



ST. JOHN'S
UNIVERSITY

SCHOOL OF LAW

EXTERNSHIP PROGRAM HANDBOOK

For Mentor-Attorneys and Students

St. John's University School of Law
Externship Program

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Purpose and Scope

The purpose of this Handbook is to provide Mentor-Attorneys and student externs with information about the St. John's University School of Law Externship Program. The Handbook provides guidance on the lawyering experience, supervision, feedback, and opportunities for reflection required by the Program, as well as the roles of the Mentor-Attorneys and Externship Program faculty and administrators in assuring the educational quality of the experience for student participants.

Introduction

The St. John's University School of Law Externship Program grants academic credit to students who work in legal organizations/law offices and judicial chambers under the supervision of a licensed Mentor-Attorney (sometimes referred to as field-supervisors) while participating in a designated externship seminar at the Law School. The Externship Program is part of the Career Development Office and endeavors to establish placements in a wide variety of legal settings to meet the diverse interests and capabilities of our students.

St. John's Externship Program is governed by the ABA Standards and Rules of Procedure for Approval of Law Schools, particularly Standard 304 (c), (d) and (e), Standard 303 (a) (3) and Standard 302. Copies of the relevant ABA Standards can be found in the supplemental materials section of this Handbook.

Externship students receive a total of 4 credits during the fall and spring semesters (2 pass/fail placement credits and 2 letter-graded seminar credits) and 3 credits during the summer session (2 pass/fail placement credits and 1 letter-graded seminar credit) for the successful completion of the course requirements.

The seminar class is devoted to reflection on the students' placement experiences as well as development of skills in writing, oral communication, case analysis, and investigative analysis. Seminar assignments typically include weekly written assignments, accurately maintained time sheets, and active participation in simulations and other experiential learning exercises, such as independent and collaborative presentations and classroom discussions.

Generally, students work at their placements for 140 hours during the fall/spring semester (168 hours during the summer session) on a previously established schedule of 12 - 15 hours per week (24 - 30 hours per week in the summer session). Students may, however, with the permission of their Mentor-Attorney, maintain some flexibility in their weekly externship schedule to accommodate such things as an intensive school-related project.

Mentor-Attorneys form the heart of this program. Each Mentor-Attorney who integrates a student into the work of his or her law office/legal organization/judicial chambers provides an unparalleled opportunity for the student to reflect on the practice of law and provides invaluable guidance to the student's personal and professional development as an attorney. Mentor-Attorneys serve as quality guides and role models to students.

Complementing the work of the Mentor-Attorneys at the field placements are the faculty members who teach the instructional component of the Externship Program. Each externship professor is a former or current practicing attorney and guides students through the active learning process while infusing professional development skills into their classes. In addition to teaching students lawyering skills, externship professors provide their students with ongoing, contemporaneous, faculty-guided reflection.

Externships provide an opportunity for students to observe and participate in "real lawyering." Experiential learning helps students to gain perspective on entering the profession by getting a sense of the kind of lawyer they wish (or wish not) to become.

FREQUENTLY ASKED QUESTIONS

EDUCATIONAL OBJECTIVES

What are the educational objectives of St. John's Externship Program?

The goal of the field placement component of the Externship Program is to provide students with a substantial lawyering experience that is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a setting outside of the law school, under the supervision of a licensed Mentor-Attorney.

The goal of the instructional component of the Externship Program is to complement the field placement experience by exposing students to practical lawyering skills through exercises in, among other things, interviewing and counseling, fact investigation and evaluation, letter and email writing, and negotiation.

Through both facets of the Program, students will have the opportunity to perform, receive feedback, and engage in self-reflection.

A further goal of the Externship Program is to help students understand the attorney-client relationship, the attorney's role, ethics, confidentiality, professionalism and the workplace environment.

How are the educational objectives achieved?

The educational objectives are achieved during the field placement when students have the opportunity, under close supervision, to engage in and receive feedback on a variety of lawyering activities that expose them to substantive and procedural law and allow them to develop practical and professional legal skills. The objectives are further fulfilled through students' successful class participation, self-reflection and completion of assignments during the instructional component of the Externship Program. The Program objectives are also achieved when the training students receive during their field placement and seminar class teach them to exercise proper professional and ethical responsibility in the legal field.

THE PLACEMENT/MENTOR-ATTORNEY APPLICATION AND APPROVAL PROCESS

What is the Placement/Mentor-Attorney Application and Approval process?

To ensure the educational quality of the externship experience for students, the Career Development Office conducts a Mentor-Attorney and placement approval process before a student may receive credit for a particular externship placement.

How does a legal organization/law office/judicial chambers apply to become an approved placement?

All law offices or legal organizations (other than judicial chambers) that are interested in becoming approved placements in the St. John's Law School Externship Program are asked to complete the Externship Program Application form. Contact the Career Development Office at 718-990-6614 or externships@stjohns.edu to request an Application. Upon receipt of the

completed Application, the packet will be reviewed, a call or meeting will be scheduled to discuss the placement in detail, and a decision will be made and communicated. Judicial chambers are automatically approved as externship placements and do not require an application process.

How does one apply to become an approved Mentor-Attorney?

The St. John's Externship Program uses a joint application process for the approval of placements and Mentor-Attorneys. Mentor-Attorneys receive the Application along with the Externship Program Handbook, which explain the Externship Program and the supervisory expectations for Mentor-Attorneys. Mentor-Attorneys are asked to submit an updated resume and the completed Application, acknowledging that they have read the Application and the Externship Program Handbook and that they agree to uphold the expectations set out therein. In the Application, the prospective Mentor-Attorney must provide a detailed description of the legal tasks with which the extern may become involved. The anticipated learning experience will be discussed further during the scheduled meeting or call between the Mentor-Attorney and the Career Development Office.

What happens once a law office/legal organization has been approved and an attorney has been approved as a Mentor-Attorney?

Once a placement and Mentor-Attorney have been approved, they will be added to the "approved" list that students review when applying for externships. Students who are interested in applying for an externship will then submit the required materials to the Career Development Office (or they may apply directly through the employer's website if the employer so designates). Once the externship application period is over, the Career Development Office will send the resumes to the contact person at the approved placement. Once the employer has selected a student to extern in his/her office, we ask that the employer notify the student directly as well as the Career Development Office of its selection via email so that the student can be timely registered for the seminar and placement portions of the externship.

When can an employer expect to receive resumes from prospective students?

Students can enroll in the Externship Program in the Fall, Spring and Summer semesters. Resumes are generally sent out to approved placements in July for the Fall semester, October for the Spring semester and March for the Summer semester. If the application materials are required prior to those dates, arrangements can be made. Please notify our Office if additional application materials are required (i.e., cover letter, writing sample or transcript).

Once a placement is approved, is it guaranteed to receive resumes from prospective externs each semester?

Not necessarily. Since our students select the placements to which they wish to apply, we cannot guarantee that there will be students every semester looking for the experiences available at each legal organization/law office/judicial chambers. However, the Externship Program has 100+ students participating in externships each year, so many placements do receive resumes on a regular basis.

After an employer receives the externship resumes, what should it do?

After an employer receives the resumes, it should decide how to proceed in selecting the students it wishes to extern in its office. It is up to the employer to contact the students directly to arrange for an interview or to offer a position. Most placements opt to interview students prior to extending an offer. Once a student has accepted an offer, we ask that the employer contact our office via email and inform us of the selection at least two (2) weeks before the student's start date.

Can placements request to receive resumes only from students with specific qualifications?

If a placement makes desired qualifications known, we will note those qualifications in the listing.

What if there is a familial relationship with the student extern?

Students may not receive academic credit if the supervising Mentor-Attorney is a family member. If there is any familial relationship between the extern and someone at the placement organization, the student and/or the Mentor-Attorney must disclose this to the Career Development Office.

Can a placement accept more than one student per semester?

Yes, as long as an office can accommodate multiple students. One or more Mentor-Attorneys must have sufficient time to directly supervise each extern and provide each with a substantial educational and lawyering experience. Additionally, each student extern must have a designated work space.

Are students required to immediately accept an offer from an approved placement?

No, the Externship Program does not require students to immediately accept an offer. Students often interview with more than one placement. We believe that it is important for students to develop the professional skill of evaluating present offers and outstanding possible offers to determine which position they should take or wait for to best satisfy their educational/professional goals. However, an employer may state a deadline by which the student must respond. Once a student accepts an offer, he or she cannot later rescind that acceptance absent extraordinary circumstances.

If a student applies to work at a legal organization, law office, or judicial chambers without going through the Externship Program, can he or she still receive academic credit?

Yes, if the placement is already an approved placement. If the placement is new to the program, then the prospective employer should complete and return an Application for approval so that the student can receive credit for the externship.

FOR-PROFIT PLACEMENTS

Does the St. John's Externship Program allow placements in the for-profit private sector?

Yes. The Wage and Hour Division (WHD) of the U.S. DOL set forth the criteria that must be met for students to participate in unpaid internships with for-profit organizations in U.S.

Department of Labor Wage and Hour Division Fact Sheet #71: Internship Programs Under the Fair Labor Standards Act (a copy may be found in the supplemental materials section of this Handbook).

Are there special requirements for for-profit placements?

Yes. Due to the business nature of for-profit organizations, some special rules apply. For example, there must be assurances that the for-profit placement will not bill clients for services performed by student externs. See Fact Sheet 71 for further guidance. Otherwise, the same general parameters of the St. John's Externship Program that apply for public interest or governmental/judicial externships apply to for-profit placements.

PLACEMENT REQUIREMENTS

Does an extern have to work the full 13 weeks of the semester (7 weeks in the summer session)?

Generally, yes. In the beginning of the semester, externship students, in consultation with their Mentor- Attorneys, will decide on a weekly work schedule. Students may not "front load" their externship hours by, for example, working twenty hours a week for seven weeks to fulfill their externship requirements. With their supervisor's permission, externs are permitted, however, to finish their externship hours by the 12th week to give themselves more time to study for finals.

How often is the extern expected to be at the placement?

To receive credit, the extern is required to complete 140 hours at the placement site in the fall and spring semesters and 168 hours at the placement site in the summer semester. However, the weekly schedule is set between the Mentor-Attorney and the student. Please note, time spent during the placement for lunch or other breaks does not count towards the required placement hours, nor does travel time to and from home.

Can the extern be paid and receive academic credit?

No. All externships through the St. John's School of Law Externship Program are non-paying placements for credit only.

Can the extern receive a stipend and receive academic credit?

Generally not. However, reasonable out-of-pocket expenses (i.e., travel expenses, special meals, event fees for work-related activities) related to the field placement are not precluded. The extern must receive pre-approval from the Career Development Office before accepting such reimbursement.

EXTERN WORK ASSIGNMENTS, SUPERVISION AND FEEDBACK

What is the difference between an externship and an internship or job?

Whereas the primary goal of an internship or job may be to produce, the primary goal of an externship is to learn. The extern's supervisor is not an employer, but a Mentor, and the work assignments given the extern must be designed to teach and to provide opportunities to engage in varied lawyering tasks. Regular, contemporaneous feedback and opportunities for self-reflection are essential features of an externship experience.

What are the responsibilities in supervising the extern?

Approved and licensed Mentor-Attorneys are expected to provide students with a placement opportunity that provides a substantial lawyering experience that is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks. The student's performance at the placement must be directly supervised by the approved, licensed Mentor-Attorney. The Mentor-Attorney should be on-site when the extern is present and must arrange for adequate work and alternate supervision if he or she is going to be absent from the office. Students practicing before court or administrative bodies must always be supervised in conformity with the relevant student practice rules. It is also important that Mentor-Attorneys guide student externs on their professional and ethical obligations as part of the legal profession. To ensure that all is going well on all fronts, during the course of the semester, the Career Development Office will check-in with the Mentor-Attorney by email and/or by phone, and, from time to time, may conduct site visits.

Can other attorneys in the office work with the extern?

The student extern may work with other attorneys in the office, but the approved Mentor-Attorney must coordinate and manage the work and supervision of the extern.

How does a Mentor-Attorney get started?

Mentor-Attorneys should meet with the student at the beginning of the placement to ascertain the student's goals, set forth expectations and come up with a plan for experiences, observations and activities. The final form of the plan will be contained in the student's Goals Memorandum assignment which is turned in to and approved by the Seminar Professor. On the first day, the Mentor-Attorney should provide an overview of the work of the office, introduce the extern to staff members and should set the extern up at their designated work space. The extern should be made aware of all relevant office policies and procedures.

What type of assignments can externs be given?

Students choose placements based upon their interest in a substantive area of law or a professed desire to learn or sharpen a particular lawyering skill. Some placements provide students with actual litigation or negotiation experience while others concentrate on case management and policy concerns, while still others prepare students for lawyering tasks in a specific area of law. After ascertaining the extern's goals and interests, assignments should be structured to help advance those goals and interests while helping students to develop their knowledge and understanding of substantive and procedural law, their competency in varied professional skills, and their ethical responsibilities. Externs should be given varied assignments

so they have the opportunity to learn about different aspects of the organization's practice. Assignments should allow for legal analysis and reasoning, legal research, and problem-solving, as well as written and oral communications in the legal field. Students should also be taught how their assignment fits into the big picture of the practice.

What type of parameters should the extern be given regarding assignments?

Mentor-Attorneys should be as clear as possible when assigning projects to an extern. They should provide details on the content, format and delivery method expected, as well as the deadline and scheduled check-in points. Additionally, as the extern's direct supervisor, the Mentor-Attorney should regularly touch base with the extern and be available for questions.

Can the extern have assignments that require him/her to leave the office?

Yes. Students should be given varied and ample opportunities for learning and should engage as much as possible in the everyday workings of a law office/organization/chambers, including escorting Mentor-Attorneys to conferences, depositions, jails, courthouses, and/or bar associations that will provide an opportunity to observe lawyering skills and meet other legal practitioners in a professional context.

What type of feedback should I give the extern?

Providing regular, ongoing and contemporaneous feedback is one of the Mentor-Attorney's most important responsibilities. Depending on how much time is spent with the extern on a regular basis, the Mentor-Attorney should determine if regular formal meetings are needed in addition to daily interactions. At a minimum, the Mentor-Attorney agrees to meet with the student at least once a week to discuss assignments and provide feedback. Mentor-Attorneys should meet more formally with the student at the midpoint and end of each academic semester to evaluate the student's performance. Evaluation forms will be provided electronically toward the end of the semester which must be completed and returned to the Career Development Office. While it is not necessary to review the evaluation with the extern, doing so can be very helpful for externs to understand their strengths and development areas. With respect to assignments, Mentor-Attorneys should provide constructive feedback and, if possible, give the extern the opportunity to produce another draft, incorporating any suggestions. Additionally, when reviewing the extern's work, the extern should be given the opportunity to reflect on his or her work and what might be done differently next time. Externs are required to keep timesheets with detailed descriptions of their work, which must be signed by Mentor-Attorneys. It is helpful to review timesheets together with the extern to help with time management skills. Whenever possible, externs should be made to recognize how professional judgment and ethical behavior fit into daily law practice.

Can students use their LexisNexis or Westlaw accounts to work on externship projects?

Generally, yes. Lexis allows students to use their LexisNexis legal education ID for academic purposes, and defines "academic purposes" to include an unpaid internship, externship or clinic for school credit or graduation requirement (<http://www.lexisnexis.com/en-us/terms/educational.page>). Westlaw allows students to use their Westlaw ID for purposes directly related to law school coursework, including unpaid internships or externships that are

part of graduation requirements

(<https://lscontent.westlaw.com/images/content/2012ClickwrapAll.pdf>). Students should contact their law school representatives with questions and to determine if there are any limitations. For instance, students must request an extension from Westlaw for summer access.

Can placements bill for the time externship students spend on a project?

No. Employers may not bill for work done by externs.

Can Mentor-Attorneys ask an extern to stay after his/her set hours to complete a project?

Students are encouraged to build some flexibility into their schedules so that they can take advantage of unplanned opportunities which may arise at their externship. Mentor-Attorneys can discuss any such extensions with the extern and make the necessary arrangements.

Can externs be given assignments over the phone or by email and complete the work outside the placement hours/office?

If the extern is working on a project, the Mentor-Attorney is free to discuss completion of the project outside of the regular placement hours assuming the student's time allows for it. However, this should be done sparingly as remote work is not permitted as a general rule.

How do Mentor-Attorneys know externs are keeping information confidential?

The externship students' understanding of and exposure to issues of confidentiality is taken very seriously by the St. John's Law School Externship Program. Externs are required, at the beginning of the semester, to sign the "Oath of Confidentiality" memorandum (a copy may be found in the supplemental materials section of this Handbook).

What types of records must be maintained?

Mentor-Attorneys should maintain copies of all assignments, any written critiques, copies of written work, and copies of time records, if any. At the student's request, Mentor-Attorneys should provide an Affidavit of Law Related Employment necessary for the student's bar application. Additionally, Mentor-Attorneys should provide any requested paperwork necessary to document a student's pro bono activity for St. John's Pro Bono Program or state bar requirements.

Can the extern perform paralegal duties?

While students may be needed to assist with some copying or filing on a very limited basis to complete their tasks, the bulk of the student's time at the externship placement must be spent gaining substantial lawyering experience.

What if a problem occurs with an externship relationship?

Typically, the Mentor-Attorney and extern relationship is mutually beneficial and rewarding. However, should the Mentor-Attorney or student experience an issue with the externship relationship, we would ask that the Career Development Office be contacted in an effort to resolve any potential issues in lieu of termination.

What other expectations are there?

It is expected that Mentor-Attorneys will abide by all applicable state and federal labor and employment laws, including those relating to reasonable accommodations for students with disabilities as well as non-discrimination. St. John's policy of non-discrimination is included in the Supplemental Materials portion of this Handbook.

EXTERNSHIP COURSE REQUIREMENTS

How do students sign up for the Externship Program?

Students must be in good academic standing in order to participate in the Externship Program. Eligible students apply to approved placements posted on Symplicity or obtain approval from the Career Development Office for an outside placement. Once a student secures, or is close to securing, an approved placement, the student should register for the appropriate Externship Seminar course. Students should then send an Externship Placement Registration Request form to externships@stjohns.edu, setting forth the placement and Mentor-Attorney name and contact information. The Career Development Office will then register the student for the placement portion of the Externship Program.

What externship seminar courses are available to students?

Students may do a maximum of three (3) externships (with the possibility of a fourth with special approval). Each externship placement is accompanied by a corresponding seminar. The three levels of externship include: The Summer Externship (summers only), The Regular Externship (fall and spring) and the Advanced Externship (all semesters). A student may request permission to participate in an additional Advanced II Externship once they have completed the Regular and Advanced Externship Seminars. The Advanced II Externship consists solely of the placement work and does not have a corresponding seminar.¹

The credit allocation for the various externships is as follows:

Summer Externship – 3 Credits (2 pass/fail and 1 graded)

Externship (Spring/Fall) – 4 Credits (2 pass/fail and 2 graded)

Advanced Externship (All Semesters) – 3 Credits (2 pass/fail and 1 graded)

Advanced II Externship (All Semesters) – 2 Credits (pass/fail)

How do students discuss their placements in the externship seminar?

At the start of each semester, students must create and submit to their Seminar Professor a formal Goals Memorandum, setting forth what they hope to achieve at their externship placement. Students must also submit weekly timesheets which reflect completed hours and detailed descriptions of work performed at their placements. Timesheets must be signed by the Mentor-Attorney and will be reviewed by the Seminar Professor (a copy of a sample

¹ The Advanced II Externship requires students to be assigned to an Advanced Externship professor and the student is required to maintain a journal with regular reflective entries which must be discussed with their assigned professor during at least 3 regular meetings during the semester.

timesheet may be found in the supplemental materials section of this Handbook). Additionally, the first 30 minutes of each seminar class is dedicated to verbal presentations of students' self-reflections on their externship placements.

What else does the externship course entail?

Seminar Professors will provide students with a Syllabus at the start of the semester, setting forth the requirements and expectations for the course. The seminar course will help students understand the attorney-client relationship, the attorney's role, ethics, confidentiality, professionalism and the workplace environment. Students will develop skills in interviewing and counseling, fact investigation and evaluation, letter and email writing, and negotiation. Students will be expected to write a research paper and give oral presentations on the paper, as well as on their reflections from their externship placement experiences.

How is a student's academic performance evaluated?

Seminar Professors will give students a letter grade for their performance in the seminar. The Syllabus will set forth specifically how students' academic performance in the seminar will be evaluated. Factors to be considered will be performance on the research paper, quality of oral presentations, practice writing assignments, class exercises, a mock MPT in-class assignment and class participation. In addition to other interactions with the Mentor-Attorney, at the end of the semester, Mentor-Attorneys will be asked to complete and return to the Career Development Office an Externship Evaluation form, discussing the student's performance during the course of the semester. Although Mentor-Attorneys do not give a grade, they will be asked if they recommend that the student receive a pass or fail grade for the placement portion of the externship course. Based on the Mentor-Attorney's feedback and final evaluation, and in consultation with the Seminar Professor, students will be assigned a pass or fail for the placement. To receive a grade of pass, students must: submit completed and detailed timesheets, signed by their Mentor-Attorney/supervisor, reflecting the required number of hours of fieldwork for the semester; satisfactorily participate in fieldwork reflections during class and submit an evaluation of their fieldwork experience; and perform satisfactorily during their placement, as reported by their Mentor-Attorney/supervisor. Please note, time spent during the placement for lunch or other breaks does not count towards the required placement hours, nor does travel time to and from home. A student cannot pass the seminar portion of the externship, but not the placement portion, or vice versa. So, if a student fails any portion of the externship, he or she fails the entire program.

When can a student take an externship?

Students may take an externship after their first year required courses.

Can a student take more than one externship in a semester?

No. The potential for conflict of interest issues is too great. Students are not permitted to participate in more than one externship at a time.

Can a student take an externship and a law school clinic in the same semester?

No, for all the reasons addressed above.

Can a student work at a job/volunteer and do an externship placement in the same semester?

Potentially yes. We recognize that many students need to work in order to finance their law school education. However the student must be aware of potential conflict problems. In order to work or volunteer, especially at a legal placement, and do an externship, the student must get approval from the externship Mentor-Attorney, the proposed work place supervisor and the Career Development Office. Failure to disclose and obtain the necessary approval is a violation of the Code of Student Professional Responsibility, as is failing to comply with any other externship requirements. See the Student Handbook for the Code.

Can the student stay for an additional semester or convert a paid/volunteer position at the same placement to an externship and receive academic credit?

Generally, no. Students are encouraged to obtain a broad variety of externship experiences throughout their law school career. However, where the placement agency/organization can provide assurances in writing that the student will have a significantly different learning experience and outline the type of different work the student will be doing, then upon approval from the Career Development Office, a student may complete an additional semester at the same organization. An example of this could be if a student externed with a District Attorney's Office in the trial bureau and then has the opportunity to conduct entirely different work in the appeals bureau.

Are there any other limitations with respect to externships of which students should be aware?

Students should remember that there is a 9 pass/fail credit limit (with some exceptions – see Student Handbook).

SUPPLEMENTAL MATERIALS

ABA Standard 304 (c) (d) (e)

ABA Standard 303 (a) (3)

ABA Standard 302

US Department of Labor Fact Sheet #71

Oath of Confidentiality

Sample Timesheets

Notice of Non-Discrimination

Additional Resources

ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2016-2017

Standard 304. SIMULATIONS 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).
- (d) Credit granted for such a simulation, law clinic, or field placement course shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.

- (e) Each student in such a simulation, law clinic, or field placement course shall have successfully completed sufficient prerequisites or shall receive sufficient contemporaneous training to assure the quality of the student educational experience.

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 302;

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

- (iii) provide multiple opportunities for performance; and

- (iv) provide opportunities for self-evaluation.

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.

Fact Sheet #71: Internship Programs Under The Fair Labor Standards Act

This fact sheet provides general information to help determine whether interns and students working for “for-profit” employers are entitled to minimum wages and overtime pay under the Fair Labor Standards Act (FLSA).¹

Background

The FLSA requires “for-profit” employers to pay employees for their work. Interns and students, however, may not be “employees” under the FLSA—in which case the FLSA does not require compensation for their work.

The Test for Unpaid Interns and Students

Courts have used the “primary beneficiary test” to determine whether an intern or student is, in fact, an employee under the FLSA.² In short, this test allows courts to examine the “economic reality” of the intern-employer relationship to determine which party is the “primary beneficiary” of the relationship. Courts have identified the following seven factors as part of the test:

1. The extent to which the intern and the employer clearly understand that there is no expectation of compensation. Any promise of compensation, express or implied, suggests that the intern is an employee—and vice versa.
2. The extent to which the internship provides training that would be similar to that which would be given in an educational environment, including the clinical and other hands-on training provided by educational institutions.
3. The extent to which the internship is tied to the intern’s formal education program by integrated coursework or the receipt of academic credit.
4. The extent to which the internship accommodates the intern’s academic commitments by corresponding to the academic calendar.
5. The extent to which the internship’s duration is limited to the period in which the internship provides the intern with beneficial learning.
6. The extent to which the intern’s work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.
7. The extent to which the intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship.

¹ The FLSA exempts certain people who volunteer to perform services for a state or local government agency or who volunteer for humanitarian purposes for non-profit food banks. WHD also recognizes an exception for individuals who volunteer their time, freely and without anticipation of compensation, for religious, charitable, civic, or humanitarian purposes to non-profit organizations. Unpaid internships for public sector and non-profit charitable organizations, where the intern volunteers without expectation of compensation, are generally permissible.

² E.g., *Benjamin v. B & H Educ., Inc.*, --- F.3d ---, 2017 WL 6460087, at *4-5 (9th Cir. Dec. 19, 2017); *Glatt v. Fox Searchlight Pictures, Inc.*, 811 F.3d 528, 536-37 (2d Cir. 2016); *Schumann v. Collier Anesthesia, P.A.*, 803 F.3d 1199, 1211-12 (11th Cir. 2015); see also *Walling v. Portland Terminal Co.*, 330 U.S. 148, 152-53 (1947); *Solis v. Laurelbrook Sanitarium & Sch., Inc.*, 642 F.3d 518, 529 (6th Cir. 2011).

Courts have described the “primary beneficiary test” as a flexible test, and no single factor is determinative. Accordingly, whether an intern or student is an employee under the FLSA necessarily depends on the unique circumstances of each case.

If analysis of these circumstances reveals that an intern or student is actually an employee, then he or she is entitled to both minimum wage and overtime pay under the FLSA. On the other hand, if the analysis confirms that the intern or student is not an employee, then he or she is not entitled to either minimum wage or overtime pay under the FLSA.

Where to Obtain Additional Information

This publication is for general information and is not a regulation. For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE
TTY: 1-866-487-9243
[Contact Us](#)

OATH OF CONFIDENTIALITY

I pledge on my honor that I will, both during and after my enrollment in the St. John's University School of Law Externship Program, respect the trust of all attorneys and/or judges who participate in the Program's activities and preserve inviolate any confidences reposed in me. I will not divulge any conversation or information regarding the business of the law office/legal organization or judicial chamber to which I am assigned; I will not reveal the content of any discussion, memorandum, opinion or other writing; and I will not keep any equipment, tape, record, document or other paper without permission and approval of the appropriate person.

I understand that violation of this oath is a violation of the Student Code of Professional Responsibility and could result in disciplinary action. See the Student Handbook for the Code.

I have given a signed copy of this document to my Mentor-Attorney, my externship Seminar Professor, and I will keep a copy for my records.

Date _____

Printed Name _____

Signature _____

Sample Externship Time Sheet

Student: Joe Brown

Externship Placement: Civil Legal Services Office

Mentor Attorney: Jane Green, Esq.

Mentor Attorney Signature: *Jane Green*

Total # of Hours this Sheet: 7.5

Seminar Professor: Professor Smith

Total # of Hours this Semester: 45

Date	Hours Worked	# Hours	Tasks Accomplished
4/20/07	10-1:00	3	Researched likelihood of eviction for a tenant residing in his deceased mother's rent-stabilized apartment.
	1:00 – 2:00	1	Observed deposition of witness in slip and fall matter and took detailed notes for partner
	2:00 -3:00	1	Attended meeting with Jane Green re deposition and next steps for eviction issue
	3:00 – 5:30	2.5	Outlined eviction memo
			*PLEASE NOTE – Lunch and other breaks, as well as the time to travel to and from your placement, do not count towards your required placement hours

Notice of Non-Discrimination

St. John's University does not discriminate on the basis of race, religion, color, national or ethnic origin, age, gender or sex (including sexual harassment and sexual violence), gender identity or expression, sexual orientation, marital or partnership status, alienage or citizenship status, disability, genetic predisposition, caregiver status, pregnancy, sexual and reproductive health decisions, status as a victim of domestic violence/sex offense/stalking, status in the uniformed services of the United States (including veteran status), arrest or conviction record, credit history, salary history, unemployment status or any other basis prohibited by law in its programs and activities as required by Title IX of the Educational Amendments of 1972, the Americans with Disabilities Act of 1990 and the Amendments Act, Section 504 of the Rehabilitation Act of 1973, Title VI or Title VII of the Civil Rights Act of 1964, and other applicable statutes and University policies.

All employers participating in the Externship Program must provide affirmative assurance of their willingness to comply with this non-discrimination policy.

Participation in the Externship Program may be denied to employers whose behavior contradicts the Law School's policy prohibiting discrimination based upon the above-listed factors.

Additional Resources:

Kelly S. Terry, *Externships: A Signature Pedagogy For The Apprenticeship Of Professional Identity And Purpose*, 59 J. Legal Education 240 November (2009)

Jack W. Burtch, *The Mentor Challenge In Changing Times*, 15 Fall Experience 10, (2004)

James Backman, *Externships and New Lawyer Mentoring: The Practicing Lawyer's Role In Educating New Lawyers*, 24 BYUJPL 65 (2009)

E.D. Gaskins, Jr., *Professional Responsibility And Professionalism*, 1ProFLAW 20 (2006)