EXTERNSHIP FIELD SUPERVISOR HANDBOOK

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Robert E. Kaplan
Associate Dean and
Legal Writing Faculty
(757) 221-3804
rekapl@wm.edu

Catherine A. Bellin
Adjunct Professor
cabellin@wm.edu

Katherine Ainslie
Administrative Assistant
(757) 221-4870
keainslie@wm.edu

Judith Conti
Adjunct Professor
Washington, DC, Semester
Externship Program
jconti@nelp.org

Frederick Jacob
Adjunct Professor
Washington, DC, Semester
Externship Program
fbjacob@gmail.com

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INTRODUCTION

Welcome to William & Mary Law School’s Externship Program. Recognizing that supervision and mentoring of externs take considerable time and effort, we greatly appreciate your participation. You play an important role in our mission to educate students and to prepare them to be responsive, creative, and ethical professionals. We are confident that your involvement will be enjoyable and rewarding for you and our students.

This Handbook provides information about our Externship Program’s objectives and requirements. We hope it will assist you in partnering with externs to assure a mutually beneficial experience.

STATEMENT OF EDUCATIONAL OBJECTIVES

The Externship Program is conducted in compliance with Executive Committee Regulation 6-7.10 of the Association of American Law Schools and American Bar Association Standard 305. Standard 305 describes the experiential, academic, and instructional requirements that law schools and students must meet to secure ABA approval. In addition, Interpretation 305-3 states that a student may not earn externship credit and compensation for the same hours. However, an extern may be reimbursed for reasonable out-of-pocket expenses related to the externship.

William & Mary Law School offers externships for J.D. students who have completed at least one full academic year and for LL.M. students who have completed at least one full semester. J.D. students who have completed at least two full academic years and who have a cumulative GPA of at least 3.0 are also eligible for the Washington, DC, Fall Semester Externship.

Externships are educational experiences that complement traditional classroom learning. They aid in enhancing skills in research, writing, problem solving, and written and oral communication; exercising professional and ethical responsibilities to clients and the legal system; learning about different practice settings; and developing other professional skills needed for competent and ethical participation as a member of the legal profession. Externships also offer potential for client contact, writing samples, and exposure to a broad range of substantive and procedural law.

Externs are not necessarily entitled to a job at the conclusion of an externship with your organization and are not entitled to wages for the time spent in the externship.

Under the instruction of a licensed attorney, judge, legislator, or certified mediator, externs forge a link between theory and practice. They apply classroom knowledge to resolving actual problems and establish mentoring relationships with field supervisors. In certain
instances externs may be permitted to engage in limited, supervised practice of law under the [Supreme Court of Virginia’s Third-Year Practice Rule](#).

## SUMMARY OF ACADEMIC REQUIREMENTS

Externships are graded Pass/Fail. Each credit requires 40 externship hours. Externs also attend classes, submit journals, and prepare a final report.

Placements in which the extern’s role is primarily or exclusively observational will not be approved. To be approved, at least 75% of the extern’s hours must be non-observational (e.g., research; writing; client/witness interviews; constituent relations; preparation for/conducting hearings, trials, and appeals). To count toward the 25% maximum observation hours, the observation must include substantive, reflective discussion between the extern and Field Supervisor.

At least 75% of the extern’s total hours need to be completed at the externship site, in court, or at client sites, unless the student obtains the Associate Dean’s prior approval. Because externships are not a proxy for remote research positions and because the externship program’s educational and professional development objectives typically cannot be accomplished through a remote arrangement, externships that do not satisfy the 75% on-site requirement will be approved only in compelling circumstances.

In addition to completing the specified number of hours, externs submit journals and a final report. Externs attend mandatory classes. Summer externs submit two additional journals in lieu of classes. Because students’ journals and reports include candid reflections about their externships – but do not include confidential client information – field supervisors cannot review journals or reports.

## EXTERNSHIP DESCRIPTIONS

William & Mary offers the following externships. All externships are offered during summer, fall, and spring semesters and are eligible for 1, 2, or 3 credits per semester, except as noted below.

Externships with partisan political organizations, involving partisan political activities, or involving lobbying are not eligible for externship credit.

**Federal Government Externship**

Eligible placements include federal agencies (including JAG offices), Congressional committees, and members of Congress, subject to the prohibition on partisan political activities mentioned above. Federal Public Defenders are covered by the Public Defender Externship; U.S. Attorney offices are covered by the U.S. Attorney Externship.
Judicial Externship
Eligible placements include judges (including administrative law judges), hearing officers, courts, and organizations that provide research, educational, and management services to judges and courts (e.g., the National Center for State Courts, the Federal Judicial Center, the Administrative Office of the U.S. Courts).

Nonprofit Organization Externship
Eligible placements include U.S. civil legal services/legal aid organizations and U.S. private, nonprofit, 501(c)(3) organizations. Private nonprofit organizations with IRS status other than 501(c)(3) are not eligible for externship credit. Organizations outside the U.S. qualify if they are private nonprofit organizations that would qualify for 501(c)(3) status if they were U.S. organizations.

Private Practice/In House Counsel Externship
Eligible placements include solo practitioners, law firms, and in-house law departments of corporations and trade associations.

Prosecutor Externship
Eligible placements include state and local prosecutors. Placements with U.S. Attorney offices are covered by the U.S. Attorney Externship.

Public Defender Externship
Eligible placements include federal, state, and local public defenders.

State/Local Government Externship
Eligible placements include state or local government agencies and offices, such as city/county attorneys, attorneys general, and state legislators. Placements with prosecutors and public defenders are covered by their respective externships described above.

U.S. Attorney Externship
Eligible placements include the civil or criminal divisions of U.S. Attorney offices.

Virginia Attorney General Externship
Eligible placements include the divisions/sections of the Virginia Attorney General’s office.

Washington, DC, Fall Semester Externship
(12 credits; Fall semester only; 3Ls with minimum 3.0 GPA)
Eligible placements include federal, state, and local government agencies, courts/judge, prosecutors, public defenders, legal aid offices, or 501(c)(3) organizations in Washington, DC, or the Northern Virginia or Maryland suburbs of DC.

ARRANGING AN EXTERNSHIP

Arranging an externship is a four-step process:

(1) The student contacts a potential Field Supervisor from among the Law School’s pre-approved externships, from the student’s own network, or from a referral provided by the Associate Dean. Regardless of the method of contact, the Field Supervisor determines the application process and selects the extern. The Law School does not select externs for Field Supervisors.

(2) When the Field Supervisor selects an extern, the Field Supervisor and extern complete an Externship Objectives and Site Agreement (EOSA). The students will provide the EOSA to you. The Statement of Skills and Values from the ABA’s MacCrate Report is included as an appendix to this Handbook; the Statement of Skills and Values may be helpful in formulating the extern’s objectives.

(3) The extern submits the completed EOSA to the Associate Dean for approval.

(4) The student registers for the Externship course.

FIELD SUPERVISORS’ RESPONSIBILITIES

Field Supervisors are an essential part of the extern’s education and professional development. Field Supervisors should have sufficient experience, training, authority, and availability to assure that externs have meaningful opportunities to participate in activities that will enhance their knowledge and professional development, to receive substantive assignments, and to get meaningful instruction and feedback. The following information is offered to help achieve these goals.

To assure consistent compliance with ABA, AALS, and William & Mary policies, Field Supervisors may not modify course requirements or academic policies or read students’ journals or reports.

A. Conducting an Initial Meeting with the Extern

It is important that the Field Supervisor conduct an initial meeting with the extern before the extern starts. We request that you cover the following items, as well as others you deem important for your office:
What is the overarching mission of your office? An explanation of your mission, services, clients, and office structure will provide a context for the extern’s experience and for classroom discussion.

If your entity is a private nonprofit organization or a government agency, what are the funding sources?

How will you and the extern mutually assure that the objectives in the Externship Objectives and Site Agreement will be achieved? Setting up a schedule of periodic meetings will help to assure the objectives are met or to modify the objectives if necessary.

What will the extern’s schedule be? What is your office’s inclement weather policy? What meetings, proceedings, or other events should the extern plan to attend? There may be days of the week or times of day that will be best for meeting your and the extern’s objectives. We realize that not everything may be scheduled in advance, but the more that can be set ahead of time, the better you and the extern will be able to plan. The extern will want to know how and to whom to communicate if illness or other unanticipated absence conflicts with the agreed upon schedule.

What are your expectations for confidentiality and professional responsibility? We and our students take very seriously matters of professionalism, ethics, and integrity. Externs are expected to abide by the ABA Model Rules of Professional Conduct, unless your jurisdiction or office follows different standards.

What is the “chain of command”? Understanding lines of authority will help the extern to prioritize assignments and to determine whom to contact if you are unavailable.

Which of your office colleagues should the extern meet? Introduction to others in the office will allow the extern to feel part of your team.

How will timely, constructive, specific feedback be provided for each assignment? Scheduling periodic meetings will help assure that the extern receives appropriate feedback. Please refer to “Providing Feedback” below for additional information.

When will midpoint and final evaluation meetings occur? Who will conduct them?

B. Assigning Projects to the Extern

Externs are happy to pitch in to meet your office’s needs. It is important, however, that the vast majority of externs’ experience be substantive (e.g., researching, writing, interviewing clients and witnesses, drafting documents, assisting with discovery, analyzing legislation). Please ensure that administrative support such as filing and faxing be minimized and incidental to the extern’s substantive experiences.

When you make assignments, please inform the extern about office resources (e.g., templates, brief banks, specialized research tools), format of the final product (oral vs. written, formal vs. informal, draft vs. final version), and due date. That will enable the extern to meet your expectations and to complete the assignment independently and with minimal supervision.
We also recommend that you provide the extern with some context for each assignment. The assignment may be focused (e.g., whether an agency relationship exists), but the underlying context may be broad (e.g., whether an employment discrimination claim is meritorious). Having that context will help the extern understand the practical impact of the assignment and how it fits into the big picture.

An extern may assist more than one member of your office. In the event that someone other than the Field Supervisor gives assignments to an extern, the Field Supervisor should first approve the assignment to assure that it will fit into the extern’s overall assignment load.

C. Preventing Unauthorized Practice of Law

Please be vigilant that the extern does not engage in the unauthorized practice of law (UPL). Generally, the extern will not engage in UPL if hours are completed under the direct supervision of a lawyer licensed in the jurisdiction in which the student is externing.

D. Assuring Externs’ Time, Expenses, and Proprietary Research are not Billed

Externs’ time, expenses, and use of any proprietary research products and databases cannot be billed to clients. It is important that Field Supervisors and anyone externs assist abide by this policy.

E. Using Proprietary Research Products and Databases

Externs are permitted to use proprietary research products and databases only if that use is consistent with the respective vendors’ policies.

F. Avoiding Partisan Political Activities and Lobbying

Externs are not permitted to engage in partisan political activities or lobbying.

G. Providing Feedback

Our students are extremely talented, accomplished, and personable. They set very high standards for their educational and professional development. We, too, have very high standards for them. We expect all of our students to be reliable, responsive, courteous, respectful, and professional. Their final product always should be first-rate. We know that you share these standards. Timely, specific, constructive feedback is essential for externs to meet your, their, and our standards.

Externs want and need feedback, both positive and corrective. Please provide feedback to the extern after the completion of each assignment.
It is also important that you conduct at least two evaluation sessions – one at the midpoint of the externship and another, final evaluation meeting at the conclusion of the externship. Discuss both the substance of the extern’s assignment and the processes the extern used. Point out explicitly what the extern did well and areas for improvement. The form you will use to complete the final evaluation is available here.

Having externs evaluate themselves is a useful way to initiate feedback. The extern’s self-evaluation provides an opportunity for you to build on the extern’s assessment. Self-assessment also encourages the extern to move through the learning process from completing projects, analyzing performance, and identifying goals for future performance. In addition, this process reinforces a pattern of reflective thinking.

Field Supervisors’ general statements such as "good job" or "you'll do better with practice" – by themselves – do not help the extern to learn. Likewise, a “no news is good news” approach does not contribute to the externs’ educational/professional growth. Externs will learn best from specific feedback and examples.

We recommend that you begin your feedback session with a general statement about the extern’s overall performance. Follow this general assessment with specific comments. For example, in discussing an extern-conducted client interview, a statement, “You developed a nice rapport with your client” would be more meaningful if supplemented with something like “You made the client comfortable when you said, ‘I can see that you are concerned about this, Ms. Jones, and I am going to do everything I can to assist you.’ ”

**ADDRESSING POTENTIAL PROBLEMS**

In virtually all externships, externs and Field Supervisors have mutually beneficial experiences and enjoy a successful mentor/extern relationship. However, there are very infrequent, sporadic occasions when the externship does not go as smoothly as everyone would like. Please contact the Associate Dean as soon as you determine that you and the extern are not able to resolve a problem. Similarly, if an extern has a concern we ask that the student first contact you for resolution, absent compelling circumstances.

**SHARING YOUR SUGGESTIONS FOR ENHANCING THE EXTERNSHIP PROGRAM**

We welcome your ideas for enhancing the externship program’s procedures or substance. Please share your thoughts with us.

Thank you for the significant time, energy, and effort you devote to supervising William & Mary Law externs.
The student will complete a portion of the Externship Objectives and Site Agreement and email it to you. When you receive the agreement, please complete your portion after discussion with the student. Then email the form with your completed portion to the student. Adobe Reader is required to complete the form and can be downloaded here. Please save the document to your computer before you complete it.
STATEMENT OF SKILLS AND VALUES FROM THE ABA’S MACCRATE REPORT

FUNDAMENTAL LAWYERING SKILLS

Skill § 1: Problem Solving
In order to develop and evaluate strategies for solving a problem or accomplishing an objective, a lawyer should be familiar with the skills and concepts involved in:

1.1 Identifying and Diagnosing the Problem;
1.2 Generating Alternative Solutions and Strategies;
1.3 Developing a Plan of Action;
1.4 Implementing the Plan;
1.5 Keeping the Planning Process Open to New Information and New Ideas.

Skill § 2: Legal Analysis and Reasoning
In order to analyze and apply legal rules and principles, a lawyer should be familiar with the skills and concepts involved in:

2.1 Identifying and Formulating Legal Issues;
2.2 Formulating Relevant Legal Theories;
2.3 Elaborating Legal Theory;
2.4 Evaluating Legal Theory;
2.5 Criticizing and Synthesizing Legal Argumentation.

Skill § 3: Legal Research
In order to identify legal issues and to research them thoroughly and efficiently, a lawyer should have:

3.1 Knowledge of the Nature of Legal Rules and Institutions;
3.2 Knowledge of and Ability to Use the Most Fundamental Tools of Legal Research;
3.3 Understanding of the Process of Devising and Implementing a Coherent and Effective Research Design.

Skill § 4: Factual Investigation
In order to plan, direct, and (where applicable) participate in factual investigation, a lawyer should be familiar with the skills and concepts involved in:

4.1 Determining the Need for Factual Investigation;
4.2 Planning a Factual Investigation;
4.3 Implementing the Investigative Strategy;
4.4 Memorializing and Organizing Information in an Accessible Form;
4.5 Deciding Whether to Conclude the Process of Fact-Gathering;
4.6 Evaluating the Information That Has Been Gathered.

Skill § 5: Communication
In order to communicate effectively, whether orally or in writing, a lawyer should be familiar with the skills and concepts involved in:

5.1 Assessing the Perspective of the Recipient of the Communication;
5.2 Using Effective Methods of Communication.

Skill § 6: Counseling
In order to counsel clients about decisions or courses of action, a lawyer should be familiar with the skills and concepts involved in:

6.1 Establishing a Counseling Relationship that Respects the Nature and Bounds of a Lawyer’s Role;
6.2 Gathering Information Relevant to the Decision to Be Made;
6.3 Analyzing the Decision to Be Made;
6.4 Counseling the Client about the Decision to Be Made;
6.5 Ascertaining and Implementing the Client’s Decision.

Skill § 7: Negotiation
In order to negotiate in either a dispute-resolution or transactional context, a lawyer should be familiar with the skills and concepts involved in:

7.1 Preparing for Negotiation;
7.2 Conducting a Negotiation Session;
7.3 Counseling the Client About the Terms Obtained From the Other Side in the Negotiation and Implementing the Client's Decision.
Skill § 8: *Litigation and Alternative Dispute-Resolution Procedures*

In order to employ - or to advise a client about - the options of litigation and alternative dispute resolution, a lawyer should understand the potential functions and consequences of these processes and should have a working knowledge of the fundamentals of:

8.1 Litigation at the Trial-Court Level;
8.2 Litigation at the Appellate Level;
8.3 Advocacy in Administrative and Executive Forums;
8.4 Proceedings in Other Dispute-Resolution Forums.

Skill § 9: *Organization and Management of Legal Work*

In order to practice effectively, a lawyer should be familiar with the skills and concepts required for efficient management, including:

9.1 Formulating Goals and Principles for Effective Practice Management;
9.2 Developing Systems and Procedures to Ensure that Time, Effort, and Resources Are Allocated Efficiently;
9.3 Developing Systems and Procedures to Ensure that Work is Performed and Completed at the Appropriate Time;
9.4 Developing Systems and Procedures for Effectively Working with Other People;
9.5 Developing Systems and Procedures for Effectively Administering a Law Office.

Skill § 10: *Recognizing and Resolving Ethical Dilemmas*

In order to represent a client consistently with applicable ethical standards, a lawyer should be familiar with:

10.1 The Nature and Sources of Ethical Standards;
10.2 The Means by Which Ethical Standards are Enforced;
10.3 The Processes for Recognizing and Resolving Ethical Dilemmas.

FUNDAMENTAL VALUES OF THE PROFESSION

Value § 1: *Provision of Competent Representation*

As a member of a profession dedicated to the service of clients, a lawyer should be committed to the values of:

1.1 Attaining a Level of Competence in One’s Own Field of Practice;
1.2 Maintaining a Level of Competence in One’s Own Field of Practice;
1.3 Representing Clients in a Competent Manner.

**Value § 2: Striving to Promote Justice, Fairness, and Morality**

As a member of a profession that bears special responsibilities for the quality of justice, a lawyer should be committed to the values of:

2.1 Promoting Justice, Fairness, and Morality in One’s Own Daily Practice;

2.2 Contributing to the Profession’s Fulfillment of its Responsibility to Ensure that Adequate Legal Services are Provided to Those Who Cannot Afford to Pay for Them;

2.3 Contributing to the Profession’s Fulfillment of its Responsibility to Enhance the Capacity of Law and Legal Institutions to Do Justice.

**Value § 3: Striving to Improve the Profession**

As a member of a self-governing profession, a lawyer should be committed to the values of:

3.1 Participating in Activities Designed to Improve the Profession;

3.2 Assisting in the Training and Preparation of New Lawyers;

3.3 Striving to Rid the Profession of Bias Based on Race, Religion, Ethnic Origin, Gender, Sexual Orientation, or Disability, and to Rectify the Effects of These Biases.

**Value § 4: Professional Self-Development**

As a member of a learned profession, a lawyer should be committed to the values of:

4.1 Seeking Out and Taking Advantage of Opportunities to Increase His or Her Knowledge and Improve His or Her Skills;

4.2 Selecting and Maintaining Employment That Will Allow the Lawyer to Develop as a Professional and to Pursue His or Her Professional and Personal Goals.
The student will provide you with the due date for the Field Supervisor’s Evaluation. The evaluation form is available [here](#). Adobe Reader is required to complete the form and can be downloaded [here](#).
March 2014

Dear Externship Field Supervisors:

Recent court decisions involving the Fair Labor Standards Act (FLSA) have prompted some field supervisors to inquire about the potential impact of those decisions on academic credit-bearing externship programs at U.S. law schools. The court decisions and field supervisor questions have centered on whether externs are “employees” under the minimum wage and overtime provisions of the FLSA.

William & Mary Law School reaffirms that, consistent with the regulatory and legal landscape as of March 2014, we will confidently continue our externship program. The Law School also enthusiastically reaffirms the importance of our ongoing collaboration with you in our shared mission of educating law students through credit-bearing externships.

The American Bar Association’s standards and the Association of American Law Schools’ regulations govern externship programs. Those organizations conduct periodic, rigorous accreditation reviews of law schools to assure compliance with their standards and regulations. Based on those organizations’ most recent accreditation reviews, William & Mary’s externship program complies with ABA and AALS requirements.

Since the United States Supreme Court’s decision in Walling v. Portland Terminal, 330 U.S. 148 (1947), courts have wrestled with the definition of “employee” under the FLSA. The courts have addressed many circumstances not involving academic credit-bearing externships. Those decisions reflect diversity in which “test” to use in determining whether an individual is an “employee.” The opinions also reflect diversity in applying the respective tests.

On May 28, 2013, the President of the ABA wrote to the Solicitor of the U.S. Department of Labor, requesting guidance about whether the FLSA covered law students handling pro bono matters as unpaid interns in law firms. The Solicitor responded on September 20, 2013, opining that, under certain circumstances, a law student intern assigned exclusively to a law firm’s non-fee-generating pro bono matters – whether or not any academic credit is provided – may be considered a trainee and not an employee.1

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1 In an opinion letter dated May 17, 2004, the Department of Labor addressed the FLSA status of college student interns earning academic credit.
In light of the ABA’s and AALS’s approval of William & Mary’s externship program and given the state of the law under the FLSA as of March 2014, I hope this letter is helpful as you assess your participation in William & Mary’s externship program. This letter is not legal advice or a substitute for seeking counsel; the Law School recognizes that each organization must decide which course of action best meets its priorities based on its own research and analysis of the law. Our students and I look forward to continuing to partner with you to complement students’ legal education through externships.

Sincerely,

Robert E. Kaplan

Robert E. Kaplan