



GETTING THE MOST OUT OF YOUR STUDENT EXTERNS:

MANAGING ASSIGNMENTS AND PROVIDING FEEDBACK

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

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SUPERVISING ATTORNEY TRAINING NOVEMBER 1, 2018

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Part One: Presenter Bios

Jennifer Choi is a Deputy City Attorney on the Neighborhood and Resident Safety Division of the San Francisco City Attorney's Office. She specializes in litigation and has done so for her entire 22-year career. Prior to coming to the City Attorney's Office, Ms. Choi served as a prosecutor at both the San Francisco District Attorney's Office and the San Mateo County District Attorney's Office. In her current assignment, she investigates and files civil lawsuits on behalf of the City and County of San Francisco and the People of the State of California for violations of San Francisco Municipal Codes and state law, such as California's Unfair Competition Law, the State Housing Law, the Drug Abatement Law, and the Red Light Abatement law. Ms. Choi received her B.A. in English from U. C. Berkeley and her J.D. from UC Hastings College of the Law.

Maya Nordberg is a Deputy Public Defender in Contra Costa County. She has advocated to advance her adult and juvenile clients' rights in Public Defender offices since 2003. Maya received her J.D. from the University of California, Hastings College of the Law, and B.S.Ed. In Social Policy from Northwestern University. She is a past President of the Santa Cruz Criminal Defense Bar Association. Her Note, "Jails Not Homes: Quality of Life on the Streets of San Francisco," was published in the *Hastings Women's Law Journal* 13:2 (Summer 2002) and reprinted in *Structured Inequality in the U.S.: Critical Discussions on the Continuing Significance of Race, Ethnicity and Gender*, Prentice Hall (2007).

Derek Schoonmaker is the Workers' Rights Program Director and leads Centro Legal's efforts to provide legal services and representation to low-wage immigrant workers facing wage theft, workplace safety violations, discrimination, and retaliation. Prior to Centro Legal, Derek served as a legal fellow with Human Rights First's Refugee Protection Program in Washington, D.C., where he engaged in policy advocacy challenging abusive immigration detention practices, and as an attorney with the Social Justice Law Project, where he worked on impact litigation to remove barriers to employment for low-wage workers with criminal records. Derek holds a Juris Doctor degree from U.C. Berkeley School of Law and a Joint Bachelor of Arts in Political Science and International Development Studies from McGill University. He served as a law clerk for Judge Anthony Scirica of the Third Circuit Court of Appeals. Prior to law school, Derek worked with a Seattle nonprofit to develop and teach a civil rights history curriculum at public high schools. Derek has advocated for the rights of low-wage immigrant workers since his first year of law school, when he worked together with other law students and a day laborer center to run a weekly legal clinic for workers confronting wage theft.

Sue Schechter (Moderator) 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 65-80 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 has served on all the national Externship Conferences Planning Committee. In addition, Sue serves as the Faculty Co-Director for Berkeley Law's Pro Bono Program and has served on the school's Climate Committee and Public Interest Placement Committee.

Part Two: Starting Strong-Semester Planning and Assignment Tracking

The beginning of the semester—even if it is not the first time you have worked with this particular student—is a natural time to check in on what the student is hoping to learn from the experience and what opportunities you see arising in the semester.

Students all, to varied degrees, are seeking all of the following from externships:

- 1. To improve their **legal skills.** As you know, the skills needed for excellent practice are varied. We have included a list of the 26 Lawyering Competencies to assist thinking about all of the skills that students are working on developing.
- 2. To increase their knowledge of a substantive area of the law, such as criminal justice, family law, environmental law, administrative law, or general civil practice.
- 3. To better **understand the mission and operation** of a particular government agency, court, non-profit, or for-profit office. Students are trying to learn what to expect at work and determine what environment is a best fit for their work style and personality.
- 4. To **increase their network and develop networking skills**. This both means that they are looking to speak to lawyers about how they started their own careers and seek advice for the decisions they have ahead, and also to learn how to connect with specialized professional networks in the field (i.e. of tax lawyers, or family lawyers, or in-house counsel).
- 5. Finally, and perhaps most importantly, externships **assist law student in developing their professional identities**. As a supervisor, you and those in your office are modeling how you approach your clients and their concerns, as well as other lawyers, and other staff. Through observation and discussion students are forming their own professional values and increasing their understanding of how professional responsibility impacts the day-to-day practice of law. And students learn how, as professionals, it is important to continually self-assess and evaluate their skills to improve their abilities and advocacy.
 - Consider how you start the semester. Having students formally indicate their goals and interests allows the student and you something to measure their accomplishments and process? Meeting with students at the beginning of the semester to discuss their goals and interests will serve you, the student and your organizations. Do they get to see and select from a list of possible assignments? Do you have them prioritize their goals, interests, potential tasks?
 - More specifically, all externship students will complete a Professional Development Plan where they lay out some goals for the semester. This Plan (which must be shown and discussed with you) can be a good jumping off point for talking to students about the variety of work available in the office and what might fit the student's and office's needs best.

Sample Orientation Materials (4 pages of 25 page manual) Centro Legal de la Raza Workers' Rights Clinic Volunteer

Arrival

- Centro's location: 3022 International Blvd., Suite 410, Oakland, CA 94601.
- Our office is about a 10-minute walk from Fruitvale Bart Station. We have a parking lot behind the office, accessible from Derby Avenue.
- Workers' Rights Clinics typically are on the second and fourth Thursday each month.
- The Clinic begins at 5:30 p.m. It is important that volunteers arrive on time so that we can begin seeing clients promptly at 6:00 p.m.
- Centro Legal's Workers' Rights Clinic is one of a very few resources in this community to assist
 low-income working people in understanding their employment rights. As you will discover over
 the course of the semester, the services offered by the clinic are in high demand. For this reason, it
 is essential that you make a firm commitment to attend the Clinic when you are scheduled to and
 you arrive on time.

Orientation & Trainings

 An orientation and training session will be held at the beginning of each school term. In conjunction with Centro Staff, student representatives will publicize the time and location of these trainings.

Partners

For the first few clinics each school year, we will have students pair up with another volunteer for consults. In choosing a partner, consider the following:

- <u>Language</u>: each pair should have at least one strong Spanish speaker.
- Experience: each pair should aim to have one clinic veteran and one newcomer where possible.
- <u>Educational/Professional Level</u>: aim to have pairs comprised of folks with different educational or professional backgrounds. Undergrads should pair with lawyers, paralegals or law students, for example. Please do discuss your educational and career paths with one another as those connections help advance some of the educational and mentorship goals of the Workers' Rights Clinic.

Office Spaces

- Select an office or workspace from which to work.
- Each station will have a computer connected to the internet, Centro Legal's database of templates and client documents, and a printer.
- You will need Centro Legal's intake questionnaire and a pen.

Clients

- Centro staff will sign clients in for clinic and ask them to fill out an intake sheet.
- When you and your partner are ready to start, approach the front desk and ask for the next client.
- You will receive an intake sheet and you should call out the name of your client in the waiting room, and take him/her back to your office.

The Interview

- First impressions are important. Establish a rapport with your client, make your client feel at ease and respected.
- Introduce yourself. If you are not a lawyer, disclose this to the client and explain that you are

- supervised by lawyers. Making clear that you are not a lawyer does not diminish the client's confidence in the Clinic. Remind your client that an attorney will review the facts of the case and that any advice you provide will be advice from the supervising attorney.
- Centro Legal is committed to providing culturally and linguistically competent services. To the
 degree possible, therefore, we try always to speak the language of the client's preference when in
 the client's presence.
- Make sure all relevant information is filled out on the intake sheet. Also include your name on the Intake Questionnaire, so if Centro staff has a question, we can contact you.
- Ask the client how we can help him/her. Take good notes. Ask follow-up questions as appropriate.
 Make sure that you cover all possible violations. Although all volunteers will be provided with a
 Centro Legal "Intake Questionnaire," be certain to refer to the various clinic legal resources if need
 be.
- Immigration status may sometimes influence legal strategy or a client's concerns about a case. If you inquire about immigration status, however, please first explain why you are asking and remind the client that the information will remain confidential.
- Use of the Centro Legal Interview Questionnaire: The Questionnaire is not a replacement for a strong narrative interview; the Questionnaire is simply a tool and a way to capture organized notes regarding the case. Allow the client to talk, while you take notes and check off information on the Questionnaire. Once the client is done with the narrative, the interviewer(s) can then go back and follow up on any areas that were not covered sufficiently by the narrative. The Questionnaire does not include all potential claims that may be available to a client, so use your best judgment in exploring possible claims beyond those captured by the Questionnaire.
- Ask the client what outcome he/she hopes to achieve.
- If your client presents you with any documents, photocopy them. Always leave the originals with the clients.

Consulting with Supervising Attorneys

- When you feel you understand the client's problem and his/her desired solution, discuss the matter with one of the supervising attorneys.
- Together with the supervising attorney, decide upon a recommended course of action for the client.
- Be sure to note down all options or courses of action recommended by the supervising attorney. Use this list as a checklist of what you will cover with the client after consulting with the supervising attorney.
- This should be an educational experience. The discussion is interactive. With experience, a good volunteer should be able to not only present the information, but also evaluate and propose solutions to the case. Once you are comfortable, you may try to present the case as follows:
 - O Organize the Facts: Before meeting with a supervising attorney, organize the relevant facts of your client's case so it will be clear to the attorney what happened.
 - O Consult the Clinic Resources: Take a moment to consult the various clinic resources including this training guide and the Employment Law Center's Manual so that the discussion with the attorney will be more productive for each of you.
 - O **Present the Facts:** Begin your presentation of the case with a brief description of the client's background information ("our client is a 35 year old construction worker who has been working at for the last 5 years....")
 - O **Spot the Issues:** After telling the relevant facts of your client's case to the attorney, identify the issues you see in the case (Overtime Wage Claim / Discrimination / etc.)
 - O Assess the Case: Give your evaluation of each of the issues you have identified ("I think the client was misclassified as an independent contractor and has a strong wage claim for overtime and missed meal periods").

- O **Propose a Response:** Propose a resolution to the attorney for each issue you have identified ("The client would like to start with a demand letter asking for back wages, and is willing to come back in for help in filing a wage claim if the employer ignores the letter").
- Possible courses of action:
 - O <u>Advice and Counsel</u>: This is the central role of our legal clinics. It is critical that you properly inform our clients of their rights and possible courses of action, and clearly communicate any additional legal advice from your supervising attorney.
 - O <u>Referral:</u> We refer clients to government agencies (EEOC, DFEH, etc.) as well as referrals to private attorneys. Try to give the client as much information as possible about how to reach the referral and what to expect.
 - o <u>Brief and Extensive Services</u> (e.g., writing a letter for the client, calculating wage claims, and filling out complaint forms)
- All documentation must be reviewed by a supervising attorney before you give it to the client to mail out.
- Do not send any document under Centro Legal letterhead without express authorization from a supervising attorney. At our clinics, we assist clients to act on their own behalf. If you feel there is a special reason why the case merits Centro Legal's express intervention/representation, please check in with a supervising attorney.

Follow-Up Plan

- Make sure the client knows what the next step is (for example, "if your former employer doesn't send the wages we demanded in your letter by X date, call Centro back and seek another appointment at a Centro clinic"). Please always make clear that the client needs to be the catalyst for the next step in the case.
- At the conclusion of the consult, fill out a "Brief Service Agreement," the second page of the intake packet provided to the client when they first arrived to clinic. It is vital that we note accurate information on the consult, including relevant claims and statutes of limitations.
- Once you've filled out the Brief Service Agreement, bring it to the attorney you were consulting with. After they've read it and signed it, bring it to the client and review everything, including what is pre-printed. Once it is clear the client understands what the agreement says, have them sign it, and make them a copy. Do not let the client leave until they sign the brief service agreement and you give them a copy.

Finalize the File

- Save any documents you created in the folder titled Clinic Client Documents, which is in the Employment Clinic Materials folder saved on the desktop. Save the document with the client's first and last name, and a short title of document.
- For the hard copy file, staple (do not just paper clip as loosely bound documents can be lost) all notes and copies of documentation to the back of the intake. To preserve client confidentiality, drafts of documents, scrap notes, and other documents with identifying information must be disposed of in the shredder box, not the recycle bin.
- Give the case file to your supervising attorney for approval.

Sample Orientation Schedule Contra Costa County Public Defender's Office Fall Law Clerk Orientation Agenda- August 27, 2018

Welcome; Overview of Orientation Program

Jonathan Laba; Maya Nordberg; Robin Lipetzky

Law Clerk Introductions

Overview of the Contra Costa County Criminal Justice System; and

How a Criminal Case Progresses Through the System

Jonathan Laba

Administrative Tasks / Forms / ID Picture-Taking

Search and Seizure

Gilbert Rivera

Motions Practice, Including 995s and Writs

Maya Nordberg

Ethics and Confidentiality

Patrick Cannon / Jonathan Laba

Speedy Trial

Giovanni Macias

Public Defense and Racial Justice

Jeff Landau

Law Clerk Assignments; Legal Research; Information Technology (network access, email,

Law and Justice, Westlaw, more)

Jonathan Laba, Maya Nordberg, John Gingrich

Assorted Thoughts From Some Current and Former Law Clerks

Orientation Wrap-Up

Contra Costa County Public Defender's Office Summer Law Clerk Orientation Agenda- May 21-22, 2018

DAY 1

Welcome; Overview of Orientation Program

Jonathan Laba; Maya Nordberg; Robin Lipetzky

Law Clerk Introductions

Overview of the Contra Costa County Criminal Justice System; and

How a Criminal Case Progresses Through the System

Jonathan Laba

Client Interviewing and the Attorney-Client Relationship

Mishya Singh and Jermel Thomas

Juvenile Delinquency Practice

Nicole Eiland and Cecilia Fierro

Administrative Tasks / Forms / ID Picture-Taking

Arraignment and Bail

Brooks Osborne

Speedy Trial

Rory McHale

Ethics and Confidentiality

Patrick Cannon

Public Defense and Racial Justice

Jeff Landau

Assorted Thoughts From Some Current Law Clerks

Martinez, Richmond and ADO Law Clerks

DAY 2

Law Clerk Assignments; Legal Research; Information Technology (network access, email,

Law and Justice, Westlaw, more)

Jonathan Laba, Maya Nordberg, John Gingrich

Search and Seizure

Nataniel Johnson-Gottlieb and Gilbert Rivera

Motions Practice, Including 995s and Writs

Maya Nordberg

Mental Health Issues in the Criminal Justice System

Jean Covington and Sarah Spiegel

Confessions

Julian Ross

Holistic Defense and Reentry

Ellen McDonnell and Angelene Musawwir

Immigration

Ali Saidi

What's It Like Being a Young Lawyer in the Contra Costa Public Defender's Office?

Misdemeanor Team

Orientation Wrap-Up

Form Used by Contra Costa Public Defender

2018 SUMMER LAW CLERK PROGRAM INFORMATION AND INTERESTS FORM NAME: LAW SCHOOL: (circle) rising 2L rising 3L EMAIL CELL PHONE: D.O.B. OFFICE (circle): Martinez Richmond ADO MENTOR: **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 individually on a scale of 0 (not interested) to 9 (highly interested): Rating Gain broad experience by working on different types of motions 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 cases / meet juvenile clients (if certified) Argue motions in court Observe case negotiation / pretrial conferences Work on a homicide or other serious "life" case Conduct client interviews / "intake" Visit custodial facilities (e.g., jails, juvenile hall) Work with non-citizen clients / learn about immigration advocacy Work on holistic defense projects (e.g., record clearing, reentry) Be exposed to criminal justice policy issues (e.g., racial justice) Other things you would like us to know about your goals for the summer:

Form Used by Equal Justice Society: Law Clerk Goals

The following information will assist us in assigning law clerks specific substantive assignments and keeping track of the specific skills that the clerk seeks to develop. We will do our best to match the clerk's interests and goals to the available work, but please keep in mind that perfect matches are not always possible.

XX71 . 1 11	
What skills and experiences do you hope to gain during	
your internship? (e.g., legal research and writing, drafting	
memos, fact investigation, exposure to community group	
partnerships)	
I -1 -1 -1 -1 -1 -1 -1 -1 -1 -1 -1 -1 -1	
In what substantive areas are you most interested?	
What are your expectations for this semester?	
what are your expectations for this semester:	
Are there any end products you seek to generate this	
semester? (e.g., writing sample)	
semester (e.g., whem's sample)	

Please save this document as "Your First Last Name - Clerk Goals - Date" and email to xxx@equaljusticesociety.org

Lawyering Skills

This is the list of competencies identified as necessary for effective lawyering. Consider if you have potential assignments or opportunities for students to observe that fit with developing these competencies.

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

On the importance of Professional Development Plans

Building a Better Talent Game Plan: Best Practices for Training and Developing Lawyers

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

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.)

Do Not 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.

Student Name:	
Placement:	
This document will help structure and guide you	DEVELOPMENT PLAN or semester. It relates directly to the <u>self-development</u> nent you will be proactive in directing and guiding some of
	learn from your experience? Think in terms of what you nent or description, your interview, and the time you have
	fessional learning goals you will gain from your placement. It passes a lawyer over the course of the semester. If you are acies chart.
the Time Frame). Break down the steps for achieving	Attainable, Realistic, and fit within the semester (that is g that goal, and how you will assess if you attained or made with your supervisor to confirm that they are attainable in
	lish these goals and/or realize your vision. For each goal, lable to you through your placement to achieve the goal. welcome to add more.
GOAL 1:	Ways that I will assess or measure progress on Goal #2:
Action Steps for Goal #1: a.	a. b.
b.	COAL 2
c. Ways that I will assess or measure progress on my Goal #1:	GOAL 3: Action Steps for Goal #3:
a. b.	a. b.
c.	c.
GOAL 2: Action Steps for Goal #2:	Ways that I will assess or measure progress on Goal #3:
a.	b.
b. c.	c.
with your supervisor and discuss your goals, action s objectives, they can plan and work with you according	vidualized and timely feedback on assignments. Meet steps, and assessments. If your supervisor is aware of your ngly. You may have additions or modifications based on be feasible given the office or current work. Or, your take towards your goals.
Please note any modifications made as a result of that disc	cussion:
Who discussed plan with:	
Date of discussion:	

SMART Goals

 SPECIFIC Define the goal as much as possible with no unclear language Who is involved, WHAT do I want to accomplish, WHERE will it be done, WHY am I doing this - reasons, purpose, WHICH constraints and/or requirements do I have? MEASURABLE Can you track the progress and measure the outcome? How much, how many, how will I know when my goal is accomplished? ATTAINABLE/ACHIEVABLE Is the goal reasonable enough to be accomplished? How so? Make sure the goal is not out or reach or below standard performance. RELEVANT Is the goal worthwhile and will it meet your needs? Is each goal consistent with the other goals you have established and fits with your immediate and long term plans? TIMELY Your objective should include a time limit. Ex: I will complete this step by month/day/year. It will establish a sense of urgency and prompt you to have better time management.

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 of SMART Goals-

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.

Starting Strong – Assignment Management

Once the semester is underway, you have your own work to manage. Keeping track of the extern assignments, their deadlines, and whether they have received feedback can be a challenge.

Below are some concrete suggestions on how to manage assignments, particularly when a student is working for more attorneys than just you.

- Designate 5 minutes of your weekly check-in meeting to having the student list all of their outstanding assignments, deadlines, and any assignments they have complete. In addition, ask the student to designate where which ones they are waiting for feedback on. Encourage the student to create an agenda for these meetings, this could be a standing entry on the agenda.
- Require students all semester to email you once a week (at a designated day/time, such as Friday mornings) with a list of all of their current assignments, deadlines, and any issues/questions they have. You could also have them tell you if and when they believe they will be ready for another assignment. This assignment takes only a few minutes for students to write and moments for you to review, but gives you a solid overall picture of what the student is doing week-to-week.
- ➤ Create a shared spreadsheet to track what assignments exist in the office as a whole, which student is doing each, when it is due, and when feedback was given. Some offices let students review the open assignments to select which is of highest interest. We have an example spreadsheet, available for download, below.
- > Consider having students submit their weekly timesheets to you (nearly all extern programs require these) and you will be able to get a sense of how their time is being allocated and if it seems appropriate to you.

Possible Assignment Cover Sheet

Student Name/Email/Phone:
Supervising Attorney Name/Email/Phone:
Date:
Assignment/Task to be Completed:
Date to be Completed by:
Format to be Completed in: oral, written, memo, brief, etc.:
Suggestions for getting started - templates, people to talk to, etc.:

Spreadsheet Model-

You can download a version from here: tinyurl.com/ExternTracker

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Note as tractioning again fram on a potential novel legal claim in capital case. Requires student to read tracent firings, law reviews, etc. Issue involves due reviews, etc. Issue involves due reviews, etc. Issue involves due reviews rights for gang affiliation. Afbours on 10/29 Salle SUPERvisor Abex Intern 9/15/16	5.	XXXXXX	Review file and draft a demand letter. In this case an employee did not receive appropriate pay for an extended period. We have compiled the needed documents. Here, we need a student to review the file draft the letter (there are templates) and in drafting, double check the law listed in the cover letter. This may require an additional counseling session with the client.	6-8 hours, not including any client meeting	Sam SUPERvisor	D.B. Intern	9/12/18		Provided on draft and 9/22/18 after sent by Sam.
XXXXXX Observe and take notes at a court hearing 4-5 hours on 10/29		XXXXXX	Need a traditional legal memo on a potential novel legal claim in capital case. Requires student to read recent filings, law reviews, etc. Issue involves due process rights for gang affiliation.	Not sure. Maybe 20 hours?	Mohammed SUPERvisor	Alex Intern	9/15/18	flexible - can discuss	
		XXXXXX	Observe and take notes at a court hearing	4-5 hours on 10/29	Salle SUPERvisor				
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Part Three: Staying Strong- Providing Feedback

Feedback Best Practices: Provide Timely and Constructive Feedback on All Assignments 1

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

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).

that were accomplished satisfactorily or that show a potential for success, with specific illustrations of why these aspects were successfully executed.

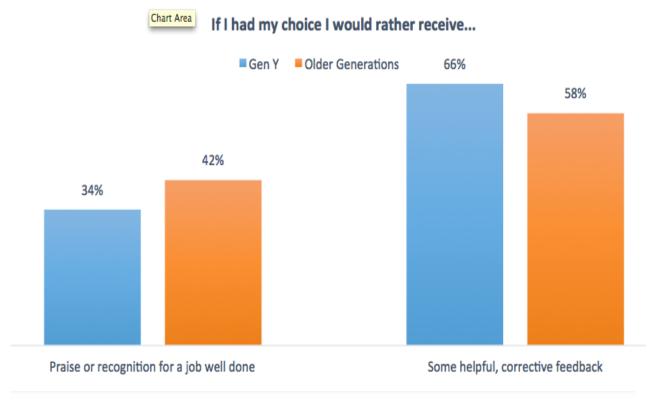
Step Four: The Student Identifies Difficulties and/or Changes to be Made: The student now takes the initiative in identifying areas in need of improvement, coming forward with specific comments.

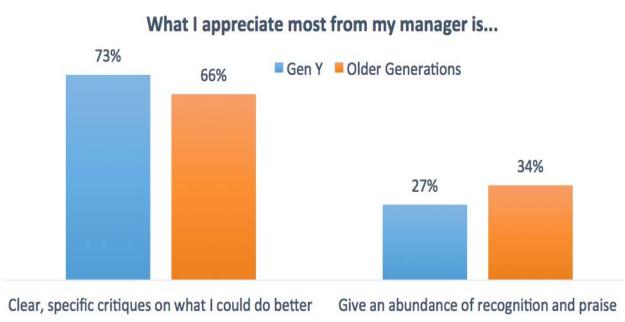
Step Five: The Supervisor Responds to the Identified Difficulties: Confining remarks to areas identified by the student for improvement, the supervisor comments on how the issues could be handled differently next time.

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).

Remember: Millennials (Gen Y) report 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/

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	Туре	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.

Bay Area Consortium on Externships MID-SEMESTER SELF-ASSESSMENT

Extern:	Semester/Year:
Supervisor(s):	
Placement:	
your skills. You are encouraged to be thought	completed a body of work and received feedback from which you may assess tful, candid and specific in your assessment. Upon completion, please discuss pervisor and make any modifications needed. If something is not applicable, x.
Please provide a brief description of the r	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:	is your writing unforce to your addiction a feeder.
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			
Froiessionalism	interactions with other staff, judges, etc.?			
Comments/Examples:				
Please describe the areas/skills that you will focus on impro	ving 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?				
And 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.):				
***USE THIS SPACE LIBERALLY TO GIVE SPECIFIC FEEDBACK ON SKILLS AND PROFESSIONALISM** (You can ask the extern to provide this to you in a form you can type into.)				
(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.				
i least discuss the content of this evaluation with your supervisor.				
Student Extern Signature	 Date			
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.

Possible Assignment Feedback Sheet

Student Name/Email/Phone:
Supervising Attorney Name/Email/Phone:
Date:
Assignment/Task Completed:
Thoughts on the assignment – a few specifics where I did well in the process/product:
Thoughts on the assignment – a few specifics of where I should continue to seek improvement:
Professionalism (timeliness, interaction with atty, etc.) throughout the assignment:
What happens to my work after it is turned in?
Are there any next steps I should take?

Considering Using a More Specific Rubric

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, <u>How to Create and Use Rubrics for Formative Assessment and Grading</u>, 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 Rubrics for Written or Oral Work

(you can consider touching on each category when speaking or giving written feedback)

Short 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 strucutre, 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?

Short 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?

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

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. Donahue, 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.

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 . . .

Courts have recognized that, "it is important to establish reasonable limits" as to what constitutes a burglarious

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.

Part Four: Bibliography

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