

## **NLP PEDAGOGY & EXPECTATIONS**

The pedagogical goals of clinical education are somewhat different than those of academic legal teaching. Most broadly, clinics, and NLP specifically, aim to teach students to become active participants in law, to not only “think like a lawyer,” but to “act like a lawyer,” analytically, professionally, and effectively. Below, we provide an overview of what NLP hopes to teach its students, and what is demanded of its students in this professional pedagogical setting.

### **What is Expected of NLP Student Attorneys**

The first principle of clinical education, and of NLP, is that the student attorneys are the primary attorneys on their cases. With consistent and predictable support and teaching from the supervising clinical faculty, NLP students assume full responsibility for the cases, projects, and clients assigned to them - from the initial interview through settlement or an administrative or court hearing. We believe that the full weight of this responsibility creates the conditions for the most enduring and meaningful learning to occur, and we structure our pedagogical and legal practice around this principle.

NLP is not based on hypothetical clients with make-believe or simulated problems. We represent real people with real problems. Thus, participation in NLP, unlike enrollment in a standard law school course, imposes real-life lawyering demands. We expect and require you to meet fully your obligations to your clients. We appreciate that it is a constant struggle to give priority attention to professional responsibilities and still have quality time for family, friends, and other activities that matter. Indeed, because it is *somewhat* more controlled than full-on law practice, clinic provides an excellent laboratory to explore the challenge of striking this balance. Thus we encourage you to discuss such tensions, when they arise, with your instructors and fellow students. But, as in any law practice, the balance must never compromise one’s professional obligations to clients.

Because it essentially functions as a law firm, albeit one dedicated to legal education, and because you are responsible for the representation of clients and all aspects of their cases, NLP requires you to be on-call at any time. As your colleagues in any practice setting will, we need to know your general whereabouts, and how to reach you. As they may when you are a practicing attorney, your cases may demand that you work evenings, weekends, or holidays, including Thanksgiving. In other words, you are more “attorney” than “student” in NLP. While we hope and expect that matters can be scheduled so that the work can be accomplished during predictable work hours, you must be prepared to meet your case responsibilities as each case demands, just as any responsible lawyer must. We are committed to doing our part to see that you are not overloaded; your workload, while challenging, will be manageable if you plan

wisely and avoid procrastination, although emergencies and the pressures of real practice will raise their heads at times. Learning how to manage these pressures is part of the educational experience that the clinic offers.

NLP operates somewhat more informally than a typical law firm. For the most part, we dress casually, unless court appearances or other events demand more formal presentation. We use first names, and we work cooperatively, with as little sense of rigid hierarchy as is possible within an academic environment and in a professional setting where some of us are just getting started and some have more experience. We like to laugh, and to keep a healthy perspective on our work. **Do not**, however, misinterpret these casual trappings as an informal attitude toward our clients or the quality of the work we expect you to produce. If anything, the casual atmosphere is a means of relieving the stress created by client demands, opposing counsel, court deadlines, and the knowledge that the quality of our work will influence the quality of our clients' lives. The supervising attorneys take their work very seriously, and expect you to do the same.

### **Case Selection**

In selecting cases from the intakes that are conducted in any given week, we look for cases that are best suited to our pedagogical mission, consistent with the legal needs most pressing in our clients' communities. Thus, we generally *do not* accept cases:

- (1) that have unduly short (emergency) time lines (e.g. a client comes in on a Tuesday with an eviction case that Friday, or comes 2 days before a filing deadline) because adequate feedback on student work would be impossible;
- (2) that are outside of our areas of expertise;
- (3) that are already far along in the litigation process; or where the client is already represented by an attorney; or
- (4) that are unduly complex, either factually or legally, such that it would be professionally inappropriate to assign lead responsibility to a clinical student.

We also keep a close eye on the overall size of any given student's caseload and on that of the clinic overall and keep it relatively small. While it must be balanced with our community's needs for free legal services, we believe that clinical teaching demands a relatively small caseload, so that each experience within each case can be mined for its pedagogical value.

## **Pedagogical Goals**

NLP has numerous specific pedagogical goals. They include the following:

### **Give students experience in “core skills” of a legally trained professional:**

Interviewing. Our goal is to improve students= ability to actively listen to clients, obtain detailed and relevant information from them, recognize non-verbal cues, ascertain barriers to a successful attorney-client relationship, and begin forming such a relationship, assessing what services instead of or in addition to legal representation might assist with problem-solving.

Fact-Gathering and Investigation. Unlike the academic legal curriculum, where facts are generally presented in retrospect in an appellate opinion or otherwise set in stone, in NLP practice student attorneys must gather the facts by conducting their own fact investigation. Such an investigation is usually the first step in an NLP case, and involves interviewing clients, other parties, and witnesses and determining what documents, if any, exist and how to get them. NLP practice teaches students about “evolving facts,” and how to continually adjust one’s analysis and strategy to real-life facts as opposed to facts set on a page, as in an appellate opinion.

Legal Research. The NLP Student Practice Manual includes starting points in the three major areas of NLP practice (landlord-tenant, wage and hour, and public benefits), but NLP students are responsible for conducting their own legal research. Students learn about sources of law that rarely come up in academic law teaching (such as jury instructions and substantive treatises) and learn how to research court rules and procedural requirements as well as substantive doctrine applicable to their cases.

Legal Analysis. The intellectual essence of law practice is analytical: as the fact investigation and legal research proceed, what are the implications for the existing client? How do the facts fit with the law? What are the strengths and weaknesses of our client’s position and of our opponent’s?

Maintaining Relationship with Client. NLP envisions a respectful, collaborative, client-centered, attorney-client relationship as the heart of every case. It takes great practice and attention to maintain contact with clients, continually update them on progress and challenges as a case develops and, most importantly, ensuring that their goals are the driving force in a case. Whether in the form of formal “counseling” at the point in a case where a decision is required (e.g., whether or not to accept an offer

of settlement) or the less formal telephone calls with follow-up questions and answers, NLP student attorneys learn that maintaining a productive relationship with a client is one of the most challenging and important aspects of functioning as a lawyer. In the NLP practice, focusing as it does on low-income clients with whom student attorneys often share little life experience, students also learn how to assess and overcome some of the barriers that can interfere with such a relationship.

Negotiating. Since most cases end in settlement, either before or after a lawsuit has been filed, NLP gives student attorneys the opportunity to negotiate with clients= adversaries, including *pro se* landlords or employers or attorneys representing those players. Students learn to prepare for negotiation, to predict outcomes for clients in order to establish realistic settlement goals, and to respond in the moment to unexpected facts and arguments.

Written Advocacy. Attorneys must be good writers: clear, persuasive, compelling prose is a requirement for much advocacy. NLP places great emphasis on the ability to advocate effectively for our clients through writing. Thus, we choose cases that provide opportunities for a range of “legal writing” experience, including formal pleadings, discovery requests, motions, briefs, internal research memos, letters to clients, letters to opposing counsel, and community legal education materials. We establish deadlines that permit numerous drafts of each document, and ask students to review one another’s written work, to desensitize student attorneys to constructive criticism.

Oral Advocacy. Attorneys must also be confident and organized speakers, whether discussing a challenge in a case with a colleague or arguing a legal point to a court. NLP gives students opportunities to practice oral advocacy in a number of settings.

Legal Ethics. Clinic students encounter various ethical issues in the course of their practice, including attorney-client conflicts, the obligation of client confidentiality, dealing with unrepresented parties, privileged information, and conflicts of interest. The clinic requires students to become fluent with the Rules of Professional Conduct for Attorneys, and to be able to anticipate ethical issues and respond appropriately.

In addition to those “core lawyering skills” identified above, NLP’s particular practice context aspires to expose students to some specific aspects of lawyering for the poor in the 21<sup>st</sup> century:

**Teach students about the realities of living in poverty and about the role of the law in solving poor people’s problems.** NLP exposes student attorneys to the lives of low-income people in our community and gives an opportunity to observe how financial insecurity leads to legal problems. NLP students gain new perspective on important public policy debates about wages, welfare, public health, and other issues from being immersed in the legal problems of low-income life. NLP students earn their own perspective on how legal work for poor people fits in to a range of social strategies to diminish poverty and its effects.

**Teach students to think about “practicing law” broadly.** The academic law curriculum, and particularly in the first year, cultivates the idea that law practice consists almost exclusively of litigation, and of appellate litigation about doctrinal tensions most of all. NLP exposes students to a somewhat wider range of law practice (although still principally confined to problem-solving and dispute resolution as opposed to transactional or institution-building), giving student attorneys the chance to prevent problems and/or resolve them informally. NLP student attorneys also participate in community education and other public policy programs to bring the program’s expertise to bear in public arenas.

**Expose students to a subset of substantive Wisconsin poverty law.** Poverty law, broadly defined, could include any subject area that affects poor people because they are poor. Most legal services offices, public and private, establish priority areas of practice that reflect community legal needs and professional interest. NLP is no different, and focuses on landlord-tenant, workers’ rights (primarily wage and hour), and public benefits (welfare) cases. NLP students also learn the variety of institutional players involved in these substantive issues, and how to collaborate with other disciplines and professions in solving client problems.

**Train students to work collaboratively.** While most practicing lawyers work with others (firm colleagues, co-counsel, etc.), the traditional law school classroom environment and grading system foster competition between students. NLP helps students realize the value of collaboration by holding weekly meetings during which all of the students can offer suggestions for approaching each others’ cases and by assigning more than one student to a particular case or project when the workload warrants it.

**Train students to think creatively and independently about legal problems.**

Many law students expect to be spoon-fed the “answers” to legal questions. While the supervising attorneys in NLP have more experience in substantive poverty and civil law generally than the students, they do not necessarily know how that law should be applied in a given case. Supervisors encourage students to devise their own strategies for how best to represent a client.

**Train students to recognize those situations when the law does *not* offer solutions to client problems.**

NLP students learn the breadth of client problems for which the law offers no solution and learn how to explain that reality in lay terms to people who seek NLP assistance. NLP requires students to think creatively about ways their legal training equips them to change the law to solve more of NLP clients’ problems, and to recognize, refer to, and collaborate with other systems better able to serve a given client.

**Increase students’ confidence in their ability to practice law.**

Many students suffer a “crisis of confidence” in law school. Much of what they thought they knew and understood, including their ability to analyze a given set of facts and devise solutions to problems, is called into question, particularly during the first year. By making students responsible for managing their own cases NLP hopes to show students that they can, in fact, become a competent lawyer B we hope one who feels that s/he has as much to learn from clients as they have to gain from lawyers.