

University of Kansas School of Law

Supervision Manual for Field Placement Supervisors¹

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¹This manual incorporates portions of the manual produced by Greater Los Angeles Consortium on Externships. It is used with permission.

SECTION I: EXPERIENTIAL LEARNING AND THE PROCESS OF BECOMING AN ATTORNEY

Field placements offer several learning objectives and outcomes that a traditional law school class does not. Field placements expose students to different models of lawyering related to specific areas of legal practice. They also allow for greater insight into the process of lawyering, the development of a sense of professional responsibility, and the ability to reflect on and learn from experiences. The reflections and observations of students help them make sense of their experiences "to create new or modify existing knowledge."²

Many of the students that participate in field placements have not had a previous opportunity to observe court proceedings or practice lawyering skills in a real-world setting. Students learn the attention that must be given to the performance of legal tasks such as drafting documents, discovering and using facts, and arguing motions. Field placements also offer students insights about the legal system. To get the most out of a field placement, students should also focus on:

- The relationships between the attorneys and support staff, clients, opposing counsel, and judges;
- The relationship between the legal work and attorney values, perceptions, and concepts of self-worth; and
- Ethical challenges inherent in the practice of law.

Students will discuss many of their observations with the supervising attorney and reflect on their experiences in weekly journals. The process of writing complements the process of reflecting. It is important for supervising attorneys and the student to have a discussion early in the field placement about the scope of confidentiality for the written journals, which includes not just ethical rules, but any rules that an office may have regarding confidentiality.

² J.P. Ogilvy, Leah Wortham & Lisa G. Lerman, *LEARNING FROM PRACTICE: A PROFESSIONAL DEVELOPMENT TEXT FOR LEGAL EXTERNS*, 6 (West 1998).

SECTION II: LEARNING OUTCOMES

Field placements are about more than just teaching students how to write motions, marshal facts, or appear in court. There are several learning objectives that will enhance a student's field placement experience. It is imperative that supervising attorneys:

1. Provide an opportunity for students to learn to operate effectively in a professional legal environment, including understanding and following office procedures and protocols.
2. Guide students in learning how to conduct themselves in a professional manner.
3. Train and mentor students in the practice of client centered lawyering, including ethical service and advocacy for a client.
4. Facilitate learning the substantive area of law that is the focus of the field placement through training, supervision, monitoring, and mentoring.
5. Facilitate learning by providing opportunities for students to engage in experiences reasonably similar to that of a lawyer advising or representing clients.
6. Provide multiple opportunities for students to practice a skill.
7. Facilitate the integration of doctrine, theory, and skill.
8. Facilitate learning good judgment, the ability to handle real-life situations, and reflection so that students can develop skills they will use as a lawyer.

SECTION III: STRUCTURE AND FEEDBACK

A. ABA Requirements

Students who participate in field placements receive hours of academic credit for their work. To comply with ABA Standard 304, the student must be provided with a substantial lawyering experience that is reasonably similar to the experience of a lawyer. ABA Standard 304(d) requires an agreement between the student, the supervising attorney, and the law school. To comply with the ABA, the agreement requires, among other things:

1. All parties agree that students will receive a substantial lawyering experience with opportunities for performance, feedback, and self-evaluation.
2. There must be a clearly articulated method of evaluating student performance, to ensure that students receive a quality educational experience.

The law school requires that all supervising attorneys review, sign, and abide by the terms of the agreement.

B. Structuring the Field Placement

1. Be prepared for the student's arrival

To ensure a quality and productive experience, supervising attorneys must take the time to prepare for the field placement. It is helpful to think about what work the student will participate in, how the work will be assigned and evaluated, and how feedback will be given for the student's performance.

Upon a student's arrival, conduct an orientation of the office and be sure to explain your expectations and the student's obligations. During orientation take time to:

- Inform the student who is available to provide assistance;
- Introduce the student to office staff;
- Provide written office procedures and policies, if available;
- Provide clear information regarding logistics, like parking and expenses.

A student's workplace is also important to their success. It is recommended that students be provided with the following:

- A desk or secure workplace;
- Easy access to a phone;
- A computer or sufficient access to one;
- Access to research tools, including online tools and relevant hard copies of materials;
- Office supplies;
- Copier and fax access.

2. Provide Appropriate and Well-Defined Assignments

To maximize the educational experience for the student and the student's contribution to the legal work in the office or chambers, it is helpful to consider the following:

- a. *Streamline the assignment process.* Have all assignments come from the supervising attorney or an appropriate person in a judge's chambers. A streamlined system helps to ensure that students are not overwhelmed, are provided with varied and meaningful assignments, have the opportunity to practice a skill and, when appropriate, can advance to more complex assignments.
- b. *Give meaningful assignments.* The agreement signed by all parties requires that students be provided with an opportunity for a substantial lawyering experience. To that end, the assignments should be similar to those performed by an entry level attorney. For example, assignments may include research, drafting, conducting interviews of clients or witnesses, attending staff meetings, conferences, mediations, or negotiations, and appearing in court, when appropriate. Remember opportunities to observe events are also valuable to a student. Provide students with the ability to observe events such as meetings, depositions, or court proceedings.
- c. *Be clear regarding assignments.* Make sure to communicate with students about expectations, objectives, and deadlines. It is helpful to share with the student how the assignment relates to the progression of the case or matter, what the finished product should look like, and who the student should contact with questions.
- d. *Be aware of the time required to complete assignments.* It is helpful to let the student know the amount of time any given assignment should take. It helps the student judge, among other things, whether to seek assistance when it is taking longer than expected to complete the assignment. Be aware of the number of hours that a student has allotted for the field placement and provide assignments accordingly. In other words, make sure the student has enough to do, while at the same time not overwhelming the student with more work than can be completed.

3. Communicate

Set weekly meetings to check-in with students, check their progress, review their work, and answer questions. Let the student know additional times when you will be available to discuss their work or answer questions. If you are not available, be sure to let the student know whom to talk to in your absence.

4. Provide effective feedback

Timely and constructive feedback is key to the student's learning and success in the field placement. Providing feedback early in the field placement gives a student the ability to improve performance. Do not just point out strengths and weaknesses – provide thoughtful, collaborative evaluation of the work. For example, instead of telling a student to "tighten up the writing" or

"use the facts more effectively," take a portion of the student's work and show how to edit and rewrite the assignment. While this kind of feedback can be time-consuming, it is also the most helpful.

It is understandable that there will be times when you will be busy, but you are encouraged to take the time to collaborate with the student to help the student improve. The following six-step model is helpful in creating feedback that will assist students in learning how to reflect on and critique their own work.³

Step One: The Student Identifies Strengths of the Performance: The student should identify those aspects of the work that the student feels were done well, including identifying what the performance accomplished.

Step Two: The Supervisor Responds Solely to Those Items Raised by the Student: Giving only positive feedback, the supervisor at this stage confines remarks to those items raised by the student.

Step Three: The Supervisor Identifies Other Strengths in the Performance: The supervisor now adds additional points that were done well. This wide-open stage explores all facets of the performance that were accomplished satisfactorily or show a potential for success, with specific illustrations of why these aspects were successful.

Step Four: The Student Identifies Difficulties and/or Changes to be Made: The student now takes the initiative in identifying areas in need of improvement, coming forward with specific comments.

Step Five: The Supervisor Responds to the Identified Difficulties: Confining remarks to areas identified by the student for improvement, the supervisor comments on how the issues could be handled differently next time.

Step Six: The Supervisor Indicates Additional Difficulties: This final stage involves another wide-open exploration of all facets of the performance. The discussion focuses on aspects that were not satisfactorily accomplished, again with specific illustrations and concrete analysis.

Employing the six-step model will force students to reflect on their work and how they can improve. Students are far more likely to accept suggestions for improvement if they independently recognize areas that need attention. The student's assessment may also help highlight any problems created by a limited or unclear understanding of the assignment or by the student's lack of familiarity with the necessary research tools. If the attorney elicits the student's impressions, these issues can be uncovered and handled more effectively.

In addition to the six-step model for feedback, it is helpful to think about the following

³ Beryl Blaustone, *Teaching Law Students to Self-Critique and to Develop Critical Clinical Self-Awareness in Performance*, 13 CLIN.L.REV. 601 (2006).

specific categories when reviewing student work:⁴

- *Research Ability*
 - knows the basic, non-computer library research tools and how to use them
 - is familiar with computerized legal research resources
 - does thorough, careful, and accurate work
 - produces practical and useful results
- *Legal Analysis*
 - is able to identify relevant issues and distinguish a logical hierarchy among them
- *Intellectual Capacity*
 - displays intellectual curiosity
 - thinks creatively and imaginatively
 - develops alternative avenues of argument
 - pursues analogous extensions in areas where the law is unclear
 - explores subsidiary and related issues uncovered by research to develop innovative legal theories
- *Writing Skill*
 - writes clearly, precisely, and persuasively
 - drafts well-organized documents
 - cites accurately and properly
- *Clarity of Oral Expression*
 - speaks clearly and is easily understood
 - is able to discuss issues effectively
 - communicates persuasively in various advocacy proceedings
- *Judgment*
 - actions reflect maturity
 - exercises common sense
 - knows how and when to ask questions or seek additional input
 - sets appropriate priorities in handling assigned work
- *Responsibility*
 - is trustworthy and acts ethically
 - takes initiative
 - is dependable and conscientious about work
 - meets deadlines and manages time well

⁴ This list is presented and discussed in A. Alexander and J. Smith, *A Practical Guide for Cooperative Supervision for Law Students and Legal Employers*, supra, at pp. 216-217. See also Beryl Blaustone, *Teaching Law Students to Self-Critique and to Develop Critical Clinical Self-Awareness in Performance*, 13 CLIN. L. REV. 601 (2006).

- works independently and efficiently without sacrificing quality
- accepts criticism and constructively modifies work habits

- *Client Relations*
 - develops effective working relationships with clients
 - is sensitive and responsive to client needs
 - knows how to be diplomatically persistent

5. Keep the lines of communication open

No matter how informal and friendly your office may be, there is no denying the fact that there is a significant imbalance of power between supervising attorneys and the students. Most students are aware of their place in the office hierarchy and may be reluctant to ask questions or seek advice for fear of appearing to be incompetent. In our experience, the best supervisory relationships exist when students feel free to approach their supervisors with all questions, large and small. Supervisors should make every effort to create and maintain a comfortable and effective working relationship that will maximize both the students' educational experiences and their contributions to your office.

6. Evaluations

Your formal evaluation of student performance is an essential part of a successful field placement. A final evaluation form is provided and must be completed by the supervising attorney. The final evaluation is comprehensive and should document strengths, areas of growth, and areas for improvement.

SECTION IV: ETHICAL STANDARDS

The observance by lawyers and their employees of the ethical obligations of confidentiality is a fundamental principle of the lawyer-client relationship. The KU Law School recommends that all field placement supervisors take steps to ensure that law students, who may or may not have received formal training in professional responsibility at the time of the placement, are aware of the specific confidentiality policies of the placement.

A. Confidentiality

The Rules of Professional Conduct require that lawyers maintain client confidentiality. Please have a conversation with students regarding the rules of your individual offices or chambers, as well as the requirements of the applicable jurisdiction. The KU Law School encourages field placement supervisors to have written policies that are distributed to the students. The student should sign an acknowledgement of receipt of the policies.

1. For your convenience, you can find the confidentiality rules for Kansas and Missouri at:

- ◆ **Kansas** – <http://www.kscourts.org/rules> (Rule 1.6: Client-Lawyer Relationship: Confidentiality of Information)
- ◆ **Missouri** – <http://www.courts.mo.gov/> (Rule 4 – Rules of Professional Conduct, 4-1.6 Confidentiality of Information)

a) Potential Conflicts

At the beginning of the field placement, it is important to discuss with students how to identify any potential conflicts of interest and the protocol for addressing conflicts, should they arise. For judicial clerkships, it is also important to discuss with students the extent to which they may have interactions with attorneys, jurors, potential jurors, or other interested parties. Conversations about conflicts at the beginning of the field placement will prevent future problems.

b) Student Permits and the Unlawful Practice of Law

1. **General Requirements:** In Kansas, under Rule 715, students may obtain a student practice permit after completion of 59 credit hours. The permit allows students to work in law school clinics, field placements, governmental agencies, and law offices. (If your field placement student inquires about whether 44 credit hours is sufficient for field placements, it is not. Only if the student is supervised by a licensed attorney *who teaches in an in-house law school clinic* can a permit be obtained with only 44 credit hours.)
2. **Permits are only valid for practice under a specific, named supervising attorney:** The student practice permit is now directly tied to the attorney supervising the intern. In other words, the student cannot obtain a permit and move from job to job without notifying Attorney Admissions in the Kansas Supreme Court Clerk's Office. Supervising

attorneys must notify the Attorney Admissions office when the student placement with the attorney ends, at which time the student's permit terminates. To reactivate the permit, a new supervising attorney must submit the appropriate paperwork to the Attorney Admissions office. There is no additional fee or application process to reinstate or transfer a student's permit; it only requires the new supervising attorney submit the required form stating the attorney takes responsibility for the student's legal work during the dates provided.

If the student working in your office is transferring a permit already obtained, please verify that the student now has at least 59 credit hours and then complete the attorney section of the application process and send it to the Kansas Supreme Court Clerk's Office.

Please make sure your interns understand that their permit is not a license to practice law anywhere with any supervisor. The permit is tied to practicing law with the specific supervisor.

SECTION V: ANTI-DISCRIMINATION AND HARRASSMENT POLICY AND DISABILITY ACCOMMODATIONS.

KU Law School is dedicated to providing students a legal education, including field placements, free from discrimination and harassment based on race, color, religion, marital status, sex, national origin, age, sexual orientation, gender, gender identity, disability, or military status. It is expected that all placement agencies are cognizant of the law and provide a work environment for students free from discrimination and harassment. Students must be safe from discrimination and harassment, and any disabilities must be reasonably accommodated.

Below is the applicable law for your consideration:

- Title VII of the Civil Rights Act, 42 U.S.C. § 2000, *et seq.*
- Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*

If you have any concerns about the ability to provide a work experience in accordance with state and federal law, please contact the Director of Field Placements.

Appendix: American Bar Association Standards Relating to Field Placements

Standard 304. EXPERIENTIAL COURSES: SIMULATION COURSES, LAW CLINICS, AND FIELD PLACEMENTS

- (a) Experiential courses satisfying Standard 303(a) are simulation courses, law clinics, and field placements that must be primarily experiential in nature and must:
 - (1) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302;
 - (2) develop the concepts underlying the professional skills being taught;
 - (3) provide multiple opportunities for performance;
 - (4) provide opportunities for student performance, self-evaluation, and feedback from a faculty member, or, for a field placement, a site supervisor;
 - (5) provide a classroom instructional component; or, for a field placement, a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection; and
 - (6) provide direct supervision of the student's performance by the faculty member; or, for a field placement, provide direct supervision of the student's performance by a faculty member or a site supervisor.
- (b) A simulation course provides substantial experience not involving an actual client, that is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a set of facts and circumstances devised or adopted by a faculty member.
- (c) A law clinic provides substantial lawyering experience that involves advising or representing one or more actual clients or serving as a third-party neutral.
- (d) A field placement course provides substantial lawyering experience that (1) is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a setting outside a law clinic under the supervision of a licensed attorney or an individual otherwise qualified to supervise, and (2) includes the following:
 - (i) a written understanding among the student, faculty member, and a person in authority at the field placement that describes both (A) the substantial lawyering experience and opportunities for performance, feedback and self-evaluation; and (B) the respective roles of faculty and any site supervisor in supervising the student and in assuring the educational quality of the experience for the student, including a clearly articulated method of evaluating the student's academic performance;
 - (ii) a method for selecting, training, evaluating and communicating with site supervisors, including regular contact between the faculty and site supervisors through in-person visits or other methods of communication that will assure the

quality of the student educational experience. When appropriate, a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program;

- (iii) evaluation of each student's educational achievement by a faculty member; and
 - (iv) sufficient control of the student experience to ensure that the requirements of the Standard are met. The law school must maintain records to document the steps taken to ensure compliance with the Standard, which shall include, but is not necessarily limited to, the written understandings described in Standard 304(d)(i).
- (e) Credit granted for such a simulation, law clinic, or field placement course shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.
- (f) Each student in such a simulation, law clinic, or field placement course shall have successfully completed sufficient prerequisites or shall receive sufficient contemporaneous training to assure the quality of the student educational experience.