

SOCIAL ENTERPRISE AND NONPROFIT LAW

Faculty	Professor & Director, Alicia Plerhoples, Deputy Director & Senior Clinical Teaching Fellow, Sunitha Malepati, and Clinical Teaching Fellow, Julian Hill
What do students do	Students represent nonprofit organizations, social enterprises, and small businesses on transactional, corporate governance, and strategic business matters. The Clinic is responsive to current events, economic trends, and social movements. To that end, during the 2021-2022 academic year, the Clinic will primarily represent organizational clients that are confronting the effects of the COVID-19 pandemic, the economic recession, and anti-Black racism.
Semester or year-long	One semester, Fall or Spring
Open to	Second semester 2Ls and all 3Ls (at least 40 credits).
Prerequisite(s)	All first-year courses and <u>either</u> Corporations <u>or</u> one of the J.D. seminars focused on nonprofit law (i.e., the Nonprofit Organizations Seminar or Governance of Nonprofit Organizations) prior to the semester in which the student is enrolling in the Clinic.
Credits	9
Requires Student Bar Certification	Yes
How many students	12/semester
Conflicts	Handled on a case-by-case basis; no simultaneous outside legal employment allowed
Average time commitment	32 hrs/wk
Seminar hours	Tuesdays/Thursdays, 10:00am - 12:00pm (time subject to change)
Orientation	Please note that orientation is mandatory and usually takes place all day Friday, the week before classes begin
Information session(s)	Thursday, April 1, 2021, 9:00 am - 9:30 am and 9:30 am - 10:00 am

INTRODUCTION

The Social Enterprise & Nonprofit Law Clinic engages law students in learning the law, skills, and practice methods of transactional lawyering in the public interest through reflective, supervised legal practice for organizational clients. Clinic students will represent nonprofit organizations, social enterprises, and small businesses on transactional, corporate governance, and strategic business matters. Students enrolled in the Clinic will effectively serve as corporate counsel to organizations dedicated to improving their communities and making a lasting social impact. Working in teams, students will generally represent one or two organizational clients during the semester and interact with social entrepreneurs, board members, senior nonprofit managers, and general counsels. Clinic students will review governance practices and draft bylaws, committee charters, policies, and practical governance tools in order to help their clients comply with current federal and local law as well as generally recognized best practices for corporate and nonprofit governance. Clinic students will draft legal memos, draft contracts, prepare templates, and help plan and execute transactions. Students will devote considerable attention to effective client communication and professionalism. Students may also prepare and present a legal workshop at a D.C. nonprofit or business incubator. Please note: the Clinic will not engage in any litigation.

The Clinic also aims to be responsive to current events, economic trends, and social movements. The COVID-19 pandemic has exposed and exacerbated the racial wealth gap, disparities in access to capital for Black-owned businesses, as well as workplace and educational inequities between a professional workforce who can work remotely and a working class who cannot. Recognizing that the pandemic is not only a public health crisis but an educational and economic crisis that has disproportionately impacted communities of color, the Clinic will center client matters that are responsive to the COVID-19 pandemic, the economic recession, and protests against anti-Black racism, and will assist organizational clients working within those affected communities.

WHAT IS A SOCIAL ENTERPRISE?

A social enterprise can be a for-profit business or a nonprofit organization. A “social enterprise” offers:

- **Internal Positive Impact** in the way the social enterprise operates, treats employees, engages in the production, and selects materials and other factors of production.
- **External Positive Impact** in what the social enterprise contributes to the environment, the communities in which it operates, and/or humanity.
- **Legal & Ethical Accountability** in the social enterprise’s incorporation documents, mission statements, stated values, and governance policies and practices.

Additionally, social enterprises generally:

- Apply entrepreneurial approaches to addressing social, environmental, and human justice issues.
- Have a primary purpose beyond making money for individual owners and investors.
- Set as a primary goal improvement of the environment, humanity, and/or community.

WHY WORK WITH SOCIAL ENTERPRISE CLIENTS?

- Social enterprises and nonprofit organizations have charitable missions and/or seek to produce a positive social or environmental impact. By providing legal assistance to these organizations, Clinic students help further such missions and outcomes.
- The social enterprise and nonprofit sectors present novel and challenging legal, regulatory, and policy questions. The Clinic immerses students in these issues.
- Social enterprises and the innovative business models and ideas that social enterprises proliferate are at the forefront of business innovation today. Innovation helps drive the economy by contributing to job growth and economic stability. By representing these clients, Clinic students take part in such innovation.
- Representing social enterprise clients inspires Clinic students to engage in public interest work post-graduation. Through their Clinic work, students see the importance of transactional law skills to public interest work.

LAW, SKILLS, & PRACTICE METHODS

Clinic seminar and client work will expose students to the following substantive law areas:

- Business Law
- Social Enterprise Law
- Nonprofit Law
- Cooperative Law
- Corporate Governance

- Tax Law
- Intellectual Property Law
- Contract Law
- Professional Responsibility
- Corporate Social Responsibility

Through the Clinic seminar and client work, students will develop the following skills:

- Interviewing
- Fact Gathering
- Client Counseling
- Transaction Planning
- Drafting and Reviewing Contract and Business Documents
- Drafting Statutory Analysis
- Transactional Legal Research
- Professionalism
- Cultural Competency

Clinic seminar and client work will teach the following practice methods

- Client-centered Lawyering
- Reflective Lawyering
- Transactional Lawyering

TYPICAL CLINIC STUDENT WORK	
Legal Work	Student Work
Governance Review	<ul style="list-style-type: none"> • Conducting due diligence review of governance arrangements to assess nonprofit's compliance with federal and state reporting requirements as well as generally recognized best practices • Providing report and recommendations to Executive Director and Board of Directors (often an oral and written presentation) • Drafting organizational documents (bylaws, committee charters, conflict of interest policy, whistleblower policy, board self-assessment tools) based on substantive law and best practices • Client interviewing, fact gathering, due diligence, close reading, drafting, and critical review of multiple documents • Applying statutes to documents, engaging and communicating with client, preparing and presenting a briefing document to management and/or Board of Directors, engaging in answering questions from management
Entity Formation	<ul style="list-style-type: none"> • Advising client on choice of entity, analyzing IRS regulations related to commercial activities, unrelated business income tax, and for-profit/nonprofit co-ventures • Preparing organizational documents, filing incorporation documents, and applying for state and federal tax exemption (where applicable) • Client interviewing, fact gathering, and choice of entity analysis; applying applicable substantive law

Operational / Strategic	<ul style="list-style-type: none"> • Advisory work for client concerning a business operation, policy, program, or service • Analyzing, identifying, and recommending operational and strategic improvements and preparing operational documents for management's use • Client interviewing, fact gathering, legal research, and practical and legal analysis
Contract / Transactional	<ul style="list-style-type: none"> • Facilitating transaction or contract for client • Learning about contract design and organization and the rationale for contract provisions; tying applicable substantive law to contract • Conducting due diligence for transaction, identifying exchange of value, developing and executing work plan for the transaction • Client interviewing, fact gathering, and legal research • Drafting all relevant documents, which may include leases, independent contractor agreements, trademark license agreements, affiliation agreements, volunteer agreements, equipment leases, and joint venture documents
Education	<ul style="list-style-type: none"> • Preparing and presenting legal workshops to educate social entrepreneurs, small business owners, and nonprofits executives on legal issues affecting their organizations • Learning corporate, nonprofit, intellectual property, and other laws affecting organization's operation • Planning legal workshop, drafting advisory documents, designing and giving a visual presentation

EXAMPLE CLIENT REPRESENTATIONS

Jill Klotzbach ('14) and **Steven Pong** ('14) provided extensive legal advice to MPOWER Financing, a Delaware public benefit corporation that works to remove financial barriers to American higher- education for students who are not served by traditional banks, such as low-income and international students. Working directly with MPOWER's founders, Jill and Steven prepared and drafted governance documents and policies to reflect current law and best practices for mission-accountable public benefit corporations. Steven and Jill also advised MPOWER on consumer privacy laws and drafted a privacy policy.

Joseph Zimmerl ('14) and **Kelsey Scribner** ('14) represented an international NGO based in Washington, D.C. that is dedicated to providing improving the lives of women through economic empowerment. The international NGO accomplishes its mission by providing business and leadership training to women entrepreneurs and connecting them with global export markets for their products. Kelsey and Joseph provided comprehensive corporate governance advice and drafted governance documents and policies for the NGO based on IRS regulations, D.C. law, and recommended best practices for nonprofits. After giving multiple presentations on nonprofit governance requirements to the founders, Joseph and Kelsey assisted the NGO in conducting its first Board meeting. Kelsey and Joseph also incorporated the NGO and drafted and completed the NGO's application for 501(c)(3) tax-exempt recognition. Finally, Joseph and Kelsey provided the client with guidance on anti-terrorism financing, including the OFAC Rules administered and enforced by the Department of Treasury and the "material support laws" enforced by the U.S. Department of Justice.

Samuel Lipson ('14) and **Elisabeth Kent** ('14) represented a historic D.C. nonprofit dedicated to providing safety net services for low-income senior citizens. The client sought assistance in creating several small for-profit ventures to create a sustainable revenue stream for the nonprofit. Samuel and Elisabeth conducted extensive research into the commercial activities of 501(c)(3) organizations and attendant risks and benefits. They drafted a legal memorandum advising the client of various options and key considerations. Samuel and Kelsey counseled the Board of Directors on various corporate structuring options for the for-profit ventures.

Antonio Perez ('14) and **Joseph Sadon** ('14) represented a collective dedicated to creating gardens and therapeutic spaces for vulnerable populations facing significant barriers to safe, peaceful outdoor space and nutritious, affordable foods. Antonio and Joseph researched various entity options that comported with the democratic governance model of the collective. Antonio and Joseph also researched IRS revenue rulings and tax cases related to the "charitable purpose" qualification to determine if their client would qualify as a 501(c)(3) organization. Antonio and Joseph counseled the collective as a whole on various entity options and the benefits and consequences of each.

EXAMPLE CLIENT REPRESENTATIONS FOCUSED ON COVID-19 AND ANTI-BLACK RACISM IMPACTS:

Fall 2020 Clinic students represented:

(1) A newly-formed Virginia nonprofit providing college- and master-level tutors to low-income K-12 public school students to enhance their online education during COVID-19 school closures. The nonprofit is in its pilot phase and is operating with the support of Senator Warner (D-VA), who hopes to champion it nationally under the AmeriCorps umbrella;

(2) A D.C. legal aid organization committed to saving the homes of D.C. residents through pro bono foreclosure legal defense;

(3) A Virginia nonprofit focused on educational equity by providing social-emotional learning resources to K-12 schools;

(4) A D.C. nonprofit whose mission is to empower, prepare, and advocate for Black women in the quantitative sciences, including economics, finance, and data sciences; and

(5) A D.C. nonprofit offering free homeownership workshops and financial resources for teachers and other employees of D.C. Public Schools, 70% of whom are people of color and 50% of whom are Black, to allow educators to live where they work and build intergenerational wealth.

More information about the Clinic, including the Clinic's Annual Reports, can be found on the Clinic website at: www.socialenterprise-gulaw.org.

TIME COMMITMENT

A nine-credit, semester-long clinical program is a significant time commitment. Based on the number of credits students receive, students are expected to work an average of at least 32 hours per week on all clinical program activities. We recommend that students take no more than 12 credits total when enrolled in the Clinic.

By enrolling in the Clinic, students agree to prioritize their client representation over other activities, including other schoolwork, journal activities, or part-time employment, due to the professional responsibility students have to their clients. In line with this commitment, and in order to avoid any potential conflicts of interest, students are not allowed to take other legal employment during their clinic semester. Students are also responsible for their client work over class breaks and the final examination period. Students enrolled in the clinic during the spring semester should expect to do clinic work over President's Day/faculty retreat week but may plan travel for spring break.

SELECTION CRITERIA / APPLICATION PROCESS

A. Application Process

- Attend the information session about the Clinic (information is below; attendance is strongly recommended but not required);
- Submit your clinic application by **12:00 pm (noon) on Monday, April 12, 2021.**
- Application and other information can be found online:
[www.law.georgetown.edu/go/clinic- registration](http://www.law.georgetown.edu/go/clinic-registration)

B. Selection Criteria

- **Prerequisites:** The Clinic is open to students who:
 - will be second semester 2Ls or 3Ls (with at least 40 credits) by the beginning of the semester in which they are enrolling in the Clinic;
 - have successfully completed all first-year courses; and
 - have successfully completed either Corporations or one of the J.D. seminars focused on nonprofit law (i.e., the Nonprofit Organizations Seminar or Governance of Nonprofit Organizations) prior to the semester in which they are enrolling in the Clinic.
- **Criteria for Selecting Students:**
 - Students will be selected on the basis of their written applications and demonstrated experience and/or interest in nonprofit law, corporate law, or the field of social enterprise, as well as the faculty's desire to select a diverse class with varying backgrounds and experiences in order to create a robust working environment for students and clients. Joint degree J.D./M.B.A. students are encouraged to apply to the Clinic.
- **Enrollment:**
 - Admitted students will be notified on **Tuesday, April 27, 2021.** Students must accept or reject the offer via email by **5:00 pm on Thursday, April 29, 2021**
 - By accepting enrollment into the Clinic, students agree not to withdraw from the Clinic (withdrawal will only be allowed for the most extraordinary reasons).

FACULTY & STAFF

Alicia Plerhoples is a leading scholar in social enterprise law, nonprofit governance, and clinical legal education. Professor Plerhoples joined the faculty at Georgetown University Law Center in 2012 and directs the Social Enterprise & Nonprofit Law Clinic. Professor Plerhoples is active in the social enterprise legal sector, advising clients and organizations on governance arrangements and organizational structures that facilitate the work of social entrepreneurs. In 2017, Professor Plerhoples received the American Bar Association's Outstanding Nonprofit Lawyer of the Year (Academic) Award. She serves on the Legal Advisory Group of Echoing Green, a global nonprofit which identifies, incubates, and funds social entrepreneurs. Examples of Professor Plerhoples' recent research articles include integrating social enterprise into poor communities, the pursuit of charity through public benefit corporations, and how to apply traditional corporate law principles to new social enterprise legislation. Her publications have appeared in the *Lewis & Clark Law Review*, *Washington University Journal of Law and Policy*, and the *International Journal of Clinical Legal Education*, among others. Professor Plerhoples previously was the Orrick, Herrington & Sutcliffe Clinical Teaching Fellow at Stanford Law School and a Visiting Assistant Professor at University of California Hastings College of the Law. Prior to entering academia, she practiced with the law firms of DLA Piper in New York City and Cooley in Silicon Valley. Professor Plerhoples graduated from Yale Law

School in 2005 and holds a master's degree in Public Administration from Princeton University's Woodrow Wilson School of International and Public Policy. She completed her A.B., *cum laude*, from Harvard College in 2001.

Sunitha Malepati is a Deputy Director, Senior Clinical Teaching Fellow and Supervising Attorney in the Social Enterprise & Nonprofit Law Clinic. Before coming to Georgetown, Sunitha was an associate in the Private Investment Funds Group at Squire Patton Boggs (US) LLP, where she focused her practice on advising investors on investments into various alternative investment funds, including private equity, real estate, hedge, and venture capital funds. She also advised on structuring and formation of various types of funds. Sunitha received her J.D. magna cum Laude and Order of the Coif from American University Washington College of Law and her B.S. in Economics from the University of Michigan. During law school, Sunitha was on the Editorial Board for the Journal of Gender, Social Policy and the Law and a student attorney in the Women & the Law Clinic. Prior to attending law school, she was the Chief of Staff at Living Cities, a philanthropic collaborative of foundations and financial institutions focused on developing and investing in initiatives that improve the lives of low-income people and the cities where they live.

Julian Hill (he/they) is a Clinical Teaching Fellow and Supervising Attorney with the Social Enterprise & Nonprofit Law Clinic. Julian brings experience as a community organizer and as a Supervising Attorney with the Capacity Building Practice at TakeRoot Justice, a New York City-based nonprofit that uses law, policy, and research to empower grassroots organizing. Julian regularly advises worker cooperatives, collectives, nonprofits, and small businesses on a range of matters, including governance, leasing, contracts, and partners with community-based organizations to facilitate political education and develop policies and campaigns. Prior to TakeRoot, Julian advised mostly Latin American companies in capital markets, M&A, and finance transactions in the New York office of Cleary Gottlieb Steen & Hamilton LLP. After completing a B.A. at Northwestern University, Julian taught high school Spanish in California and obtained his J.D. from Harvard Law School.

Maria Islam is the clinic office manager for Social Enterprise & Nonprofit Law Clinic and the Civil Rights Clinic, where she manages the day-to-day operations of both clinics. After receiving a B.A. in International Studies and a minor in Law and Society from American University, she started working at Georgetown Law as a faculty assistant with faculty support. Maria has interned at the U.S. House of Representatives, Brandeis Center for Human Rights Under Law, DC Volunteer Lawyer's Project, the U.S. Department of Justice, National Asian Pacific American Bar Association, and various law firms.

2020-2021 CLINIC STUDENTS

Fall 2020		Spring 2021	
Benjamin Arcano	Victoria Mariconti	Zhengyan Gu	Nathan Gelfand-Toutant
Timothy Gette	Kara Price	Nicholas Devine	Davis (Alex) Eblen
Ryan Kesselring	Jennifer Sawicki	Daiyun Huang	Noah Edmondson
Carolyn King	Johanna Selberg	Lauren Nilles	Ethan Lamb
Lingyun Li	Priyanka Surapaneni	Shiwen Cai	Hayley Roth
Xinmin Ma	Congyu Wang	Julia Sweitzer	Bryn Allen

FURTHER INFORMATION

For further information about the Social Enterprise & Nonprofit Law Clinic, please contact Professor Plerhoples at aep65@georgetown.edu.

Information session: The Clinic will hold an informal group information session to help students determine whether they wish to apply to the Clinic and to ensure that students who apply are fully aware of the obligations associated with participation in the Clinic. The session will be held via Zoom on **Thursday, April 1, 2021, 9:00 am - 9:30 am and 9:30 am - 10:00 am**. Attendance at the information session is strongly recommended but not required.