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Citations:

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G. S. Hans, Clinical Fellowships, Faculty Hiring, and Community Values, 27 CLINICAL L. REV. 253 (2021).

ALWD 6th ed.

Hans, G. G., Clinical fellowships, faculty hiring, and community values, 27(2) Clinical L. Rev. 253 (2021).

APA 7th ed.

Hans, G. G. (2021). Clinical fellowships, faculty hiring, and community values. Clinical Law Review, 27(2), 253-278.

Chicago 17th ed.

G. S. Hans, "Clinical Fellowships, Faculty Hiring, and Community Values," Clinical Law Review 27, no. 2 (Spring 2021): 253-278

McGill Guide 9th ed.

G S Hans, "Clinical Fellowships, Faculty Hiring, and Community Values" (2021) 27:2 Clinical L Rev 253.

AGLC 4th ed.

G S Hans, 'Clinical Fellowships, Faculty Hiring, and Community Values' (2021) 27(2) Clinical Law Review 253.

MLA 8th ed.

Hans, G. S. "Clinical Fellowships, Faculty Hiring, and Community Values." Clinical Law Review, vol. 27, no. 2, Spring 2021, p. 253-278. HeinOnline.

OSCOLA 4th ed.

G S Hans, 'Clinical Fellowships, Faculty Hiring, and Community Values' (2021) 27 Clinical L Rev 253

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# CLINICAL FELLOWSHIPS, FACULTY HIRING, AND COMMUNITY VALUES

G.S. HANS\*

*This Essay explores clinical hiring practices as an expression of community values. In particular, it discusses how lawyers become clinical faculty to reflect on whether and how prior clinical teaching experience should be assessed for entry-level clinical applicants in order to effectuate equity and inclusion within law schools and the clinical community. Publicly available data suggest that a majority of recent entry-level clinical faculty have prior clinical teaching experience as fellows or staff attorneys. What does this apparent hiring preference for prior teaching experience mean for the composition of the clinical community, especially with respect to equity and inclusion? As many fellowship programs include clinical pedagogical training, should clinical faculty be concerned about prioritizing applicants with prior clinical experience—or view such experience as a valuable factor in an applicant’s dossier? If clinical fellows are prioritized in hiring, what does that mean for the clinical community and its values? The Essay concludes with suggestions for specific, concrete steps that law schools and the clinical community can take to promote equity and inclusion in fellowship programs and entry-level hiring.*

## INTRODUCTION

How do lawyers become clinical faculty? In the past, my immediate answer was: “Some people do a clinical fellowship, and others come from practice.”

Compared to our non-clinical colleagues, my impression has always been that clinical faculty have more heterogeneous backgrounds. When advising law students interested in clinical careers, I’d confidently say, “You don’t need to have a law degree from Harvard, Yale, or Stanford. You don’t need to have completed a clerkship, or worked on the law review, or written four articles prior to ‘going on the mar-

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ket.’ What you need is a commitment to clinical teaching, to working with students and clients, and to navigating academia.” Non-clinical law faculty, especially those who focus on research and writing, seemed to have very similar backgrounds and credentials across cohorts. The uniformity of those backgrounds has provoked much discussion and critique among non-clinical faculty.<sup>1</sup> Implicit in my claim was that the path to clinical teaching was much less predetermined.

The variety of ways that people could become clinical faculty struck me as a demonstration of the clinical community’s commitment to diversity, equity, and inclusion amongst its ranks, and to promoting social justice through its work. These values remain both contested and incomplete in their execution in the community.<sup>2</sup> But they are consistently surfaced and invoked in scholarship, legal work, and conferences. As a clinical student, as a clinical fellow, and now as a clinical faculty member, I believed that the clinical project stood for social justice by representing those who could not afford attorneys or needed support in furthering community goals or the public interest. In my understanding, we stood for diversity<sup>3</sup>—specifically, more inclusive and extensive equity, representation, and social and political power for those who currently lack it in the United States.

I also assumed that those values were instantiated in the hiring practices for clinical faculty. Rather than focus on elite credentials, which disproportionately accrue to those atop racial and social hierarchies, we opened our doors to lawyers from a plethora of professional experiences and personal backgrounds. By casting a wide net in terms of professional and personal characteristics for clinical faculty, we furthered the goals of social justice, diversity, and inclusion amongst our ranks.

Like some stories we tell others and ourselves, I was not absolutely confident about the reality behind the narrative. I had questions, particularly during my time as a clinical fellow and when I was

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<sup>1</sup> See, e.g., Eric J. Segall & Adam Feldman, *The Elite Teaching the Elite: Who Gets Hired by the Top Law Schools?*, 68 J. LEGAL EDUC. 614 (2019) (criticizing the homogeneity among educational backgrounds among law faculties at highly ranked law schools).

<sup>2</sup> See, e.g., Praveen Kosuri, *Losing My Religion: The Place of Social Justice in Clinical Legal Education*, 32 B.C. J.L. & SOC. JUST. 331 (2012) (urging the development of clinical models that do not expressly promote social justice); Julia Hernandez, *Lawyering Close to Home*, 27 CLIN. L. REV. 131, 148–53 (2020) (describing how lawyering concepts frequently stymie progress and social justice in marginalized communities).

<sup>3</sup> I highlight standing for “diversity,” potentially divorced from other values, given the legal framework around affirmative action and its focus on diversity, rather than on other values such as equity and inclusion. See *Grutter v. Bollinger*, 539 U.S. 306, 327–33 (2003) (relying upon a “critical mass” theory of diversity to uphold a law school’s use of affirmative action in admissions). The *Grutter* court did not invoke principles of equity or inclusion to support its decision.

on the job market for clinical teaching. Two things finally punctured the gauzy, rosy story I sometimes told. First, as I met more clinical faculty through conferences and workshops, I realized that many of them—perhaps even a majority—had completed a fellowship or had other clinical teaching experience prior to their first clinical faculty position. Commentators have argued that the fellowship model reinforces elitism.<sup>4</sup> Might those criticisms also resound for the clinical community? Second, an essay I co-wrote as a member of the CLEA Faculty Equity and Inclusion Committee showed that the racial diversity of clinical faculty remained dismally low in the preceding decades.<sup>5</sup> We had not done nearly enough to improve the racial demographics of clinical faculty since Jon Dubin published his work on the diversity imperative twenty years prior.<sup>6</sup> Contrary to the story often told, we were not doing enough to advance social justice, diversity, and inclusion in our community.

This project resulted from those belated realizations. I sought to learn more about how people become clinical faculty. Are fellowships common for clinical faculty? How are fellowships structured and how do they vary? And does the fellowship system advance or undermine the goals of diversity, equity, and social justice that the clinical community purportedly stands for?

In my research, I found fewer conclusive answers than I had hoped. At a fundamental level, we lack the information we need to evaluate how fellowships operate both as a site for training and as a bridge to a full-time faculty position; how they were *intended* to operate; and what a clinical ecosystem that relies in part on fellowships means for diversity, equity, and social justice. This Essay attempts to answer some of those questions by creating a taxonomy to better define the range of clinical fellowships and to estimate how fellowship programs affect clinical hiring. It also sets out recommendations for law schools and the clinical community to clarify and define the paths to clinical hiring, the effects of fellowships, and how equity and inclusion goals could be more effectively promoted on the clinical hiring market.

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<sup>4</sup> See, e.g., Meera E. Deo, *Trajectory of a Law Professor*, 20 MICH. J. RACE & L. 441 (2015) (“Law faculty hiring begins with the tendency to focus overwhelmingly on formal and elite credentials, none of which have been proven to even correlate with future success in the profession.”); Denise C. Morgan, *Advice for Law Professor Wannabes*, 7 MICH. J. RACE & L. 457, 459 (2002) (“The more impressive the credentials you are able to assemble, the more likely it is that you will be able to get a teaching position.”).

<sup>5</sup> CLEA Comm. for Fac. Equity & Inclusion, *The Diversity Imperative Revisited: Racial and Gender Inclusion in Clinical Law Faculty*, 26 CLIN. L. REV. 127 (2019) [hereinafter CLEA].

<sup>6</sup> Jon C. Dubin, *Faculty Diversity as a Clinical Legal Education Imperative*, 51 HASTINGS L.J. 445, 474 (2000).

I focus in this Essay on the concepts of equity and inclusion, as I have concerns that the current system falls short on those fronts. I use “equity” to describe the fair and equal treatment of individuals from different backgrounds and with different experiences. Do our current practices promote equity? How might they be improved? “Inclusion” refers to the ways in which those from marginalized backgrounds or with non-elite credentials are included within the clinical community. Are we taking steps to promote inclusion? What communities or characteristics are not being included within the ranks of clinical teachers?

At this moment when so many academic institutions are taking an overdue look at whether and how their programs promote racial equality and social justice, I hope that my own overdue inquiries can help frame a more specific, informed discussion of what clinical hiring should look like and how it can further the community’s values.

## I. UNDERSTANDING THE LANDSCAPE: FELLOWSHIPS AND THEIR DESIGN

Unlike the history of clinical education, which has been extensively covered in academic writing, scholarship on the history of clinical fellowships or explanations of their purposes is scant.<sup>7</sup> This Part defines a taxonomy of clinical fellowships; describes what their purposes seem to be, for both the fellow and the school; and summarizes the existing literature that covers clinical fellowships.

Part of the challenge of understanding how clinical fellowships affect clinical hiring, and whether those effects promote or stymie social justice goals and equity and inclusion efforts, is the lack of common understanding of what fellowships do. By creating a specific taxonomy to describe the range of fellowship positions, we can specify what those positions provide to clinical aspirants, and how they can be contextualized to promote equity and inclusion values.

I define **clinical fellowships** as term-limited appointments in which a lawyer works full time in a live-client in-house law school clinic on cases or matters, potentially supervising students and learning about clinical pedagogy.<sup>8</sup> These are contrasted with **clinical faculty positions**, which are held by full-time faculty members who supervise students in a live-client in-house clinic as their primary teaching re-

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<sup>7</sup> There are many articles covering the origins of clinical legal education. See, e.g., J.P. “Sandy” Ogilvy, *Celebrating CLEPR’s 40th Anniversary: The Early Development of Clinical Legal Education and Legal Ethics Instruction in U.S. Law Schools*, 16 CLIN. L. REV. 1 (2009).

<sup>8</sup> Short-term clinical positions are referred to with a number of titles in job postings and by law schools. I use “fellow” and “fellowship” as catch-all descriptors throughout the Essay, with more specificity when describing the differences among different types of fellowships.

sponsibilities and who are either tenured/tenure-track or on a probationary appointment that can lead to a presumptively renewable long-term contract.

### A. *What We Know About Clinical Fellowships*

Compared to other questions of interest to clinical scholars, including on issues of social justice, equity, and structural critiques, clinical fellowships have not received much attention. There are few scholarly examinations of the history of clinical fellowships or the fellowship model as a whole.<sup>9</sup> Building upon the surveys that the Center for the Study of Applied Legal Education conducts triennially,<sup>10</sup> some clinic-specific scholarship analyzes the different models for clinical faculty status and how such models reify existing hierarchies,<sup>11</sup> while other work examines particular challenges like diversity, equity, and inclusion.<sup>12</sup> These articles tend to focus on clinical professors rather than clinical fellows. And generally, few articles analyze the paths to becoming a clinical professor from either an empirical or normative perspective.<sup>13</sup>

One important exception is Wallace Mlyniec's description of the development of clinical fellowships at Georgetown.<sup>14</sup> Writing in 1997, Professor Mlyniec describes the trajectory of Georgetown's clinical program and its relation to the larger clinical movement beginning in the mid-20th century.<sup>15</sup> He also provides an overview of how Georgetown's fellowship program evolved to include trainings on clinical

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<sup>9</sup> There are multiple articles describing how one might become a law professor, but these are mostly from the non-clinical perspective rather than examining the paths to becoming a clinical professor. *See, e.g.,* Lucinda Jesson, *So You Want to Be a Law Professor*, 59 J. LEGAL EDUC. 450 (2010).

<sup>10</sup> Bryan L. Adamson, Calvin Pang, Bradford Colbert & Kathy Hessler, *Clinical Faculty in the Legal Academy: Hiring, Promotion, and Retention*, 62 J. LEGAL EDUC. 115 (2012); Allison Korn & Laila L. Hlass, *Assessing the Experiential (R)Evolution*, 65 VILL. L. REV. 713 (2020).

<sup>11</sup> Minna J. Kotkin, *Clinical Legal Education and the Replication of Hierarchy*, 26 CLIN. L. REV. 287 (2019).

<sup>12</sup> *See* CLEA, *supra* note 5.

<sup>13</sup> In 2012, Wallace Mlyniec described the training of clinical fellows at Georgetown's program, focusing on the range of components involved in clinical teaching including seminar sessions and supervision of students. Wallace J. Mlyniec, *Where to Begin?: Training New Teachers in the Art of Clinical Pedagogy*, 18 CLIN. L. REV. 101 (2012).

<sup>14</sup> Wallace J. Mlyniec, *The Intersection of Three Visions—Ken Pye, Bill Pincus, and Bill Greenhalgh—and the Development of Clinical Teaching Fellowships*, 64 TENN. L. REV. 963 (1997).

<sup>15</sup> Mlyniec traces the origins of clinical fellowships at Georgetown from the E. Barrett Prettyman Internship Program in the 1960s, which he describes as looking "like a J.D. level criminal clinic in a law school of today[.]" through to the current model which awards an LL.M. in advocacy to Georgetown clinical fellows, who generally serve for two years. *Id.* at 969.

pedagogy and student supervision.<sup>16</sup>

Professor Mlyniec hypothesizes that the clinical fellowship model fit awkwardly within the law school model in the late 20th century. Because clinical fellows both teach and need to be taught (since most fellows have not engaged in clinical pedagogy from the instructor's vantage), they occupy dual roles within law schools.<sup>17</sup> Moreover, because of the transitory nature of fellows, Professor Mlyniec suggests that schools that sought to increase clinical offerings could either hire clinical faculty members or engage in cooperative agreements with local legal aid or public defender offices, which might prove more cost-effective and/or permanent.<sup>18</sup>

Professor Mlyniec concludes with a gimlet eye towards the contemporaneous "re-emergence" of clinical fellowships after years of dormancy beyond Georgetown. He expresses ambivalence towards a fellowship model, arguing that its benefits—increased student capacity, client work, and appeal to a national audience—could come at the cost of creating a two-track system for clinical fellows versus clinical faculty. He closes his article with an exhortation to the clinical community and legal academia to carefully consider the consequences of an increase in clinical fellowships in legal education.<sup>19</sup> This prefigures and influences some of the concerns expressed in this piece.

Other articles describe how newer clinicians found their paths to clinical teaching—some by completing fellowships, others via direct transitions from legal practice. A set of three articles published a decade ago in the *Clinical Law Review* provides an illustrative sample. Of the three authors, only one, Karla McKanders, pursued a fellowship, while the other two, Praveen Kosuri and Stephen Reed, did not.<sup>20</sup> Professor McKanders recounts how clinical work appealed to her as a vocation that includes mentoring students and improving their skills; working with clients in the public interest; and engaging in legal scholarship and academic discourse.<sup>21</sup> Professors Reed and Kosuri focus more on how their careers led them to clinical teaching, rather than them actively seeking out clinical careers.<sup>22</sup>

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<sup>16</sup> *Id.* at 971–78.

<sup>17</sup> *Id.* at 978.

<sup>18</sup> *Id.* at 980.

<sup>19</sup> *Id.* at 985–88.

<sup>20</sup> Karla Mari McKanders, *Clinical Legal Education at a Generational Crossroads: Shades of Gray*, 17 CLIN. L. REV. 223 (2010); Stephen F. Reed, *Clinical Legal Education at a Generational Crossroads: A Self-Focused Self-Study of Self*, 17 CLIN. L. REV. 243 (2010); Praveen Kosuri, *Clinical Legal Education at a Generational Crossroads: X Marks the Spot*, 17 CLIN. L. REV. 205 (2010).

<sup>21</sup> McKanders, *supra* note 20, at 234.

<sup>22</sup> Reed, *supra* note 20, at 247–49; Kosuri, *supra* note 20, at 212–13. One interesting juxtaposition is that Professor McKanders focused on immigration law in her clinical ca-

Extensive records on clinical fellowships are difficult to come by. In 2000, Jon Dubin noted that fellowship programs existed at Georgetown, Northwestern, the University of Connecticut, and the University of Baltimore.<sup>23</sup> Anecdotally, fellowships seem to fall into a few categories. Some clinics hire staff attorneys (on either a temporary basis or permanently) to manage cases or cover for faculty on leave. Others may use external funding or “soft money” to hire a fellow, perhaps to grow a program, pilot a fellowship program, or help bring attorneys into the clinical fold. Some schools have structured programs in which clinics hire fellows on a set schedule and attempt to launch fellows on academic careers. Because of a lack of commonly accepted terms, these categories are fluid and somewhat imprecise, and have shifted over time.<sup>24</sup> While, as Professor Mlyniec notes, Georgetown’s program became institutionalized relatively early, other clinical fellowship programs appear to have been ad hoc.<sup>25</sup>

The Center for the Study of Applied Legal Education has conducted triennial surveys of clinical faculty for nearly fifteen years. In the first survey from 2007–2008, respondents were asked to identify their status;<sup>26</sup> subsequent surveys broke down the results by full-time respondents. The percentage of respondents who identified as fellows is as follows:

Year	% of full-time respondents who identified as fellows
2010–2011 <sup>27</sup>	7.3%
2013–2014 <sup>28</sup>	8%
2016–2017 <sup>29</sup>	7%
2019–2020 <sup>30</sup>	8%

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reer, whereas Professors Reed and Kosuri are transactional clinicians. Based on my review of CLEA postings, more fellowship opportunities exist for litigation clinics than for transactional ones, perhaps creating a different set of paths to entry-level transactional clinical jobs than for litigation jobs.

<sup>23</sup> Dubin, *supra* note 6, at 474.

<sup>24</sup> The varieties of fellowships receive more detailed attention in Part I.C *infra*.

<sup>25</sup> It is difficult to track the proliferation of fellowships amongst law schools or when they became more common amongst clinical faculty at the assistant, associate, or full professor rank. Further data collection and historical work would provide a more complete picture of how clinical fellowships rose in popularity and reach, as well as how those programs conceptualized how they furthered the goals of the community.

<sup>26</sup> At the suggestion of Bob Kuehn, CSALE’s Vice-President, I have not included the first CSALE survey from 2007–08, due to methodology changes.

<sup>27</sup> DAVID A. SANTACROCE & ROBERT R. KUEHN, CTR. FOR STUDY APPLIED LEGAL EDUC., THE 2010–11 SURVEY OF APPLIED LEGAL EDUCATION 12 (2012), [https://uploads-ssl.webflow.com/5d8cde48c96867b8ea8c6720/5da859d23e54880426dc0e0b\\_CSALE.Report.on.2010-11.Survey.5.16.12.Revised.pdf](https://uploads-ssl.webflow.com/5d8cde48c96867b8ea8c6720/5da859d23e54880426dc0e0b_CSALE.Report.on.2010-11.Survey.5.16.12.Revised.pdf).

<sup>28</sup> ROBERT R. KUEHN & DAVID A. SANTACROCE, CTR. FOR STUDY APPLIED LEGAL



Based on the CSALE results, clinical fellowships have hovered around 7%–8% of full-time respondents for the past decade.<sup>31</sup>

Clinical fellowships have become common in recent decades, likely due to a variety of factors. Some schools, like Georgetown, have preserved a robust, structured model in which fellows receive an LL.M.<sup>32</sup> Others hire fellows on a periodic basis to maintain a baseline capacity for students and clients. Still others may hire fellows on an ad hoc basis when funding, need, faculty leaves, or other circumstances warrant.<sup>33</sup> Finally, some fellows may obtain external funding, such as through AmeriCorps or Equal Justice Works, to work in a clinic.<sup>34</sup>

### B. *Who Do Clinical Fellowships Serve?*

Because of the lack of scholarship on clinical fellowships, it is hard to know why law schools created such programs. Fellowships might be framed as a way to help attorneys learn more about clinical pedagogy to ease their transition to teaching; they might also be framed as a way for law schools to expand their clinical capacity without creating dedicated faculty lines. Indeed, they might be both.

Clinical fellowships may serve many purposes, but as an employment relationship between the fellow and the law school, I set forth briefly the benefits to each.

#### 1. *Benefits for Fellows*

Fellows, most obviously, gain teaching experience. Some may also receive secondary benefits like networking and scholarship support. These experiences are hard to obtain in practice, when lawyers

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EDUC., 2013–14 Survey of Applied Legal Education, 19 (2015), [https://uploads-ssl.webflow.com/5d8cde48c96867b8ea8c6720/5da859d73e548883a7dc0e15\\_Report\\_on\\_2013-14\\_CSALE\\_Survey.pdf](https://uploads-ssl.webflow.com/5d8cde48c96867b8ea8c6720/5da859d73e548883a7dc0e15_Report_on_2013-14_CSALE_Survey.pdf).

<sup>29</sup> ROBERT R. KUEHN & DAVID A. SANTACROCE, CTR. FOR STUDY APPLIED LEGAL EDUC., THE 2016–17 SURVEY OF APPLIED LEGAL EDUCATION 15 (2017), [https://uploads-ssl.webflow.com/5d8cde48c96867b8ea8c6720/5da859d8ad42af693e72957d\\_Report\\_on\\_2016-17\\_CSALE\\_Survey.pdf](https://uploads-ssl.webflow.com/5d8cde48c96867b8ea8c6720/5da859d8ad42af693e72957d_Report_on_2016-17_CSALE_Survey.pdf).

<sup>30</sup> ROBERT R. KUEHN, MARGARET REUTER & DAVID A. SANTACROCE, CTR. FOR STUDY APPLIED LEGAL EDUC., 2019–20 Survey of Applied Legal Education 18 (2020), [https://uploads-ssl.webflow.com/5d8cde48c96867b8ea8c6720/5f8e46e59e39d4dc82e70a54\\_Report%20on%202019-20%20CSALE%20Survey.10.19.20.pdf](https://uploads-ssl.webflow.com/5d8cde48c96867b8ea8c6720/5f8e46e59e39d4dc82e70a54_Report%20on%202019-20%20CSALE%20Survey.10.19.20.pdf).

<sup>31</sup> Because the CSALE data is not comprehensive and not all respondents respond to all the questions, the inferences we can draw are limited.

<sup>32</sup> Mlyniec, *supra* note 14, at 974. Other schools that grant an LL.M. to clinical fellows include George Washington, the University of Denver, and the University of the District of Columbia.

<sup>33</sup> See discussion *infra* Part I.B.2 for discussion of how and why schools hire staff attorneys and clinical fellows.

<sup>34</sup> See, e.g., Rafael Varela, EQUAL JUST. WORKS, <https://www.equaljusticeworks.org/fellows/rafael-varela/> (last visited Feb. 14, 2021) (describing an Equal Justice Works fellowship in which the fellow worked within a Community & Economic Development Clinic).

must primarily focus on their day jobs and can only write, research, or attend conferences in their small amounts of free time.

Not all fellows might plan to pursue a clinical career when applying for a fellowship or even during one. Why might an attorney pursue a fellowship beyond an interest in clinical teaching? Fellowships may appeal to lawyers in the early stages of their careers who seek an exit from their current job. Intensive schedules at large law firms, punishing caseloads for public defenders, and low-paying work at government agencies are hard for many young lawyers to shoulder for more than a few years. A clinical fellowship may provide a useful pivot out of that life into a new setup, one that might also assuage nostalgic feelings for the “good old days” of law school life. Clinical fellowships provide something familiar—an engaging academic environment—with something novel—learning how to supervise law students in legal practice.

Fellows who engage in clinical teaching and supervision gain an introduction to clinical teaching and its pedagogy. The challenges and complexities of teaching, training, and supervising students to make the transition from novice to professional are a cornerstone of clinical teaching. Engaging with clinical pedagogy in a fellowship can provide an invaluable grounding in how to teach clinic in ways that can be difficult to learn on the job as a junior faculty member. Non-clinical fellowships primarily allow time to research and write with faculty membership, potentially alongside teaching responsibilities. By contrast, clinical fellowships, particularly those designed to place fellows in clinical faculty positions, actively introduce fellows to clinical pedagogy through trainings, mentorship by clinical faculty, and participation in conferences such as the CLEA New Clinicians Conference and the AALS Clinical Conference.

The mentorship of an experienced clinical faculty member provides guidance on the ins and outs of clinical practice within a larger clinical program. Fellows may gain experience in management, project design, and community outreach that may not be possible in their earlier positions. Fellows may also learn about clinic administration, case selection, and how to run a clinic in the short- and long-terms. Many of these components are invisible or only partially visible to students and to those outside of a clinical program. Indeed, pursuing a clinical fellowship might provide insights to clinical faculty aspirants who lack connections or knowledge about how clinical programs function.

Thus, it is unsurprising that many clinical fellows and faculty view fellowships as a valuable, and potentially recommended, credential for entry-level hiring. An entry-level candidate who has fellowship experience may be more likely to succeed as a clinical faculty member, may

require less support than a new teacher, and may already “speak the language” to a degree that situates the candidate as “already a clinical faculty member” in the minds of her potential colleagues.

The introduction to the dynamics of legal academia also helps clinical fellows acclimatize to their roles as law faculty members. Legal academia has its own singular customs, modes, and rules that junior faculty often find obscure or non-intuitive.<sup>35</sup> Teaching full-time in a law school prior to entering academia as a junior professor can help provide context for the sometimes-opaque goings-on, from the theatricality of job talks to the nuts and bolts of academic research to the rhythms of committee work and faculty meetings. Even if fellows are not involved in law school dynamics to the extent that a junior faculty member might be, exposure to the environment proves beneficial for those new to clinical teaching—particularly those, like some first-generation clinical faculty members, who do not come from backgrounds in which academic careers were discussed.

Because academic hiring remains competitive in law schools, fellowships help faculty aspirants navigate the hiring market and find time and resources to write academic articles. Some fellowship programs give explicit market preparation, including helping students navigate the Faculty Appointments Register form (used by many law schools to assess candidates at the AALS Faculty Recruitment Conference), preparation for the AALS Conference, and mooted job interviews. Many also emphasize the increasing need for clinical faculty to produce law review articles with an academic or doctrinal focus in order to achieve success on the hiring market.

For fellows who choose not to pursue clinical careers, the experiences they have in a fellowship may be helpful in their own career advancement. For example, a public defender or legal aid attorney might pursue a clinical fellowship in order to gain management experience, increase their salary, add to their skill set, or gain new perspectives on their practice area.

A fellowship system can promote equity and inclusion by creating opportunities for fellows from different backgrounds to enter into clinical teaching. Some clinical aspirants might have a sufficient grounding in clinical work and pedagogy to be competitive on the market. But for those who lack the experience, background, or connections to go straight on the entry-level market, or who are unsure whether clinical teaching is right for them, a fellowship can provide a low-stakes, short-term commitment to explore whether it is a good home for their interests.

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<sup>35</sup> Deo, *supra* note 4, at 460–62 (describing how some women faculty of color were unfamiliar with the paths to legal academia).

Finally, the intangibles that clinical fellowships provide to fellows can be beneficial not just in the short term but in the long run as well. While some fellowships are ostensibly designed to launch clinical faculty on their careers, academic careers can run for many years. The networks, connections, and strategies that fellows pick up in their fellowships can reap rewards not just in their first few years as a clinical faculty member, but potentially for decades to come.<sup>36</sup> While the clinical zeitgeist can seem clubby and potentially exclusionary, it is undeniable that fellowships can provide an entrée into the world of teaching.

## 2. *Benefits for Schools*

For law schools—both as institutions and for faculty members—fellows provide new perspectives; for law students, they may provide a different angle on legal education and practice than permanent full-time faculty. Students learn from instructors fresh out of practice who may provide a different dynamic in the classroom than established faculty. Clients and communities benefit from increased capacity from the clinic. And institutions can burnish their reputations by helping support those new to clinical teaching and promoting the entry of new voices into legal academia.

The benefits to law schools are manifold. Schools are able to bolster their clinics by adding more seats for students through fellowship programs without accruing long-term financial commitments.<sup>37</sup> Because law schools must now require each student to complete six experiential credits to graduate under ABA standards,<sup>38</sup> increasing clinical capacity helps students meet that requirement. Moreover, because clinic projects usually provide pro bono community service, a larger clinical program with fellows can help improve the school's public-facing relationships.

Schools that create robust fellowship programs also accrue reputational benefits. If the school's clinical fellows are able to transition into full-time clinical employment, the school can develop a reputation as one that can successfully transition fellows into permanent

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<sup>36</sup> One analogy might be to the relationship that develops between former law clerks and the judges that they clerked for. The advice, mentorship, and guidance from a senior clinical faculty member can persist for years beyond the completion of the fellowship.

<sup>37</sup> The logistical cost of those seats may fall upon the clinical faculty, as Professor Mlyniec notes. Mlyniec, *supra* note 14, at 979 (describing how clinical faculty must devote time and energy to training clinical fellows).

<sup>38</sup> ABA SECTION ON LEGAL EDUC. & ADMISSIONS TO THE BAR, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2020-2021 18 (2020), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/standards/2020-2021/2020-21-aba-standards-and-rules-for-approval-of-law-schools.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2020-2021/2020-21-aba-standards-and-rules-for-approval-of-law-schools.pdf) (Standard 303(a)(3): Curriculum).

jobs. Much like the highest-regarded non-clinical fellowships are self-sustaining—robust placement records can lead to “better” applicants seeking to join the fellowship program, thus boosting the likelihood that new fellows will do well on the market—clinical fellowship programs can also attain reputational benefits on the basis of the success of fellows.

Beyond the success of the fellowship program in placement, creating a robust fellowship program can also help the status of the clinical program in the eyes of non-clinical and clinical peers. Non-clinical faculty within the law school may approvingly perceive clinics as more robust or academic, particularly if a program is able to raise the perception of the school. Clinical faculty at other schools may also consider a clinical program as relatively stronger if a fellowship program is created, which may be particularly relevant for the purposes of *U.S. News & World Report* rankings.<sup>39</sup>

Fellows may also help the school and its clinical program work more closely with the community, in addition to handling case coverage and shouldering teaching responsibilities. Increased capacity can allow for deeper connections with clients, colleagues, co-counsel, and other community members. Fellows may also provide complementary skills and substantive knowledge to existing faculty and allow for innovative approaches to teaching and client representation. More cynically, schools might also find fellows a cheaper way to increase clinical capacity at lower salaries, with fewer perquisites, and without meaningful participation in governance than full-time clinical faculty. As fellowship opportunities grow, so too does the competition for full-time, promotion-track clinical positions.

Students can also benefit from clinical fellows, beyond the increased course capacity that fellows provide, which allows for higher enrollments in clinics. For some students, having an instructor who may have less legal experience than full clinical faculty can help foster a different kind of working relationship. Others may see clinical fellows as mentors or aspirational figures, bridging the gap as an intermediary between permanent faculty and law students, or exemplifying how public interest attorneys in the beginning stages of their careers might enter the academy.

### C. *A Taxonomy of Clinical Fellowships*

Within the category of clinical fellowships, there is a wide range of positions. Despite some uniformity in title, clinical fellows may

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<sup>39</sup> Of the top ten clinical law programs ranked by *U.S. News and World Report* (13 schools in total), all except the University of Maryland Carey School of Law and Stanford Law School regularly hire clinical fellows.

have vastly different experiences in their fellowships. As a result, it can be difficult for outside observers to determine what a particular fellow may have learned or experienced, or what the program and position provides to its fellows.

Fellowships are not consistently described in terms of their duties or benefits. My hope is that by more precisely delineating the types of fellowships that exist, relevant parties—including clinical aspirants, fellowship applicants, and hiring schools—will better understand the design of a specific fellowship position and what a prospective fellow might expect from their experience. Ideally, the clinical community would adopt a version of this taxonomy in order to promote transparency, so that all applicants, regardless of their prior knowledge of the clinical ecosystem, would understand what a specific position entails.

Defining the types of fellowships also helps effectively promote equity and inclusion goals. Because fellowships are currently treated as an undifferentiated group, we have no way of knowing how different populations (racial minorities; women, non-binary, and gender non-conforming individuals; or LGBTQ+ individuals) experience their initial years of clinical teaching. Because these populations historically were excluded from the networks that disseminated the tacit knowledge of law faculty hiring, even today it remains unclear whether clinical aspirants start on a level playing field.

Though the clinical community may not focus as much on credentialing as other law faculty hiring, the rise of fellowships (and perhaps, specific fellowship programs) potentially creates its own sort of credentialing effects. Moreover, as clinical faculty increasingly get hired on longer-term contracts or the tenure track, and by committees staffed by both clinical and non-clinical faculty, the potential for information gaps among applicants persists. Transparency and clarity, potentially through the form of a taxonomy, would help ameliorate some of those concerns.

My taxonomy of different clinical fellowship models—which I describe as **staff attorneys**, **ad hoc fellows**, **program fellows**, and **degree fellows**—was developed after evaluating postings on the CLEA job announcements board to determine how different short-term positions were advertised and researching how different schools designed fellowship programs (for example, granting degrees). I also relied upon the anecdotal information I have gathered from conversations with other clinical faculty members and how their schools structured clinical fellowships.

A fellow might have different experiences at their law school and on the market depending on the form of their fellowship. A staff at-

torney might rarely interact with other law school faculty and fellows, whereas a degree fellow might participate in academic workshops, attend presentations by faculty candidates, and receive research support. Thus, even within fellowships, a hierarchy of experiences might accrue depending on whether the school integrates a fellow into its academic life and what benefits the school provides.

### 1. *Staff Attorneys*

The most minimal version of a fellowship would be a short-term position (generally, 1–2 years) within a legal clinic working on cases or matters, but not necessarily with extensive involvement with clinic students. These positions are sometimes described as **staff attorney** roles.<sup>40</sup> Staff attorneys primarily work to manage cases rather than supervise students. The staff attorney rarely engages in other clinical work such as student supervision, teaching clinic seminar sessions, and or scholarship. Additionally, the school would not have any formal programming for the staff attorney. Some programs describe this position as a staff attorney role to distinguish it from fellowships, which have a more explicit academic component.<sup>41</sup>

Schools have many reasons to create such positions. Clinic faculty might be on leave or need course or case relief to deal with other matters (e.g., scholarship or service). A particular project or initiative might benefit from increased capacity from a staff attorney in the short term. Schools might be interested in creating a more robust fellowship program, using a staff attorney position as proof-of-concept. As some clinics operate in ways similar to civil legal aid offices or public defender offices, particularly in underserved communities, staff attorney positions can help meet community legal needs.

Though staff attorneys may not receive explicit training on teaching, clinical pedagogy, or research, such positions may help facilitate their career goals. Some attorneys might be interested in clinical teaching but unable or unwilling to commit to a more structured fellowship (for example, because a more structured fellowship might not be possible in their geographic location). Others might view a staff attorney position in a clinic as a potential pivot from private sector work or into a new practice area without needing to necessarily com-

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<sup>40</sup> See, e.g., Lauren Bartlett, *Cornell Law School—Local Journalism Attorney—NYC First Amendment Clinic*, CLINICAL LEGAL EDUC. ASS'N (May 20, 2020, 8:52 PM), <https://www.cleaweb.org/Jobs/8983175>.

<sup>41</sup> Some schools describe similar roles as “supervising attorneys,” potentially without a limited-term appointment. Supervising attorneys might engage in clinical teaching and supervision, but they may be distinguished from ad hoc, program, and degree fellows as supervising attorney positions may not explicitly be designed to lead to a clinical faculty position via job market preparation and the like.

mit to a career change, or as a lower-stakes re-introduction following time away from legal practice that offers different features than an entry-level legal position. Still others may choose to pivot from a staff attorney position to a more structured fellowship.

## 2. *Ad Hoc Fellows*

In the next category, the fellow's experience would have more structure, which I describe as **ad hoc fellows**. Many fellows receive more guidance in their fellowship than a staff attorney might. While they may not be part of a structured program, fellows may receive training in clinical pedagogy (including seminar design and supervision training); financial and research support for academic scholarship; and guidance on navigating the clinical job market.<sup>42</sup> Some fellows may experience some of these elements in their fellowship; others might receive all. Because some clinical programs lack dedicated funding for fellows, a particular grant or project might necessitate the hiring of a fellow to effectuate a certain project (similar to the need to hire staff attorneys). As such, the integration of the fellow into the school might vary depending on the needs of the program and the goals of the fellow.

Clinics might hire ad hoc fellows on an irregular basis (distinguishing them from program fellows, described below) or integrate them more fully into clinical and academic life (distinguishing them from staff attorneys). Such fellows might choose the position not in pursuit of a clinical career, but rather to gain different kinds of experience (e.g., student supervision or working in a new practice mode) in a specific subject area before returning to private or public interest careers. For the school, having a semi-regular fellow can provide similar benefits as a staff attorney alongside, potentially, local, regional, or national recognition as an incubator for skilled public interest lawyers or future clinical faculty members.

## 3. *Program Fellows*

Some schools hire fellows on a regular basis, providing them with explicit programmatic support in addition to the duties and benefits that ad hoc fellows have. I describe them as **program fellows**, as they are generally hired on a consistent basis by a particular clinic or school.<sup>43</sup> This may contrast with ad hoc fellows, who I define as being

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<sup>42</sup> Michael Murphy, *University of Missouri Kansas City School of Law—Supervising Attorney—Innocence Clinic, Midwest Innocence Project*, CLINICAL LEGAL EDUC. ASS'N (Dec. 12, 2020, 12:35 PM), <https://www.cleaweb.org/Jobs/9424608>.

<sup>43</sup> Michael Murphy, *University of Baltimore School of Law—Clinical Teaching Fellow—Immigrant Rights Clinic*, CLINICAL LEGAL EDUC. ASS'N (Jan. 17, 2020, 3:17 PM),



hired on an irregular basis. Program fellowships are akin to the non-clinical fellowship programs like Harvard's Climenko or Chicago's Bigelow, which are designed to place fellows in teaching jobs. Those fellows receive dedicated resources and support during their fellowships. Law schools including the University of Baltimore Law School, the University of Michigan Law School, and Yale Law School all hire program fellows. As compared to ad hoc fellows, who in some cases are hired from grants or other "soft money," program fellows are more likely to be "hard-funded" from endowed funds or within the school's budget.

These schools provide resources to fellows including regular meetings on different aspects of clinical teaching; mentorship from senior clinical faculty; workshops and training sessions on navigating the hiring market; and inclusion in questions of clinical and law school governance. While not every program fellow might plan to pursue clinical teaching as a career, the programs are often designed to facilitate that career path. This might be analogized to doctoral programs, which are structured to allow those who graduate with a Ph.D. to enter the academic job market, though not every doctoral student does.

For schools, program fellows ensure greater stability in case management, community engagement, and student interaction without the financial expenses of a dedicated faculty line. A school with multiple program fellowships allows for an increased reputation and a cohort of fellowship "alumni" who may themselves serve as ambassadors for the program. Thus, the school can earn a national reputation as an incubator for new clinical faculty, particularly if fellows move on to permanent clinical positions. Those alumni may both bolster the reputation of the fellowship program and help subsequent fellows when they enter the job market, both formally and informally. As compared to ad hoc fellows, program fellows may have similar duties, responsibilities, and benefits. The distinguishing factor may be merely reputational (institutional support and renown) or stylistic (an orientation towards clinical placement upon completion of the fellowship).

#### 4. Degree Fellows

The most formalized programs mandate specific academic requirements for fellows and grant degrees; such fellows I designate as **degree fellows**.<sup>44</sup> Only a few law schools nationwide—including Georgetown, the University of Denver, and George Washington—grant

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<https://www.cleaweb.org/Jobs/8603953>.

<sup>44</sup> Michael Murphy, *Georgetown Law—Graduate Fellow/Staff Attorney*, CLINICAL LEGAL EDUC. ASS'N (Dec. 30, 2020, 11:42 AM), <https://www.cleaweb.org/Jobs/9514899>.

LL.M.s to fellows who complete their fellowship and, in some instances, fulfill additional academic requirements. Thus, they are both students and supervisors.<sup>45</sup> In other respects, degree fellows largely mirror program fellows in their experiences and requirements. This structure, however, is rare for clinical fellowship programs, as most attorneys who complete some form of a clinical fellowship do not earn a degree.

This model may create a dynamic in which schools with degree fellows pay those fellows less than they would otherwise, arguing that the LL.M. that fellows earn provides a form of non-monetary compensation. This would be accurate if such an LL.M. has value on the legal employment market. But if an LL.M. earned in a clinical fellowship program predominantly has relevance for clinical hiring, it would present less value given that the reputation of the school and its program itself would likely have salience for law school hiring committees.

Some schools hire adjuncts to assist in teaching hybrid clinical programs, in which the adjunct supervises the student in a legal aid, public defense, prosecutor, or non-profit office. While those adjuncts may gain experience in clinical teaching and supervision, their clinical duties are supplemental to their full-time employment and thus distinct from fellows who are employed full-time by law schools. One important element of this model is the ability to expose a broader group of practitioners to clinical pedagogy, potentially assisting them in future job searches for clinical positions.

## II. THE EFFECTS OF A FELLOWSHIP MODEL

Non-clinical law faculty have observed the proliferation of research fellowships, creating concerns that they may promote a credentialing function.<sup>46</sup> I sought to gather more information on what effects

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<sup>45</sup> Mlyniec, *supra* note 14, at 974–75 (describing the structure of Georgetown’s clinical program and its awarding of an LL.M. to fellows who complete the program, which includes teacher training).

<sup>46</sup> See, e.g., Jessica Erickson, *Final Reflections on VAP/Fellowship Interview Series*, PRAWFSBLAWG (Dec. 19, 2019), <https://prawnsblawg.blogs.com/prawnsblawg/2019/12/final-reflections-on-vapfellowship-interview-series.html> (“As a hiring chair, I have often marveled at how much the law teaching market has changed/improved from when your academic pedigree was the main criteria. On the hiring side, we look at what you’ve written, not where you went to law school, and I think many academics pat themselves on the back for using this criteria. I worry though that we’re ignoring the impact of the VAP/fellowship programs on our decision making. Sure, maybe whether you went to Harvard/Yale/Stanford doesn’t matter much to hiring committees anymore, but I think these credentials do matter when it comes to getting a fellowship. Writing matters a lot there too, as I note above, but when fellowship candidates don’t have many fully polished pieces, hiring decision makers in many programs will fall back on old proxies – where you went to law school, who’s recommending you, etc. So I worry that we’ve essentially replicated the old

fellowships were having on the clinical hiring market. I also hoped to learn more about whether new clinical faculty were coming from a particular type of fellowship. Were degree fellows faring better than staff attorneys? Do particular schools “feed” more effectively than others onto the entry-level market?

I soon learned that such information is difficult to come by for two reasons. First, there is no standard set of definitions of what clinical fellowships are—part of the reason I propose the taxonomy described in Section I.C. Thus, I could not determine, beyond a very rough measure, what types of clinical experience some entry-level clinical faculty had. Second, programs do not consistently publicize what their fellows go on to do following the completion of their fellowship, and no central repository of that information currently exists. CSALE does not directly track the number of fellowships in its surveys, nor does it ask whether newly hired entry-level clinical faculty have completed a fellowship. While Professor Sarah Lawsky has, for nearly a decade, tracked entry-level hiring, that effort has focused on non-clinical hiring rather than clinical hiring.<sup>47</sup>

What I can offer, therefore, is only a rough estimate of how prior teaching experience affects entry-level clinical hiring. I conducted a search using publicly available data—predominantly law school websites, LinkedIn profiles, and curriculum vitae—in an effort to determine two things: first, how many entry-level clinical faculty teaching in live-client in-house clinics (excluding fellows or staff attorneys) were hired by U.S. law schools from 2015 to 2019; and second, how many had prior clinical teaching experience. I did not include junior lateral hires in this analysis. In situations where it was not possible to determine whether a specific school had hired entry-level clinical faculty in the relevant time period, or whether those clinical faculty had prior teaching experience, I emailed clinical faculty at that school to attempt to learn more.

Based on my research, 176 entry-level clinical faculty were hired in U.S. law schools between 2015 and 2019. Of those, 111 had prior clinical teaching experience (63%). Over the same time frame, according to Professor Lawsky’s data, the fellowship rate for entry-level hires of non-clinical faculty hovered between 73 and 83%.<sup>48</sup> Thus, we see that fellowship experience seems slightly less dominant in clinical

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hiring system, just earlier in the process.”).

<sup>47</sup> Sarah Lawsky, *Entry Level Hiring: The 2020 Report—Call for Information*, PRAWFSBLAWG (Mar. 2, 2020), <https://prawfsblawg.blogs.com/prawfsblawg/2020/03/entry-level-hiring-the-2020-report-call-for-information.html>.

<sup>48</sup> Sarah Lawsky, *Spring Reported Entry Level Hiring Report 2020*, PRAWFSBLAWG (May 15, 2020), <https://prawfsblawg.blogs.com/prawfsblawg/2020/05/spring-reported-entry-level-hiring-report-2020-1.html>.

hiring than in non-clinical hiring, but still significant given that publicly available data suggest that a majority of entry-level clinical hires have completed some type of clinical fellowship.

There are caveats to this data. For example, some clinical fellows may go on to pursue a non-clinical position in which they do not teach in a clinic. Some fellowships straddle a hybrid, such as NYU's Lawyering Program, in which fellows may go on to either non-clinical or clinical positions. Finally, although the sample is fairly large, the data are incomplete and may not be representative of all entry-level clinical hiring from 2015 to 2019.

In order to better understand how the rise in fellowships has affected clinical hiring, we will need more detailed information on how schools hire fellows, what those fellows do upon completion of their positions, and how schools hire entry-level clinical faculty (and what types of prior clinical experience those entry-level clinical faculty have). That information will inform a necessary conversation within the clinical community on the role of fellowships in clinical hiring, and how fellowships can advance our goals of promoting social justice, equity, and inclusion.

One important question that my findings do not address is the racial and ethnic diversity of fellows themselves, as such data is generally self-reported rather than gleaned from publicly available information. My initial hypothesis was that fellowships provided a barrier to entry that could lower the numbers of racially diverse clinical faculty. But one might alternatively hypothesize that, because clinical fellowships do not require lawyers to permanently commit to a clinical faculty career and do not generally require the approval of an entire law faculty for a hire, the ranks of clinical fellows might be *more* racially and ethnically diverse than clinical faculty. If so, that could either augur positively for the future diversity of clinical faculty in a "trickle-up" effect—or possibly demonstrate that the racially and ethnically diverse lawyers teaching clinical courses have disproportionately lower pay and status due to their positions as fellows, which may or may not mature into a clinical faculty position. We need to know more about the fellows who achieve success on the hiring market, and whether success is enjoyed disproportionately by certain groups, to determine whether either version is accurate.

While recent research has examined the diversity of clinical faculty,<sup>49</sup> we need more insight into the diversity of fellows themselves to assess how it compares to the diversity of clinical faculty and law school faculty more generally. Such data would help determine

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<sup>49</sup> CLEA, *supra* note 5.

whether fellows are more or less racially and ethnically diverse, and whether concerns about potentially exclusive credentialing are warranted.

These questions are of crucial concern in a moment in which law schools and clinical faculty are focusing on issues of diversity, equity, inclusion, and justice. Understanding current demographics and dynamics would help the community effectuate our shared goals of promoting social justice and diversity, equity, and inclusion.

### III. RECOMMENDATIONS

As fellowship experience becomes more common amongst faculty applicants, schools may find it difficult to resist the same trajectory that has occurred in non-clinical hiring, in which a fellowship has nearly become a *de facto* requirement for applicants. This Part concludes by discussing a set of best practices and reforms designed to increase transparency, provide resources for clinical aspirants who do not complete a fellowship, and suggest further research and analysis. The proliferation of fellowships and their frequency amongst recent entry-level hires demonstrates that schools should take steps to ensure that hiring practices for both fellows and clinical faculty promote equity and inclusion.

Fellowships may promote equity and inclusion goals by enabling access to clinical careers for people from underrepresented backgrounds in legal academia. Or the emphasis on fellowships in clinical hiring might be narrowing opportunities for people who could be quite successful at entry-level clinical teaching without fellowship experience. Or both. We simply do not have the information necessary to answer these important questions.

Thus, we first need to better understand the current dynamics. Only with more information and more specificity can we survey the landscape and understand whether fellowships and clinical hiring are furthering equity and inclusion goals. We need more precise definitions of different fellowship programs to determine how those programs affect faculty hiring. I offer one taxonomy in this article that could certainly be modified or honed to better articulate how fellowship programs are designed.

We also need better data. CSALE has done a remarkable job of collecting, tracking, and analyzing data. However, beyond the triennial surveys, we should have more specific information about the dynamics of clinical fellowship programs (Who applies? From what racial and ethnic backgrounds? From what schools? With what professional experience?), what fellows go on to do, and how law school hiring committees contextualize prior clinical teaching experience.

Relatedly, we should better articulate *why* we have fellowship programs. I believe that such programs provide benefits for students, schools, clinical aspirants, and faculties. Whether they promote equity and inclusion goals is unclear, but I believe that they can and that they should. Some of the efforts listed above would help promote those goals by providing transparency. But beyond that, we must set out an affirmative agenda for fellowships; what purposes they serve for schools, fellows, and the community; and why we think they promote community goals of social justice, diversity, equity, and inclusion. Only by doing so can we make a credible case for how they further the broader clinical project.

Understanding that different schools have different needs and visions for their staff attorneys and fellows, I think that schools should also enhance fellowships by doing the following:

- **Increasing pay and benefits.** According to CSALE, fellows generally make between \$50,000–80,000, with some schools paying close to \$100,000. I think fellows, particularly degree and program fellows, should be making higher salaries, given the salary ranges for clinical and non-clinical faculty at law schools. There are a few ways to adjust salaries. For example, fellows could make a certain percentage of entry-level clinical faculty member salaries (e.g., 75%). Alternatively, salaries could match the pay scales for federal law clerks in the same geographic area as the law school. Fellows should be paid more to avoid shutting out applicants who cannot make the finances work, and to decrease perceived inequities between fellows and faculty members. Their benefits should also be similar to those of clinical faculty (e.g., health insurance, retirement contributions), as should their student load and teaching responsibilities.<sup>50</sup>

- **Inclusion within the law school's intellectual community.** As a training ground for future academic work, fellowships should allow the fellow or staff attorney to participate in faculty workshops, symposia, and faculty hiring presentations (and, optionally, committees). This avoids creating a hierarchal structure in which fellows are not included as full members of the instructional faculty. It also introduces the fellow to dynamics of academic life beyond clinical teaching and supervision.

For those fellows whose positions are designed to prepare them

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<sup>50</sup> Because fellows are newer to teaching, handling a reduced load of students (less than the standard 8:1 load) helps acclimatize fellows to the practice of clinical teaching and also allows them to prepare for the job market. While experience supervising a full 8:1 load of students may help clinical fellows in clinical faculty job interviews and in their adjustment to a subsequent position, fellows should ramp up to a heavier load rather than start at 8:1.

for the academic job market, schools should provide scholarship funding and support (research assistance, covering Scholastica fees), research stipends (travel to conferences, including the AALS clinical conference), job market support (review of the Faculty Appointments Register form and discussion of the Faculty Recruitment Conference, review of application materials, moots of job talks), summer time for writing, and mentorship.

• **The “Why” of clinical teaching.** It is easy to treat a clinical fellowship as an instrumentality—a site of learning how to do things. How does one teach in a clinic? How does one supervise? How does one manage client relationships? How does one navigate academia?

We must also ensure that we teach fellows and staff attorneys *why* we do what we do as clinical faculty. The values of the clinical community—promoting social justice; representing those without social, economic, or political power; and supporting diversity, equity, and inclusion—must remain central to new generations of clinical faculty. The clinical community does and should continue to debate the meaning of those values. But if fellowship training focuses too much on how to get a clinical faculty position at the expense of what those positions stand for, fellowships risk becoming the means to an end that lacks values.

Beyond considering fellowships, I also propose several approaches to promote equity and inclusion when hiring clinical faculty. Those include resources to create a fairer playing field for those applicants who do not have prior full-time clinical teaching; recommendations for appointments committees; and structures to help new clinical faculty adjust to their teaching responsibilities.

• **Increasing access to clinical pedagogy.** The clinical community should consider how entry-level faculty positions could be structured to help applicants without prior teaching experience achieve success. Existing programs can help new clinical faculty—both with and without clinical backgrounds—gain experience in the core principles of clinical teaching. The Clinical Legal Education Association and the AALS Section on Clinical Legal Education host workshops for new clinical faculty, trading off each spring, during the AALS Conference on Clinical Legal Education; both are particularly valuable resources for new clinical faculty who lack prior teaching experience. Hiring committees could reduce the perceived need to hire entry-level clinical faculty with prior teaching experience by providing resources, based on these existing programs, for those who start faculty positions without having taught in a clinic.

• **Engagement with the local legal community to increase access to clinical practice.** Following from the prior recommendation, clinical programs could more extensively collaborate with local non-profits and NGOs and appoint attorneys at those organizations as adjuncts to supplement the faculty within specific clinics. Some schools, including Harvard and Berkeley, have clinical models in which non-faculty members work extensively with clinical students. In doing so, public interest lawyers would gain exposure to clinical pedagogy, schools would increase capacity, and students would see a wider range of lawyering approaches. There are potential downsides to this model. Schools might rely upon adjuncts rather than invest in full-time faculty, clinical practices might be watered down, or clinic students may not always have the “first-chair” roles on projects working with outside organizations.

With proper scoping, however, such programs could introduce junior public interest attorneys to clinical pedagogy without the need for those attorneys to enter a fellowship. Creating more formal opportunities for collaboration with local attorneys might also lead some practitioners to consider clinical careers and can introduce students to other lawyers outside of the clinical program who might provide mentorship, guidance, or alternative perspectives on legal practice. For collaborations that exist outside of a formal arrangement with a non-profit or NGO, such opportunities would need to be properly structured to prevent participants from providing unpaid labor. Formal programs might pay participants, provide CLE credit, or offer pro bono hours for those working in firms to avoid creating an exploitative system.

While there are potential hazards to this approach, the possibility of introducing more attorneys to clinical pedagogy without the commitment of a fellowship provides meaningful benefits that the clinical community should consider. The AALS Clinical Committee and CLEA could develop best practices so that such arrangements would protect the goals of clinical teaching and the needs of clinical aspirants within logistical and pedagogical frameworks.

• **Contextualizing applicants.** While it is understandable that schools are assessing entry-level clinical applicants based on criteria similar to those used to assess entry-level non-clinical applicants, and clinical fellowships are clearly relevant experience, hiring committees should ensure that their standards do not automatically disqualify promising candidates with important strengths unrelated to fellowships. In particular, schools that hire faculty should also consider clinical fellowship experience or lack thereof in the context of the school’s broader



diversity, equity, and inclusion goals. Schools are more explicitly and actively working to promote these goals in faculty hiring in response to internal and external pressures and movements.

Prioritizing fellowships amidst that broader mission must be done thoughtfully and with an eye to the context in which applicants have practiced, whether a fellowship might not have been an option or on their radar, and how an attorney without prior clinical experience might bring a different skill set to a clinical program. For example, a public defender with significant practice experience, including supervising law student interns and externs, could be just as successful in supervising clinic students as a fellow at a criminal defense clinic with only a few years of experience.<sup>51</sup>

Finally, when assessing candidates, clinical faculty hiring committees should contextualize teaching experience—and the lack thereof. Some candidates may not have had the flexibility, awareness, or opportunity to pursue clinical fellowships or staff attorney positions. Still others might not have considered clinical teaching prior to applying for an entry-level position. Taking an applicant's entire background into context when evaluating candidates can provide alternatives for what a successful candidate looks like.

• **Defining the needs of the position.** Schools should make explicit the expectations for a position prior to conducting interviews for faculty positions. Does the school or the clinical program have a preference between hiring a lateral or entry-level candidate? Is the hire for an existing or new clinic? Will the new clinical faculty member teach alongside an existing faculty member, or by themselves? What resources to support the new clinical faculty member will be available, and could those resources reduce the need to hire a new faculty member with prior clinical teaching experience? How will the school work towards supporting the new clinical faculty member in the coming months and years?

By addressing these and other questions prior to assessing candidates, law schools can more concretely define the goals and contours of each position. In doing so, candidates who lack the prior teaching experience that would ease their onboarding could use the school's resources and support networks to increase their likelihood of success, as described above. In essence, rather than penalizing applicants who lack teaching experience, schools can take the lead in ensuring that *any* applicant—regardless of their background—would be set up for

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<sup>51</sup> At the same time, hiring committees should be aware that successful completion of a fellowship program might compensate for a lack of other traditional credentials, such as what law school the applicant attended, their GPA, and clerkship experience.

success if hired. This would help not only law schools but applicants as well, and would further the diversity, equity, and inclusion goals that many schools have instantiated.

- **Orienting new clinical faculty members.** Law schools should consider developing a more robust onboarding into clinical teaching for new faculty than the “design semester” that some schools offer. Clinical faculty should be given a design semester to help set up their clinics. Even with a design semester, entry-level clinical faculty benefit from more direct mentorship, whether they have prior teaching experience or not. New clinical faculty could observe their colleagues’ seminars, supervision meetings, client meetings, and the like prior to initiating their own clinic. They could also co-supervise specific matters or cases, depending on need, to gain familiarity with local attorneys, clients, and other legal actors within the community. This would ensure that schools could hire clinical faculty who lack prior teaching experience without worrying that those faculty would find clinical teaching overwhelming. In essence, the design semester could function as a “ramping up” semester to acclimatize faculty who have not previously taught in a clinic. This type of orientation should be considered even when a school hires a new clinical faculty member to teach in an existing clinic or if the school does not offer design semesters.

While these opportunities might particularly benefit entry-level clinical faculty who lack prior clinical teaching experience, they would also benefit those who do. Clinical programs across law schools vary widely, as do the rhythms and norms of different legal markets. More explicitly on-boarding new faculty would help to reduce any potential deficit between applicants; including it for all new faculty would eliminate any potential stigma that such programming is remedial.

These proposals are both non-exhaustive and labor intensive. They would require a major time investment from the experiential community, law schools, and legal employers in order to be fully implemented. The benefits to clinical aspirants and the possibility of more equitable and inclusive hiring, however, justify ambitious, creative measures.

## CONCLUSION

We need further research to contextualize the history of clinical fellowships, to learn how schools design fellowship programs and what goals they have for fellows, and to understand how hiring committees structure clinical faculty searches and evaluate applicants with and without fellowship experience. The picture remains incomplete, and potential reforms for fellowships and hiring should respond to both

the history and the current state of play.

In doing so, the clinical community should more explicitly and consistently promote the values of social justice and diversity, equity, and inclusion. When it comes to employment, it is hardly surprising that the focus might turn to how one can obtain the position they want. But we must keep our values central to ensure that future clinical faculty promote—and critique—the ethos of our community.