

AN EXTERNSHIP PROGRAM: START IT, GROW IT, IMPROVE IT

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I. INTRODUCTION

Virtually all of the two hundred American Bar Association (“ABA”) accredited law schools in the United States¹ have some sort of student externship program.² At established schools, externship programs offer law students many opportunities for varied placements and other experiences.³ Phoenix School of Law (“PhoenixLaw”), like many other start-up schools, did not originally have an externship program.

This article describes my experience in creating and developing the PhoenixLaw externship program and provides what I hope will be helpful guidelines for doing the same at other schools. This article also details my

¹ ABA Approved Law Schools, <http://www.abanet.org/legaled/approvedlawschools/approved.html> (last visited July 22, 2010).

² James H. Backman, *Where Do Externships Fit? A New Paradigm is Needed: Marshalling Law School Resources to Provide an Externship for Every Student*, 56 J. LEGAL EDUC. 615, 615 (2006). Law school externship programs that offer academic credit involve student work at a field placement. *Id.* at 627-28. The student works at some legally related job without pay, while the student completes an academic component. *Id.* at 644-45. The American Bar Association dubs this experience, “Study Outside the Classroom.” 2009-2010 ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS stand. 305, at 26-28 (2009-2010), available at <http://abanet.org/legaled/standards/2009-2010StandardsWebContent/Chapter3.pdf> [hereinafter ABA Standard 305].

³ See, e.g., University of Denver, Sturm College of Law, Legal Externship Program, <http://law.du.edu/index.php/legal-externship-program> (last visited July 22, 2010); Brooklyn Law School, Clinical Program, <http://www.brooklaw.edu/academics/clinicalprogram/clinicsandexternships/clinics.aspx?> (last visited July 22, 2010); Southwestern Law School, Externship Program, <http://www.swlaw.edu/academics/extern> (last visited July 22, 2010).

vision for the future of the PhoenixLaw externship program⁴ and explains why having such a vision is important. Finally, this article will provide some comment on the scope and nature of externship programs. By telling my story, I hope to provide some assistance to those tasked with starting programs at their schools.

II. FIRST STEPS

PhoenixLaw initially lacked an externship program, but the school's practice-ready orientation soon remedied this deficiency. Although the desire to create a program existed, the school needed someone with the capability, as well as the connections, to develop and maintain a program that would not only be successful but would also satisfy the school's practice-ready mission.⁵ With these aspirations, PhoenixLaw's path to begin an externship program required a first step—finding the right person to develop and effectuate the plan.

From that first step of selection, the PhoenixLaw externship program has become a reality and provided me with experience in developing and maintaining a successful externship program—experience that I would like to share for the benefit of others starting new externship programs. First, I will detail how PhoenixLaw's externship program began. Second, I will explain how my experience at PhoenixLaw can assist other externship program developers and coordinators with developing and maintaining a successful externship program. Third, I will offer some comment on the future of the program.

A. *PhoenixLaw's Externship Program Begins*

In late April 2006, a little over one year into PhoenixLaw's existence, Dean Dennis Shields⁶ asked me to create and develop an externship program. My experience as a Superior Court Judge for over thirteen years and my connections in the Phoenix legal community probably motivated Dennis Shields' decision in his selection process. Although I had no

⁴ See Phoenix School of Law, Externship Program, <http://www.phoenixlaw.edu/academics/default.asp?PageID=139> (last visited July 22, 2010) (detailing the program's goals).

⁵ The practice-ready mission means that PhoenixLaw focuses on the wider range of practical skills required of a 21st century lawyer. PHOENIX SCHOOL OF LAW, STUDENT HANDBOOK 8, 11 (rev. Feb. 17, 2010), available at <http://www.phoenixlaw.edu/downloads/Student%20Handbook.pdf> [hereinafter STUDENT HANDBOOK].

⁶ Dennis Shields was Dean of PhoenixLaw from 2005-08.

experience running an externship program, I did have experience working with externs. As a trial judge on the Maricopa County Superior Court, I had the honor of hosting many law student externs. Some students were more motivated than others, and some law schools were more attentive to their students' learning needs than others. Despite these varying levels of student motivation and law school involvement, all the externs demonstrated a progression of practical knowledge and application that reinforced my faith in the future generation of lawyers. My prior experience with externs helped me to recognize students' needs as externs, allowing PhoenixLaw to be one of those schools that is particularly attentive to students' learning needs.

Based on these past observations of externs and of externship programs at other law schools, I undertook the task of starting Phoenix- Law's externship program without a budget, administrative staff, or any real idea of what externships were or should be from an academic viewpoint. Ambitiously, PhoenixLaw wanted to have a viable student externship program designed and running in only one semester.⁷ Due to my lack of practical experience, I believed starting an externship program would be simple.

What at first seemed like a simple, straightforward task⁸ turned out to be much more complicated. I was unaware of the time, effort, and problems that accompany such an endeavor and plunged in at the end, middle, and beginning all at once—immersing myself in the overview and detail of existing externship programs at ABA-accredited law schools to find some guidance. I did not, however, find a “ready made” to-do list for starting an externship program. After a couple of weeks of churning in my new responsibilities—and experiencing growing panic—I developed my own working list of guidelines and a road map for the project to ease some of the stress of my task.

⁷ Registration for the spring 2007 term closed October 27, 2006—that allowed for what seemed like more than enough time of 179-calendar days (just over twenty-five weeks). As it turned out, the first externship class of one student started in the fall of 2006, only about 100 days after my hire.

⁸ “*Straightforward task* synonyms: uncomplicated, easy, *simple*, elementary, effortless, undemanding, unexacting, routine; inf. easy as falling off a log, easy as pie.” THE OXFORD POCKET THESAURUS OF CURRENT ENGLISH (Oxford Univ. Press 2010) (1997) (emphasis added).

B. The Path to Creating an Externship Program—Using My Experience as a Model

From my experience as coordinator of PhoenixLaw's externship program, I have acquired considerable insight into how to develop and maintain a new externship program successfully, experience that I would like to share so that other externship developers and coordinators can benefit. The first step involves finding the right person to start and manage the program. Because this step will not require the active involvement of the actual person chosen to run the program, I have not included it in my list of guidelines. It is important, however, to understand the value of having the right person. Once a law school has selected the right person, the guidelines become helpful.

1. Step 1: Select the Externship Program Coordinator

The first and most important step in creating an externship program is to find someone to run the program. An ideal candidate is someone who has prior experience running an externship program, or, at the very least, has experience working with externs. In addition, an important factor to consider is whether the candidate has strong connections with the local legal community. Thus, when selecting a person to run an externship program, consider someone who has a strong connection to the surrounding legal community where most of the externships will occur. A prior connection to the community also helps to facilitate relationships with agencies that provide externship opportunities. Moreover, such connections will provide the coordinators at the externship locations with confidence that the person running the school program will select appropriate students for placements. Selecting the right candidate is, therefore, very important in the creation and maintenance of a successful externship program and also necessary to carry out the remaining guideline steps.

2. Beyond the First Step: Steps to Success

After selecting the right candidate, there are several steps that I believe are important for the coordinator to follow when creating an externship program. To simplify my efforts to create an externship program, I developed a working list of these steps, which proved to be helpful and continues to guide the PhoenixLaw externship program:

1. Learn from others by surveying existing programs and asking for advice and assistance: do not reinvent the wheel.

2. Review the ABA accreditation standards (“the ABA Standards”): design a program that is, and will remain, fully compliant.
3. Review the available literature on establishing externship programs, the major past issues with externship programs, and the maintenance of externship programs.
4. Design, implement, and monitor a meaningful academic component, paying particular attention to the program objectives, such as the specific student learning objectives and outcomes.
5. Develop, nurture, and maintain academic and administrative support for the program.
6. Find, train, develop, and reward professors (whether adjunct or full-time faculty) who teach the academic component.
7. Develop externship program forms and procedures.
8. Locate, contact, develop, and maintain outstanding externship placements and field supervisors.
9. Develop and implement an effective student-placement process to achieve productive student-placement matches.
10. Develop a mechanism to inform all stakeholders in the externship program, especially students, of externship opportunities and program requirements.
11. Ensure the externship program matures consistent with the law school’s best practices.

As I look back on how I applied this list, I discovered a key learning point. The activities that occur in forming, developing, and maintaining an externship program are not sequential or linear—each activity has importance, to varying degrees, throughout the program’s life cycle.⁹ Thus, each externship program will not necessarily apply these guidelines in the same way as other law schools. To assist externship coordinators with implementing these guidelines in a manner that will achieve the most benefit, this article discusses these eleven key guidelines and provides examples of their implementation within PhoenixLaw’s externship program.

III. FOLLOWING AND UNDERSTANDING THE IMPORTANCE OF THE GUIDELINES

To establish and maintain a successful externship program, understanding my guidelines may be helpful. The success of the

⁹ As a result of this key learning point, my story of the creation, growth, and future vision of the PhoenixLaw externship program is not linear either.

PhoenixLaw extern-ship program testifies to the guidelines' practical advantages in establishing and maintaining a successful program. This Part fleshes out these key steps, but the appropriate order for implementing each step will vary depending on an individual law school's needs and existing assets.

A. *Learn from Others: Do Not Reinvent the Wheel*

As a trial judge, I learned not to reinvent the wheel: learn from others by researching their programs and asking for their advice. In the early stages of PhoenixLaw's externship program, the research and advice that I gathered served the externship program well. These resources included websites maintained for the purpose of facilitating legal externship programs, as well as information from already existing externship programs at other law schools.

For example, a few quick Google[®] searches immediately led to Catholic University of America's invaluable LEXTERN resources. The first was Professor Sandy Ogilvy's¹⁰ LEXTERN website.¹¹ Professor Ogilvy maintains the site "for the benefit and use of faculty and administrators engaged in teaching and coordinating legal externship programs."¹² This internet resource was, and still is, nothing short of wonderful, because I had immediate access to extremely useful information. The second invaluable resource was the LEXTERN listserv.¹³ This listserv is a continually active, helpful, and friendly meeting place for externship professors, directors, and administrators from law schools around the country.¹⁴ Both of these resources allow someone tasked with creating an externship program to accomplish much of the research associated with designing and maintaining that program.

The LEXTERN listserv archives and other online searches will lead you to additional invaluable materials. For example, the LEXTERN listserv archives led me to material from the 2006 Externship 3 Conference:

¹⁰ Professor J.P. "Sandy" Ogilvy is one of the legal externship experts within the academy. To view Professor Ogilvy's curriculum vitae, see <http://faculty.cua.edu/ogilvy/resume-jpo-06-08.pdf> (last visited July 22, 2010).

¹¹ Catholic University of America, LEXTERN Home, <http://laworgs.cua.edu/lexternweb/index.htm> (last visited July 22, 2010).

¹² *Id.*

¹³ Catholic University of America, LEXTERN Listserv Archives, <http://lists.cua.edu/archives/> (last visited July 22, 2010). This link accesses the listserv website for paid subscribers. The LEXTERN home page provides information on how to subscribe.

¹⁴ *Id.* Some topics this article mentions may have, at some time and in some manner, already been discussed on the LEXTERN listserv.

Learning from Practice¹⁵ and the Greater Los Angeles Externship Consortium (“GLACE”), which contains information specifically for externship field supervisors.¹⁶ I continue to use the LEXTERN listserv’s resources, because they are convenient and always contain helpful information. I am usually able to answer any questions that I have simply by accessing these materials online, and the LEXTERN website frequently updates its materials. The LEXTERN site is a great starting point for a new externship coordinator.

A second set of highly useful sources of information available on the internet comes from established externship programs at other law schools. A Google® search of such material or even direct correspondence with the coordinators of other schools’ programs will make you aware of potential models for your own successful externship program. The variety and vitality of the various externship programs offered in the United States is impressive, and no law school has either the same or the perfect model.

In my research, I recognized some fundamental differences between each law school’s externship programs stemming from differences in each law school’s mission, vision, resources, and academic goals. For example, PhoenixLaw’s mission is to provide a student success centered environment, to help students achieve practice readiness, and to encourage students to serve the underserved.¹⁷ Therefore, I focused my research on finding externship programs at schools with similar missions. A deeper review of the specific characteristics of each law school with a successful externship program will help you identify ideas to incorporate into your own program.

¹⁵ See, e.g., J.P. Ogilvy, *Introduction to the Symposium on Legal Externships: Learning from Practice*, 10 CLINICAL L. REV. 469 (2004). I found Professor Ogilvy’s symposium introduction particularly useful, and additional materials from this conference are available online. See also Loyola Law School, Externships 3: Learning from Practice, A National Externship Conference, <http://events.lls.edu/externships/06/> (last visited July 22, 2010). The purpose of GLACE is “to bring together many of the most thoughtful and innovative people in the field nationwide to learn from each other in developing innovative approaches in improving externship pedagogy at our individual law schools.” *Id.*

¹⁶ Loyola Law School, Greater Los Angeles Consortium on Externships, <http://www.lls.edu/glance/> (last visited July 22, 2010). This website was designed to develop joint standards for field supervision of externs and to assist externship field supervisors by providing them with information and support to “facilitate effective education and mentoring of [externship] students.”

¹⁷ Phoenix School of Law, About PhoenixLaw, <http://www.phoenixlaw.edu/about/> (last visited July 22, 2010). PhoenixLaw’s mission is one of the reasons I chose to become a member of the law school faculty. For a detailed description of each mission pillar see STUDENT HANDBOOK, *supra* note 5, at §§ 1.1.3, 1.1.5-.7.

After reviewing the materials available on LEXTERN, various online, school-specific syllabi, and other law schools' externship program descriptions, I formed a general view of what an externship program should include.¹⁸ Learning from others, rather than pioneering your own plan, offers a stronger basis for developing and maintaining a successful externship program and will help minimize many of the difficulties faced when running a new externship program.

B. Review the ABA Accreditation Standards

One of the first essential tasks when starting an externship program is a close review of the *ABA Standards for Approval of Law Schools* ("ABA Standards").¹⁹ Continual attention and complete understanding is essential for externship program coordinators at start-up law schools seeking full ABA accreditation.²⁰

The standard most applicable to externship programs is Standard 305, "Study Outside the Classroom."²¹ All of the words, phrases, and accompanying comments in the Standard are important. Because of the past skepticism and resistance from some in the more traditional law school academy to allowing academic credit for study outside the classroom, Standard 305 is more extensive and specific than most of the other ABA standards.²²

¹⁸ For example, a search of <law school externships> in any search engine returns many law school externship web pages. Such a search in Google[®] returns 118,000 results.

¹⁹ The ABA Standards regarding externships and other study outside the classroom have evolved and continue to evolve over time. See, e.g., Peter A. Joy, *Evolution of ABA Standards Relating to Externships: Steps in the Right Direction?*, 10 CLINICAL L. REV. 681, 685-93 (2004).

²⁰ Phoenix School of Law earned full ABA accreditation as of June 2010.

²¹ Standard 305, *supra* note 2.

²² See Robert F. Seibel & Linda H. Morton, *Field Placement Programs: Practices, Problems, and Possibilities*, 2 CLINICAL L. REV. 413, 413 n.1 (1996) (recognizing that "for many years . . . legal education denied that practical experience was an integral part of preparing lawyers for admission to the profession"). The academy's apparent bias against externships appears to have declined in recent years. See Kelly S. Terry, *Externships: A Signature Pedagogy for the Apprenticeship of Professional Identity and Purpose*, 59 J. LEGAL EDUC. 240, 244-47 (2009) (stating that externships are invaluable tools for developing the law student's professional identity and purpose); Amy Timmer & John Berry, *The ABA's Excellent and Inevitable Journey to Incorporating Professionalism in Law School Accreditation Standards*, PROF. LAW., Fall 2010, at 1, 18 (stating that "clinical experiences . . . in externships, along with pro bono programs, are essential cornerstones of a program of legal education that would help inculcate professionalism in law students").

According to Standard 305, study outside the classroom “permits or requires student participation in studies or activities away from or outside the law school [OR] in a format that does not involve attendance at regularly scheduled class sessions.”²³ Academic credit given must be “commensurate with time and effort required and anticipated quality of educational experience.”²⁴ The list goes on: “each student’s academic achievement shall be evaluated by a full or part-time faculty member”; and “studies or activities shall be approved in advance and periodically reviewed following the school’s established procedures for approval of the curriculum.”²⁵

Finally, Standard 305 also requires that the field placement program include several demonstrable elements.²⁶ To summarize, Standard 305 requires that an externship field placement program include “a clear statement of goals and methods” for achieving them and a “demonstrated relationship between those goals and methods to the program in operation.”²⁷ The program must provide adequate instructional resources,²⁸ a clearly articulated method of evaluating each student’s academic performance involving both a faculty member and the field placement supervisor;²⁹ a method for selecting, training, evaluating, and communicating with field placement supervisors;³⁰ and periodic on-site visits, or the equivalent, by a faculty member, if necessary and appropriate or if the field placement program awards four or more academic credits for field work in any academic term.³¹

Standard 305 also requires prerequisites and opportunities for student reflection.³² Prior to participation in an academic credit externship class, students must “have successfully completed one academic year of study.”³³ “[O]pportunities for student reflection on experience” must occur “through a seminar, regularly scheduled tutorials, or other means of guided reflection.”³⁴ When four or more academic credits are offered, the

²³ Standard 305, *supra* note 2, § a.

²⁴ *Id.* § b.

²⁵ *Id.* §§ c, d.

²⁶ *Id.* § e.

²⁷ *Id.* § e(1).

²⁸ *Id.* § e(2). A program must have faculty devoting sufficient time to teach and supervise students, as well as being accessible to the students.

²⁹ *Id.* § e(3).

³⁰ *Id.* § e(4).

³¹ *Id.* § e(5).

³² *Id.* § e(6)-(7).

³³ *Id.* § e(6).

³⁴ *Id.* § e(7).

opportunity for reflection must be provided contemporaneously with the field placement.³⁵ Accordingly, understanding and incorporating the ABA Standards is essential to the design and maintenance of every externship program.

C. Review the Literature

Continual review of the academic literature on externship programs is an essential ingredient to a quality externship program. Reviewing the available literature not only assists program developers with establishing new externship programs but also helps existing program coordinators identify the major issues other externship programs have faced in case they arise and provide guidance on program maintenance. The amount of literature available, however, can be daunting, and the challenge is finding relevant literature. This short article cannot discuss all of the available literature on legal externships³⁶ or the broader topic of experiential learning and teaching,³⁷ but some guidance for digesting it is possible.³⁸ One method is to view the literature through the lens of the major differences in theory and approach. These differences form distinct poles on various continuums. For purposes of this article, four such continuums are briefly discussed³⁹:

- Very Specific Learning Objectives or More General Learning Objectives

³⁵ *Id.*

³⁶ See, e.g., J.P. Ogilvy & Harriet Katz, Legal Externship Bibliography of Books and Articles Relating to Design, Critique, and Pedagogy of Legal Externships (2010), <http://laworgs.cua.edu/externweb/bio.htm> (last visited July 22, 2010).

³⁷ See, e.g., Alexis Anderson et al., Selected Bibliography: Training and Supervision of the Fieldwork Supervisor, <http://www.aals.org/profdev/clinical2002/anderson1.html> (last visited July 22, 2010); J.P. Ogilvy & Karen Czapanskiy, Clinical Legal Education: An Annotated Bibliography (Rev. 2005), <http://faculty.cua.edu/ogilvy/Biblio05clr.htm> (last visited July 22, 2010).

³⁸ To demonstrate how much information a web search reveals, Professor Ogilvy states:

A search of only four Westlaw databases, ERIC (education related), CINAHL (Nursing and Allied Health), MAGINEX, and MAG-ASAP, revealed hundreds, if not thousands, of articles on supervision in the literature of other domains such as education, medicine, social work, counseling, and therapy. Other than some infrequent references in the legal literature, most of this work has not been read, collated, and made available to law teachers or supervision attorneys.

Ogilvy & Czapanskiy, *supra* note 37.

³⁹ These continuums overlap to some extent.

- Classroom Student Learning or Field Placement Student Learning
- Specialized Types of Field Placements or Many Types of Field Placements
- Academic Credit and Staffing

1. Specific or General Learning Objectives

The first literature continuum involves learning objectives for externship programs. Reviewing the relevant literature becomes easier when you know whether your program will address general or specific learning objectives, but no matter what type of objectives you choose, the ABA requires a program to define its objectives. In the mid-1990s, the legal academy expressed doubts concerning the intellectual rigor and extent of student learning in the externship context.⁴⁰ The accreditation standard requiring goal articulation is a result of those doubts. Specifically, Standard 305(e)(1) requires a “clear statement of goals and methods, and a demonstrated relationship between those goals and methods to program in operation.”⁴¹ Thus, defining the goals of the externship program is both a threshold and continuing task. Externship goals vary greatly across the law school academy, from very specific skills-based learning objectives in programs that are more like traditional live-client clinics (e.g., become proficient at live-client interviewing), to less specific and more generalized learning objectives in broader-based programs (e.g., develop skills through learning by reflection).

In addition to the ABA Standards, Professor Ogilvy’s 2003 article setting forth guidelines for the evaluation of legal externship programs further informs the goal-setting activity.⁴² Professor Ogilvy’s first guideline for externships is to ensure that the externship program’s goals, policies,

⁴⁰ See, e.g., Stacy Caplow, *From Courtroom to Classroom: Creating an Academic Component to Enhance the Skills and Values Learned in a Student Judicial Clerkship Clinic*, 75 NEB. L. REV. 872 (1996). Professor Caplow states:

Law students have worked as interns in the chambers of judges for many years, well before the modern era of clinical education. . . . Despite their popularity with students and judges, judicial clerkship programs have never enjoyed much credibility with clinical teachers, even though few clinicians probably would dispute that the clerkship experience can be intellectually rigorous and personally rewarding

Id. at 873-74.

⁴¹ Standard 305, *supra* note 2, § e(1).

⁴² J.P. Ogilvy, *Guidelines with Commentary for the Evaluation of Legal Externship Programs*, 38 GONZ. L. REV. 155, 160-79 (2003).

and procedures are clear and “consistent with the law school’s mission, location, curriculum, the students’ perceived interests and needs, and the placement sites’ requirements.”⁴³ Goals of externships can range from teaching students to reflect on their experiences, to exposing students to institutional analysis and to teaching all manner of particularized legal specialties.⁴⁴ In all cases, the externship program’s goals should demonstrably complement the law school’s mission, goals, and curricula.

Given that PhoenixLaw was still a start-up school when I started the externship program and it lacked a developed, specialized clinical course, the natural choice was a set of general learning objectives for the externship program. General learning objectives are more consistent with PhoenixLaw’s mission pillars of being practice-ready, student-centered, and serving the underserved.⁴⁵ Knowing the school’s objectives for the externship program allowed me to better review the relevant literature. Likewise, when choosing your own objectives, knowing whether you prefer specific or general objectives will facilitate your research of the relevant literature.

2. Classroom or Field Placement Student Learning

The second literature continuum concerns whether your program will facilitate student learning in the classroom or in field placement or both. Just as knowing your specific program objectives will help narrow your review of relevant literature, so will knowing the locus of student learning. A general review of “locus” literature reveals a debate over whether externships should be about classroom-based learning or field placement-based learning.

Despite this classroom-versus-placement debate, the “locus” of student learning involves some consideration of how today’s students’ learning styles vary from passive, lecture-based classroom experiences of the past to the more “multi-tasking” learning styles of today’s ‘millennial’ students.”⁴⁶ In addition to a consideration of students’ learning styles, choosing between classroom- or placement-based learning should partly depend on your law

⁴³ *Id.* at 160.

⁴⁴ Robert F. Seibel, *Field Placement Programs: Practices, Problems, and Possibilities*, 2 CLINICAL L. REV. 413, 415 (1996).

⁴⁵ See Phoenix School of Law, About PhoenixLaw, <http://www.phoenixlaw.edu/about/> (last visited July 22, 2010); STUDENT HANDBOOK, *supra* note 5, §§ 1.1.3, 1.1.5-7.

⁴⁶ See generally Susan K. McClellan, *Externships for Millennial Generation Law Students: Bridging the Generation Gap*, 15 CLINICAL L. REV. 255 (2009).

school's mission and goals and ultimately must permit compliance with the Standards.

Once you have assessed the impact of students' learning styles and your school's mission and goals, it is important to also consider the debate over the type of externship program to choose. Although the law school's mission and goals have a significant impact on the choice of learning program you select, considering the arguments for and against both types of learning programs will usually lead to a better informed decision on behalf of the school and the students.

A brief synopsis of this debate will provide some background on its relevance to your decision. Some believe externships are all about classroom learning.⁴⁷ Those opposing this belief argue classroom teaching is ineffective, in part, because of "anti-practitioner bias, anti-externship bias, lack of a compelling subject matter, and difficulty incorporating clinical methodology of active learning."⁴⁸

Others opposing the primacy of the classroom argue that students learn the most through the field placement.⁴⁹ Their argument is convincing, because the notion that law students "learn best from law teachers" is increasingly "subject to serious challenge based on the growing body of contextualist, experientialist, and practice-oriented cognitive findings that refute or raise serious doubts about the pedagogical premises which drive

⁴⁷ Peter Jaszi et al., *Experiencing as Text: The History of Externship Pedagogy at the Washington College of Law, American University*, 5 CLINICAL L. REV. 403 (1999) (citing, among others, Brook K. Baker, *Beyond MacCrate: The Role of Context, Experience, Theory, and Reflection in Ecological Learning*, 36 ARIZ. L. REV. 287 (1994); Robert Condlin, *Learning from Colleagues: A Case Study in the Relationship Between "Academic" and "Ecological" Clinical Legal Education*, 3 CLINICAL L. REV. 337 (1997); Donald J. Givelbar et al., *Learning Through Work: An Empirical Study of Legal Internships*, 45 J. LEGAL EDUC. 1 (1995)).

⁴⁸ Erica M. Eisinger, *The Externship Class Requirement: An Idea Whose Time Has Passed*, 10 CLINICAL L. REV. 659 (2004).

⁴⁹ Anahid Gharakhanian, *ABA Standard 305's "Guided Reflections": A Perfect Fit for Guided Fieldwork*, 14 CLINICAL L. REV. 61 (2007). Professor Gharakhanian provides:

The former Standard 305(f)(4) required a "classroom or tutorial component" for the field placement if the placement program awarded more than six credits. The new Standard 305(e)(7), effective as of February 14, 2005, provides that in addition to a seminar or tutorial, "other means of guided reflection" satisfy the requirement and that the exercise must be contemporaneous if the placement awards four or more credits.

legal education.”⁵⁰ Harriet Katz, describing the fieldwork-centered program at Rutgers School of Law-Camden, observed that students are more motivated to learn in their field placements than in the externship classroom-based courses.⁵¹ Professor Katz argues that students’ reflective journals, with topics integrated into any classroom or other academic component, demonstrated the students’ development and growth that resulted from the field placement.⁵² Her observations help prove the importance and effectiveness of student learning “at work” in the field placement.⁵³

At PhoenixLaw, all three of these considerations—the students’ learning styles, the school’s mission and goals, and the ABA Standards—formed the decision concerning classroom versus field-placement student learning. These considerations are constantly evolving with regard to how much of the externship program should be classroom-based or field-based. In the end, PhoenixLaw chose a “mixed” program, which includes some student time in a contemporaneous small group classroom seminar. For new externship programs, determining school-specific needs and objectives as well as understanding the “locus” debate will simplify the “locus” decision and help narrow researching relevant literature.

3. Specialized or General Field Placements

The third research continuum involves making a decision about the types of field placements—whether placing students in specific types of fields or in many types of fields. Relevant literature will facilitate decisions and their implementation in this area. Again, the ABA Standards provide some context for this decision. Standard 305(e)(4) requires a “method for selecting, training, evaluating, and communicating with field placement supervisors.”⁵⁴

After conducting my research, I felt the best design for PhoenixLaw, at least in the beginning, was an inclusion of many different types of

⁵⁰ Daniel J. Givelber et al., *Learning Through Work: An Empirical Study of Legal Internship*, 45 J. LEGAL EDUC. 1, 2 (1995).

⁵¹ Harriet N. Katz, *Using Faculty Tutorials to Foster Externship Students’ Critical Reflection*, 5 CLINICAL L. REV. 437, 447 (1999) (stating that, “[i]n a fieldwork-centered program, my observation is that externship students nearly always prefer to put energy and time into fieldwork experience of any type rather than into school assignments related to the program”).

⁵² Harriet N. Katz, *Personal Journals in Law School Externship Programs: Improving Pedagogy*, 1 T.M. COOLEY J. PRAC. & CLINICAL L. 7, 12-14 (1997).

⁵³ *Id.*

⁵⁴ Standard 305, *supra* note 2, § e(4).

placements (judicial, not-for profit, community service, and government) but with a limited number of agencies. The program started with a limited number of different field placement locations (i.e., three to five) and a limited number of students in the program. This design permits a more controlled environment for field placement supervisor selection and training.

Programs based on this design, however, have their limits. For example, this design includes only a small segment of the student population, limits the program's contribution to the community, and constrains the overall student experience. As the PhoenixLaw program became established, the program was easily transitioned into a robust and diverse general program, consistent with PhoenixLaw's mission. The school has a strong commitment to affording all students learning opportunities, and I knew our start-up program could only serve PhoenixLaw's needs for a short time. Thus, the long-term externship program had to be consistent with the planned growth of the school, from non-existent to accommodating a large number of students (i.e., a general and broad based program).

Some literature I discovered in my research was more helpful than other literature, and I have provided it here for the benefit of reducing extensive research about general programs. A review of Anahid Gharakhanian's outstanding presentation and discussion of the Southwestern Law School Externship Program involving many general field placements,⁵⁵ together with Jim Backman's practical and scholarly argument for making the externship experience available to every student,⁵⁶ made the long-term choice of the general field placement program easier. Mary Jo Foster's advice and comment on the design of a large externship program reinforced that choice.⁵⁷

Additionally, PhoenixLaw decided that for the long-term program both a general field placement and a more general reflective student learning objective would better facilitate the start-up training of field supervisors than would a specialized program. To acquire field supervisor training materials, I again conducted a review of relevant literature, including a web search that revealed the Greater Los Angeles Consortium on Externships and Barbara Blanco's excellent article on the use of the GLACE field

⁵⁵ Gharakhanian, *supra* note 49.

⁵⁶ Backman, *supra* note 2.

⁵⁷ See generally Mary Jo Eyster, *Designing and Teaching the Large Externship Clinics*, 5 CLINICAL L. REV. 347 (1999).

supervisor materials for training.⁵⁸ These training materials were invaluable to me, and I highly recommend using them when implementing a training program. The ultimate placement decision, however, is best determined after a full consideration of the relevant literature as it applies to your program's short-term and long-term needs and goals.

4. Academic Credit and Staffing

The final research continuum involves the type and amount of academic credit the externship program will offer and staffing the program sufficiently. A review of the relevant literature will provide examples of other externship programs that can assist new programs in making these initial choices. Yet again, these decisions require consideration of Standard 305. Sections e(5) and e(6) require that if the "field placement program awards four or more academic credits," then "on-site visits or their equivalent" and contemporaneous "guided reflection" must be provided by the program.⁵⁹

For some background with respect to making these decisions about credit and staffing, PhoenixLaw's experience may be helpful. The initial PhoenixLaw externship program, though small, was designed to meet both of ABA's requirements in order to more easily accommodate the expected growth of the program. PhoenixLaw decided to start the program by offering only two or three hours of academic credit, with a strategic plan to increase the credit hours over time.

With respect to staffing needs, I found little immediate literature that dealt with staffing and budget issues in any depth, but such "nitty gritty" issues were, and continue to be, frequently discussed on the LEXTERN e-mail list. Some of my research revealed that many externship programs use full-time faculty to staff the academic component.⁶⁰ Yet, most full-time faculty members already have many demands on their time. Therefore, externship programs increasingly make use of adjunct professors from the practicing bar to conduct contemporaneous small-group seminars and provide "coaching" and feedback on student journals. Given that PhoenixLaw was still in its start-up phase and the resulting demands placed on full-time faculty were extraordinary, the school decided to enlist the help

⁵⁸ See generally Barbara A. Blanco, *Externship Field Supervision: Effective Techniques for Training Supervisors and Students*, 10 CLINICAL L. REV. 611 (2004).

⁵⁹ Standard 305, *supra* note 2.

⁶⁰ See Jaszi, *supra* note 47; Gharakhanian, *supra* note 49.

of seasoned, adjunct professors with demonstrated experience and aptitude in working with law students.⁶¹

Just as with the other three research continuums, your own program's needs and goals, along with your research of relevant literature in this area, will determine your academic credit and staffing decisions. Ultimately, researching these four continuums is invaluable to any new externship program and will simplify the decision-making process in key areas of the program.

D. Design the Learning Objectives, Academic Component, and Assessment

The fourth guideline in my list concerns designing, implementing, and monitoring a meaningful academic component, while paying particular attention to the externship program's objectives. This guideline entails three components. First, an externship program must determine its core learning objectives. Second, an externship program must design an academic component that implements the core learning objectives. Finally, an externship program must design a method to assess the first two components' overall effectiveness based on student learning objectives and outcomes.

1. The Core Learning Objective

One of the most important policy choices when designing an externship program is to define and clearly state the learning goals (i.e., the learning objectives of the program). The learning goals shape every aspect of the program, including its implementation and future. An externship program, however, cannot support every possible learning objective. Thus, the key determination will be deciding the *core* learning objectives for the externship program—should the program concentrate on skills, reflective thought, ethics, pro bono experience, exposure to particular practice areas, or some other learning goal?

School resources must also be taken into account when determining an externship program's core learning objective. The resources available for particular activities, such as externship programs, are in short supply at a new school. The number of full-time faculty members is limited, and their

⁶¹ James H. Backman, *Externships and New Lawyer Mentoring: The Practicing Lawyer's Role in Educating New Lawyers*, 24 *BYU J. PUB. L.* 65 (2009) (recognizing the teaching ability of practitioners and arguing for expanded apprenticeship programs).

concentration is on the first- and second-year curriculum. Moreover, the student population is small but has varied interests in many areas of law. Without a particular critical mass of students (say ten or more) interested in a given externship specialty, it is difficult to gear a program other than to a select few field placements.

For PhoenixLaw—a new school with limited resources available for the externship program—the school needed a core objective that would define the program and would also be the foundation upon which the program could grow and diversify (i.e., what a core objective should be). The importance of PhoenixLaw’s learning goals became clear only after spending a few weeks surveying the law school’s readily available resources. As I developed the externship program, I became aware that the PhoenixLaw externship program had to be manageable. Furthermore, the program had to be able to provide a learning opportunity for students consistent with the school’s mission when considering both the short- and long-term goals of the program. There were two broad methodologies that seemed suitable to meet these dual ends: a small number of practice- or agency-specific field placement opportunities⁶² and a general externship placement in many agencies with a unifying learning objective and academic component cutting across all field placements.⁶³

From a student-centered perspective,⁶⁴ the best choice was a general externship program. A general externship program unifies the core-learning objective, cutting across many field placements and agencies.⁶⁵ The core-learning objective of the PhoenixLaw externship program became, “upon completion of the externship experience, each student will demonstrate improved skills of learning from practice and will have developed a strong commitment to the value of lifelong learning in the practice of law.”⁶⁶

⁶² Such programs tend to stress in-school learning and development of specific skills. These programs are legal subject-matter specific.

⁶³ Such programs tend to stress beyond-the-classroom learning and the development of general or generic lawyering skills, such as learning from practice. These programs are *not* legal subject-matter specific.

⁶⁴ Student centeredness is one of PhoenixLaw’s mission pillars. In general, “student-centeredness” requires that all students, staff, administrators, and faculty share responsibility for helping students develop legal values, skills, and knowledge and that all of these individuals will contribute to an “intellectually demanding, supportive, multicultural learning environment, and maintain an organizational culture of humility, transparency, dignity, fairness, and respect.” See STUDENT HANDBOOK, *supra* note 5, § 1.1.5.

⁶⁵ See *id.*

⁶⁶ Phoenix School of Law, Externship Program, <http://www.phoenixlaw.edu/academics/default.asp?PageID=139> (last visited July 22, 2010) [hereinafter PhoenixLaw Externship Program].

This learning objective coordinated well with the general nature of the externship plan that I was designing and implementing. The general learning objective tied together many different field placements with a unifying academic component and learning objective. Based in part on the MacCrate Report findings,⁶⁷ the PhoenixLaw Externship Plan went on to define specific, subsidiary learning objectives by detailing some of those skills common to every field placement.⁶⁸ These subsidiary learning objectives would eventually become the guidelines for the development of various academic materials for the externship classroom component.⁶⁹

2. The Academic Component

With the core learning objectives clearly defined, the next step is to develop the academic component. The academic component should implement the chosen core learning objectives. For PhoenixLaw, the development of the classroom component had its own challenges. In conjunction with the school's core learning objective of learning from practice and dedication to lifelong learning, I wanted the program to have a "reflective" component to achieve these objectives better. Although I did not know how many students would enroll in the externship course, I knew that by selecting a general externship program, the academic component that logically "best fit" with the general program would be a contemporaneous live seminar, with mandatory student reflective journals and weekly on-line discussions. The live seminar combines the clinical idea

⁶⁷ This report criticizes the state of legal education in the United States and advocates for a practice-oriented, rather than theory-oriented, approach to legal education, including the use of externship programs. See A.B.A. SEC. OF LEGAL EDUC. & ADMIS., TO THE BAR, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992), available at <http://www.abanet.org/legaled/publications/onlinepubs/maccrate.html> [hereinafter MACCRATE REPORT].

⁶⁸ These skills include communication, problem solving, effective workplace and business skills, professional ethics and responsibility, social responsibility and pro bono service, and reflective learning. See PhoenixLaw Externship Program, *supra* note 66.

⁶⁹ The Externship Syllabus provides:

Upon completion of the externship experience, each student will demonstrate improved skills of learning from practice and will have developed a strong commitment to the value of lifelong learning in the practice of law. The externship experience includes exposure to practice ready professional skills and values, appreciation of pro-bono service to underserved segments of the community, participation in small group/collaborative work, and the opportunity for reflection, all within the rich tapestry of legal practice and service opportunities.

Id.

of “rounds” with particularized lesson plan presentations. The presentations deal with learning by reflection, communication skills, problem solving, effective workplace and business skills, professional ethics and responsibility, social responsibility, and pro bono service. By selecting the academic component, the externship plan was starting to grow into something more than just a concept. Initially, PhoenixLaw chose a “low hour” academic plan⁷⁰ with the idea of transitioning into a “high hour” externship⁷¹ after a few semesters of experience with the program.

Although I made the decision to have a contemporaneous seminar, two questions remained: (1) how many times would the seminar meet and (2) how many logged hours at the field placement would the program require? To answer the first question, I referred to other externship programs’ syllabi. After reviewing many syllabi, I made the choice to require weekly student assignments consisting of a total of seven one-hour, in-person, small group seminars (twelve or fewer students) with a student presentation at each seminar and seven directed reflective journals (in weeks alternate to the seminar meeting). Additionally, the seminar required student participation in on-line discussion questions, submission of time logs, assigned readings, a mid-term field supervisor’s written evaluation, and an end-of-term field supervisor’s written evaluation. I had considered requiring an end-of-term reflective paper for the low academic credit externship, but the reflective component provided by such a paper was replaced with continual student involvement in the seminar, such as online discussion participation, student presentations, and completion of directed reflective journals.⁷²

As for the logged hours question, the earlier survey of other law schools’ programs revealed that required student hours at field placements seemed to range from forty hours per academic credit to sixty hours per academic credit. Initially, I chose to require students to log sixty hours at the field placement for each academic credit earned. After two semesters of experience, that time was reduced to fifty hours per academic credit.

To summarize, PhoenixLaw’s externship goal of increasing a student’s ability for reflective learning requires that the student become and remain actively engaged across the externship term. Thus, the program was designed to provide not only a continual interface with, and feedback from, the field supervisor, but also a steady involvement with the academic

⁷⁰ Two or three academic credits.

⁷¹ Four to six academic credits.

⁷² An increase to higher credit hour externships (those with four or more) requires a separate ten to fifteen page reflective paper.

portion of the course.⁷³ To ensure the ongoing effectiveness of the academic component, I developed an assessment process.

3. The Assessment Process

Clear learning objectives and a strong academic component alone are not sufficient to support the student learning process; there must be an evaluation mechanism as well. Such a mechanism will assess the effectiveness of the learning objectives and the academic component with respect to the successfulness of student outcomes in the externship program. Unfortunately, the necessity of a strong assessment process was not readily apparent in the early stages of PhoenixLaw's externship program. During a recent ABA accreditation team site visit, an ABA team member asked, "How do you know the students have learned what you seek to teach?" Frankly, we know better now, in the fourth year of the externship program, than we did when the program started! Although the assessments were relatively weak when the program started, the externship course now uses both summative and formative assessments. These assessments evaluate the student's learning objectives on a performance basis.

Summative assessments provide faculty with the opportunities to see a student's performance throughout the semester and to provide feedback. For example, students must complete weekly assignments such as preparing presentations and participating in online discussions. Also, faculty-conducted/-facilitated small-section class seminars provide student rounds,⁷⁴ discussion of assigned readings relevant to the learning objectives, and student-prepared class presentations. Class presentations are scored using a rubric; ensuring students are complying with the seminar's objectives.

In addition, PhoenixLaw designed a student-assessment tool to obtain performance input from the faculty member teaching the seminar, the students' field supervisors, and the students themselves. I chose to split the academic component from the field placement so that the academic component was given a letter grade, while the field component was simply pass-fail. Thus, in the program's beginnings, a student's seminar participation, including reflective journals and class presentations, was graded. After two semesters, however, institutional needs led to the

⁷³ I feel the best learning occurs when the student is involved on an ongoing basis with the subject matter of the learning. See PhoenixLaw Externship Program, *supra* note 66.

⁷⁴ Like medical internships, a "round" provides the teacher an opportunity to "test" the students' learning through a series of questions and answers based on an individual student's real-life experience within the externship.

combination of the academic and field placement portions into one course, which the faculty member assesses and grades on a pass-fail basis. The students' performance on presentations, journals, discussion questions, and the like was, and is, much more a demonstration of "mastering" performance skills rather than a "graded curve"-performance of traditional legal reasoning.⁷⁵

In the current externship program, the faculty member teaching the seminar section reviews the students' journals and provides rubric-based feedback.⁷⁶ In addition, the faculty member reviews the weekly online discussion questions, providing the students with general feedback. The faculty member also reviews and monitors the reported field placement work hours. To track students' achievement of core learning objectives, the faculty member provides a rubric evaluation form based on the site supervisors' evaluation and feedback at the mid-point and end of the semester. Students review these field placement midterms and final evaluations in a joint meeting with their field supervisors and one with the faculty member.

At all stages of the externship, the externship director, the adjunct professor, and the field supervisor provide any needed coaching or consultation with the students, which includes assisting with workplace problems and underperformance.⁷⁷ In addition, either the Director of Externships or the various adjunct externship professors conduct field supervisor visits. Finally, students complete a required course evaluation, providing general feedback about the externship.

PhoenixLaw's externship program also provides formative assessment events during the course. For example, students share their externship experiences and what they have "learned on the job." Students are prompted to explain terms and procedures they mention in class. In addition, "group solve" exercises are conducted in which an issue occurring at a student's placement is ethically discussed and a suggested plan of action is reached. Each student must also prepare a presentation that focuses on the student's externship experiences. Finally, the program requires weekly participation in on-line discussion questions that relate the assigned readings to the students' various practice experiences, directed

⁷⁵ See, e.g., Humboldt State University, Notes from Benjamin Bloom Lecture, Mastery Learning (Apr. 1987), www.humboldt.edu/~tha1/mastery.html (last visited July 22, 2010).

⁷⁶ Journals are confidential. Only the faculty member overseeing the program and the student are allowed to see the journal.

⁷⁷ In one instance, a field placement supervisor was removed. In another, a student's performance at the field placement was inadequate, requiring substantial intervention.

journal questions,⁷⁸ and students' demonstrations of what they have learned about themselves from their externship experiences.

Through these summative and formative assessments, PhoenixLaw's externship program is able to continually track the success of both the core learning objectives and the academic component with respect to their effectiveness in achieving successful student outcomes in the externship program. Additionally, both assessment processes help PhoenixLaw identify areas in need of improvement.

To successfully create and maintain a new externship program, a program developer or coordinator should spend significant time developing and employing all three of these processes.

E. Develop the Administrative Support and Logistics

This step in the guidelines encompasses three of the guidelines that relate to administrative support and logistics: (1) develop, nurture, and maintain academic and administrative support for the program; (2) find, train, develop, and reward professors (whether adjunct or full-time faculty) to teach the academic component; and (3) develop externship program forms and procedures. Having administrative support and logistics in a new externship program is just as important as having the right person in charge of the program. Without a strong support staff, no externship program will be able to expand to meet the needs of a growing student body or individual students' needs. Without the right logistics, the program will have little support to flourish. But, how does a school staff an externship program? Any way it can! Naturally, as the program grows, so will the support staff.

⁷⁸ See Gharakhanian, *supra* note 49, at 88. Gharakhanian lists these directed journal topics:

- (1) Identification of specific goals for the externship and the importance of being proactive; confirmation that goals have been discussed with supervisor;
- (2) Identification of confidentiality rules of the placement, confirmation that the confidentiality rules have been discussed with supervisor;
- (3) Brushing up on legal research, analysis and writing skills from a practical standpoint, as well as guidance in effective communication with supervisor to help get started on a project and seek clarification and feedback;
- (4) Description of training received, skills being learned at the placement, and how they relate to law school classes and previous fieldwork;
- (5) Reflection on relationship with supervisor;
- (6) Reflection on ethical issues that may have arisen during the placement; and
- (7) Review of initial goals and reflection on achievements/accomplishments, as well as specific advice to the next student doing the same externship.

Id.

One of the missions of PhoenixLaw is for students to be “practice ready”; therefore, the natural decision has been the availability of externships every term with unlimited enrollment.⁷⁹ As such, I knew the program would eventually require more staff than just me.

At the start of PhoenixLaw’s program, I was able to dedicate only one-half of my time as a full-time faculty member, with little to no administrative help. After the program was off the ground, rapid enrollment growth at the school required me to assume a full-time teaching load of first-year doctrinal courses. Thus, the rapidly growing externship program required additional administrative support from adjunct professors, an administrative assistant, a secretary, and student teaching assistants.

Starting with the Summer 2008 term, the seminar has been taught by two experienced adjunct professors.⁸⁰ To ensure the success of the adjunct professors’ teaching the academic component, the externship program is involved with their training and development efforts. For the first time in Spring 2010, the program benefited from the efforts of a part-time administrative assistant, a part-time executive secretary, the help of two part-time student teaching assistants, and most of my time.⁸¹ In Fall 2010, I will teach only one course so I can dedicate more time to the externship program. I expect that as the program continues to grow, staffing will increase accordingly, and I have prepared an appropriate three-year budget accommodating such growth.

The administrative and faculty needs of a particular externship program will vary depending on the existing size of the law school, the projected growth of the student body, and the financial resources of the program. Also, the type of program, whether specialized or general, will determine the administrative needs. Creating a plan for expected growth early in the program’s existence will help identify future staffing needs and budget accordingly. Once a program adds new staff, it is important to train, support, assess, and reward these individuals to ensure not only their success supporting the program but also the overall success of the externship program.

Staffing support is not the only resource necessary to administer a growing externship program: an externship program requires efficient

⁷⁹ Not having to limit enrollment is a natural advantage of a general externship.

⁸⁰ Adjunct Professors Ann Hobart and Angelo Patane; for adjunct professor biographies, see <http://www.phoenixlaw.edu/facultyandstaff/> (follow “FACULTY DIRECTORY AND PROFILES” hyperlink; then follow “View Profile” hyperlink next to the professor’s name) (last visited July 22, 2010).

⁸¹ This is a significant change from working with practically no resources when the externship program began.

handling of operational details. One of the most essential aspects of externship program logistics is creating forms and procedures. With respect to managing the logistical aspects of PhoenixLaw's externship program, I saved time by continuing to use the same documentation I developed when the program began, with some modification each semester⁸² and building upon the already strong core academic component. Thus, it is essential at the outset of a new externship program to create detailed forms and to build a strong core academic component, as both aspects will save time once the program grows.

When creating program forms, the forms should cover all logistical aspects of the program, including the enrollment process, the academic and field placement components, and evaluation. The types of forms used will vary depending on the nature of the specific externship program. As in other areas of these guidelines, researching other similar externship programs can assist new program developers with creating their own forms.⁸³ For PhoenixLaw, the growth of the externship program, form development and modification, field placement supervisor recruiting, student placement activities, and supervision of the adjunct professors' teaching the seminar sections has required my increased time commitment, but strong development of logistical aspects in the program's early stages, as well as adding new staff as needed, allowed me to keep up with the growth and demands of the externship program successfully.

F. The Field Placement Agency and Field Supervisor

Two guidelines cover field placements: (1) locate, contact, develop, and maintain outstanding externship placements and field supervisors; and (2) develop and implement an effective student-placement process to achieve good student-placement matches. Field placements play a significant role in the externship program and are a determinative factor in the overall success of the program. Thus, an externship program must give great consideration to developing field placements. First, a quality

⁸² The externship class documentation and forms consist primarily of: The Externship Plan; Syllabus; Descriptions of Pre-approved Field Placements; Approval to Register; Student-Agency Agreement; Arizona Rule 38(e) limited student practice certificate; Logged Hours Record; Rubric for Class Presentation; Rubric for Directed Journal; Mid-term Student/Field Supervisor Evaluation; Final Student/Field Supervisor Evaluation; Final Student Course Evaluation; Field Supervisor Manual; and Field Supervisor Guidelines.

⁸³ In addition to searching individual schools, visit the LEXTERN website, which provides a form database for externship materials from many law schools. Catholic University of America, LEXTERN WEB Resources for Legal Externships, <http://laworgs.cua.edu/lexternweb/syllabi.htm> (last visited July 22, 2010).

externship program must locate, contact, and develop both field placements and field supervisors. Second, an externship program must maintain those relationships. Third, the program must give consideration to the student component of field placements by creating a quality student placement process. Finally, although this step is not a stated element of the two guidelines, an externship program must continually assess these steps and modify them in response to enrollment growth as the new externship program becomes more established.

1. Locate, Contact, and Develop Field Placement and Field Supervisors

After PhoenixLaw developed a general field placement plan, learning objectives, and methods of assessment, the next step was to locate, contact, develop, nurture, and maintain agency placements and field supervisors. Fortunately, I remained active in the Phoenix legal community for the last thirty years, and this helped to simplify this step, but I also received assistance from the Sandra Day O'Connor School of Law at Arizona State University.⁸⁴ One fact quickly emerged while I was exploring possible placements and speaking with possible field supervisors—there were, and still are, many more field placements in the Phoenix and Arizona legal communities than there are law students seeking those placements.⁸⁵ Therefore, from the start of the program, PhoenixLaw has met students' demand for agency placement by maintaining an adequate number of both pre-approved field placements and field supervisors within government agencies, the judiciary, not-for-profit agencies, and pro bono work.⁸⁶

Contacting and developing field placements and field supervisors are not, however, just a matter of finding lawyers interested in hosting a law school extern student. The field agencies and field supervisors, per the ABA Standards, must receive some training and direction from the law school.⁸⁷ A great starting point for materials concerning agency and supervisor training are, as discussed earlier,⁸⁸ the GLACE field supervisor

⁸⁴ In particular, Dean Patricia White and Externship Coordinator Carolyn Landry, both of whom gave information freely.

⁸⁵ Some field placements are highly competitive, but most are not; thus, many go empty in any given semester.

⁸⁶ The Spring 2010 PhoenixLaw Externship Plan revisions add the opportunity for selected private, non-pro bono field placements.

⁸⁷ Standard 305, *supra* note 2, § e(4).

⁸⁸ *See supra* text accompanying note 58.

training materials.⁸⁹ With GLACE's permission, I decided to use GLACE training materials in PhoenixLaw's program with slight modifications.

Next, I created a list of "pre-approved" field placements that included agencies and supervisors in the Phoenix area who were currently accepting law student externs, along with other agencies and field supervisors based on my personal contacts. Each of the nearly twenty agencies and field supervisors on PhoenixLaw's "pre-approved" list received a copy of the modified GLACE materials. I interviewed each field supervisor (sometimes only by phone) and provided each one with a copy of the school's externship program materials, in addition to the GLACE field supervisors' manual and guidelines. Before proceeding any further, each field supervisor had to commit to the educational goals of the PhoenixLaw externship program. Over time, the list of pre-approved agency placements has grown to more than forty and will continue to grow as enrollment increases.⁹⁰ Once an externship program develops outstanding externship placements and field supervisors, the program must strive to maintain those relationships.

2. Maintain Outstanding Externship Placements and Field Supervisors

Qualified and enthusiastic field supervisors and the student-field supervisor relationship are critical to the success of any law school externship program. Externship program developers and coordinators must give continuing thought to the "care and feeding" of these field supervisors to overcome the obstacle that they work for free. As part of this required "care and feeding," and in addition to the periodic phone call and yearly site visit, PhoenixLaw hosts an Externship Fair each spring.⁹¹ Analogous to a job fair, the Externship Fair affords the field agencies and field supervisors an opportunity to visit the law school and inform the students of available placements. As part of the incentive for potential supervisors to attend the fair, one or more hours of free Continuing Legal Education in the area of

⁸⁹ LOYOLA LAW SCHOOL, GREATER LOS ANGELES CONSORTIUM ON EXTERNSHIPS 2008-2009 FIELD PLACEMENT SUPERVISION MANUAL, *available at* <http://lls.edu/glance/glance.pdf> (last visited July 22, 2010).

⁹⁰ For a list of field placements at PhoenixLaw, see PhoenixLaw Externship Program, *supra* note 66. According to my personal interviews with Jim Backman and Liz Ryan Cole, externship directors at Brigham Young University and Vermont School of Law, respectively, their established programs have databases containing well over one thousand possible field placements.

⁹¹ PhoenixLaw held its third annual Externship Fair in 2010.

ethics is offered.⁹² Each externship program should be creative in this area to find ways of maintaining these relationships in a manner that is feasible for the school. Once an externship program has strong externship placements and field supervisors and a method of maintaining those relationships, the next step is to create an effective student-placement process.

3. Create an Effective Student Placement Process

Developing and implementing an effective student placement process will ensure the program provides a student with a field placement that is a good match for that student's interests and other needs. At PhoenixLaw, students have the opportunity to develop their own field placements, subject only to the school's approval. Giving students significant control of, and involvement in, their field placement facilitates their learning. School approval is necessary to ensure the field agencies and the field supervisors commit to the program's stated educational objectives and provide quality experiences for the students.⁹³ As I am prone to say to students and field supervisors alike, "We will not sell our students into legal work slavery."⁹⁴

⁹² Arizona has mandatory continuing legal education, including three hours of ethics. ARIZ. SUP. CT. R. 45(a)(2).

⁹³ See Gharakhanian, *supra* note 49, at 92. Professor Gharakhanian provides:

Selecting placements that are amenable to teaching law students is an important first step. It is critical that the particular field placement be receptive to teaching (in addition to meeting its own institutional and/or client obligations). The placement must be willing and able to invest the time and effort for the individual extern, or offer a program that includes formal training, professional lunches, speakers, fieldtrips, as well as adequate physical space and resources.

Id. (citations omitted).

⁹⁴ Field agencies and field supervisors are periodically reminded of the federal wage and hour laws. See 29 U.S.C. §§ 206-207 (2006). A May 17, 2004 form letter referencing "FLSA status of student interns" from the Wage and Hour Division ("WHD") cites *Walling v. Portland Terminal Co.*, 330 U.S. 148 (1947) and sets forth six criteria, derived from the Supreme Court's decision in *Portland Terminal*, to determine if the student is an employee:

The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school; The training is for the benefit of the trainee; The trainees do not displace regular employees, but work under close observation; The employer that provides the training derives no immediate advantage from the activities of the trainees and on occasion the employer's operations may actually be impeded; The trainees are not necessarily entitled to a job at the completion of the training period; and The

When selecting field supervisors for the students, I look for lawyers who are enthusiastic and competent about helping law students learn—individuals who could also be good adjunct law school professors. Thus, by initially selecting high-quality field supervisors and allowing the students to select a placement based on their own needs, the match between the two is more likely a close one that will result in a quality externship experience for all parties. Despite the initial quality of field placements, no new externship program can achieve long-term quality if it does not plan for expected growth in student enrollment.

4. Modify the Field Placement Plan to Accommodate Growth

Any new externship program will most likely have limited student enrollment in the program, but one should expect the enrollment to significantly increase once the program becomes established. An essential aspect of successful field placements is planning for this growth in advance. From the beginning, PhoenixLaw expected enrollment growth. With this expectation in mind, I determined the externship program would offer “higher hour” academic credit externships (four to six academic hours) once the student body increased. Thus, I included agency site visits in the initial externship program plan to anticipate meeting the ABA-accreditation requirement of site visits when four or more academic hours are offered.⁹⁵

Planning for a growing student body also led to other changes. Now, PhoenixLaw’s program has an agency site visit form to simplify assessing the effectiveness of the agency placement. Also, the current externship plan requires visiting each field supervisor at least once in an academic year but more frequently if possible. Finally, looking towards continued enrollment growth, the spring 2010 revised externship plan provides an opportunity for varying academic components, not only for the higher hour externships, but also for developing “specialty” externships once student enrollment reaches a critical mass for a particular area of practice.⁹⁶ Eventually, these specialty externships could lead to hybrid or traditional clinics.

Field agency placement is, perhaps, the most important element of an externship program once it has moved beyond the planning stages to the

employer and the trainee understand that the trainees are not entitled to wages for the time spent in training.

⁹⁵ The ABA requires “periodic on-site visits or their equivalent by a faculty member” for high credit hour externships. Standard 305, *supra* note 2, § e(5).

⁹⁶ Practice areas might include, for example, appellate practice, community legal services, trial practice, health care, intellectual property, and criminal law.

operational stages. Qualified and enthusiastic field supervisors; the student-field supervisor relationship; effective student placement; and planning for change in all of these areas are critical elements to the success of any law school externship program. By following the two field placement guidelines, a new externship program can create a strong backbone for ensuring both early and ongoing success.

G. *Getting the Word Out*

Externship programs must continually inform the program's stakeholders about the past, present, and future of the externship program. Stakeholders include the students, field agencies, field supervisors, school faculty, school administration, and the governing board. Informal communication suffices for school administration, faculty, and the governing board, but the program should periodically provide these individuals with formal written reports.⁹⁷ Communication with field agencies and field supervisors—in the manners already discussed in this article⁹⁸—should be more formal in nature, especially regarding communications aimed at maintaining field placement relationships. The students are the most important stakeholders and, therefore, require formal communication.

Informing the student body, particularly the first-year law students who are otherwise immersed in the new law school experience, however, can prove to be a challenge. My experience has shown that many qualified law students are so intent on their first-year studies that planning for the first summer requires a particularly concentrated effort on their part. Traditionally, law students become eligible for the externship program upon completion of their first year studies.⁹⁹ In a perfect world, first-year law students would have finalized summer field placements by the time they register for summer classes—about six to eight weeks into their second semester of law school. Yet, most law students do not heed communication early enough to begin securing their summer field placements as soon as possible, even if they have not yet completed the first year. Thus, offering academic credit for summer externships to students upon completion of their first year of law school presents some significant logistical

⁹⁷ A "Report to the Dean" is compiled every term. This report is also suitable for circulation to current and future field supervisors.

⁹⁸ See *supra* Parts III.F.1-2.

⁹⁹ See, e.g., STUDENT HANDBOOK, *supra* note 5, § 2.3.6. At PhoenixLaw, completion of first-year studies is one of the prerequisites of externship program participation.

problems.¹⁰⁰ To communicate effectively to the first-year students about externship opportunities, some of the necessary steps include emphasizing the availability of externships at first-year orientation, in the weekly school newsletter, on electronic bulletin boards, and within the information and orientation courses offered by the career development and academic success offices.

At PhoenixLaw, communicating externship information to students is an ongoing effort. To provide students with as much information as possible within a single access area, PhoenixLaw has developed a web-based information site for students.¹⁰¹ In addition, students receive periodic reminders to register for externships through all of the regular channels of student communication (e.g., emails, newsletters, and bulletin boards). All students are invited to the Spring Externship Fair. The externship program's teaching assistants conduct periodic student information sessions. Perhaps as important as all of these efforts, those students who have completed an externship are encouraged to spread the word about the program to other students. Finally, students who express an interest in the program are compiled and tracked separately from the rest of the student body to ensure they receive personal communications (as opposed to general, school-wide communications) about the latest developments and upcoming deadlines.

Getting the word out to students about externship opportunities involves more than just passive communication; the externship program must timely respond to students and also take appropriate action with respect to individual student needs. Thus, this step operates, at some levels, in conjunction with the student placement process.¹⁰² Once a student expresses interest in the program, a mechanism for field placement must be available.

Originally, at PhoenixLaw, student-by-student placement in a selected field agency was possible due to small enrollment. Such a system, however, does not scale up well and does not work when students apply for placement in positions they discover outside of the pre-approved placement list. To alleviate these types of problems, PhoenixLaw imposes a limit of three applications per student at any one time and a requirement for a student to accept the first placement offered.¹⁰³

¹⁰⁰ With part-time and night students, PhoenixLaw requires completion of thirty semester hours, slightly more than a third of the eighty-seven hours required for graduation.

¹⁰¹ PhoenixLaw maintains this web-based information site within Westlaw's TWEN.

¹⁰² See *supra* Part III.F.3.

¹⁰³ Although this process might slightly restrict student choice, the purpose is to minimize the burden of selection many externship programs place on the field agency. Imposing such

PhoenixLaw also experienced another difficulty during the program's early stages. Many student participants, even after receiving encouragement to finalize placements by the close of registration (by mid-March for summer, mid-April for fall) failed to meet externship deadlines. As a result, PhoenixLaw extended the deadline for obtaining a signed student/field supervisor agreement in an approved placement to three weeks prior to the first day of class for the registered term. Thus, by remaining active in the communication process, flexible and responsive to student needs, the program's communication process became much more efficient and effective.

PhoenixLaw's experiences demonstrate the necessity for externship programs to communicate effectively with students and also to remain flexible in the field placement process to better accommodate all interested students. Without effective communication and flexibility, all of an externship program's "best laid schemes" in reaching this step of the guidelines will only go awry.¹⁰⁴

IV. THE FUTURE: PROGRAM MATURATION CONSISTENT WITH BEST PRACTICES

The final step of my guidelines is also the end of the path to creating a successful externship program. Once you have successfully created your externship program, a new path to maturation begins. Many ongoing challenges confront all externship programs, including overall curriculum compatibility, academic support, administrative support, and pedagogy.¹⁰⁵ Some, though not nearly all of the issues that are specific to these challenges are specialized versus general externships; externships versus hybrid clinics; low-hour versus semester-away externships;¹⁰⁶ the academic component at a distance;¹⁰⁷ the allowance and scope of limited student

restrictions benefits not only the field agency, but also the externship program, by maintaining goodwill with the agency (i.e., maintaining the field relationship).

¹⁰⁴ See ROBERT BURNS, *To a Mouse, on Turning Her Up in Her Nest with the Plough*, in KILMARNOCK VOLUME (1786).

¹⁰⁵ Or, should we say more accurately, andragogy, which is the process of helping adults learn.

¹⁰⁶ See generally Liz Ryan Cole, *Lessons from a Semester in Practice*, 1 CLINICAL L. REV. 173 (1994) (providing an example of a semester-away externship program).

¹⁰⁷ See, e.g., Diana Gleason, *Distance Education in Law School: The Train Has Left the Station*, (UNLV William S. Boyd Sch. of Law, Legal Studies, Working Paper No. 07-09 2007), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1022216### (last visited July 22, 2010). PhoenixLaw has started its first distance education section of extern-

practice at externships;¹⁰⁸ and the pending ABA Legal Council consideration of removing the prohibition against externs' receiving pay from the field placement.¹⁰⁹

To face these challenges, a school's externship program must be dynamic. The initial program design must be strong and should anticipate addressing any of the above challenges and other unmentioned challenges if and when they arise. Further, a well-designed program should be able to adapt readily to the changing needs of the stakeholders. Following these guidelines should assist new externship program coordinators well in not only creating, but also in program maturation. Accordingly, a thoughtful, well-developed, scalable, adequately staffed and administered externship program holds promise to address, and meet, some of the goals set out in *Best Practices for Legal Education*¹¹⁰ and the Carnegie Foundation report, *Educating Lawyers*.¹¹¹ Essentially, best practices are those practices that will effectively prepare students for legal practice.¹¹² Offering an externship program is one way for law schools to achieve best practices.

After navigating the extensive guidelines presented in this article, hopefully you now have a better understanding of the numerous difficulties and challenges all externship programs, whether new or mature, can face; moreover, you now have the leverage I lacked to help you handle these challenges when they arise. Yet, you may wonder, "Is the effort to start, grow, and improve an externship program for law students worth the time?" Over fourteen years ago, Professor Caplow summed it up well:

ships for the Summer 2010 term. The distance platform, delivery, and communication mechanism will be TWEN and Eluminate Live.

¹⁰⁸ See Georgetown University, Student Practice Rules—Clinical Research Guide, <http://www.ll.georgetown.edu/guides/StudentPractice.cfm> (last visited on July 22, 2010). This resource appears to collect the student limited practice rules for all American jurisdictions.

¹⁰⁹ See ABA, Standards Review Committee, Student Learning Outcomes Draft for January 8-9, 2010 Meeting (making a recommendation to remove Standard 305's Interpretation 305-3, which states, "[A] law school may not grant credit to a student for participation in a field placement program for which the student receives compensation. This Interpretation does not preclude reimbursement of reasonable out-of-pocket expenses related to the field placement."), available at <http://www.abanet.org/legaled/> (under the headings "January 2010" & "Meeting Materials," follow "Learning Outcomes Draft for Consideration" hyperlink).

¹¹⁰ ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP 10 (2007).

¹¹¹ WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).

¹¹² STUCKEY ET AL., *supra* note 110, at 1.

The students need no convincing that they have learned enormous and lasting lessons about judges and lawyers, have gained confidence in their written and oral communication abilities, and in their judgment. Often, they even understand that while they may not know all of the answers yet, the internship has taught them to ask productive questions.¹¹³

¹¹³ Caplow, *supra* note 40, at 886.

