverage, these PR classes can "do little more than mention the wide range" of emerging professionalism issues.[37]

To be sure, especially since the beginnings of the newest learning initiatives, legal academics in the PR field are creating and teaching inno-

33 William M. Sullivan et al., *Summary of Educating Lawyers: Preparation for the Profession of Law* 8–9 (Jossey-Bass 2007) (available at http://www.carnegiefoundation.org/sites/default/files/publications/elibrary_pdf_632.pdf) (accessed Mar. 22, 2011); *see also Carnegie Report*, *supra* n. 1, at 50–54.

34 *See Carnegie Report*, *supra* n. 1, at 11–12.

35 *Id.* at 4.

36 *Teaching and Learning Professionalism*, *supra* n. 19, at 7.

37 Judith L. Maute, *Lawyering in the 21st Century: A Capstone Course on the Law and Ethics of Lawyering*, 51 St. Louis U. L.J. 1291, 1291 (2007).

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vative curricular approaches to professionalism in upper-level courses.[38] These opportunities, however, are unavailable to first-year students. Yet, law students enter law school with the seedlings of a professional identity ready to be nourished immediately.[39] On the first day of law school, law students are attuned to the reasons why they are there; why they worked so hard to be accepted; and, in a broad sense, what they want to accomplish in law school and as lawyers. They are able to articulate the desire to gain wisdom, professional integrity, and dedicate themselves to the public good.[40]

Importantly, we also know that ambition to serve the public good wanes significantly during the average three years of law school. Take for example Professor (and, later, Judge) Richard A. Posner's informal study of the attitudes and ambitions of entering law students and comparison of the same students' attitudes and ambitions upon graduation. In his famous work against academic moral arguments, Posner concluded that law schools are failing to capitalize on this innate desire of entering law students, leaving them with unfinished professional identities.[41]

Similarly, Professor Deborah Maranville studied the disheartening effect law school has on law graduates in extinguishing their "passion for justice and . . . enthusiasm for helping other people that were their strongest initial motivations for wanting to become lawyers."[42] Professor Maranville suggests that infusing passion and context into legal education is fundamental to effective learning,[43] and I suggest failing to do so leaves them without a foundation to understand their professional identities.

If understanding the moral dimension of the law and desiring to serve the public good are key components of a professional identity, how do we foster incoming law students' desire to develop these characteristics instead of leaving them to wane from neglect? The key to avoiding this disintegration is what the newest learning initiatives strive to achieve through a more integrated curriculum with a focus on experiential learning. What is required is a highly interactive learning context that bridges entering law students' passion to serve the public good and

38 *See id.*; Goldberg, *supra* n. 10, at 422–23.

39 Nelson Miller & Victoria Kremski, *Who is the Customer and What Are We Selling? Employer-Based Objectives for the Ethical Competence of Law School Graduates*, 33 J. Leg. Prof. 223, 237 (2009).

40 Nelson P. Miller, *Meta-Ethical Competence as a Lawyer Skill: Variant Ethics Affecting Lawyer and Client Decision-Making*, 9 Thomas M. Cooley J. Prac & Clin. L. 91, 93–96 (2007).

41 Richard A. Posner, *The Problematics of Moral and Legal Theory* 72 (Belknap Press 1999) (describing the study of Harvard Law School students and suggesting that their public-interest ambition wanes considerably during law school).

42 Deborah Maranville, *Infusing Passion and Context into the Traditional Law Curriculum Through Experiential Learning*, 51 J. Leg. Educ. 51, 51 (2001).

43 *Id.* at 52.

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understand the moral implications of the law in a context of legal practice—what they will actually do with their law degree.

II. The Modern Legal Writing Classroom: A Lab in Actual Legal Practice

Promoting formation of professional identity involves providing students with the earliest opportunity to see the way that law affects people and communities. Typically the first-year curriculum focuses on sterile exercises in analytical thinking, separate from the myriad implications of litigation choices and judicial decisionmaking. The sole exception to that norm is the legal writing and research (LRW) classroom.

A. LRW Class: Innovators of the Experiential-Learning Model in the First Year

In many law schools, the LRW classroom is the first-year class that teaches students critical lawyering skills in the context of practicing law. The evolution of the LRW class spanned the last century. Beginning in the 1920s, LRW courses were merely "legal bibliography" courses that rigidly and mechanically taught students how to find legal authorities.[44] More-formalized programs that taught legal writing skills along with legal research gained prominence in law schools during the 1940s and '50's.[45] During this period (and continuing into the late twentieth century), the rules and paradigms of legal writing were taught as rigid and nonnegotiable, and the focus remained constant on the final written product achieved. Typically, these early LRW instructors taught this "modernist"[46] or "formalist" approach, believing that students must write only after the thought process is complete and the true (and sole) measure of success was a demonstrated ability to produce particular legal documents (including legal memoranda and briefs) to particular specifications. Often

44 *See e.g.* Frederick C. Hicks, *Materials and Methods of Legal Research with Bibliographical Manual* 20–25 (Laws. Co-operative Publg. Co. 1923); *see also* Marjorie Dick Rombauer, *First-Year Legal Research and Writing: Then and Now*, 25 J. Leg. Educ. 538, 539 (1973); Emily Grant, *Toward a Deeper Understanding of Legal Research and Writing as a Developing Profession*, 27 Vt. L. Rev. 371, 375–76 (2003); Michael A. Millemann & Steven D. Schwinn, *Teaching Legal Research and Writing with Actual Legal Work: Extending Clinical Education into the First Year*, 12 Clin. L. Rev. 441, 448 (2006); David S. Romantz, *The Truth about Cats and Dogs: Legal Writing Courses and the Law School Curriculum*, 52 U. Kan. L. Rev. 105, 128 (2003).

45 Sarah Schrup, *The Clinical Divide: Overcoming Barriers to Collaboration between Clinics and Legal Writing Programs*, 14 Clin. L. Rev. 301, 311 (2007); *see also* Grant, *supra* n. 44, at 375–76 (citing Alfred F. Mason, *Brief-Making in Law Schools*, 1 Am. L. Sch. Rev. 294, 294 (1905)).

46 Adam Todd, *Neither Dead Nor Dangerous: Postmodernism and the Teaching of Legal Writing*, 58 Baylor L. Rev. 893, 919 (2006); *see* Terrill Pollman, *Building a Tower of Babel or Building a Disciple? Talking about Legal Writing*, 85 Marq. L. Rev. 887, 893 (2002); *see also* Teresa Godwin Phelps, *The New Legal Rhetoric*, 40 Sw. L.J. 1089, 1093–94 (1986); J. Christopher Rideout & Jill J. Ramsfield, *Legal Writing: A Revised View*, 69 Wash. L. Rev. 35, 49 (1994).

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absent in the formalist course instruction were critical-thinking and legal analysis skills, which LRW instructors were discouraged from teaching; instead, this was the area designated to the doctrinal faculty, a schism that perpetuated the marginalization of LRW faculty.[47]

In the last twenty-five years, the LRW class has proliferated and expanded in both scope and stature.[48] Substantively, the "product"-centered approach eventually gave way to a "process" method, which relied upon the emerging "new rhetoric" theory—that writing is a process for constructing thoughts.[49] With an understanding that writing is fluid and actually constructs meaning, LRW faculty focused less on inflexible writing rules and assessment focused solely on end products.[50] Instead, LRW faculty reoriented students to focus on the acts involved in writing and to keep the reader firmly in mind.[51] Some commentators align this flexible, multi-faceted approach as a postmodern influence because of its rejection of single, unitary models for instruction.[52]

This newly emerged method ultimately reoriented the classroom from the expert (the LRW professor) to the novice—the students. Whereas the traditional formalist approach relied upon a lecture-style class classroom environment (relying often on Socratic methodology), the process approach was student-centered, providing opportunities for students to understand the audience and purpose of their writing.[53] It supported writing as a recursive process, wherein students are given feedback to incorporate themselves and additional opportunities to implement their growing understanding of skills to new assignments. Importantly, LRW emerged as a class fully engaged in teaching legal analysis and critical-thinking skills.[54]

Of course, these two approaches are not mutually exclusive, and most LRW classrooms involve a mix of the two, in which Socratic method is supplemented by computer and in-class exercises designed to allow students to "think like a lawyer."[55] And the process method is not the end

47 Schrup, *supra* n. 45 at 311 (citing Romantz, *supra* n. 44, at 133).

48 Today, every ABA-accredited law school offers some form of LRW instruction, and is taught by a cadre of professional teachers no longer working as temporary assistants or adjuncts. *See* Schrup, *supra* n. 45, at 311–12.

49 *Id.* at 313.

50 *Id.*

51 Todd, *supra* n. 46, at 919.

52 *Id.* at 920–22 (noting that a true postmodern approach would emphasize helping students develop their own writing-process model).

53 *See id.* at 923.

54 Ellie Margolis & Susan L. DeJarnatt, *Moving beyond Product to Process: Building a Better LRW Program*, 46 Santa Clara L. Rev. 93, 99 (2005).

55 *See* Todd, *supra* n. 46, at 925; Margolis & DeJarnatt, *supra* n. 54, at 99.

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of the pedagogical road: a third approach has emerged of late that incorporates a "post process"[56] or social-context method. The social-context approach reflects new teaching ideas by LRW instructors that emphasize the contextual nature of legal writing. Legal writing students are asked to role-play as a junior attorney or associate in a law office, given contrived fact settings, and asked to research and write for a particular audience, such as a judge or a senior attorney. LRW classes began implementing assignments with "real world" fact patterns to provide students with meaning and context by which to understand legal arguments. Professors use those fact patterns to simulate client–attorney interactions, such as "mock" client interviewing and counseling, including written attorney communications, such as letters and memoranda.

This social-context approach relies upon simulation of client problems to provide meaning for students. Also known as "canned" problems, LRW professors present a hypothetical client with a problem for students to resolve. In creating these problems, LRW professors strive to balance an area of law that is accessible and appropriate for first-year students with an area rich with realistic issues that motivate students in their endeavor to solve the legal issues the "client" presents. This has been the primary model in LRW classrooms for the past decade.[57]

B. The Comparative Advantages and Disadvantages of Simulation v. Live Client as an Experiential-Learning Model for the First-Year Curriculum

Simulated, or "canned," assignments represent a substantial improvement over the formalistic approach of the early years in LRW teaching. However, the canned assignments come with drawbacks.

To create a simulated assignment, LRW professors expend considerable resources researching a potential legal problem that, while being understandable by and appropriate for first-year law students, will still expose the students to a variety of primary and secondary legal sources.[58] Once identified, the professor drafts a complex hypothetical involving imaginary parties, and to some (or varying) extent, asks students to

56 Todd, *supra* n. 46, at 924.

57 I have been extremely fortunate to teach in one of the earliest legal writing programs to simulate "real world" problems. Twenty years ago, Professors Jeff Hartje and John Reese at the University of Denver College of Law pioneered this initiative to place first-year legal writing students in context-specific problems and model the legal writing classroom as a law firm.

58 Admittedly, LRW professors can borrow legal writing problems from colleagues or "recycle" the problems they create by reusing them year after year. By reusing problems, LRW professors become so well versed in that particular area of the law that their teaching is often enhanced because they are better able to answer students' questions thoroughly and can identify potential problematic issues early for each new class. However, these practices come with their own disadvantages, including increased plagiarism risks and outdated issues and material.

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assume the role of junior attorneys with those facts representing the junior attorneys' "client." The students are asked to keep the "client's" goals in perspective as they research and write legal documents.

The use of simulated problems can meet the experiential learning goals for many LRW professors by providing students with an opportunity to craft legal arguments in a client-specific context. The simulated problems also allow professors to create client-centered activities, such as client interviewing and counseling, negotiating with adverse parties, and writing advice letters. However, as several commentators have noted, these "canned" problems come with significant limitations.[59] First, because the facts reflect a hypothetical client, the students cannot interact with them in a way that would give those students a sense of their "real responsibility for the life, liberty, or property of another."[60] The element of being responsible for forging a solution for a person or organization that is dependent on the student's own legal skills is lacking and, ultimately, may engender apathy towards the problem. This lack of connection and realism can lead to students' lack of motivation to do their best work for a problem they know was contrived by the professor and ultimately destined for the recycling bin.[61]

Additionally, because the problem is admittedly constructed by the professor as an academic exercise, students are aware that they are being asked to find the legal arguments and solutions that the professor herself found, as opposed to constructing their own answer.[62] This can lead to a "gold rush" mentality—the students believe they have to mine various legal authorities to find the "right" answer to the problem.[63] Ultimately, this does not reflect a realistic legal issue because attorneys never follow a predetermined path but instead must use their analytical skills to build arguments from a variety of legal authorities and compare and evaluate any potential answers with client interests and goals. Students are not asked to develop their problem-solving skills beyond unearthing easily found answers, and such an understanding perpetuates the illusion that legal answers are easily found and are rational and controlled.[64]

59 Millemann & Schwinn, *supra* n. 44, at 453.

60 *Id.* at 456.

61 Angela J. Campbell, *Teaching Advanced Legal Writing in a Law School Clinic,* 24 Seton Hall L. Rev. 653, 659–60 (1993); Rideout, *supra* n. 46, at 51.

62 Millemann, *supra* n. 44, at 458–59.

63 Sometimes, an unfortunate aftereffect of this mentality is an increase in students' competitive nature, with the result that the "right" legal authority (text or case) is horded and hidden from others.

64 Millemann, *supra* n. 44, at 460.

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Lastly, the simulation model often lacks any connection to social-justice issues critical in understanding the civic professionalism and its obligation to public service. Although a LRW professor could incorporate a social-justice issue in the "canned" problem, without a recipient for the legal work, lack of realism fails to motivate students in a way that would develop their professional identity as members of a profession obligated to serve the public good.

In contrast to simulated exercises, legal education has a long history of clinical education that incorporates "live clients" in the education of upper-level law students. Most law school clinics use an "in-house model" that provides students with a faculty-supervised setting in which students represent clients who are in need of legal services.[65] In these settings, students are given extensive responsibility in an actual legal matter for a real client, while being closely supervised by clinical faculty. Such representation can include trials and court hearings, negotiations with opposing counsel, client interviewing and counseling, and mediation. These client-centered tasks and the close and extensive training clinical students receive make their educational opportunities a perfect fit with the experiential learning and professional identity values prized by modern legal academics.[66] However, clinical education has been relegated to the upper-level students only, and, admittedly, in most law schools, not all students who seek such opportunities are able to enroll in a clinic.[67]

Although not all students are able to have a clinical education—and if they are, only in the second or third year of law school—it is simply infeasible to bring "live client" instruction into the first-year curriculum for every entering law student. First, clinical education is extremely resource intensive, the typical student–teacher ratio being eight to one.[68] That daunting amount of resources required for clinics puts first-year live-client experience beyond most law schools' fiscal reach. In addition, ethical considerations arising from the attorney–client relationship demand certain precautions, such as ensuring client confidentiality, that would be difficult to implement in a first-year class.[69] When actual people

65 Milstein, *supra* n. 10, at 376.

66 Teaching "client-centered" advocacy prepares students to approach legal problems framed with the client's goals in mind. *See e.g.* Gary Bellow & Bea Moulton, *The Lawyering Process: Materials for Clinical Instruction In Advocacy* (Found. Press 1978); David A. Binder & Susan C. Price, *Legal Interviewing and Counseling: A Client-Centered Approach* (W. Group 1977).

67 Law School Survey of Student Engagement, 2006 Annual Survey Results 16 tbl.4 (2006), available at http://lssse.iub.edu/2006_Annual_Report/pdf/ LSSSE_2006_Annual_Report.pdf (accessed Mar. 9, 2011).

68 *See* Gregory S. Crespi, *Comparing United States and New Zealand Legal Education: Are U.S. Law Schools Too Good?*, 30 Vand. J. Transnatl. L. 31, 42–46 (1997); Paulette J. Williams, *The Divorce Case: Supervisory Teaching and Learning in Clinical Legal Education*, 21 St. Louis U. Pub. L. Rev. 331, 335–36 (2002).

69 *See* Schrup, *supra* n. 45, at 309, 318–19.

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are relying upon students to solve their legal problems, and students are engaged in the attorney–client relationship, students must have an understanding of professional ethical and confidentiality concerns that are beyond the first-year level. Moreover, liability issues, including potential conflicts, would have to be considered on a much larger scale.

For most law schools, such impediments simply place live-client models of learning outside the ability to implement on a large scale and never in the first-year curriculum. Accordingly, clinical education cannot be the sole answer to the call for more extensive professional-identity development in law school.

III. Public-Interest Partnering: Bringing the Best of Simulation and Live-Client Learning to the Modern Legal Writing Classroom

Although simulation and live-client models are both important pedagogical tools, as currently implemented, both models are imperfect for introducing and developing students' professional identity in the first year. Instead, a model that reflects the best of both models—the public-interest partnership—could be more widely used to develop students' professional identity.[70]

A. The Public-Interest Partnership Model: The Planning and Implementation

The public-interest partnership model begins with the LRW professor reaching out to a national or local nonprofit or public-interest organization (NPO) and engaging with it to discover potential legal issues that the NPO is interested in exploring. The legal issues may involve an area the NPO is interested in investigating for potential litigation or an already established impact-litigation agenda.[71] The public-interest organization need not be a legal services group but should have a mission in advocating on behalf of an underrepresented clientele. In the interest of maximizing students' comfort levels in the role as advocate, I have approached public-interest organizations that are not viewed as overtly political or inflammatory in their advocacy.[72] I have chosen both national public-interest organizations (such as National Employment Law Project, which

70 The model explored in this article focuses on bringing these partners to the first-year LRW class, but this model could work equally well in an upper-level skills courses, such as advanced legal writing or upper-level advocacy classes.

71 It is helpful, but not necessary, for the LRW professor to have an established relationship with a public-interest partner.

72 Although professors should endeavor to minimize polarizing students by choosing less politically charged nonprofits, no project or partnership is guaranteed to be free from controversy. For how I deal with this, *see infra* part III(C).

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advocates for wage rights on behalf of low-wage workers, and National Advocates for Pregnant Women, a group that promotes the civil rights of pregnant women) and local nonprofit groups (such as Project Safeguard, a Denver organization that advocates on behalf of battered women).[73]

Once a potential legal issue is uncovered, the LRW professor negotiates with the public-interest group to determine if a partnership is in both parties' best interests. The LRW professor offers the free legal research and writing services of a sizable group of law students focused on finding legal authorities, arguments, and analysis of the legal issue. [74] The LRW professor will act as the students' supervisor and will provide the organization with only the best written products and research the students produce. The research and writing can come in the form of a letter, research memorandum, or briefs advocating for both sides of the legal issue.

In return, the LRW professor asks that the organization make a representative available to visit the classroom, or otherwise communicate with the students, in order for the students to have the opportunity to engage with the organization on a personal level. The students should be able to communicate directly with the organization's representative, either in person, through video conferencing, or through written correspondence such as e-mail or website chats (such as TWEN or Blackboard). This allows students to personally interact with their public-interest partner to fully understand the partner's goals and mission in the legal issue before them.

At this juncture, the learning objectives of the LRW professor and the legal research objectives of the public-interest group must be discussed and synchronized in order for a successful partnership to occur. The concerns associated with the learning objectives of an LRW class for this project include working on a legal issue accessible and understandable (with some guidance)[75] to a first-year class; an opportunity for client interactions to gather facts, goals, and motivations; a timeline that allows for a

73 For a complete list of the NGOs with which my students and I partnered, see *infra* note 82.

The location of some law schools in less urban settings might make partnering with a local nonprofit difficult. In these situations, partnering with a national nonprofit is advisable and can be successful through telephone and video conferencing, e-mail, and web chatting.

74 The size varies dependent on the number of classes and students in each class. My LRW class includes approximately twenty students each year, and I teach two sections, resulting in approximately forty students engaged in the public-interest partnership each year.

75 I often ask my students to research and write on a constitutional legal issue that always occurs before or during the time my students have taken (or are taking) Constitutional Law. To begin on a solid platform, I have a Constitutional Law lecture day that I co-teach with a guest lecturer (a Constitutional Law professor) to get the students up to speed on the constitutional underpinnings in order for them to feel comfortable with the legal issues they are researching and writing. We also make use of secondary sources, such as treatises and practitioner articles in our early research to get a firmer understanding of the law at issue.

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progressive sequential understanding of the client facts and legal issues; and a legal issue that incorporates an aspect of furthering the public good. The agenda items of the public-interest group to consider include ensuring that the legal work performed addresses the legal issue it is working towards; meeting timelines for action and advocacy the group has planned or is already at play; and meeting any public-relations goals the group has when interacting with the legal and greater community.

Once a partnership is formed, the public-interest partner shares with the LRW professor the details of the legal issue and specifics on the group's goals in wanting further legal analysis and research of the issue. The LRW professor should have a firm understanding of what the public-interest partner wants to do with the research and analysis being offered in order to steer the students to work in a way that best meet the group's needs and timelines while still meeting the learning objectives of the class. The LRW professor then begins to develop a fact pattern based on the needs of the public-interest partner that reflects the group's typical client [76] or is a composite of facts that the group is seeking to represent in its impact litigation. The public-interest partner should give regular and detailed feedback on the developing fact pattern in order to meet the group's objectives, while remaining understandable to first-year students.

After the LRW professor has an agreed-upon fact pattern and articulated legal issue, the professor (and perhaps a research assistant) should do legal research of her own to get an idea of the legal landscape to ascertain whether first-year law students will be able to navigate the law in this area. Although the professor is not concerned with finding all the arguments and legal authorities at issue, it is necessary to get a "lay of the land" to ensure that the issue is appropriate with the particular facts she has developed. This is a recursive process, whereby the professor might adopt or change facts as the initial research is completed in order to best address the needs of the public interest partner and her students.

The implementation of the project includes the building blocks and classroom discussions and exercises of a typical first-year LRW course. Accordingly, the fundamentals of research, writing, and analysis are all covered as thoroughly and exhaustively as traditional LRW problems. However, the addition of the public-interest partner provides a critical element: a client[77] whom the students can discuss, interview, plan for,

76 I have not used actual client documents in providing a fact pattern for my students in order to avoid the dissemination of confidential materials.

77 The nonprofit partner is not a "client" in the strictest sense of the word because no attorney–client relationship is being formed. However, the students begin thinking about client needs and impact-litigation goals of the organization as if the organization is their client.

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engage with, and who, ultimately, will be the recipient for the legal work being done. The LRW professor presents the public-interest partnership as an exciting opportunity for students' engaging with a client during their first year, so they can begin developing the professional skills necessary to becoming true advocates. The partnership is presented to the students as an opportunity for real client interactions, which can include client interviews, letters, e-mails, and mock interactions, including counseling with actors representing the composite fact pattern in mediations, negotiations, and oral arguments.[78]

In this setting, the public-interest partnership becomes both a simulated and a live-client experience. First-year students interact with the public-interest partner as they would with a live client, with the understanding that their work is to further the client's goals. The students research with the partner in mind, knowing that the legal authorities they find and the analysis they present are not simply following a set path created for them, but a path the students are forging themselves. Although not engaging in confidential attorney–client communications, classroom discussions of those rules and ethical obligations have meaning when students are engaged in a real partnership to which they can apply the knowledge (otherwise known as experiential learning).

The project is also a simulation in that the LRW professor creates a fact pattern that best fits the needs of the partner and the students, and is able to develop mock, simulated exercises to further develop the students skills, such as client counseling (with an actor playing a part based on the fact pattern),[79] negotiation and mediation (with students taking both sides of the legal issue),[80] and motion and appellate advocacy before mock judges.[81] In this way, the project allows for teaching students all of the

78 The specific written assignments of the LRW class partnering with a nonprofit are not different from the typical LRW class. I assign research memoranda, research logs, client letters, legal briefs (both trial summary-judgment briefs and appellate briefs), and electronic e-mail letters to senior attorneys. The difference is the client audience and recognizing that a nonprofit will likely read the resulting assignments to further their needs and impact-litigation goals.

79 Specifically, I require my students to engage in three client-interviewing-and-counseling exercises. First, I model an initial client interview with the client in class (with an upper-level former student playing the part of the client of the fact pattern I created). Second, I require my students to interview the client to gather additional facts necessary to properly analyze the legal issues (which are conducted in their legal research teams). Lastly, the client returns for a client-counseling session in class at which I choose three students to counsel the client on one legal issue, and a senior attorney (a Denver practitioner who volunteers for my class) runs the session.

80 Specifically, I do a one-and-a-half-week negotiation-and-mediation unit in which the students learn basic negotiation and mediation skills and practice them in a mock mediation outside of class. As they do for the trial- and appellate-brief-writing assignments, half the students advocate for the plaintiff and half for the defendant. I explain to the students that even though the nonprofit partner will likely represent the interests of the plaintiff in their impact litigations, analyzing and arguing for the defendant side provides critical information to the partner who must anticipate all defense arguments and analyze authorities through that lens.

81 My students write a trial brief (either summary-judgment or dismissal motion) and an appellate brief (after receiving an Order I write granting or denying the trial motion). The appellate-brief assignment is essentially a rewrite of the first brief because they continue to argue the same legal issues but within the framework of the appellate standard.

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LRW fundamentals necessary in a first-year experience. The exact same writing assignments and advocacy experiences can be replicated—the only difference is that the facts are created with the partner's public-interest goals in mind.

In these ways, the public-interest partnership effectively incorporates the advantages of both simulated and live-client models in teaching fundamental lawyering skills in an experiential-learning model without sacrificing the students' learning of key LRW skills.

B. The Results: A Study of the Public-Interest Partnership Model in my LRW Classroom

Having implemented the public-interest partnership model in my LRW classroom for the past five years, I have seen how the model meets the learning objectives I have set for my first-year students, while providing the additional benefit of helping the students to begin forming their own professional identities.

My LRW first-year students partner with the chosen public-interest group in the spring of their first year. They learn of their public-interest partner on the first day of class when they get their first written communication from the partner. The partners I have selected vary: One is a national nonprofit engaged in impact litigation for low-wage workers, for whom the students research potential federal and state legal solutions to solve the lack of wage protections for home-based child-care workers. Another is a small nonprofit working to advance the constitutional rights of intersex children to be free from invasive surgery before the age of consent.[82] The assignments the students complete over the course of the semester may vary year to year, but typically include a research log, client interview, client letter, motion brief, mediation exercise, appellate brief, and oral argument before a panel of three mock judges.

82 A complete list of the nonprofits I have partnered with and the legal issues analyzed by my LRW first-year students are listed below:

Spring 2006: Partnered with the Center for Genetics and Society (CGS) located in the Bay Area, California, to investigate whether a potential employer's requirement of genetic testing of common diseases (such as breast cancer) violated the potential employee's privacy rights.

Spring 2007: Partnered with Denver nonprofit Project Safeguard to investigate a new, controversial psychological syndrome, Parental Alienation Syndrome, to analyze its potential impact on domestic-violence survivors in child-custody litigation with their former batterers.

Spring 2008: Partnered with Advocates for Informed Choice (AIC) located in the Bay Area, California, to investigate whether the forced surgery on intersex children before the age of consent violates their constitutional rights.

Spring 2009: Partnered with the National Advocates for Pregnant Women (NAPW) located in New York to investigate whether hospitals are violating a pregnant woman's constitutional right to be free from invasive caesarean surgery when vaginal births after caesarean (VBACs) are prohibited at a state-funded hospital.

Spring 2010: Partnered with National Employment Law Project (NELP) located in NYC to investigate whether home-based child-care workers have a federal or New Jersey state wage claim for minimum and overtime pay against the state agency that pays them under a federal grant for low-income families.

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Upon the completion of each spring semester, along with the law-school-wide evaluation, I have asked my students to complete an anonymous, five-question survey on their reactions to the public-interest partnership they engaged in throughout the semester, with an opportunity for additional comments should they wish to share any further thoughts with me.[83] Below is a table of combined results of the five questions survey for 2006–2010:[84]

Chart 1

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
The topic selected was interesting as a legal issue to research and write about in this class.	**95** (53%)	**72** (40%)	**10** (6%)	**0** (0%)	**1** (1%)
Through researching this topic, I learned a lot about the substantive law.	**100** (56%)	**73** (41%)	**5** (3%)	**0** (0%)	**0** (0%)
I was able to apply the advocacy skills I learned in class effectively through researching and writing on this topic.	**71** (40%)	**98** (55%)	**9** (5%)	**0** (0%)	**0** (0%)
Having a live, pro bono client increased my interest in this semester's projects.	**66** (37%)	**72** (40%)	**34** (19%)	**5** (3%)	**1** (1%)
Having a live, pro bono client as the recipient of the research and writing in this class increased my desire to perform well in this class.	**56** (32%)	**63** (35%)	**51** (29%)	**6** (3%)	**1** (1%)

The results of the five-year survey of my first-year students engaged in the public-interest partnership reflect a few common themes:

83 Although the data were not collected using reliable scientific methodology and do not provide a reliable control nor administered by an outside third party, the information it imparts is provided here in order to give insight into my students' perceptions about and attitudes towards the public-interest model.

84 For the five years, I taught approximately 200 students and 178 completed the survey.

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1. First-year law students understand the limitations of simulated problems and desire more client connections during the first year.

The first year of law school might be an insular experience, but those who are in the first year together take the opportunity to share their classroom experiences. Students quickly realize that their hard work is either being used solely to fill academic requirements versus having the added benefit of assisting underrepresented populations. My students have consistently remarked that having a public-interest partner who was interested in their work was decidedly more fulfilling than having their work only used as an assessment of their skills by their LRW professor. As one student commented on the survey: "I really did enjoy knowing that my work could potentially help real people instead of just some made up dilemma serving no purpose other than for practice." Moreover, students remarked that they wish they had had *additional* opportunities to communicate and interact with their "clients."

2. Students are motivated to do their best work when they know their work will be used to further the partner's legal goals.

Not only do first-year students find working with public-interest partners fulfilling, they also agree that it increased their interest in the (lengthy and onerous) research-and-writing projects they were assigned. Seventy-seven percent of the total responses remarked that they "strongly agree" or "agree" with the statement that "having a pro bono client increased my interest in this semester's project." Additionally, sixty-seven percent of students "strongly agree" or "agree" that "having a pro bono client as the recipient of the research and writing in this class increased my desire to perform well in this class." As one student commented, "I think having a real client not only raises interest, but also gives an example of what real-world legal problems are like and how they're dealt with." Maintaining high interest in a course that is demanding (and often represents fewer credits than their other classes) is of immense benefit when teaching lawyering skills.

3. Students are awakened to their professional responsibility to do their best work when a real person or group is counting on the results.

First-year students understand that their academic work affects their ability to get hired by desirable employers, as well as their future opportunities in both law school and beyond. But they do not often conceive of their academic work as being critical training that instills in them the genesis of their professional responsibility to do high-quality work for their clients. By having a client who will receive their research and advocacy documents, students understand more deeply that quality counts. Ensuring that all relevant legal authorities in their jurisdiction

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have been evaluated and making the best legal arguments are not just academic exercises but necessary to advise the partner fully and competently. As one student commented on the survey, "It was great to have a topic that I felt was real. I found myself digging deeper into my research and study of this topic because I felt a sense of need to do a good job for a real client." Another student revealed, "Having real clients expecting a professional product helped to give us incentive to work harder."

4. Students understand their responsibility to promote the public good when partnered with a common goal of impact litigation advocating for the legal rights of an underprivileged group.

First-year law students come to law school in touch with the reasons for choosing law as a profession. From media outlets to their familial relationships, first-year students are generally aware that lawyers have professional duties tied to fair access to justice and promotion of the public good. But those public-interest considerations soon take a subservient position to other professional goals as they continue in law school.[85] By having a public-interest partner in the first year, students build a stronger foundation of awareness and commitment to their professional responsibility in this area that will hopefully continue to take root and flourish as their education continues. As one student commented on the survey, "My interest in the topic made research and writing much more enjoyable because I honestly believed in my client and wanted to cure the injustice." Another student stated, "I believe if you can couple both learning and helping the community at once it is an incredible benefit. Continue helping nonprofits."

C. Potential Limitations of the Public-Interest-Partnership Model

Teaching lawyering skills to first-year law students is a demanding and time-intensive occupation. Papers to grade, conferences to hold, lessons to plan, and committee meetings to attend: these demands all contribute to LRW professors being among the busiest in the law school building. Professors will have to balance the proposed advantages of the public-interest-partnership model with likely disadvantages before deciding to incorporate the model in their classrooms. From my experience, the model has three possible disadvantages worth exploring. First, students can feel that the experience of partnering with a nonprofit organization is not in their best interest if not presented to them with care. Second, the impact-litigation goals of the public-interest partner can make for difficult legal problems that take finesse and additional resources to be made

85 *See supra* pt. I(B).

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appropriate for first-year students. Last, incorporating another layer of responsibility by introducing a third party into the classroom takes planning and time that might not be available to a first-year professor.

First, because first-year students have chosen neither the particular first-year class nor the potential partner, some students may feel coerced into representing the interests of an organization that they might not support if given the choice. I address this possibility explicitly in my very first class by acknowledging that I have chosen the partner and that this mirrors the reality of most lawyers who work for a law firm where others (such as senior attorneys or partners) have made the decision to represent a client without their input. But I also explain that I have chosen the public-interest partner with care to be least offensive to any particular individual. For instance, I explain that I do not choose partners with strong political messages or ties, and instead choose organizations with missions that are generally acceptable to most Americans, such as women or children's constitutional rights, or low-wage workers' right to be paid lawfully. While these objectives might not be top concerns for all of my students, working to further them does not require students to choose a side in a hotly debated political issue.

Also, I give my students the option to "opt out" of the partnership without retribution by giving them the choice to not have their legal research and writing work given to the organization even if they are among the best of the class. However, I make clear that any opt-out student will still have to work on the legal problem like the rest of the class and attend all classes, even if the public-interest partner also attends the class. I underscore that the "opt out" will not affect the grade. In five years, no student has opted out of the partnership. But by giving the students this option, I acknowledge the potential for feeling coerced and show respect for my students' views.

Second, the public-interest partners are often seeking information about legal topics that can be at the outer edges of what first-year law students are capable of researching and analyzing. Public-interest organizations most often are interested in constitutional issues and issues of first impression, which might not be appropriate for first-year students. I mitigate this problem in several ways. First, I always do the research myself with a teacher's assistant's help to make sure I fully understand what the students are likely to find and develop enough facts for them to fully analyze the problem. Next, I often "tweak" the legal issue so that the students are analyzing a smaller part of a larger problem so that it is easier for first-year students to accomplish. For instance, when one public-interest partner wanted to explore a complex constitutional issue, I picked one aspect of that problem (e.g., state action) so that the students

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understood the larger context but had to research only the more narrow legal issue within that context. Also, I often invite a guest speaker on the legal topic, such as a doctrinal professor in that field, to give the students enough background to get started on their research.

If the legal issue is not one that has been deeply and thoroughly analyzed by the courts (such as issues of first impression), I take the time to explain how to do research effectively when the issue has not been widely analyzed and that a survey of case law is appropriate. I set our client's problem in federal court, and I give students permission to use any case to which analogies can be made to predict what a court is likely to do if presented with the issue for the first time (while still keeping in mind hierarchy of authority and what is most persuasive to a particular court). This approach has the added benefits of developing students' analytical skills (i.e., making analogies when the facts are not exactly the same) and encouraging students to find and make persuasive arguments.

Students nonetheless want to know that an answer can be found and that they are not being asked to accomplish an impossible task. In order for students to feel confident that the legal arguments can be found and made effectively, I assure them that I have found such arguments and guide them when appropriate if they encounter difficulties or frustration. Conferences and conversations with frustrated students often lead to good teaching moments, in which students experience for themselves the absence of easy answers but in which, with guidance, they can develop a new research strategy, put behind them their unsuccessful first attempts, and try again. Often, a small number of students find different but equally effective cases and arguments than what the rest of the students focus on and are truly excited by "thinking outside the box." One year, after researching the legal consequences of a newly emerged psychological syndrome used against survivors of domestic violence, a group of students were so pleased and proud of their findings that they presented them on a panel at a local conference of academics and practitioners held at the law school.

Last, preparing and teaching the public-interest-partnership model takes significantly more time and effort than simulations. As outlined above, each year the LRW professor must connect with a nonprofit organization[86] and meet and communicate regularly with the partner to establish common goals and coordinate classroom appearances. Once legal issues have been identified, the professor must ensure that the

86 If the LRW professor does not have contacts in the public-interest legal community, this might pose additional challenges. I suggest communicating with other law school faculty who might be better connected, including the clinical faculty, to brainstorm about potential partners.

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proposed legal research and writing projects are suitable for her students by doing her own research and analysis. The professor must make room in classroom planning for introducing the partner and incorporate in lesson plans information pertaining to students' development of professional identities.

In a curriculum already stretched to include all the lawyering skills first-year students must learn, adding a third-party client to the agenda is daunting and might seem unmanageable. My experience reflects that although it does take additional time and effort, if I plan ahead to make the contacts early and set the problem prior to the start of the semester, the partnership model is workable, even with all the other professional commitments vying for my attention. Ultimately, it is a cost-benefit analysis, and I have come out on the side of incorporating the partnership because the advantages outweigh the time and effort.

V. The Unforeseen Consequence: Public-Interest Partnering Develops the *Professor's* Professional Identity

Professors in legal academe have split working personalities. They are professors, working hard in their classroom to bridge doctrine, theory, and practice, and encouraging students to engage fully and actively with the skills and knowledge necessary for them to be "practice-ready" attorneys. They are also scholars, engaging themselves in written analytical exercises of all types and varieties, including delving into broad theoretical frameworks, as well as the finest details of legal minutia. But many law school professors are also lawyers; to a greater or lesser extent they have either brought their advocacy personas into the law school or left them behind in a former life.

I have found that working with public-interest partners in my classes in a three-way partnership (between me and my students, between my students and the public-interest organization, and between me and the organization) has been the only paradigm that has simultaneously fed all three parts of my working persona.

As a professor, I am constantly challenged in a new dynamic every year and the partnership creates a new dimension that challenges me even further. Law school professors (and perhaps to a greater extent, LRW professors) know that the monotony of teaching the same class over and over can stifle motivation, creativity, and enjoyment in the profession. The public-interest partnership negates those potential pitfalls because I am constantly motivated to find new partners and legal issues, and I find

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professional satisfaction in knowing that my students are learning and developing their own professional identities in keeping with the public good.

As a scholar, my creativity sparks from the different legal issues that my students are engaged with, including the interesting authorities they uncover and their thought-provoking arguments. Because I write mainly in the area of employee and minority rights, it is not a coincidence that many of the partnerships we engage in represent those issues. I have so many article ideas stemming from the work my students and partners have engaged in that I do not have time enough to write them all. This is a very good problem to have.

As a lawyer, I have not lost my zeal to represent the voices that are underrepresented in our legal system. By maintaining my ties with the public-interest community, I am immersed in the reason I myself went to law school: to foster the public good.

Because it feeds all three parts of my working persona and because it incorporates the crux of the latest learning scholarship to develop first-year students' professional identities as well as benefit chronically underfunded nonprofit organizations, the public-interest partnership is a model worth replicating in law school curricula.

Conclusion

The newest learning initiatives in legal education focus much attention on the necessity for professors to support students' development of professional identity, including "civic professionalism," which "link[s] the interests of educators with the needs of practitioners and with the public the profession is pledged to serve."[87] It includes gaining "practical and prudential wisdom"; learning what constitutes "ethical conduct and integrity"; and ensuring that students are "dedicat[ed] to justice and the public good."[88]

Legal educators agree that developing students' professional identities in this area should begin as early as possible—ideally, the very first day of law school.[89] Partnering with nonprofits dedicated to advancing the rights of underrepresented populations brings awareness to first-year law students of their professional responsibility to the public: a key component of lawyers' professional values. They gain practical knowledge (if not

87 *Carnegie Report*, *supra* n. 1, at 4.

88 *Id.* at 126.

89 *Carnegie Report*, *supra* n. 1.

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wisdom) in an experiential learning environment of client consideration and goal-tending of the importance of quality work for clients and of integrity in one's work product. Critically, students are exposed on Day One of law school to the profession's dedication to justice and public good through their personal interactions with and responsibilities to their public interest partner.

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