Externships⁹: Coming of Age

Plenary I: How Far We Have Come & How Far We Need to Go

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Kate Kruse, Mitchell Hamline School of Law
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University of Georgia
School of Law
Athens, Georgia
March 9, 2019

A Concise History of Field Placements

Sandy Ogilvy
Externships – a Concise History

I. Reading the Law & Apprenticeships 1780 – 1830
   1776 -- of 13 original states only one had no prescribed period of training
   1800 – 14 of 19 jurisdictions required a definite period of apprenticeship

II. Decline of formal standards for Bar Admission 1830 – 1865
   1840 – 11 of 30 jurisdictions required a definite period of apprenticeship
   1860 – 9 of 39 jurisdictions required an apprenticeship
   1878 – ABA founded; Committee on Legal Education & Admissions to the Bar

III. Rise of Law Schools – decline of practical training 1865 –
   1890 – 23 of 39 jurisdictions require a formal period of study or apprenticeship
   1900 – AALS founded
      -- 102 law schools -- 12,516 students
   1910 – 124 law schools -- 19,567 students
   1917 – 36 of 49 jurisdictions required a formal period of study—either in law school or
      apprenticeship; 28 required a three-year period
      -- 146 law schools -- 24,503 students
   1928 -- In his second report on law schools, Reed noted that “[t]here is probably no other
      practical calling the preparation for which is so unrelievedly academic as that which is provided
      for American lawyers by most American law schools.”
   1931 – Duke in-house clinic begun by John S. Bradway (to 1959)

III. Modern Clinical Legal Education 1960 –
   1950s  -- ~25 schools offered programs based on a legal aid model
   1959 -- 35 law schools reported some form of clinic; 13 in-house
   National Council on Legal Clinics (NCLC) – 1959-1965 grants totaling ~$500K to 19 law schools
   1965 – 1968 -- Council on Education for Professional Responsibility (COEPR) made grants to 21
      law schools totaling approximately $290,000. Half of these grants were for summer internships
      first grant to Duke and NCC for jointly-sponsored project to fund summer internships with
      private practitioners and prosecutors for 10 Duke and 5 NCC law students;
      CLEPR emphasis on encouraging in-house clinics
      Credit-bearing clinical programs grew from 25 to 80 in CLEPRs first two years
   1969 – ABA Standards first mentions legal aid clinic, law clerk and apprenticeships as additional
      means and methods of law training in addition to regular courses Std XIV (1969)
   1973 – AALS Section on Clinical Legal Education created
   ABA Std 304 explicitly mentions clinical work and Std. 306 mentions “studies or activities away
      from the law school”
   1977 – Interpretation 1 of Std 306(c) lack of supervision by law school faculty to students
      working with practicing lawyers throughout the state does not conform with Std. 306(c)
   1979 – Interpretation 1 of Std 306(c) adds no compensation for students participating in
      program for academic credit
1980 – AALS/ABA Committee on Guidelines for Clinical Legal Education
   ‘[t]he Committee’s majority position suggests that programs known as ‘farm-out’ clinics
   usually do not satisfy the Guidelines.”
1983 – California Out-of-House clinic conference
1986 – Interpretation 2-306 – specific criteria for evaluating externships added including
classroom component and involvement of full-time faculty
1987 – AALS Clinical Section Externship Committee formed
1987 – AALS Clinical Section Externship Committee formed
1991 – Clinical Legal Education Association (CLEA) founded
1992 – McCrate Report issued
1993 – CLEA Externship Conference
   Interpretation 2-306 amended to require law schools and Accreditation Comm to
   conduct more detailed review of externship programs listing nine factors
   G.L.A.C.E. formed (Greater Los Angeles Consortium on Externships)
1996 – ABA std 306 renumbered 305
   Much of previous I-306-2 raised into text of Std 305 and new sections (e) and (f)
1998 – Learning from Practice published
   Externship Conference at CUA – Learning from Practice: Development in Externship
   Pedagogy
   B.A.C. E. formed (Bay Area Consortium on Externships)
1999 – Lextern listserv created
2003 – Externships2 Conference at CUA
2004 – Std. 305 amended
2005 – Std 305 amended
2007 – Carnegie Report and Best Practices published
2009 – LexternWeb created
2011 – CLEA Externship Committee created
   W.C.L.E.E. formed (Washington Consortium for Law Externships)
2014 – Std. 305 major amendments
2016 – Stds amended – experiential education amendments

Historical Overview of Externships

- Era of Apprenticeships (1800 - 1900s)
- Era of Outside funding (1960s - 1980s)
- Externships as a method of Experiential Education (2016 -
### Number of Schools with One or More Externship Courses

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Upper-Level Enrollment</th>
<th>Schools Reporting One or More Externship Courses</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1950-1951</td>
<td>25,164</td>
<td>16</td>
<td>14%</td>
</tr>
<tr>
<td>1970-1971</td>
<td>55,054</td>
<td></td>
<td>11%</td>
</tr>
<tr>
<td>1978-1979</td>
<td>75,670</td>
<td></td>
<td>31%</td>
</tr>
<tr>
<td>1982-1983</td>
<td>79,757</td>
<td>79</td>
<td>75%</td>
</tr>
<tr>
<td>1984-1986</td>
<td>77,618</td>
<td>143</td>
<td>100%</td>
</tr>
<tr>
<td>2002-2003</td>
<td>84,452</td>
<td>183</td>
<td>98%</td>
</tr>
<tr>
<td>2007-2008</td>
<td>92,637</td>
<td>190</td>
<td>100%</td>
</tr>
<tr>
<td>2010-2011</td>
<td>95,037</td>
<td>195</td>
<td>98%</td>
</tr>
<tr>
<td>2015-2016</td>
<td>69,263</td>
<td>203</td>
<td>100%</td>
</tr>
</tbody>
</table>

### Percentage of Schools with Externships Course(s)

- **Total Upper-Level Enrollment**
- **Percentage**
### "Enrollment" in In-House and Externship courses

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of ABA-Approved schools/reporting</th>
<th>Total upper-level enrollment</th>
<th>In-house positions available/filled</th>
<th>Externship placements</th>
</tr>
</thead>
<tbody>
<tr>
<td>1950-51</td>
<td>120</td>
<td>25,164</td>
<td>240 - 600</td>
<td>320 - 800</td>
</tr>
<tr>
<td>1971-72</td>
<td>147 /121</td>
<td>55,054</td>
<td>/3769</td>
<td>/5669</td>
</tr>
<tr>
<td>1978-79</td>
<td>167 /132</td>
<td>75,671</td>
<td>/6603</td>
<td>/6477</td>
</tr>
<tr>
<td>1986-87</td>
<td>175 /120</td>
<td>77,618</td>
<td>/7,547</td>
<td>/7,754</td>
</tr>
<tr>
<td>1990-91</td>
<td>175 /155</td>
<td>83,157</td>
<td>/9,343</td>
<td>10,695</td>
</tr>
<tr>
<td>2001-02</td>
<td>186</td>
<td>82,540</td>
<td>/15,385</td>
<td>14,857</td>
</tr>
<tr>
<td>2010-11</td>
<td>200</td>
<td>95,037</td>
<td>28,476 /24,090</td>
<td>30,765</td>
</tr>
<tr>
<td>2016-17</td>
<td>203</td>
<td>69,263</td>
<td>30,713</td>
<td>28,203</td>
</tr>
</tbody>
</table>

**Graph:**

- **Upper-level enrollment**
- **In-House Positions**
- **Externships**
### Courses by Number of Credits Awarded

<table>
<thead>
<tr>
<th>Credits - range</th>
<th>1 – 3</th>
<th>1 – 4</th>
<th>1 – 6</th>
<th>5 – 6</th>
<th>7 – 10</th>
<th>11 - 15</th>
</tr>
</thead>
<tbody>
<tr>
<td>1978 – 1979</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>10 (7%)</td>
</tr>
<tr>
<td>1992 - 1993</td>
<td>179 (45%)</td>
<td>271 (68%)</td>
<td>339 (87%)</td>
<td>68 (17%)</td>
<td>32 (8%)</td>
<td>25 (6%)</td>
</tr>
<tr>
<td>2002 - 2003</td>
<td>1978 (36%)</td>
<td>2451 (44%)</td>
<td>2032 (83%)</td>
<td>427 (17%)</td>
<td>228 (8%)</td>
<td>151 (6%)</td>
</tr>
<tr>
<td>2007 - 2008</td>
<td>36%</td>
<td>18%</td>
<td>6.3%</td>
<td>7%</td>
<td>6.3%</td>
<td></td>
</tr>
<tr>
<td>2010 - 2011</td>
<td>32%</td>
<td>23%</td>
<td>10%</td>
<td>9%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013 - 2014</td>
<td>20%</td>
<td>24%</td>
<td>5.3%</td>
<td>8%</td>
<td>13%</td>
<td></td>
</tr>
<tr>
<td>2016 - 2017</td>
<td>29%</td>
<td>17%</td>
<td>6%</td>
<td>6%</td>
<td>15%</td>
<td></td>
</tr>
</tbody>
</table>

#### Percentage of Courses Awarding 6 or More Credits

- **1978-79**: 12%
- **1992-93**: 16%
- **2002-03**: 14%
- **2007-08**: 18%
- **2010-11**: 16%
- **2013-14**: 12%
- **2016-17**: 8%
<table>
<thead>
<tr>
<th>Survey</th>
<th>Tenure</th>
<th>Tenure-Track</th>
<th>Clinical Tenure</th>
<th>Clinical Tenure-Track</th>
<th>Long-term K</th>
<th>Short-term K</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>1984 – 1986 Judicial</td>
<td>34%</td>
<td></td>
<td></td>
<td></td>
<td>2%</td>
<td>14%</td>
<td>50%</td>
</tr>
<tr>
<td>Non-judicial</td>
<td>50%</td>
<td></td>
<td></td>
<td></td>
<td>2%</td>
<td>7%</td>
<td>42%</td>
</tr>
<tr>
<td>2002 - 2003</td>
<td>54%</td>
<td></td>
<td></td>
<td></td>
<td>20%</td>
<td>13%</td>
<td>10%</td>
</tr>
<tr>
<td>2007 - 2008</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teaching</td>
<td>24%</td>
<td>2%</td>
<td>17%</td>
<td></td>
<td>8%</td>
<td>49%</td>
<td></td>
</tr>
<tr>
<td>Directing</td>
<td>30%</td>
<td>4%</td>
<td>25%</td>
<td></td>
<td>8%</td>
<td>34%</td>
<td></td>
</tr>
<tr>
<td>2010 – 2011</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teaching</td>
<td>33%</td>
<td>5%</td>
<td>17%</td>
<td></td>
<td>24%</td>
<td>21%</td>
<td></td>
</tr>
<tr>
<td>Directing</td>
<td>31%</td>
<td>3%</td>
<td>18%</td>
<td></td>
<td>17%</td>
<td>30%</td>
<td></td>
</tr>
<tr>
<td>2013 – 2014</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teaching</td>
<td>35%</td>
<td>3%</td>
<td>22%</td>
<td></td>
<td>24%</td>
<td>17%</td>
<td></td>
</tr>
<tr>
<td>Directing</td>
<td>27%</td>
<td>3%</td>
<td>24%</td>
<td></td>
<td>22%</td>
<td>25%</td>
<td></td>
</tr>
<tr>
<td>2016 - 2017</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teaching</td>
<td>27%</td>
<td>12%</td>
<td>31%</td>
<td></td>
<td>15%</td>
<td>15%</td>
<td></td>
</tr>
<tr>
<td>Directing</td>
<td>24%</td>
<td>12%</td>
<td>32%</td>
<td></td>
<td>15%</td>
<td>18%</td>
<td></td>
</tr>
</tbody>
</table>
Externship Conferences – 1980 - 2018

1980s
Supervisory Skills Training Conference
February 1 – 2, 1980
Pepperdine University, Malibu, CA
Noel Keyes, Pepperdine & Jayne Wolf Eldridge, Loyola, coordinators
Both in-house and extern supervisors participated. More than half of the 55 in attendance were volunteer supervisors in extern programs.

California Clinical Consortium Workshop
October 16 – 18, 1981
South Lake Tahoe, CA
Hosted by Southwestern University
Major topics included:
“Improving Field Placement Supervision: Program Design & Issues of Accountability,” Mark Stickgold, Golden Gate and Arnie Siegel, Loyola-LA
“Comparative Models of the Classroom Component for In-House and Off-Campus Placements,” Paul Bergman, UCLA, and Kandis Scott, University of Santa Clara.

Conference on Out-of-House Internships
March 11-12, 1983
University of San Diego, San Diego, CA
Janet Motley (Weinstein), California Western, coordinator
Participants from McGeorge, Golden Gate, USF, U.C. Davis, Southwestern, USD, and Cal. Western
Topics:
1) Selection criteria for internship placements
2) Supervision and quality control
3) Receiving pay and credit for internship work
4) Classroom components for internship courses. Participants shared their experiences in this area and brainstormed about new possibilities. This exchange of information was found to be valuable and the common conclusion was that such interchange on an on-going basis will play an important role in the development of these clinical programs. The participants have agreed to exchange course materials and to work together in this developmental process.
AALS Newsletter, June 1983, p. 10

1990s
CLEA Externship Conference
First Externship Conference about Planning and Delivering Daily Externship Programs
May 5 – 6, 1993
McLean, VA
Panel discussions and presentations on:
Setting appropriate goals
Implementing goals through
Classroom component
Faculty and non-faculty field supervision
Tutorials
Training of Field Supervisors
Understanding and meeting the latest ABA accreditation standards

**Externships**

**Learning from Practice: Developments in Externship Pedagogy**
The Catholic University of America
March 5 - 8, 1998
Washington, DC

**2000s**

**Externships 2**

**Learning from Practice**
The Catholic University of America
March 7- 8, 2003
Washington, DC

**Externships 3**

**Learning from Practice: National Conference**
March 24 - 25, 2006
Los Angeles, CA

**Externships 4**

**A Bridge to Practice**
February 15 - 16, 2008
Seattle, WA

**2010s**

**Externships 5**

**Externships in Changing Times**
March 4 - 6, 2010
Miami, FL

**Externships 6**

**Preparing Lawyers: The Role of Field Placement**
March 1 - 4, 2012
Harvard Law School & Northeastern University School of Law
Boston, MA

**Externships 7**

**Scaling New Heights: Field Placements & the Reform of Legal Education**
February 27 - March 2, 2014
University of Denver, Sturm College of Law, Denver, CO
Externships 8
Building on Common Ground: Externships, Clinics & Practice-Based Education
March 3 - 6, 2016
Cleveland-Marshall College of Law
Cleveland, OH

Externships 9
Coming of Age
March 9 - 11, 2018
University of Georgia School of Law
Athens, GA
<table>
<thead>
<tr>
<th>Year</th>
<th>Standard</th>
<th>Summary</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1921</td>
<td>First four standards</td>
<td>Admission to bar after graduation from law school – at least 2 years of college; 3 years of full-time study or longer if part-time; adequate library; sufficient full-time teachers</td>
<td>ABA approved 67/80 full-time schools and 7/98 part-time by 1930</td>
</tr>
<tr>
<td>1969</td>
<td>20 Standards Standard XIV</td>
<td>Addressed additional means and methods of law training in addition to regular courses – listed activities included 1) law review; 2) legal aid clinic; 3) law clubs; 4) SBA; 5) student briefing service; 6) part-time law clerk service to judiciary; 7) sponsorship or apprenticeship system; 8) tutorial system</td>
<td></td>
</tr>
<tr>
<td>1973</td>
<td>54 Standards Standard 304 explicitly mentions “clinical work” and “studies or activities away from the law school” in Std. 306</td>
<td>306(a) class hours must be commensurate with time and effort expended; (b) studies or activities must be approved in advance by established procedures; (c) review by faculty to insure educational objectives achieved; (d) at least 900 hours class time in actual attendance in regularly scheduled class sessions</td>
<td></td>
</tr>
<tr>
<td>1977</td>
<td>Interpretation 1 of 306(c)</td>
<td>“lack of substantial supervision given by a law school faculty to law students working with practicing lawyers throughout a state does not conform with [Std. 306(c)].”</td>
<td>Emphasized the need for faculty oversight</td>
</tr>
<tr>
<td>1979</td>
<td>Interpretation 1 of 306(c)</td>
<td>“[s]tudent participants in a law school externship program may not receive compensation for a program for which they receive academic credit.”</td>
<td>Sought to remove conflict of interest with firms looking to get money’s work rather than adequately supervising</td>
</tr>
<tr>
<td>1986</td>
<td>Interpretation 2-306</td>
<td>First time that specific criteria for externships were added</td>
<td>Dean Frank Walwer: “increasing concerns over the administration of externship programs” prompted a</td>
</tr>
<tr>
<td>Year</td>
<td>Interpretation 2-306 amended to require law schools and Accreditation Committee to conduct more detailed review of externship programs listing nine factors to be considered</td>
<td>(1) adequacy of instructional resources; (2) classroom component (3) prereqs for student participation; (4) number of stds participating; (5) amt of credit awarded; (6) eval of student achiev; (7) qualifications &amp; training of field instrs; (8) eval of field instrs; (9) visits to placements 1-2-306(d)</td>
<td>special meeting of the Council in fall 1986</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>1993</td>
<td>Interpretation 2-306(e) imposed six requirements for programs in which field supervisors were responsible for direct supervision of students</td>
<td>(1) student complete full year of study before participation; (2) periodic review of program by full-time faculty; (3) established and regularized communication among students, faculty and field instructors; on-site visit preferred; field instr participate with faculty in eval of students achievement; (4) review by full-time faculty to consider a) time devoted by student to placement; b) tasks assigned to student; c) selected work product of student; d) field instr’s performance</td>
<td></td>
</tr>
<tr>
<td></td>
<td>I 2-306(f) law school could apply for variance from requirement that full-time faculty member be involved in “extraordinary circumstances” if substituted admr or part-time faculty member had sufficient experience</td>
<td></td>
<td></td>
</tr>
<tr>
<td>I-306(g) close scrutiny by Accred Comm where amt of credit is substantial, student/faculty ratio is high, placement significant distance from school, or placement initiated by student rather than school</td>
<td></td>
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<td>---</td>
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</tr>
<tr>
<td>“special attention to placement clinics is warranted because placement clinics have a well-deserved, but unnecessary, bad name in academic circles. . . “ “...it is a poorly kept secret that some schools have established placement clinics primarily in response to [the desire of law students for real world experience and enhanced job placement opportunites; some lawyers want to be involved in legal ed and have access to free labor; law school administrators want them to keep students and lawyer constituents happy] and not because of any belief that they offer valuable educational experiences.” . . . “Some law schools (probably fewer than five, possibly as many as ten) are operating placement clinics which successfully achieve [the objectives structured learning experience, supporting materials provided and discussed; student reflection on their experiences and demonstrated levels of comprehension and improvement]”</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<p>| 1996 | Std 306 renumbered 305 |</p>
<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aug 1999</td>
<td>305 Amended</td>
<td>Class hours requirement expressed in minutes and not fewer than 45,000 min required in regularly scheduled classes; for the purposes of 305 and Interps faculty member means a member of full-time, part-time or adjunct faculty; schools may use faculty members from other schools to supervise, assist or review program</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Much of previous I-306-2 raised into text of 305 and new sections (e) and (f) added: e)field placement approved and reviewed periodically utilizing 10 factors and (f) additional requirements for field placement programs</td>
</tr>
<tr>
<td>2004</td>
<td>305 Amended</td>
<td>305 (e)(5) requires site visits if fieldwork credits exceed 6</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Classroom component language softened to include other means of guided reflection</td>
</tr>
<tr>
<td>2005</td>
<td>305 Amended</td>
<td>305(e)(5) requires “periodic on-site visits or their equivalent” if fieldwork credits exceed 3</td>
</tr>
<tr>
<td>2006 – 2013</td>
<td>No Changes</td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>305 Amended</td>
<td>Title change: Field Placements and Other Study Outside the Classroom</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Add references to moot court, law review, and directed research, moved to body from prior I-305-1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>305(e)(5) requires contemporaneous opportunity for reflection if student may earn more than 2 credit hours in a field placement program</td>
</tr>
<tr>
<td>2015</td>
<td>305 Amended</td>
<td>305(e)(6) amended to remove prior limit on participation: The program must include a requirement that each student has successfully completed sufficient prerequisites or contemporaneously receives sufficient training to assure quality of educational experience in the program</td>
</tr>
<tr>
<td>2016</td>
<td>304</td>
<td>Completely rewrites standards regarding clinic, fieldwork, and simulation courses. I-304-1 provides that a field placement to qualify as an experiential course must comply with requirements of Standard 303(a)(3).</td>
</tr>
</tbody>
</table>