

# ACCESS TO JUSTICE PRACTICUM:

*University of Southern California Gould School of Law*

CLARE PASTORE\*

## OFFERING HANDS-ON EXPERIENCE ON IMPACT TEAMS

Like most law schools today, USC Gould School of Law offers a robust clinical program, with seven full-year clinics covering a variety of different subject areas. Each is taught and directed by at least one full-time attorney professor. We also offer a number of “practicum” courses, including the Access to Justice Practicum (“ATJ Practicum” or “ATJP”), which I created and direct. This brief article describes the ATJ Practicum and what sets it apart from our clinics and other experiential courses, and discusses some of the projects we have undertaken since the Practicum’s inception in 2008. Finally, I offer some reflections on teaching and learning in the Practicum.

The two most distinctive features of the ATJ Practicum are that it is focused on impact advocacy rather than direct services to individual

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clients and that we always work in conjunction with co-counsel from the nonprofit arena. These two features combine to give students an experience not always readily available in law school: the chance to work as part of an (often large) team on an issue selected for its impact on many people or the justice system itself, and to see how litigation or other advocacy is developed from first awareness of a problem through formulation of legal and other strategies, assembly of a team, selection of forum and claims, through litigation, attorneys fees wrangling, post-litigation monitoring, and sometimes concurrent efforts such as legislative advocacy.

## USC GOULD'S CLINICAL AND PRACTICUM COURSES

USC's seven clinics include five with public-sector focus — immigration, housing, international human rights, post-conviction, and mediation. Two (small business and intellectual property) have a private-sector focus.

Other than the mediation clinic, which trains students and then places them in courthouses as mediators, our clinics are typically organized around the “student as lawyer” model. With some exceptions, this generally means the student handles the client's matter from start to finish and makes the decisions (with faculty attorney supervision, of course). For a student, having primary responsibility for a case or matter from beginning to end and being the primary contact with the client(s) are invaluable. Each clinic is directed by at least one full-time professor who is also a licensed attorney.

In addition to our clinics, USC Gould offers a variety of “practicum” courses. The use of this term at USC signals two important things: our practicums are one semester, as opposed to our yearlong clinics; and they are typically three-credit courses instead of the five credits per semester offered by clinics. This latter difference of course means that the number of hours expected of students is considerably less in a practicum. While our clinical instructors usually advise students to plan on committing approximately twenty hours per week to their clinics, the expectation in my three-credit ATJ Practicum is twelve. (Of course, clinical and practicum instructors alike caution students that real-world work in either setting is not guaranteed to fall neatly within these parameters, and that neither clinics nor practicums are a good “bargain” for the credit hours.)

Our practicum courses include a Veteran's Legal Practicum in which students help ex-servicemembers with discharge upgrades, access to benefits, and other issues; a Medical-Legal Partnership, which is a collaboration among USC's law, medical, and public policy schools on access to medical care, medical debt, income and food insecurity, and other issues in which health is affected by legal problems; a Legislative Policy Practicum focused on criminal justice reform; and a Children's Legal Issues Practicum in which students assist families in finalizing adoptions of children exiting foster care. All but one of these Practicum courses were started by adjunct faculty working with community legal services providers.<sup>1</sup>

## THE ACCESS TO JUSTICE PRACTICUM

The Access to Justice Practicum, which I started in 2008, partakes of elements of both our clinical and our practicum models. Like our clinics but unlike most of our other practicums, the ATJP is taught by a full-time faculty member rather than a part-time faculty member whose primary work is in an advocacy or other organization. Unlike our very subject-specific clinics and our other practicums, the ATJP reflects my background as a generalist anti-poverty and civil rights lawyer, and thus our docket is quite varied. Most importantly, the ATJ Practicum does not strive to give students the chance to direct their own case to the extent possible. Instead, it provides an experience mirroring those of impact litigators like myself: being part of a (sometimes large) team litigating an issue that generally transcends the interests of a single client. We always work as co-counsel with at least one nonprofit agency, typically in Los Angeles, but often elsewhere in California or the country, and sometimes also work with pro bono counsel or (in the case of occasional legislative advocacy) with government or elected officials.

Both experiences (student as lead on a single-client or smaller case and student as part of an impact team) are valuable and many students try both during their law school careers. Both experiences typically offer intensive

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<sup>1</sup> The exception is the Legislative Policy Practicum, which was created by Professor Heidi Rummel as an outgrowth of the Post-Conviction clinic she co-directs. Also, the Veterans Legal Issues Practicum's creator and co-director, Laura Riley, has since joined the Gould faculty.

feedback on writing, opportunities to research and draft pleadings and other legal documents, and the chance to see in the wild issues they have only encountered in textbooks, such as discovery, motions to dismiss, ethical questions, and strategic planning. It is my sense however that while the ATJ Practicum is not unique in offering impact experience to students, such opportunities are somewhat rare. Being a small part of a big team allows students to experience collaboration with lawyers of many experience levels, to see a variety of kinds of advocacy on a problem (often including advocacy for individual clients, class action litigation, and legislative and administrative advocacy). Perhaps most importantly, students can get a feel for how advocates move from discovering and analyzing a problem to framing a legal issue to deciding on strategy to filing a case or legislative proposal, and eventually to litigation, settlement, and often post-judgment monitoring or enforcement. Of course, no student sees all of these stages play out in real time during a single semester. But they see important parts, and they must get up to speed on the whole in order to participate effectively. They also get the chance to forge connections with organizations and advocates and get a glimpse into the different cultures and missions of our partner agencies.

While I as the professor am certainly supervising the students' work, I also stress to them that we are working as co-counsel, much as I worked with senior lawyers when I was a novice lawyer at Western Center on Law and Poverty, and much as I have worked with lawyers at all levels throughout my career. This aspect of the Practicum can be challenging for students, who sometimes expect professors to have all the answers and are not accustomed to hearing "I don't know, let's try to figure it out together" from us. (They also sometimes balk at my insistence that we all operate on a first-name basis). This collegial relationship also offers an opportunity to mentor students about practical aspects of being a junior member of a team, such as how to maximize the usefulness of their work to the decisionmakers (senior colleagues or judges), email and communication etiquette, and how to appropriately take initiative while respecting consensus. The best of my Practicum students have thrived in this somewhat non-traditional professor-student relationship, bringing ideas to their teams, taking the initiative to research new possibilities or suggest strategies for

the team, and availing themselves of opportunities to forge connections in the advocacy world.

The Practicum generally enrolls four students each spring, who work on two teams. Each team works on a different matter with one or more partner organizations. I work as co-counsel with both teams. Key to what we are offering our partners is my services as co-counsel to them and supervisor of the students. This is in sharp contrast to my experience as a full-time non-profit lawyer over many years, especially at the high-profile ACLU, where offers of help from students would frequently flood my desk. Although we were often overworked, like most nonprofit lawyers, supervision takes time and it is often difficult or impossible to integrate students if the nonprofit lawyer has to educate them about the issues and the organization, bring them up to speed, and supervise their work, all while carrying the advocate's own caseload and moving the matters along. In the Practicum, by contrast, I stress to our advocate partners that I am not "farming out" my students for them to keep busy, but will come onto the case or matter myself as co-counsel, while supervising the students personally. Also, of course, I remain on the matter until resolution, which is often long after the students' departure. Under these conditions, finding partners is certainly not a hard sell. (When I began the Practicum in 2008, I generally spent a fair amount of time each fall wooing partners and seeking projects; as we have become established, I frequently now receive more requests for co-counsel than I can meet.)

I meet weekly with each student team. They turn in written work twenty-four hours before each meeting, often memos on discrete issues, tables analyzing data, summaries of interviews, or drafts of parts of a brief, complaint, or other document. I give them detailed written feedback at or before our weekly meeting. As with clinics, this intensive feedback on their writing is one of the things students regularly report finding most valuable about the ATJ Practicum.

## ATJP PROJECTS

During the Practicum's thirteen years so far (2008–2022, with hiatuses in 2014 and 2018), we have partnered with a veritable Who's Who of Los Angeles nonprofits, as well as groups outside our city or state. These include

the Alliance for Children's Rights, the ACLU, the Wage Justice Center, Western Center on Law and Poverty, National Health Law Program, Legal Aid Foundation of Los Angeles, Neighborhood Legal Services of Los Angeles County, Bet Tzedek Legal Services, Bay Area Legal Aid, Inner City Law Center, Restaurant Opportunities Center, Public Counsel, and Disability Rights Legal Center.

The most ambitious ATJ Practicum projects to date have been those relating to the struggle to end unjust drivers license suspensions in California. Advocates for low-income people had been aware for years of the burden on low-income residents of a toxic mix of California policies: fines for traffic offenses that are among the highest in the nation; over-policing for small infractions, especially in low-income communities and communities of color; automatic imposition of \$300 penalty assessments on infractors who fail to pay on time or show up for their court appearances; and suspension of drivers licenses for those who cannot pay the exorbitant fees and penalties.

After a coalition of California civil rights and anti-poverty groups published the influential 2015 report entitled "Not Just a Ferguson Problem: How Traffic Courts Drive Inequality in California," advocates set out to file strategic court challenges to end license suspension. Students and I joined a statewide coalition including the Lawyers' Committee for Civil Rights, the ACLU, the Western Center on Law and Poverty, the East Bay Community Law Center, Bay Area Legal Aid, as well as the Pillsbury Winthrop Shaw Pittman firm. We all worked for several years in a variety of fora to document and challenge suspensions. Northern California advocates sued and quickly settled with one local Superior Court which agreed to end automatic license suspension for failures to pay. Southern California advocates, including us, sued Los Angeles Superior Court and eventually settled for dramatically improved procedures for judges to follow in assessing ability to pay before imposing fees and referring drivers to the Department of Motor Vehicles for suspension. Together the statewide coalition sued the DMV for failing to follow state law requiring that failure to appear or pay be willful before a license could be suspended.

That case, *Hernandez v. Department of Motor Vehicles*, became hotly contested and led to a published appellate opinion, establishing that the DMV could no suspend licenses upon mere notice of a missed court

appearance, but only upon notice of a violation of a statutory violation (which requires willfulness).<sup>2</sup> The coalition's advocacy also included spearheading a legislative initiative which ultimately led to the end of statutory authority for suspending licenses for failure to pay. This constellation of issues led to four years of student work in the ATJ Practicum. Students were involved in every facet of the multi-year advocacy effort, conducting research and analysis, interviewing clients, observing court procedures to document the experiences of clients, drafting discovery and pleadings, evaluating proposed statutory language, and more. In the end, this extensive, multi-pronged effort by some of California's best advocates led to the restoration of over 750,000 suspended driver's licenses and an end to suspensions for failure to pay.

The Practicum has also been involved in repeat partnerships in foster care reform with the Alliance for Children's Rights. The Alliance represents foster children and their caregivers, not on the dependency court proceedings themselves, but on all the issues that can arise after placement. Often these cases involve securing appropriate educational, mental health, and other services for foster children, especially those with disabilities. The ATJ Practicum has filed three cases with the Alliance and succeeded in all of them in removing barriers to resources that foster children and their caregivers need.

In *Gofas v. California Department of Social Services* (2010), we forced the state to restore the administrative rehearing process it had unlawfully suspended for budgetary reasons. Without rehearings, a foster caregiver had no choice but to file a lawsuit in court if the administrative law judge made a mistake. Filing suits is all but impossible without counsel, and counsel who can bring such cases for free is almost nonexistent, even when the case is a virtually certain winner. Our lawsuit reinstated rehearings and thus restored the ability of caregivers (and everyone else using the health and welfare administrative hearings system) to have a chance to correct erroneous decisions simply and expeditiously. Some of the affected clients received thousands of dollars in back benefits as a result, but more importantly, no caregiver will now be without a simple remedy in this situation.

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<sup>2</sup> 49 Cal. App. 5th 928 (2020).

In *Harris v. California Department of Social Services* (2012), we established that relatives seeking to become foster parents were entitled to an administrative hearing if they were rejected on the basis of old (sometimes decades-old) criminal convictions. Before our suit, if a county denied foster care certification on the basis of a conviction, even a very old one irrelevant to the relative's current suitability, the would-be caretaker had no recourse other than a lawsuit. We established that these denials were within the scope of administrative decisions on which state law requires a hearing, thus once again providing an expeditious and relatively simple way for caregivers to correct errors in the system.

In *Compton v. California Department of Social Services* (2015), we forced the state to eliminate an unlawful requirement that had kept the most vulnerable of all foster children (those with significant intellectual disabilities as well as a history of abuse or neglect) out of a program designed for precisely their situation. Our client received significant financial benefits which had been unlawfully withheld, but equally importantly, the state was forced to drop the unlawful requirement which kept out thousands of such children.

Each of these cases arose because the Alliance had seen the problem firsthand in individual cases and recognized that there was a systemic issue that needed attention. Without the resources of the Practicum, however, the Alliance was hard-pressed to undertake the additional work of filing a suit to challenge the policies rather than negotiate or administratively resolve the individual cases as they came up.

Practicum students played essential roles in each of these cases. They interviewed the clients and drafted the complaints, the briefs, and untold numbers of research memos, data analysis summaries, discovery plans, and the like. Moreover, through our continuing partnership with the Alliance, some students became exposed to an entirely new area of law (foster care) and to the Alliance's robust pro bono program. Indeed, one of the first students who worked on an Alliance case during her 2L spring called me over that summer from her law firm job to ask if she could continue working on the case and whether she could ask the firm if they would be interested in coming on board. The Alliance and I decided that was a wonderful idea, and one of Los Angeles' leading firms ended up co-counseling with us through the remainder of the case. The student, now in private



practice, has become a regular Alliance pro bono volunteer and has told me on several occasions that she feels the Practicum was one of the most valuable experiences in her entire law school career.

The ATJ Practicum has also undertaken two pieces of legislative activity (in addition to assisting on the license suspension legislation discussed above). In 2019, as an outgrowth of the license suspension work, students and I worked with staff to a Riverside County legislator who had become aware of inequities in the traffic school system. The issue was that state law required payment of fines in full before a driver could access traffic school, which meant that many low-income drivers were being shut out from this opportunity to avoid increases in their insurance costs. In collaboration with legislative staff (and the legislator herself, a USC alumna), we interviewed affected drivers, analyzed data, and drafted language for the bill. We ghostwrote analyses for the legislative committees and students traveled to Sacramento to testify in support of the bill. (Fortunately for the bill, but frustratingly for the students, the bill passed out of committee on unanimous consent, so no testimony was needed.)

We also worked on a bill and white paper in 2011 with the Wage Justice Center supporting adoption of a wage lien law. The proposal would allow workers victimized by wage theft to file and foreclose liens against employers' property, similar to the lien long available to construction workers who work on real property. Although the bill did not progress in California, the students' work was widely distributed to advocates around the nation working on similar lien proposals.

We have also written a number of amicus briefs, including two in recent years for the ACLU of New Orleans' Justice Lab Project,<sup>3</sup> a national effort to shed light on police brutality in Louisiana via a coordinated effort to file dozens of lawsuits against police. In the wake of renewed attention to racialized inequities in police treatment of citizens, I believe it has been particularly rewarding for students to learn about this very long-term strategic initiative and its myriad of law firm and law school partners around the country, see the how amicus strategy fits into the overall goal, gain exposure to the national and local levels of an important nonprofit organization, and refine their thinking about what is persuasive to judges,

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<sup>3</sup> See <https://aclujusticelab.org>.

legislators, and the public. In our most recent amicus brief with Justice Lab, we represent the Law Enforcement Action Partnership (LEAP), an organization of current and former law enforcement professionals seeking criminal justice reform, and the very existence of that organization was enlightening to some students.

Other amicus briefs have included one on behalf of nationally known ethics lawyers urging the Ninth Circuit to uphold sanctions imposed on government lawyers who had filed false declarations in a civil rights case stemming from the war on terror, one in a California appellate case involving protecting farmworkers from extreme heat, and one on behalf of the Coalition of Immigrant Low-Wage Workers in a California Supreme Court wage and hour case. In the last case, we also wrote a report, “Voices from the Underground Economy,” collecting worker stories, which has been cited by advocates in other jurisdictions.

Not all of the projects have been shining successes. Although we have won or favorably settled each of the cases on which we have worked, not all of the amicus work led to favorable results. And once (but only once out of twenty-six projects total) we had a project that simply did not offer the experiences I had sought for the students. Our partner organization had tasked students and me with researching and writing a white paper on an important and complex healthcare issue with the potential for statewide impact. The students did a wonderful job interviewing health providers, researching the law, and drafting what I thought was a powerful white paper. But the project proved highly frustrating for both me and them because our partner seemed to become less committed to it as the semester wore on and other items took priority on the organization’s agenda. Our drafts of the report went unreviewed by our partner and ultimately the project was shelved. Our partner agency was apologetic and assured us the problem was not related in any way to the quality of our work, but it was nonetheless frustrating for all of us to feel that our work was not contributing as it could have to an important issue.

That experience forced me to become more concrete in negotiating roles and projects with organizational partners and especially to insist that each potential project have a specific advocate assigned at our partner agency, with a set schedule of meetings and check-ins with us. It can be challenging to navigate the pedagogical needs of the Practicum with

the realities of advocate workloads, and the challenge has proven greater in non-litigation projects which can sometimes slip to an advocate's back burner. In general, however, I feel our work has been well integrated and well received by our partners and their ultimate clients or audiences.

## REFLECTIONS ON TEACHING AND LEARNING IN THE ATJ PRACTICUM

### *Student selection*

When the Practicum began, I had detailed discussions with colleagues about whether it was better for me to interview and select students, or simply to allow students to sign up according to their registration priority. At USC we have both models among our clinics and practicum classes, and it is up to the professors to choose which they prefer.

I decided to allow students entry through registration priority, without selection by me, for a few reasons. One is that I was simply uncomfortable choosing among eager, capable students, many of whom I knew from other courses. I was also uncomfortable with the idea that my perceptions of which students were most "dedicated" or truly interested, even if based in large part on their demonstrated commitment to issues of justice and equality, might be incorrect or unconsciously unfair. In my experience, it is difficult to avoid the knowledge that sometimes a resume demonstrating extensive commitment to public service is also one that demonstrates the presence of family resources allowing a student to rack up unpaid or low-paid internships. Giving these students priority over others who might be equally interested or committed but who do not come from families with the means to enable this kind of work seemed unfair to me. This is especially a concern for first-generation law students, who make up a significant share of our class.

Also supporting my decision to allow registration priority to govern entry was my desire to expose students who do *not* plan a public interest career to some of the inequities and flaws in our justice and social welfare systems and make real to them the need for lawyers to help. It is my experience that students who are oriented toward a public-interest career tend to find their way to me if they so desire, since I teach many classes attractive

to that cohort (including Poverty Law, Civil Rights, and Suing the Government) and I advise the Public Interest Law Foundation. But I have often felt that I have perhaps more influence on students *not* oriented this way, as for example when I introduce concepts like the lack of a right to counsel in civil cases in “standard” classes like Civil Procedure or Professional Responsibility. These students might otherwise go through a law school career without much exposure to some of the realities of the system and its effects on the poor or marginalized. And finally, many private sector lawyers will of course be pro bono leaders in their communities, and encountering some of the advocates and issues active in that world can help boost both their pro bono impulses and their ability to fulfill them.

Looking back over the nearly decade and a half of the ATJ Practicum, I feel satisfied that my objectives with regard to student selection have by and large been met. The students who have taken the course are approximately 60 percent public interest-oriented students and 40 percent private sector-oriented students, and some of those headed for private practice have been among my best students, sometimes bringing key knowledge whose utility I might not have foreseen. For example, just this past semester, two students worked with me, Public Counsel advocates, and a private law firm on a case challenging Los Angeles County’s administration of the fraud-ridden PACE (“Property Assessment and Clean Energy”) program which has left thousands of low-income homeowners owing unpayable assessments to the county and at risk of losing their homes. One of the students, who has now graduated and will be working in a firm that counsels municipalities and affordable housing developers, brought a wealth of highly useful knowledge about municipal funding, bonds, and contracting. Similarly, when we worked on the wage lien legislation described above, one student’s background (from courses and a prior summer’s work) in bankruptcy was tremendously useful.

Although I don’t select students for the ATJ Practicum, I do require that they meet with me prior to the finalization of their enrollment. This is because I want to make sure that each student understands the commitment before the semester begins, and especially that they understand that like clinics, the Practicum is not a good “bargain” for the credits — there are far easier ways to earn 3 credits. At times I also gently explore with students whether they may be overcommitted for a particular semester if

they have a heavy courseload, perhaps a job, or perhaps a demanding law review role or leadership obligations in student organizations. Students have excelled in the Practicum despite these other demands, but I always want to make sure they understand that the Practicum hours are substantial and that they cannot simply let work slide in a busy week or month as they might in a standard “podium” class. Although I once had a student drop out because of serious illness, I have never had a student fail to meet Practicum expectations or seriously let their partner down.

### *Student feedback*

Student feedback on the Practicum experience has been overwhelmingly positive. I often continue to hear from Practicum “alums” even after they have graduated and begun practicing. Some are now colleagues in the non-profit world; others are in law firms or government offices. One told me that his work on the farmworker safety amicus brief led directly to his interest in healthcare policy and decision to enroll in a Masters in Public Health program. Many have told me over the years that they enrolled in the Practicum simply to get some hands-on experience with litigation or practice (rather than out of deep interest in the subject matter), but found themselves compelled by the client stories or the systemic injustices they uncovered. Others have expressed how much they appreciated the opportunity to interact with advocates and see strategy develop from problem to theory to case to litigation to resolution. Still others have been daunted by some of the realities of the advocacy world: government defendants who lose a case and then seek to have the underlying law changed; victories that can be hollowed out by noncomplying defendants who hope advocates or judges will simply tire of endless enforcement proceedings; state budget ups and downs that can drastically affect programs. For many, the Practicum experience, like clinics, summer jobs, and other experiential education, can help clarify which parts of lawyers’ work appeals to them: research, writing, interviewing, strategizing, drafting, negotiating. They come to understand many of the different roles, missions, and strategies of advocacy organizations, as well as develop their own views about which kinds of roles, issues, and partners appeal to them. It is gratifying to see students come to understand all the steps involved between detecting a problem and celebrating victory in an impact case or matter.

I do not generally allow students to select which fellow student will be their team partner; instead, this choice is usually a factor of scheduling (who is free at the same time for our weekly meetings; whose workload allows for completion of work early in the week versus later). This too I think is valuable training; it is fairly rare for junior lawyers to have much choice regarding the composition of a team, and they must be flexible enough to accommodate a variety of work and personality styles. In all the years of the Practicum, I have yet to experience a team that could not find a way to work effectively together, and many students have thanked me for (as one put it) “throwing me in with someone I would never have chosen to work with but ended up really appreciating.”

### *Teaching in the Practicum*

Finally, a few reflections on teaching in the ATJ Practicum. Before starting the Practicum, I had over a decade of experience with classroom teaching as an adjunct instructor at USC. I had developed and taught a Poverty Law seminar many times, and regularly taught Professional Responsibility and Civil Procedure as a visiting professor while still in practice at Western Center on Law and Poverty and later at the ACLU of Southern California. The Practicum, however, is quite different from these classroom courses. It took some experimentation to reach what I hope is an optimum balance between guiding students and allowing them the space to experiment, make mistakes, and grow as lawyers, just as young lawyers must do in practice.

I am quite sure that I could not have created a course like the Practicum earlier in my own career, without the contacts in the community developed over two decades of practice and the experience working with lawyers at all levels of seniority. Cultivating and maintaining these ties is both a pleasure and a source of renewal and inspiration for me. As a long-ago Skadden Fellow, I remain active in that circle of advocates and make a point to try to meet the new Los Angeles fellows each year if possible. I attend events at partner organizations and keep tabs on their new projects and initiatives. I also keep up contacts by offering free consultation on ethical issues to nonprofit attorneys — and this latter service has also often benefited me by providing Professional Responsibility exam hypotheticals.

I also try to replicate for students some of my own formative experiences as a novice lawyer in groups of experts at Western Center. In that setting, I quickly recognized one of the things I cherish most about the vibrant nonprofit world: the relative lack of hierarchy and the welcoming attitude toward good ideas and willingness to work, regardless of the quarter from which they come. I try to impart this to my students, the awareness that we are all engaged together on a path in which none of us can yet foresee all the twists and turns, and where everyone's ideas are worthy of consideration. I likewise stress to the students that I have never in my entire career litigated a case or worked on a piece of advocacy as solo counsel and I hope never to do so. Working in collaboration with skilled, creative, committed colleagues has been the most rewarding part of my career as an advocate, and sharing those experiences with students has been the highlight of my career as a teacher.

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