



BAY AREA CONSORTIUM ON EXTERNSHIPS PRESENTS:



# ROADMAP

## TO BUILDING A BETTER FIELD PLACEMENT PROGRAM

Golden Gate University School 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

October 17, 2017  
2:00pm, Warren Room  
Hosted by UC Berkeley School of Law

# ROADMAP TO BUILDING A BETTER FIELD PLACEMENT PROGRAM

SUPERVISING ATTORNEY TRAINING, OCTOBER 17, 2017

## CONTENTS:

Presenter Bios	3
Agenda & Slides	5
Recruitment Tips	7
Starting Strong: Planning for Professional Development	
- PART I: What is Professional Identity Development (and why should you care)	8
- PART II: Professional Development Plans – Your Role and How PDPs Can Help	16
- PART III: Feedback Tools	26
Field Placement/Externship Bibliography	39
BACE Member Contact Information	40

## **Presenter Bios:**

**Sue Schechter** is the Field Placement Director at U.C. Berkeley School of Law. Since the summer of 2006, she has coordinated an externship program in which 50-80 students a semester participate. She is the first full-time director and has built the Program, including the companion courses, and strengthened relationships with supervising attorneys. Sue is a founder and helps to facilitate BACE, the Bay Area Consortium on Externships, a Bay Area collaborative with externship directors from Northern California law schools. BACE shares information about program administration, teaching and placements, as well as produces materials and conducts trainings for supervising attorneys. Sue is currently co-chair of the AALS Clinical Section's Externships Committee and is on the Externships 9 Planning Committee. In addition, Sue serves as the Faculty Co-Director for Berkeley Law's Pro Bono Program and serves on the school's Climate Committee and Public Interest Placement Committee.

**Teresa Wall-Cyb** is an Associate Professor and Director of Externships at Golden Gate University School of Law. She has taught the Judicial, Advanced, and Remote Externship Seminars and has developed content for distance learning. In addition to providing externship workshops and guidance, she also teaches Legal Writing and Research, Practical Legal Writing, and Early Bar Preparation courses. Before joining Golden Gate's faculty, she served as a research attorney in California state and federal administrative courts, and as a journalist for the Recorder and the National Law Journal.

**Brittany Glidden** is an Associate Clinical Professor and directs the Externship and Pro Bono Programs at UC Hastings School of Law. Brittany has been teaching at various law schools for nine years, and previously taught Legal Writing and Research, and in a number of clinics supervising students engaged in employment, domestic violence, housing, and civil rights cases. While working at University of Denver, she supervised a student team that had a seven-day civil rights trial, which resulted in an injunction requiring hundreds of solitary confinement prisoners to receive outdoor access--some for the first time in decades. Prior to entering academia, Brittany was a civil rights litigator at the Prison Law Office. She graduated from NYU School of Law in 2002 and clerked for Chief Judge James T. Giles, in the Eastern District of Pennsylvania.

**Nira Geevargis** is an Assistant Professor and Director of Externship Programs at the University of San Francisco School of Law. Prior to joining USF, Nira was a staff attorney at the Lawyers' Committee for Civil Rights of the San Francisco Bay Area. She litigated immigration cases and managed the General Legal Services Clinic, which provided pro bono legal representation to low-income clients partnering with law firms, solo practitioners, and nonprofit organizations. Nira also was awarded the Graduate Law Fellowship at GGU's Women's Employment Rights Clinic where she supervised law students representing low-wage workers.

**Jonathan Laba** has been with the Contra Costa County Public Defender's Office since 1996. He has worked in a broad variety of assignments including felonies, juvenile delinquency, and pretrial writs and appeals, and has represented clients in cases ranging from misdemeanors to capital murder. Jonathan previously supervised the office's Misdemeanor and Specialty Courts units; he currently supervises the Richmond branch office as well as the office's writs and appeals unit. Jonathan directs the office's law clerk and internship programs and chairs the office's Training Committee. Jonathan has a special interest in juvenile justice issues. He is the Vice President of the Pacific Juvenile Defender Center and formerly served as a member of California's team participating in the MacArthur Foundation's Juvenile Indigent Defense Action Network (JIDAN). Since 2006, Jonathan has co-authored the chapter on juvenile delinquency in *California Criminal Law: Procedure and Practice*, published annually by the Continuing Education of the Bar. Jonathan is an adjunct faculty member at Berkeley Law, where he teaches the Criminal Field Placement Ethics Seminar. He is certified by the State Bar as a specialist in Criminal Law. Jonathan is a 1996 graduate of Berkeley Law.

**Kendra Fox-Davis** is the Legal-Policy Department Manager & Attorney at the ACLU of Northern California. In this capacity, Kendra manages the Legal-Policy Department; she also provides leadership and infrastructure to drive the efficiency and effectiveness of the ACLU-NC's litigation and policy teams. Prior to joining the ACLU, Kendra was a Supervising Attorney at the U.S. Department of Education in the Office for Civil Rights, where she led federal civil rights investigations in public schools and postsecondary institutions. Before that, Kendra was a Staff Attorney and Thurgood Marshall Fellow at the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, where her work focused on litigation and advocacy on behalf of African-American students and families. Kendra has also worked to advance the rights of communities of color and young people through grassroots organizing and policy advocacy, serving as the Training Director of the Center for Third World Organizing and N.A.A.C.P. National Voter Fund, and as President of the United States Student Association. Kendra is a graduate of UCLA School of Law, where she specialized in Critical Race Studies and Public Interest Law and Policy.

**David Nahmias** is a 3L at Berkeley Law. David has externed for The Honorable Charles R. Breyer of the U.S. District Court for the Northern District of California and Legal Aid at Work (formerly Legal Aid Society-Employment Law Center) as well as interning at the East Bay Community Law Center, Health and Welfare Clinic. David spend his second summer of law school working at California Rural Legal Assistance. During law school he has also been Supervising Editor of the California Law Review; Editor-in-Chief of the Berkeley Journal of International Law; and a Founding Member of the Berkeley Immigrant Rights Collaborative in addition to volunteering at Centro Legal de la Raza and Sustainable Economies Law Center and representing UC Berkeley Law at the Williams Institute Moot Court Competition on sexual orientation and the law. Before law school David was a Fulbright scholar in Mexico City and worked for five years at Ashoka, a global nonprofit based in Washington, D.C., and graduated magna cum laude from Claremont McKenna.

## Agenda

- I. Introductions
- II. Recruiting
- III. Professional identity development & goal setting
- IV. Tips from the ground
- V. Closing

## Recruiting

- How
  - Post
  - Process
  - Participate
- Why
  - “When one teaches, two learn.” – R. Heinlein
  - Diamonds in the rough
  - Service

## Who are our students?

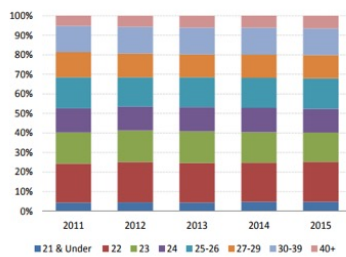


FIGURE 1. Percentage of applicants by age group and year

- 42 – 56% people of color
- Average entry age varies -- 24 to 29
- 9+% of first generation college graduates
- Most participated in Common Core

## Who are they learning to be?

- Professional identity is defined as one's professional self-concept based on attributes, beliefs, values, motives, and experiences (Ibarra, 1999; Schein, 1978).



## Who are they learning to be in your office?

- The greatest influence on professional identity formation takes place during residency.

Ludmerer, 2015

## What traits/skills do you look for in new junior attorneys?

**Table 4** The Relative Importance of Different Competencies in the Decision to Hire a New Lawyer—Average Ratings across All Four Studies

Competencies Considered Very Important to Critically Important	
1. Integrity/honesty/trustworthiness	4.76
2. Good judgment/common sense/problem solving	4.63
3. Analytical skills: identify legal issues from facts, apply the law, and draw conclusions	4.37
4. Initiative/ambition/drive/strong work ethic	4.33
5. Effective written/oral communication skills	4.33
6. Dedication to client service/responsiveness to client (1st for legal aid)	4.29
7. Commitment to firm/department/office, its goals, and its values	4.25
8. Initiates and maintains strong work and team relationships (4th for county attorneys)	4.14
Competencies Considered Important to Very Important	
9. Project management, including high quality, efficiency, and timeliness	3.91
10. Legal competency/expertise/knowledge	3.87
11. Ability to work independently (6th for small firms and 7th for county attorneys)	3.83

## Who are they learning to be in your office?

- What are the values of your office?
  - How are these conveyed?
- Why do you participate in an extern program?
  - Is that reflected in your program?
  - What do you do to assist in self-directed learning?

Why set goals?

Who does it benefit?

1) It puts the supervisor and extern on the **same page**.

2) Are the goals **realistic** for the placement and the semester?

3) Are there **additional action steps** the student has not identified to achieve these goals?

4) What type of **feedback** should I provide?

### Feedback

It must be specific, individualized, and timely.



### USF Example

*My supervisor will provide oral and written feedback on my research assignments and check in with me weekly in person to discuss my general progress. My supervisor will also sit in on my initial client intake and provide oral feedback.*

# Recruitment tips

## Post

Post and update your position through the links or contacts below.

## Process

Complete approval process. Each school does this differently. Almost all schools require contact with the Externship Director before final approval.

## Participate

Check the law schools' calendars of events. Serve as a panelist, coach, judge or guest speaker. Join the alumni association and On Campus Interviewing.

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## Contacts for posting your externship

### **Berkeley Law**

[https://law-berkeley-csm.symplcity.com/employers/?signin\\_tab=0&PHPSESSID=55866d07e300bc4183167cc3683a1aac](https://law-berkeley-csm.symplcity.com/employers/?signin_tab=0&PHPSESSID=55866d07e300bc4183167cc3683a1aac)

### **Golden Gate University School of Law**

<http://www.ggu.edu/media/law/documents/clinics-and-centers/clinics/externships/info-prospective-supervising-attorneys.pdf>

### **University of the Pacific, McGeorge School of Law**

<http://www.mcgeorge.edu/Students/Academics/Experiential Learning/Externships/Criteria for Externship Site Approval.htm>

### **Santa Clara University School of Law**

[tpina@scu.edu](mailto:tpina@scu.edu)

### **Stanford Law**

[public.interest@law.stanford.edu](mailto:public.interest@law.stanford.edu)

### **University of California, Davis**

<http://www.ggu.edu/media/law/documents/clinics-and-centers/clinics/externships/info-prospective-supervising-attorneys.pdf>

### **University of California, Hastings College of the Law**

[careers@uchastings.edu](mailto:careers@uchastings.edu), [gliddenbrittany@uchastings.edu](mailto:gliddenbrittany@uchastings.edu)

### **University of San Francisco**

<https://www.usfca.edu/law/professional-skills/externships>

*\*All of the links are posted at: [www.law.berkeley.edu/experiential/field-placement-program/information-supervisors-host-organizations/bace-supervising-attorneys](http://www.law.berkeley.edu/experiential/field-placement-program/information-supervisors-host-organizations/bace-supervising-attorneys)*

# **Starting Strong: Planning for Professional Development**

## **PART I**

### **What is Professional Identity Development? (And why you should care.)**



Definitions (taken from the medical education literature):

**Professional Identity** – one’s self-concept, including the identification with a profession, and exhibited by an aligning of roles, responsibilities, values, skills and ethical standards accepted by the profession.

**Professional identity formation** - a complex process through which the sense of oneness with a profession is developed, with some of the difficulty arising out of balancing personal identity with professional identity.

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Excerpt from Martin J. Katz, *Teaching Professional Identity in Law School*, 42 The Colorado Lawyer 45 (October 2013).

### Professional Identity Defined

Professional identity is more than simply ethics or professionalism—or even both together. Although professional identity includes these two issues, it is a broader concept. Professional identity is the way a lawyer understands his or her role relative to all of the stakeholders in the legal system, including clients, courts, opposing parties and counsel, the firm, and even the legal system itself (or society as a whole).

In an ideal world, lawyers come to understand their duties to each of these stakeholders and how to navigate tensions between those duties. Ethical rules and precepts of professionalism may help navigate those tensions. Professional identity goes beyond those rules and precepts to encompass the ideals each of us holds regarding our professional roles, and how we apply those ideals to the complex situations we encounter in our professional lives.

Professor David Thomson describes the distinction well:

*Professionalism* relates to behaviors, such as timeliness, thoroughness, respect towards opposing counsel and judges, responding to clients in a timely fashion. . . . *Professional identity* relates to one’s own decisions about those behaviors (which sounds like overlap, but it’s not), as well as a sense of *duty* as an officer of the court and *responsibility* as part of a system in our society that is engaged in upholding the rule of law.<sup>4</sup>

The challenge, then, is how to teach professional identity.

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## LEARNING TO BE LAWYERS: PROFESSIONAL IDENTITY AND THE LAW SCHOOL CURRICULUM

CHARLOTTE S. ALEXANDER\*

### I. INTRODUCTION

"Who am I as a member of this profession? What am I like, and what do I want to be like in my professional role? and What place do ethical-social values have in my core sense of professional identity?"<sup>1</sup> A report by The Carnegie Foundation for the Advancement of Teaching entitled *Educating Lawyers: Preparation for the Profession of Law* ("Carnegie Report") makes the case that law schools fail to motivate students to ask—much less to answer—these questions.<sup>2</sup> The Carnegie Report faults legal education for focusing exclusively on doctrine and analytical skills and for neglecting the formation of professional identity.<sup>3</sup> Law schools can fix this problem, the Carnegie Report suggests, by enabling students "to encounter appealing representations of professional ideals, connect in a powerful way with engaging models of ethical commitment within the profession, and reflect on their [own] emerging professional identity in relation to those ideals and models."<sup>4</sup>

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\* Harvard Law School Post-Graduate Research Fellow; Adjunct Professor, Emory University School of Law and Georgia State University College of Law; Deputy Director, National Institute for Teaching Ethics and Professionalism. B.A., 2000, Columbia University; J.D., 2005, Harvard Law School. Thanks to Clark Cunningham for his suggestions and to Joe Hoffman for his research assistance.

1. WILLIAM M. SULLIVAN ET AL., THE CARNEGIE FOUND. FOR THE ADVANCEMENT OF TEACHING, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 135 (2007).

2. See *id.* at 132–35. For a discussion of the Carnegie Report's conclusion that law schools fail to encourage the development of professional judgment, see Clark D. Cunningham & Charlotte Alexander, *Developing Professional Judgment: Law School Innovations in Response to The Carnegie Foundation's Critique of American Legal Education*, in *THE ETHICS PROJECT IN LEGAL EDUCATION* (Michael Robertson et al. eds., forthcoming 2011).

3. See SULLIVAN ET AL., *supra* note 1, at 132–33. For other prominent reports on the state of legal education, see ABA, *REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP* 5–6, 135 (1992) [hereinafter *MACCRATE REPORT*], available at <http://www.abanet.org/legaled/publications/onlinepubs/maccrate.html>; ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP* 5, 11–13 (2007); Marjorie M. Shultz & Sheldon Zedeck, *Final Report: Identification, Development, and Validation of Predictors for Successful Lawyering* 25–27 (Sept. 2008) (unpublished manuscript), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1353554](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1353554).

4. SULLIVAN ET AL., *supra* note 1, at 135.

The issue of professional identity formation has taken on greater urgency during the economic crisis of the early twenty-first century. Many new law school graduates who might otherwise have found jobs in BigLaw now enter solo or small firm practice.<sup>5</sup> Even those graduates hired by large law firms receive less training, mentoring, and guidance than did their precrisis counterparts.<sup>6</sup> Increasing numbers of new attorneys are now on their own in many ways and lack the intensive interaction with mentors and professional exemplars that is the key to their professional identity formation.<sup>7</sup>

The Carnegie Report urges law schools to fill this void by integrating "student learning of theoretical and practical legal knowledge and professional identity."<sup>8</sup> It identifies pro bono work, clinics, and ex-

5. See ABA COMM'N ON THE IMPACT OF THE ECON. CRISIS ON THE PROFESSION & LEGAL NEEDS, COMMISSION ACTIVITIES 1 (2009) [hereinafter ABA COMM'N ON ECON. CRISIS], available at [http://www.abanet.org/op/lamm/docs/accomplishments\\_for\\_website.pdf](http://www.abanet.org/op/lamm/docs/accomplishments_for_website.pdf) ("Although data is not yet available, another likely consequence borne out in previous recessions is increasing numbers of solo practitioners as lawyers in all stages of their careers turn to solo practice."); Press Release, Nat'l Ass'n for Law Placement, Inc., Entry-Level Recruiting Volumes Plunge, Some Start Dates Deferred 1 (Mar. 2, 2010), available at [http://www.nalp.org/uploads/2010\\_Perspectives\\_on\\_Fall\\_2009\\_Press\\_Release.pdf](http://www.nalp.org/uploads/2010_Perspectives_on_Fall_2009_Press_Release.pdf). ("At the largest firms, firms with more than 700 lawyers firm-wide, the median number of offers dropped from 30 in 2007, to 18.5 in 2008, and to just 8 in 2009."); see also News Release, Bureau of Labor Statistics, U.S. Dep't of Labor, The Employment Situation—March 2010 tbl.B-1 (Apr. 2, 2010), available at [http://www.bls.gov/news.release/archives/empsit\\_04022010.pdf](http://www.bls.gov/news.release/archives/empsit_04022010.pdf) (showing 29,900 "[l]egal services" jobs lost between March 2009 and March 2010).

6. See, e.g., STUCKEY ET AL., *supra* note 3, at 18 ("Some students are prepared for the jobs that await them, especially the top students who are hired by appellate judges or by large law firms, government agencies, and corporations that have the resources and patience to complete their education and training, *although even these employers are increasingly forcing their new hires to sink or swim.*" (emphasis added)); Joyce S. Sterling & Nancy Reichman, *So, You Want to be a Lawyer? The Quest for Professional Status in a Changing Legal World*, 78 FORDHAM L. REV. 2289, 2294 (2010) ("As beginning salaries have increased for new lawyers, seasoned partners have become reluctant to devote their limited time to socialization and training, feeling that these lawyers can 'sink or swim' on their own."); Sterling & Reichman, *supra*, at 2309 ("With less work to go around, lawyers who remain [in large firms] are provided with few opportunities to create new lawyering skills . . ."); Webcast: New Professionalism Opportunities in a Time of Crisis, held by the Nat'l Inst. for Teaching Ethics & Professionalism (Mar. 19, 2010), <http://law.gsu.edu/niftep/index.htm> (follow "NIFTEP Workshops" hyperlink; then select "Spring 2010 Workshop" hyperlink) (presentation of Bill Henderson, "New Models of Practice: Past, Present, and Future") (noting that law firms have begun to move away from the Cravath system, in which highly credentialed new associates received intensive in-house training).

7. See SULLIVAN ET AL., *supra* note 1, at 135 (arguing that interaction with role models in the legal profession is essential to personal and professional identity formation); Sterling & Reichman, *supra* note 6, at 2294 (noting the decline in mentoring in large law firms).

8. SULLIVAN ET AL., *supra* note 1, at 13; see also *id.* at 135 ("Because law school represents a critical phase in the transition into the profession, it is inevitable that it will influence students' image of what kind of lawyers they want to be.").



ternships as sites for this sort of learning, where students can interact with members of the profession and reflect on the models of professionalism that they encounter.<sup>9</sup> Taking the Carnegie Report's charge as a starting point, this Essay proposes an additional model for integrating a focus on professional identity into the law school curriculum.



## **List of 26 Effectiveness Factors with 8 Umbrella Categories**

Marjorie M. Shultz and Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admissions Decisions*, LAW & SOCIAL INQUIRY, JOURNAL OF THE AMERICAN BAR FOUNDATION, Vol.36, Issue 3, 620, 661 (2011)

### **1: Intellectual & Cognitive**

- 1) Analysis and Reasoning
- 2) Creativity/Innovation
- 3) Problem Solving
- 4) Practical Judgment

### **2: Research & Information Gathering**

- 5) Researching the Law
- 6) Fact Finding
- 7) Questioning and Interviewing

### **3: Communications**

- 8) Influencing and Advocating
- 9) Writing
- 10) Speaking
- 11) Listening

### **4: Planning and Organizing**

- 12) Strategic Planning
- 13) Organizing and Managing One's Own Work
- 14) Organizing and Managing Others (Staff/Colleagues)

### **5: Conflict Resolution**

- 15) Negotiation Skills
- 16) Able to See the World Through the Eyes of Others

### **6: Client & Business Relations - Entrepreneurship**

- 17) Networking and Business Development
- 18) Providing Advice & Counsel & Building Relationships with clients

### **7: Working with Others**

- 19) Developing Relationships within the Legal Profession
- 20) Evaluation, Development, and Mentoring

### **8: Character**

- 21) Passion and Engagement
- 22) Diligence
- 23) Integrity/Honesty
- 24) Stress Management
- 25) Community Involvement and Service
- 26) Self-Development

## Values Assessment List\*

Autonomy in job
Beautiful work surroundings
Being around interesting people
Challenging work
Clear rules and expectations
Collaboration and Teamwork
Competition
Creativity
Diversity
Flexible schedule/allowing for family commitments
Freedom from pressure and stress
Friendships at work
Involvement of many in decision making
Improving access to justice
Opportunity for advancement
Power and influence on public or industry
Professional Development and mentoring
Protecting and empowering vulnerable clients
Political nature of work
Public contact
Quality of product
Regular 40-hour work week; predictability
Responsiveness to Clients
Rewarding excellence – with salary or other
Security
Status and prestige
Taking risks
Undivided loyalty to client
Variety and change in work
Working alone
Working from home
Working with a team
Working with details
Work that is personally meaningful

# **BUILDING A BETTER TALENT GAME PLAN: Best Practices for Training and Developing Lawyers**

[By Marcia Pennington Shannon](#)

When making decisions about lawyer development and training programs, many firms appear to focus mainly on how it will affect the short-term bottom line. But beware: Giving the short shrift to professional development today can have a long-lasting negative impact on your firm's ability to serve its clients—which means you may be jeopardizing the firm's future success. Viewing lawyer training and development as an integral part of a firm's long-term strategy is much more consistent with a vision of lasting growth and profitability.

Much like the rest of the business world, the legal industry has been hard hit by the economy these past two years. While many see signs of recovery, budgetary and client pressures still abound—and those pressures aren't likely to disappear even after the economy bounces back in full. Clients of all types now expect their law firms to provide excellent service at reduced costs and through alternative billing arrangements when possible. And to do that, firms must have skilled lawyers who can service their clients cost-effectively and with a results-driven attitude. Putting a strong focus on professional development can provide the edge you need to compete. With this in mind, consider these current “best practices” and what they could mean to your firm's future.

## **Creating Individual Development Plans**

Individual development plans (IDPs) are great tools for formulating and achieving professional development goals. A best practice with IDPs is to match each individual lawyer's career goals with the firm's (or practice group's) strategic plan to help reach the results desired by both the lawyer and the firm. In other words, a lawyer works with his or her practice group leader or mentor, or a professional development staff member if the firm has one, to create specific goals for the coming year, including targeting the substantive experience and skills needed to move to the next level.

To ensure that lawyers stay on course with the IDPs, it's essential to assign specific action steps to each goal and, where appropriate, completion dates, too. In this way, the lawyer and others within the firm who are responsible for professional development can work together to create the necessary opportunities to achieve the stated goals, including identifying appropriate assignments, mentors and individual training resources.

## **Providing Expanded Training for New Lawyers**

Giving junior associates structured and expanded training fills the gap between law school and law practice at a much faster rate. This helps jump-start their success because they become effective and efficient sooner, which in turn means they can contribute to the firm's profits sooner. And with clients telling their law firms that they are unwilling to pay for the training of junior lawyers—i.e., they don't want to pay to have inexperienced people working on their matters—law firms will find that the return on time and financial investment can more than pay for itself.

A number of firms have instituted training programs for their junior lawyers that allow for more hands-on experience and one-on-one training. While the curricula of these programs vary, they mainly focus on core skills and often have experiential learning components. The so-called “apprenticeship model,” designed for first- and second-year associates, goes so far as to reduce the usual billable-hours requirements for participants so they can dedicate more time to professional development efforts. (See the January/February 2010 *Law Practice* for coverage of how firms like Frost Brown Todd, Drinker Biddle & Reath and Howrey are putting this model to use.)

## **Following the Competency Model for Development and Training**

Competency models are slowly but surely replacing the lock-step model of lawyer advancement, wherein associates move up together in groups based on the year they entered the firm. In the competency model, in contrast, the firm identifies specific skills and knowledge needed to advance through three or four levels, one by one, within the associate ranks. Thus, for associates to advance to the next level, they must achieve observable benchmarks within their present level. The core competencies required at each level will vary from firm to firm, and even from practice group to practice group, and may include personal qualities as well as substantive knowledge and practice skills. It depends on the given firm's needs and strategy.

Even for firms that don't choose to give up the lock-step model (at least not yet), it's still an excellent idea to identify certain knowledge, skills and abilities that each lawyer should acquire to advance in his or her chosen practice area and career. Training and

evaluations can then be tied to these as standards of performance. Plus, identifying specific performance measurements for your lawyers and then providing them with appropriate training not only assists them in achieving success in their practice, it also acts as a retention tool (but more on that in a bit).

### **Rethinking Mentoring Based on Advancement Level**

Mentoring is an invaluable form of lawyer development—when it’s approached properly. A best practice is to tailor these relationships to the lawyer’s level in the firm, assigning all associates a mentor who can meet their current needs and help guide them to the next level, while also serving as a role model for the professional behaviors needed to succeed.

For example, junior lawyers will do best with mentors who can help them learn to navigate the transition from law student to professional; gain the basic substantive skills necessary to perform good-quality, cost-effective legal work; and understand the politics of the workplace. Midlevel associates will develop at a greater speed with a mentor who can focus their skills development on people and project management. Senior associates should have mentors who have successfully moved to the partnership ranks and have not only proven expertise and business-building skills, but have acquired effective supervisory skills as well. These types of partners can play an enormously important role in helping their mentees develop into stellar future partners.

### **Incorporating Soft Skills Training**

Clearly, an ongoing theme in today’s provision of legal services is that clients want more value-driven services. While this is something that clients have always desired, the difference is that today’s clients define “value” in a new way. They want lawyers who can work with them as a team, who understand their business needs as well as their legal needs, and who bring problem-solving skills to the table. In this type of climate, legal knowledge and substantive skills are not alone enough to keep your lawyers competitive.

That’s why it’s wise to offer lawyers at all levels opportunities for “soft skills” training and individual coaching in areas such as teamwork and collaboration, leadership techniques, effective communication skills, time management and personal business development effectiveness. This type of value-add training can provide the tools necessary to thoroughly compete in today’s marketplace. (See Ryan Sullivan’s article in this issue for more on coaching options.)

### **Don’t Forget to Factor Retention into the Game Plan**

It should go without saying that retaining good talent is key to providing valuable services at a cost-effective rate. And remember, if your lawyers aren’t getting the kind of experience and training necessary to grow in their careers, they are much more likely to look elsewhere, even in challenging times. As the lateral job market begins to show signs of recovery, you will start to lose those you want to keep if your firm hasn’t sufficiently focused on training and development—and the resulting cost can be steep indeed.

Turnover of a midlevel associate, for example, can cost a firm over six figures in terms of lost investment and recruiting costs. And that doesn’t include the cost of client dissatisfaction when another lawyer must be brought in to replace the one who has left. Clients are frustrated with having to establish new working relationships with additional lawyers—and with the extra time and money needed to bring the new lawyers up to speed on their matters.

The simple fact is that law firms looking to survive and thrive in today’s climate will want to make professional development and training a top priority in their strategy.

## **About the Author**

[Marcia Pennington Shannon](#) is a principal in the Washington, DC, attorney management consulting firm Shannon & Manch, LLP. She writes the regular Managing column for *Law Practice* magazine.

# **Starting Strong: Planning for Professional Development**

## **PART II**

### **Professional Development Plans – Your Role and How PDPs Can Help Students and Supervisors**



## Contra Costa Public Defender's Office

### 2017-2018 LAW CLERK / EXTERNSHIP PROGRAM INFORMATION AND INTERESTS FORM

NAME: \_\_\_\_\_

LAW SCHOOL: \_\_\_\_\_ (circle) 2L 3L graduate

CELL PHONE: \_\_\_\_\_ EMAIL \_\_\_\_\_ D.O.B. \_\_\_\_\_

OFFICE (circle): Martinez Richmond ADO

MENTOR: TBD \_\_\_\_\_

### INTERESTS

Our goal is to provide you with as meaningful and rich an experience as possible. We will also attempt to tailor your work assignments to your expressed interests. Accordingly, please rate the following on a scale of 0 (not interested) to 9 (highly interested):

	<u>Rating</u>
Gain broad experience by working on different types of motions	_____
(if certified) Argue motions in court	_____
Work on at least one case in depth	_____
Assist attorney that is currently in a jury trial	_____
Observe court proceedings	_____
Accompany attorney during client visits at the jail	_____
Work on juvenile delinquency cases / meet juvenile clients	_____
Observe case negotiation / pretrial conferences	_____
Work on a homicide or other "life" case	_____
Conduct client interviews / "intake"	_____
Visit custodial facilities (e.g., jails, juvenile hall)	_____
Work on cases presenting immigration issues	_____
Learn about related policy issues (e.g., racial justice)	_____

Other things you would like us to know about your goals for your externship:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Examples of Professional Development Plan Assignments

## Santa Clara University School of Law:

### Professional Learning Goals

This document will help structure and guide your semester. It relates directly to the self-development competency we discussed during our first class. Thus, for this assignment you will proactive in directing and guiding some of your learning at your placement.

Think about your externship. What do you hope to learn from your experience? Think in terms of what you know about your placement from the job announcement or description, your interview, and the time you have already spent at the externship site.

Identify and describe with specificity the primary professional learning goals you will gain from your placement. Consider how you would like to grow and/or develop as a lawyer over the course of the semester.

Each goal must be **SMART: Specific, Measurable, Attainable, Realistic**, and contain a **Time** Frame. Break down the steps and time frame for achieving that goal. You must review these goals with your supervisor to confirm that they are attainable in the course of your externship.

Now consider what you will need to do to accomplish these goals and/or realize your vision. For each goal, identify activities, experiences, or mechanisms available to you through your placement to achieve the goal.

#### Example:

Professional Learning Goals: **SMART Specific, Measurable, Attainable, Realistic**, and contain a **Time** Frame!!!

1. Gain interviewing and counseling skills by attending client meeting.
  - a. Observe client meeting scheduled for October 1<sup>st</sup>. I spoke with SA and identified the case, client, and meeting I will attend.
  - b. The SA and I also agreed I would review the file before the client meeting.
  - c. I will also develop an interview outline, identifying goals for the interview and the topics to be explored; will review with supervisor just prior to meeting start.
  - d. We agreed to debrief and scheduled a 10 minute meeting on October 2<sup>nd</sup> at 10:00 am.
  - e. During the client meeting and during the debrief with the SA I will attempt to articulate the techniques used by the interviewer; what was effective, what was less effective, and why certain questions were asked and/or left out.

Be sure to describe how you will **Measure** your progress in achieving your goals/vision:

- f. After debrief meeting with SA I will compare notes taken during debrief with the notes I took after reviewing the file and I will ask—how did I do? What did I miss, what did I correctly anticipate, and why?

Or, for example, monthly/weekly, I will . . .

### **And Finally,**

Be sure to discuss your learning goals with your supervisor. Are there any modifications to your goals or plans to achieve them that you wish/need to make?

Please Indicate That Your Supervisor Has Reviewed Your Plan.

*\*\*Please note: You will revisit this assignment in about a month. At that time you will discuss your progress and provide a status update. If, however, you have already made some progress on your goal as of the date of this first assignment, please indicate that now\*\**

### **Learning Goal No. 1:**

Steps/Tasks	Progress	Status

**University of California, Berkeley School of Law**

**Memo #1: Field Placement Learning Goals and Professional Responsibility Issues at Your Placement**

**Due January 20**

***Note: This memo requires meeting with your field placement supervisor.***

Part 1: Identify 2-3 learning goals (they can be personal, substantive, lawyering skills) you plan to achieve this semester at your placement. Articulate the plan you are creating to ensure you achieve each of these goals. Share your goals and your plan with your field placement supervisor. At the end of the memo, confirm in writing that you have met with your field placement supervisor for this purpose.

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**University of San Francisco School of Law:**

**PROFESSIONAL DEVELOPMENT PLAN**

Law students, like attorneys, are often driven by deadlines, juggle many commitments, and do only what is necessary to stay afloat for the day or the week. But while you are in school, you have the unique opportunity not only to experience different types of internships, but also consider how they fit into your overall career goals and/or assessment. Ideally, by the time you finish school, you should have some understanding what type(s) of practice areas or work place environments you would like to pursue, and possess the skills and knowledge to market yourself well for those employers. This may not happen if you do not take the time now, or at the beginning of every internship/externship, to plan the skills you would like to acquire from each experience.

Identify and describe with specificity, your primary professional development goals to be gained from your placement. Consider how you would like to grow and/or develop as a lawyer over the course of the semester or summer. Some questions to think about in formulating those goals include the following: What do you want to find out about this type of work? What skills or experiences would you like exposure to? What skills are you lacking in or need to improve? For example, do you need to practice your persuasive writing skills? Does this placement offer opportunities to work on this type or writing skill?

**A. Goals**

In outline form, state at least three primary professional development goals below.

- 1.
- 2.
- 3.

**B. How will you accomplish your goals?**

For each goal, identify activities, experiences, or mechanisms available to you through your placement to achieve the goal.

Example:

1. *Improve interviewing and counseling skills*

- a. *Observe at least two different attorneys conduct interviews and/or counseling sessions with a client or witness; debrief with attorney following observation.*
- b. *Articulate for yourself the techniques used by the interviewer; what was effective, what was less effective.*
- c. *Develop an interview outline, identify your goals for the interview and the topics to be explored; review with supervisor.*
- d. *Conduct at least one interview with a client and/or witness, which is observed by supervising attorney.*

2. xxx

**C. Feedback**

Supervisors are required to provide specific, individualized and timely feedback on assignments. Meet with your supervisor and discuss the frequency and method of feedback you will receive. Will the feedback be oral, written or both? In addition to feedback on specific assignments, how regularly will you meet to discuss your general progress? Describe the outcome of your discussion.

Example: *My supervisor will provide oral and written feedback on my research assignments, and check in with me weekly in person to discuss my general progress. My supervisor will also sit in on my initial client intake and provide oral feedback.*

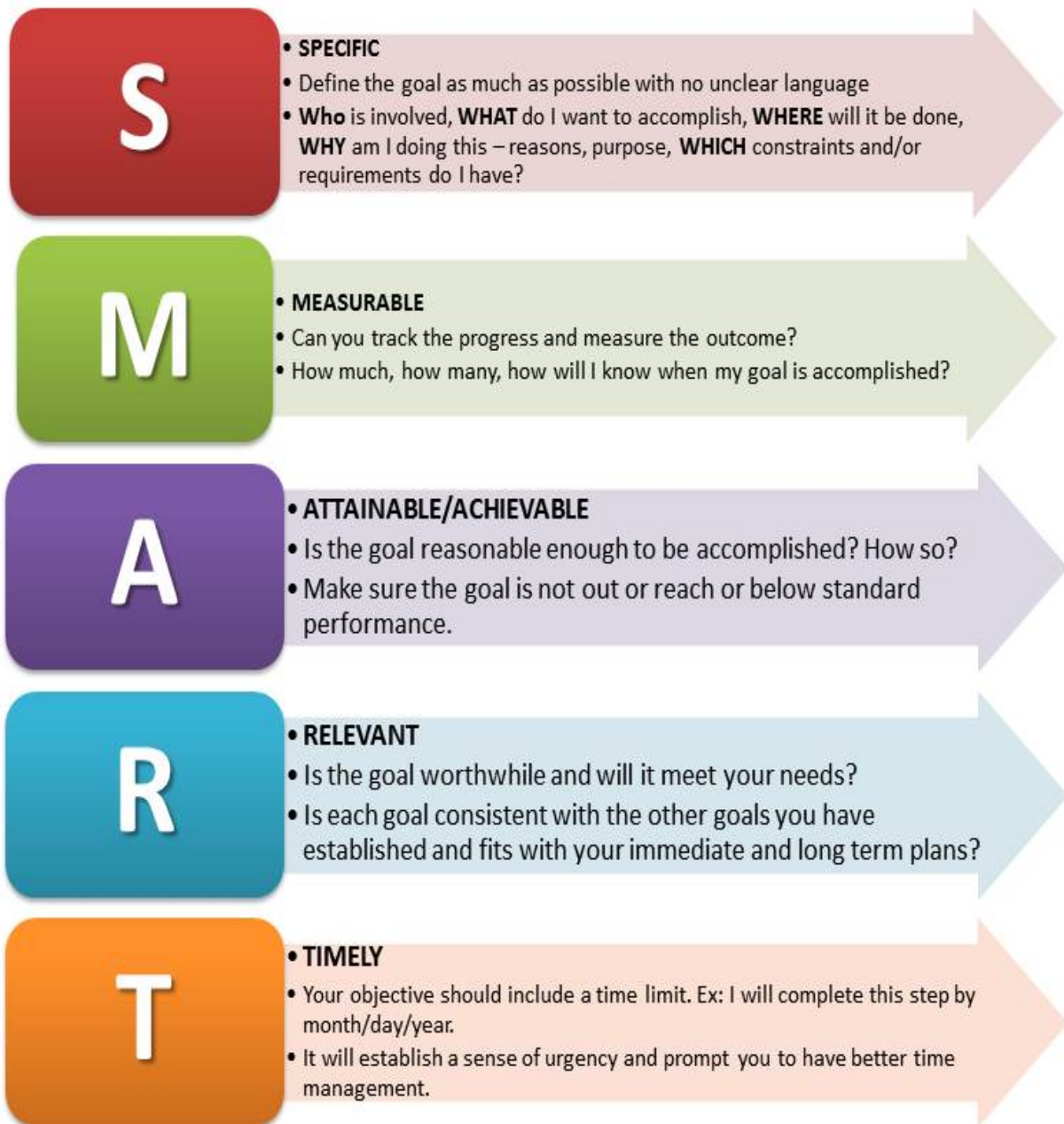
**D. Modifications**

Discuss your goals with your supervisor and note below the modifications to your plan made as a result of the discussion. If your supervisor is aware of your objectives, s/he can plan and work with you accordingly. S/he also will tell you if a goal is not feasible given the office practice.

**E. Syllabus**

Review the syllabus with your supervisor and provide deadlines for externship course assignments, meetings and evaluations requiring his/her review, input and/or signature. How would your supervisor prefer to be reminded of externship course requirements? Does s/he prefer in-person scheduling, email scheduling or both?

## On Professional Development Plans we encourage SMART goals:



## The Challenge – Helping Students Make Specific and Measurable Goals

### Examples of Goals We Commonly See That are NOT Specific or Measurable:

- Improve my writing
- Improve my research
- Work with clients
- Learn XXX area of law
- Oral Skills

### **\*\*How can you break any of these down to be a “smarter” goal?**

- **An Example – questions to try and make student’s proposed goal of “improving writing” more specific.**
- 1) Can the student specify where they struggle?
  - 2) In what areas of writing has the student received feedback in the past?
  - 3) Is offering some possibilities helpful?
    - a. **Structure/Organization** – Macro? Micro? Follows IRAC/CREAC? Uses topic sentences?
    - b. **Analysis** – Clearly identifies issue/s? Synthesizes or states rule? Adequately supports rule? Applies rule to facts?
    - c. **Mechanics** – Follows grammar rules (sentence structure, punctuation, etc)? Correctly uses citations (in appropriate places and following Bluebook or CA style rules)?
    - d. **Tone** – Objective or Persuasive as needed? Tone is appropriate to assignment/audience?
    - e. **Style** - Concise? Uses transitions?
    - f. **Professionalism** – Work was timely completed? Format was what was asked for/expected?
  - 4) **Is there something specific in your office that you know the student can/will work on?**

### Examples of Improved Writing Goals:

- I want to improve the overall (macro) organization of my written work.
- I want to improve my use of topic sentences throughout my work-product.
- I want to make my writing more concise.
- I want to ensure that my work is error-free; that it doesn’t have typos and that my citations are accurate and correct.

## **Once the goal is set --- figuring out the action steps**

**By Mary Jo Asmus**

The written action plan should have a spot to capture each of the action steps that will be taken. The form should also have a place to capture measures for each action step as well as target dates (next post will speak to these items). The action steps must be allowed to change as time goes on as some may work well on the first try, others will need to be adjusted as learning occurs into what does or does not work for the individual.

I also encourage you to break the action steps down into relatively small parts; this makes them less overwhelming and allows you or the person you are coaching to be able to set target dates for even the smallest of activities. Thus, accountability for each action becomes greater and the small victories are obtained quickly.

### **Questions to help plan the action steps**

For each goal, there may be many action steps that can be taken. The kind of questions to consider when planning the action include:

- **What education or training will I need to achieve this goal?**
- **What kind of experiences might I need either at work or outside of work?**
- **Who can help me? What will I ask of them?**
- **What has worked for me in the past?**
- **What have I seen others do that might work for me?**
- **What am I willing to try?**



*For inspiration...A few examples*

**EXAMPLE GOAL: *Improve interviewing skills.***

*Action Steps for Goal:*

- a. Observe at least two different attorneys conduct interviews and/or counseling sessions with a client or witness; debrief with attorney following observation.*
- b. Articulate for myself the techniques used by the interviewer; what was effective, what was less effective.*
- c. Develop an interview outline, identify my goals for the interview and the topics to be explored; review with supervisor.*
- d. Conduct at least three interviews with a client and/or witness, at least one of which is observed by supervising attorney. Ask that attorney for immediate feedback.*

*Assessment/Measurement for Goal:*

- e. Make a list of the techniques that were effective or not effective in the interviews I will observe and use this information for my own interview.*
- f. After my interview, I will review if I have met my goals for the interview (based on evidence) and write down what worked and didn't from my outline and techniques.*
- g. I will discuss these reflections with my supervisor and also seek her feedback on the interview.*
- h. I will identify where I still needed to follow-up with more information and pursued that with the client.*

**EXAMPLE GOAL: *Improve concision in writing.***

*Action Steps for Goals:*

- a. Leave one day to proofread document or draft before turning it in. During that time I will reread it at least one of the times, looking specifically for ways to reduce the length.*
- b. I will do a word count and see if I can reduce the number of words by 15%.*
- c. From these reviews, I will identify places where I tend to repeat myself or be overly wordy and try to spot those in initial drafts in the future.*
- d. I will specifically ask for feedback on where I could be more concise.*
- e. Ask supervisor which attorneys are strong and concise writers; get exemplars from them.*

*Assessment/Measurement for Goal:*

- a. At the mid and end-of-semester, I will review the documents I have drafted thus far and consider if I had made progress towards being more concise.*
- b. I am able to make conclusions about where I tend to not be concise.*
- c. And I will self-assess whether I am better able to catch myself in the first draft when writing repetitive phrases.*
- d. I will examine feedback to my work, see where it was made more concise, and try to draw more global lessons from that feedback.*

# **PART III**

## **Feedback Tools**

## **Feedback Best Practices: Provide Timely and Constructive Feedback on All Assignments<sup>1</sup>**

### **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.<sup>2</sup>

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.

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<sup>1</sup> Excerpt from BACE Best Practices Manual and University of Denver Supervising Attorney Manual.

<sup>2</sup> 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.<sup>3</sup>

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<sup>3</sup> 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).

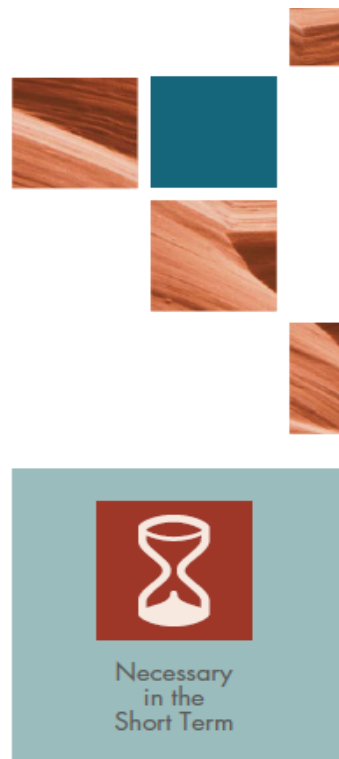
## Don't Hesitate: Provide Feedback on Professionalism

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 attorneys<sup>4</sup> 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



<sup>4</sup> 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.

**BACE** Bay Area Consortium on Externships  
**MID-SEMESTER 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.

<b>Please provide a brief description of the range of tasks and responsibilities you have been given thus far:</b>	
<b>Research and Analytical Skills</b>	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:	
<b>Writing Skills</b>	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:	
<b>Legal Knowledge</b>	Have you demonstrated adequate familiarity with basic concepts of applicable law and procedure?
Comments/Examples:	
<b>Oral Skills</b>	How well do you orally communicate concerning legal matters; how clear is your presentation; how well do you respond to questions?
Comments/Examples:	
<b>Ethical Concerns</b>	Have you recognized ethical issues and raised them appropriately, do you conform with office confidentiality protocols, etc.?
Comments/Examples:	
<b>Attitude and Work Habits</b>	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:	
<b>Professionalism</b>	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? If so, how?	
Are there any ways in which your externship experience can be enhanced?	

<b>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.):</b>
<b>***USE THIS SPACE LIBERALLY TO GIVE SPECIFIC FEEDBACK ON SKILLS AND PROFESSIONALISM**</b> (You can ask the extern to provide this to you in a form you can type into.)

**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.

## 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.



### **Short Rubric: Writing**

\*Consider touching on each of the following categories when giving oral or written feedback

**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?

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### **Short Rubric: Oral Report Back**

\*Consider touching on each of the following categories when giving oral or written feedback

**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?

## 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:

**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.

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