

CACE

Capital Area Consortium on Externships



Manual for Extern Supervisors – Best Practices

American University Washington College of Law
The Catholic University of America Columbus School of Law
Georgetown University Law Center
The George Washington University Law School
Howard University School of Law

Externship Supervision

Thank you participating in our Externship Program.

Our attorney supervisors play a vital role in preparing our students for the practice of law.

The Capital Area Consortium on Externships (CACE) is pleased to provide you with the following guidelines for attorneys supervising students in participating law schools.

Under recent changes to ABA Standard 304, which governs law students’ field placement experiences at ABA accredited law schools, students earning credit for work outside of school must be provided with a “substantial lawyering experience that (1) is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a setting outside a law clinic under the supervision of a licensed attorney or an individual otherwise qualified to supervise” and (2) includes, among other requirements:

- (i) direct supervision of the student’s performance by a...site supervisor;*
- (ii) opportunities for performance, feedback from either a...or site supervisor, and self-evaluation;*
- (iii) a written understanding among the student, faculty member, and a person in authority at the field placement that describes both (A) the substantial lawyering experience and opportunities for performance, feedback and self-evaluation; and (B) the respective roles of faculty and any site supervisor in supervising the students and in assuring the educational quality of the experience for the students, including a clearly articulated method of evaluations the students’ academic performance...” For complete language of ABA Standard 304, see Appendix A.*

Below we have provided guidance on how site supervisors can ensure that these requirements are fulfilled and that the experience meets expectations for both students and field placements.

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STRUCTURING THE EXTERN'S EXPERIENCE

Be prepared: Before the student's arrival, think about the projects you will assign the student and who would be best to supervise those projects. Many students arrive to find that they are without an assigned desk or workspace, a computer, password access, telephone access, office keys or entry codes, for a substantial period of time. All of this should be prepared before the student's arrival so the student can begin work right away.

Ensure attorney supervision: Students must have attorney supervisors who are directly providing supervision and feedback. Although the student may work with non-lawyers for discrete aspects of the externship, an attorney must supervise the student's legal work. Supervisors must work on site in the same location as the student.

Assign a primary attorney supervisor: Determine for whom the student will be completing assignments. If the student has more than one supervisor, assign an attorney supervisor who has ultimate responsibility for coordinating the student's work. This includes ensuring that the student does not have too much or too little work and that the student has a variety of assignments. If the supervisor is telecommuting or is out of the office on a day the student is scheduled to work, assign an alternative supervisor.

Schedule an orientation: Before the student arrives, schedule an orientation to acquaint the student with the office and other staff members. During the orientation, brief the student about the office protocols regarding such things as attendance, punctuality, security, safety emergency procedures, filing systems, routing phone calls, dress code, computer usage, and use of research databases such as Lexis/Nexis and Westlaw.

Assign only substantive legal matters: Students are required to be engaged in substantive legal work in order to receive academic credit for their externships. Although there are times, in an effort to meet a deadline, prepare for trial, etc. that everyone pitches in to assist with administrative matters, administrative work should not be part of the student's regularly scheduled duties. For example, students should not answer phones, photocopy, update databases, or schedule events on a regular basis. Students should never be assigned personal errands. Providing referrals to other agencies may provide some useful experience but should be a limited portion of the student's work.

Goals meeting: Within the first few weeks, meet with the student to discuss the student's educational goals for the semester and your goals regarding work product to be completed. To the extent possible, the work that students receive should promote the stated goals. Students are also likely to have some personal goals that they may be hesitant to articulate that you may want to ask about, and to help coordinate. For example, consider asking your student if he or she is interested in producing a writing sample, networking with other attorneys in the field and/or discussing career strategies.

Set up scheduled meetings: It is important that you meet regularly with students individually to check in, review completed work, address any problems and discuss future assignments. Meetings should cover both substantive work and professional development when applicable. Scheduled meetings should take place a minimum of once a week.

Keep the lines of communication open: Many externs may be reluctant to ask questions or seek advice for fear of appearing incompetent. When you make every effort to create and maintain a comfortable and effective working relationship, the externs' educational experiences and their contributions to your office will be maximized.

Create opportunities to observe legal practice. One of the most important aspects of a legal externship is the opportunity to observe attorneys engaged in the practice of law. Avoid having students spend large amounts of time in relative isolation in the library or other location. Students should be given every opportunity to meet with attorneys and to observe them in action by attending meetings, hearings and trials, settlement

conferences, client interviews and preparation, appellate arguments, CLE events, and any other substantive activities involving the attorneys working in the office. In addition, students should be allowed to see the application of their work to the final product. Ensure that students are included on the lists of those receiving office memoranda.

ASSIGNMENTS

Provide clarity in assignments: One of the best ways to ensure that students provide you with the product you want is to make sure that you have given them enough information at the commencement of the project. To maximize clarity, assignments should provide an adequate description of the work required, including the desired form for the finished product; provide a sufficient factual and contextual background; clearly explain the purpose or objectives of the assignment; provide a realistic timeframe for completion, which accounts for a student's level of experience; suggest available reference materials; and indicate whom the student should consult regarding questions along the way and how that person should be contacted.

Assign only substantive projects: Students are required to be engaged in substantive legal, legislative, and law policy work commensurate with an entry level attorney.

For more on assignments, see the *Assignment Clarification* section.

FEEDBACK

Our students want feedback: You may be reluctant to critique an extern's work but externs need, deserve, and actually *want* honest feedback. Without feedback, externs often assume that "no news is good news," and will continue to repeat the same errors unless they are given specific suggestions regarding how to improve. Lead with the positive – the goal is to highlight a particular success (be it a paragraph or an aspect of a presentation) so that it can be reinforced and replicated. Recognition of something that was well done can be a powerful motivator. Provide a limited number of suggestions for improvement at any given time.

Provide feedback early in the process: Externs should receive timely feedback from the assigning attorney on *every completed assignment* soon after the assignment is completed. If too much time passes, externs are likely to repeat mistakes.

Adhere to a schedule: In addition to informal discussions, regularly scheduled weekly supervision meetings often facilitate ongoing feedback.

Show your work: Occasionally, walk the student through your editing process so the student understands exactly what was changed and why. Check for understanding by posing a question or comment that allows the extern to show he/she can incorporate the suggestions going forward. At the conclusion of assignments, give the student a copy of the edited and/or final product.

Listen to the student: Externs are encouraged to engage with you in a collaborative supervision mode, not a passive one. We suggest that you encourage externs to assess their own work, reflect on their experiences, identify and discuss what they found challenging, and suggest their ideas as to how the work could be improved.

More on Student Feedback

Students should receive feedback on a variety of professional skills throughout the semester.

Research ability: Is the student familiar not just with Westlaw and Lexis research but also with library tools, treatises, etc.? Is her research careful and accurate? Does she produce practical and useful results?

Legal analysis: Is she able to identify the relevant issues? Does she integrate legal concepts with facts in a coherent and logical progression?

Creativity: Is she able to develop alternative arguments and pursue analogous extensions where the law is nebulous? Does she display curiosity and imagination?

Writing skills: Are her drafts focused and well-organized? Does she write clearly, and persuasively? Does she use excessive legalese? Does she write for the appropriate audience? Does she cite accurately?

Oral advocacy: Does she communicate effectively with you, her colleagues, and the clients?

Professionalism: Does she ask questions when needed? Is she dependable? Does she manage her time well? Does she work independently? Does she accept criticism? Does she take initiative? Was she reflective of her work on the matter?

Client relations/communication: Is she diplomatic? Does she make clients feel comfortable? Is she persistent?

WINDING DOWN

Final Assignments: One semester is a relatively short time. Make sure you are aware of the student's end dates so you can consider whether new assignments can be completed in the amount of time the student has remaining.

Exit expectations: Let the student know how to conclude his or her externship. If it is helpful for the student to draft an exit memo that outlines the completed projects, and where those documents can be found, be sure to tell the student. If a student is working on an ongoing project, let the student know how best to transfer information to a future extern or attorney who will continue the work.

Final Meeting: Hold an exit meeting with the extern during the final week in your office. Share your impressions of the extern's work. Provide examples of areas in which you have seen improvement and areas in which the student still needs to grow and develop. Let the extern know if you would be willing to serve as a reference in the future, and if you would be amenable to staying in touch. Our students look up to you, and knowing that you have an interest in them and their development is very valuable.

CONFIDENTIALITY AND OTHER ETHICAL OBLIGATIONS

Law students may not have completed formal training in professional responsibility at the time they commence their externships. For that reason, supervisors should inform students of the placements' specific policies concerning confidentiality. We also encourage you to assist your extern to identify and navigate ethical issues that may arise during the student's fieldwork, such as protecting client confidences, upholding the duty of candor to third parties and tribunals, zealous advocacy, and avoiding conflicts of interest.

COMMON PITFALLS TO AVOID

Lack of communication regarding expectations for assignments: Investing the time to offer clear guidance regarding assignments helps enhance student performance. See the section on Assignments above, for suggestions on the types of information to provide when giving an assignment to maximize clarity.

Lack of constructive feedback: Constructive criticism is critical for the student to understand errors made on a project and avoid making them in future assignments. Constructive criticism promotes efficiency for everyone's benefit. See the section on *Feedback*, above, for more information.

Too little variety: Externs should receive a variety of assignments. In addition to the traditional tasks of legal research and drafting legal memoranda, the experience should also include observation of courts, legislative and administrative bodies, meetings, conferences, negotiations, and other examples of lawyers engaged in the practice of law. Repetitive assignments, such as "state by state compendiums of law" should be avoided unless they comprise only one part of a broader range of tasks to maximize learning opportunities for the student.

Supervision by non-lawyers: A common issue for students is that the attorney supervisor delegates too much of the responsibility for supervision to non-attorneys. Even where there is an experienced clerk or paralegal, students must still meet regularly with and receive feedback from the attorney supervisor.

Non-substantive work: Externs must be engaged primarily in substantive legal work similar to the activities expected of other attorneys in the organization. Supervisors should not assign non-substantive work, such as updating databases, scheduling meetings, event planning, updating websites, or answering phones. Although such tasks may have a substantive element to them or may provide some networking opportunities, they must be limited in scope.

Disproportionate work-loads: Particularly in the spring and fall, when students typically are working only between 10- 20 hours per week, some supervisors assign work that demands hours in excess of the weekly time the extern has allotted for the placement. Although there may be circumstances when this is acceptable, the supervisor first should consult with the student and understand that the student has to balance the demands of law school and other responsibilities outside of the externship.

Misunderstanding hours, holidays: Each school has a different exam and spring break schedule which can cause substantial confusion. Discuss work expectations during these time periods at the beginning of the semester, as well as any other holidays when the office may or may not be closed in comparison to school closures.

SUPPORT FROM THE PROGRAM DIRECTOR

The law school coordinators and directors are here to support you. We are happy to provide training for you and your office on effective supervision techniques, to assist you with giving feedback, to brainstorm how to address a student who is underperforming, or any other concerns you might have about an extern or the program. Please do not hesitate to call upon us for assistance. You will receive additional information regarding the method of communication that will be used to assure the quality of the students' educational experience.

SERIOUS QUESTIONS AND CONCERNS

Sometimes, in spite of everyone's best efforts, something goes wrong. If that happens, we would like to know about it, and we would like to help. A small problem could be an indication that there is something that the law school can do to strengthen orientation, or other guidance that we provide for the externs. A big problem could

be an indication that the student is in need of support beyond what you should or could be expected to provide. If you have concerns about a student's health, if a student suddenly changes work habits or attendance, or the extern's work product suddenly declines, please contact the Externship Program Director right away.

Assignment Clarification

An important key to a successful externship is the ability of the supervising attorney to effectively assign legal research and writing projects. It is important to communicate your expectations and to ensure that externs have adequate opportunities to request information and discuss their progress throughout the process. Spending more time up front to clarify some of the issues below will save considerable time and effort for both you and the students. For each major assignment, we recommend that you discuss the following points with your externs.

Audience & Purpose

- For whom is the student writing? Will anyone see it but you?
- Are you using this assignment for a specific purpose (e.g., client letter, contract, etc.)?
- Have you explained how this piece fits into the overall case?

Structure & Style

- Is there a specific format you want the student to use? Do you have samples or templates to provide?
- How formal should this document be (e.g., rough draft or polished draft? Bluebook citations or not)?
 - Instruct that a rough draft should be proof read.
- Do you want copies of cases or other research materials?

Research Guidance

Strategy

- Is there a particular research strategy you want the student to use?
- Is there a starting point you would recommend?
- Are there specialized sources or materials used by your office with which the student might not be familiar?
- Is there one question on which you want the student to focus?
- Do you want an objective conclusion or do you want the student to advocate for a specific position?
- Do you want the law supporting one side of the issue or both?
- Is there relevant legislative history the student should be informed of or should research?
- What jurisdiction do you want the student to search (e.g. state law, federal law, administrative law/regulations)?

Background Information

- Is there any information on this client or matter in the office (e.g., a case file or previous research)?

Deadlines & Communication

Timing

- When do you need the assignment completed (e.g., rough draft deadline, final deadline)?
- How should the student prioritize this project relative to other assignments?
- How long should the student spend on the project (taking her level of experience into consideration)?

Communication

- How often should the student check in with you?
- How do you prefer the student communicate with you? Should they call, email, drop in?
- Who should the student reach out to if you are not available?
- Have you asked the student if he/she has questions, remembering that the student may be unfamiliar with the substantive area of law and the available resources?

Appendix A: ABA Standard 304

Standard 304. SIMULATION COURSES, AND LAW CLINICS, AND FIELD PLACEMENTS

- (a) A simulation course provides substantial experience not involving an actual client that (1) is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a set of facts and circumstances devised or adopted by a faculty member, and (2) includes the following:
- (i) direct supervision of the student's performance by the faculty member;
 - (ii) opportunities for performance, feedback from a faculty member, and self-evaluation; and
 - (iii) a classroom instructional component.
- (b) A law clinic provides substantial lawyering experience that (1) involves advising or representing one or more actual clients or serving as a third-party neutral, and (2) includes the following:
- (i) direct supervision of the student's performance by a faculty member;
 - (ii) opportunities for performance, feedback from a faculty member, and self-evaluation; and
 - (iii) a classroom instructional component.
- (c) A field placement course provides substantial lawyering experience that (1) is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a setting outside a law clinic under the supervision of a licensed attorney or an individual otherwise qualified to supervise, and (2) includes the following:
- (i) direct supervision of the student's performance by a faculty member or site supervisor;
 - (ii) opportunities for performance, feedback from either a faculty member or a site supervisor, and self-evaluation;
 - (iii) a written understanding among the student, faculty member, and a person in authority at the field placement that describes both (A) the substantial lawyering experience and opportunities for performance, feedback and self-evaluation; and (B) the respective roles of faculty and any site supervisor in supervising the student and in assuring the educational quality of the experience for the student, including a clearly articulated method of evaluating the student's academic performance;
 - (iv) a method for selecting, training, evaluating and communicating with site supervisors, including regular contact between the faculty and site supervisors through in-person visits or other methods of communication that will assure the quality of the student educational experience. When appropriate, a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program;
 - (v) a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection; and
 - (vi) evaluation of each student's educational achievement by a faculty member; and
 - (vii) sufficient control of the student experience to ensure that the requirements of the Standard are met. The law school must maintain records to document the steps taken to ensure compliance with the Standard, which shall include, but is not necessarily limited to, the written understandings described in Standard 304(c)(iii).
- (d) Credit granted for such a simulation, law clinic, or field placement course shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.
- (e) Each student in such a simulation, law clinic, or field placement course shall have successfully completed sufficient prerequisites or shall receive sufficient contemporaneous training to assure the quality of the student educational experience.

Interpretation 304-1

To qualify as an experiential course under Standard 303, a simulation, law clinic, or field placement must also comply with the requirements set out in Standard 303(a)(3).

http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2016_2017_standards_chapter3.authcheckdam.pdf.