

## TOURO LAW CENTER

### INFORMATION FOR STUDENTS IN INDEPENDENT EXTERNSHIPS

**NOTE:** Please read this before scheduling even a preliminary discussion with the Director of Clinical Education regarding an externship.

These instructions describe the rules and procedures for arranging a program for externship credit.

#### A. CHARACTERISTICS OF AN EXTERNSHIP

Students are permitted to arrange an individual externship connected to an upper level substantive course. An externship can only be approved if it meets the following requirements:

1. The field work must be undertaken during the same semester as you are enrolled in the substantive course.

This is a requirement of the Court of Appeals and of the ABA, as well as a requirement of Touro. The requirement that both the field work and the course be completed in the same semester is designed to facilitate faculty supervision and assure the integration of both experiences. The primary purpose of an externship is to afford you a "real world" experience in which you can evaluate and gain a perspective and fuller understanding of what you learn in the classroom. The experience in the field should make you better able to both grasp and challenge what you learn in class and vice versa. There are also additional requirements, (see below) which can only be completed during the same term that the substantive course is taken. Please do not ask to get externship credit for work done (or to be done) in a different semester, because this requirement cannot be changed.

2. The work undertaken in the externship must be connected to the substantive content of the course.

The work you perform in the field placement must bear a close relationship to the content of the course. Your work for the agency, organization or law office must bring you into contact with the legal doctrines and theories, procedural concerns, and dynamics of practice in the area of law covered in the course. While some amount of leeway is allowed, because of the normal, expected variation of assignments in a law office over a 14-week period, the field work must be significantly related to the subjects covered in the course. It is not enough for there to be a general or an incidental connection. For example, if you are taking:

#### FAMILY LAW

Clerkship for Family Court Judge or Hearing Examiner  
Nassau/Suffolk Law Services Committee, Inc., Family Law Project

Law Firm Specializing in Matrimonial Practice  
County Attorney's Office, Family Court Bureau

RIGHTS OF CHILDREN

Legal Aid Society, Juvenile Rights Division  
Human Resources Administration, Office of Legal Affairs

HEALTH LAW

New York Health and Hospital Corporation  
Office of General Counsel to a Hospital

CRIMINAL PROCEDURE, SELECTED TOPICS IN CRIMINAL LAW, AND SELECTED TOPICS IN CRIMINAL PROCEDURE

District Attorney's Office  
Special Prosecutor for Medical Fraud  
U.S. Attorney's Office – Criminal Division  
Neighborhood Defenders  
Legal Aid Society (Criminal Defense Division)  
Law Office Specializing in Criminal Defense

INTELLECTUAL PROPERTY, FIRST AMENDMENT SEMINAR, ENTERTAINMENT LAW

Volunteer Lawyers for the Arts

PROFESSIONAL RESPONSIBILITY

Appellate division Grievance Committee

LABOR LAW

National Labor Relations Board

ENVIRONMENTAL LAW

New York State Department of Environmental Conservation  
Natural Resources Defense Council  
U.S. Environmental Protection Agency

IMMIGRATION LAW

Central American Refugee Center  
N.Y. Lawyer for Human Rights  
Northern Manhattan Center for Immigrant's Rights  
Immigration Office of Catholic Charities  
Law Firm Specializing in Immigration Practice

ELDER LAW

Nassau/Suffolk Law Service Committee – Senior Citizens Project  
Brookdale Center on Aging, Institute of Law and Older Adults  
Law Firm Specializing in an Elder Law Practice

## LAND USE PLANNING

Town Attorney's Office  
Board of Zoning Appeals  
New York State Department of Environmental Conservation

## CREDITORS' RIGHTS

U.S. Bankruptcy Court  
Office of the United States Trustee  
Law Firm Specializing in Bankruptcy/Insolvency Law

## FEDERAL COURTS, CIVIL RIGHTS LITIGATION, CONSTITUTIONAL LAW

Clerkship in U.S. District Court or Court of Appeals  
Center for Constitutional Rights  
Prisoners' Legal Services

## ADMINISTRATIVE LAW

County Department of Public Health  
New York City Department of Consumer Affairs  
Securities and Exchange Commission

## EMPLOYMENT DISCRIMINATION, SEX-BASED DISCRIMINATION

New York State Division of Human Rights  
NOW Legal Defense Fund  
Law Firm Specializing in Discrimination Law

## FEDERAL INCOME TAX, ESTATE AND GIFT TAX

Internal Revenue Service, Office of Chief Counsel

## TRUSTS AND ESTATES, ELDER LAW

Surrogate's Court

## INTERNATIONAL BUSINESS LAW

U.S. Court of International Trade  
Law Firm Specializing in International Business

## BUSINESS ORGANIZATIONS II

New York Stock Exchange Enforcement Division  
District Attorney – White Collar Crime Division

## RACISM AND THE LAW

Police Conduct Review Board  
New York State Division of Human Rights  
NAACP Legal Defense Fund  
Puerto Rican Legal Defense Fund

These are only examples, but they are illustrative of the kind of connection that is expected. A good way to find out if the work will be connected to a course is to ask the professor for a syllabus or a course outline. With this you can compare the course topics with the work you expect to do. Another approach is to take the syllabus to the office in which you expect to work and ask if you can be given responsibilities that will touch on the topics listed. The office may be able to tailor your assignments to fit the syllabus. For a two-semester course you must be sure that the work is connected to topics covered during the simultaneous semester. For example, work for the ACLU might be well connected to the First Amendment issues covered in the second semester of Constitutional Law, but it would not have sufficient relationship to the topics covered in the first semester.

Also, there must be more than a vague, generalized connection. Often students will say something like this: "Well, I'm planning to work in the 'X' office and I know they have trials sometimes, and so evidentiary issues must come up occasionally; so I want to do an externship connected to the Evidence Course." This externship cannot be approved because there is not the requisite assurance that your work will regularly engage you in handling matters that are covered in the course.

This requirement means that certain types of placements are unlikely to gain approval because the student's responsibilities are too varied or cannot be predicted with sufficient assurance and precision in advance. For example if you want to clerk for a federal court judge, the externship might be connected to the Federal Courts course. However, if you wanted to clerk for a state Supreme Court judge, there would not be one course which would be aligned closely enough. Because a state Supreme Court judge often handles many different types of matters (e.g. contracts, personal injury, Art. 78 proceedings against state officials, employment discrimination, etc.) it is usually impossible to predict what assignments a student may be given during the term, because the judge's work load is not fixed with certainty in advance unless the Judge is assigned to a special Part handling one type of case. Clerkships with judges in specialized courts (e.g. Surrogates Court, Family Court, Bankruptcy, U.S. Court of International Trade) or assigned to specialized Parts of the Court are possible when connected to the appropriate substantive course.

Work in a private law firm must also be connected to the substantive course in the same close way. Many law firms handle a large variety of cases, so your assignments could range over many areas of law. This type of setting does not adequately meet the externship requirements. The work in the firm must regularly and consistently give you an opportunity to handle matters in the designated substantive area and to see the application of doctrines presented in the course. For this reason a law firm with a specialty practice is most likely to gain approval as an appropriate field placement.

Generally your supervising professor will want to speak with or visit the supervising attorney in the field placement. Especially if the faculty member is not familiar with the office and the nature of its work and professional standards, the supervising professor or the Director of Clinical Education may want to evaluate the placement to discern whether the work available to you meets the externship requirements and if you will receive careful supervision in a solid learning environment. It is possible that a placement you have initially chosen may not be

approved if the substantive connection, supervision and work assignments available do not meet our requirements.

3. The work must be legal in nature and performed under the supervision of an attorney.

The purpose of an externship is to permit an enhanced understanding of how legal theories, rules, and issues operate in fact, and how lawyers and legal systems function. For these reasons it is important that each student have a close involvement with a lawyer who is actively engaged in grappling with the legal issues that are the subject of the externship. While you may work with non-lawyers to some extent, you must have a lawyer supervising your work. You should be able to speak with your supervisor about professional norms, ethical issues, litigation strategy, directions or trends in the law etc.

While any placement will entail some small amount of work which is, strictly speaking, non-legal, your major and continuing work responsibilities must be legal work. Legal work includes legal research and writing, client and witness interviewing, other factual investigation, analysis of existing or proposed legislation or regulations, preparing testimony or materials for lobbying, conducting mediation or conciliation conferences, attending administrative or judicial proceedings or similar duties. Tasks necessarily associated with legal work, such as service of process, filing, tracking down judgment debtors, or setting-up meetings are allowable, but should be only an incidental part of your work. General office duties, such as a photocopying, message delivery, or filing pocket parts are not legal work and should be only occasionally performed, and only if they are incidental chores ordinarily performed by the professional staff in the office.

4. The externship must be supervised by a full-time member of the faculty teaching the allied substantial course.

Adjunct Professors, who are not full-time members of the faculty, have a contract to teach a course, including preparing and grading assignments and issuing grades. They are not expected to supervise student externships. Additionally, the faculty believes that the task of assisting the student in understanding and evaluating the placement experience is best performed by a regular faculty member. Even an adjunct who has taught a course many times cannot supervise an externship.

5. The work must be unpaid.

You cannot receive credit for any work for which you are paid, even if the pay is pitifully low. Also, you cannot obtain externship credit for unpaid additional work for an office in which you are being paid for other work. For example, if you are working 15 hours weekly for pay at a law firm, you cannot earn an externship credit for working an additional 5 hours without pay.

## B. CREDITS, SCHEDULING AND GRADING REQUIREMENTS

1. Credits

A student may enroll in an externship for one, two or three credits. Credit is granted based on the number of hours devoted to the field placement. For one credit, a student must work a minimum of 70 hours (or an average of 5 hours each week in a 14-week semester). For two credits, 140 hours (an average of 10 hours each week in a 14-week semester) are required. It is not compulsory that you work the same number of hours each week, but it is advisable, so that you make steady progress and you are involved in sufficient work throughout the term. If you are not able to start your externship on the first week of the term, you will have to "make-up" the hours.

Occasionally, an office will only find it valuable if the student works a larger number of hours. For example, the student may want a 2-credit externship, but the field placement will only accept a student who works at least 12 hours each week. In this event you may have to work 12 hours each week, but you will only receive 2 credits.

A three-credit externship is reserved for organized externship programs with an educational component. For example, many U.S. Attorneys' offices have a structured program for summer interns. The students work full time and also attend lectures, seminars, and demonstrations on federal jurisdiction, practice and procedure, federal criminal prosecution, the role of the FBI, DEA, AFT and other federal enforcement agencies, and other topics. Students may rotate to different divisions of the U.S. Attorney's office and hear presentations from federal judges. It is only this sort of program, amounting to nearly full-time participation over the summer which merits a three-credit externship.

## 2. Scheduling

Scheduling the hours you will work in your externship is a matter between you and your attorney supervisor. It is recommended that you plan a schedule that includes work in full-day or one-half day blocks. Most offices prefer this and it is the best way to accomplish work productively.

## 3. Grading

You may enroll in an externship as either a graded externship or on a pass/no credit basis. In either case it is extremely important that you have a clear understanding with your professor of the basis on which you will receive a grade. Some professors will consider the evaluation of the attorney with whom you work in assigning a grade, others grade your performance in the externship based on your journals, class presentations and samples of written work. This must be discussed with the professor beforehand so there is no misunderstanding of the level of performance expected.

Under our rules either the student or the professor may choose a pass/no credit grading system. The election may be made by either. A professor may tell you that he/she will only supervise an externship on a pass/no credit basis. Under this grading system a student must earn a "C" or better to earn a grade of "pass". A student who earns less than a "C" will not be given a lower grade; he/she will simply not be given any credit for the work undertaken. The professor

will submit your grade separately at the end of the term when you complete your externship. The grade you receive for the substantive course (based on the exam, papers, class participation, etc.) does not bear a relationship to the externship grade.

### C. REQUIREMENTS FOR EARNING EXTERNSHIP CREDIT

In general, in addition to working in the field placement each student is required to:

- a. Maintain a journal of activities undertaken in the field placement, including comparison of the field experience with the rules, theories and approaches learned in class;
- b. Submit the journal on a periodic basis to the professor;
- c. Meet periodically with the professor during the term to discuss the field experience;
- d. Make a presentation to the class incorporating information and insights gained from the placement;
- e. Submit some examples of written work produced in the placement to the professor.

These requirements may be altered by the professor, depending on the nature of the work you are doing, the responsibilities assigned to you and the regular requirements of the course. Your arrangements and agreements with the professor must be formalized into a written memorandum of agreement, the form of which is attached. This must be signed by both the student and the faculty member, each retaining a copy, and the original must be returned to the Director of Clinical Education.

#### 1. Journals

Your journal should record the tasks and responsibilities you are given, the nature of the cases or projects on which you are working, your observations and reflections on the demands and problems of law practice generally and in the particular field of law, a discussion of the substantive issues you must resolve and your assessment of the ethical problems that arise in your work. Further, it is essential that your journal include a reflective comparison of how the ideas, rules, and theories learned in class are played out in the legal setting of your placement. Students are expected to use their journals as vehicles for recording their notions of justice, advocacy, the lawyer-client relationship, and to assess the fairness and effect of the rules of substance and procedure that are learned in class. For example your journal should not just record "Today I was given the assignment of researching how to obtain a court order for non-emergency medical treatment for a person who is not mentally capable of giving informed consent. The patient's situation is ..."X"... I learned that in New York the requirements are ..."Y"... and the procedure is ..."Z"..." This type of information should of course be included in your journal; but beyond this you are expected to record such things as your view of the wisdom

and fairness of the substantive standard, whether the procedures employed were either too cursory or too cumbersome to promote a just result, ethical dilemmas created and how you believe they should be resolved and similar comments. Your journal should include your thoughts, such as, "In class we studied standards for utilizing substituted judgment in these sort of cases. At the time the rules "X,Y,Z" seemed fair to me, but now as I see how it works in practice, I think that "A.B.C." would be . . . (e.g. more efficient, fair, easily understood by the parties, etc.), because . . . ." We expect that keeping your journal will force you to think more critically about the ideas discussed in class and your coursework will make you look more critically at the realm of law practice and legal institutions. Your professor may have some additional requirements for your journal, so you should make sure that you understand exactly what other types of information, ideas, observations or evaluation your professor wants to read in your journal.

These journals should be submitted to your professor on a periodic basis. Some faculty members want you to submit them every other week, others more or less frequently. Be sure that you have a clear agreement with your teacher on this point.

## 2. Periodic Meeting with Supervising Professor

The professor and student are required to meet periodically to discuss the externship experience and examine the lessons that the externship experience can bring to illuminate the course work and vice versa. The frequency and length of these meetings are matters for you to discuss with the professor, but you must make arrangements with your professor for these meetings and keep to the schedule you both design.

## 3. Class Presentations

You are expected to bring your experience from the fieldwork into the classroom and share your knowledge and insights with your classmates. Usually this will take the form of a planned presentation to the class. You will have to discuss the form of this presentation with your professor and you will have to make plans for when this presentation will be made. Your professor may want you to make a presentation on legal issues that are involved in your work, present a summary of the New York law on a particular point, or engage in a staged debate with the professor or others on an important policy, legal, or ethical issue that is implicated in your work. There is a wide variety of possibilities and you should discuss with your professor which approach will be most effective and beneficial to the class. The nature of this presentation should be recorded as part of the agreement with the professor, at the beginning of the term, if possible.

## 4. Submission of Samples of Written Work

It will generally be required that the professor see the type of written work that you are producing in your externship placement. Some professors may want to review all your written work, others may want to see only a few samples and still others may only want to see a major piece of legal writing on a substantive topic. Whatever your agreement with the professor, you should expect to remove names and identifying information in all cases where confidentiality must be maintained. At the start of the semester you should understand the amount and type of

written work that your professor will expect to review. This should be communicated to your supervisor so your supervisor understands that the written work you produce in the office will be read by the professor. In some placements, a separate confidentiality agreement may have to be signed.

#### 5. Evaluation

At the conclusion of the semester, the Director of Clinical Education will send an evaluation form to your supervisor, which should be returned to the professor supervising the externship. Your professor may also contact your placement supervisor from time to time during the term to check on your progress or may wish to make an on-site visit to the office where you work.