

**CALIFORNIA WESTERN  
SCHOOL OF LAW | San Diego  
CLINICAL EXTERNSHIP PROGRAM**

**SUPERVISING ATTORNEY**

**HANDBOOK**

(2018)

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## INTRODUCTION

We would like to thank you for agreeing to participate in the Clinical Externship Program at California Western School of Law. We recognize you have significant responsibilities and demands for your time at your place of employment and greatly appreciate your willingness to mentor and instruct our externs as they develop their legal skills and become effective members of the legal profession. This Handbook is intended to outline the policies and procedures of the Program, to assist you with the supervision of our externs, and show you, your colleagues and the extern how to benefit from this program.

The Externship Program is an essential component of the curriculum at California Western School of Law. The program gives third year students the opportunity to earn academic credit for legal work in private law firms, courts, corporations or government agencies. In these settings, students participate in legal work and acquire useful insights and experiences toward building their careers. The program builds and promotes the confidence, problem solving skills, and professionalism that lead to success as first year attorneys. Students are able to experience the attorney's role directly through the application of legal theory and gain better insight into the process of law and the legal system.

### A. PROGRAM OVERVIEW

Externs participate in a weekly seminar with other externs and a supervising faculty member. The seminar gives students an opportunity to share experiences and hear about a wide range of practice. It also provides a forum for discussing issues of concern to new lawyers, ranging from the most practical questions regarding professional etiquette, to the more theoretical considerations of ethics and morality. Students find these seminars to be an important source of support for making the transition from student to lawyer.

For students who are doing their externships outside of San Diego, the weekly seminar or classroom component consists of a weekly tutorial between the extern and the supervising faculty member. A faculty member conducts this tutorial through a combination of correspondence and telephone calls, as well as a site visit.

#### **Academic Credit**

Students extern for one trimester (13 weeks) and spend between 20 and 40 hours per week at their placement, depending upon the number of units they are earning. Externs receive academic credit (pass/fail) rather than remuneration for their work.

## **Externship Opportunities**

Approximately 70 percent of our students participate in the Externship Program. Externship placement opportunities are almost unlimited. Students may use the program's current placement resources or find a placement on their own in San Diego or anywhere in the world.

Externships fall mainly into these categories:

### **Judicial**

A judicial externship enables students to learn about the legal system by working closely with judges. Students in these externships primarily engage in research and writing for the court, and may take advantage of the opportunity to observe judicial proceedings. Our students may extern at the federal level with the United States District Court and Ninth Circuit Court of Appeals and at the state level with the Superior Court and the Court of Appeal, Fourth Appellate District. Externships are also available with the Bankruptcy Court, Immigration Court, and the Equal Employment Opportunity Commission.

### **Government Agencies**

Some of the most popular government placements are in the criminal justice system, with the Public Defender's Office, the District Attorney's Office, and the City Attorney's Office. A variety of government agencies offer externships for students who are interested in civil law or administrative law specializing in a particular area. These government placements provide litigation, transactional, and policy-making experiences, depending upon the mission of the agency. The extern will have the opportunity to perform and observe a wide variety of tasks including research and writing, consultation with staff, investigation and discovery, analysis of rules and policies, and attendance at meetings and hearings. Certified law students may appear in court.

### **Private Law Firms**

A wide variety of private law practices, ranging from those of sole practitioners to large corporate firms, participate in the Externship Program. Some of the activities students engage in include meeting with clients, conducting discovery, managing their own cases under the supervision of a supervising attorney, and learning about the business aspects of law practice.

### **In-house Counsel**

An externship with in-house counsel gives students a unique chance to participate in an area of law that is generally reserved for very experienced attorneys. These placements allow students to engage in activities such as employment issues, securities, contracting, litigation, corporate policy and training.

## **B. STUDENT REQUIREMENTS**

- 1. Students must be in their last or next to last trimester of law school at the time the externship begins.**
- 2. Students are required to have a minimum of 50 hours of legal experience (paid, pro bono, or other volunteer) acquired since entering law school.**
- 3. Professional Responsibility is a prerequisite.**
- 4. Students may participate in this program one trimester only.**
- 5. Students planning to extern outside of San Diego must arrange to attend the CWSL's pre-bar course the seminar before or after their externship.**
- 6. Students cannot be on, or in danger of going on, academic probation (Academic Policy 7.33).**
- 7. Some externships have specific class ranking, prerequisite courses or other requirements, as detailed in the externship notebooks. Please read these requirements carefully when looking through the notebooks. The District Attorney (all departments) City Attorney Criminal Division and the Public Defender's Office all have Trial Practice Co- or Pre-requisites.**
- 8. Students may not under any circumstances extern with relatives, friends, friends of relatives. Nor where they have been employed, know they will be employed or where they are a client.**
- 9. Students cannot exceed 17 units of credit while externing.**

## **C. SELECTING AN EXTERN**

**California Western School of Law does not assign externs to attorneys. The supervising attorneys are under no obligation to interview or select an extern.**

**Third year students attend an Externship Informational meeting where they learn about the policies and procedures of the program. The student will then select current placements from the resources located in the Externship office.**

**After the placements are selected, the student will meet with a Clinical Externship professor. The purpose of the meeting is to ensure that students make an informed choice as to their externship. If the faculty member does not approve the application, the student will not be able to participate in the program. Once**

approval is given, the Externship office will send a cover letter with pertinent information along with resumes and any requested documents noted in the Supervising Attorney Application, question #14.

The extern is responsible for contacting the placements to set up interviews. When all interviews have been completed, the attorney will contact the externship office and extend their offer(s). The externship office will contact the students with offers and the student will make their decision and inform the externship office and placements directly.

## **PROGRAM GOALS**

The Clinical Externship Program at California Western has several purposes:

1. To develop students' ability to learn from their experience;
2. To promote in students the development of a sense of professional responsibility;
3. To give students greater insight into the workings of the legal system;
4. To train students in lawyering skills.

These goals are discussed below, with a particular emphasis on your role as the Supervising Attorney. Whether students fulfill each of these goals, depends upon the quality of their relationships with their supervising attorneys. Thus, the success of our clinical program depends in large part upon your willingness and ability to serve as the students' supervisors, teachers, role models, and friends.

The extra time you spend supervising and training your externs will increase the students' learning, as well as your own satisfaction with the program. In this way, not only will your workload be eased through the externs' work product, but you will have the opportunity to participate in the professional development of future lawyers. It is because of your interest in educating students that you have been selected as an attorney supervisor.

### **A. DEVELOPING THE ABILITY TO LEARN FROM EXPERIENCE.**

In order to prepare for the practice of law, the student must learn to be an effective learner. One important aspect of being an effective learner is to be able to learn from experience -to avoid repeating the same mistakes, and to improve performance with practice. This is part of the learning cycle.

**You can help students achieve this goal of learning from experience in two important ways. First, we ask all supervising attorneys to discuss with their externs the students' goals for the externship at the very beginning and throughout the course of the externship. It is also important to address how the student intends to accomplish her individual goals. Secondly, we ask you to participate in ongoing feedback, discussion, and critique of the student's performance. Eliciting the student's self-critique is a valuable learning experience. One method of prompting student feedback is to regularly seek the student's evaluation of your performance.**

**Thus, to complete the learning cycle, discussions with the student would include articulation of goals by the student and a discussion of particular task-specific goals, choices made to achieve these goals, evaluation of the choices made, an ability to distinguish between inappropriate choices and ineffective execution, research into alternative approaches to the same task, and a plan for carrying out the same task at the next opportunity.**

## **B. PROMOTING THE DEVELOPMENT OF PROFESSIONAL RESPONSIBILITY**

**Studies show that students' early lawyering experiences have a primary role in developing students' professional responsibility. The externship is the ideal situation for teaching professional responsibility. For this reason, your role as mentor to the student extern is particularly significant. By serving as a role model and by engaging in dialogue with the student on professional issues, you can greatly increase students' awareness of ethical behavior.**

**Students need to understand that the law is a service profession and that their training puts them into the position of having responsibility for matters that affect the lives of others. You can model this behavior by your own attitude toward your work. Talk with the students about this responsibility and the pressure it may bring to the work. Obviously, this is an area where actions speak far louder than words. Meeting deadlines, proofing written work, voicing concern about apparent injustices, communicating in a timely fashion with clients, being prepared for appearances, and everything an attorney does toward serving her client is a lesson in professional responsibility.**

**The requirements of the Rules of Professional Conduct as well as other rules and codes particular to the jurisdiction should be explicitly discussed when relevant. Students need to learn that these rules are not merely the subject of an examination, but are important guidelines for practice and relevant in the day to day work of a lawyer. To that end, you may discuss your billing practices, fee agreements, client conflict and confidentiality practices as well as your approaches to discovery and trial tactics.**

**Our experience shows that questions of professional responsibility and ethics arise as a matter of course in law practice, so you will rarely need to create**

a hypothetical situation. Some of these matters have probably become so routine to you, however, that you may need to focus specifically on them from time to time in order to raise a point with a student. For instance, in counseling clients, you are accustomed to treating their disclosures confidentially; the need to do this might not occur to the student. If you are involved in areas of practice like criminal law, you may no longer dwell consciously on the fairness or justice issues involved in your cases. Yet students are likely to think about them but feel reluctant to raise these issues with you. We would like to encourage you to discuss these ideas with the students.

### **C. GIVING STUDENTS INSIGHTS INTO THE WORKINGS OF THE LEGAL SYSTEM**

You can enhance students' learning about the legal system by exposing them to a wide variety of situations and by taking the time to discuss with students what they have observed.

There are some general areas of reflection, which we think our students should be doing in conjunction with their externships. We will be discussing these topics in our weekly seminar classes, the private meetings and the out-of-town tutorials. We ask you to keep these topics in mind and discuss them with externs, especially when they are relevant to the particular work the students are doing.

**-Does the legal system promote justice?**

One of the focal issues for our discussions is whether the legal system is working in a way which promotes justice. We talk about the quality and inequalities of representation the students observe and what this means to the goal of achieving "justice." We talk about the attitudes of the attorneys they observe in terms of caring about their work, doing the best possible job, and working with others. We also look at some of the other "players" in the system, such as clients, defendants, jurors, judges, and police officers, in considering whether the system works to promote "justice." We look at possible sociological impacts on the system's functioning, such as poverty, racism, sexism, drugs and societal values.

**-What is the work of the lawyer?**

Another focus of our seminars is the variety of work, which lawyers do. The fact that our students are doing so many different kinds of work, gives each student an opportunity to learn more about the role of a lawyer than he would learn in an isolated setting. You can talk to your externs about your own experiences, what your preference is about the work you do, and what you do to cope with the stress of your work. It is important that students' tasks be varied so that they can experience the work of a lawyer first-hand. Externs should be invited to participate at all levels of a case file they are working on. In addition, they should be



encouraged to participate in meetings and observe lawyering tasks not necessarily related to their immediate project, but from which they might also learn.

A related topic of interest to many students is how to balance their personal lives with their demanding careers. As a mentor, you can provide useful insight for your externs as to how you do or don't do this.

**-How does the legal system work?**

Of course, one of the more obvious topics for learning in terms of the legal system is the actual procedural “workings” of the courts, law offices, administrative agencies, arbitrations, etc. Students are anxious to know how to perform in these settings. Please make an effort to expose your externs to as many kinds of proceedings as possible in order to effectuate this goal.

#### **D. TRAINING STUDENTS IN LAWYERING SKILLS**

We ask you, as a Supervising Attorney, to challenge your externs by asking them to perform tasks, which will require them to stretch, to learn and to grow. It is possible that, in some instances, the amount and quality of a student's work product will barely compensate you for the time you spend training and supervising that student, either because the work is highly complex or because it requires a skill which the student has not yet developed. It is in these times that your role as educator comes to the forefront.

We stress with the students that the tasks they perform must be those of a lawyer rather than a law clerk or paralegal.

The chart differentiates the job of a law clerk versus the experience of an extern:

	<b>Law Clerk</b>	<b>Extern</b>
Relationship with attorney	Employer/employee	Mentor/student
Purpose	Produce	Learn
Tasks and work	Production	Deliberate
Expectations	Efficiency and speed	Understanding and learning
Exposure	Work assigned	Opportunity to engage in a variety of lawyering activities
Feedback	Not primary focus	Work reviewed and redone until correct
Compensation	Money & experience	Experience with supervision and academic credit

Because our students work at externships in a wide variety of lawyering settings, the lawyering tasks to which they will be exposed cover the spectrum of skills. There are, however, some specific goals that should be established by each placement, as exemplified below.

## **1. Research, Analysis and Writing.**

**Students externing in trial and appellate courts and in law offices where a majority of the work is motions, appeals and/or trial briefs, should be expected to improve in these skills over the course of their externships. This means that students will become more efficient in their research, having a better knowledge of the tools available and how these tools are used, as well as an ability to focus on and develop the critical issues in the case. We expect that their analytical skills will become more sophisticated, including an increased appreciation for the significance of facts and policy. Finally, students' writing should become more succinct, clear, and appropriate for its intended audience.**

**When you assign students research projects, ask them to formalize their work in a written research memorandum. The traditional law school curriculum provides very few opportunities for students to practice legal writing skills. Your requiring all, or most, written work to be formally prepared would benefit your externs.**

**Every California Western extern has completed a course in legal research and writing and has been introduced to at least one model form for writing a legal memorandum. You have a right to expect a high quality written work product from your extern. Please demand it. Although requiring excellence may be hard work and may not be the most time efficient routine, if you do it from the outset of your relationship with your extern and insist on it throughout the student's tenure with you, you will nearly always find your effort fairly rewarded.**

**In order to accomplish these goals, you will need to discuss with students not only their final products, but the approaches used to achieve them. Students need to be able to explain how they approached the task, what resources they used and why, and what they would do differently when assigned a similar task. Furthermore, students need to rewrite their work until it meets the standard expected in that court or office.**

**It is critical that students who are doing this kind of work be given their assignments in context. That is, students should be given the entire case file, even if the specific assignment deals with only researching a particular issue in the case. It is crucial that students acquire an understanding of how these issues fit into the larger picture of the case and that they be given the opportunity to examine the history of the case to date. We are constantly reminding our students that they are working at their externships in order to learn how to be lawyers, not to learn to be law clerks. For this to occur, students need to develop beyond the skills learned in the first year of law school. They need to see how a case proceeds and to get a sense of the responsibility required of the lawyer or judge.**

## **2. Oral Advocacy**

**Students who are at externships where they will be able to represent a client at a hearing have usually chosen such a placement in order to improve their oral advocacy skills. This requires several things from you as a Supervising Attorney. First, you will need to oversee the student's preparation for the hearing, emphasizing to the student the importance of being prepared and demonstrating how this is done. Second, you will need to be present at the hearing, taking specific notes, which can be used to provide feedback to the student. Third, you will have to debrief the performance with the student as soon as possible after its completion.**

**Good preparation, clarity of expression, flexibility, alertness, physical presence and appearance are all aspects of good oral advocacy and are specific goals to be achieved in these settings. In order to measure the student's progress, it is essential that you observe the student at several points during the externship. It is also important to provide the student with progressively more challenging work. Students who begin their externships handling traffic tickets should progress to arguing motions and second-chairing trials if their demonstrated skills make this appropriate.**

## **3. Case and Time Management**

**Students at every externship should be working on these skills. Except for a few placements, notably, the judicial externships, students should have several assignments at any given time. They must learn how to prioritize their work, set time limits for accomplishing tasks, work under pressure and work more efficiently. Part of working efficiently is learning how to put together and maintain a case file, including regular updating of files to reflect work done and organizing of file contents to make data easily accessible. Supervising attorneys can help to achieve these goals by setting good examples, giving students deadlines for projects, giving students some assignments with short deadlines, keeping a close eye on students' time logs and discussing these subjects with their externs.**

## **4. Client Relations and Professional Demeanor**

**We expect that students who have the opportunity to work with clients will improve their skills in establishing and maintaining rapport, being responsive to client concerns, assessing credibility, acquiring relevant facts and providing helpful information to clients in an empowering fashion.**

**Students should also be learning to deal with others in a professional setting including support staff, colleagues, adversaries and judges. As a Supervising Attorney, you should be observing and providing specific feedback in each of**

these areas of communication/relationship work. Explicitly discuss your approaches to these different relationships with your externs. One useful technique for modeling these behaviors is something we call "shadowing," which basically involves the student sitting in the attorney's office and listening to and observing the attorney as he does this kind of work. "Shadowing" can also occur when the student accompanies the attorney on work performed outside of the office.

## **THE EXTERNSHIP PROCESS**

### **A. ORIENTATION WITH YOUR EXTERN**

Schedule an orientation meeting with your extern on or before the extern's first day of work. The meeting will set the tone of your relationship for the trimester. Thus, it is crucial to plan for this meeting and to take the time to cover the subjects listed in the following Orientation Check List (Appendix C). A more detailed discussion of each item follows the checklist.

You will be sent a confirmation letter from the Externship Office along with an Orientation Check list memo and Experience Check List. Make sure to go over the list on the extern's first day.

#### **1. The function of your agency, office or organization.**

Many law students have had no previous exposure to the legal profession. Although your office's role in relation to the working of the legal system may seem obvious to you, it probably is not obvious to your extern. An explanation of who uses your services (that is, who your clients are), what areas of law you deal with, how you are funded, to whom you are accountable, the number of attorneys in the office, whether you are a civil servant, and similar data, helps to orient the student to this new environment.

#### **2. Your expectations of extern and the extern's role.**

Explain to the extern what you would like them to experience during the course of the externship. To develop self-confidence and a sense of responsibility, a student must know that they are contributing. Thus, it is important for you to let the externs know the significance of their work to your office and to the client. Students who sense that they are not serving a useful function will tend to become less motivated and gain little from the experience.

The extern should sense they belong in the office. We probably have all had the unpleasant experience of feeling left out or disconnected from others. Such

feelings interfere with production and learning. Yet externs are often shy in their new environment and may not take the initiative to include themselves in your activities. Please encourage their participation.

If your office personnel engage in professional group functions such as staff meetings, or social gatherings such as office parties, please include the externs whenever possible. This effort to include the externs will be rewarded by a better relationship, which is likely to result in a better work product.

### **3. The student's expectations for the externship (Experience Check List).**

Asking the student what they would like to learn from the externship is a good way to begin to develop a two-way pattern of communication. Many students would be happy to sit silently and have you do all the talking during this meeting; students often hesitate to say much for fear of looking stupid.

The extern will be given the check list and asked to be prepared when meeting with you. We hope you will encourage the student to participate in this orientation meeting, so that the student will begin to think about what they would like to learn, will learn, and how this will fit into their educational goals. Consider requiring the student to set a specific goal to improve one or two practical skills or areas of substantive knowledge. The goal(s) provide a measuring device for determining the student's progress over the course of the trimester. For example, a student might choose to focus on interviewing skills. You might observe one student interview early in the trimester and another one at the end, so that the two of you could discuss the improvement. Or a student might choose to improve his research skills. That student will keep records of time spent and procedures followed in researching and you can compare techniques used in early research projects to those developed over the course of the trimester.

You may find that you will need to draw these ideas out of your extern. The traditional law school curriculum does not ordinarily provide learning options; courses generally are structured to teach the same thing to everyone. Some students find it a difficult challenge to be given the opportunity for self-determination. Your suggestions, after a discussion of which subjects the student is interested in practicing, should be helpful.

The extern has been encouraged to use the Experience Check List as a guide to request assignments and task that they could experience during the externship. Make sure to look it over and note which items are applicable with your practice and keep it mind throughout the externship.

### **4. Describe the assignments you expect to give extern.**

You should discuss the kind of assignments, which the student will be doing. If you know, or can anticipate, the specific cases or projects, which the extern will work on during the trimester, discuss them at this time. This is also a good time to talk with your extern about the kinds of resources, which are available to help him with these tasks and how you plan to give feedback.

#### **5. Discuss protocol (chain of command and confidentiality policy).**

When going over the nature of the student's work, it is appropriate to discuss policies and lines of authority. Make clear whether memos are to be written according to a specific format, or whether some types of legal authority are to be relied upon more than others (federal law, state law, administrative reports). The extern also needs to know which items of work must be checked by you before they are finalized, and which tasks they can do on their own. The students must understand from whom to take assignments. We ask that all assignments go through you, as the supervising attorney, even if the students will work with other attorneys in actually performing the task. This system prevents conflicts developing over the externs' work and helps the externs maintain an open line of communication with you.

Other subjects to include in this discussion are: confidentiality, dress code and general appearance, use of office equipment, and any other relevant office policies. For instance, tell the student the parameters and purposes of your confidentiality procedures; require the student to dress in the same professional manner as the attorneys in your office.

#### **6. Schedule for weekly meetings with the student.**

This is the time to plan how and when you would like to communicate formally with the extern. We encourage you to have weekly meetings with your extern, during which you can review the student's work and discuss other matters. Some attorneys direct the student to come see them whenever there is a question or a need for feedback. The important thing is to make clear to the student that you intend to take the time to review their work and discuss relevant matters and topics of interest, then establish some procedure for doing this.

During these meetings, it can be especially important to schedule opportunities for the students to observe you or your colleagues engaging in lawyering functions. Although we encourage students to be assertive in asking you about observation opportunities, some more shy students will wait for you to take the lead. If you get so busy that you forget to tell the students about upcoming observation opportunities, these opportunities can be lost. A good way to keep the student apprised of these upcoming events is to put the topic on the agenda for each weekly meeting.

**A good tool to use to engage the extern is the weekly time log. Students will record their assignments on a daily basis. The time log can be used during your weekly meeting to go through the assignments and answer any questions or give constructive comments.**

**Suppose, for instance, the student has expressed an interest in observing a short trial. When you check your own calendar, you notice you have no short trials scheduled during the trimester. In that case, please see whether any of your colleagues have a trial, or similar activity, coming up which the student could observe. It would be helpful if you could determine from your colleague the nature of the case and their expectations about the probable results to pass along to the extern. Ideally you might arrange a joint meeting among you, the extern, and your colleague to discuss the case. After the student has observed, just as after he has performed other tasks, you should take time to discuss the student's experience and answer any questions he/she may have.**

#### **7. The student's work schedule.....**

**Although students generally treat their externship work with a high level of responsibility, some students exhibit a certain casualness in regard to work schedules, probably a carryover from their approach to the regular curriculum (in which they are allowed to miss a certain number of classes). An essential element to the externship experience is establishing a sense of responsibility and commitment. Toward this end, students must have a regular schedule so everyone knows when the student will be at work. As a supervising attorney who must plan assignments and still get your own work done, you are entitled to know when the student will be at your office. A set schedule also gives the student an opportunity to develop a sense of commitment and to view his work as a regular part of the office's functioning.**

**We ask you to be firm with the students about their work schedule. Let the student know that tardiness or absences are unacceptable in the professional world. If a student is tardy or absent more than once, please discuss this with the student. If this behavior continues, report it to the Externship Office so that we can talk to the student.**

**Of course, we do not require you to be totally inflexible in working with the students. We understand that emergencies arise for which you must make allowances. Please treat the student extern as you would a regular employee in your office in this regard, remembering that you are playing a substantial role in his/her professional development.**

## **I. Showing the student his/her work space.**

As obvious as this sounds, show the student where she will work while in your office. Not only does this help you and others to find the student, but it also contributes to making the student feel that he/she belongs there. You may want to ask one of the staff members to show the extern how office machines, i.e. phone, copier and printer work.

### **9. Layout of the office and library and introduction to others.**

Please take the time to show the student around your office. This tour should include a brief overview of the library, where you could point out specific resources, which may be valuable to the student in performing his work. Introduce the student to others with whom he/she may have some business, such as secretaries, receptionist, librarian, and other attorneys. Naturally, all of this will help to make the student feel more comfortable and more a part of your office which, in turn, should lead to increased productivity.

### **10. Explanation of the first assignment.**

At the end of the orientation session, give the student his first assignment. Please take the time to explain the assignment; again, students will often fail to ask you questions for fear of appearing ignorant. Give the student a specific deadline for this and all future assignments, and mark these deadlines on your calendar to remind yourself to check whether the student is completing work in a timely fashion. Sections B. and C., below, offer more detailed suggestions for assignments and feedback.

## **B. ASSIGNMENTS**

### **1. Giving guidance on assignments**

When you assign a student work, go over the assignment in detail with the student to be sure he/she understands it. You might even ask the student to repeat back to you issues that are particularly complex. Inform the student of resources you might use to begin the project, as well as any resources with which he/she might not be familiar. Arrange a deadline with the student for submission of a first draft. Then leave the student alone to find the appropriate law, procedure, form, etc. This process of working to find the answer teaches more than you simply spoon-feeding the information.

Some students hesitate to ask for further help on an assignment. Weekly meetings and early deadlines are helpful for this purpose. In addition, students should be encouraged to ask the immediate supervising attorneys, as well as



others, for help when necessary. On the other hand, some students may ask too many questions. Where students should be able to resolve a matter on their own, they should be encouraged to do so. Above all, make sure that deadlines are adhered to.

It might be helpful for you to know that from our end, we are applying some pressure on the externs to think about their work from the standpoint of being the lawyer who is responsible for the serving the client's interest. We tell the students that their first concern must be for the client, rather than for how their supervising attorney might view the work. Only by exercising this kind of independent thinking will the externs stretch themselves beyond the comfortable and familiar. The kind of thinking we are trying to discourage is reflected in the statement "I didn't know what my supervising attorney wanted me to do with the case." We ask the student to think in terms of what she would do with the case if she were ultimately responsible.

## **2. Supervision by more than one attorney**

Some agencies rotate students through several divisions in an effort to give them a varied learning experience. This makes it difficult for one attorney to assign all the work. Because of the many problems that such arrangements have engendered in the past, we require all offices that rotate students, as well as offices where students will receive work from more than one attorney, to appoint one attorney as the overall extern supervisor. This attorney should keep files on the students and be aware of the students' status at all times. This may be done by requiring all the externs' work assignments to pass through the supervisor.

## **C. FEEDBACK**

We cannot overstate the importance of giving feedback to externs. Your feedback will assist the students in analyzing their performance and in determining what changes they should make next time. This feedback differs from the information, which you would give students periodically to assist them in carrying out an assignment. The latter might be references to useful resources, discussions of pertinent law, or help in understanding issues or strategy. The feedback which is the subject of this discussion, however, consists of giving specific data about the effectiveness of what the student did and, when necessary, suggesting alternatives to enhance future performance.

Most of the tasks that students perform can be evaluated. Of course, we do not expect you to evaluate the extern's work thoroughly each time he/she performs a task. Rather, we would like you to evaluate the student at least twice for each type of task assigned. Thus, if your extern interviews clients or witnesses, or makes court appearances, please observe and critique at least one such interview early on in the trimester, and then another later interview so that progress can be

assessed. The feedback you give needs to be detailed in terms of both substance and process. Similarly, since most students produce a variety of written work, take the time to go over at least a couple of examples of each type of work product, pointing out explicitly where the work is effective and where it needs to be improved.

Both giving and receiving feedback can be uncomfortable. However, feedback, which acknowledges effective behavior before it critiques ineffective behavior is easier to communicate and carries more impact. Thus, in any feedback session, you should endeavor to include both types of information.

After a student performs a task, the feedback process consists of two basic steps:

The student evaluates his/her own performance.  
You evaluate the student's performance.

### **1. Student's Self Evaluation**

Having students evaluate themselves is particularly important when they are performing lawyering tasks that do not involve writing. In performing orally, students do not have the same opportunity to self-correct that they have when they review their own written work. They are often aware, though, of having said or done something ineffective, or they may feel generally dissatisfied with their performance. Before you critique a student, give the extern a chance to discuss these things with you; otherwise, they may change their impressions or forget their own immediate reactions in response to yours. Ideally, while the extern self-critiques, you would sit quietly, neither agreeing nor disagreeing. Thereafter, ask the extern what changes they would make the next time. This question encourages the student to move through the learning process from performing a task through analyzing it and developing a theory for improved performance. In addition, this process reinforces a pattern of reflective thinking.

### **2. Your Evaluation of the Student's Performance**

Begin your critique with a general statement about the student's overall performance. Sometimes it may be difficult to do this and at the same time begin your critique with a positive remark. If the performance was dismal, it is very likely that the student is aware of this. In most cases your general evaluation will not surprise your extern. Follow this general evaluation with a specific critique. General statements such as "Good job," or "You'll do better with practice," are nearly valueless. Like all learners, externs need specific examples demonstrating the behavior being discussed. For example, in discussing a student-conducted interview, your statement, "You developed a nice rapport with your client," needs

to be illustrated by concrete data: "I could see that you made the client feel comfortable when you said to her, 'I can see that you are concerned about this, Mrs. Jones, and I am going to do everything I can to assist you.'"

In the Appendix you will find two forms designed to guide you in the feedback process. Use of these forms is optional. We make them available to students who feel the need for additional written feedback on their work. The first form, which is for critiquing the extern's written work, is entitled "Written Work Feedback." (Appendix F). This form has a space for the student to write questions and comments to you when he submits the work product. It is intended for use on those exceptional occasions when you cannot meet with the student to go over work; it is not meant to substitute regularly for your personal meeting and review session.

The second form is the "Performance Critique." (Appendix E). It is meant to be used when you have observed a student performing a non-written task. While observing the student, you can note any phrases, mannerisms, etc. he uses which illustrate points you wish to make during your critique. You might also find it useful to note phrases and mannerisms used by clients, judges, or other attorneys with whom the student is working in order to put the student's behavior into context. You can use the "Comments" section of the form to discuss the effectiveness or ineffectiveness of the extern's behavior. At the end of the critiquing session, the extern may keep the form for further study.

#### **D. ISSUES**

In the vast majority of cases, externships proceed smoothly, with both students and supervising attorneys reaping the benefits of the mentor/student relationship. However, there are occasional surprises.

We ask that you contact us, should any problems arise during the course of the externship which might require our input. Examples of such issues might be the student's failure to appear timely, the student's inability to accomplish tasks assigned, or an uncomfortable relationship between the extern and yourself or other members of the office. When students raise such issues, we ask that they first contact you in order to discuss them. We will intervene only where the student is unable to discuss them, for one reason or another, or where such discussion proves fruitless. Similarly, should you perceive any problems, we ask that you raise them with the student first. If they are not immediately rectified, we ask that you inform us as soon as possible. If they are issues relating to the student's irresponsibility toward their externship or ethical issues, we ask that you contact us right away in addition to discussing them with the student.

Our current externship faculty consists of Professor Mark Weinstein, the Program Director, Professor Hannah Brenner, and our Program Administrator, Ruth Briscoe. We can be reached at the law school number 619-525-1438 for local supervising attorneys and 1-800-255-4252 X 1438 for out-of-town calls or email at rbriscoe@cwsl.edu.

## **E. REQUIREMENTS OF SUPERVISING ATTORNEY**

In addition to giving the students a valuable learning experience, the documents required of supervising attorneys in terms of their role with the Externship Program are listed below, with corresponding forms attached in the Appendix.

### **1. Supervising Attorney Application**

You no doubt already have an Application on file in our Externship Notebooks. This application, along with students' evaluations of their externship help guide potential externs in their placement selection. The forms students use to evaluate their externships are included in Appendix A. Should any of the information on your application change, such as the number of attorneys in your office, the type of work you do, or the location of your office, it is important to call our office to update the form. The necessary contact person is Ruth Briscoe, our Program Administrator. Should you wish anonymous general feedback by prior externs, we will be happy to discuss that with you, as well.

### **2. Memorandum of Agreement**

After reading this handbook, please make sure to sign the Memorandum of Agreement. In the future, you may wish to refer to it from time to time to refresh your memory regarding your specific commitment. (Appendix B.)

We understand that each placement cannot always provide each element outlined in the Memorandum. In deciding whether to approve an externship placement, we try to be as flexible as possible within parameters which insure the student a high quality educational experience. The factors which we consider most important are the variety and type of tasks to which the students are exposed and the quality of supervision and feedback they will receive. Above all, we intend the Memorandum to set a tone for your role as supervising attorney.

### **3. Time Sheets**

You will need to sign each sheet when the student submits to you prior to the student's private meetings with his/her supervising faculty member. We

require the forms to be specific "Research- 4 hours" is not enough. We want to know what the student is researching and the amount of time the student is spending on each stage of his/her research. Please review them carefully and question the extern on any items which require explanation. You may use these as tools to examine and discuss with the student his/her progress. (Appendix J)

#### **4. Mid-trimester Assessment and Final Evaluations**

These forms will be given to you by the extern. It is critical that, after completing the evaluation form, you take the time to review the evaluation with your extern. You might also ask the student for his/her feedback as well. (Appendix G, Appendix H and Appendix I.)

#### **5. On-site visits with Externship Faculty**

During the trimester, the extern's faculty supervisor will visit your office and have a meeting with you and the extern. This is an opportunity to discuss the learning process, supervision, feedback, etc.

### **F. REQUIREMENTS OF STUDENT EXTERNS**

Our students receive 5-10 units of credit for their externship, 1 unit of credit for every 4 hours of externship. These credits are pass/fail; therefore, your evaluation of their work will not affect their grade, unless it involves a breach of their professional responsibility. Students also receive one unit of graded credit for the academic component of the course, which includes their daily journal, private meetings with an externship faculty, and the weekly Externship Seminar. Brief descriptions of these requirements are sketched below.

#### **1. Weekly Journal**

Externs are required to write about their externship experiences at their externship. We ask them to write not only about what they have done, but about what they are learning. The students' journal writing forces them to reflect upon the legal system and their place within it, in addition to their individual progress and accomplishments.

#### **2. Private Meetings**

In-town students schedule meetings with Externship Faculty three times during the course of their externship. During these meetings, students discuss their externship experiences, including what they are doing, as well as what they are learning. Prior to each meeting, students submit their time sheets, journals, sanitized work product, which is not confidential, and any evaluations (mid-

trimester or final) to their supervising faculty member for review. Students are graded on the timeliness and thoroughness of the necessary paperwork.

### **3. Externship Seminar**

Once a week, students attend a seminar in which they discuss with other externs, externship experiences, as well as any readings assigned for the class. The out-of-town externs participate in a seminar by using a distance-learning program with other externs around the country. Everything that is shared in the seminar is confidential. See the Confidentiality Agreement (Appendix L).

We very much appreciate your willingness to participate in training our students to be competent and ethical attorneys. Supervising attorneys are welcome to attend any seminar classes and are encouraged to volunteer as guest speakers. Should there be anything we can do to facilitate your efforts in achieving our goals for the Externship Program, please let us know.

## **APPENDIX**

**APPENDIX A - SUPERVISING ATTORNEY APPLICATION**

**APPENDIX B - MEMORANDUM OF AGREEMENT**

**APPENDIX C - ORIENTATION CHECK LIST**

**APPENDIX D - EXPERIENCE CHECK LIST**

**APPENDIX E - PERFORMANCE CRITIQUE**

**APPENDIX F - WRITTEN WORK FEEDBACK**

**APPENDIX G - MID-TRIMESTER ASSESSMENT**

**APPENDIX H - FINAL EVALUATION OF STUDENT'S PERFORMANCE**

**APPENDIX I - STUDENT EVALUATION OF PLACEMENT**

**APPENDIX J - DAILY WEEKLY TIME LOG**

**APPENDIX K - SITE VISIT REPORT**

**APPENDIX L - CONFIDENTIALITY AGREEMENT**

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**SUPERVISING ATTORNEY'S APPLICATION & DESCRIPTION OF EXTERNSHIP**

NAME OF SUPERVISOR \_\_\_\_\_

DATE \_\_\_\_\_

NAME OF FIRM/CORP/AGENCY \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY/STATE/ZIP \_\_\_\_\_

PHONE (\_\_\_\_) \_\_\_\_\_ EMAIL \_\_\_\_\_

1. How many years have you been practicing law?
2. How many attorneys practice law in your office?
3. Describe your law practice (e.g., family law, real estate, bankruptcy, criminal, etc.).
4. Why are you interested in supervising an extern?
5. Have you supervised an extern before? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please explain.
6. What type of skills would an extern develop at your office?
7. Please describe how you plan to supervise the extern on a weekly basis.
8. What would be the duties of the extern?



9. Would other attorneys in the office be supervising the extern? If so, please provide their names and describe the extent of their involvement with the extern and your role in overseeing such work.
10. Would the extern have the opportunity to be certified and represent clients in court? If so, please describe the opportunity.
11. Please describe the work place where the student will be situated (e.g., private office with a telephone, desk, access to support staff, etc.).
12. As you know from reading our Supervising Attorney Handbook, the role of an extern is distinct from the role of a law clerk.
- a) Do you hire law clerks to assist you in your work? Yes \_\_\_\_\_ No \_\_\_\_\_
- b) Would the extern be taking the place of a law clerk? Yes \_\_\_\_\_ No \_\_\_\_\_
13. Would you want to keep this application on file for future externs?  
Yes \_\_\_\_\_ No \_\_\_\_\_ Ask me later \_\_\_\_\_
14. Describe any criteria you have for choosing an extern (e.g., class rank, course requirements/recommendations, writing sample, transcript, etc.).
15. Externship hours preferred? Full-time \_\_\_\_\_ Part-time \_\_\_\_\_ Flexible \_\_\_\_\_.

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**SUPERVISING ATTORNEYS' MEMORANDUM OF AGREEMENT**

Law Firm: \_\_\_\_\_ Supervisor: \_\_\_\_\_

I/we agree to the following conditions for participating in the California Western School of Law Clinical Externship Program.

1. I/we have read the Supervising Attorney's Handbook and agree to follow the education goals stated therein.
2. I/we understand that the purpose of the program is to allow the student to experience working as a lawyer, including the ethical and professional responsibility issues that arise in context.
3. The student will be given assignments that are representative of the Supervisor's work. Where appropriate, the student will be certified and to the extent possible, will be responsible for a caseload under my/our supervision.
4. The student's assignments will be as challenging as the student can reasonably handle.
5. The required working time for the student is 4 hours per week per unit of credit. I/we agree to review and sign the student's time sheets on a weekly basis.
6. Students will always do research in the context of a real case. When assigning research, any relevant case file will be made available to the student.
7. The student will participate in all aspects of cases including, but not limited to, client interviewing, counseling, case planning, discovery, fact investigation, trial preparation and trial.
8. The assignment, work, and feedback process will be in accord with the Supervising Attorney Handbook.
9. Externs will have access to support staff substantially equal to the attorneys in the office. Clerical tasks, e.g., filing, photocopying, library updating, indexing, will occupy not more than 5% of student work time.
10. I/we agree to complete, review with the student, and submit both a mid-trimester assessment and final evaluation report on the extern's work (forms to be provided by the law school).

Signatures of all attorneys who will supervise students.

\_\_\_\_\_  
SUPERVISING ATTORNEY

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SUPERVISING ATTORNEY

\_\_\_\_\_  
DATE

## ORIENTATION CHECK LIST

On the extern's first day, please make sure to review the following:

1. The function of your agency, office, or organization;
2. The role of the student extern in the functioning of the office;
3. The nature of the student's work;
4. Relevant office policies and chain-of-command;
5. Schedule for weekly meetings with the student;
6. The student's expectations for the externship;
7. The student's work schedule;
8. Layout of the office and library and introduction to others;
9. Showing the student his/her work space; and,
10. Explanation of the first assignment.

## APPENDIX D

### EXTERNSHIP PROGRAM - EXPERIENCE CHECK LIST

#### LITIGATION

Meeting with clients  
Initial interviews  
Follow-up communications--phone & correspondence  
Initial fact investigation (informal discovery, pre-litigation)  
Fees and retainer discussion  
Legal Research  
Memo drafting  
Case planning & strategizing  
Legal Drafting (complaints, answers, motions)  
Filing documents with court  
Discovery interrogatories, requests for production of documents, etc.)  
Depositions (prepare, observe, participate)  
Trial preparation  
Trial strategy--theory of case  
Preparation of documents, organization  
Of case material  
Client/witness preparation  
Pre-trial motions  
Negotiation  
Preparation, observation  
Arbitration  
Strategy--theory of case  
Preparation of documents, organization of case material  
Client/witness preparation  
Mediation  
Preparation, observation  
Settlement Conference  
Preparation, observation  
Trial Observation and Participation  
Voir dire, opening, direct, cross, closing  
Preparation of court orders

#### APPELLATE

Meetings with clients  
Planning and strategizing  
Formulation of arguments  
Research  
Drafting

#### APPELLATE cont'd

Drafting  
Observation  
Oral argument

#### TRANSACTIONAL

Meetings with clients  
Initial interviews  
Follow-up communications  
Information gathering  
Research  
Document drafting  
Meetings and other communications with other parties/counsel

#### IN-HOUSE COUNSEL

Litigation Management  
Compliance—research, investigation, reports  
Governmental Filings  
Advising clients  
Meeting with client  
Fact gathering  
Legal research  
Memo or report drafting  
Meeting attendance  
Board meetings  
Staff meetings  
Other

#### JUDICIAL

Court observation—trials, motions, appellate arguments  
Meeting with judge  
Research  
Drafting  
Settlement conference  
In-chamber meetings

#### GENERAL

Staff meetings  
Bar meetings and conferences  
Exploration of ethical issues  
Office social gatherings  
Conflict of interest management  
Billing (how it is done at the office)

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**PERFORMANCE CRITIQUE**

Extern:

Supervising Attorney:

Case:

Date:

Task:

Observation    Comments:

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**WRITTEN WORK FEEDBACK**

PROJECT:

Date: \_\_\_\_\_

EXTERN QUESTIONS/COMMENTS:

Date: \_\_\_\_\_

SUPERVISING ATTORNEY FEEDBACK:

Date: \_\_\_\_\_

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**MID-TRIMESTER ASSESSMENT**

Extern: \_\_\_\_\_

Trimester/Year: \_\_\_\_\_

Agency/Office/Court: \_\_\_\_\_

Supervising Attorney/Judge: \_\_\_\_\_

Site Visitor: \_\_\_\_\_

Date of visit: \_\_\_\_\_

1. What are the extern's goals?
2. What has the extern accomplished?
3. Describe the quality and level of extern's work?
4. How does the extern fit into the office environment (e.g. punctuality, reliability, initiative, enthusiasm, confidence, ability to work with others)?
5. How is feedback given to the extern?
6.
  - a. Supervising Attorney: What are the goals for the extern for the remainder of the trimester? If possible, identify areas for the extern's improvement.
  - b. Extern: What are the goals for the remainder of the externship and the plans for accomplishing them?
7. What issues would you like to discuss at the site visit?

**This form must be returned to your supervising professor prior to the site visit.**

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**EVALUATION OF STUDENT’S EXTERNSHIP PERFORMANCE**

Extern: \_\_\_\_\_ Agency/Office/Court: \_\_\_\_\_  
Supervising Attorney/Judge: \_\_\_\_\_ and/or \_\_\_\_\_

1. Please comment upon the following aspects of the student’s written/oral work, giving specific examples to illustrate your comments.
  - a. The student’s ability to grasp the underlying principles of his or her work (i.e., what tasks have been addressed by the student and how did he/she perform?)
  - b. How the student’s work compares with what you would expect from a new attorney.
2. Please describe the student’s progress from the beginning of the Externship to this point, using specific examples.
3. Please describe the student’s work habits and professionalism (e.g., punctuality, reliability, initiative, enthusiasm, confidence, ability to work with others, giving specific examples, if possible).
4. Please describe the student’s sensitivity to professional responsibility and ethical issues, giving specific examples if possible.
5. What suggestions do you have for the student’s improvement? Please be specific.

\_\_\_\_\_  
Signature and title of person completing this evaluation

\_\_\_\_\_  
Date

I have received a copy of this evaluation, read and reviewed it with my supervising attorney.

\_\_\_\_\_  
Signature of Extern

\_\_\_\_\_  
Date



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**THE EXTERN'S EVALUATION OF PLACEMENT**

Name: \_\_\_\_\_  
(optional)

Date: \_\_\_\_\_

Supervising Attorney: \_\_\_\_\_

Place of Externship: \_\_\_\_\_

Please evaluate the following areas of your externship. Your comments will assist the Clinic Faculty and prospective externs wishing to work with this placement. (5= excellent; 1= poor)

1. WHAT WAS THE QUALITY OF YOUR LEARNING EXPERIENCE?

a. Variety of work 1 2 3 4 5

Comments:

b. Challenging projects 1 2 3 4 5

Comments:

c. Manageable workload 1 2 3 4 5

Comments:

d. Level of supervision 1 2 3 4 5

Comments:

e. Feedback 1 2 3 4 5

Comments:

Were you prepared for the types of assignments you received from your supervising attorney? Yes No  
What else was needed:

2. HOW WAS YOUR RELATIONSHIP WITH YOUR SUPERVISING ATTORNEY AND WITH OTHER STAFF MEMBERS?

3. WERE YOUR EXPECTATIONS MET (based on what the supervising attorney told you during the interview/orientation)?

4. WHAT PART OF THE EXTERNSHIP DID YOU LIKE BEST AND WHY?

5. WHAT ARE THE DRAWBACKS OF THIS EXTERNSHIP?

6. WOULD YOU RECOMMEND THIS EXTERNSHIP? No Yes  
WHY:

7. WHAT SKILLS DID YOU LEARN AT YOUR EXTERNSHIP? (be specific)

8. WHAT DID YOU LEARN ABOUT BEING A LAWYER?

9. WHAT OTHER THINGS DID YOU LEARN?

APPENDIX J

SAMPLE TIME LOG

(This time log is from a student who is earning 7 units and working 28 hours per week.)

DAILY/WEEKLY TIME LOG			
EXTERN'S NAME		PROFESSOR	AGENCY/LAW OFFICE/COURT
WEEK # <u>4</u> ( <u>1/23 to 1/26</u> )			
PLEASE DO NOT CALCULATE TIME IN LESS THAN 15 MINUTE INCREMENTS			
Date	Description of assignments	Hours	Total
1/23	Check emails for assignments Review voicemail and return calls Complete Performance Action memo (draft 1) Research and write memo re: volunteer vs. gratuitous services Read magazine article relating to case Met with SA re: feedback on performance action memo Began revising Privacy Act memo (draft 2)	0.50 1.00 2.00 3.00 0.50 0.75 0.75	8.5
1/24	Check emails for assignments & prioritize assignments Work on status report Meeting with SA Read resource book for guidance Proofread SOW for 2563 Read chapter 1 - 3 <u>Trademark Registration Practice</u> Continue working draft of memo for Privacy Act	0.50 1.50 1.00 1.25 1.50 0.50 1.00	7.5
1/25	Check emails for assignments & prioritize assignments Meeting with Chris re: upcoming trial. Meeting with SA re: work assignments and schedule Research Hawaii state law re: issues in misconduct Continued research & revised memo re: Privacy Act Ethics: Read 3 articles in California Lawyer magazine Review 2 ethic opinions	0.25 0.75 0.75 1.25 1.00 0.75 1.25	6.00
1/26	Schedule weekly meetings/appointments Check and read emails re: assignments Made revision on declaration from client extern #1 Reviewed memo of Points & Authorizes: K issue Read document re: Freedom of Information Act (FOIA) issue and report findings to SA	0.50 0.50 1.25 2.00 1.75	6.00
			<u>Total hours: 28</u>
			<u>Cumulative hours: 112</u>

---

**Signature of Supervising Attorney**

**FACULTY SITE VISIT REPORT**

Date:

Extern:

Supervising Attorney:

Placement:

Faculty Site Visitor:

Number of weeks student has externed at placement:

Comments:

Areas of concern:

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**CONFIDENTIALITY AGREEMENT**

\_\_\_\_\_20\_\_\_\_  
(Trimester)

**Confidentiality of Oral Communications by Participants in the Externship Seminar**

I understand that oral communications made by me, other students in the Seminar, the professor and any other participants in the Seminar may be of a sensitive nature and are to be held in the strictest confidence. I agree to maintain the confidentiality of all such communications and information, and will not disclose or discuss any such matters to anyone who is not currently enrolled in this section of the Externship Seminar.

**Confidentiality of Written Journals by Participants in the Externship Seminar**

I understand that the written journals that are distributed to the participants in the seminar may be of a sensitive nature and are to be held in the strictest confidence. I agree to maintain the confidentiality of the written journals, and will not disclose or discuss them or the contents of them with anyone who is not currently enrolled in my seminar section.

**Confidentiality of Client, Client Information, and Externship Placement Matters**

I understand that I must maintain the confidentiality of information relating to the representation of a client to the same degree as a lawyer admitted to practice law in the state of California. I further understand that communications from my supervising attorney related to a client matter are likewise confidential. I agree to maintain the confidentiality of the identity of clients, any identifying information, and all other client information and communications that reasonably should not be disclosed.

---

Signature \_\_\_\_\_ Print Name \_\_\_\_\_ Date \_\_\_\_\_

*Please turn in the signed copy to your professor and keep a copy for your records.*