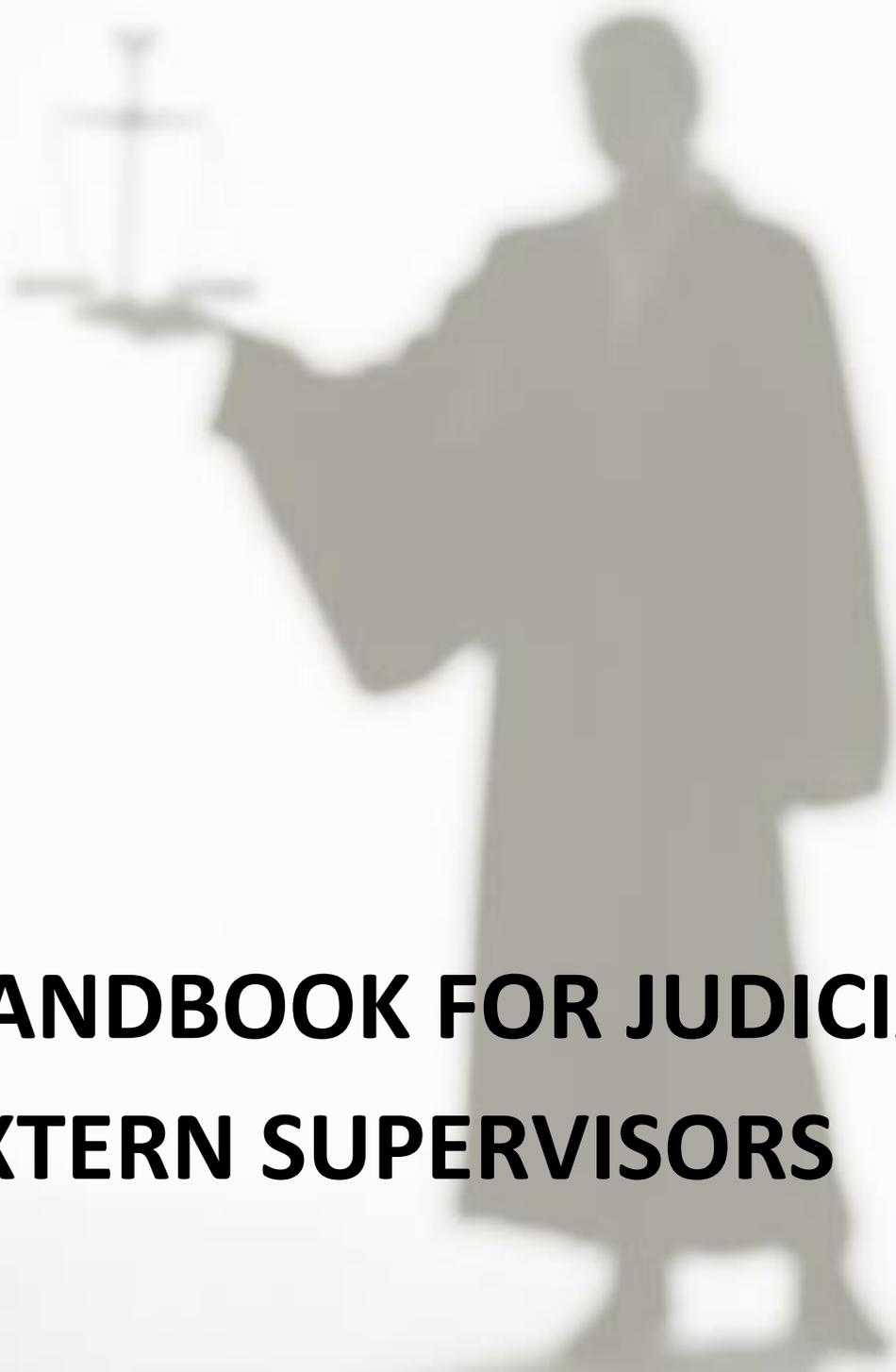


Lewis & Clark Law School

Portland, Oregon



HANDBOOK FOR JUDICIAL EXTERN SUPERVISORS

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1. INTRODUCTION

Externships are designed to be experiential learning opportunities for law students, which offer them an important, in-depth exposure to legal practice that is not available in the classroom. As a supervisor “in the field,” your role is critical to the student Extern’s experience. You are much more than a “supervisor,” and the Extern is much more than a law clerk. Rather, the relationship is designed to be one of mentor to mentee: You are expected to challenge the Extern and guide him or her, and expose the Extern to all substantive and procedural areas in chambers. Externships offer students an opportunity to work alongside an experienced judge and judicial clerks who are devoted to providing the student with a directed learning experience. Externs should be treated as new attorneys; they should be given responsible, substantive assignments, and be included in all proceedings if appropriate. Likewise, they should be expected to be held to the highest of ethical and professional standards.

As the on-site mentor, you will be giving the Extern extensive feedback, both oral and written, throughout the Externship. Additionally, you should include the Extern in all case meetings, negotiating sessions, pretrial conferences and settlement conferences, and court hearings and trials to the extent possible. After each experience, you should “debrief” with the Extern. Challenge the Extern to analyze the substantive issues, debate ethical and professional issues, and strategy. You can greatly enhance the learning experience by exposing the Extern to a wide variety of experiences and discussing his or her observations.

Be sensitive to the fact that students may be reluctant to discuss issues with you as they may be intimidated by your experience level. Encourage them to talk with you about all issues, and stress that things like open discussion, and the taking of careful, calculated risks after weighing all the benefits and drawbacks, are the hallmarks of a good attorney.

Thank you for your generous investment of time and talent in the training of new lawyers. Without your support, the program would not exist.

II. ORIENTATION-THE CRITICAL STAGE

Many student Externs have never been in a law office before, let alone a judge’s chambers. It is imperative to clarify performance expectations, review the Extern’s goals, and to establish clear lines of communication *before* the Externship begins. To that end, you should schedule an orientation session with your Extern the day he or she arrives. The following checklist can help you get started, and by making sure you cover each of these items you can ensure a productive semester for you and the student:

1. **Orientation of Support Staff:** Prior to the arrival of the Extern, be sure to orient your support staff and other professional personnel who will be working with the Extern or who will be using the same office. It is imperative that your staff has an understanding of the Extern's role, to what extent and under what circumstances they will be accepting assignments from, or giving tasks to, the Extern, to what extent they will be providing feedback, and that you are the Extern's ultimate supervisor. It is especially important for other clerks or court personnel with whom the Extern may interact to understand clearly the boundaries of working with the Extern, and whether or not they will be expected to include the Extern in any of their activities. Make sure that there is a clear line of communication and a solid understanding on how assignments will be given to the Extern, including feedback, etc. Also, make sure to talk with the other personnel regarding confidentiality in their discussions with the Extern - the Extern will be keeping a daily journal, and you should establish ahead of time what discussions may need to be curtailed or differently-structured in order to preserve confidentiality.

2. **Office Details:** Show the Extern the work space to which he or she will be assigned. Make sure the Extern is given all necessary passwords, computer and other office machine information necessary (fax machine, mail room services, photocopy center, etc.), and which equipment and services (e.g., long distance, e-mail, etc.) that the Extern will be entitled to use on the job. Make sure that training times have been set up with the appropriate personnel before the Extern's arrival. Make sure they have the appropriate keys, identification badges, security codes, etc. If your office is required to keep time records on specific projects, or keep track of telephone calls, copies, mail, etc., make sure that the Extern has all the forms necessary to do so, along with copies of explicit instructions.

2. **Office Policies:** Where possible, provide written policies regarding personnel issues, the use of equipment, ethics and professionalism issues, requirements imposed by the judge in chambers, in the courtroom, etc.

3. **Calendars:** Provide the Extern with a court calendar and an office calendar for the months he or she will be there. Make sure at least one calendar includes everyone's schedule, if feasible. For the Extern, make sure the office calendar provided contains any established, regular meetings which the Extern will be required or invited to attend, or other events which the judge or court staff attends that the Extern may be invited to attend, such as Inns of Court, Bar events, etc.

4. **Work Schedule:** Set a work schedule. Tell the Extern what the work hours of the office are. Let the Extern know if there are any weekend, out-of-town or after-hours events coming up that he or she will be required (or may want to) attend. Also, let the Extern know about case assignment and staff meetings, and discuss what the Extern's and your expectations are as to attendance, keeping in mind that the Extern should be treated as a "junior" judicial clerk at all times feasible.

5. **Methods of Communication:** Be sure to set a time for regular “feedback meetings.” In some chambers, it simply is not practical for an Extern to communicate frequently on an “as is” basis with a supervising judicial clerk or judge, or to interrupt with frequent questions. Also, depending on the types of projects you plan on giving the Extern, the feedback may be daily or twice weekly. It is important to regularly schedule time where you can cover things in depth, and know that you will have time to answer questions thoughtfully, without being in a rush. Let the Extern know if he or she can come to you with “quick questions” or if the Extern needs to wait until the established time for longer conversation or feedback. Make sure the student knows who to contact in case of an emergency when you are not available, and that the student is given the person’s phone number or e-mail.

6. **Discussion of Goals:** Take time to talk about the Extern’s goals for the Externship, and ask him or her to review them with you. This introductory meeting is the time for you to make sure that the Extern’s goals are consistent with the work you will be assigning and the experiences you will expose the Extern to.

7. **Assignments:** Explain the assignments that you or others expect to give the Extern. Tell the Extern about any meetings, proceedings, or events that he or she can expect to be attending during the Externship, or other activities which the Extern should take advantage of. Clarify how you will give assignments, and how they are to be scheduled. Will the process be formal (e.g., akin to a once-a-week case meeting), or will assignments be given on an informal basis, such as assigning a new one each time one is finished? Be clear on your time expectations, and if you are going to give multiple assignments, be clear on how the Extern is to distinguish which to complete first. Likewise, if you will have more than one person giving the Extern an assignment, make sure there is a very clear system in place so the Extern does not get overloaded or have to be caught in a conflict between two clerks who want projects completed at the same time. Talk about how you will set deadlines, and how you want the Extern to communicate with you about them. Make sure the Extern understands that you expect that work be done in a timely manner, and if the Extern suspects there may be problems completing it, to come talk to you as soon as possible.

8. **Roles:** Be sure the student has a clear grasp of how the judicial chambers “function,” its role in the court house and court system. Explain, if necessary, the roles of the others in the office. Be clear with the student regarding the “chain of command,” and to whom the student must report with questions or issues regarding work product, ethics issues, personnel issues, and the like.

9. **Work Product:** Talk about the nature of the work product that you want from the Extern. E.g., do you expect “finished product” quality on everything, or are rough drafts appropriate? Are quick, oral responses sufficient in some cases? Which? Do you want

quick written responses? Do you want e-mails with attachments? Make sure that you clarify the type and manner of work product expected for each assignment, *and* that the Extern understands your expectations. If the Extern will be working directly with others, make sure that they also provide clear guidelines regarding expectations about work product, and that the Extern understands them.

10. **The Extern and Support Staff:** Be sure to introduce the Extern to all support staff personally. Be clear with the Extern which persons he or she will be working closely with, and on which assignments. If the Extern is to be giving work to support staff, make sure the Extern knows what to do if there is a conflict (e.g., another clerk needs something finished before the Extern's assignment). Make sure the Extern is given appointments with each of the staff he or she will be working with to become familiar with the support staff person's work style, how support staff like to receive assignments, etc. Talk to support staff about the importance of giving the Extern ongoing, constructive feedback.
11. **Confidentiality and Conflicts:** Be sure to provide the Extern with any written policies, and if you have none, be sure that your policies are explained clearly and that the Extern understands them. Have a system in place whereby the Extern knows who to go to for questions about ethics or client confidentiality. The student will be keeping a written, daily journal on his or her impressions, work done, etc. This journal will be shared with the Externship Program Director and, in some cases, a faculty advisor. Make sure you have discussed with the Extern ahead of time how you want to handle confidentiality *and* attorney work product issues.
12. **Professionalism:** Talk to the Extern about the expectations of your office with regard to professionalism, using explicit examples, such as what you expect with regard to staff relations, courtroom demeanor, behavior in settlement conferences, etc. If you have written guidelines, provide them.

III. PROVIDING FEEDBACK

The most important thing you will be doing as a mentor is providing consistent oral and written feedback of the Extern's work throughout the Externship. It is critical to set the tone and be clear about the feedback you will be giving from the very beginning in order to foster the most productive learning possible. In addition, your feedback will provide the basis for consistent, open communication between you and the Extern, and can have the added benefit of making you a better supervisor and better attorney. On orientation day, discuss with the Extern the regular times you will meet to give feedback, and what you expect of the Extern. Also, explain to the Extern how you will do informal feedback.

Feedback should be done formally and informally. You should be prepared to have a system of more formal evaluation, such as regular meetings, and make sure that you leave room for more informal

evaluation that will arise in particular circumstances. Informal evaluations can be as simple as asking an Extern to talk to you about how he or she felt after participating in a staff meeting or how he or she would handle himself differently next time, or your writing a short note to the Extern on an informal, half-page informational memo the Extern drafted.

Good feedback has two components: Your evaluation of the Extern, and the Extern's evaluation of him or herself. At every opportunity, you should provide the Extern with a chance to evaluate his or her participation in a certain event, the Extern's feelings about what was observed, and an evaluation of written work the Extern provided to you.

Probably the biggest complaint from all new lawyers is the poor feedback they receive from supervising attorneys. Unfortunately, most supervisors feel like they are too busy to provide any feedback on a regular basis, and when they do, the feedback is ineffective. Because this is a learning experience, it is crucial to ensure that you not only take the time to do careful feedback, but that you do it in a manner that *instructs* the Extern. In the text, *Learning from Supervision, A Professional Development Text for Legal Externs*, author Liz Ryan Cole suggests that as a supervisor, you will be providing "*corrective feedback, positive feedback, and prescriptive feedback.*"

Cole notes that corrective feedback focuses on behavior or practices that need to be improved or changed. Corrective does *not* mean *critical*. Point out objectively to the Extern what the behavior is you are trying to correct (incomplete analysis, too-long sentences, spelling errors, incomplete shepherdizing, coming in late to meetings, etc.) using specific examples. If you are correcting writing, be sure to suggest alternatives or other types of things the Extern should try and accomplish before turning in the work product again.

Positive feedback does not mean saying "good job." Once again, be objective, using specific examples - "the use of metaphors in this type of argument is beneficial in this instance because..." Although everyone loves a compliment, simple compliments will not assist with the learning process - examples of behavior you want to reinforce will.

Prescriptive feedback gives suggestions for methods that you want used in the future, for specific reasons. For example, "this citation form should always be used for briefs in federal court in this jurisdiction" citing to the local rule, or "we have to follow the office policy with regard to these matters, which is..."

In the same text, Cole also gives excellent guidelines for giving effective feedback to Externs. She suggests using **Description, Examples, Specificity, and Understanding** to identify issues on which you are giving affirmative feedback and on those on which you are giving corrective feedback. She posits that supervisors should give examples with specificity, point out alternatives that might be more effective, and work with the Extern on more effective alternatives. She suggests using the following:

1. **Describe Behavior in a Non-Judgmental Manner:** ("This sentence has no verb; this citation form is not complete, this case needs further shepherdizing; this analysis needs more discussion of the civil rights implications of this case," etc.);

2. **Use Specific Examples:** (“For example, I uncovered two additional cases you could cite discussing adhesion contracts in cases with nearly identical fact patterns to those in our case”; “For example, an analysis of this issue should probably include the following”);
3. **Ask Questions to Understand:** Ask what the Extern was trying to accomplish and listen to why the choices were made;
4. **Characterize Your Reaction in a Subjective Manner:** E.g., “I think” (“I think your argument to the court would be more effective if you tried structuring it this way...what do you think?”);
5. **Describe the Alternatives** that could have been better with sufficient specificity to clarify your meaning. (“Two alternatives you might want to try are...”) Ask the extern for suggestions of alternatives.¹

Cole proposes that by looking at the Extern as a more inexperienced colleague with whom you are working on a particular project, rather than a law clerk to be told to “correct” something, your feedback should be much more productive.

IV. EVALUATION

Toward the end of the student’s Externship, you will be asked to provide an evaluation to the Externship Program Administrator. Your evaluation will be used in determining whether or not the student receives credit for the Externship. One way to make sure the evaluation you do is comprehensive is to set up a file for the Extern at the beginning of the Externship. State what the extern’s goals are, and as you progress through the Externship, you can make notes to the file regarding the extern’s progress toward those goals, and areas of strength and areas that need work. Your evaluations will be a critical teaching device for the extern.

You should review the evaluation questions with the Extern at orientation, so that you are prepared to make notes and discuss them throughout the Externship.

The questions you will be asked to address in your final evaluation of the Extern are as follows:

¹ Learning from Supervision, A Professional Development Text for Legal Externs, West Group 1998, Ogilvy, Wortham, Lerrman Chapter 3, pp. 29-47;

1. Describe the lawyering skills you feel the Extern was able to develop and refine during the Externship.
2. Was the written product satisfactory? What are the Extern's writing strengths and weaknesses?
3. Was the Extern alert to ethical issues? What were they? Did the Extern initiate discussion of these issues?
4. Did the Extern exhibit appropriate professionalism with regard to lawyers, other judges and court personnel? What opportunities did you give the Extern to work on professionalism?
5. Did the Extern show or learn good "office skills" i.e., organizing paperwork, meeting deadlines, working well with support staff and/or colleagues?
6. How did the Extern respond to criticism? Did the Extern take the initiative in seeking educational experiences and time to meet with you? Did the Extern seek appropriate clarification of assignments?
7. What is your general assessment of the Extern and the work that was produced? How would you describe the Externs' major strengths and weaknesses? If you had the resources, would you hire the Extern?

In addition, you will be asked to give mid-externship feedback to help assess the progress the extern is making.

If at any time during the Externship you have any questions or concerns regarding an extern, you should call the Externship Director or the extern's faculty advisor *at once*. Do not wait until the final evaluation period.

V. THE FACULTY ADVISOR (Models 8-10 Externships)

Students undertaking Models 8-10 Externships are required to have a faculty advisor, who works with the student throughout his or her Externship. The advisor provides the student with feedback throughout the Externship on all facets of the learning experience. The faculty advisor or the Externship Program Administrator will check in with you during the externship to provide you with the opportunity to discuss the student's goals and progress toward those goals during the Externship.