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Effective Techniques for Training
Supervisors and Students**

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EXTERNSHIP FIELD SUPERVISION: EFFECTIVE TECHNIQUES FOR TRAINING SUPERVISORS AND STUDENTS

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This article explores the natural dichotomy inevitably occurring in an externship field placement program and discusses some practical training techniques to minimize the negative aspects of the field placement experience for the law school, the field supervisor and the student. The dichotomy occurs where, in an off-campus field placement, the primary concern of the supervising attorney must be the work of the agency or the judicial chambers, while the concern for the education of the field extern must by nature be a secondary goal. The article synthesizes current literature in the pedagogical theories of field supervision and identifies the methods and characteristics of an effective field supervisor, as well as how effective field supervisors recognize and compensate for common barriers to effective field supervision. A primary focus of the article is the motivating and regenerative effect of GLACE, the Greater Los Angeles Consortium on Externships, which prepared and distributed jointly adopted written materials to shared field placement supervising attorneys and judicial chambers to assist in training and mentoring law students. GLACE schools also adopted joint supervision guidelines and policies for all shared field supervisors and judicial chambers, significantly raising the visibility and importance of diligent field supervision in the Los Angeles area. The article finally suggests that externship faculty train students in a specific pro-active curriculum to assist students in initiating effective field supervision independently of that provided by the field supervisor and describe the components of such training.

INTRODUCTION

Monitoring effective and motivated supervision of off-campus law externs in a structured field placement program has traditionally

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been the chimera¹ of law school curriculum. In an off-campus field placement, the primary concern of the supervising attorney must be the work of the agency or judicial chambers, while the concern for the education of the field extern must by nature be a secondary goal.² The more traditional on-campus “in-house” clinic presents less of a challenge in terms of training and motivating supervising attorneys. Supervisors in the traditional setting are usually lawyers who are also adjunct faculty or clinical professors of law at the law school, or tied closely in loyalty to the law school as a contract employee. Supervision of students and the training of the supervisors in the in-house model is more closely monitored than in an off campus externship setting because the ties to the law school vest the in-house supervisor equally in both the educational mission of the law school as professors of students, as well as in the legal mission of the clinic itself in providing competent services to clients.

Effective supervision is acknowledged as the most essential element of law student training in an off-campus setting or externship.³ The importance of effective field supervision is demonstrated in a growing body of literature addressing the theories of effective supervision and the nature of student learning. Yet the practical mechanics of implementing an off-campus program in which supervisors are consistently motivated and trained to incorporate the educational goals of the institution into a busy practice and in which students are likewise consistently motivated and trained to initiate guidance, clarification and self-assessment, eludes all but the most experienced program directors. It is our mission to begin to define and suggest some “practical mechanics” in the training and motivation of supervisors and students in the off-campus field experience.

The first part of this article synthesizes current literature in the pedagogical theories of field supervision in an effort to identify the

¹ “A foolish fancy.” WEBSTER’S II NEW RIVERSIDE DICTIONARY, (rev. ed., based on the hardcover of Webster’s II New College Dictionary 123, Webster’s II New College Dictionaries, eds. 1996).

² See Robert F. Siebel & Linda H. Morton, *Field Placement Programs: Practices, Problems and Possibilities*, 2 CLIN. L. REV. 413, 424 (1996); their survey reported 85.29% of schools responding had a field placement program, which corresponded with the MacCrate Report’s finding that 130 out of 155 schools (83.9%) have field placement programs.

³ See generally, Henry Rose, *Legal Externships: Can They Be Valuable Clinical Experiences for Law Students?* 12 NOVA L. REV. 95 (1997). Rose points out, particularly at p. 104-105, the potential fundamental flaws of off-campus field programs, See also Peter Toll Hoffman, *The Stages of the Clinical Supervisory Relationship*, 4 Antioch L.J. 301 (1986); Hoffman’s article, while valuable in setting forth standards for field supervision, is truly a generic evaluation of supervision in any type of clinical setting. ASSOCIATION OF AMERICAN LAW SCHOOLS—AMERICAN BAR ASSOCIATION COMMITTEE ON GUIDELINES FOR CLINICAL LEGAL EDUCATION, *Guidelines for Clinical Legal Education*, Guidelines I.O., at 14 (1980).

methods and characteristics of an effective field supervisor as well as how effective supervisors recognize and compensate for common barriers to effective supervision.

The second part of the article addresses the training and motivation techniques for field supervisors developed by the first national consortium of law school field placement externship programs, the Greater Los Angeles Consortium on Externships (GLACE). In addition to the preparation and wide distribution of comprehensive written materials to assist field supervisors in training and mentoring field students, the Consortium itself, by its existence and jointly adopted supervision guidelines and policies, significantly raises the visibility and importance of effective field supervision when all Los Angeles area ABA law schools require the implementation of jointly adopted specific standards for supervision. Field supervisors who are unable or unwilling to implement and maintain the joint standards risk losing valuable law student resources from all six GLACE law schools as a consequence.

The last section focuses on a concept that is equally as important as motivating and training field supervisors, but receives relatively little attention and focus, either pragmatically or in literature. The concept involves the development of a "training curriculum" for students transitioning for the first time from the structure of a law classroom to the less structured and often unfamiliar environment of a real law practice in a field externship. The goal of the curriculum is to provide training to aid students in development of the crucial skills of communication, reflection and self-assessment, which are the primary elements of self-directed learning. The training consists of relatively simple techniques at the outset of the experience to develop clarification skills, with ongoing periodic reflective assignments and self-assessments as the experience progresses towards achieving identified goals and objectives. Development of these skills will effectively assist the field extern in promoting and seeking supervision *independently* from the initiative of the field supervisor. Students trained to exercise initiative in seeking the counsel and consult of the supervising attorney promote an alliance between the supervisor and student and ensure a continuing dialogue between the two as the student progresses in meeting identified goals and objectives of learning.

I. GENERAL PEDAGOGICAL THEORIES OF SUPERVISION

A. THE TRADITIONAL MODEL OF SUPERVISION

In a seminal and time-tested article, Alexander and Smith, in their 1988 article *A Practical Guide to Cooperative Supervision for*

Law Students and Legal Employers,⁴ noted the shortcomings of a traditional model of supervision in setting forth their more “Contemporary Model of Cooperative Supervision.” The traditional model of student supervision places the employer/supervisor squarely in the active role in directing and evaluating the student’s work and the student is the passive recipient of whatever type or style of direction and evaluation the supervisor imparts.⁵ The supervisor performs the traditional functions of giving the assignment, providing feedback and evaluating ultimate performance with little or passive additional direction required or expected from the student.⁶

Alexander and Smith note the obvious shortcomings of the traditional model. Effective supervision is easily inhibited where students are “neither expected nor encouraged to participate actively in the process of their practical legal education.”⁷ The supervisory relationship is hindered because the student assumes no responsibility for structuring the supervision of the externship. Students who passively rely on the direction and evaluation of the supervisor predictably fail to develop valuable lawyering skills such as the ability to “identify what they need and how to get it”⁸ when a traditional model supervisor is unavailable or unable to provide the instant gratification/correction the traditional model suggests.

B. Alexander and Smith’s Contemporary Model of Cooperative Supervision

The Contemporary Model of Cooperative Supervision (“Contemporary Model”) presents an effective supervisory relationship as an “active interplay between the employer [supervisor] and the student with responsibility for supervision divided between them.”⁹ The contemporary model retains the expectation that the supervisor provides the initial traditional supervisory function of actively directing the assignment and the feedback on the work product, but discards the notion that the student remains passive as the recipient of direction or feedback, particularly if the direction or feedback is inadequate or unclear to the student. Students are expected to continually self-assess

⁴ Alice Alexander & Jeffrey Smith, *A Practical Guide to Cooperative Supervision for Law Students and Legal Employers*, 29 LAW OFF. ECON. & MGMT. 207, 208 (1998).

⁵ *Id.*

⁶ *Id.* at 210.

⁷ *Id.* at 209.

⁸ *Id.*

⁹ *Id.* (The Contemporary Model is used in a formal program called the Cooperative Legal Education Program at the Northeastern University School of Law, which requires each second- and third- year student to participate in full-time legal work for a specific amount of time).

their understanding and performance and affirmatively seek clarification on direction or feedback.¹⁰ The supervisor's active role may decrease as the relationship progresses and the student becomes more aggressive in self-assessment and seeking clarification of the supervisor's directions and feedback, resulting in a truly shared responsibility between student and supervisor.¹¹

The strength of the Contemporary Model is that it is designed to be functional by meeting the mutually dependent needs of the supervisor and student as those needs change and progress over time. Unlike the Traditional Model, the shared responsibility for obtaining supervision makes it more appropriate for an effective supervisory relationship. It also acknowledges that the nature of student learning is unpredictable and necessitates a flexible approach to supervision. A potential drawback, however, is that it assumes a supervisor and student will possess the skills and ability to shift roles when necessary. For example, a supervisor may lack the skills or time to clearly explain the parameters of a particular assignment. Theoretically the student, upon recognizing the inherent inadequacy or lack of clarity of the assignment, must accordingly adjust her role to compensate for the inadequate direction offered by the supervisor and seek further clarification upon the self-assessment by the student that the assignment is unclear. A major problem, of course, in addition to others we address later, is that such adjustment in role by the student presumes a level of knowledge of the subject matter of the assignment such that the student adequately grasps the underlying lack of clarity in the assignment itself. It is unclear whether a student in such an instance could be trained before or during the externship experience to readily identify and address a supervisor's shortcomings, hence triggering the role shifting.

C. *Peter Hoffman's Three Stages of Learning Model*

Peter Hoffman also recognized the difficulty in understanding the complex nature of the supervisory relationship, while acknowledging that "[S]upervision is at the core of effective clinical teaching," although the dynamics of the relationship continue to elude definition.¹² Hoffman proposed a model designed to recognize that the supervisory relationship varies exponentially through time, experience and adaptation of both the supervisor and the student. In the Hoffman model, an effective supervisor understands that the learning process consists of three stages. The first stage, the beginning stage, is characterized by

¹⁰ *Id.* at 210-11.

¹¹ *Id.* at 218-22.

¹² Hoffman, *supra* note 3, at 301, 302.

the supervisor's concern for the inexperience and anxiety of the student. The supervisor recognizes as well the limited skills and probable lack of the substantive and procedural law by the student at this stage. To compensate, the supervisor initially assumes a direct and didactic role, gives specific and explicit instructions, explains the rationale for each direction and begins to establish rapport through a friendly relationship to encourage the student to engage in a continuing dialogue of questions and clarification.¹³

The middle stage of learning is characterized by more co-equal collaboration between supervisor and student. With experience, the student becomes capable of taking on more responsibility and initiative and with increased confidence, engages more frequently in the process of exchanging ideas with the supervisor. The role of the supervisor is to guide the student as a collaborative colleague in interpreting, analyzing and evaluating data and experience through joint discussions focusing on how and why things are done and how to improve the skills and performance of the student.¹⁴

The final stage of learning recognizes that a student is capable of acting without close supervision and is fairly secure and competent in exercising direction. The supervisor defers to the student decision when reasonable and competent, checking the student's decisions for soundness and safeguarding against any serious error.¹⁵

The Hoffman stages recognize the fluid dynamics of a healthy student-supervisor relationship, and that the dynamics will inevitably change over time and experience because the parties' roles and needs are changing to reflect each stage of learning.

Unlike the Contemporary Model, the strength of the Hoffman Model is that it does not presume that the student is capable of recognizing and identifying supervisory problems and correspondingly compensate with role adjustment to seek clarification. In this model, the supervisor is responsible for shifting roles based on the assessment by the supervisor of the increased ability of the student to grasp substantive law and procedure as the supervisory relationship progresses over time. The Hoffman Model would presumably be most effective when the supervisor is trained to recognize the various learning stages for most students and when the supervisor has the time and skill to help students progress through the learning process, assuming that most students will predictably progress through the three stages.

¹³ *Id.* at 303-07.

¹⁴ *Id.* at 307-09.

¹⁵ *Id.* at 309-312.

D. *Liz Ryan Cole's Model for Mentor Training*

Liz Ryan Cole added the valuable concept that an effective clinical supervisor should both supervise and *mentor* the student. Supervisors/mentors should be selected for their “excellence, their experience, their love of their work, and their passion to convey what they know to others.”¹⁶ After selection, the supervisor/mentor should be trained by the law school to insure consistently high quality in the mentor/teaching/supervision process. The model focuses on whether a particular lawyer is both knowledgeable and is capable of being a good teacher.¹⁷ Time and desire are two important factors in determining who will be an effective student supervisor.¹⁸ The supervisor must have a willingness to make time in a practice to go beyond the primary goal of the practice itself and add a component recognizing the implicit educational goals of the institution entrusting students to the supervision of the mentor.¹⁹ The success of the Mentor Model requires the law school to prodigiously address a selection procedure for capable mentors and provide intensive training to teach three skills necessary to be an effective mentor:²⁰ (1) understand that people prefer to learn in different ways;²¹ (2) know how to give constructive feedback;²² and (3) realize the benefits of planning to be an effective teacher as well as the benefits of planning to be effective lawyers in practice.²³

The strength of the Mentor Model is that it offers an organized method for the institution to identify willing and capable mentors who clearly understand the dual nature of the role of supervisor/mentor, and supports the necessary concept of the institutional training of the

¹⁶ Liz Ryan Cole, *Training the Mentor: Improving the Ability of Legal Experts to Teach Students and New Lawyers*, 19 N.M. L. REV. 163, 164 (1987) (the Model for Mentor Training is used in the formal program called Semester in Practice at Vermont Law School, which allows students to study with a mentor judge or attorney for one full semester of credit).

¹⁷ Liz Ryan Cole, *Learning from Supervision*, in LEARNING FROM PRACTICE: A PROFESSIONAL DEVELOPMENTAL TEXT FOR LEGAL EXTERNS 29 (J.P. Oglivly, Leah Wortham, & Lisa G. Lerman, eds., 1998).

¹⁸ Cole, *supra* note 16, at 165.

¹⁹ *Id.*

²⁰ *Id.* (describing how Vermont Law School addresses these issues in an intensive two day long session, working in small groups, talking, listening and practicing).

²¹ *Id.* at 167 (finding that mentors may benefit from taking a learning test such as the Myer-Briggs Type Indicator).

²² *Id.* at 168 (stating that the basic pattern to teach feedback is as follows: first, describe the activity; second, interpret the activity; third, put your feelings about the activity into words; and finally, respond with a suggestion for change).

²³ *Id.* at 169-70. Students should create a plan for the externship and work with the mentors to develop mini-plans for each of the projects and tasks they undertake. Supervisors, likewise, should plan for the learning and performance of students.

identified mentors and supervisors, thus ensuring mentors and supervisors who identify with and are invested in the educational goals of the law school.²⁴ A drawback, of course, for many institutions with diverse off-campus programs involving many government agencies and judicial chambers is that selection of mentors and extensive training may involve frequent repetition in an urban setting with higher personnel turnover, as well as the higher monetary costs and significant investment of time by law school faculty associated with the identification and training of mentors.

E. Mary Jo Eyster's Self-directed Learning Theory

In considering the goals, objectives and subsequent design of a large externship clinic, Mary Jo Eyster's Self-directed Learning Method ("Self-directed Method") places a great deal of responsibility on the individual student to achieve identified learning objectives on the theory that students are motivated to learn more effectively when they are active rather than passive.²⁵

Under this method, the student, under law school faculty direction, achieves effective supervision by devising a learning plan.²⁶ The student identifies goals he or she hopes to achieve from the externship experience and shares those goals with the supervisor, thus making them "shared goals." The student thereafter reports and reflects on whether the anticipated goals and level of learning and achievement is provided by the placement opportunity and effectuated by the placement supervisor. Student reflections are expected to include supervisory problems noted by the student, as well as plans for overcoming or compensating for any problems by discussing the problems with the supervisor.²⁷ The fact that supervisors may have varying levels of lawyering skills, teaching abilities and supervising abilities only facilitates the goal of self-directed learning by the student as the student begins

²⁴ As previously discussed, both the Contemporary Model and the Hoffman Model require extensive supervisory training. Thus, their overall effectiveness would likely be enhanced if aspects of the Mentor Method were incorporated.

²⁵ Mary Jo Eyster, *Designing and Teaching the Large Externship Clinic*, 5 CLIN. L. REV. 347 (1999) (noting that self-directed learning has been a successful program at the Brooklyn Law School Civil Practice Internship). See also, Linda Morton, Janet Weinstein, & Mark Weinstein, *Pedagogy: Not Quite Grown Up: The Difficulty of Applying an Adult Education Model to Legal Externs*, 5 CLIN. L. REV. 469 (1999), whose program encourages students to grow increasingly self-directed by developing a "learning contract." The goals and objectives for the externship developed in the contract are encouraged to meet frequently to evaluate student progress.

²⁶ See also, Ogilvy et al., *supra* note 17, at 16. The authors refer to a "learning agenda" or "goals memo" that is an evolving document to guide and track performance and achievement for both student and supervisor.

²⁷ Eyster, *supra* note 25, at 400.

to realize the need to overcome any imaginable real-life barrier to effective performance with independence, self-direction and self-education in the practice and mechanics of the law.²⁸

Training the student to obtain effective supervision by addressing supervisory issues is a fundamental part of this method,²⁹ although Morton, Weinstein and Weinstein noted the fact that methodology does not always conform to reality in application. When supervision, in reality, includes “. . .insufficient guidance and direction, inadequate feedback and critique of completed work, and inaccessibility of the supervisor for routine questions and clarification of tasks,”³⁰ then student training must be inclusive enough to teach the student to understand what is needed and expected from the supervisor, determine what is needed to reach the shared goals of the learning plan, and provide ways to address supervision problems when the supervisory level is unacceptable or inadequate for the student.³¹

A possible drawback to the self-directed method is that it may not be possible, preferable or cost-effective for the institution to take considerable time from skills training or other curricular demands to add a component to the externship curriculum addressing self-directed student supervision training sufficiently to ensure competent field supervision.³² In response, Eyster suggests that law school placement programs should incorporate specific standards regarding supervision goals and objectives for all program supervisors,³³ thus ensuring that students receive a desired level of supervision and receptiveness to student self-directed learning and supervision.³⁴ Such a program anticipates a relatively high degree of faculty involvement and familiarity with the willingness of individual supervisors to incorporate law school institutional goals into a learning and supervision plan for students.³⁵

F. Common Barriers to Effective Field Supervision Identified in all Models

Regardless of the model, consistent themes emerge throughout

²⁸ *Id.* at 389.

²⁹ *Id.* at 396. Morton, *supra* note 25, at 484. “The tensions arise primarily when we ask students to be self-directing and at the same time ask them to confront their supervising attorneys.”

³⁰ Eyster, *supra* note 25, at 396.

³¹ *Id.* at 397.

³² *Id.* at 396.

³³ Mary Jo Eyster’s approach was critically important in adopting the joint supervision standards for GLACE schools (see next section)

³⁴ *Id.* at 397.

³⁵ *Id.*

the literature as persistent barriers to effective student supervision in an off-campus field setting. The goal of overcoming supervision barriers is the primary challenge for the institution in devising an approach to effective supervision training for supervisors and students.

Common Barrier 1: The supervisor is not “vested” in sharing the supervision goals and objectives required by the law school.

Off-campus field externships are inherently problematic as an educational experience because there is necessarily a fundamental conflict of goals for supervisors and students.³⁶ The field supervisor must answer to the primary demands of the employer and the employment. Field supervisors, who are usually not compensated for the job as student supervisors, and who agree to accept the supervision of a law student, must incorporate the component of the law school’s institutional goals and objectives of education and mentoring of a student to a busy law practice and calendar.

Despite a conflict in goals, the underlying premise of a successful externship relationship (or *any* relationship, realistically) is that the parties (the supervisor and student) provide mutual benefits to each other.³⁷ Both student and supervisor, at the outset, must have a clear understanding of the externship demands, objectives and methods of achieving specific goals that will be mutually beneficial. Establishing this understanding with students and field supervisors is undeniably the job of the law school when placing an extern in the field under the supervision of a specific attorney; a consistent “training dialogue” with students and supervisors is key to a guarantee that the supervision provided to students will be effective.³⁸

The key to a successful student/law school/supervisor relationship begins with a structured externship program that states in writing the goals, objectives and methods of achieving the mutual benefit the relationship requires, but in such a way that the supervisors “consider the educational purpose of [the] externship to be at least equal in importance to their own service needs.”³⁹ The law school should identify

³⁶ *Id.* at 388-92; Henry Rose, *Legal Externships: Can They Be Valuable Clinical Experience for Law Students?*, 12 *NOVA L. REV.* 95, 104 (1987).

³⁷ See Alexander & Smith, *supra* note 4, at 211 (describing supervision from the employer’s perspective).

³⁸ See Eyster, *supra* note 24, at 387 (“It is essential to determine how the office requesting student interns expects to use them, how they will be supervised and the nature of the experience they will obtain.”); see also Linda F. Smith, *The Judicial Clinic: Theory and Method in a Live Laboratory of Law*, 1993 *UTAH L. REV.* 429, 446 (discussing the importance of oversight by the law school).

³⁹ Rose, *supra* note 3, at 106; Eyster, *supra* note 25, at 391 (providing that the goals of supervisor and either student or faculty does need to be entirely co-extensive, but at least compatible).

skills that all students are expected to learn or experience during the externship program, such as client interviewing, client counseling, research and writing skills, observation of oral and written advocacy, case planning strategies, negotiation skills and the basic operation of the legal institution.⁴⁰

In addition to the written goals, objectives and standards of the externship experience to which field supervisors are expected to adhere, the law school must also offer periodic formal “rejuvenation” training from the law school faculty to provide field supervisors with fresh methods of student supervision, critique and evaluation.⁴¹ Optimally, the field supervisor and the law school faculty should be available to periodically review the progress of the externship program and of student and supervisor performance within the parameters of the goals and objectives of the program.⁴²

Indirect methods of supervisor training may also improve communication between the law school and the field supervisor, ensuring an increased feeling on the part of the supervisor that he or she is “vested” in the educational goals of the law school. Supervisor involvement on campus, perhaps in a seminar or career guidance setting, creates an opportunity for supervisors to engage themselves more in the importance of the law school mission when they are an integral part of the law school experience.⁴³ Moreover, this indirect method of training “acknowledges and respects their [supervisor’s] expertise” yet at the same time serves to remind them that they are a valuable link in the practical education of law students.⁴⁴

Common Barrier 2: The supervisor fails to understand the dynamics of supervision and the supervisory relationship.

The relationship between individual students and field supervisors is critical in determining the success in achieving the goals and objectives of the field experience. The problem, of course, is that there is no precise way to describe a successful relationship between supervisor and student because the roles and dynamics of the relationship

⁴⁰ Rose, *supra* note 3, at 96.

⁴¹ *Id.* at 106; *see also* discussion *infra* Section III.E. Barrier 5 (discussing effective supervisory methods of evaluation).

⁴² *Id.*; *see also* OFFICE OF THE CONSULTANT ON LEGAL EDUC., AMERICAN BAR ASS’N, AMERICAN BAR ASSOCIATION STANDARDS FOR APPROVAL OF LAW SCHOOLS AND INTERPRETATIONS, Standard 306(a) (1992) (stating that with regard to field placements, “[e]ach such study or activity and the participation of each student therein, must be conducted or periodically reviewed by a member of the faculty.”).

⁴³ *See* Eyster, *supra* note 25, at 392 (inviting a different speaker to attend the class allows for most of the offices in which students are placed to be involved throughout the year).

⁴⁴ *Id.*

are unclear.⁴⁵ For example, supervision may occur in many forms “ranging from a spontaneous exchange between student and teacher. . . to a planned and structured conference following a specified agenda.”⁴⁶ The form of supervision employed may depend upon factors such as the issue or assignment being discussed, the objectives of the parties, time constraints, and the abilities of the student at that particular time.⁴⁷

Notwithstanding the inherent vagaries of the positive student/supervisor relationship, we know the positive relationship when we see it, as well as the less than positive relationship that falls victim to the ambiguities or the constraints of the relationship. Various theories are available to help resolve the ambiguities of the strained supervisory relationship,⁴⁸ but often the failed relationship is the failure of the supervisor to recognize that the parties’ roles and dynamics change throughout the learning process and that supervising methods, teaching and mentoring methods must adapt to those changes.⁴⁹ Adoption of the Eyster model, in which students clearly communicate learning objectives to the field supervisor, may lead to more shared responsibility for effective supervision when students and supervisors agree on the goals and objectives of the experience, and supervisors and students have a macro-plan for the semester so that they both understand the respective expectations and goals for the time period.⁵⁰

Invariably, the supervisor who consistently fails to achieve a positive dynamic in student supervision also fails to incorporate the main components of an effective supervisor-student relationship into the myriad primary demands of the employer or workplace. An effective supervisor “build[s] an alliance” with the student so that the student feels that the supervisor has an investment in the success of the student.⁵¹ The ultimate learning goal focuses on communication and in-

⁴⁵ Peter Toll Hoffman, *Clinical Course Design and the Supervisory Process*, ARIZ. ST. L.J. 277, 280 (1982).

⁴⁶ *Id.*

⁴⁷ *Id.* (“It is to the supervisory relationship, however, that one must look in describing the types of learning experiences available and in determining how to relate these to the objectives of the course.”).

⁴⁸ For a more detailed description of these theories, see discussion *supra*, Section II. General Pedagogical Theories of Supervision.

⁴⁹ See generally *supra* Section II. General Pedagogical Theories of Supervision, (providing an overview of selected models).

⁵⁰ See *supra* Section II.D. Liz Cole’s *Model for Mentor Training* (describing that effective supervision entails planning by both supervisor and student).

⁵¹ Richard Neumann, *A Preliminary Inquiry into the Art of Critique*, 40 HASTINGS L.J. 725, 737 (1989) (finding that teachers must develop some sort of alliance with the student to minimize the student’s passive role). “. . .critique itself is an analytical art that can be performed well or poorly.’ Neumann also identifies barriers to effective critique, noting in particular role masks, the student compulsion to mimic, persuasion-mode thinking and

teraction between the supervisor and student at each stage of the externship.⁵²

Common Barrier 3: The supervisor lacks the time or motivation to effectively supervise students and/or provide the level of positive feedback, critique and evaluation to improve the student's performance.

Field supervisors, despite the willingness and ability of most to educate students, are often so inundated with their primary workload that they are unable to properly supervise students effectively, particularly by offering the student feedback and evaluation at consistent and appropriate intervals.⁵³ The purpose of evaluation is to provide students (1) with feedback on their performance by comparing their work to some objective standard and (2) with "information to improve future performances and to increase the student's understanding of the skill used."⁵⁴ A secondary value of positive feedback and evaluation is that it promotes the supervisory goal in the relationship of forming the "alliance" with the student, while at the same time improves the ability of the student to adopt more focused thinking, habits and analysis of a lawyer. When the supervisor fails to conduct effective feedback or supervision due to a lack of time, the student loses the opportunity to learn about some aspect of lawyering skills or the law.⁵⁵ Such a student might very likely, from the perspective of the law school, have gained more valuable academic skills in the classroom than in a poorly supervised field experience with inadequate feedback and evaluation.

A variation on the supervisor who lacks the time, ability or motivation to effectively supervise and provide feedback to the extern is the long-time supervisor in the program, who often exerts some influence in the legal community or exerts some influence with the law school as a contributing alumnus, who is persistent in providing direction to a student that is not within the supervision guidelines or goals or pedagogically sound in the opinion of the faculty director. Anecdotally, this might be the federal circuit court of appeals judge who openly states that he/she does not supervise law externs on any level, but delegates the responsibility entirely to law clerks, who themselves are usually out of school barely longer than the externs, and who may or may not have experience in supervising others or in providing positive motivating feedback in a work setting. Or, this supervisor might

anxiety.

⁵² *Id.*

⁵³ Eyster, *supra* note 25, at 388 (arguing that supervisors may be so overwhelmed with their caseload that they seek law students for help).

⁵⁴ Hoffman, *Clinical Course Design and the Supervisory Process*, *supra* note 45, at 302.

⁵⁵ *Id.*

be a prosecutor who realizes there is a slow calendar for a few days, and suggests the student go home and study for other classes but can remain “on the clock” for purposes of required externship hours. It may be a legal services supervisor who shares a caseload with a new extern on the theory that we all need to “jump in and swim.” These supervisors are not candidates for retention in a program if they won’t exercise the willingness to acknowledge law school supervision goals and policies. The problem, of course, is that confronting them (or any supervisor identified as problematic from a supervision standpoint) is not only difficult and uncomfortable for the faculty director, but potentially explosive as we explore below. Supervisors who cannot or will not perform and maintain the feedback and evaluative functions of a relationship on a regular basis with students, whether due to inability or unwillingness, are not a value to the law school field placement program, although students may certainly be a value to the placement institution or individual lawyers in the institution.

The law school is obviously in a position to address this barrier either at the point of developing an externship program or at the point of periodic evaluation for the purpose of retention of the field supervisors in the program. In development of a field program, law schools must develop specific criteria for the selection of placement supervisors, specific criteria for the expected range of activities for students and specific criteria for supervisor performance, including appropriate feedback and evaluation of students. Field supervisors identified in periodic evaluations who are unable to consistently meet and address placement criteria for student feedback and evaluation should not be retained in a law school field placement program, as unpleasant a task to program faculty as terminating those field supervisors may be. Often field supervisors, including judges, become supervisors in a field placement program because of a long-standing relationship with a law school faculty member. Supervisors or judges may also be influential alumni, with an expectation that they will remain in a field placement program, notwithstanding a demonstrated lack of commitment to law school supervision goals in the opinion of the field placement faculty director. Particularly for adjunct faculty or part time faculty directing a field placement program, removing individual or unmotivated supervisors or judges rarely occurs in the absence of political ramifications to the director or other faculty in the law school who have a relationship with the supervisor, and commonly may involve the Dean or an Associate Dean as a final arbiter.

Common Barrier 4: The field supervisor fails to identify the best method of teaching that corresponds with a particular student’s learn-

ing style.

Supervisors (and law teachers – we all know them) often fail to recognize that teaching methods and styles should be fluid, changing to accommodate the many forms of student learning encouraged in contemporary students. For example, the student who lacks confidence or is hesitant or timid at the beginning of a field experience presents a particular challenge to the field supervisor.⁵⁶ Students lacking confidence will likely become defensive to the supervisor's role of directing and evaluating if the supervisor is not sensitive to the timidity and defensiveness presented by many first-time field students.

An effective supervisor, in recognizing individual challenges, sets out expected learning goals and proposed methods of achieving those goals at the beginning of the externship,⁵⁷ and asks the student as well for a list of expectations. Supervisors trained by the law school in the Hoffman three-stage model of learning, and in the Eyster "learning plan" model of supervision, will more likely than not recognize student inhibitions at the initial stages of the externship and overcome or compensate for them with adaptive techniques offered by these models. The trained supervisor seeks a "degree of control appropriate to the student's development; a control which is neither overly passive nor authoritatively directive."⁵⁸

G. The Birth of GLACE and its role in reducing barriers to effective field supervision

The strengths and weaknesses of each of the various learning models as well as the identification of common supervision barriers was of concern in 1993 to six Los Angeles area ABA-accredited law school externship directors as they struggled individually to design and implement field placement programs with an adequate component for field supervisor training and on-going supervision monitoring. Upon collective revelation, each law school faculty director noted that the other programs exhibited surprisingly similar strengths, weaknesses and barriers in the supervision component of their respective programs at that time.

In a series of preliminary meetings exploring the off-campus externship program components of the proposed GLACE schools, each faculty program director identified varying standards and criteria for

⁵⁶ Hoffman, *The Stages of the Clinical Supervisory Relationship*, *supra* note 3, at 310-12.

⁵⁷ *Id.* at 303-306; Nina W. Tarr, *The Skills of Evaluation as an Explicit Goal of Clinical Training*, 21 PAC. L.J. 967, 982 (1990).

⁵⁸ Hoffman, *The Stages of the Clinical Supervisory Relationship*, *supra* note 3, at 311. *See also*, Liz Ryan Cole, *Training the Mentor*, *supra* note 16, at 165-167, who writes extensively about individual differences relative to learning styles. "It is essential to proceed on the assumption that people learn differently," *Id.* at 167.

selection and retention of field supervisors, varying criteria and standards for the range of expected student activities and for the amount and nature of evaluation and feedback. The variations between the schools, in a major urban setting with many shared placements, created predictable confusion for field supervisors supervising students from one or more of the law schools at any given time or from time to time. It also became clear with more shared information that each GLACE faculty director was aware of problematic or ineffective field supervisors, many of whom were also identified as problematic in the field by the other GLACE faculty directors. Each faculty director individually pondered acceptable remedial approaches or worse, the politics and potential recriminations to self and school of removing lax or intemperate supervisors from a placement list.

The stage was set to define and implement supervision goals and objectives with a collective voice.

II. THE G.L.A.C.E. APPROACH TO FIELD SUPERVISION AND TRAINING

Partly in response to the first Clinical Legal Education Association national conference in 1993, which brought the nation's externship professors together for the first time to discuss and investigate the externship experience, and partly in response to the newly enacted requirements of former ABA Field Placement Standard 306,⁵⁹ six Los Angeles area law schools⁶⁰ formed the Greater Los Angeles Consortium on Externships (GLACE).⁶¹ The initial goal of the consortium was to develop and adopt joint standards for the six law schools for

⁵⁹ In 1993, the American Bar Association modified the STANDARDS FOR APPROVAL OF LAW SCHOOLS, *supra* note 42, Standard 306: Regarding Field Placement Programs. Notable changes in Standard 306, effective July, 1993, required full-time faculty to supervise externship programs, site visits by full-time faculty for all high-credit externships and concurrent courses taught by full-time faculty for all high credit externships. Field Standard 306 was thereafter changed and re-adopted as Standard 305, eliminating the requirement that full-time faculty direct externship programs and perform site visits, but retaining the requirement for site visits and concurrent classroom components for high credit externship field placements.

⁶⁰ In alphabetical order, Loyola Law School/Los Angeles, Pepperdine University School of Law, Southwestern University School of Law, UCLA Law School, USC Law School and Whittier Law School.

⁶¹ Without doubt, the inspirational founding force for the formation of GLACE was William Wesley Patton, at that time the Externship Director at Whittier Law School. His scholarship, insight and creativity built GLACE and inspired the jointly drafted and adopted supervision guidelines and comprehensive field training manual cited in this article. Bill Patton is currently a professor at Whittier Law School in Los Angeles. His article, *Externship Site Inspections: Fitting well-rounded Programs into the Four Corners of the ABA Guidelines*, 3 CLIN. L. REV. 471, gave GLACE its first national exposure in terms of the goals and values of a consortium.

shared field placements such as government agencies or public interest placements, as well as specific standards for judicial externs. The joint standards would aid in establishing consistency in shared placements in terms of evaluation of the quality of the placements and evaluation of supervisors for quality and retention.⁶² Standards for supervision of field externs and those for judicial externs were separately drafted based on the collective experience of GLACE directors that the two experiences were sufficiently different in nature and supervision challenges to warrant separate attention, although both sets of standards incorporate some similar supervision guidelines. The stated purpose in adopting the joint standards was to provide clarity, cohesion and consistency in the supervision standards and expectations applicable to all field supervisors participating in any GLACE law school field externship program. The *Joint Standards for Supervision of Externship Students* (Appendix A) and *Joint Standards for Supervision of Judicial Externship Students* (Appendix B) were collectively drafted but individually approved by each school prior to the official adoption of the standards as the GLACE joint supervision standards and guidelines for field externs.

Upon adoption of the joint standards on GLACE letterhead identifying the consortium law schools, each GLACE school agreed to distribute the appropriate joint supervision standards to field supervisors and judicial chambers on approved placement lists each time a student was accepted and approved for the field experience. Since 1994, virtually thousands of copies of the jointly endorsed supervision standards have been placed in the hands of supervising attorneys in government agencies, public interest law firms and judges' chambers in Los Angeles. Repetition breeds acceptance; site visit discussions confirm that field supervisors and judicial chambers are aware and conscious of the joint standards.

Although drafting and adopting joint supervision standards was the primary and driving goal in the formation of GLACE, secondary goals developed quickly. GLACE aspired to develop a longitudinal database on all shared placements to assist professors in intelligently providing students with quality placements, to knowledgeably monitor placements and supervisors, and to share the new administrative and economic burdens required by newly adopted ABA Field Standards in 1993.⁶³

Meeting several times each year on a rotating basis at member

⁶² In 1993, after a series of collective drafts and revisions, GLACE jointly adopted *Joint Standards for Supervision of Externship Students* (attached as Appendix A) and *Joint Standards for Supervision of Judicial Externship Students* (attached as Appendix B).

⁶³ Patton, *supra* note 61.

law schools, GLACE member schools, some changing professors from time to time but never opting out of the consortium, accomplished most of the goals admirably while some, such as the longitudinal placement database, were more difficult to implement. With hundreds of field placements annually among GLACE schools, getting and keeping the initiative and resources to synthesize the data involving hundreds of placements annually into a usable form proved expensive and unwieldy. Rather, GLACE members chose to address the placement issues by developing a systematic meeting agenda designed to facilitate shared discussion on individual field supervisors, specific placement news or issues, creative administrative procedures developed by individual schools, the curriculum of classroom components and the materials that are the basis of the classroom components.

Invariably, the most time-consuming but purposeful agenda item at each meeting involves collaborative discussion of shared field supervisors who are identified from time to time as “unmotivated” or indifferent to GLACE supervision standards. Addressing the problem as a consortium is necessary when the shared opinion of the GLACE faculty directors concludes that lesser measures have not been effective in motivating the field supervisor or the placement director to implement the supervision standards. A range of remedial options are discussed, from an informal conference with the supervisor by a GLACE member who may have a long standing relationship with the supervisor, a discussion with the supervisor or judge by several GLACE professors, or the termination of the placement if remedial efforts to correct a problem are not fruitful.

In 1999, GLACE adopted the ambitious joint project of developing a comprehensive field supervision training manual, in addition to the field supervision standards.⁶⁴ The manual is designed to incorporate the features of various learning models, familiarize supervisors with them and encourage supervisors to rely on the strengths of various learning and supervision models in developing a fluid supervision style that recognizes student variables in learning methodology and style. The manual was further designed and drafted to alert supervisors to the most common barriers inhibiting effective field supervision, and provide a framework for overcoming or compensating for inhibiting behavior either on the part of the student or the supervisor.

⁶⁴ GREATER LOS ANGELES CONSORTIUM ON EXTERNSHIPS, FIELD SUPERVISION MANUAL, at <http://www.lls.edu/glance.manual.pdf> (last visited Feb. 22, 2004). A complete copy of the GLACE Field Supervision Manual is available at the referenced website GLACE imposes no restrictions on printing or duplication of the manual. We thank the numerous scholars, all of whom are cited herein, who contributed to the concepts and material we incorporated in the manual.

We also opted to include sections with seemingly common sense reminders regarding workplace conditions, office rules, access to support staff, etc., recognizing that while working conditions are often essential to the student in establishing a comfort level initially, a supervisor may have become inured over time to inadequacies.

The GLACE Field Supervision Manual debuted at a jointly sponsored GLACE “Supervision Forum” in which well over 100 field supervisors from GLACE school shared placement agencies attended a supervisor training seminar on the campus of Loyola Law School that included continuing legal education credit through the California State Bar. The Forum adjourned to a reception, allowing all six GLACE professors an unequaled opportunity to discuss a wide range of issues with field supervisors in an informal and comfortable setting.

The GLACE manual is in a hard copy format and an electronic format; it is distributed at the discretion of individual law school faculty directors as the need arises or as personnel changes occur, particularly in those placements such as judicial chambers with frequent clerk turnover.

In the collective effort to draft the Field Supervision Manual, GLACE directors adopted and implemented the following objectives from various learning/supervision models:

- A clearly defined statement of jointly adopted field placement goals and objectives;⁶⁵
- Inclusion of motivational material for field supervisors,⁶⁶ including practical suggestions and hypothetical problems to alert supervisors to common field problems,⁶⁷ student learning problems and avoidance of common “supervision barriers” in their relationships with individual students;⁶⁸
- A detailed structure and system for student feedback and evaluation by providing specific examples of constructive feedback, as well as checklists to assist the supervisor in identifying areas helpful to address;⁶⁹
- The inclusion of accommodation law for students with disabilities, as a relatively new and demanding area of law;⁷⁰ and
- The language of ABA Standard 305 itself so that field supervisors might better understand the programmatic challenges of

⁶⁵ *Id.*, Section VII: GLACE Joint Standards for Supervision of Externship Students and Section VIII, GLACE Joint Standards for Supervision of Judicial Externship Students (reproduced as Appendix A and Appendix B).

⁶⁶ *Id.*, Section I: Experiential Learning and the Process of Becoming an Attorney.

⁶⁷ *Id.*, Section IV: Typical Field Placement Issues and Section V: Workplace Environment for Student Externs.

⁶⁸ *Id.*, Section II: Providing Structure for and Feedback to Law Student Externs.

⁶⁹ *Id.*

⁷⁰ *Id.*, Section VI: Workplace Access for Students with Disabilities.

GLACE schools in designing field placement programs which must meet the needs of the law school, the student, the field placement supervisor and the ABA accreditation review and process.⁷¹

Since the formation of GLACE, a consensus has grown in terms of how the GLACE externship consortium has collectively empowered individual faculty directors to knowledgeably select, educate, train and monitor shared placements and placement supervisors, and how creative group problem solving has increased the quality of the GLACE law school field programs, the quality of shared field placements and the overall quality of the field placement experience for our collective students. GLACE effectively:

- Jointly and frequently sends a unified motivational message to all field supervisors and judicial chambers that the jointly adopted collective educational goals and supervision objectives of member law schools must be addressed and implemented by field placement programs or student resources from all six GLACE schools will be lost to the placement.⁷²
- Sends the message that conforming to the *Field Standards* is expected, not desired, by all field placements. GLACE has, over the years of its existence, dispatched a discreet delegation of GLACE professors to address a federal judge with a problematic clerk, to speak with a state supervising judge who assigned students to a judge many thought was intemperate, and voted as a consortium to eliminate some public interest programs who either declined to carry appropriate insurance or failed to implement professional standards such as those regarding client confidentiality. While these steps may be difficult, politically or pragmatically, for an individual director of one school, a delegation of three law professors visiting a placement or judicial chambers to discuss a shared problem inherently commands attention, and the action of all six GLACE law schools in eliminating a placement commands more attention in the affected legal community, yet without negative stigma to any individual school or director because of the joint nature of the decision.
- Provides collective resources to facilitate projects individual schools may be prohibited from offering, such as the shared supervision forum and the resources to prepare and distribute the comprehensive field training manual.
- Assists each member school with shared experiential informa-

⁷¹ *Id.*, Section IX: American Bar Association Standard 305, Field Placement Programs.

⁷² All GLACE schools distribute the appropriate version of the *Field Standards* (attached as Appendix A and Appendix B to this article) each time a field placement is confirmed. GLACE directors agree that consistently non-conforming placements will not be included as approved placements at any GLACE law school.

tion regarding periodic ABA accreditation inspections. The *Field Standards* and comprehensive field placement supervision manual reflect a carefully crafted joint effort to implement reasonable, non-arbitrary supervision guidelines and standards on field supervisors in an effort to continually motivate them to incorporate law school educational goals and objectives in each field placement, thus improving the overall quality of each placement for each GLACE school. Anecdotal information from ABA Accreditation inspections at GLACE law schools has been consistently positive and complimentary as to the GLACE joint approach, supervision standards and field manual.

III. THE PRO-ACTIVE APPROACH TO TRAINING FIELD EXTERNS

As critical as the GLACE consortium approach has been in the development of clearly defined supervision standards and improved field supervisor training and evaluation in Los Angeles, the field experience is further enhanced when students are trained to be active participants in their own learning and supervision, initiating and continuing a shared dialogue with the supervisor as learning advances. Implicit in this discussion is the assumption that law students, most having achieved adult status, *can* be active participants in their own learning,⁷³ although other scholars have noted that this assumption is often untrue or at least only minimally true.⁷⁴ Notwithstanding the probability that some students will resist virtually any effort at training or assistance, most students will benefit from a training curriculum that considers their perspective as law students and prepares them for the field experience by providing them with some “practical mechanics” to aid them in communication and self-assessment skills in defining and achieving goals for the externship.

Any discussion of the student perspective in the field must address the law school experience, particularly the over-emphasis in most schools on competition and technical legal analysis, and the under-emphasis on practical legal skills training, thus negatively impacting students’ perceptions of the law, abilities to communicate, and sense of how to problem-solve in live client situations.

The second part of this section suggests a practical curriculum for field externship students. The curriculum is premised on the recognized importance of the critical skills of a student to communicate, clarify, reflect and self-assess learning progress. The goal of the curriculum is to train and encourage students, who are frequently inhibited

⁷³ See Janet Motley, *Self-Directed Learning and the Out-of-House Placement*, 19 N. M. L. REV. 211 (1989).

⁷⁴ See Linda Morton et al., *supra* note 25, at 496 (1999).

in the first field experience, to open the lines of communication with supervisors, identify the goals of the field experience, ask the appropriate questions for clarification and initiate an on-going dialogue to produce the best possible relationship and work product. Properly crafted curriculum assignments encourage students to initiate conversations with supervisors, assess their skill areas, reflect upon their experiences on a personal level, and consider how those experiences are affecting their perception of themselves and the law.⁷⁵

A. The Law School Experience and the Impact on the First Time Field Extern

Given that most law students generally have very little professional experience upon entering law school⁷⁶ and that law is extremely expansive, complex, and ambiguous,⁷⁷ it is difficult for law schools to provide students with all of the tools necessary to bridge the gap between student and lawyer in three to four short years. Therefore, at the very least, it should be the aim of law school education to help law students begin to develop the skills and abilities necessary to deal with the many complexities and ambiguities they will face in the practice of law - to wade through ambiguous problems, explore ideas freely, and communicate openly.

It would seem axiomatic that law school would seek to provide students with as much practical legal experience as possible to prepare them for the complexities of the profession. Nevertheless, in reality, very few law schools strive to achieve these goals or incorporate them into standard law curriculum. First, the competitive nature of law school prevents open communication among law students and the free exchange of ideas. As one professor notes, "A law school culture, which stresses competition and distrust, makes it difficult to enter into trusting, cooperative relationships with classmates."⁷⁸ Furthermore, there is tension outside of the classroom over class rank and job positioning that further constrains open communication among students, especially in the first year of law school. The problem is exacerbated in a weak job market that "creates pressure and stress for students"

⁷⁵ *Id.* at 496. Morton *et al.* identify some of the crucial abilities that students need to develop as an Ideal Adult Learner. These include: a willingness and ability to think reflectively about learning goals and needs, . . . to move beyond the 'comfort' zone in order to achieve learning needs, and to see the experience as an opportunity to grow and professionally develop, rather than merely another 'hoop' to jump through. *Id.*

⁷⁶ *Id.* at 512 (stating, "[T]he majority of law students come directly from undergraduate school, which they attended directly from high school.").

⁷⁷ *Id.* at 507 (reasoning that "[L]aw is in many respects unclear and unpredictable" to the dismay of many students).

⁷⁸ *Id.* at 513.

and leads to “increased competition and distrust, impacting students’ ability to work collaboratively.”⁷⁹ There is, in short, a disproportionately great amount of focus in law school on competition,⁸⁰ and a disproportionately small amount of focus on the development of an open learning environment.

Second, although externships and other practical legal experiences are often available to law students, they are typically neither required nor emphasized, thus failing to stress the importance of practical legal experience and the development of practical legal skills. As one article states,

[a]mong the professions, legal education stands nearly alone in its contempt for the idea of a reflective practicum. Because it does not expect itself to produce practitioners, legal education is in many ways closer to graduate liberal arts education than it is to professional education as other professions define it. It would, [for example], be unthinkable to graduate physicians with no clinical clerkships or architects with no experience in a studio.⁸¹

Finally, in addition to the competitive nature of law school, the Socratic method⁸² is often criticized as inhibiting an open learning environment and as an impediment in the development of many skills necessary to prepare students for the actual practice of law. As one student observes,

the traditional Socratic method is unable to [teach students how to practice the law] because of the limited number of skills it is able to develop, the psychological effects it has on students, and the lack of mentoring leadership. The . . . Socratic method emphasizes clientless analysis in a situation of competition and isolation, and in the process seriously undermines students’ confidence and self-esteem.⁸³

Predictably, the methodical and objective nature of the Socratic method, and more generally the focus of many law professors on analyzing appellate cases, teaches law students to ignore the ambiguous, unquantifiable human aspects of the issues they encounter in actual

⁷⁹ *Id.* at 514.

⁸⁰ See Jennifer Howard, *Learning to ‘Think Like a Lawyer’ Through Experience*, 2 CLIN. L. REV. 167, 174 (1995) (stating, “From performance in class to performance on the exam, students are taught to perform alone and moreover against everyone else. Grading and class rank become the ultimate measure of ‘success’ in law school.”).

⁸¹ Richard Neumann Jr., *Donald Schon, The Reflective Practitioner, and the Comparative Failures of Legal Education*, 6 CLIN. L. REV. 401, 426 (2000).

⁸² The Socratic method is “a pedagogical technique in which a teacher does not give information directly but instead asks a series of questions, with the result that the student comes either to the desired knowledge by answering the questions or to a deeper awareness of the limits of knowledge.” AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 1651 (Joseph P. Pickett, Exec.Ed., 2000).

⁸³ Howard, *supra* note 80, at 173.

problem solving. Students learn to detach their personal feelings and beliefs from the problem solving process, in favor of arguing the legal rationale most likely to succeed, not the one which they necessarily believe to be the best solution. Each conflict, client, case, and decision brings with it elements of the unpredictable, the uncertain, the human. Students complain of a “disconnect” in the classroom manner in which they are taught to perceive the practice of law and the way that law is practiced in reality. As one student notes, “for most students, exposure to the law comes mainly from large, impersonal classes aimed at teaching the law indirectly through seemingly endless volumes of appellate cases. The cases embody the law. Learning derives solely from what the student is able to glean from the seven hundred page casebook, mired with footnotes and fine print.”⁸⁴

In the practice of law, as lawyers are quick to learn, “the legal rules are only the background and context surrounding what . . . lawyers do. [T]he scholarship of law faculties has been over-invested in . . . technical rationality (the rules of law) and under-invested in . . . practical reflection (the process through which professionals solve problems).⁸⁵ Further describing this over-reliance on “technical rationality” in the traditional legal education, a student states:

the traditional approach virtually ignores the fact that most lawyers examine the law within the context of a client-matter where the law in the abstract has little value. Working through a ‘hypo’ is remarkably different from attempting to work with a client. The humanness of real law is wholly ignored by the traditional approach. The art of ‘messy human contact’ simply cannot be taught by lecture or by text. What the text cannot truly teach you is how to handle the inevitable silence during a meeting, or what to do if your client has a hard time understanding English, or how to know when you are pushing someone too hard.”⁸⁶

The end result of the law school experience is that students enter externship and work environments relatively unprepared for the ambiguous and unpredictable nature of the practice of law.⁸⁷ As one lawyer observes, “the problems of the legal profession have far more to do with the ways in which lawyers apply what they learned in law school to the uncertainties, uniqueness, and value conflicts that arise in their practice.”⁸⁸ The classroom experience itself creates in some

⁸⁴ *Id.* at 172.

⁸⁵ Neumann, *supra* note 81, at 405.

⁸⁶ Howard, *supra* note 80, at 173.

⁸⁷ Seibel & Morton, *supra* note 2, at 417, state: “The role of externships in promoting law schools’ pedagogical goals has often been undervalued, even among those who believe in the importance of experiential training.”

⁸⁸ Fernando Pinguelo, *The Struggle Between Legal Theory and Practice: One Student’s*

students a genuine fear of communicating uncertainty by seeking clarification, thus creating a communication barrier before the field experience begins. Those students beginning the externship experience “have little to no legal experience; the legal world is an unknown universe. [They] . . . are like cultural anthropologists who need to discover the professional mores in order to understand and respond to legal ethos.”⁸⁹ Robert Conclin, after case studies, noted: “More than anything else in their conversations with supervisors, students were concerned profoundly and pervasively with not “looking stupid” and this concern seemed to drive everything they said and did.”⁹⁰

However intimidating the lack of preparation may make students feel as they approach the externship experience, they may take consolation in the fact that externships are the perfect opportunity to prepare themselves for the practice of law in an environment that is much more forgiving than the average law firm, if for no other reason than the fact that students are not paid in the externship world. Students who are properly trained to fully experience a field externship “. . . [will] develop [his or] her confidence and competency, and . . . forge the kinds of mentoring relationships that can shape [his or] her future work.”⁹¹

B. A Proposed Externship “Training Curriculum”: Developing the Skills of Communication, Reflection and Self-assessment

The major objective of the proposed “training curriculum” for the student preparing for the first externship field experience is to provide the student with the “practical mechanics” necessary to assist the student in overcoming initial anxiety. The goals are to encourage open communication with the field supervisor, to learn to seek clarification where misunderstanding or ambiguity exists, and to impress upon the student the role of reflection and self-assessment in legal problem solving and in improving the performance of the law student or lawyer in a complex field. All good lawyers in practice know the value of communication with colleagues⁹² in problem solving and are aware of the constant reflection required of the active practitioner to develop and hone legal thinking and strategy.

The need for the training curriculum for the first time field extern is demonstrated in one student’s description of an initial communica-

Effort to Maintain the ‘Proper’ Balance, BYU EDUC. & L. J. 173, 177 (1998).

⁸⁹ GLACE, FIELD SUPERVISION MANUAL, *supra* note 64, 2.

⁹⁰ Robert J. Conclin, *Learning from Colleagues: A Case Study in the Relationship Between “Academic” and “Ecological” Clinical Legal Education*, 3 CLIN. L. REV. 337, 369 (1997).

⁹¹ Howard, *supra* note 80, at 173.

⁹² See generally, Conclin, *supra* note 90.

tion problem:

I can remember pacing in front of my supervisor's door in the first few weeks of my Legal Aid externship, afraid to disturb my supervisor, who always seemed too busy to discuss issues. When I would finally get a hold of him, I was often too nervous to formulate effective questions, to listen clearly and to respond appropriately to his explanations. This fear of communicating had a negative effect on my first assignments. Much of my nervousness could be attributed to the fact that I felt under-qualified to perform the assignments I was given.⁹³

After speaking with many law school externs, it is clear this student is not an exception. One of the most common problems among students in the externship environment is the fear of asking questions, communicating uncertainty to supervisors,⁹⁴ or worse, "looking stupid."

Loyola students receive pro-active curriculum communication training in a series of mandatory meetings at the beginning of each semester. Students do not receive credit for any required performance hours unless they attend the training and sign a "performance agreement"⁹⁵ acknowledging familiarity with the course goals and requirements. Rather than providing students with overwhelming training materials at the outset, we prefer to provide them with additional information as assignments are due and the semester progresses. Obviously, at the initial mandatory meeting, the focus must be on course requirements, professional responsibility, required content of journals and the checklist of questions for initial assignment clarification. As the due date for reflection one approaches (requiring the identification of learning objectives and a discussion with the supervisor), we provide additional materials suggesting a range of goals for various types of placements to generate student ideas for the assignment. Reflection two requires student inquiry about the confidentiality policy of the work place, and we provide students with a bulk email setting forth the California confidentiality rule as a basic standard, coupled with some examples showing how a student might inadvertently or thoughtlessly violate confidentiality standards. Students are provided

⁹³ Student journal of Ben Galante, Loyola Law School, (March, 2002) (on file with author).

⁹⁴ Alexander & Smith, *supra* note 4, at 219 (stating "What we have found interesting in our experience is a surprising reticence among students to ask questions or seek assistance, especially after an assignment has been given.").

⁹⁵ A copy of the performance agreement Loyola students sign is in the GLACE FIELD SUPERVISION MANUAL, *supra* note 64, at 23. Among other things, students must be aware of the confidentiality policy of the workplace, agree to check law school email weekly and acknowledge that law school email is the preferred method of communication between Externship faculty and staff and the field extern.

with evaluative checklists as the semester progresses (such as the standards by which the supervisor will be asked to evaluate the student at the end of the semester) or as journals or reflections indicate additional materials are needed. We use frequent email contact with students to provide additional feedback, particularly if the need is clearly noted from journal content (or lack of adequate journal content) or the content of reflective assignments.

1. *Training Techniques to Teach and Encourage Communication and Assignment Clarification*

In the typical scenario, the new field extern receives an assignment, noting on a legal pad what he or she perceives to be relevant from the discussion with the supervising attorney. The typical student may ask a few basic questions while receiving the assignment, but generally keeps questions to a minimum initially to avoid sounding uninformed or “stupid,” convey uncertainty, or waste the valuable time of the busy supervisor. The student begins work on the assignment, having some sense of where to begin, but not a lot. Lacking clarification on the assignment or the law because of the reticence to question, the student becomes confused and frustrated, taking the “best shot” at what the student imagines the thrust of the assignment to be and often takes longer to produce the result than anticipated. When the assignment has to be redone upon clarification initiated by the supervisor, the student is discouraged and embarrassed, disappointed in the inability to produce a quality product despite the desire to do so.

At the heart of this problem is the failure of the student to realize, and the failure of her law school to teach, that the process of good lawyering is about revisiting the same issues from different angles and asking questions over and over until the root of the issue is exposed. It is about being open to the learning process and finding solutions through open-mindedness, creative thinking and, above all, *communication*. It is not about being right all of the time. Students, just like good lawyers, need to expect to move beyond the “comfort zone” in approaching legal tasks, letting go of the strongly imbued law school fear of being wrong in the law school classroom. The practice of law is uncertain. Cases, clients and issues are uncertain. There is no one approach. There is no one solution or answer. Problem solving is usually the result of good questions and ideas,⁹⁶ often shared and gained through collaborative communication with colleagues. Condlin is blunt in his challenge to law schools: “. . .law schools should teach

⁹⁶ *Id.* (stating “It is essential that students overcome the self-defeating perception that asking questions is a sign of weakness.”).

students how to learn from colleagues. . .making the ability to learn from colleagues part of the repertoire or practice skills thought to define professional competence. . .”⁹⁷ Field supervisors presumably know the value of learning from colleagues, and the value of questioning. Supervisors who are adequately versed in the goals and objectives of the law school and vested in those educational goals and objectives will welcome more student questions than fewer since the questioning student demonstrates to a supervisor that the student cares about the work product and respects the supervisors’ opinions.

a. Questions All Students Should Know to Ask when Getting the Initial Assignment

Generally, questions elicit clarification.⁹⁸ Particularly at the beginning of the externship, at the height of student anxiety, a structured checklist of helpful questions may assist an anxious student in obtaining clarification about that first assignment, in becoming more comfortable initiating a conversation with the supervisor and in avoiding the frustration involved when miscommunication occurs. In receiving a new assignment from a supervisor, many students are apt to become so preoccupied with the effort to understand the assignment in context that they neglect to ask questions that will become routine to them with experience. Some supervisors may include the information as part of the assignment; but for those who are not overly inclusive, some basic questions from the student, with appropriate follow up, may not only elicit helpful information, but may also begin to lessen the anxiety of the student in *asking* for clarification as a routine (and perhaps necessary) function of any assignment. By asking the questions, the student takes the initiative in clarifying an assignment that may actually be unstructured, but is more likely simply unclear to the first time field student. Discussing these questions with externs before they go into the field experience not only provides them with a structured approach to the first assignment, but forces them to think through follow up questions and situations. The following questions were developed through our years of experience but can certainly be tailored to your own style.

(1) How long should I spend on this project? Seemingly a common sense question, many students don’t ask it, becoming discouraged and frustrated when they spend what the supervisor considers excessive time on a project. Asking this question helps a student gauge the ef-

⁹⁷ See Condlin, *supra* 90 at 421.

⁹⁸ See Ogilvy, *et al.*, *supra* note 17, *Chapter 3 at 30-36*. This chapter is immensely instructive in the value of student questions to elicit clarification.

fort and importance of the project by estimating the preliminary amount of time to devote to it before checking in again with the supervisor. If the supervisor response lacks clarity, follow up questions might include:

-I'm here on Tuesdays and Thursdays. Should I spend both days on this or is this a one-day project?

-May I work off-site (e.g., at the law school) or do you prefer that I work here?

(2) When do you need this? Is there a deadline? Nothing is worse or more frustrating for a student than to work diligently on a project, only to find that the completed work is too late to be of significance to the project due to a miscommunication. If the answer to the question is too vague to provide sufficient clarification, follow up questions might probe for specifics:

-Should I have a draft ready by Wednesday? Or by Friday, when I'm here again?

-If the filing date is March 15, when do you need the draft?

-Are you looking more for a draft or a finished product?

-When should I have the draft of the finished product ready for you to review?

(3) When can we meet to discuss my work or progress? Students often feel the supervisor's time and attention is paramount to any concern the student may have. The supervisor, on the other hand, prefers clarification on a possibly unclear assignment or issue as opposed to student time spent on an unproductive tangent. This question allows a student to determine the supervisor's schedule without being obtrusive on the time of the supervisor. Follow up questions might include:

-I'm here on Tuesday and Thursday. What time is good for you?

-What should I bring to the meeting? Do you want the finished draft only, or copies of cases and the research list that I used in preparing the draft?

(4) Where should I start my research? Where an inexperienced student may think a research problem begins is usually far from where the supervisor's experience indicates the research problem begins. A good supervisor will gladly provide indications of where to start when he/she realizes that the student needs guidance. If guidance is not offered, but would be helpful, a student might probe as follows:

-Do you prefer Westlaw, Lexis-Nexis or book research?

-Can you suggest some key words and phrases for starting my research?

-Can you suggest treatises or the appropriate text to begin my research?

(5) Are there any examples of this type of motion? (or brief, declara-

tion etc.) Students new to the experience may be asked to draft a document that the supervisor accepts as routine, but to the student is unfamiliar. Reviewing a similar type of document familiarizes the student with the basics such as format, content, style, etc. It is much easier to produce a product when the prototype is familiar. Students might follow up with these questions:

-Is there an example of a similar type of document in a practice guide?

-If there is something similar in the office, where can I get a copy? How do I go about asking for it?

(6) What support staff services are available to me, if any? How do I ask for assistance? A student who assumes that often stretched-tight clerical and office support services are automatically available is heading for an uncomfortable collision in the office environment when work is customarily routed through the supervising lawyer. Asking the question avoids misunderstanding and the inevitable ramifications. Follow up questions should be specific if the supervisor did not thoroughly orient all externs at the outset:

-Is there a phone for externs to use if needed?

-Are there specific computers for externs to use? Are any off-limits?

-Are externs expected to do their own copying?

These questions, although simple and straightforward to someone familiar with a professional workplace, may not be familiar to the novice student in his or her first professional workplace. The questions allow the student to take the *initiative* in gaining the information necessary to arrive at a comfort level in alleviating anxiety should the supervisor neglect to do so for any reason. Generally, "when students, in the face of insufficient feedback, take the initiative and assume responsibility for requesting specific guidance, even the busiest employers have been responsive to such questions."⁹⁹ Supervisors too busy to respond to clarification questions initiated by the student are usually the same supervisors identified with frustration in student journals and student-faculty discussions, and are usually those supervisors identified by one or more faculty in GLACE meetings as indifferent, unmotivated or a candidate for a serious retention evaluation.

A last and important question remains. Depending on how the particular externship is managed, pre-placement training should also include information for students about the range of accepted office communication methods that lawyers commonly use to communicate with each other, and suggest that the student inquire as to the supervi-

⁹⁹ See Alexander & Smith, *supra* note 4, at 225.

sor's preference for a method of communication. Lawyers often communicate in various ways:

(1) brief and informal "catch as you can" encounters (i.e., the hallway or the elevator); (2) more formal office meetings; (3) . . . scheduled [appointments]; (4) informal handwritten memoranda outlining basic questions; (5) informal typed memoranda confirming the student's understanding of an oral assignment; (6) formal typed memoranda detailing issues and concerns which arise during the course of the assignment; (7) consultation with individuals not directly involved with the assignment;¹⁰⁰

and (8) informal e-mail communications outlining basic questions and confirming the student's understanding of the assignment. If supervisors fail to indicate a preferred method of communication, or if the supervisor is not available to answer a question, early field training techniques should include instructions to students to *ask* about communication preferences. For example, a student might ask: Are there particular days when you have more free time to discuss issues? How should I get in touch with you if I have a question and you are not immediately available? Would you prefer that I stop by your office or do you prefer I write you an informal memo or send you e-mail?

b. Checklists All Students Should Have and Use to Promote Clarification as the Assignment Progresses

Often, students may not even be sure about the nature of a problem they may be experiencing while working on an assignment, other than a vague sense that they need further clarification. Relatively simple checklists, provided before the externship begins, may assist students in identifying the type of problem they are encountering as they begin working on the assignment, and may provide them with a sample of the type of questions that may prove helpful in resolving the problem identified. While this checklist, from Alexander and Smith, contains many similar questions to those students want to ask when receiving an assignment, they may very well need to be asked again for clarification as the work progresses:

(1) *Assignments are ill-defined*

What is the objective of the lawyer or client?

What are the legal issues or factual questions to be addressed?

What are the specific tasks to be performed?

(2) *Insufficient facts are provided*

What is the proper factual context of the assignment?

Where are the case files?

What assumptions, if any, should be made in approaching the

¹⁰⁰ *Id.* at 221.

assignment?

(3) *Assignments are too open-ended*

How much time should be spent on the assignment?

When is the assignment due?

Is there a standard office format for citations, memoranda, briefs, letters, etc.?

Is periodic reporting on the progress of an assignment expected?

When shall we meet?

(4) *Frustration blocks progress*

Should ancillary questions/issues/theories suggested by research be pursued?

Is there a problem if completion takes longer than expected?

What office resources (form files, staff with relevant expertise, etc.) are available?

What library reference materials would be good starting points for research?

Does this approach to the problem make sense, or could an alternative one be suggested?"¹⁰¹

2. *The Role of Reflection and Self Assessment in Encouraging a Continuing Dialogue between Supervisor and Student*

Reflection is the methodology through which lawyers process the information necessary to develop approaches and strategies in client problem solving; reflection means "thinking in a disciplined manner about what you do as a lawyer."¹⁰² For students, the process involves identifying the goals and objectives he or she hopes to accomplish during the course of the externship, communicating those goals to the supervisor, and adjusting the goals as appropriate based on the experience and feedback of the supervisor. Returning to the goals throughout the experience, and reflecting on the measure of accomplishment of the goals, guides both supervisor and student through the stages of learning and the self-reflective process of improvement and accomplishment.

The law school externship training curriculum can aid the process of identifying and accomplishing goals within the framework of a continuing and productive dialogue with the supervisor in a number of ways, including personality assessment instruments, activity journaling requirements, and periodic faculty-initiated reflective assignments requiring students to initiate discussions with supervisors on a variety of subjects, including learning objectives identified by the student and

¹⁰¹ *Id.* at 208.

¹⁰² Margaret Martin Barry, *Reflective Lawyering*, Chapter 5 in Ogilvy et al., *supra* note 17, at 79.

those identified by the supervisor. Active participants in any learning process practice self-reflection and self-assessment.¹⁰³

In addition to the process by which students and supervisors measure accomplishment and skills improvement, self-reflection also includes the process by which students take the time to reflect upon their experiences on a personal level and consider how those experiences are affecting their perception of themselves and the law. Generally speaking, “issues of morals, ethics, and values are infrequently seen as significant subjects for inclusion in required curricula. The public image [of lawyers] as hired guns reinforces the ‘hard’ identity expectation.”¹⁰⁴ Despite this perception, there is great value in reflecting upon personal values, morals, and ethics in the problem solving process since many of the issues lawyers encounter go to the very heart of morality, ethics and values.

For the first-time field extern, self-reflection assignments included in the curriculum may include a broad range of topics, with an emphasis on considering how problems are resolved from a reality-based, human viewpoint, as opposed to a detached legal resolution of the problem. Reflection assignments may ask a student to focus on psychological aspects of dealing with clients and co-workers, the emotions and personal beliefs that play a part of the decision making process, and how they, as individuals, relate to the externship experience. Students may be asked to reflect on such issues as: “(1) the relationships between the attorneys and support staff, clients, opposing counsel, and judges; . . . (2) the relationship between the legal work and attorney values, perceptions, and concepts of self-worth; and (3) ethical conundrums inherent in [the practice of law].”¹⁰⁵

As one student notes:

[i]n my own experiences, I found that when I made the effort to connect with my supervisor and clients, and took a personal interest in the situations of the clients, I was able to derive greater value from the experience. In the process, I found that understanding the emotions, values, beliefs and temperaments of my supervisors and clients was every bit as much important to the success of the externship as understanding the rules and regulations of the law.¹⁰⁶

Regardless of the range of the curriculum assignments requiring student reflection, the act of reflecting and placing information, ideas and observations in perspective at that point in the student’s experi-

¹⁰³ “Knowing others is intelligence; Knowing yourself is true wisdom. Mastering others is strength; Mastering yourself is true power.” LAO-TZU, TAO TE CHING 33 (Stephen Mitchell, trans., Harper Perennial Publishers 1988).

¹⁰⁴ Morton, *et al.*, *supra* note 25, at 515.

¹⁰⁵ GLACE, *supra* note 89, at 2.

¹⁰⁶ Galante, *supra* note 93.

ence is the value to be preserved.

a. *The Value of a Personality Assessment Instrument in Reflection and Self-Assessment*

A growing body of faculty externship directors are suggesting, as an aid in knowledgeable reflection and self-assessment, student participation in some sort of learning style or personality assessment. Many in-house clinicians are already using such instruments in their courses.¹⁰⁷ There are many different types of assessments available. Some are personality based such as the Myers-Briggs Type Indicator (MBTI), the Keirsey Temperament Sorter¹⁰⁸ and the Dunn & Dunn Learning Style Inventory.¹⁰⁹ Regardless of the instrument selected, the value of the resulting personality profile is that students may identify strengths and weaknesses of which they were formerly unaware, or personality traits that may help or hinder in the profession or workplace. Students who are overly accommodating or test in an average range on exercise of initiative issues may wish to compensate with a slightly more aggressive attitude in some areas (for example, clarifying an assignment). Students who are overly competitive or expect a high level of perfect resolution of issues may wish to compensate by realizing the need for more fluidity in thinking and approach to a problem.

b. *The Value of "Journaling" in Reflection and Self-Assessment*

All GLACE law school students are required to keep a contemporaneous journal with daily entries describing and reflecting upon the externship experience within the confidentiality policies of the placement. Anecdotally, perhaps over half of field placement programs in law schools nationwide require students to "journal" their experiences. Particularly in retrospect, students who have prepared contemporaneous placement journals with specific content requirements are able to identify progress, strengths, weaknesses and personal growth.¹¹⁰ In her methodical evaluation of externship journals at Rutgers-Camden, Harriet N. Katz noted ". . . student journals continue

¹⁰⁷ See, for example, Vernellia Randall, *The Myers-Briggs Type Indicator, First Year Law Students and Performance*, 26 CUMB. L. REV. 63, fn16 (1995-96).

¹⁰⁸ DAVID KEIRSEY, *Please Understand Me II* 3 (Prometheus Nemesis Book Company 1998).

¹⁰⁹ *Id* at 3 for a description of the various personality indicator tests and their approaches. The MBTI is more complex and requires training to administer and interpret. The Keirsey approach is more concerned about what people actually do rather than what is in their mind. The Keirsey test is also simpler to administer.

¹¹⁰ For an excellent discussion on the value of journals in promoting reflection, see Ogilvy, *Journals*, Chapter 6, Ogilvy et. al. *supra* note 17, at 97. Professor Ogilvy elaborated on the reflective value of journals in J.P. Ogilvy, *The use of Journals in Legal Education: A Tool for Reflection*, 3 CLIN. L. REV. 55 (1996).

to be the single most valuable source of information for me about what students are doing in their placements. . .I continue to be impressed with their usefulness in promoting individualized educational goals and effective faculty supervision of the practical experience so important for the developing lawyer.”¹¹¹

While some programs impose few rules on the form or content of a personal journal, we do impose content-based requirements.¹¹² We suggest that at a minimum, journal entries must include each meeting, whether formal or casual, with the supervisor, the nature of each assignment, the variety of various assignments, the student response to the assignment, difficulties or successes encountered in accomplishing the task and a report on the feedback from the supervisor on the task or assignment. Students must note what they observe in the workplace and the profession and comment critically on the observations, suggesting improved or more positive ways of approaching problems if appropriate. We suggest that students also focus on what they learned from observing their mentor or from their observation of other lawyers. As the semester progresses, students are expected to note those skills they feel they have mastered, as well as those they are still mastering. The object of the journal is for students to *report* on the experience, *reflect* on their reactions and draw conclusions from the lessons learned in the field. In addition to the student reflection automatically promoted by content-defined journals, candidly prepared student journals, as Katz correctly notes, are frequently richly instructive on such issues as the variety of student assignments, the frequency of supervisor meetings, placement working conditions, feedback students receive and the amount of time students may spend frustrated in accomplishing assignments or tasks because of the unavailability of su-

¹¹¹ Harriet N Katz, *Personal Journals in Law School Externship Programs: Improving Pedagogy*, 1 T.M. COOLEY J. PRAC. & CLINICAL L.7, 18 (1997).

¹¹² A common question raised by students and supervisors alike is the confidentiality issue that arises when students report on work assignments. Loyola students are instructed, and GLACE supervisors are informed, that student journals must comply with the confidentiality requirements of the work place as well as with professional responsibility standards. Students are instructed at mandatory classroom meetings about the necessity to prepare “generic” journals that do not identify cases or clients or do not provide information leading to the identity of cases or clients. The second reflection assignment they are required to complete requires them to affirmatively discover and report on the confidentiality requirements of the placement. They are instructed to check with a supervisor at the work place if they have any doubts as to the confidentiality of the information they are providing in a journal. Some supervisors, particularly those in some judicial chambers, have compelling confidentiality reasons for refusing to allow students to submit a written work product, such as a memo or a draft opinion or complaint, but do not object to properly prepared experiential journals. I am not aware of any objection over the years by any shared GLACE placement supervisor to the preparation and submission of experiential work journals prepared within the confidentiality guidelines of the workplace.

pervision or adequate placement resources.

In highlighting the positive and negative impressions of the effectiveness of journals, Katz noted that journals are often used by students to begin to explore “significant issues of professional concern arising from their externship experience,” and that positive results are aided when journals are not graded, are relatively private and receive faculty response.¹¹³ We concur with Katz, noting that a timely email dialogue initiated by faculty after reading a journal definitely promotes more thoughtful and extensive journal comments from the student thereafter, making a continued student-faculty dialogue engaging and instructive. As suggested by Katz, we also share our reactions to student comments, question student assumptions, commiserate with frustration and respond to student questions. Students are invariably shocked at the first email response from faculty regarding a journal, and then pleased at the individual feedback and attention from supervising faculty.

Thoughtfully prepared journals, with specifically defined and required content, will encourage most externs to explore the role of personal values and beliefs in the work experience, possible moral conflicts in personal values and beliefs with the work experience, changing perceptions in the role of law and the practice of law in society and their role, both as a student and in the future as a lawyer, in the institutions comprising the legal system. Journals are a significant component of a successful externship program.

c. Faculty Initiated Reflective Assignments Requiring Students to Initiate Conversations with the Supervisor Throughout the Experience Regarding Goals, Objectives and Progress

In addition to activity journal requirements including a reflective component, externship faculty can promote not only additional student reflection, but can also prod students to initiate conversations with supervisors that go well beyond the act of seeking clarification in an assignment context. Loyola students (as well as most GLACE students, although assignments vary by school) in field placements, must self-assess and reflect on their field experience in five separate reflection assignments throughout the semester. The first assignment, within the first two weeks in the field, requires the student to identify no fewer than five anticipated goals and objectives for the semester.¹¹⁴

¹¹³ Katz, *supra* note 111, at 15, 17.

¹¹⁴ This is, of course, the Eyster model and method identified elsewhere. Although I (Blanco) was initially skeptical of the value of the “supervisor-student alliance” feature of the plan, I wholeheartedly embrace it now. I confess that I became a drum-pounding convert due to the influence of GLACE member Susan Gillig, Dean of Clinical Programs at

The student must discuss the goals and objectives with the supervisor and revise the list or adjust the list based on the conversation and feedback from the supervisor, then report on the discussion in writing to the faculty director.¹¹⁵ This assignment puts the initiative in the student's lap to begin to create a learning alliance at the beginning of the semester through communication and shared goals with the supervisor. Additionally, since the assignment is a law school requirement, a timid student, who might otherwise be reluctant to impose on a supervisor's time, may rely on this crutch in asking for the supervisor's time.

Typically, the next reflection assignment requires the student to initiate a conversation with the supervisor on the specifics of the confidentiality policy of the placement and report on the policy in writing. The supervisor who neglected to address this subject will be appropriately chastised, but also impressed that the student is expected to become aware of professional obligations in the workplace. Our students return to the initial goals at mid-semester and assess their progress in a conversation with the supervisor, followed by a written report on the meeting and the progress. If progress is slower than expected, students speculate on the reasons and suggest approaches to improve progress. Students are typically asked, in other reflection assignments, to reflect on the quality of lawyering that they are observing - the characteristics of good and bad advocacy, and to reflect on causes of poor advocacy.¹¹⁶ Other areas for reflection include gender bias in the workplace, the expectations versus the realities of law practice, the impact of the law on parties and witnesses, or the appropriateness of litigation as a dispute resolution method. Virtually all of these topics promote thoughtful conversations between student and supervisor.

d. Skills Evaluation Checklists to Enhance Reflection and Assessment

First-time field placement students may not be aware of the range of areas of placement practice, skills and topics upon which reflection will provide learning progress and improved skills. They may not be

UCLA.

¹¹⁵ A number of other GLACE faculty are adopting the "learning plan" or learning agenda suggested by Eyster, Morton, Ogilvy, et.al., recognizing that such a plan not only communicates shared goals, but takes place at the initiation of the student, thus facilitating communication.

¹¹⁶ While initially skeptical (again) of the amount of thought students would actually put into the reflective process, I (Blanco) am endlessly impressed with the quality, insight, depth of reflection and thought that my students put into the assignments. Observations often express feelings of anxiety, anger, frustration, and sometimes, confidence. Additionally, prompt email feedback on the first reflection provides noticeable motivation for the remaining reflection assignments, giving students the confidence that their work is read and considered.

aware of the range of skills they will be expected to master as time progresses, nor may they be aware of the common range of skills upon which they will be evaluated by the supervisor. The following checklist, also from Alexander and Smith, provided to students at the beginning of the externship, may be helpful in identifying areas in which students can play a more effective role in their own progress in acquiring common legal skills in the externship environment, particularly when periodically evaluating their own strengths and weaknesses:

(1) *Legal Researching Skills*

Do I understand the interrelationship among various reference materials?

Do I know how to develop an effective research strategy?

Do I know when it is appropriate to expand my research and, conversely, when to stop it?

Are the results of my research practical and useful?

(2) *Legal Reasoning Skills*

Do I take the time to clarify my thinking process – to isolate the issues presented in a given problem and think through the results of my research to their logical conclusion?

Do I explore alternative legal theories or avenues of argument when appropriate?

Do I attempt to think creatively and imaginatively in developing innovative legal theory?

(3) *Writing Skills*

Do I formulate and express my ideas clearly and precisely?

Do I critically edit and carefully proofread my work?

Does the visual presentation of my written work (format, neatness, etc.) comport with expected office standards?

(4) *Oral Skills*

Do I speak in a clear voice and articulate well?

Do I use language easily and fluently?

Do I express my thoughts clearly?

(5) *Developmental Skills*

Do I manage my time effectively so that I work efficiently without sacrificing quality?

Am I able to set appropriate priorities in handling my work load?

Can I work independently and take initiative?

(6) *Interpersonal Skills*

Do I know how and when to ask questions or seek additional consultation?

Am I able to develop effective and cooperative working relationships with my colleagues as well as clients?

Do I know how to be diplomatically persistent?¹¹⁷

¹¹⁷ Alexander & Smith, *supra* note 4, at 223-224.

CONCLUSION

The paradigm of the perfect externship field experience is this: the field supervisor is an expert in the institution that employs her. She has clear recall of the ambiguities of the law school experience and the desire to bridge the gap between theory and practice for students frustrated, like her, by that ambiguity. She mentors students individually, recognizing those who quickly grasp the intricacies of law practice from those who depend on encouragement and positive experiences to progress in learning and achievement. Law school faculty provide clearly defined standards and guidelines in selecting, training and rejuvenating field supervisors, and richly reward those who capably and magnanimously carve out enough time in busy days to impart the complex reality of law practice to students who are exposed to it generally for the first time. Students in the field know their goals, having made a thoughtful selection of the various possibilities of field placements to closely correspond with learning objectives and perhaps even career possibilities. They transition into the field experience fully prepared to alleviate initial anxiety and uncertainty through careful preparation by the law school with training in communication skills and workplace expectations, armed with anxiety-reducing checklists of questions for self and supervisor. Students report and reflect on all aspects of the field experience, eagerly and thoughtfully self-assessing their progress in the field laboratory.

The fantasy paradigm doesn't exist in totality, of course, but it is certainly pleasing to consider. In fact, a significant measure of the paradigm does exist in Los Angeles. GLACE law schools, as a consortium, in adopting and raising the visibility and importance of the joint field supervision standards, addressed and remedied many troublesome field supervision issues. There is little question in the legal community that GLACE law schools place a high value on the carefully crafted field experience, and will seek appropriate remedies when and where necessary. The widely recognized and accepted efforts of the consortium to define and implement field supervision standards and practices affords consortium faculty the luxury of additional resources in their respective programs to further refine the training and techniques to better prepare students for a successful field experience. We may yet achieve the full fantasy with enough shared problem solving.

Appendix A**GLACE****GREATER LOS ANGELES CONSORTIUM
ON EXTERNSHIPS**

919 South Albany Street
Los Angeles, California
213/736-1104 Fax: 213/487-7856

Participating Schools:

Loyola Law School
Pepperdine University School of Law
Southwestern University School of Law
UCLA School of Law
USC School of Law
Whittier Law School

GREATER LOS ANGELES CONSORTIUM ON EXTERNSHIPS**JOINT STANDARDS FOR SUPERVISION OF
EXTERNSHIP STUDENTS****Introduction**

In 1993, six Los Angeles ABA-accredited law schools formed the Greater Los Angeles Consortium on Externships (GLACE). The purpose of the organization is to develop joint standards for the supervision of externship students by field attorney supervisors. Participating GLACE law schools are Loyola Law School, Pepperdine University School of Law, Southwestern University School of Law, UCLA School of Law, USC School of Law and Whittier Law School.

The American Bar Association Standard 305 relating to law school field placement programs has been interpreted to require that any law school permitting students to participate in activities or studies away from the law school develop and publish a statement defining the education objectives of externship programs. While each individual participating school has developed specific objectives, GLACE law schools have prepared this handbook of joint field placement educational objectives and supervision standards for the assistance of all supervising attorneys and students who participate in field programs. The GLACE-endorsed educational objectives of externship placements are:

1. To encourage the further development of student research, writing and drafting skills through work on legal documents such as

- complaints, answers, trial and appellate briefs, agreements, legal memoranda, motions, and opinion letters;
2. To expose students to lawyering skills through participation in activities such as interviewing, counseling, negotiation, oral advocacy, investigation, and the formulation of case strategy;
 3. To develop students' oral advocacy skills through participation in, or observations of court, discovery and administrative proceedings;
 4. To give students practical legal experience, and to enhance their understanding of the application of the principles learned in law school to legal problems;
 5. To give students the opportunity to participate in, and reflect upon, the work of legal institutions;
 6. To expose students to issues of professional responsibility within the context of legal practice;
 7. To encourage students to explore and consider different roles for lawyers, and to expose them to the range of career opportunities available in the law;
 8. To permit students to gain practical experience in specialized areas of the law through experience that will supplement their course work within the law school; and
 9. To instill fundamental values of the legal profession, including the provision of competent representation, the promotion of justice, fairness and morality, and a commitment to an on-going process of professional self-development and growth.

THE ROLE OF THE SUPERVISING ATTORNEY IN ACHIEVING EXTERNSHIP OBJECTIVES

In an externship program, the ability of the student to achieve the goals stated above depends in large measure on the quality of the student's relationship to his or her supervising attorney and the supervisory methods employed by the supervisor. The success of field placement programs depends on the willingness and ability of the supervising attorneys to serve as available role models and teachers. A good attorney's skills are not necessarily those of a good supervisor. Good supervision requires certain skills, techniques and attitudes that can be learned and applied effectively.

An essential component of effective supervision is a reasonable supervisor-to-student ratio. Under the State Bar of California "Practical Rules for the Training of Law Students," one attorney may not supervise more than five certified law students at any time, and must be a licensed practicing attorney for two years prior to undertaking the supervision of a certified law student. While there is no limitation on the number of uncertified law students an attorney may supervise, and no required licensing period when supervising uncertified law stu-

dents, GLACE law schools recommend that a one-to-four ratio is appropriate for adequate supervision in part-time field placements, and recommends that supervising attorneys have at least two years of practical experience. For full-time externships, GLACE law schools recommend a one-to-one ratio between students and field supervisors.

GLACE schools periodically provide specific, in-person training for field supervisors and provide, periodically, a comprehensive field supervision manual. At all times, GLACE schools suggest that quality supervision involves conscious application of several principles discussed below.

1. Providing a variety of well-defined tasks that encourage the learning of a range of skills.

For a student to function effectively, the supervisor must clearly explain what the assigned task involves and should put the specific task into the context of the entire case or issue on which the supervisor is working. Although narrow research projects may help the supervisor and be appropriate student projects, their true benefit to the student as a learning process comes from an explanation of how the particular issues arising in the small project fit into the context of and affect the whole case. Many students arrive at a placement with no academic or practical experience in the kind of law that is practiced there. Therefore, it is incumbent upon the supervisor to explain carefully the scope of the project, the work necessary to complete it, and a time estimate of how long the supervisor expects the student to work on the project.

Students should be encouraged to put their research into writing whenever possible. Even if the written form is less expedient, students need experience and practice in synthesizing their research into a coherent written product.

In our experience, the best externship experience offers a variety of assignments, in addition to the traditional tasks of legal research and drafting legal memoranda. The experiences should also include observation of courts, judges and lawyers, meetings, conferences, negotiations and telephone communications, as well as a discussion of the supervisor's interactions when completed. Whenever possible, students should be allowed to directly experience doing what they have observed others performing.

2. Providing students with insight into the workings of the legal system and profession.

One of the most important benefits of an externship program is that students can immerse themselves into a particular office and as-

pect of the legal system. In order to achieve this, the student should be exposed to a variety of situations and the supervising attorney should take the time to discuss what is observed. In some externships, students spend large amounts of time in relative isolation in the library. These students will not have a significantly better idea of the functioning of the legal system as a result of this experience, and GLACE law schools disfavor this type of placement. Even a student engaged in substantial research should be involved in the analysis of that research and its application. It is important, therefore, to explain the context in which an assignment arises and, whenever possible, to allow the student to see the application of his or her work product.

3. Developing professional responsibility skills through observation and application in the workplace.

Professional responsibility is a required course in the law school curriculum. The externship can supplement classroom learning by providing opportunities to see or be involved with actual professional responsibility decisions confronting practicing attorneys daily in court, with clients, with jurors and in conflict situations. All of these situations can generate professional responsibility questions and explanations. The externship is an excellent opportunity to learn about obligations to the client or the court, to explore the limits of client confidentiality, to learn to meet deadlines, and to learn basic work habits and skills. The supervisor should be both critical and reinforcing when a student has either failed or succeeded in meeting professional responsibility goals. Supervisors should be alert to professional responsibility issues, and raise them with externs as such issues present themselves.

4. Developing the student's ability to learn from experience, including critical professional feedback on performance.

Feedback on written work and other task performance is essential in field placements. Meaningful feedback consists of very specific information. It involves careful observation of student performance or product and tactful honesty in communicating the supervisor's views. A student learns nothing constructive from comments such as "good job" or "you'll do better next time." The supervisor should provide specific examples of what the student said, did, or wrote with a clear and detailed explanation as to why the work was sufficient or inadequate. Good feedback assures that the student fully understands the strengths and weaknesses of his or her performance in order to build upon them in future assignments.

Students need an opportunity to learn self-evaluation skills. This

means that some constructive dialogue between the supervisor and between the supervisor and the student should take place to allow the student to recognize where he or she has been making mistakes in performance or legal analysis.

Certain supervisory methods are preferred in student evaluations. Generally, students learn more effectively when supervision is non-directive and student-centered. Rather than telling a student exactly what to do and where to find the answer, a supervisor should take the time and explain the context of an issue and the nature of the task being assigned, to discuss the student's reaction to the problem, to help the student form problem solving strategies, to agree upon a schedule for the project and the form which the student's work should take. Interim meetings should be held to discuss progress and to avoid misdirection, as well as to reassess the nature of the issues in light of the student's work to date.

GLACE law schools encourage all field supervisors to take the time to openly and candidly discuss their views of the legal system with students. Even the most insightful students will learn much more by hearing directly the opinions of their supervisors about the range of issues concerning law practice and roles of lawyers in the institutions in which they are involved.

INDIVIDUAL SCHOOL AND STUDENT RESPONSIBILITIES

In addition to this introduction to effective field supervision, each GLACE law school has individual policies and procedures applicable to its students. The GLACE school placing your externs has attached a copy of specific policies and requirements necessary for completion of the externship course at that GLACE law school.

EQUAL EMPLOYMENT OPPORTUNITY POLICY

Loyola, Southwestern, UCLA, USC and Whittier law schools are committed to a policy against discrimination in employment based on color, race, religion, marital status, sex, national origin, age, sexual orientation, disabilities and military status.

Appendix B

GLACE

GREATER LOS ANGELES CONSORTIUM ON EXTERNSHIPS

919 South Albany Street
Los Angeles, California
213/736-1104 Fax: 213/487-7856

Participating Schools:

Loyola Law School
Pepperdine University School of Law
Southwestern University School of Law
UCLA School of Law
USC School of Law
Whittier Law School

GREATER LOS ANGELES CONSORTIUM ON EXTERNSHIPS

JOINT STANDARDS FOR SUPERVISION OF JUDICIAL EXTERNSHIP STUDENTS

Introduction

In 1993, six Los Angeles ABA accredited law schools formed the Greater Los Angeles Consortium on Externships (GLACE). The purpose of the organization is to develop joint standards for the supervision of externship students, including the supervision of judicial externs. Participating schools are Loyola Law School, Pepperdine University School of Law, Southwestern University School of Law, UCLA School of Law, the USC Law Center and Whittier Law School.

The American Bar Association standard 305 relating to law school field placement programs has been interpreted to require that any law school permitting students to participate in activities or studies away from the law school develop and publish a statement defining the educational objectives of externship programs. While each individual participating law school has developed specific objectives, GLACE has prepared this handbook of joint educational objectives and supervision standards for the assistance of all supervising judges and students who participate in judicial externships. The GLACE-endorsed educational objectives of judicial externships are:

1. To encourage the further development of student research, writing and drafting skills through work on legal documents such as legal memoranda, bench memoranda, opinion drafting, and mo-

- tion evaluation;
2. To expose students to the judicial decision making process through participation in the various activities of judicial chambers such as case evaluation, legal research, evaluation of attorney performance, oral advocacy, and case conferences;
 3. To develop students' oral advocacy skills through observation of court, discovery and administrative proceedings, and through making informal presentations to the judge in matters upon which the student has worked;
 4. To give students practical legal experience, and to enhance their understanding of the application of the principles learned in law school to the resolution of legal problems through the judicial process;
 5. To give students the opportunity to participate in, and reflect upon, the work of legal institutions
 6. To expose students to issues of professional responsibility within the context of legal practice;
 7. To encourage students to explore and consider different roles for lawyers, and to expose them to the range of career opportunities available in the law;
 8. To permit students to gain practical experience in specialized areas of the law through experience that will supplement their course work within the law school; and
 9. To instill fundamental values of the legal profession, including the provision of competent representation, the promotion of justice, fairness and morality, and the commitment to an on-going process of professional self-development and growth.

THE ROLE OF THE SUPERVISING JUDGE IN ACHIEVING EDUCATIONAL OBJECTIVES

In any externship program, the ability of the student to achieve the goals stated above depends in large measure on the quality of the student's daily relationship with his or her supervising judge, and the supervisory methods employed by the judge. The success of judicial externship programs depends on the willingness and ability of the supervising judges to serve as available role models and teachers.

An essential element of effective supervision is a reasonable supervisor-to-student ratio. In judicial chambers, GLACE recommends that judges always perform primary supervision of externs, including work assignments, supervision of work in progress and critiques of student work. Day-to-day details regarding student workflow or time management may be delegated to law clerks. In judicial chambers, GLACE recommends that clerks with less than two years' experience limit indirect supervision to no more than the equivalent of three law students per chambers in any semester or summer session, with direct

supervision of externs performed by the chambers judge. Under ABA standards effective in July, 1993, a full-time faculty member of the placement school is required to document a site visit to the chambers of all of all full-time judicial externs. A review of student supervision standards is an essential component of the site visit. Additionally, all regular full-time judicial externship placement sites must be evaluated in writing by a full-time faculty member every three years, and a review of student supervision standards is again an essential component of the evaluation.

GUIDELINES FOR JUDICIAL EXTERNSHIP SUPERVISION

GLACE recognizes that by including the judicial externship program in the law school curriculum, we rely heavily on judges to assume responsibility for the legal education of law student externs. GLACE has developed and endorsed the following guidelines to help assure the educational value of the externship and to allow the law school to monitor and evaluate the student's progress during the semester:

1. The extern should be provided with an orientation to the court's work and the extern's role in it;
2. The extern should be assigned a progression of challenging, varied, and increasingly complex legal projects associated with ongoing work in chambers. Routine and repetitive work should be avoided as much as possible. In most respects, the work assigned to the extern should be the same as that given a law clerk, making due allowance for the extern's relative inexperience at the beginning of the semester;
3. The externs should be encouraged to observe court proceedings including, as appropriate, trials, motion practice, settlement conferences, and appellate arguments, particularly when the extern has worked on a matter before the court;
4. Externs should be provided with detailed critiques of their written work. Rewrites should be encouraged to assure a high standard of final product. Some GLACE schools require that copies of a student's written work product be provided to a faculty supervisor for review during or at the end of the externship. It is the responsibility of the extern to comply with all chambers' confidentiality concerns;
5. The extern should work directly with the judge in matters such as supervision of work in progress and critique of work product. Such regular direct contact with the judge provides the extern with the unique insights into the judicial process that make a judicial externship a valuable educational experience;
6. To the extent that the extern receives additional supervision by a law clerk or research attorney, the extern should be assigned,

if practicable, to the most experienced law clerk or research attorney;

7. GLACE law schools require regular written reports of the extern's activities and work hours.

INDIVIDUAL SCHOOL AND STUDENT RESPONSIBILITIES

In addition to this introduction to effective externship supervision, each GLACE law school has individual policies and procedures applicable to students. The GLACE school placing your extern has attached a copy of specific policies and requirements necessary for completion of the judicial externship at the GLACE placement law school.

EQUAL EMPLOYMENT OPPORTUNITY POLICY

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