



BAY AREA CONSORTIUM ON EXTERNSHIPS PRESENTS:

A STUDENT PERSPECTIVE ON BUILDING AND STRENGTHENING YOUR AGENCY'S EXTERNSHIP PROGRAM



Golden Gate University School of Law, JFK University College of Law, Santa Clara University School of Law, Stanford Law School, UC Berkeley School of Law, UC Davis School of Law, UC Hastings College of the Law, UOP McGeorge School of Law, University of San Francisco School of Law

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Hosted by UC Berkeley School of Law**

A STUDENT PERSPECTIVE ON BUILDING AND STRENGTHENING
YOUR AGENCY'S EXTERNSHIP PROGRAM

SUPERVISING ATTORNEY TRAINING, NOVEMBER 1, 2016

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Presenter Bios:

Moderator: Sue Schechter is a Lecturer in Residence and the Director of the Field Placement Program at UC Berkeley, as well as the Faculty Co-Director for the Law School Pro Bono Program/SLPS (Student-Initiated Legal Services Program). Sue has worked in law school administration and law student support positions, including Associate Dean for Student Services and Assistant Dean for Law Career & Alumni Services. Prior to her work at law schools, Schechter worked at the Mental Health Advocacy Project; directed the Public Interest Law Program at the Public Interest Clearinghouse (now OneJustice, Inc.); and was an early organizer with the National Association for Public Interest Law (now Equal Justice Works). Sue is a founder of BACE and is active with AALS Externship and Pro Bono/Public Service Section work.

Sherri Bridgeforth is a 3L at **Golden Gate University School of Law**. She is interested in labor and employment law. Currently, Sherri is interning with the Women's Employment Rights Clinic at GGU. In the past, she has held externships with the United States Attorney's Office, the San Francisco Superior Court, and the Justice & Diversity Center's Homeless Advocacy Project. Before coming to law school, Sherri worked as a civil servant for the California Dept. of Community Services and Development and the California Department of Health Care Services. During that time she served as a shop steward of the Services Employees International Union (SEIU) Local 1000 and on the executive board for SEIU's District Labor Council 787. She attended Dominican University of California and earned undergraduate degrees in Politics and Psychology.

Juliana Franco is a 3L at the **UC Hastings College of the Law**. She is currently a law clerk at the Legal Aid Society – Employment Law Center, a SF-based nonprofit that has been helping the community for 100 years. Prior to working at the ELC, she worked at a large defense-side labor & employment law firm, at the UCSF-UC Hastings Medical-Legal Partnership for Seniors Clinic, and at the Center for WorkLife Law. Juliana has worked on a wide range of matters including state and federal family leave policies, worker classification, accommodations, discrimination, harassment, retaliation, and advance planning. Due to her interest in Health Law and Labor & Employment law, she has written on topics related to employee welfare benefits and women's participation in the workforce and serves as the Executive Notes Editor of the *Hastings Science and Technology Law Journal*. She earned her B.A. in Political Science from the University of California, Berkeley in 2014.

Jamie Knauer is a 3L at **UC Davis School of Law** who is currently participating in a full-time externship with Magistrate Judge Jacqueline Scott Corley at the US District Court for the Northern District of California in San Francisco. This past summer, Jamie worked in San Francisco at Reed Smith LLP as a summer associate and will return to the law firm as an associate after graduation in 2017. Over his 1L summer, Jamie externed in state court for Judge Robert McGuiness in Alameda County Superior Court in downtown Oakland.

Anna Manuel is a fourth-year part time law student at **University of San Francisco School of Law**. She earned her BA in Anthropology from SF State University. She currently interns for the USF School of Law Immigration and Deportation Defense Clinic, representing unaccompanied minors and women in asylum cases. She has volunteered with No More Deaths (No Más Muertes), providing humanitarian aid to migrants crossing the Sonora Desert. She also externed at the Center for Justice and Accountability, where she researched and prepared legal memos regarding civil suits brought under the Alien Tort Statute and Torture Victims Protection Act, and international law. In summer 2015, she interned at the Berkeley Law Human Rights Center (HRC), where she assisted HRC's Atrocity Response Program with the drafting of a multi-country report on victim participation at the International Criminal Court. In spring 2015, she interned with the Frank C. Newman Human Rights Clinic. After her first year in law school, she interned with Asylum Access, where she researched and wrote about the use of innovation and technology in advancing refugee rights.

Olivia Sideman is a 3L at **Berkeley Law**. Prior to law school, she worked in New York City at the Vera Institute of Justice, conducting research on a broad range of issues including the impacts of race and ethnicity on prosecutorial decision-making and the provision of public defense for individuals with mental health needs. Since starting law school, she has worked towards a career in public defense. She spent her first summer at the San Francisco Public Defender's Office and her second summer at the Bronx Defenders. During her second year of law school she participated in Berkeley's Immigration Clinic and in an externship at the Contra Costa County Public Defender's Office. She is currently in Berkeley's Death Penalty Clinic and seeking employment as a public defender.

► Agenda

1. Introductions & Goals
2. The Student Perspective:
 - Why We do Externships
 - Applying for Externships
 - The Experience: Orientation, Assignments, Feedback, Evaluation Process
 - Integration into the Office and Mentoring
 - Questions for Students from the Audience
3. How BACE Can Assist and Support

► Learning Goals

1. To provide the student perspective on what is beneficial and helpful before and during the externship experience.
2. To identify concrete ways that BACE and the field placement/externship directors can support organizations and supervisors.

Updates to ABA Field Placement
Standards and
Responsive BACE Materials

ABA STANDARD GOVERNING EXTERNSHIP PROGRAMS

The American Bar Association, among many things, is the entity responsible for the accreditation of law schools. The Standards for Approval of Law Schools established by the American Bar Association are minimum requirements designed to aid law schools reach the goal of providing a sound program of legal education. ABA Standard 304 sets out the requirements for the development and operation of externships or field placement programs like those operated by BACE member schools.

In August 2016, the ABA replaced the previous governing section with ABA Standard 304(c).

The relevant portion of the standard is included here for your reference.

ABA Standards and Rules of Procedure for Approval of Law Schools 2016-2017

- (c) A field placement course provides substantial lawyering experience that (1) is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a setting outside a law clinic under the supervision of a licensed attorney or an individual otherwise qualified to supervise, and (2) includes the following:**
 - (i) direct supervision of the student's performance by a faculty member or site supervisor;**
 - (ii) opportunities for performance, feedback from either a faculty member or a site supervisor, and self-evaluation;**
 - (iii) a written understanding among the student, faculty member, and a person in authority at the field placement that describes both (A) the substantial lawyering experience and opportunities for performance, feedback and self-evaluation; and (B) the respective roles of faculty and any site supervisor in supervising the student and in assuring the educational quality of the experience for the student, including a clearly articulated method of evaluating the student's academic performance;**
 - (iv) a method for selecting, training, evaluating and communicating with site supervisors, including regular contact between the faculty and site supervisors through in-person visits or other methods of communication that will assure the quality of the student educational experience. When appropriate, a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program;**
 - (v) a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection; and**
 - (vi) evaluation of each student's educational achievement by a faculty member.; and**
 - (vii) sufficient control of the student experience to ensure that the requirements of the Standard are met. The law school must maintain records to document the steps taken to ensure compliance with the Standard, which shall include, but is not necessarily limited to, the written understandings described in Standard 304(c)(iii).**

The new ABA standard made several significant changes to the way that field placements (the standard uses this term, even though in practice it is used interchangeably with externships) are required to operate. Below is a summary of some that may be relevant to those who host externs.

- **The provisions governing field placements were moved from ABA Standard 305** (covering “Other Academic Study”) to the section governing clinics and simulation courses. This move was an acknowledgement that field placements more aligned with clinics and simulation courses, and are an opportunity centered on student learning.
- **304(c)(vi) requires that there be a three-way memorandum of understanding between the faculty supervisor, “a person in authority” at the externship site, and the extern. The MOU must describe the “substantial lawyering experience and opportunities for performance, feedback, and self-evaluation.” It also must articulate the roles of each supervisor, and articulate a method to evaluate the student’s academic performance.**
- 304(c)(vii) added language that the **school is required to have “sufficient control of the student experience** to ensure that the requirements of the Standard are met.”
- The new standard **removed the prior ban on receiving academic credit** for an experience while simultaneously being paid. While the prohibition against this has been removed, each school will determine if it is going to permit paid externships.

BACE’s Response:

As a result of these new requirements, BACE crafted a new Externship Agreement form (the form signed before or during the first week of an externship). This document became a three-way agreement, including the faculty supervisor and delineating the faculty responsibilities. It also gave a more particularized explanation of the substantial lawyering experience, and was more explicit about many of the expectations for opportunities for performance, feedback, and self-evaluation.

A copy of the new Agreement form is attached, however, be aware that the ABA is continuing to clarify its expectations during ABA site visits and through other means. Thus, it is expected that the Agreement form will continue to evolve. As supervisors, please be aware of this and read the form carefully.

The mid-semester self-assessment was also altered to require site supervisor feedback to the extern that supplements the self-evaluation. This was done, in part, to demonstrate compliance with the standard’s requirement for multiple opportunities for feedback. This form is also attached.

If you have thoughts about the form, or about what it should include, please reach out to a BACE member, as we welcome your insights and thoughts.

SITE SUPERVISOR, FACULTY SUPERVISOR, AND STUDENT EXTERN AGREEMENT

Extern: _____ Semester/Year: _____

Site Supervisor(s): _____

Placement: _____

Faculty Supervisor(s): _____

The following are the minimum standards expected of site supervisors, faculty supervisors, and externs to receive academic credit. All externships will consist of two components: (a) a work experience under the supervision of the site supervisor; and (b) an academic component under the supervision of the faculty supervisor.

Site Supervisor's Agreement:

Thank you for your support, supervision, and mentoring of a law student extern. Please fill in the necessary information, initial each standard, and add any comments on this form. As a site supervisor, I agree to the following:

_____ **Orientation:** I will ensure that the extern receives an orientation, including a discussion of office procedures and confidentiality, and an overview of the work and expectations of the extern.

_____ **Supervision:** I have the authority, ability, and resources to ensure that the extern has a supervising attorney who will actively direct, monitor, and mentor him or her throughout the semester.

_____ **Communication:** I will inform the extern of the system for assigning work projects and ensure he or she is given clear deadlines and will receives ongoing guidance for managing the workload.

_____ **Skills Development:** The extern will be engaged in a substantial lawyering experience that includes multiple opportunities for performance, feedback, and self-evaluation.

_____ **Assignments:** The extern will be assigned work that is similar to that of a law clerk or entry-level staff attorney, including exposure to a broad range of lawyering skills. Assignments may include drafting documents and pleadings, researching and writing memoranda, interviewing clients and witnesses, attending conferences, negotiations or mediations, and observing or participating in meetings, depositions, or court proceedings. Administrative work will be kept to a minimum.

_____ **Feedback:** The extern will be provided specific, individualized, and timely feedback on their work.

_____ **Observation:** The extern will have opportunities to observe court proceedings, client/staff/strategy meetings, and other appropriate professional activities.

_____ **Opportunities for Reflection:** The extern will meet with his/her supervisor, other attorneys and staff to discuss his/her observations, experiences, and other issues relevant to the profession.

_____ **Supervisor Accessibility:** The extern and supervising attorney will meet at least weekly. In addition to any standing meetings, the supervising attorney will be able to meet with the extern as needed to provide support and feedback on assignments.

_____ **Forms:** I will comply with the school's evaluation requirements, including reviewing any student self-assessments, completing evaluations, and providing feedback to the extern in a timely manner.

_____ **Logistics:** I will verify that the extern has a designated workspace and access to the tools (e.g., telephone, computer, library) and support reasonably necessary to complete assignments.

_____ **Legal Compliance:** My organization is responsible for ensuring that our labor and employment practices are in compliance with state, local, and federal laws as related to the externship.

_____ **Bar Admission/Status:** I certify that my first bar admission was to the (state) _____ Bar in (month/year) _____ and that I am currently an active member with the (state) _____ Bar.

Extern's Agreement:

The extern should fill in the necessary information, initial each standard, and add any comments on this form. As an extern, I agree to the following:

_____ **Professionalism:** I agree to follow directions, seek clarification and advice in a timely fashion, and comport myself with professionalism and integrity.

_____ **Development Goals:** I will create goals for the semester of how I plan to develop professionally and will discuss these with my site supervisor and faculty supervisor.

_____ **Academic Component:** I agree to complete all required readings, evaluations, and/or other assignments requested by the faculty supervisor.

_____ **Opportunities for Reflection:** I will reflect on the observations, experiences, ethical considerations, and other issues that arise during my externship. As directed by my faculty supervisor, I will submit reflection papers or journals analyzing my experiences. In so doing, I will be mindful of my confidentiality obligations.

_____ **Self-Evaluation:** I will strive to self-assess on each assignment I complete. In so doing, I will consider what I did effectively and areas for improvement. Where possible and appropriate, I will discuss my self-assessment with my faculty and site supervisors. I will be open to feedback from my supervisors and will consider how it can be applied specifically and globally to my future work.

The start and end dates of my externship are:

Start Date: _____ **End Date:** _____

Number of units of credit I seek for this externship: _____ (#). I understand that to receive credit I must on average work _____ (#) hours per week for _____ (#) of weeks, for a total of _____ hours during the semester.

During this semester, I have the following classes and commitments:

Name of Class/Commitment:

Day/Time/# Hours per week:

| | |
|--|--|
| | |
| | |
| | |
| | |
| | |

Faculty Supervisor's Agreement:

The faculty supervisor has read and agreed to perform the following:

Academic Requirements: I will establish requirements (including readings, reflective papers or journals, and/or other assignments) designed to develop the extern's experience in their placement, including encouraging self-evaluation and reflection.

Site Evaluation: I will remain in regular contact, including possible visits, with the externship site and the extern to ensure the quality of the educational experience.

Availability: I will be available as a resource should any concerns or issues arise.

Evaluation: I will evaluate the extern's academic performance during the externship. The assessment will be based, inter alia, on the extern and supervisor evaluations, timely compliance with requirements, the quality of the self-reflection, and professionalism. Based on this evaluation, I will determine whether credit should be granted.

We have reviewed this document and agree to act in accordance with these expectations.

Signature of Student Extern:

Date: _____ Email Address: _____

Contact Phone Number: _____

Signature of Supervising Attorney:

Date: _____ Email Address: _____

Contact Phone Number: _____

Signature of Faculty Supervisor:

Date: _____ Email Address: _____

Contact Phone Number: _____

Please return this form to: SCHOOL CONTACT PERSON

BACE Bay Area Consortium on Externships
MID-TERM SELF-ASSESSMENT

Extern: _____ Semester/Year: _____

Supervisor(s): _____

Placement: _____

At this midpoint in your externship, you have completed a body of work and received feedback from which you may assess your skills. You are encouraged to be thoughtful, candid and specific in your assessment. Upon completion, please discuss your self-assessment with your placement supervisor and make any modifications needed. If something is not applicable, please explain the reason in the comments box.

| | |
|--|--|
| Please provide a brief description of the range of tasks and responsibilities you have been given thus far: | |
| | |
| Research and Analytical Skills | How well are you able to identify and address relevant issues; how thorough and complete is your research; are you able to develop an effective and efficient research strategy? |
| Comments/Examples: | |
| Writing Skills | How well-organized, clear, grammatically correct, and persuasive is your writing? Are your citations accurate and in proper form? Is your writing tailored to your audience's needs? |
| Comments/Examples: | |
| Legal Knowledge | Have you demonstrated adequate familiarity with basic concepts of applicable law and procedure? |
| Comments/Examples: | |
| Oral Skills | How well do you orally communicate concerning legal matters; how clear is your presentation; how well do you respond to questions? |
| Comments/Examples: | |
| Ethical Concerns | Have you recognized ethical issues and raised them appropriately, do you conform with office confidentiality protocols, etc.? |
| Comments/Examples: | |

| | |
|--|--|
| Attitude and Work Habits | How dependable and reliable are you? How well do you manage your time? Do you demonstrate attention to detail? How organized and up to date are you with assignments? How well do you receive feedback and incorporate suggestions into subsequent work? |
| Comments/Examples: | |
| Professionalism | Do you demonstrate maturity, good judgment, and sensitivity in interactions with other staff, judges, etc.? |
| Comments/Examples: | |
| Please describe the areas/skills that you will focus on improving over the remainder of the semester. | |
| Have you been receiving specific, individualized and timely feedback on your assignments? Is the feedback oral, written or both? Has this feedback been effective? | |
| Are there any ways in which your externship experience can be enhanced? | |

| |
|--|
| Supervisor's Comments on Extern's Self-Assessment (is the assessment consistent with the feedback the extern has received to date, thoughts on what the extern should focus on in the remaining weeks, etc.): |
| |

Please discuss the content of this evaluation with your supervisor.

Student Extern Signature

Date

Supervising Attorney/Law Clerk or Judge Signature

Date

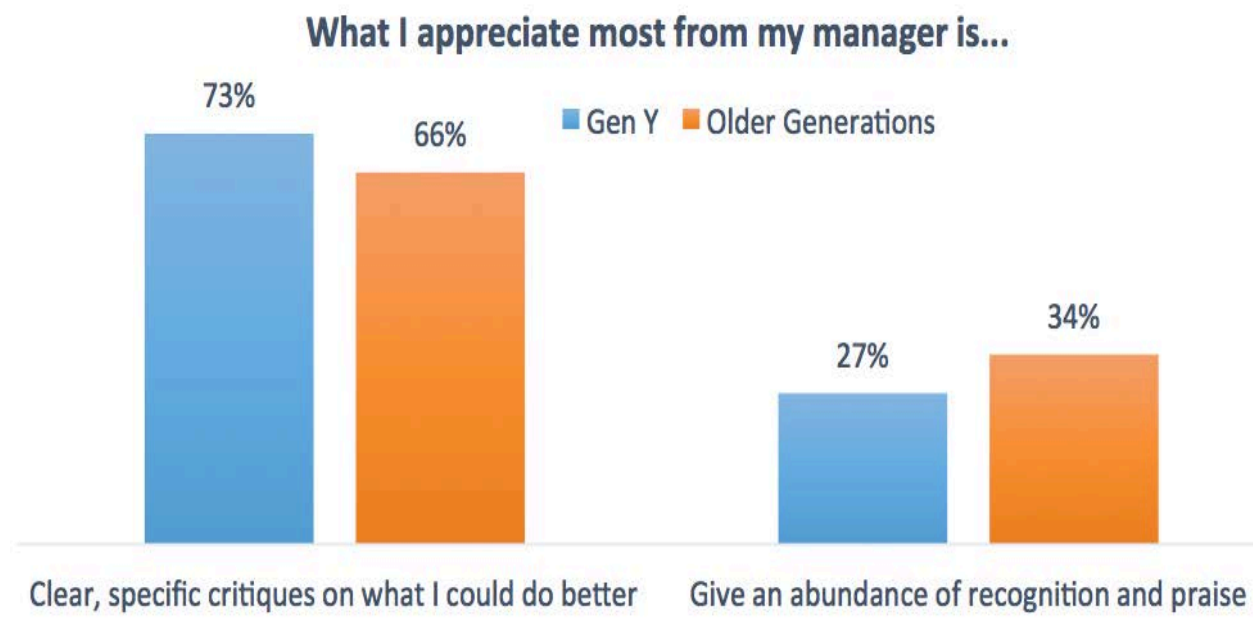
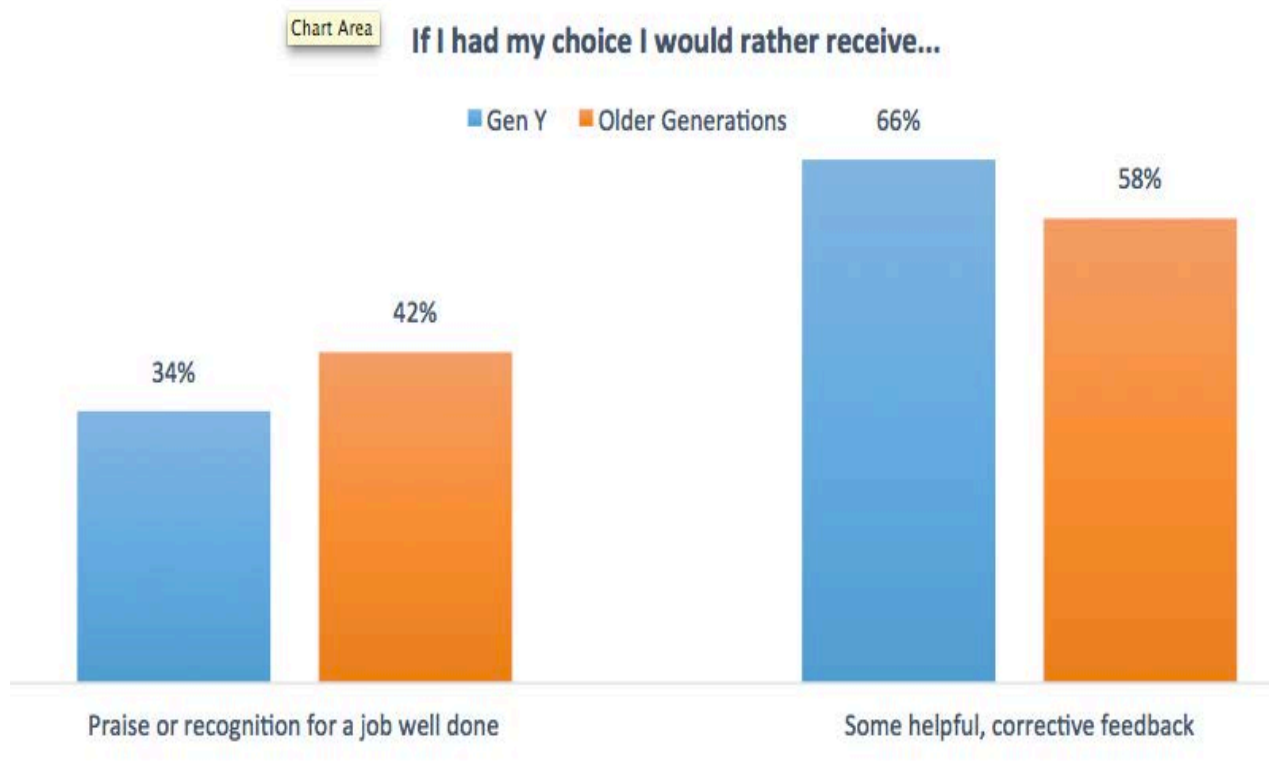
This form was developed and adopted for use by the Bay Area Consortium on Externships (BACE). Participating schools: Golden Gate University School of Law, JFK University College of Law, Santa Clara University School of Law, Stanford Law School, UC Berkeley School of Law, UC Davis School of Law, UC Hastings College of the Law, University of the Pacific/McGeorge School of Law, University of San Francisco School of Law.

Feedback Materials

PART I

Feedback: Just Do It **(And Why You Should)**

Remember: Generation Y reports wanting to receive negative feedback:



Source: Folkman, available at: <http://www.forbes.com/sites/joefolkman/2014/05/22/does-gen-y-really-want-honest-feedback/>

Feedback Best Practices: Provide Timely and Constructive Feedback on All Assignments¹

Timely Feedback –

Externs should receive timely feedback on every completed assignment from the assigning attorney. One supervision model suggests that supervision should be FAST:

- a) **Frequent** – the weekly meetings work well to assure the frequency of feedback;
- b) **Accurate** – describe actions or behaviors that can be addressed, not the person;
- c) **Specific** – pinpoint discrete identifiable points to be replicated or improved upon;
- d) **Timely** – if too much time passes, externs are likely to repeat their mistakes.

Constructive Feedback –

You may be reluctant to critique an extern's work, but externs need, deserve, and actually want honest feedback. Without feedback, externs often assume that "no news is good news," and will continue to repeat the same errors unless they are given specific suggestions regarding how to improve. Because student externs are not compensated monetarily for their work, it is useful to think of feedback as the "payment" they receive for the hours they are working. Beryl Blaustone, Professor of Law, CUNY School of Law, and Director of the Mediation Clinic at Main Street Legal Services, Inc., developed a six step model to assist field or clinical supervisors in giving students constructive feedback.²

This model works best when both the student and the supervisor have independently spent time assessing the student's performance before engaging in the feedback session. It is time-consuming but very effective.

As with all feedback it is best for the assessment to be as specific as possible and include lots of examples. (Instead of "I did well talking to the client" the supervisor should be focused on "What exactly did you do well?" and "What evidence do you have that it went well?").

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

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

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

¹ Excerpt from BACE Best Practices Manual and University of Denver Supervising Attorney Manual.

² Beryl Blaustone, Teaching Law Students to Self-Critique and to Develop Critical Clinical Self-Awareness in Performance, 13 Clin.L.Rev. 601 (2006).

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

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

Step Six: The Supervisor Indicates Additional Difficulties: This final stage involves another wide open exploration of all facets of the performance. The discussion focuses on aspects that were not satisfactorily accomplished, again with specific illustrations and concrete analysis. Externs are encouraged to engage with you in a collaborative supervision mode, not a passive one. We suggest that you encourage externs to assess their own work, to identify and discuss what they found challenging, and to suggest their ideas as to how the work could be improved.³

³ See, A. Alexander and J. Smith, A Practical Guide to Cooperative Supervision for Law Students and Legal Employers, 29 Law Office Economics and Management 207 (1988).

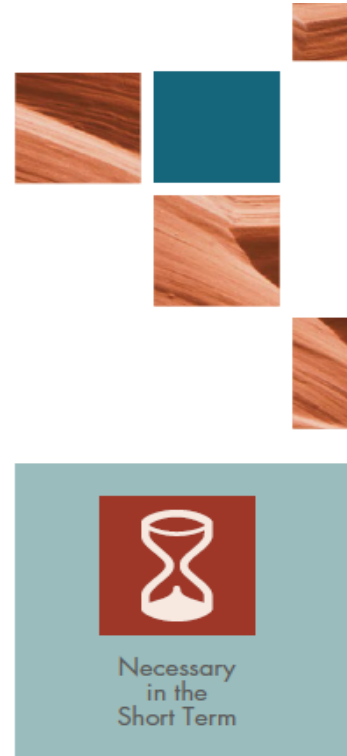
Don't Hesitate: Provide Feedback on Professionalism

Feedback is traditionally provided on research, writing, and oral presentations or court appearances, but new study data suggests that supervisors should be providing feedback on professionalism characteristics. A 2016 study from Educating Tomorrow's Lawyers (ETL) found that, of the top ten skills that hiring attorneys⁴ from all arenas cited as necessary, not a single one was a traditional legal skill. Rather, as you see below, these traits related more to professionalism and work ethic. Thus, feedback on an extern's confidentiality, timeliness, integrity, reliability, etc., is as—or more—important than providing this for traditional legal skills.

Considering the data from a different vantage point, Table 1 below presents the ten individual foundations categorized as necessary in the short term by the largest proportions of respondents. Examination of these ten most urgent foundations provides further confirmation that legal skills tend to be considered less urgent than characteristics and professional competencies—in fact, legal skills make no appearance in the top ten foundations new lawyers need for success right out of law school.

Table 1: Top 10 Foundations Categorized as Necessary in the Short Term

| Percent Indicating Necessary in the Short Term | Type | Category | Foundation |
|--|-------------------------|--|---|
| 96.1% | Professional Competency | Professionalism | Keep information confidential |
| 95.4% | Professional Competency | Professionalism | Arrive on time for meetings, appointments, and hearings |
| 93.7% | Characteristic | Professionalism | Honor commitments |
| 92.3% | Characteristic | Qualities and Talents | Integrity and trustworthiness |
| 91.9% | Professional Competency | Emotional and Interpersonal Intelligence | Treat others with courtesy and respect |
| 91.5% | Professional Competency | Communications | Listen attentively and respectfully |
| 91.0% | Professional Competency | Communications | Promptly respond to inquiries and requests |
| 88.4% | Characteristic | Qualities and Talents | Diligence |
| 88.1% | Characteristic | Passion and Ambition | Have a strong work ethic and put forth best effort |
| 87.8% | Characteristic | Qualities and Talents | Attention to detail |



⁴ The methodology for the study, and the full results, can be found at: <http://iaals.du.edu/educating-tomorrows-lawyers>. This data was compiled based on responses from over 24,000 attorneys.

The ETL Report still found that respondents required traditional legal skills, but found these less urgent than the professionalism traits above. In part, this was because hiring lawyers expected that new attorneys would be developing these skills over time.

Conversely, a closer look at the ten foundations that the largest proportion of respondents indicated must be acquired over time suggests it is legal skills that lawyers tend to think of as the foundations that should be cultivated throughout practice—and are not necessary in the short term.

Table 2: Top 10 Foundations Categorized as Must be Acquired Over Time

| Percent Indicating Must be Acquired over Time | Type | Category | Foundation |
|---|-------------------------|--------------------------------|--|
| 73.7% | Professional Competency | Professional Development | Develop expertise in a particular area |
| 70.0% | Legal Skill | Transactional Practice | Determine appropriate risk mitigation strategies |
| 67.1% | Professional Competency | Workload Management | Delegate to and manage support staff appropriately |
| 67.0% | Legal Skill | Transactional Practice | Objectively assess the soundness of a deal or proposed solution in terms of risks and rewards |
| 65.5% | Legal Skill | Litigation Practice | Prepare a case for trial |
| 64.8% | Legal Skill | Transactional Practice | Maintain knowledge of the relevant business, industry, and wider business landscape |
| 64.4% | Legal Skill | Litigation Practice | Provide quality in-court trial advocacy |
| 62.6% | Professional Competency | Working with Others | Determine ways to increase value to clients or stakeholders |
| 62.6% | Legal Skill | Legal Thinking and Application | Assess possible courses of action and the range of likely outcomes in terms of risks and rewards |
| 62.3% | Professional Competency | Workload Management | Manage meetings effectively |

Feedback Materials

PART II

Feedback Tools:

Rubrics and Other Methods

What is a rubric?

A rubric is a coherent set of criteria for students' work that includes descriptions of levels of performance quality on the criteria. Sounds simple enough, right? Unfortunately, this definition of *rubric* is rarely demonstrated in practice. The Internet, for example, offers many rubrics that do not, in fact, describe performance...It should be clear from the definition that rubrics have two major aspects: *coherent sets of criteria* and *descriptions of levels of performance* for these criteria.

The genius of rubrics is that they are descriptive and not evaluative. Of course, rubrics can be used to evaluate, but the operating principle is you match the performance to the description rather than "judge" it. Thus rubrics are as good or bad as the criteria selected and the descriptions of the levels of performance under each. Effective rubrics have appropriate criteria and well-written descriptions of performance.

Source: *Susan M Brookhart, How to Create and Use Rubrics for Formative Assessment and Grading, ch. 1 (2013).*

How rubrics can help you? Some options on how rubrics can be used in supervising externs.

- **Take notes on a rubric** as you review student work, to give you a better sense of exactly what needs to be worked on, and what was done well. **You don't need to hand it to the student.**
- If you have time, **fill out the rubric and have the student review it** when they get the work back prior to any discussion with them.
- **Have the student review his or her own work using the rubric** and fill it out and provide it to you, for comparison with your thoughts.
- If these seem onerous, **make a shortened rubric** (see last example), to give you categories or topics to discuss with the student. This format still provides more feedback than just line edits.
- **Give the rubric to the student when you give the assignment.** If the student uses it in preparing the work, it often will improve it before you even receive a draft or initial presentation.

Feedback Rubric for Written Work

Professionalism:

- Extern understood assignment, asking clarifying questions up front? ☐ not yet ☐ adequate ☐ excellent
- Extern worked independently, but communicated about progress and sought guidance when necessary? ☐ not yet ☐ adequate ☐ excellent
- Extern managed her/his time effectively and worked efficiently? ☐ not yet ☐ adequate ☐ excellent
- Deadline was met? ☐ yes ☐ no

Overall Legal Analysis:

- Defines legal issue precisely and accurately? ☐ not yet ☐ adequate ☐ excellent
- States a clear and precise prediction, rather than waffling (objective)
Or states position clearly and persuasively (advocacy)? ☐ not yet ☐ adequate ☐ excellent
- States general rule and briefly defines the tests? ☐ not yet ☐ adequate ☐ excellent
- Includes general concepts related to the relevant law (e.g., policy and/or principles underlying legal rule) ☐ not yet ☐ adequate ☐ excellent

Use of Facts:

- Uses key facts to frame the legal issue? ☐ not yet ☐ adequate ☐ excellent
- Presents facts in a readable format and is not disjointed? ☐ not yet ☐ adequate ☐ excellent
- Presents (only) relevant facts? ☐ not yet ☐ adequate ☐ excellent

Comments:

Overall Presentation:

| | | See these pages for examples of where presentation was “not yet” polished |
|---|---------------------------------|---|
| Memo is clear and concise? | <input type="checkbox"/> yes | |
| Memo effectively quotes? <i>(i.e., quotes selectively to highlight key facts/ reasoning)</i> | <input type="checkbox"/> yes | |
| Writing is fluid and readable? <i>(i.e., includes transitions; sentences are not overly long; phrasing is direct, rather than awkward)</i> | <input type="checkbox"/> yes | |
| Writing is free of “legalese” or unnecessary wordiness? | <input type="checkbox"/> yes | |
| Cites are correctly formatted and include precise pin cites? | <input type="checkbox"/> yes | |

| | | |
|--|---------------------------------|--|
| Memo is properly formatted? | <input type="checkbox"/> yes | |
| Writing is free of grammatical errors? | <input type="checkbox"/> yes | |

Issue #1:

- Follows a logical structure? ☐ not yet ☐ adequate ☐ excellent
- Includes a substantively correct and complete rule? ☐ not yet ☐ adequate ☐ excellent
- Case descriptions include useful facts and reasoning?
(i.e., case descriptions are not skimpy; and are not cluttered with unnecessary details) ☐ not yet ☐ adequate ☐ excellent
- Case descriptions begin with descriptive topic sentences? ☐ not yet ☐ adequate ☐ excellent
- Application is explicitly organized around legal concepts? ☐ not yet ☐ adequate ☐ excellent
- Application includes specific, explicit and relevant comparisons of our facts and case facts? ☐ not yet ☐ adequate ☐ excellent

Comments/Examples:

Issue #2:

- Follows a logical structure? ☐ not yet ☐ adequate ☐ excellent
- Includes a substantively correct and complete rule? ☐ not yet ☐ adequate ☐ excellent
- Case descriptions include useful facts and reasoning?
(i.e., case descriptions are not skimpy; and are not cluttered with unnecessary details) ☐ not yet ☐ adequate ☐ excellent
- Case descriptions begin with descriptive topic sentences? ☐ not yet ☐ adequate ☐ excellent
- Application is explicitly organized around legal concepts? ☐ not yet ☐ adequate ☐ excellent
- Application includes specific, explicit and relevant comparisons of our facts and case facts? ☐ not yet ☐ adequate ☐ excellent

Comments/Examples:

Additional Feedback Specific to the Assignment or Student Goals:

Feedback Rubric for Oral Research Report

Professionalism and Demeanor:

| | |
|---|---|
| Extern understood assignment, asked questions up front? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern made eye contact? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern was not overly relying on a computer? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern spoke clearly and at an understandable pace? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern appeared poised and confident? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern used professional and appropriate language? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern responded calmly and non-defensively to questions? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern listened to questions and answered the question asked? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |

Organization

| | |
|---|---|
| Extern started with an introduction (i.e. restating the question and offering an overview of the answer)? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern's presentation followed a logical structure? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| If needed, extern explained the organization to the listener? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| If needed, extern used transitions between points/topics? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| If materials were used, they assisted the listener? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |

Overall Legal Analysis:

| | |
|---|---|
| Was the legal issue defined precisely and accurately? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| If appropriate, extern stated a clear answer/prediction? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern identified the relevant authorities? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern was able to explain any relevant standard or test? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Explained the basis for the standard/test (statute/caselaw)? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern offered the "correct" level of detail on authorities (not overly conclusive, and not overly detailed)? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Where applicable, extern offered the key case information (court, year, relevant facts, holding)? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern understood and could explain how the authorities related to the case or question at hand? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| If applicable, extern clearly identified additional research or facts still needed about the case/question? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| If applicable, extern discussed any counter-analysis? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern was substantively able to respond to questions asked? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |
| Extern able to "adjust" analysis based on points raised in report? | <input type="checkbox"/> not yet <input type="checkbox"/> adequate <input type="checkbox"/> excellent |

Additional Comments:

Oral Communication Rubric – Generic Version

GOAL(S)

What were the primary goals of the communication? _____

Did student meet those goals? ☐ not yet ☐ adequate ☐ excellent

How/not? _____

AUDIENCE

Who was the express audience for the communication? _____

Who, if anyone, was the hidden audience? _____

Did the extern tailor her communication to the audience(s)? ☐ not yet ☐ adequate ☐ excellent

How/not? _____

PROFESSIONALISM/DEMEANOR

Extern's demeanor was appropriate for the audience? ☐ not yet ☐ adequate ☐ excellent

Pace was appropriate? ☐ not yet ☐ adequate ☐ excellent

Language was appropriate? ☐ not yet ☐ adequate ☐ excellent

Extern adhered to the time limit? ☐ not yet ☐ adequate ☐ excellent

Extern used the time effectively? ☐ not yet ☐ adequate ☐ excellent

Extern effectively answered questions? ☐ not yet ☐ adequate ☐ excellent

ORGANIZATION

Extern started with an introduction? ☐ not yet ☐ adequate ☐ excellent

Extern's presentation followed a logical structure? ☐ not yet ☐ adequate ☐ excellent

If needed, extern explained the organization to the listener? ☐ not yet ☐ adequate ☐ excellent

If needed, extern used transitions between points/topics? ☐ not yet ☐ adequate ☐ excellent

If materials were used, they assisted the listener? ☐ not yet ☐ adequate ☐ excellent

Additional Comments:

Shortened Rubric: Writing

Structure/Organization – Was this logical? Easy to follow? Clear to the reader?

Analysis – Clearly identifies issue/s? Synthesizes or states rule? Adequately supports rule? Applies rule to facts? Follows CREAC?

Mechanics – Follows grammar rules (sentence structure, punctuation, etc)? Correctly uses citations (in appropriate places and following Bluebook or CA style rules)?

Tone – Objective or Persuasive as needed? Tone is appropriate to assignment/audience?

Professionalism – Work was timely completed? Format was what was asked for/expected?

Shortened Rubric: Oral Report Back

Organization – Question restated up front? Followed a logical structure? Listener could follow?

Analysis – Logical? Sufficiently supported? Related to facts/case (if applicable)? Sufficient detail offered? Ultimate question was answered?

Presentation – Speed okay? Eye contact? Pace? Tone? Posture?

One Way to Generate Self-Evaluation and Focused Feedback with Externs – ask them to offer questions about their written product in Word Comments to elicit specific feedback.

Ask externs to put a few comments/questions in their work, in areas where they were struggling or want specific feedback. This can ensure that you are aware of where they are having questions and forces them to be assessing as they produce. An example is here – see the side questions from “A Student” that were submitted with the paper.

ARGUMENT

I. THE INFORMATION SHOULD BE SET ASIDE BECAUSE PROSECUTOR FAILED TO PRESENT SUFFICIENT EVIDENCE TO SHOW A REASONABLE OR PROBABLE CAUSE OF BURGLARY.

Under California Penal Code § 995, an Information must be set aside when the defendant was committed without reasonable or probable cause. Cal. Penal Code § 995(a)(2)(B). To determine reasonable or probable cause, the court, “acting as a man of ordinary prudence,” decides whether it can “conscientiously entertain a reasonable suspicion” that the defendant committed as offense. *People v. Donabue*, 46 Cal. App. 3d 832, 836 (1975). An Information will be set aside for insufficient reasonable or probable cause when there is no evidence that a crime has been committed or there is no evidence to connect the defendant with a crime. *See People v. Upton*, 257 Cal. App. 2d 677, 686 (1968). The burden of proof is on the prosecution to produce that evidence. *Id.* at 685.

Under California Penal Code § 459, any person who “enters any house...with intent to commit...larceny or any felony is guilty of burglary.” Cal. Penal Code § 459. Additionally, burglary of an inhabited dwelling is first-degree burglary. Cal. Penal Code § 460(a). In this case, the prosecution failed to present sufficient evidence to establish reasonable or probable cause that Mr. Gleason entered the dwelling with intent to commit a felony.

a. Neither Mr. Gleason’s presence on an open deck nor his phone in a room establishes probable cause that a burglarious entry occurred.

Courts have recognized that, “it is important to establish reasonable limits” as to what constitutes a burglarious entry. *People v. Calderon*, 158 Cal. App. 4th 137, 144. (2007). Today, burglary remains an invasion of possessory right that endangers the occupant’s personal safety and, thereby, potentially inviting more violence. *People v. Gauze*, 15 Cal. 3d 709, 715 (1975). The burglary statute’s purpose is not to deter trespass or intended crimes that are prohibited by other laws. *Calderon*, 158 Cal. App. 4th at 144. Rather, the burglary statute’s primary purpose is to protect against dangers to personal-safety inherent in intrusion. *See id.* Regardless of the approach courts use to determine sufficient . . .

A Supervisor

This phrasing of the standard is setting the bar pretty low – there are better quotes for your client.

A Student

I know you said to frame the standard favorably to our client. I tried to do so here. Did it work? Was that enough?

A Supervisor

I do see that you were trying to present the favorably for your client – that said, more could be done. Requiring that there was “no evidence” for overturning is too low. Did you find cases with language that was stronger for our client? (I.e. that the evidence had to be enough for a reasonable person to believe it?)

A Supervisor

Deleted: a reasonable or

A Student

I know you said to frame the standard favorably to our client. I tried to do so here. Did it work? Was that enough?

A Supervisor

Yes, nice start. It is succinct and frames the issue.

A Supervisor

Sorry, I don’t understand what this means.

Mentoring Resources

The Importance of Mentoring:

A May 2016 study out of Boulder, Colorado found that externships and mentorship have a strong correlation to student engagement in their post-grad work. See the following excerpt:

Building competencies by increasing the focus on individual students and adding programs with realistic experiential learning and mentorship opportunities provides a range of benefits. The Gallup-Purdue Index, initially released in 2014, surveys college graduates and evaluates whether the rising price of post-secondary education is worth the cost and whether graduates today are well equipped for success after graduation.⁴² Controlling for everything from personality type to student loan debt, Gallup concluded that a student who (1) felt that his or her professors cared about them as a person, (2) had at least one professor who made him or her excited about learning, and (3) had a mentor who encouraged him or her to pursue his or her goals and dreams is twice as likely to be engaged in his or her job after graduation.⁴³ For law schools, Gallup found that those students who also had an applied job or internship while in law school were 2.7 times more likely to be engaged in their job after graduation. As Stephanie Marken from Gallup put it, “It is not where you go, but how you go.”⁴⁴

Across the various studies, mentoring and feedback surface as common experiences among highly successful people. The earlier in time that skills are cultivated, the quicker an individual is able to execute a skill correctly and become an expert at that skill.⁴⁵ Mentoring and feedback help ensure that students who begin to develop specific competencies early on in law school will maintain a competitive advantage over those colleagues who do not begin skill development until after graduation. This framework helps weave the competency-based learning model directly into the law school pedagogy. While transforming the delivery of education takes time, there are programs that have implemented such measures to produce engaged and successful graduates.⁴⁶

³⁹ *Id.*

⁴⁰ *Id.* at 18.

⁴¹ *Id.*

⁴² Gallup, Inc., *Gallup-Purdue Index 2015 Report: Great Jobs, Great Lives. The Relationship Between Student Debt, Experiences and Perceptions of College Worth 2* (2015).

⁴³ *Id.* at 17.

⁴⁴ The inaugural Gallup-Purdue Index in 2014 indicated that the type of institution an alumnus attended mattered less than what he or she experienced while there. *Id.* at 16.

⁴⁵ For a similar discussion of skill mastery and the effects of deliberate practice, see Geoff Colvin, *Talent is Overrated* Ch. 4 (2009).

⁴⁶ For an in-depth discussion of how micro-innovations help education models respond to changing industry dynamics, see Valerie Hannon, ‘Next Practice’ in *Education: A Disciplined Approach to Innovation* (The Innovation Unit Feb. 2007), available at <http://www.innovationunit.org/sites/default/files/Next%20Practice%20in%20Education.pdf>.

Source Information:

<http://siliconflatirons.org/wp-content/uploads/2016/08/201605LawSchoolInnovation.pdf>

Tips for Mentors

As you prepare for your role as a mentor in the program, consider the following 10 Tips to being an effective mentor. Being a mentor in the program will allow you to reflect on your own path, assess what has worked and not along the way, and to assist an emerging leader along the path. As a mentor you will be part teacher, part thinking partner, and a curious listener and coach. The mentoring relationship is about growth for the mentee, certainly; *and* we hope you will find it is about growth for the mentor as well.

1. **Consider your own past and path.** Before beginning with your mentee, take time to reflect on when you were in the same career place as your mentee. What was most useful to you at that time in moving to the next stage? What did your mentors do that were most effective for you?
2. **Make time for real conversations.** Clear time to have “real” conversations rather than rushed check ins with your mentee. Get to know your mentee on a personal as well as professional level and allow them to know you. Share your thinking and insights with your mentee and ask him/her to do the same.
3. **Give them a structure for success.** The mentoring conversations should be *purposeful* and not just interesting. The relationship should have a progressive feel to it; resulting in action for the mentee. A useful model to guide a conversation with your mentee about their goals, aspirations and actions is as follows:
 - **Goals:** What are your goals?
 - **Action:** What do you and I agree to in order for you to take action toward your goals? What actions did you take or will you take?
 - **Progress:** What progress are you seeing? What needs to be adjusted?
4. **Share your stories.** Mentoring is partly about sharing our own experiences and largely about helping the mentee discover their own path. As appropriate, share knowledge or insights that would be useful to the person you are mentoring. Often, this will involve stories of your major points of growth and change along the way—what allowed you to reach the next level?
5. **Ask as much or more than you share.** Mentoring helps people uncover what is important to them, their goals and aspirations. It helps the mentee clarify their thinking and put actions in place to move forward. Asking questions in addition to simply “telling” allows the mentee to access their own internal wisdom. Listen deeply to what matters most to your mentee.
6. **Be curious.** When was the last time you asked someone what was important to them and why? What their aspirations are in work or life? Get curious with your mentee. Suspend your judgment and just explore. Notice how much more is uncovered with a “What” question than with a “Why” question. The former opens up the conversation and reveals the next layer of depth. The mentoring relationship is based on mutual respect, trust and freedom of expression.
7. **Help your mentee see things differently.** We often try different actions again and again with little if any difference in results. Helping your mentee see their problem or goal differently will allow new and untried actions to be available, which leads to different results. An effective mentor “lends their eyes” to the person being mentored so

that they can see things from a new perspective. An effective mentor also models and assists the mentee with the skill of reflecting before acting.

8. **Help your mentee see what they do well.** We are so often only given feedback when there is a problem; and, by nature, we tend to look at our own “gaps.” Help your mentee discover their strengths and utilize them. What do you see that they may not? What can the mentee do to use this strength even more—is there a way it can help compensate for a weakness? Focusing on what is working begets a higher level of performance and builds confidence.
9. **Help your mentee see their blindspots.** Just as we cannot always see what we do well, we often do not see our blindspots. A blindspot is what others see about us, but that we do not see (or acknowledge) in ourselves. Helping someone uncover this is a core part of change and development.
10. **Share resources and connections.** The mentee is looking to you for your experience and for the path you have traveled before them. Share resources that you have found useful along the way—books, articles, websites, associations, etc. Also, think about your own network and connections; who would it be useful for the mentee to know or connect with given their goals?

<http://www.unionplus.org/mentoring-toolkit/best-practices/tips-for-mentors>

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