



EXTERNSHIPS and JUDICIAL EXTERNSHIPS

GUIDE FOR SUPERVISING ATTORNEYS, 2023-2024

Externships and judicial externships are great opportunities for law students to learn by working with practicing attorneys in our community. The School of Law is very grateful for the wonderful array of opportunities and experience that our externship and judicial externship hosts provide. In return, our hosts benefit from the students' energy and assistance.

Because law students receive two, three or more credits for working in not-for-profit, governmental and court offices, there are curricular, substantive and administrative requirements for the Law School, placement supervising attorneys (the "Supervisor") and students. Each externship or judicial externship is an ongoing class that is established in conjunction with the Externship Program Director and the Supervisor.

The American Bar Association accreditation rules for law schools and the faculty of the Law School requires, among other things, that the externship program have a method for selecting, training, evaluating, and communicating with placement Supervisors; conduct periodic site visits or their equivalent; and offer students opportunities for reflection on their field placement experiences, through seminars, tutorials, or other means. (The ABA Standard for Approval of Law Schools 304: Simulation Courses, Law Clinics and Field Placements is listed as Reference 1.)

DEVELOPMENT AND PLACEMENT

Law school externships and judicial externships are available only at pre-approved non-profit legal offices and governmental law offices.

Externships and judicial externships are not assigned on an *ad hoc* basis. Rather, placement offices are pre-screened and pre-approved and are listed in our course registration materials. Each externship and judicial externship requires faculty supervision and is a class for which all qualified students may apply.

The placement officer and student must strive to:

- Provide students a real-world environment that is educational;
- Provide students hands-on legal assignments that will help them develop legal skills that they need for their future careers;
- Have sufficient space to accommodate a student in the office;
- Have sufficient time to meet with students each week and provide instruction and constructive feedback on their performance.

SELECTION OF STUDENTS

Because University at Buffalo School of Law is granting credit to student externs and judicial externs, and in order to allow all students a fair chance at admission to externships and judicial externships, the law school will select the students for each placement from among the students who apply for the particular externship or judicial externship. The screening process for the externship and judicial externship program typically includes a review of the student's law school transcript, resume, and a writing sample to ensure that the student is succeeding in legal studies, meets any skills requirements or prerequisites, and to determine if the student has any relevant job experience. If externship or judicial externship Supervisors requested that students have particular skills, experience or have taken specific courses, the Externship Program Director and placement Supervisor will have addressed those requests prior to finalization of the student selection.

EXTERNSHIP WORK REQUIREMENTS

In order to receive credit, students must primarily perform legal work, including conducting traditional legal research; writing memoranda, briefs, and white papers on legal issues; performing legislative research; responding to inquiries on legal issues or that require legal research; and observing or assisting in court or agency-based litigation proceedings and other client interactions. Although some clerical tasks may be part of any legal project, students may not spend a significant amount of time on non-legal work.

Students in certain placements may be admitted to the limited supervised practice of law pursuant to New York's Judiciary Law and Court Rules. Specifically, Judiciary Law Sections 478 and 484 allow legal aid organizations and government agencies to petition for student practice authorization pursuant to a program approved by the Appellate Division. (See Reference 2) **If you would like assistance drafting a petition for a Practice Order for your student please call the Externship Office and we will assist you with preparing the documents. Should you desire to use a Practice Order frequently, we suggest you ask us to begin assisting with the petition prior to the semester starting because it can take several weeks before the Appellate Division grants it.**

In addition, the students must work primarily in the externship or judicial externship host's office, except when research, court or agency proceedings, or other work-related requirements take the student out of the office. This means there must be an appropriate workspace in the placement's facility that the student uses. The student may not work in another organization's offices, even if the other organization contracts with the host office.

STUDENT RESPONSIBILITIES

An externship or judicial externship requires students to work a regular schedule totaling 45 hours per credit over the course of the twelve-week semester. Typical placements are for two (2) credits, or 90 total office hours, or three (3) credits, or 135 total office hours. The requirements may vary, depending on the academic credits awarded and the particular requirements of an externship or judicial externship. For the six-week summer session, the hours worked per week would double for most placements. The students determine their schedules in conjunction with their Supervisors. The students may not be paid for their work because they are already receiving academic credit.

Students provide the Externship Program Director with weekly reports concerning their work, without breaching any confidentiality restrictions. Students must comply with any schedules, processes, confidentiality requirements and any other work-related responsibilities of their host offices.

New York State has adopted a Pro Bono Requirement for Bar Admission, applicable to those who apply for admission to the New York Bar on or after January 1, 2015. (See Rule 520.16 of the Rules of the New York Court of Appeals for the Admission of Attorneys and Counselors at Law, Reference 3) Many current law students will rely on the fieldwork performed in their externship placements to meet this new requirement. Supervisors should be prepared to certify such student work, in compliance with Rule 520.16. (See sample affidavit at Reference 4)

Students will also ask their Supervisors to complete a "Law-Related Employment" affidavit which they will later submit with their application for admission to the bar. (See sample affidavit at Reference 5.)

SUPERVISOR RESPONSIBILITIES

Supervisors are an essential part of the education and professional development of student externs. The Supervisor must be an attorney. Because students receive academic credit for their fieldwork, it is essential that they have opportunities to observe and participate in the legal work of the placement, receive clear and challenging assignments, and are provided with ongoing instruction and feedback. Supervisors, therefore, should have sufficient experience and expertise to enable them to guide and counsel student externs.[1] Attorneys are also ethically responsible to adequately supervise students as non-lawyers under the Rules of Professional Conduct. (See Rules 5.1 and 5.3 at Reference 6.) The following is offered to assist you in carrying out your duties as a Supervisor.

The Supervisor must be available on-site to provide and explain assignments, teach students the substantive law and skills necessary to complete the assignments, answer questions, and give substantive feedback on student work. If the Supervisor is unavailable when a student is scheduled to be

in the office, appropriate assignments and instructions should be left, and alternative supervising attorney coverage should be arranged.

A student may work with one or more attorneys in a particular placement or on a particular assignment, but the office should designate one attorney as the student's Supervisor. This attorney is responsible for keeping track of the student's work assignments and for communicating with every attorney who assigns work to the student as well as the Externship Program Director and Administrator.

[1] Subject to CLE Board approval, Supervisors may be entitled to receive CLE credit for actively teaching and supervising students one-on-one in an externship in accordance with NYS CLE requirements.

A. Assignments

Students should be assigned a variety of meaningful lawyering tasks. Such tasks may include, with appropriate supervision: legal research; drafting of documents, such as affidavits, memoranda or briefs; interviewing and counseling clients; negotiating; and observing, assisting with, or providing advocacy in court proceedings in accordance with jurisdictional requirements,

B. Student Involvement

Students should be included in activities of the office to the greatest extent possible. They should be invited, as appropriate, to attend meetings, attorney conferences, and administrative hearings and trials, either as observers or active participants.

C. Evaluations

Supervisors are expected to meet with each student on a regular basis, and more formally at the mid-point of each semester, to discuss the strengths and weaknesses of the student's performance. The Supervisor at that time will also evaluate each student who worked at the placement in writing. It is critical that you review your evaluation of the student extern with him/her and discuss ways they can further improve their legal skills during the remainder of the semester. The evaluation form is attached at Reference 7 and will be sent to you via email at the appropriate time by the Externship Program Administrator.

Students are graded on a pass/fail system by the Externship Program Director after receiving the Supervisor's evaluations, confirming their hours are complete, and reviewing the student's reflective assignments throughout the semester.

INITIAL SUPERVISORY MEETING

The Supervisor should schedule an initial meeting with the student at the beginning of the first week in order to orient the student to the nature of the work and the set-up of the office and to set the tone for the Supervisory relationship. In particular, the following issues should be addressed with each student at the start of the fieldwork:

A. Confidentiality and Professional Responsibility

Professional obligations such as maintaining confidentiality and avoiding and managing conflicts of interest must be taught to the students at the outset of the placement. It is important to note that this may be the first time some students experience these professional obligations. If there are particular ethical policies that govern your office, please share them, as well. Students also should be informed of the title they are expected to use on communications, e.g., “law student intern” or “legal clerk.”

B. The Function of the Agency, Office, or Organization

Although your office or organization's role within the legal system may seem obvious to you, it may not be so clear to the student. A description of the services provided by your office, the organization's clients (if relevant), and the particular subject matter that the office focuses on, should be provided. This will help orient the student to his/her new work environment.

C. The Student's Role in the Office

Students should be informed about the nature of the assignments they might expect during the semester and the particular cases or projects on which they might be expected to work. Students should be advised of the chain of command for assignments, i.e., from whom they should accept work. It is always best if assignments go through the Supervisor, even when a student works with other attorneys in performing a task. Students should be informed about the review process for their work and whether there are any tasks they may carry out without a Supervisor's review or approval.

D. Relevant Office Policies and Chain of Command

Students should be made aware of relevant office policies such as dress code, use of office equipment, and permitted use of resources, including if relevant, the use of technology and electronic research databases. Each student should have his/her individual workspace. It is important to also advise others in the office where the student is situated.

Please take the time to show your students around your office. A tour should include a brief overview of the office space, including the library and other areas where resources for research are available. Any necessary computer training should be provided. Students need not be trained in Westlaw or Lexis, but should be given an orientation on office-specific programs, servers and data management. If the student is expected to interact with administrative staff they should be introduced to them and made aware of how to obtain administrative support on appropriate tasks.

E. Student Schedule

The Supervisor should work with the student to create a specific work schedule. Having such a schedule permits the student to develop a sense of commitment and responsibility, and to view his/her work as a regular part of the functioning of the office.

F. Explanation of Assignments

At the conclusion of the initial meeting, you should give your student his/her first assignment. Please take the time to explain the assignment in detail as addressed below.

An assignment can be traditional: research a legal issue and write a formal memo detailing the analysis and results; or more experiential: attend a hearing and take formal notes. Nearly anything a Supervisor does in daily practice can lead to an assignment for a student. Preparing for trial? Assign cross-examination prep packets to the student and use their skills with social media to find background on a witness. Later in the semester, assign the student observation of the actual cross-examination. A mix of long and short term projects can be given to the student.

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But for the assignment to be useful to both the Supervisor and the student certain details must be discussed. A thorough discussion of these details is the first step in the student's successful completion of a project. Most importantly, the student must understand how the assignment fits into the overall practice and the specific matter in order for the student to learn legal skills. Below is a useful checklist for Supervisors to refer to when assigning projects:

- Have you explained how the assignment fits into the overall case, project, mission, etc.?
- Have you explained the assignment keeping in mind the relative inexperience of the student?
 - Remember to confirm that students understand terms of art and abbreviations common to your practice
- Have you provided deadlines for drafts of written product? Final product?
- Have you communicated how much time you expect the student to spend on the project?
 - In doing so, have you confirmed the student has time for the project and can complete it by the deadline along with other pending assignments? Can you help the student prioritize the pending assignments?
- Have you communicated the format you require or prefer?
- Have you provided any examples to assist the student in understanding your expectations?
- Have you provided guidance in terms of starting points or office resources so the student doesn't "reinvent the wheel"?
- Have you given the student an opportunity to ask questions? Have you provided a method for follow-up questions? Have you told the student who to go to for guidance if you are not available?

- Many students are afraid to ask questions lest they be perceived as inadequate. By communicating your availability, you alleviate the fear that asking a question demonstrates incompetence.

When an assignment consists of observing a court appearance, client interview, deposition, negotiation, mediation, or presentation to other attorneys or clients it is helpful to explain whether any product from the student will be expected. The product may be notes of the event, a task list of next steps, or a summary of the student's reaction to the legal context of the event. After an observation, the Supervisor should meet with the student to discuss any questions the student may have and explain any key decisions made during the event that the student may not have directly perceived.

G. Provision of Feedback

Supervisors are expected to make sufficient time to provide individual specific feedback on student work. It is in the Supervisor's interest to give effective feedback that a student can "hear" without becoming defensive so that the student will provide useful work product to the Supervisor. Giving feedback may take time, but is an investment which will save you time in the future when students are able to improve their work product. In addition, it is from feedback that the students learn and thus is a crucial component of the externship.

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Effective feedback consists of providing specific information about the effectiveness of a student's performance and, when necessary, suggesting alternatives to enhance future performance. It should motivate a student to strive to improve their work and educate them as to the skills needed for successful legal practice. Here is a helpful list of requirements for useful feedback:

- *Start with a positive comment.* People tend to be more open to constructive criticism if they hear it after being reassured of their "worth." In every performance, there is something that can be praised.
- *Be specific.* Relate your critique to specific events in the student's performance. (I.e., "To do this well, you need to take accurate, detailed notes during the interview.")
- *Be constructive.* If you offer negative feedback, don't just criticize but suggest alternatives of what the person could have done differently. Focus your critique on an area you think the student will be able to improve.
- *Be honest.* Your job is not to be popular, but to help the student improve. Tell it like it is, but be supportive. Note what was done well, but only if it was done well.
- *Take responsibility for your critique.* Present the critique in the first person ("I think..."; "In my experience..."; "I think the practice is..."). Avoid presenting points of critique as universal principles unless, of course, they are (i.e., "Never address the court as 'Hey, dude!'").

- *Make the student a partner in the critique.* Ask questions: "What were you trying to achieve?"; "What do you think went wrong?"; "What alternative approaches might you have tried?"

University at Buffalo School of Law Contacts

If you have any questions on the information provided in this brief guide, or need any assistance with your externship program please contact:

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REFERENCES

1. ABA Standard for Approval of Law Schools 304: Simulation Courses, Law Clinics, and Field Placements
https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2022-2023/22-23-standard-ch3.pdf
2. New York State Student Practice Rules at N.Y. Jud. L. §§ 478, 484
<https://codes.findlaw.com/ny/judiciary-law/jud-sect-478.html>,
<https://codes.findlaw.com/ny/judiciary-law/jud-sect-484/>
3. New York Pro Bono Requirement for Bar Admission (22 NYCRR §520.16) Affidavit of Compliance, and Frequently Asked Questions publication,
<https://www.nycourts.gov/ctapps/520rules10.htm#B16>
4. Form Affidavit as to Applicant's Compliance with the Pro Bono Requirements, Including Certification by Supervisor, New York Bar Admission Application,
https://www.nybarexam.org/Admission/50Hour_ProBonoCertification_10.17.2018.pdf
5. Form Affidavit as to Applicant's Law Related Employment, New York Bar Admission Application,
https://www.nybarexam.org/admission/D-Bar_Admissions-Employment.pdf
6. New York Professional Rules of Conduct 5.1 and 5.3,
http://ww2.nycourts.gov/sites/default/files/document/files/2018-07/FAQsBarAdmission_0.pdf
7. Evaluation of Student Extern,
https://sunnybuffalolawschool.formstack.com/forms/externships_supervisor_student_evaluation