

Duquesne University

Tribone Center for Clinical Legal Education

2019-2020

FIELD PLACEMENT SUPERVISION MANUAL



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Clinical Legal Education

Supervision Manual for Field Placement Supervisors

This field supervision manual highlights common workplace issues that are often of interest to students and field supervisors. Your participation in our program as a supervising attorney and educator is our most valued asset. We hope these materials will be of value to you in your supervision efforts and thank you for your willingness to mentor our students.

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SECTION I: EXPERIENTIAL LEARNING AND THE PROCESS OF BECOMING AN ATTORNEY

Duquesne University Law School has a number of educational objectives, including exposure of students to different models of lawyering skills related to specific areas of legal practice. These include:

- The acquisition of greater insight into the process of lawyering,
- The development of a sense of professional responsibility, and
- The awareness and ability to reflect on and learn from experiences.

We stress to students that "doing" the work that they see performed by their field supervisors is just one component of the externship experience. Equally as important as performing lawyering tasks is the process of experiential learning in which students learn to reflect on their observations in order to make sense of their experiences and in order to integrate that reflection "to create new, or modify existing knowledge."¹

As externship directors, we probably define your role as a field supervisor and mentor more broadly than you. Although we appreciate the attention you give externs regarding the performance of legal tasks such as drafting documents, discovering and using facts, and arguing motions, externs can learn other invaluable insights from your observations about the legal system. Many of the externs you will supervise will have little or no legal experience; the legal world is an unknown and unfamiliar realm. We therefore often request externs to focus during the semester on different aspects of the lifestyle of lawyers in the particular legal field in which they are practicing. For instance, in order for students to understand the legal context in which they practice, they need to reflect on a number of issues such as:

- The relationships between the attorneys and support staff, clients, opposing counsel, and judges,
- The lifestyle and demographics of legal practitioners including gender, race, age, salary, and working conditions,
- The relationship between the legal work and attorney values, perceptions, and concepts of self-worth, ethical conundrums inherent in the type of law practiced at the placement location

We expect students to discuss many of their observations with you; you can add a context to the student's observation by sharing your opinions about the legal system and the lifestyle of an attorney specializing in your particular field of practice. We also expect students to reflect on their experiences in journals. The process of writing complements the process of reflecting. It is therefore important for you and the extern to have a discussion at your earliest convenience regarding the scope of confidentiality for the written journals. This provides an excellent opportunity to discuss with the student the ethical and legal parameters of client confidentiality and any specific rules which your office may have regarding client loyalty and privilege.

It is clear to Duquesne University that you provide students a wealth of opportunities to not only practice law, but to experience and reflect upon the socialization process of becoming an attorney, as well as the quality of life your legal discipline might provide.

¹ J.P. Ogilvy, Leah Wortham & Lisa G. Lerman, *LEARNING FROM PRACTICE: A PROFESSIONAL DEVELOPMENT TEXT FOR LEGAL EXTERNS*, 6 (West 1998).

SECTION II: PROVIDING STRUCTURE FOR AND FEEDBACK TO EXTERNING LAW STUDENTS

During the time you supervise our law students, you are providing a critical part of the students' legal education. Students from Duquesne University earn a substantial number of credits for field placement experience and we understandably concerned that they receive appropriately challenging work and regular, effective feedback. This section contains suggestions on preparing assignments for externs and provides you with a six step model approach to giving students feedback in a constructive manner, with the goal of assisting them to critique their own future work so that they will produce work that meets your goals in assigning the project.

A. STRUCTURING THE EXPERIENCE

1. Be prepared for the externs' arrival:

Some externship placements have formal, well-established externship programs that provide new externs with materials describing everything from the structure of the office to the externs' duties to the local eateries. It is far more common, however, to find that placements, whether large or small, run their externship program more informally. While there is nothing inherently wrong with some informality, students regularly report that early in the externship they spend a significant amount of time figuring out what they are supposed to do and what is expected of them. You can avoid this problem by taking a few steps to prepare for the students' arrival by considering the following:

- What do you expect the externs to do in your office.
- Will they be working primarily with one attorney or several?
- Who will be primarily responsible for assigning and reviewing work?
- Who will oversee the externs' assignments to ensure the students receive appropriate work that has sound pedagogical value?

It is helpful to students if these preliminary matters are settled before the students start work. When the students arrive, take the time to conduct a brief orientation to the office. Particularly in large offices, it is very helpful if students are given a tour of the office and are introduced to people they will need to know. Explain up front your expectations and the students' obligations.

Ideally, before the first work is assigned, each supervisor should meet with his or her externs to discuss the externs' educational goals for the semester. The supervisor also should speak to the law school's extern coordinator about the school's expectations and educational goals. Duquesne University Law School requires students to prepare a learning plan that sets forth in some detail the students' academic goals for the semester and guides the students' progress during the externship. Whether or not the students prepare a formal learning plan, you should take some time at the beginning of the externship to discuss with the students their expectations and goals so, to the extent possible, the students receive work that promotes the stated goals.

2. Provide Appropriate and Well-Defined Assignments

Perhaps the most common extern complaints concern the type and/or number of assignments and the attorneys' or clerks' failure to explain precisely what they want the student to do. These problems can be easily solved if one supervising attorney or clerk acts as a "clearinghouse" through which all assignments must pass. That attorney should gather potential assignments from other attorneys and review the proposed work before it is assigned. In this way, the placement can ensure that the assigning attorney has provided an adequate description of the work required and has equipped the student with enough background information to get the work done. In addition, if one person takes responsibility for all extern assignments, she can make sure that no one student has too much or too little work and that no student gets bogged down with an assignment that is too burdensome or has only marginal educational value. At some placements, attorneys who wish to assign work to an extern use a standard "Request for Extern Help" form in which they describe the assignment so the proposed task can be reviewed and approved before it is passed along to a student extern. For more specific suggestions on designing and structuring assignments, see the checklist at the end of this section.

3. *Arrange Weekly Conferences With Your Externs*

This suggestion seems obvious, yet it is often overlooked. Because all supervisors are extremely busy practitioners, it is very easy to let weeks go by without spending any time one-on-one with your externs. But, from the law schools' perspective, it is *essential* that all students meet individually with their supervisors at least once a week to check in, review completed work, address any problems and discuss future assignments. If you schedule a weekly "standing appointment" to meet with your externs you are far less likely to find that your daily work prevents you from regularly meeting with the students.

B. A SIX-STEP MODEL APPROACH IN PROVIDING USEFUL AND EFFECTIVE FEEDBACK

Beryl Blaustone, Professor of Law, CUNY School of Law, and also the Director of the Mediation Clinic at Main Street Legal Services, Inc., developed a six step model to assist field or clinical supervisors in giving students constructive feedback.² A goal of her model is to begin teaching law students to self-critique their own work and to begin to develop critical self-awareness in performance.

Step One: The Student Identifies Strengths of the Performance: The student should identify those aspects of the work that he or she feels were done well, including an identification of what the performance accomplished.

Step Two: The Supervisor Responds Solely to Those Items Raised by The Student: Giving only positive feedback, the supervisor at this stage confines remarks to those items raised by the student.

Step Three: The Supervisor Identifies Other Strengths in the Performance: The supervisor now adds additional points that were done well. This wide-open stage explores all facets of the performance that were accomplished satisfactorily or that show a potential for success, with specific illustrations of why these aspects were successfully executed.

Step Four: The Student Identifies Difficulties and/or Changes to be Made: The student now takes the initiative in identifying areas in need of improvement, coming forward with specific comments.

Step Five: The Supervisor Responds to the Identified Difficulties: Confining remarks to areas identified by the student for improvement, the supervisor comments on how the issues could be handled differently next time.

Step Six: The Supervisor Indicates Additional Difficulties: This final stage involves another wide-open exploration of all facets of the performance. The discussion focuses on aspects that were not satisfactorily accomplished, again with specific illustrations and concrete analysis.

To assist field supervisors in implementing the six step model, we suggest the following:

1. *Provide Feedback on All Assignments*

The assigning attorney should provide timely feedback on *every assignment the extern completes*. Obviously, the nature of the feedback will vary depending on the type of assignment involved: a short research assignment resulting in a brief oral report may only warrant a five or ten-minute conversation, while a substantial written project deserves more time and attention. Students consistently report that receiving regular feedback throughout their externship highlighted their

² Beryl Blaustone, *Teaching Law Students to Self-Critique and to Develop Critical Clinical Self-Awareness in Performance*, 13 CLIN.L.REV. 601 (2006).

areas of weakness and greatly improved the learning experience. In addition, constructive feedback benefits the supervising attorneys who see vastly improved student performance.

When we talk about "providing feedback" we do not mean to suggest that the attorney should offer suggestions and the student should sit passively and accept those suggestions. Students will get far more out of a discussion when they are actively involved in evaluating their own performance.³ To that end, students should be encouraged to assess their own work and to provide suggestions as to how the work could be improved.

2. *Solicit the Student's Assessment of His or Her Performance on All Assignments*

When reviewing an extern's work it is useful to first ask the student to evaluate both the assignment and his or her own performance. For example, did she think the assignment was appropriately challenging? Was it too difficult? Was the project adequately explained so she knew what was expected of him or her? If she encountered obstacles or questions along the way, did the assigning attorney provide helpful guidance? Is the student satisfied with his or her own performance? If not, what changes would she make?

These questions will not only help focus the conversation, they will force the student to reflect on the work she has done and what she could have done to improve it. The student is far more likely to accept suggestions for improvement if she has independently recognized the areas that need attention. Furthermore, the student's assessment may help highlight problems that need to be addressed: perhaps problems with the final work product were created by the attorney's limited description of the assignment or by the student's unfamiliarity with the necessary research tools. If the attorney elicits the student's impressions, these issues can be uncovered and handled more effectively.

3. *Providing Constructive Feedback*

Most extern supervisors are very concerned with making the students' externship pleasant and, as a result, may shy away from the sometimes uncomfortable task of critiquing the students' work. While this impulse is understandable, students need, deserve and actually *want* honest feedback on their work.

In our experience, students often assume that "no news is good news," and will continue to repeat the same errors unless they are given specific notice that improvement is necessary. We therefore urge all supervisors to provide feedback early in the semester so any problems can be addressed before the externship proceeds too far. Most students are eager to become good lawyers and welcome specific advice on how they can sharpen their skills.

What sort of feedback should you offer and how should you go about it? First, include a healthy dose of positive feedback. In fact, it is a good idea to start off on a positive note. For example, even if the student's writing needs improvement, you may be able to honestly commend the student's research abilities. And if the research was weak, perhaps the student's eagerness and curiosity warrant a compliment. While you should not be reluctant to criticize the work where necessary, students are apt to be less defensive if they hear some good news first.

In order to be effective, suggestions for improvement should be as specific as possible. Instead of telling a student to "tighten up the writing" or "use the facts more effectively," take a portion of the student's work and show him or her how to edit and rewrite the assignment. While this kind of feedback can be time-consuming, it is also the most helpful.

We recognize that it can be difficult to systematically review students' work and cover all the relevant points. Below we have set out nine categories you may want to consider when reviewing a student's performance.⁴ You may not need or want to touch on each of these categories during every feedback session. But if you assess the student's performance on a specific assignment with these categories in mind it may help both you and the student focus on the areas of concern.

³ See generally, A. Alexander and J. Smith, *A Practical Guide to Cooperative Supervision for Law Students and Legal Employers*, 29 *Law Office Economics and Management* 207 (1988).

⁴ This list is presented and discussed in A. Alexander and J. Smith, *A Practical Guide for Cooperative Supervision for Law Students and Legal Employers*, supra, at pp. 216-217. See also, Beryl Blaustone, *Teaching Law Students to Self-Critique and to Develop Critical Clinical Self-Awareness in Performance*, 13 *CLIN. L. REV.* 601 (2006).

(a) Research Ability

- knows the basic, non-computer library research tools and how to use them
- is familiar with computerized legal research resources
- does thorough, careful and accurate work
- produces practical and useful results

(b) Legal Analysis

- integrates legal concepts and theory with facts in a coherent and logical progression
- is able to identify relevant issues and distinguish a logical hierarchy among them.

(c) Intellectual Capacity

- displays intellectual curiosity
- thinks creatively and imaginatively
- develops alternative avenues of argument
- pursues analogous extensions in areas where the law is nebulous
- explores subsidiary and related issues uncovered by research to develop innovative legal theory

(d) Writing Skills

- writes clearly, precisely and persuasively
- drafts well-organized written assignments
- cites accurately and properly

(e) Clarity of Oral Expression

- speaks well and is easily understood
- is able to discuss issues clearly
- communicates effectively in various advocacy proceedings

(f) Judgment

- is mature
- exercises good common sense
- knows how and when to ask questions or seek additional consultation
- sets appropriate priorities in handling assigned work

(g) Responsibility

- is trustworthy and acts ethically
- takes initiative
- is dependable and conscientious about work
- meets deadlines and manages time well
- works independently and efficiently without sacrificing quality
- accepts criticism and constructively modifies work habits

(h) Client Relations

- develops effective working relationships with clients
- is sensitive and responsive to client needs
- knows how to be diplomatically persistent

(i) "Plus" Traits

- shows an interest in the employer's work
- has a sense of humor
- is cooperative and accommodating to the needs of the office
- is even-tempered
- remains unruffled in emergency situations
- is courteous and respectful to all staff
- demonstrates sensitivity to office human relations dynamics
- appears self-confident and enthusiastic
- maintains a professional demeanor

4. *Keep the lines of communication open:*

No matter how informal and friendly your office may be, there is no denying the fact that there is a significant imbalance of power between supervising attorneys and their externs. Most students are exceedingly aware of their place in the office hierarchy and may be reluctant to ask questions or seek advice for fear of appearing incompetent. In our experience, the best supervisory relationships exist when students feel free to approach their supervisors with all questions, large or small. Supervisors should therefore make every effort to create and maintain a comfortable and effective working relationship that will maximize both the students' educational experience and their contributions to your office.

C. SUPERVISORS' CHECKLIST FOR ASSIGNMENT CLARIFICATION

A key to a successful legal externship, whether in judicial chambers, a law office or elsewhere is the ability of a supervising attorney or clerk to give assignments to the extern effectively. When any project is assigned, it is important to know exactly what you expect from the student and communicate all aspects of your expectations to him or her. Below is a checklist you may find helpful to ensure less confusion and more productivity for both you and the extern.

1. Have you explained each assignment with the relative inexperience of the student in mind?

Have you discussed the basic objectives of the assignment or project with the student? Does the student know how this particular assignment fits into the overall case file and what the assignment will help you or the judge accomplish or resolve? Effective supervisors take the time to explain:

- When drafts of the assignment are due, as well as when the final product is due.
- How much time you expect the student to spend on the assignment, including time for research and drafting (keeping in mind that students are often inexperienced and require extra time for thorough research). How many issues do you expect the student to address? How technically perfect do you want the letter/memo/brief to be in terms of case cites, for example? Do you want a rough draft or a more polished draft? How often should the student check in with you for a progress meeting? Is your schedule communicated to the student, and the student's schedule communicated to you, so that progress meetings are accomplished as planned?
- Is the student aware of the format you require or expect? Have you provided the student with an example of the format of the memo, brief or letter to assist the student in understanding your expectations?
- Who should the student ask for assistance if you are unavailable?
- Have you provided the student with some guidance in terms of starting points for legal research to help focus the issue?
- Have you asked the student if he/she has questions (again, remembering that some students may be unfamiliar with the substantive area of law you are asking them to address)?

2. Have you followed up regularly with your students as assignments progress?

As students begin working on assignments, they often need additional and periodic help, assignment clarification, reassurance, or relief. Redefinition of the task is common as the student gathers information and gains a more precise understanding of the assignment. Since interactions during this phase are frequently marked by informality and brevity, the importance of these exchanges can be easily overlooked. Have you been diligent in keeping those scheduled progress meetings?

3. Have you provided students with feedback on their work?

As the assignment progresses, and again at the completion of it, you should solicit student impressions about performance and convey your impressions about the performance on the assignment, using the Blaustone **Six Step Model** if that works well for you. Without periodic feedback, neither you nor the student can effectively evaluate his or her performance and make any necessary changes to result in a final product which closely resembles your goals for the assignment and provides your student with a sense of accomplishment.

SECTION III: LAW STUDENTS AND WORKPLACE CONFIDENTIALITY

The observance by lawyers and their respective employees of the ethical obligations of confidentiality is a fundamental principle of the lawyer-client relationship. Duquesne University Law School recommends that all externship placements implement steps to ensure that law students, who may or may not have experienced formal training in professional responsibility at the time of the placement, are aware of the specific confidentiality policies of the placement. Duquesne University Law School recommends that:

- ◆ Confidentiality policies be in writing and distributed to each extern or law student volunteer each semester or summer session;
- ◆ Students sign an acknowledgement of receipt of the policies; and
- ◆ Students actively engage in dialogue throughout the term of the placement with supervising attorneys on the importance of confidentiality and the ethical implications involved in individual cases or circumstances.

For your reference and convenience, this section contains:

- ◆ Pennsylvania Rules of Professional Conduct, § 81.1. Preamble: A Lawyer's Responsibilities;
- ◆ Pennsylvania Rules of Professional Conduct 1.6, *Confidentiality of Information*. Text of rule and comments included.
- ◆ A sample written confidentiality policy and acknowledgement of receipt and agreement for externs from the Duquesne University School of Law Externship Program.

PENNSYLVANIA RULES OF PROFESSIONAL CONDUCT

§ 81.1. Preamble: A Lawyer's Responsibilities.

(1) A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having a special responsibility for the quality of justice.

(2) As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

(3) In addition to these representational functions, a lawyer may serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these Rules apply directly to lawyers who are or have served as third-party neutrals. See, e.g., Rules 1.12 and 2.4. In addition, there are Rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. See Rule 8.4.

(4) In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law.

(5) A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

(6) As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

(7) Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.

(8) A lawyer's responsibilities as a representative of clients, an officer of the legal system and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.

(9) In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.

(10) The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts.

(11) To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

(12) The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar. Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

(13) Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship.

Source

The provisions of this § 81.1 amended August 23, 2004, effective January 1, 2005, 34 Pa.B. 4818. Immediately preceding text appears at serial pages (272345) to (272346) and (218525).

**PENNSYLVANIA RULES OF PROFESSIONAL RESPONSIBILITY,
RULE 1.6. CONFIDENTIALITY OF INFORMATION**

Rule 1.6. Confidentiality of Information.

(a) A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (b) and (c).

(b) A lawyer shall reveal such information if necessary to comply with the duties stated in Rule 3.3.

(c) A lawyer may reveal such information to the extent that the lawyer reasonably believes necessary:

(1) to prevent reasonably certain death or substantial bodily harm;

(2) to prevent the client from committing a criminal act that the lawyer believes is likely to result in substantial injury to the financial interests or property of another;

(3) to prevent, mitigate or rectify the consequences of a client's criminal or fraudulent act in the commission of which the lawyer's services are being or had been used; or

(4) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim or disciplinary proceeding against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or

(5) to secure legal advice about the lawyer's compliance with these Rules; or

(6) to effectuate the sale of a law practice consistent with Rule 1.17.

(d) The duty not to reveal information relating to representation of a client continues after the client-lawyer relationship has terminated.

Comment:

(1) This Rule governs the disclosure by a lawyer of information relating to the representation of a client during the lawyer's representation of the client. See Rule 1.18 for the lawyer's duties with respect to information provided to the lawyer by a prospective client, Rule 1.9(c)(2) for the lawyer's duty not to reveal information relating to the lawyer's prior representation of a former client and Rules 1.8(b) and 1.9(c)(1) for the lawyer's duties with respect to the use of such information to the disadvantage of clients and former clients.

(2) A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent, the lawyer must not reveal information relating to the representation. See Rule 1.0(e) for the definition of informed consent. This contributes to the trust that is the hallmark of the client-lawyer relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter. The lawyer needs this information to represent the client effectively and, if necessary, to advise the client to refrain from wrongful conduct. Almost without exception, clients come to lawyers in order to determine their rights and what is, in the complex of laws and regulations, deemed to be legal and correct. Based upon experience, lawyers know that almost all clients follow the advice given, and the law is upheld.

(3) The principle of client-lawyer confidentiality is given effect by related bodies of law: the attorney-client privilege, the work product doctrine and the rule of confidentiality established in professional ethics. The attorney-client privilege and work-product doctrine apply in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law. The confidentiality rule, for example, applies not only to matters communicated in confidence by the client but also to all information relating to the representation,

whatever its source. A lawyer may not disclose such information except as authorized or required by the Rules of Professional Conduct or other law. See also Scope.

(4) Paragraph (a) prohibits a lawyer from revealing information relating to the representation of a client. This prohibition also applies to disclosures by a lawyer that do not in themselves reveal protected information but could reasonably lead to the discovery of such information by a third person. A lawyer's use of a hypothetical to discuss issues relating to the representation is permissible so long as there is no reasonable likelihood that the listener will be able to ascertain the identity of the client or the situation involved.

(5) A lawyer has duties of disclosure to a tribunal under Rule 3.3(a) that may entail disclosure of information relating to the representation. Rule 1.6(b) recognizes the paramount nature of this obligation.

Authorized Disclosure

(6) Except to the extent that the client's instructions or special circumstances limit that authority, a lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation. In some situations, for example, a lawyer may be impliedly authorized to admit a fact that cannot properly be disputed or to make a disclosure that facilitates a satisfactory conclusion to a matter. Lawyers in a firm may, in the course of the firm's practice, disclose to each other information relating to a client of the firm, unless the client has instructed that particular information be confined to specified lawyers.

Disclosure Adverse to Client

(7) Although the public interest is usually best served by a strict rule requiring lawyers to preserve the confidentiality of information relating to the representation of their clients, the confidentiality rule is subject to limited exceptions. In becoming privy to information about a client, a lawyer may foresee that the client intends or learn that the client has caused serious harm to another person. However, to the extent that a lawyer is required or permitted to disclose a client's purposes or conduct, the client may be inhibited from revealing facts that would enable the lawyer effectively to represent the client. Generally, the public interest is better served if full disclosure by clients to their lawyers is encouraged rather than inhibited. With limited exceptions, information relating to the representation must be kept confidential by a lawyer, as stated in paragraph (a).

(8) Where human life is threatened, the client is or has been engaged in criminal or fraudulent conduct, or the integrity of the lawyer's own conduct is involved, the principle of confidentiality may have to yield, depending on the lawyer's knowledge about and relationship to the conduct in question.

(9) Several situations must be distinguished:

(10) First, a lawyer may foresee certain death or serious bodily harm to another person. Paragraph (c)(1) recognizes the overriding value of life and physical integrity and permits disclosure reasonably necessary to prevent reasonably certain death or substantial bodily harm. Such harm is reasonably certain to occur if it will be suffered imminently or there is a present and substantial threat that a person will suffer such harm at a later date if the lawyer fails to take action necessary to eliminate the threat. Thus, a lawyer who knows that a client has accidentally discharged toxic waste into a town's water supply may reveal this information to the authorities if there is a present and substantial risk that a person who drinks the water will contract a life-threatening or debilitating disease and that the lawyer's disclosure is necessary to eliminate the threat or reduce the number of victims.

(11) Second, paragraph (c)(2) is a limited exception to the rule of confidentiality that permits the lawyer to reveal information to the extent necessary to enable affected persons or appropriate authorities to prevent the client from committing a crime that is reasonably certain to result in substantial injury to the financial or property interests of another. Disclosure is permitted under paragraph (c)(2) only where the lawyer reasonably believes that such threatened action is a crime; the lawyer may not substitute his or her own sense of wrongdoing for that of society at large as reflected in the applicable criminal laws. The client can, of course, prevent such disclosure by refraining from the wrongful conduct.

(12) Third, a lawyer may not counsel or assist a client in conduct that is criminal or fraudulent. See Rule 1.2(d). To avoid assisting a client's criminal or fraudulent conduct, the lawyer may have to reveal information relating to the representation. Rule 1.6(c)[(2)](3) permits doing so.

(13) Fourth, a lawyer may have been innocently involved in past conduct by a client that was criminal or fraudulent. In such a situation, the lawyer did not violate Rule 1.2(d). However, if the lawyer's services were made an instrument of the client's crime or fraud, the lawyer has a legitimate and overriding interest in being able to rectify the consequences of such conduct. Rule 1.6(c)(3) gives the lawyer professional discretion to reveal information relating to the representation to the extent necessary to accomplish rectification.

(14) Fifth, where a legal claim or disciplinary charge alleges complicity of the lawyer in a client's conduct or other misconduct of the lawyer involving representation of the client, the lawyer may respond to the extent the lawyer reasonably believes necessary to establish a defense. The same is true with respect to a claim involving the conduct or representation of a former client. Such a charge can arise in a civil, criminal, disciplinary or other proceeding and can be based on a wrong allegedly committed by the lawyer against the client or on a wrong alleged by a third person; for example, a person claiming to have been defrauded by the lawyer and client acting together. If the lawyer is charged with wrongdoing in which the client's conduct is implicated, the rule of confidentiality should not prevent the lawyer from defending against the charge. The lawyer's right to respond arises when an assertion of such complicity has been made. Paragraph (c)(4) does not require the lawyer to await the commencement of an action or proceeding that charges such complicity, so that the defense may be established by responding directly to a third party who has made such an assertion. The right to defend also applies, of course, where a proceeding has been commenced.

(15) Sixth, a lawyer entitled to a fee is permitted by paragraph (c)(4) to prove the services rendered in an action to collect it. This aspect of the Rule expresses the principle that the beneficiary of a fiduciary relationship may not exploit it to the detriment of the fiduciary.

(16) Seventh, a lawyer's confidentiality obligations do not preclude a lawyer from securing confidential legal advice about the lawyer's personal responsibility to comply with these Rules. In most situations, disclosing information to secure such advice will be impliedly authorized for the lawyer to carry out the representation. Even when the disclosure is not impliedly authorized, paragraph (c)(5) permits such disclosure because of the importance of a lawyer's compliance with the Rules of Professional Conduct.

(17) Eighth, it is recognized that the due diligence associated with the sale of a law practice authorized under Rule 1.17 may necessitate the limited disclosure of certain otherwise confidential information. Paragraph (c)(6) permits such disclosure. However, as stated above, the lawyer must make every effort practicable to avoid unnecessary disclosure of information relating to a representation, to limit disclosure to those having a need to know it, and to obtain appropriate arrangements minimizing the risk of disclosure.

(18) Other law may require that a lawyer disclose information about a client. Whether such a law supersedes Rule 1.6 is a question of law beyond the scope of these Rules. When disclosure of information relating to the representation appears to be required by other law, the lawyer must discuss the matter with the client to the extent required by Rule 1.4.

(19) A lawyer may be ordered to reveal information relating to the representation of a client by a court or by another tribunal or governmental entity claiming authority pursuant to other law to compel the disclosure. Absent informed consent of the client to do otherwise, the lawyer should assert on behalf of the client all nonfrivolous claims that the order is not authorized by other law or that the information sought is protected against disclosure by the attorney-client privilege or other applicable law. In the event of an adverse ruling, the lawyer must consult with the client about the possibility of appeal to the extent required by Rule 1.4.

(20) Paragraph (c) permits disclosure only to the extent the lawyer reasonably believes the disclosure is necessary to accomplish one of the purposes specified. Where practicable, the lawyer should first seek to persuade the client to take suitable action to obviate the need for disclosure. In any case, a disclosure adverse to the client's interest should be no greater than the lawyer reasonably believes necessary to accomplish the purpose. If the disclosure will be made in connection with a judicial proceeding, the disclosure should be made in a manner that limits access to the information to the tribunal or

other persons having a need to know it and appropriate protective orders or other arrangements should be sought by the lawyer to the fullest extent practicable.

(21) Paragraph (c) permits but does not require the disclosure of information relating to a client's representation to accomplish the purposes specified in paragraphs (c)(1) through (c)(6). In exercising the discretion conferred by this Rule, the lawyer may consider such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the lawyer's own involvement in the transaction and factors that may extenuate the conduct in question. A lawyer's decision not to disclose as permitted by paragraph (c) does not violate this Rule. Disclosure may be required, however, by other Rules. Some Rules require disclosure only if such disclosure would be permitted by paragraph (c). See Rules 1.2(d), 4.1(b), 8.1 and 8.3. Rule 3.3, on the other hand, requires disclosure in some circumstances regardless of whether such disclosure is permitted by this Rule. See Rule 3.3(c).

Withdrawal

(22) If the lawyer's services will be used by the client in materially furthering a course of criminal or fraudulent conduct, the lawyer must withdraw, as stated in Rule 1.16(a)(1). After withdrawal the lawyer is required to refrain from making disclosure of the client's confidences, except as otherwise provided in Rule 1.6. Neither this Rule nor Rule 1.8(b) nor Rule 1.16(d) prevents the lawyer from giving notice of the fact of withdrawal, and the lawyer may also withdraw or disaffirm any opinion, document, affirmation, or the like. Where the client is an organization, the lawyer may be in doubt whether contemplated conduct will actually be carried out by the organization. Where necessary to guide conduct in connection with this Rule, the lawyer may make inquiry within the organization as indicated in Rule 1.13(b).

Acting Competently to Preserve Confidentiality

(23) A lawyer must act competently to safeguard information relating to the representation of a client against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1 and 5.3.

(24) When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule.

Former Client

(25) The duty of confidentiality continues after the client-lawyer relationship has terminated. See Rule 1.9(c)(2). See Rule 1.9(c)(1) for the prohibition against using such information to the disadvantage of the former client.

Lobbyists

(26) A lawyer who acts as a lobbyist on behalf of a client may disclose information relating to the representation in order to comply with any legal obligation imposed on the lawyer-lobbyist by the Legislature, the Executive Branch or an agency of the Commonwealth, or a local government unit which are consistent with the Rules of Professional Conduct. Such disclosure is explicitly authorized to carry out the representation. The Disciplinary Board of the Supreme Court shall retain jurisdiction over any violation of this Rule.

Source: This Rule 1.6 amended May 17, 2012, effective in 30 days, 42 Pa.B. 3127. Immediately preceding text appears at serial pages (316369) to (316370) and (309403) to (309406).

DUQUESNE UNIVERSITY SCHOOL OF LAW
Student Performance Agreement

As a Duquesne University School of Law extern, I agree to:

1. Be familiar with, and comply with, all Duquesne University School of Law Clinical Programs policies and procedures as set forth in the document provided to me entitled *Duquesne University School of Law Externship Handbook* as well as with any other requirements or policies contained in the Law School Academic Bulletin.

2. Be fully aware of my professional and ethical obligations at all times in my workplace. I agree to adhere to the Confidentiality Policy of the Clinical Programs, as well as to familiarize myself with, and adhere to, the confidentiality policy of my workplace. The Confidentiality Policy of the Clinical Programs is as follows:

“Externs shall not reveal information designated as confidential by their supervisor. Externs shall not reveal information relating to the representation of a client, disclose the identity of a client or reveal information leading to the disclosure or identity of a case or client without the express advance authorization of their supervisor. Externs shall redact all written work submitted to the Clinical Programs office to preserve confidentiality.”

3. I agree that my externship with _____ will begin _____ and end _____. I will not alter these dates without obtaining the express consent of my supervisor and Professor Grace W. Orsatti, Externship Director. I agree to work _____ hours per week. I agree not to discontinue my externship for any reason without first obtaining the permission of the Clinical Programs office.

4. I understand that it is solely my responsibility to submit all documents on time that are required to complete this externship course. It is solely my responsibility to verify with the Clinical Administrator that I have completed all course requirements on or before the last due date for the semester or summer session.

5. I understand that I will not receive credit for my externship unless and until this document is signed by me and my supervisor and I comply with the other requirements of the Clinical Programs office.

I have read this *Student Performance Agreement* and understand and agree to comply with it. I understand that my signature reflects my agreement with the terms herein. I also acknowledge receipt of and understand and agree to comply with the document entitled *Duquesne University School of Law Externship Handbook*.

Signature of Supervisor (Primary)

Signature of Student

Printed Name

Printed Name

Date: _____

Additional Supervisors:

SECTION IV: TYPICAL FIELD PLACEMENT ISSUES

According to the American Bar Association standards regulating law school field placements and academic standards, there are several objectives and standards of supervision that must be met to maintain the quality and academic integrity of externship programs. Such standards are specifically addressed in the A.B.A. Standard 304 and the Duquesne University School of Law Standards for Supervision of Externship Students each of which is included in Sections VII, IX, and XI of this manual. Below are several areas Duquesne University has identified as typical issues that occur most frequently in field placements which impede effective and successful extern performance.

1. Lack of constructive feedback on work product

While we recognize the importance of students completing assignments independently, and learning from doing, it has been our experience that many supervisors do not spend the necessary time providing constructive criticism on work assignments. It is imperative to the learning process to provide students with feedback on an ongoing basis. Only when a student understands the drafting or strategic errors made on a project do they receive the most value from the assignment. Please refer to Section II in which suggested methods of offering constructive feedback are discussed at length.

2. Lack of communication regarding project expectations

Often, externship students express frustration with the level of explanation offered when given a project. Students participating in the externship program typically have a certain allotted time they are able to spend at the placement each week and not having a clear understanding of what is expected of them on a specific project typically results in lost time and an inferior work product. This can be avoided when supervisors take the time at the beginning of an assignment to give a clear understanding of the circumstances leading up to the assignment and the proposed end result. It is also extremely helpful to offer starting point suggestions. Please refer to Section II of this manual which addresses Duquesne University's recommendation for the most effective way to give assignments.

3. Lack of meaningful supervision

Below are several issues with field placement supervision which constitute lack of meaningful supervision:

(a) Too many students under the supervision of one placement supervisor.

An externship is most successful when each supervising attorney is responsible for no more than three or four students. On more than one occasion a placement supervisor has had primary responsibility for five or more students during a semester. To provide constructive feedback, meet regularly with students individually (a topic to be discussed below) and monitor student progress in the placement, placement supervisors should limit the number of students they are directly supervising. This allows more time and flexibility for the supervisor as well as gives the student a more personal and valuable learning experience.

(b) Lack of regular meetings with students.

Some supervisors do not schedule weekly meetings with the students. An obvious component to providing the most meaningful supervision and feedback is actually scheduling the time to go over the progress of each student individually. Such meetings should take place at a minimum of once a week and should cover both substantive work and professional development when applicable.

(c) Not providing enough work

Externship coordinators receive complaints from students that they are not given a sufficient amount of work throughout the semester. Some students have to create their own work or wait idly for something substantive to do. Although externship coordinators encourage students to be proactive and assertive in seeking work assignments, it is an extremely important part of supervising students to make certain that at all times they have meaningful work. Law schools can only award academic credit and evaluate each student based on the work they actually perform.

d) Assigning non-substantive/administrative/personal tasks.

Students are sometimes given administrative or even personal tasks to perform. The supervising attorney has the responsibility to maintain the academic credibility of the externship program by assigning substantive legal work. Understandably, as with most organizations, team efforts to meet deadlines or prepare for trial are often required; during such times, attorneys and other professional staff may perform tasks that are not standard for their position. However, it is difficult for schools to assert the value of an externship when students report they are spending entire days photocopying documents or organizing a filing system for current cases. Time spent performing administrative tasks should be minimized by the supervising attorney and personal errands or tasks should never be assigned.

(e) Hours required may be excessive in relation to externship expectations

Many supervisors assign students far more work than can actually be performed in the amount of time the student and the school has allotted for the externship. As we all remember, the demands of a law student are many. Each student will typically schedule their classes based on the time they know they will spend at an externship. It is extremely difficult and frustrating to students when they have to put aside other school work in order to balance the demands of the externship. While students understand that life as a lawyer demands a constant struggle to balance priorities, often they will make time to work for the externship to the detriment of other course work. To this end, placement supervisors should consider law students' external demands when asking them to work hours in excess of the weekly time allotted for the placement.

(f) Lack of communication with law school contact.

Finally, placement supervisors often wait too late to involve the law school externship coordinator when problems arise. Keeping open lines of communication is essential to successful placements. When any sort of conflict arises, whether it is related to the quality of work, work habits, or general attitude toward the supervisor and/or the work, it is imperative to contact the school immediately to identify the problem and discuss potential remedies before the conclusion of the program. As our goal is to ensure the most mutually beneficial relationship between both parties, we can typically offer assistance in resolving the issue or deal with the problem completely from our end. When, in a final evaluation of the student's work, we discover a student has not performed up to standard, we are faced with the difficult dilemma of failing them or substantially reducing the amount of credit they receive. If we were able to intervene early enough we may prevent this unfortunate circumstance and remedy the problem behavior, or, if most appropriate, terminate the placement.

In conclusion, while most of our placements are excellent and provide a wonderful practical training ground for our students, placement supervisors can improve dramatically the overall effectiveness of the program by remembering the above-mentioned pitfalls. Each supervising attorney should spend time carefully reviewing what an effective placement supervisor is and remember to use the law school externship coordinator as a resource whenever any problem arises. Each Tribone Center for Clinical Education staff and faculty member is available by phone or e-mail and contact information is provided on the second page of this manual. Please do not hesitate to discuss issues with us as they arise to keep a potentially difficult situation from spiraling into an uncontrollable problem that frustrates the learning process and the benefit of externships for all parties.

SECTION V: THE WORKPLACE ENVIRONMENT FOR STUDENT EXTERNS

The workplace environment is extremely important to the successful externship experience. Students who feel comfortable and welcome are far more productive. While it may not always be possible to provide separate workspace for each extern, Duquesne University recommends, at a minimum, that students be provided with:

- A desk or other secure workspace that is their own;
- A phone or easy access to a phone;
- A desktop computer, or sufficient access to one to facilitate prompt assignment completion;
- Sufficient office supplies to accomplish assigned tasks;
- Access to adequate legal research materials to accomplish assigned tasks;
- Access to support staff, if necessary to accomplish a task;
- Office keys or restroom keys, if necessary;
- Copier and fax access, if necessary to accomplish a task;
- Clear instructions regarding parking or reimbursement for parking expenses;
- Written office procedures and policies.

Along with the physical set up of the office, it is important to include the student in the office culture. The more the student is treated as part of the team, the better the experience will be for the student and most likely, performance will be positively influenced. As a minimum, consider some of the following:

- Students be invited to meetings, if they are relevant to the work or may enhance understanding of the project or task;
- Students be included in investigation or research out of the office, if appropriate or may enhance the understanding of the task or project;
- Office memoranda be circulated to students, if appropriate;
- Students be included in the informal matters of the workplace, such as celebrations or group luncheons;
- Students have been formally introduced to all staff they are likely to encounter during the workday;
- Students understand and receive instructions as to any workplace limitations, such as areas that may be off-limits or files or materials that may be sensitive or confidential.

Finally, it is critically important to communicate clearly and frequently with externs. Open communication can prevent misunderstandings, clarify office relationships and ensure that your extern is a functioning member of your work environment and the mission of your team.

SECTION VI: Statement of Nondiscrimination

Motivated by its Catholic identity, Duquesne University values equality of opportunity, human dignity, and racial, cultural and ethnic diversity, both as an educational institution and as an employer. Accordingly, the University prohibits and does not engage in discrimination or harassment on the basis of race, color, religion, national origin, gender, sexual orientation, age, disability, status as a veteran and any other legally protected classes. Further, Duquesne University will continue to take affirmative steps to support and advance these values consistent with the University's mission statement. This policy applies to all educational programs and activities of the University, including, but not limited to, employment practices, admission, educational policies, scholarship and loan programs, and athletic or other University-sponsored programs. This is a commitment by the University in accordance with its religious values and applicable federal, state and local laws and regulations including Title IX of the Education Amendment Acts of 1972. Nothing herein, however, should be interpreted as a waiver by the University of its own Constitutional and legal rights based upon its religious affiliation.

**SECTION VII: DUQUESNE UNIVERSITY STANDARDS FOR SUPERVISION OF EXTERNSHIP STUDENTS
DUQUESNE UNIVERSITY**

Clinical Legal Education Center Externship Program

STANDARDS FOR SUPERVISION OF EXTERNSHIP STUDENTS

Introduction

The American Bar Association Standard 304 relating to law school field placement programs has been interpreted to require that any law school permitting students to participate in activities or studies away from the law school develop and publish a statement defining the education objectives of externship programs. Duquesne University School of Law has adopted this handbook of field placement educational objectives and supervision standards for the assistance of all supervising attorneys and students who participate in field programs. The Duquesne University-endorsed educational objectives of externship placements are:

1. To encourage the further development of student research, writing and drafting skills through work on legal documents such as complaints, answers, trial and appellate briefs, agreements, legal memoranda, motions, and opinion letters;
2. To expose students to lawyering skills through participation in activities such as interviewing, counseling, negotiation, oral advocacy, investigation, and the formulation of case strategy;
3. To develop students' oral advocacy skills through participation in, or observations of court, discovery and administrative proceedings;
4. To give students practical legal experience, and to enhance their understanding of the application of the principles learned in law school to legal problems;
5. To give students the opportunity to participate in, and reflect upon, the work of legal institutions;
6. To expose students to issues of professional responsibility within the context of legal practice;
7. To encourage students to explore and consider different roles for lawyers, and to expose them to the range of career opportunities available in the law;
8. To permit students to gain practical experience in specialized areas of the law through experience that will supplement their course work within the law school; and
9. To instill fundamental values of the legal profession, including competent representation, the promotion of justice, fairness and morality, and the commitment to an on-going process of professional self-development and growth.

**THE ROLE OF THE SUPERVISING ATTORNEY IN ACHIEVING
EXTERNSHIP OBJECTIVES**

In an externship program, the ability of the student to achieve the goals stated above depends in large measure on the quality of the student's relationship to his or her supervising attorney and the supervisory methods employed by the supervisor. The success of field placement programs depends on the willingness and ability of the supervising attorneys to serve as available role models and teachers. A good attorney's skills are not necessarily those of a good supervisor. Good supervision requires certain skills, techniques and attitudes that can be learned and applied effectively.

Under Rule 322 of the Pennsylvania Bar Admission Rules, a supervising attorney must be approved in writing by the dean of the law school in which the legal intern is or was enrolled. The supervising attorney is required to assist the legal

intern in his or her preparation to the extent the supervising attorney considers necessary and he or she assumes personal professional responsibility for the guidance of the legal intern in any work undertaken and for supervising the quality of the work of the legal intern.

An essential component of effective supervision is a reasonable supervisor-to-student ratio. While there is no limitation on the number of law students an attorney may supervise, the Pennsylvania Bar Admission Rules, and no required licensing period when supervising law students, Duquesne University law school recommends that a one-to-four ratio is appropriate for adequate supervision in part-time field placements, and recommends that supervising attorneys have at least two years of practical experience. For full-time externships, Duquesne University law school recommends a one-to-one ratio between students and field supervisors.

Duquesne University law school periodically provides specific, in-person training for field supervisors and provides, periodically, a comprehensive field supervision manual. At all times, DUQUESNE UNIVERSITY law school suggests that quality supervision involves conscious application of several principles discussed below.

1. Providing a variety of well-defined tasks that encourage the learning of a range of skills.

For a student to function effectively, the supervisor must clearly explain what the assigned task involves and should put the specific task into the context of the entire case or issue on which the supervisor is working. Although narrow research projects may help the supervisor and be appropriate student projects, their true benefit to the student as a learning process comes from an explanation of how the particular issues arising in the small project fit into the context of and affect the whole case. Many students arrive at a placement with no academic or practical experience in the kind of law that is practiced there. Therefore, it is incumbent upon the supervisor to explain carefully the scope of the project, the work necessary to complete it, and a time estimate of how long the supervisor expects the student to work on the project.

Students should be encouraged to put their research into writing whenever possible. Even if the written form is less expedient, students need experience and practice in synthesizing their research into a coherent written product.

In our experience, the best externship experience offers a variety of assignments, in addition to the traditional tasks of legal research and drafting legal memoranda. The experiences should also include observation of courts, judges and lawyers, meetings, conferences, negotiations and telephone communications, as well as a discussion of the supervisor's interactions when completed. Whenever possible, students should be allowed to directly experience doing what they have observed others performing.

2. Providing students with insight into the workings of the legal system and profession.

One of the most important benefits of an externship program is that students can immerse themselves into a particular office and aspect of the legal system. In order to achieve this, the student should be exposed to a variety of situations and the supervising attorney should take the time to discuss what is observed. In some externships, students spend large amounts of time in relative isolation in the library. These students will not have a significantly better idea of the functioning of the legal system as a result of this experience, and DUQUESNE UNIVERSITY law school disfavors this type of placement. Even a student engaged in substantial research should be involved in the analysis of that research and its application. It is important, therefore, to explain the context in which an assignment arises and, whenever possible, to allow the student to see the application of his or her work product.

3. Developing professional responsibility skills through observation and application in the workplace.

Professional responsibility is a required course in the law school curriculum. The externship can supplement classroom learning by providing opportunities to see or be involved with actual professional responsibility decisions confronting practicing attorneys daily in court, with clients, with jurors and in conflict situations. All of these situations can generate professional responsibility questions and explanations. The externship is an excellent opportunity to learn about obligations to the client or the court, to explore the limits of client confidentiality, to learn to meet deadlines, and to learn basic work habits and skills. The supervisor should be both critical and reinforcing when a student has either failed or succeeded in meeting professional responsibility goals. Supervisors should be alert to professional responsibility issues, and raise them with externs as such issues present themselves.

4. Developing the student's ability to learn from experience, including critical professional feedback on performance.

Feedback on written work and other task performance is essential in field placements. Meaningful feedback consists of very specific information. It involves careful observation of student performance or product and tactful honesty in communicating the supervisor's views. A student learns nothing constructive from comments such as "good job" or "you'll do better next time." The supervisor should provide specific examples of what the student said, did, or wrote with a clear and detailed explanation as to why the work was sufficient or inadequate. Good feedback assures that the student fully understands the strengths and weaknesses of his or her performance in order to build upon them in future assignments.

Students need an opportunity to learn self-evaluation skills. This means that some constructive dialogue between the supervisor and between the supervisor and the student should take place to allow the student to recognize where he or she has been making mistakes in performance or legal analysis.

Certain supervisory methods are preferred in student evaluations. Generally, students learn more effectively when supervision is non-directive and student-centered. Rather than telling a student exactly what to do and where to find the answer, a supervisor should take the time and explain the context of an issue and the nature of the task being assigned, to discuss the student's reaction to the problem, to help the student form problem solving strategies, to agree upon a schedule for the project and the form which the student's work should take. Interim meetings should be held to discuss progress and to avoid misdirection, as well as to reassess the nature of the issues in light of the student's work to date.

Duquesne University law school encourages all field supervisors to take the time to openly and candidly discuss their views of the legal system with students. Even the most insightful students will learn much more by hearing directly the opinions of their supervisors about the range of issues concerning law practice and roles of lawyers in the institutions in which they are involved.

**SECTION VIII: DUQUESNE UNIVERSITY SCHOOL OF LAW STANDARDS FOR SUPERVISION
OF JUDICIAL EXTERNSHIP STUDENTS**

**TRIBONE CENTER
For Clinical Legal Education
STANDARDS FOR SUPERVISION OF JUDICIAL EXTERNSHIP STUDENTS**

Introduction

The American Bar Association standard 304 relating to law school field placement programs has been interpreted to require that any law school permitting students to participate in activities or studies away from the law school develop and publish a statement defining the educational objectives of externship programs. Duquesne University has adopted this handbook of educational objectives and supervision standards for the assistance of all supervising judges and students who participate in judicial externships. The Duquesne University educational objectives of judicial externships are:

1. To encourage the further development of student research, writing and drafting skills through work on legal documents such as legal memoranda, bench memoranda, opinion drafting, and motion evaluation;
2. To expose students to the judicial decision making process through participation in the various activities of judicial chambers such as case evaluation, legal research, evaluation of attorney performance, oral advocacy, and case conferences;
3. To develop students' oral advocacy skills through observation of court, discovery and administrative proceedings, and through making informal presentations to the judge in matters upon which the student has worked;
4. To give students practical legal experience, and to enhance their understanding of the application of the principles learned in law school to the resolution of legal problems through the judicial process;
5. To give students the opportunity to participate in, and reflect upon, the work of legal institutions
6. To expose students to issues of professional responsibility within the context of legal practice;
7. To encourage students to explore and consider different roles for lawyers, and to expose them to the range of career opportunities available in the law;
8. To permit students to gain practical experience in specialized areas of the law through experience that will supplement their course work within the law school; and
9. To instill fundamental values of the legal profession, including the provision of competent representation, the promotion of justice, fairness and morality, and the commitment to an on-going process of professional self-development and growth.

**THE ROLE OF THE SUPERVISING JUDGE IN ACHIEVING
EDUCATIONAL OBJECTIVES**

In any externship program, the ability of the student to achieve the goals stated above depends in large measure on the quality of the student's daily relationship with his or her supervising judge, and the supervisory methods employed by the judge. The success of judicial externship programs depends on the willingness and ability of the supervising judges to serve as available role models and teachers.

An essential element of effective supervision is a reasonable supervisor-to-student ratio. In judicial chambers, Duquesne University recommends that judges always perform primary supervision of externs, including work assignments, supervision of work in progress and critiques of student work. Day-to-day details regarding student workflow or time management may be delegated to law clerks. In judicial chambers, Duquesne University recommends that clerks with less

than two years' experience limit indirect supervision to no more than the equivalent of three law students per chambers in any semester or summer session, with direct supervision of externs performed by the chambers judge. Under ABA standards effective in July, 1993, a full-time faculty member of the placement school is required to document a site visit to the chambers of all of all full-time judicial externs. A review of student supervision standards is an essential component of the site visit. Additionally, all regular full-time judicial externship placement sites must be evaluated in writing by a full-time faculty member every three years, and a review of student supervision standards is again an essential component of the evaluation.

GUIDELINES FOR JUDICIAL EXTERNSHIP SUPERVISION

Duquesne University recognizes that by including the judicial externship program in the law school curriculum, we rely heavily on judges to assume responsibility for the legal education of law student externs. Duquesne University has endorsed the following guidelines to help assure the educational value of the externship and to allow the law school to monitor and evaluate the student's progress during the semester:

1. The extern should be provided with an orientation to the court's work and the extern's role in it;
2. The extern should be assigned a progression of challenging, varied, and increasingly complex legal projects associated with on-going work in chambers. Routine and repetitive work should be avoided as much as possible. In most respects, the work assigned to the extern should be the same as that given a law clerk, making due allowance for the extern's relative inexperience at the beginning of the semester;
3. The externs should be encouraged to observe court proceedings including, as appropriate, trials, motion practice, settlement conferences, and appellate arguments, particularly when the extern has worked on a matter before the court;
4. Externs should be provided with detailed critiques of their written work. It is the responsibility of the extern to comply with all chambers' confidentiality concerns;
5. The extern should work directly with the judge in matters such as supervision of work in progress and critique of work product. Such regular direct contact with the judge provides the extern with the unique insights into the judicial process that make a judicial externship a valuable educational experience;
6. To the extent that the extern receives additional supervision by a law clerk or research attorney, the extern should be assigned, if practicable, to the most experienced law clerk or research attorney;
7. Duquesne University law school requires regular written reports of the extern's activities and work hours.

EQUAL EMPLOYMENT OPPORTUNITY POLICY

Duquesne University does not discriminate on the basis of race, color, gender, sexual orientation, age, religion, national origin, marital status, genetic history or disability. However, as an institution operated in affiliation with the Roman Catholic Church in the U.S., Duquesne University reserves the right to specify as a qualification for employment the ability and willingness to support the values of Roman Catholicism as set forth in the University's Mission Statement.

SECTION IX:: EXTERNSHIP FIELD SUPERVISOR'S EVALUATION FORM

**DUQUESNE UNIVERSITY SCHOOL OF LAW
EXTERNSHIP SUPERVISOR'S EVALUATION FORM**

Externship Placement: _____

Field Supervisor(s): _____

Student Extern: _____

2D, 2E, 3D, 3 PTD, 4E, 4PTD (circle one)

LAWYERING SKILLS	Not Applicable	Poor	Fair	Good	Excellent
Legal Knowledge					
Research					
Writing					
Analysis					
Oral Communication					
Interviewing					
Client Counseling					
Investigation					
Negotiation					
Other Skills					
PROFESSIONALISM/ WORK HABITS	Not Applicable	Poor	Fair	Good	Excellent
Client Relations					
Office and Staff Relations					
Professional Ethics					
Initiative					
Judgment					
Thoroughness and Attention to Detail					
Dependability					
Attitude toward Supervision, Criticism					

STRENGTHS: Please describe the extern's contributions to your chambers or office, such as the type of projects completed or areas in which the extern showed particular strength or skill:

NEEDS IMPROVEMENT: For each category in which you rated the extern "Poor" or "Fair", please provide examples or otherwise describe the reason for the rating:

EXTERNSHIP PROGRAM: Do you have any suggestions for improving our externship program in general or ways we might assist you better in the future?

STUDENT FEEDBACK: Although not required we encourage supervisors to review evaluations with students as part of an exit interview. Please check below if you have done so:

_____ I have reviewed this evaluation with the student.

Date: _____

Thank you for participating in the Duquesne University School of Law Externship Program. Please return the completed form to:

S. Beth Licciardello, Office Manager
Duquesne University School of Law
Tribone Center for Clinical Legal Education
600 Forbes Avenue
Pittsburgh, PA 15282
(412) 396-4730
(412) 396-5287 fax
licciardellos@duq.edu

SECTION X: AMERICAN BAR ASSOCIATION STANDARD 304:

FIELD PLACEMENT PROGRAMS

American Bar Association Standards for Approval of Law Schools

Field Placement Programs, Standard 304

American Bar Association-accredited law schools are subject to an accreditation review from time to time. As part of regular accreditation inspections, Accreditation Committees are required to evaluate field placement programs. In particular, Committees are required to evaluate the qualifications, training and performance of field instructors and to determine whether the placements are meeting their stated educational objectives. Additionally, standards require frequent contact with supervisors, visits to field placements, and in some instances, mandatory classroom components. To more fully assist you in understanding the structure of our programs and the requirements imposed on our students, faculty and field supervisors,

Duquesne University includes a copy of ABA Standard 304 in your supervision manual for your convenience.

AMERICAN BAR ASSOCIATION

SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR

Standards for Approval of Law Schools

Compiled and Distributed by
The Office of the Consultant
On Legal Education to the
American Bar Association
550 West North Street Indianapolis, Indiana 46202
(317) 264-8340
Fax: (317) 264-8355
<http://www.abanet.org/legaled>

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

(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).

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).

Standard 303. CURRICULUM

(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:

(3) one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or a field placement. To satisfy this requirement, a course must be primarily experiential in nature and must:

(i) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302⁵;

(ii) develop the concepts underlying the professional skills being taught;

(iii) provide multiple opportunities for performance; and

(iv) provide opportunities for self-evaluation.

⁵ Standard 302. LEARNING OUTCOMES

A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:

(a) Knowledge and understanding of substantive and procedural law;

(b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;

(c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and

(d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

DUQUESNE UNIVERSITY SCHOOL OF LAW
EXTERNSHIP APPLICATION

1. Students must meet with the Externship Director, Prof. Grace Orsatti, before securing an externship placement. Prof. Orsatti will guide you through the externship program. 2. Students should submit a writing sample and resume and in certain cases letters of recommendation to Prof. Orsatti who will then secure the placement. 3. Good academic standing and a minimum cumulative G.P.A. of 2.0 is required. 4. Participation will be at the discretion of the Director. 5. A corresponding seminar is required unless waived.

Registration for: Fall _____ Spring _____ Summer _____ Year: _____ #Credits _____

Name: _____ ID#: _____ 2D/3D/2E/3E/4E/4PTD

Address: _____

City: _____ State: _____ Zip: _____

Home Phone: _____ Message Phone: _____

E-mail Address: _____

Prerequisites/Related Courses Completed (check all that apply):

_____ Bankruptcy	_____ Corporations	_____ Evidence	_____ Mediation
_____ Con. Law	_____ Entertainment	_____ Immigration	_____ Securities Reg.
_____ Copyright	_____ Environmental	_____ Juvenile	_____ Trial Practice

Other related courses: _____

Externship Information: (Complete & Accurate information is required)

Agency: _____

Department/Division/Judge: _____

Address: _____

City: _____ State: _____ Zip: _____

Supervisor: _____ Title: _____

Phone: _____ Fax: _____

E-mail: _____

Start Date: (mm/dd/yy) _____ End Date: (mm/dd/yy) _____

Anticipated Work Days: M _____ T _____ W _____ TH _____ F _____

Student's Signature: _____ **Date:** _____

Your signature indicates you wish to be officially enrolled and that you have read and agree to the rules and regulations in the Academic Bulletin.

ADMINISTRATIVE USE ONLY

G.P.A. Verified _____

Confirmation Offer Rec'vd _____

Confirmation to Supervisor _____

Notes: _____

COURSE _____

CREDITS _____

SEMINAR _____

Sent to Records: _____

Director's Approval: _____

DUQUESNE UNIVERSITY SCHOOL OF LAW

Mid-Semester

Student Extern Performance Evaluation

Student:

Agency:

Supervising Attorney:

Please comment with respect to the factors listed below where appropriate.

Quantity – Amount of work performed; completion of work on schedule.

Quality – Accuracy; neatness; thoroughness; amount of revision necessary.

Work Habits – Punctuality; attendance; observance of rules and regulations.

Personal Relations – Getting along with fellow employees; meeting and handling the public; grooming.

Adaptability – Performance in new situations or with minimum instructions; initiative (e.g., suggestions, constructive criticism.)

Progress – Speed and thoroughness of learning; efforts at self-improvement.

Ability to Write Effectively

Interviewing Ability (if applicable)

Comments and Goals

Field Supervisor's Signature

Position

Date

Student's Signature

Date