

POVERTY LAW AND PRACTICE SYLLABUS

Spring Quarter 2010

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Class Materials

Syllabus and readings

<http://www.liveworkthrive.org/docs/fess2006/2006%20FESS%20Boston.pdf>

for the first **mandatory** class on Monday, March 1st, in 104 DK at 8:30am, will be available at the front desk of the Clinic office, 140DK, or online at the Student Services web-site. Class will be in 104DK and attendance at the first class is essential to preserve your place in the clinic.

Available for purchase at Gnomon Copy: Poverty Law Packet – Supplemental Packet (Supp.).

Available at Clinic: **TAFDC Advocacy Guide - 2008**
Food Stamp/SNAP Advocacy Guide - 2009
Unemployment Advocacy Guide - 2009
Mass Health Advocacy Guide - 2009
EAEDC Guide - 2008
Office Manual

(The Advocacy Guides are also available on-line at www.masslegalservices.org/docs and the regulations governing the 'welfare' programs can be found at the website for the Department of Transitional Assistance at www.mass.gov/dta.)

Introduction

There are eleven calendar weeks in the spring quarter. Including class time, you will be spending 20 hours each week on clinic business. During the first two weeks (Part One), the goal is for you to begin learning the substance and process of the Massachusetts welfare and unemployment systems and the requisite skills for representing clients. In week three and beyond (Parts Two and Three), we will emphasize refining advocacy skills, alternative models of

practice - including work with community based organizations - case review and situating your practical understanding within a sound theoretical and ethical framework.

People learn in different ways and so we will vary the instructional methodology. Class formats will vary to include lectures, student-led discussions, case reviews, role-plays, and reflections but with an emphasis on active participation. In addition to our time together, you will have time for individual faculty instruction in the preparation of your cases and other responsibilities. In order to make the best use of our available time, individual conference times will be posted for each week on my office door.

Part One, the first two weeks, will involve twelve to fifteen hours of group work on core pre-trial/trial skills with the substantive law of TAFDC, Food Stamps/SNAP (Supplemental Nutrition Assistance Program) and Unemployment requiring the remainder of your hours in self-study, preparation for exercises, and initial casework. **In the first class, we will arrange for a schedule of additional group meetings during the first two weeks to accomplish this ambitious agenda.** You should look ahead to the assignments that are outlined in Part One to give yourself sufficient time to prepare for these additional meetings and assignments.

Part Two, weeks three through nine, focus on trial and presentation skills along with additional substantive materials on other income support programs, ethical problems and immigration issues. We will also strive to put the work of the clinic in context by studying the delivery of legal services, complicated by issues of race and class and perhaps alleviated by community lawyering. **Each student will assist in presenting on one topic from the syllabus, individually or in pairs, starting in the fifth week.**

During the third week, we will begin our legal work in support of Boston GLASS, a community organization representing GBLT youth with whom we are working to insure that Food Stamp/SNAP benefits are available to those entitled to them.

Part Three, the last two weeks, will be reserved for reflection and evaluation. You will be asked specifically to reflect on legal 'ethics' and on practical ways to seek justice for clients struggling at the intersection of work and welfare. More generally, we will examine how the course contributes to learning about the practice of law and how to approach the overarching issues in poverty law.

Part One: First Two Weeks

Week One: Work and Welfare

Week of March 1

Work and welfare have been intertwined since New Deal reforms of the 1930's. Poor people revolve through low-wage jobs, unemployment and welfare and the clinic provides legal assistance along the way. Unemployment insurance – UI - has remained relatively constant programmatically but assistance to children and their caretakers underwent drastic changes beginning in 1995. The result was a program known in Massachusetts as *Transitional Assistance to Families with Dependent Children (TAFDC)* and nationally as TANF for *Transitional Assistance to Needy Families*. The most important changes in the new program in Massachusetts involve requiring work of any capable adult caretakers and limiting assistance to two out of five years. Food Stamps, which has been renamed Supplemental Nutrition Assistance Program, bridge the two cash benefit programs – TAFDC and UI - with voucher assistance to insure that needy families can put food on the table.

a. Personal and Financial Eligibility

Each applicant who applies for welfare, food stamps or employment benefits must meet two kinds of eligibility requirements: personal (or categorical) and financial. We first will look at these two types of eligibility criteria. You will find that the personal and financial criteria for TAFDC and Food Stamp eligibility are considerably more detailed and complex than those for unemployment.

Reading: “TAFCD ADVOCACY GUIDE (TAFDC)”, Part 1 and Part 4

“FOOD STAMP/SNAP ADVOCACY GUIDE (FS)”, Part 2 and Part 3

“UNEMPLOYMENT ADVOCACY GUIDE (UI)”, Part 2 and Part 3

Assignment: Outline your understanding of basic differences and general parameters of personal and financial eligibility for each of the programs. Who is eligible? What personal criteria are being used to categorize individuals? Do these criteria make any unstated judgments among different groups of applicants or recipients? What financial facts are considered when determining an applicant's eligibility? Why are the TAFDC criteria so much more detailed than those for Unemployment Insurance? Come prepared to try to put some order to the answers to these questions.

b. Hearings

By understanding what must be established at a hearing, it becomes easier to visualize what will be needed at each of the earlier stages from interviewing to research including investigation and client preparation. We will start with an overview of an unemployment hearing which most frequently will involve a controversy about the circumstances of a discharge or a quit. We will then discuss what happens in a simple TAFDC welfare hearing.

Readings: *UI Guide*, Part 6 and Reread Part 3; *A Practitioner's Manual for Representing Claimants at Massachusetts Unemployment Hearings (Manual for UI Hearings)*, Chapter V (Supp.); and *TAFDC Guide*, Part 9.

During this second week we will begin to work on the basics of case preparation and we will continue our development of the substance of the welfare regulations and the rules governing work and unemployment. The substantive material from the first week will be the basis for the interviewing, case planning and argument skills that are the focus of the week. Students will assist each other by providing peer critique of each performance in order to reinforce the lessons of the readings.

a. Interviewing and Counseling

In the initial interviews of your clients, you must begin to develop a trusting and productive relationship as well as to gather pertinent information. Client meetings also include counseling and advising your clients on a wide variety of issues. We will be discussing the fundamentals of interviewing and counseling to prepare you for your first client meetings and examining what makes a good versus an adequate interview or counseling session.

Readings: Supplemental Packet (Supp.): *Fundamentals of Advocacy Skills (Holohan); Manual for UI Hearings*, Ch. IV, Step 1.

Assignment: In advance of this class, you will be given a description of two hypothetical clients. During class each student will be responsible for conducting a portion of the interview for one client and for playing the role of another client. Prepare an outline of all the topics and subtopics that need to be covered during the interview for the client you are assigned to interview.

b. Closing Argument

One way to organize your strategy for the hearing is by drafting your closing argument first. By doing so, you are unlikely to miss any important points in presenting the case at the hearing. Your closing will be an outline of the points you have to make with each witness and what documents need to be introduced into evidence. We will begin our series of case presentation classes with a discussion of closing arguments.

Reading: Packet: *Fundamentals of Advocacy Skills (Holohan)*.

Assignment: Prepare a written closing argument for one of the hypotheticals that we used for interviewing and counseling. Each student will be expected to present their two minute closing argument to class on a hypothetical or actual case.

Part Two: Weeks Three through Nine

By the beginning of this part, you should be well into your casework. We will meet twice each week to discuss specific advocacy topics and begin to expand our understanding of case preparation and presentation. We will also reserve class time each week to discuss your cases. Beginning in Week Five, we will devote entire sessions to case reviews/grand rounds. At one of the other sessions before the end of the quarter, each of you will choose to lead a session on ethics, legal services, immigration, cross-cultural lawyering or organizing based on your interests.

Week Three

Week of March 15

a. Community Lawyering

Besides casework, educating community members about their legal rights and encouraging concerted action, are important goals of legal work aimed at social change. This class begins our discussion of community lawyering as an alternative way of doing advocacy in addition to our individual direct service. The session will focus on Boston GLASS, our community partners for the quarter.

Readings: Excerpts from D. Spade, *Documenting Gender*, S. Valentine, *Traditional Advocacy for Non-Traditional Youth*, L. Adler, *An Essay on the Production of Youth Prostitution, and Appending Transgender Legal Rights to GLB Equal Rights* (Supp).

Assignment: Visit the web site for Boston GLASS.org. Prepare questions for Boston GLASS staff about the substance and process for assisting GBLT youth to secure SNAP benefits.

b. Direct Examination

Direct examination is deceptively difficult. The phrasing of your questions is crucial so that you get only the information that supports your case. Demeanor problems, communication issues, and client discomfort can all complicate the process.

Reading: Packet: *Fundamentals of Advocacy Skills; Manual for UI Hearings*, Ch. IV and V passim.

Assignment: Students will prepare their direct examination of one of their clients and have copies of their questions available at class for ‘client’ role to be played by clinician or a student volunteer; students will perform the anticipated examination and get feedback from their peers.

Week Four

Week of March 22

a. Cross-examination

Our case presentation classes will continue with the most difficult skill to learn: cross-examination. Cross-examination is often the only way of attacking the other side’s case. Your client will be cross-examined, and you may have to cross-examine witnesses in your hearings.

Reading: Packet: *Fundamentals of Advocacy Skills; Practitioner’s Manual for Representing Claimants*, Ch. IV, Step 5; Ch. V.

Assignment: In advance of class, selected students will prepare an abstract of their client’s expected hearing testimony and exchange those abstracts with partners. In class these students will give a narrative of that testimony and their partner classmates will cross-examine the student. Students doing cross-examination will prepare questions based upon the case abstracts.

b. Eligibility for Other Income and Support Programs: SSI, Food Stamps, EAEDC and Mass Health

As we discussed in the first week, there are strict rules about eligibility based on assets and income. Both a general understanding of assets and income rules and an ability to calculate a client's grant amount are needed to adequately understand a client's situation. While much of our work will focus on TAFDC, there are a number of other programs which have their own eligibility rules. While it will be impossible to memorize all of the rules, you need comfort and familiarity with the basics of these programs and how to research the specifics.

Readings: Eligibility rules from the appropriate Advocacy Guides and other materials on the web-sites for masslegalservices.org (for advocates) and masslegalhelp.org (for lay people). While dated, the 2006 publication, **Down and Out Resource Manual**, put out by the Coalition for the Homeless provides a wealth of material on a wide variety of programs. (mahomeless.org/publications)

Assignment: Each participant will be assigned one of the programs to present and based on that information all participants will be asked to respond to a series of hypotheticals that raise eligibility issues for these related programs.

Week Five

Week of March 29

a. Ethical Considerations

During your casework you will encounter situations that present ethical quandaries or will simply give you pause. We want you to begin thinking about these considerations during this week. This will be a student-led discussion of the application of the ethical norms to our practice.

Readings: Packet; *Resources and Massachusetts Disciplinary Rules* from the supplemental materials.

Assignment: Find, read and apply to your experience, in the clinic or from co-op, the disciplinary rules applicable to issues of confidentiality, conflicts, candor and competency. You will discuss your experiences in class in light of the rules and broader considerations.

b. Case Review/Grand Rounds

Each student will describe the essential facts on a client's case and the next critical decision or action. The purpose, like that of medical grand rounds, is to permit all of us to learn from and teach each other.

Assignment: To prepare a five minute presentation of facts and key decision/action in one of your cases. Try to articulate the choices that you believe face you and the client in a way that elicits helpful advice, information and opinions.

Week Six

Week of April 5

a. History and Future of Legal Services

The Legal Services Program has had a rocky and inspiring history. We will discuss this history and the recent limits Congress has put on legal practitioners in this program, and the implications that all of these debates have on access to justice for low-income people. This is the first of the student-led discussions.

Reading and Assignment: TBA by the student who elects to make this presentation.

b. Case Review/Grand Rounds

Each student is asked to pick one case and to present on the subsidiary issues, programs and opportunities in the case that might or should be raised with the client and discuss whether to make a referral or decide to deal with the issue yourself. What influences those decisions?

Week Seven

Week of April 12

a. Immigration

At approximately the same time as the new welfare laws were passed, Congress also targeted immigration laws for reform. Many of these laws affect our clients and interplay with each other. Many of us know little about these consequences but it is clear that the immigration status of our clients impacts all of our counseling.

Reading: Packet, Immigration materials from the National Immigration Law Center website and from the supplemental materials.

Assignment: TBA by student who elects to make this presentation.

b. Case Review/Grand Rounds

Each student will again prepare one case for review. The emphasis in this session will be on the issues of systemic change raised by the case. How many people are affected? What interests might be implicated? Who might be allied with client viewpoint?

Week Eight

Week of April 19

a. Organizing

Grassroots organizing is an important way of developing solidarity among poor people. How can legal services organizations help? We continue our discussion of alternative models of representation of poor people utilizing our collective experience with Boston GLASS as a point of reference.

Reading: Readings to be assigned by the student who elects to make this presentation.

Assignment: TBA

Week Nine

Week of April 26

a. Cross Cultural Lawyering

Professionals are being asked to develop competency in dealing with different cultures. What are the implications of that demand on our work? Is it reasonable and how can it be accomplished?

b. Case Review/Grand Rounds

Examine the ways in which your perceptions differed from those of your client. Present your thought about how what you learned from that dissonance might prepare you for other clients and what else you might do to prepare.

Part Three: The Last Two Weeks

We will begin to wrap up our cases and to reflect on the experience of representing our clients. We will talk about the ethics of representing poor people, the prospects for welfare reform and the process of learning to become an advocate.

Week Ten

Week of May 3

a. Ethics Revisited

Each of you by now has interacted with more than one client on multiple issues. We want to focus on the moral and ethical issues that you have faced and how you have resolved your quandaries. Focus not just on the rules of professional responsibility but also on your personal and moral concerns about your interactions with your clients.

Reading: Review of confidentiality, candor, competence and conflicts along with other issues and rules arising from our practice. Specific assignments TBA.

Assignment: Write a 2-3 page reflective paper, due on the Friday before the session, on a particular ethical or moral issue you faced in your casework. Come prepared to discuss that issue and others you have faced over the semester.

b. Case Closings and Transfers

Review of details of how to close cases, terminate representation or transfer cases that have not been completed.

Week Eleven

Week of May 10

a. Work/Welfare Reform

Now that you have a strong knowledge of work and welfare, we will take time to discuss our impressions of the system. Various reforms have been imagined for the relationship of work and

welfare. Efforts to educate, organize, litigate, legislate and regulate have left us with the current state of affairs.

Reading: Working Hard, Falling Short; Self-Sufficiency Standard for Massachusetts and additional readings to be assigned by presenters.

Assignment: Come prepared to discuss your impressions of opportunities for reform in light of the readings and your experience in the clinic.

b. Assessment and Review

We will use the final week to do individual and collective assessments of the experience including suggestions and planning for next quarter.