

MANUAL FOR SUPERVISORS



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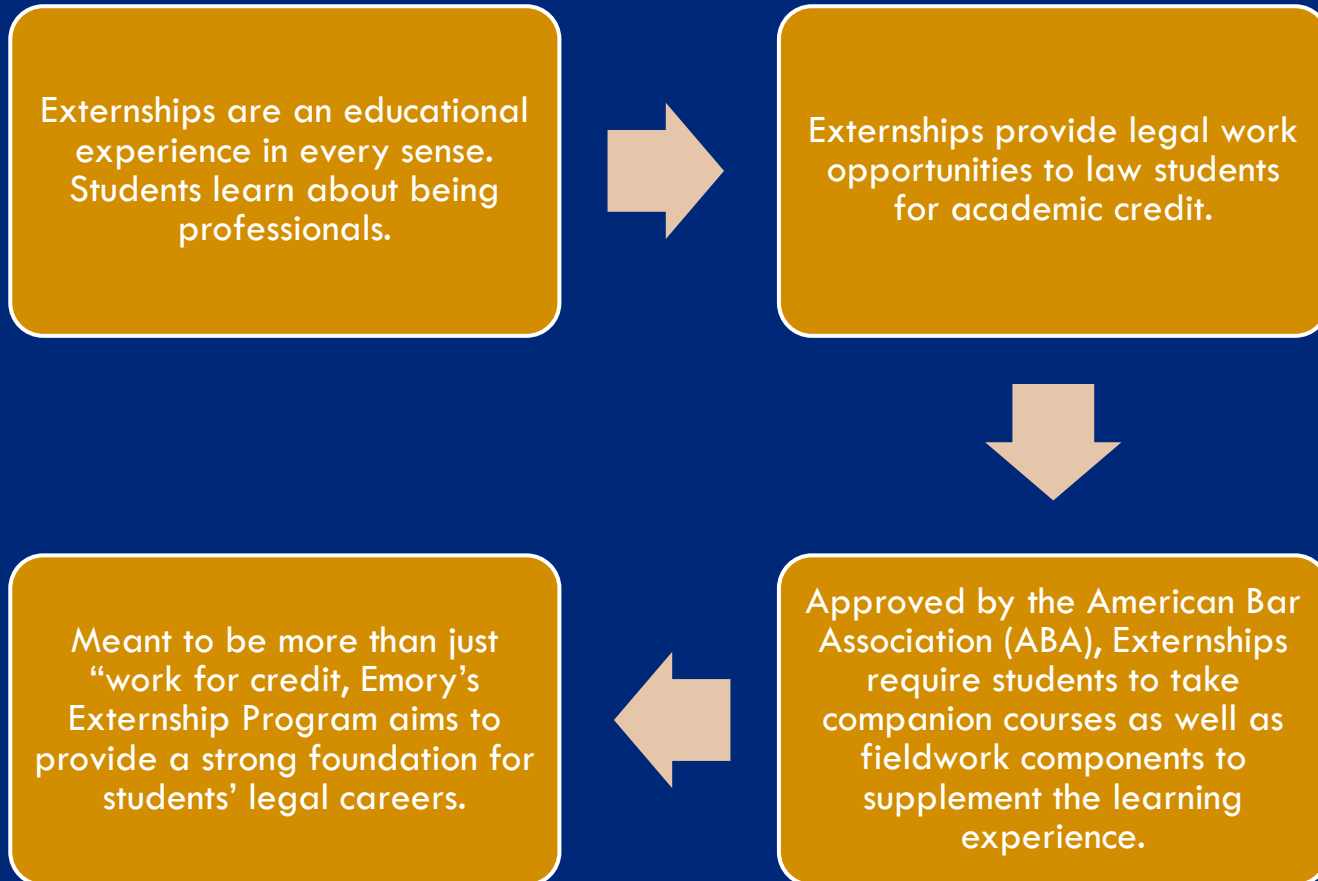
Emory Law School Externship Program

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About the Program

Externships Defined



Overview of Emory Law's Externship Program

- There are three separate programs within Emory Law's overall Externship Program:
 - General Program
 - Small Firm Externship Program
 - Summer Externship Program
- Each of these are explained in more detail below.

Emory's General Program

- **Eligibility:** In this program, students work during the school year 10-24 hours a week at various preapproved sites. Students go to the placement at least 12 weeks during the 14-week semester. Some sites also have regular on-site training process and seminars for their own externs.
- **Selection Method:** Sites receive applications, conduct their selection processes independently, and provide their selections to Emory. We release offers to students via Symplicity and manage the acceptance and registration process.
- **Course Requirements:** Students must also enroll in a companion course that relates to the site's specific area of practice.
- **Grading:** These are Pass/Fail graded courses. Most students work a total of 3 credit hours/50 per credit, for a total of 150 hours. **For 3Ls only**, placements that can provide a distinct and significantly enhanced experience at higher levels of hours may be approved for up to 6 credit hours (50 hours per additional credit hour).

Emory's Small Firm Program



This school-year program offers students an inside look at small-firm practice through work at select small firms, combined with a course on small-firm practice taught by faculty but featuring the insights of the host firms' attorneys.

Eligibility:

3Ls only; capped at 15 students. Individual placements may have additional eligibility requirements. Small firms may not have more than 2 externs in the same semester.

Selection Method:

Students apply to the program via the Small Firm externship job posting in Symplicity. Once students accept their offers, placements receive the applications from Emory, which then matches the students to the firms based on student and firm rankings of each other.

Course Requirements:

Students go to the placement at least 12 weeks during the 14-week semester. In addition, they attend a one-hour weekly class focused on small-firm practice, where the content is provided by host firm attorneys. (Students must take this class, not any of the General externship classes.)

Grading:

Pass/fail based on effort at the placement and performance in the companion course. 3 credit hours for a total of 150 hours (including both fieldwork and coursework). This program is not eligible for higher credit options, and students may not repeat.



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Emory's Summer Program

>> The Summer Program offers students the opportunity to learn from experience anywhere in the world, and to build professional relationships where they hope to practice.

Eligibility:

Rising 3Ls, preferably with prior externship or internship experience or significant work experience. The placement must be one which is not available to the student during the school year and can be anywhere you choose. **Tuition** is paid at the prorated per-credit rate; financial aid is available for 5-6 credit hours.

Selection Method:

Students apply to any summer placement that would qualify for our General program (small firms qualify on a case-by-case basis). The director vets the placement. Upon approval, the student is automatically registered for the program.

Course Requirements:

Students go to the placement at least 6 weeks during the summer and must enroll in either a companion, tutorial course or write a 15-30-page paper. Minimum 3 credits (150 hours). Third year students may earn up to 6 credits by working 50 hours for each additional credit.

Grading:

Pass/fail, based on effort at the placement and performance in the companion course. Students electing the paper option may select 1-2 credit hours out of the 6 to be graded.



It Takes A Village. . .

- If a student or supervisor raises a concern directly, or in journals or evaluations, we reach out to determine how best to resolve.
- We counsel student and supervisor separately and confidentially as appropriate.
- Our goal is to coach students and supervisors to work out the issue themselves, but faculty can intervene directly if necessary.
- Students working 200-300 hours (4-6 credits) participate in a midterm conference and an exit interview with the faculty member and supervisor to ensure the externship is on track. The exit interview usually includes the student.



Training, Feedback and Support

- This manual provides information about ethics, giving assignments and providing feedback.
- The Externship Director is available for on-site or phone training and advice as needed.
- We periodically provide information compiled from student evaluations back to placements.
- Emory is part of the Georgia Association for Legal Externships (GALE), a coalition of all Georgia law schools, which provides a free CLE on supervising externs every 18 months to all externship supervisors.

What Is Involved in an Externship?



What do Supervisors Provide?

1. Workspace (desk and chair)
2. Internet access (but students have their own laptops)
3. Westlaw/Lexis access
4. Sound supervision
 - Supervisor must have a J.D., 1 years of experience, and be licensed if practicing law
 - Preferably no more than one student per attorney per student workday
5. Feedback
 - Provide specific and detailed feedback on at least one assignment
 - Provide some feedback on all assignments
 - Review learning goals with student at the bringing of the externship
 - Review timesheets and journals, provide midterm and final evaluation, and ideally a meeting with student to discuss each
6. Adequate workflow for at least 10 hrs/wk for 12 weeks (for standard 3-credit externship)
 - Having student observing or doing work that attorneys do
 - ABA requires a “lawyering experience,” not clerical or paralegal work



Do You Need to Pay the Students?

- Since 2014, the ABA allows students to receive stipends from their sites for reasonable out-of-pocket expenses and grants or scholarships for such expenses.
- For more details and citations, review the information under Helpful Resources.



General Program – Deeper Dive

- Sites in the General Program may be nonprofit, government, judicial, or in-house
 - ▣ No law firms - but see Small Firm program
- Placements are preapproved for the program and advertised to students by the Externship Director
- Licensed attorneys are available in person to provide close supervision (not remotely)
- Placement is committed to educational mission and will attend trainings and participate in program regularly
- Placement duration is set in advance
 - ▣ 12-14 weeks per semester, about 10 hours per week
 - ▣ Students cannot continue for an additional semester unless they demonstrate they will be doing substantially different work

Small Firm Program – Deeper Dive

- Firms of 15 or fewer attorneys committed to teaching 3Ls about small firm practice
- Placements are invited by the Externship Director after phone interview.
- Firms agree **not to bill out** student time, no expectation of a job at conclusion
- Firms agree to assist in teaching the classroom component
- Placement duration is 12-14 weeks, about 10 hours per week; students cannot continue for credit

Summer Externship Program – Deeper Dive

- Students must be rising 3Ls.
- Students apply to placement on their own, obtain offer, and petition for approval in late spring semester; no preapproval or externship-specific postings for summer.
 - Contact Career Services to post a summer internship/externship opportunity.
- Placement must be of the same type as our school year programs (i.e., no large firms; small firms must be interested in teaching small firm practice management).
- Placement must offer an experience unavailable to the student during the year, usually because the placement is outside the Atlanta metro area, but other reasons will be considered.
- Externships are 3-6 credits, flexible hours but minimum of 6 weeks; students pay tuition by credit hour and may be eligible for financial aid at 5-6 credits.

New Site Approval Process



New Site General Program Approval Process

- Schedule a meeting with Professor Derrick Howard.
- Upon approval, we will email you a Symplicity login and post the position for you.
- Approximately 6 weeks into each semester, students apply via Symplicity for externship placements for the next academic semester and receive their offers via Symplicity just prior to registration for the following term (about 10 weeks into the semester).
- Your primary contact will receive emails and instructions at each step of the process.
- For questions, email lawexternships@emory.edu.

Ethical & Professional Considerations

Conflicts
Confidentiality
Competence

ABA Standard 303 (c)



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Conflicts

- Students cannot take more than one live-client course in a single semester without instructor permission (which takes into account potential conflicts), and weekly externship seminars are organized to minimize conflicts, but some students may work part-time while in an externship.
- Students are likely to have worked for multiple organizations during law school successively.
- Students are also encouraged to do pro bono work.
- We do not screen for conflicts on your behalf.
- **Please ask students to disclose prior employers/placements and do a conflicts check for your organization.** Discuss with them how to handle if they encounter a conflict during the semester.



Confidentiality

- Students will be asked to discuss their work both in individual written assignments and in class.
- Students are taught not to disclose confidential information to anyone outside their placement (including faculty and classmates).
 - ▣ Precisely what information is sensitive and/or confidential will vary between placements
- Be sure to provide careful and specific instructions on the first day of work about **recognizing and redacting confidential information** from written and spoken discussions. Repeat this lesson often!



Competence

- Externship seminars provide general skills support but (due to conflicts/confidentiality) cannot provide support specific to the student's assignments.

- Schedule frequent meetings to give the students a chance to ask questions; ask them to repeat back the assignment/instructions to ensure understanding.
 - Students are afraid of looking dumb or inexperienced or may not know what they do not know.

ABA Standard 303 (c)

- **American Bar Association Standard 303 (c)** mandates law schools offer a curriculum that requires each student satisfactorily complete one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or an externship field placement, as defined in Standard 304. More specifically, 303 (c) indicates:
 - A law school shall provide education to law students on bias, cross-cultural competency, and racism: (1) at the start of the program of legal education, and (2) at least once again before graduation.
 - **For students engaged in law clinics or field placements, the second educational occasion will take place before, concurrently with, or as part of their enrollment in clinical or field placement courses.**

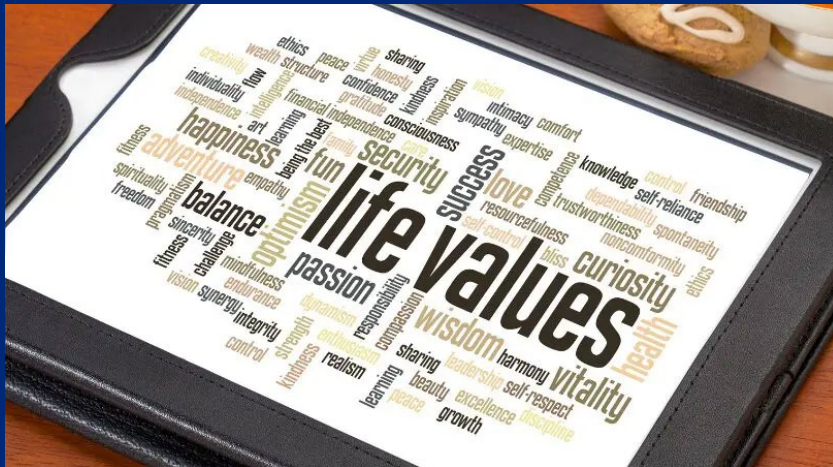


What Does That Mean For Sites?

- Emory Law's Externship Program is based on the collaboration between the law school and each site.
- To comply with ABA Standard 303(c), we will work with your office to develop and/or support ways that externs can come to understand how your office addresses anti-racism, anti-bias, and cross-cultural competence.
- GALE, the consortium of Georgia law schools, provides training for all site supervisors on this subject on a regular basis.



Emory Law's Statement of Values



Which of Emory's
Values relate to ABA
Standard 303(c)?

- Excellence
- Integrity
- Respect
- Service



Emory's Student Handbook
<https://law.emory.edu/student-life/index.html#anchor-student-handbook>



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Emory Law School Professional Conduct Code

- Students are obligated to comply with the Conduct Code* in externships, and the Code requires that they comply with all Georgia Bar Rules as if they were lawyers. If you believe any student has violated the Georgia Bar Rules or any other aspect of this Code, please let the Director know immediately

*See Part 5 (Professional Conduct Code) in 2024-25 Student Bulletin
at: <https://law.emory.edu/student-life/index.html#anchor-student-handbook>

Additional Ethics Notes

- Please note that many externship students will not have taken Legal Profession yet -- do not assume they understand more than the basic principles covered by the “three C’s” (conflicts, confidentiality, & competence) discussed above.
- Please review Model Rules of Professional Conduct [5.1](#) and [5.3](#) on supervising subordinates.
- Visit the Helpful Resources section of this manual for more detailed information.

Links to Related ABA Materials

Diversity & Inclusion



Before the Semester Begins

Plan

- In order to remain enrolled in the course for the following semester, students are required to **contact their supervisors immediately** upon accepting their offers to ask about onboarding procedures (e.g., volunteer agreements and other paperwork, background checks and work authorization, establishing work schedules).
- Please respond to this inquiry as quickly as possible. If you don't yet know an exact start date, please let the student know when they should get back in touch to find out. (Many of our students travel during school breaks.)
- Students should reach out again in the weeks leading up to the first day of class to reconfirm a start date and make more specific arrangements.
- All students are required to meet with their respective site supervisors within the first 2 weeks of the semester to discuss and confirm the students' learning goals/objectives for their externships.



Checklist: Before the Extern Arrives

- HR: Ask about forms the student needs to complete, consider emailing these to the student in advance.
- Physical space: desk, telephone, computer.
- Access: gather keys, codes, parking, email address, etc. (note: Emory does not reimburse for parking).
- Support staff: students learn from support staff, too.
- Work assignment method: if multiple attorneys may assign work, consider having a single coordinator.
- List of key skills/observations: what should a student be sure to have experienced to understand the work of this office?
- Orientation/first assignment: gather materials and manuals.
- Schedule: Ask attorneys about events and find a way to compile and communicate those events.
- Student practice (3Ls and approved 2Ls): ask student to [apply for certification](#)

Checklist: Orientation

Items to review with the extern on the first day (should be **during first week of semester**):

- Office tour (including physical space and access information)
- Mission of the organization and overall structure
- Role of the attorneys and extern in this office
- Protocol for work schedule, assignment and supervision, contact information
- Provide calendar of potential events for observation, list of skills/experiences that students should not leave without
- Ask student to post their work schedule and contact information near their desk
- Give student their first assignment



At the Beginning of the Semester



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Learning Objectives: Expectations for Supervisors

Learning objectives help to structure the student's learning experience and set expectations for both the student and supervisor.

Students will craft learning objectives of the following types:

- Skills (research and writing memos, editing contracts)
- Competencies (communication, professional development)
- Values (demonstrating a commitment to justice or strong work ethic)

They will take a self-assessment to help determine their strengths and weaknesses before drafting the objectives, which they should share with you. They will select at least one skill and at least one competency to focus on. Students should draft the objectives using the [SMART](#) method, but supervisors should help guide students to realistic goals.

Process for Developing Learning Objectives

In their classes, the students will have a self-assessment exercise to help them draft learning objectives on a prescribed MOU form, which they will bring to their first meeting with you. **The MOU is required by the ABA.**

- Supervisors should **have a conversation with the student** on the first day of work (or as soon as possible thereafter) in which you
 - **review the self-assessment survey and draft objectives** - what subcategories of skills/competencies was the student focused on?
 - **reality-check** -- will the student be able to accomplish these things in your office?
 - **brainstorm potential lawyering opportunities** -- help prepare for and observe depositions, write a motion in limine, create a presentation for a business client
- Also, please confirm the student's **work schedule** and any expectations you have regarding notice of changes to the schedule.
- The student finalizes the memo, asks you to sign the MOU, and signs their portion indicating they had a conversation with you about learning objectives.
- The student will turn this into their professor as a PDF, with a copy to you.



During the Semester



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Typical Semester Schedule

Week 1: Orientation, discussion of learning objectives, first assignment

Week 2: Learning objectives and MOU due no later than week 2

Week 5: Student does midterm self-assessment of their progress

Week 6: Supervisor provides evaluation of student, meets with student to discuss

Week 11: Student does final self-assessment of their progress

Week 12: Supervisor submits final evaluation of student, has exit interview. Students may end work as early as this week, if they started during Week 1.

Weeks 13-14: Professor has exit interviews with students (supervisors' final evaluations are a prerequisite for the instructor exit interview and for posting grades!)

Timesheets

- Most students are required to post at least 150 hours (for the 3-credit course), including fieldwork, class time, and preparation for class, and to be on-site or meeting the supervisor in person at least once a week for 12 of the 14 weeks in the semester. This is about 9-11 hours of fieldwork per week.
- Students in higher-credit placements work an additional 50 hours per credit hour (about 4 additional hours per week for each additional credit hour). Their learning objectives memo will indicate how many hours they are working.
- You are not required to sign/certify timesheets.
- The student or professor can print a weekly timesheet or a semester-long report if you would like to see it. It can be downloaded as an Excel file if needed for internal use.
- Remember: Students' time cannot be billed out!



Supervisor Responsibilities

- Provide sufficient work to keep the student busy for the number of hours per week they are on site and sufficient resources to allow the student to perform the work
- Monitor the amount of work and number of concurrent assignments to ensure students are not overwhelmed
- Provide feedback on assignments -- including detailed feedback on at least one assignment
- Provide a midterm and final evaluation
- Have regular meetings with the student to discuss progress and feedback, including a meeting in conjunction with the midterm and final evaluations
- Be available for questions and otherwise provide sufficient guidance



Student Expectations

- Keep the supervisor apprised of planned and unplanned absences from work
- Keep the supervisor apprised of progress on assignments, and provide advance notice when s/he will be ready for more work
- Regularly keep a timesheet, and provide it to supervisor if requested
- Solicit feedback and accept constructive criticism gratefully and graciously
- Request and remind supervisor about meetings and evaluations required for course purposes
- Be as self-sufficient as possible but recognize and ask when guidance is necessary

Work: Planning Suggestions

- Give the student a lower-priority, long-term assignment to work on to fill time while awaiting other shorter-term assignments
- Devise a workflow system so the student always has work, but not too much
- Schedule a weekly meeting with the student to give them time for status updates, questions, more work
- Include students in team, office, and client meetings
- Recruit a specific attorney as a mentor for each student
- Circulate the student's learning objectives to attorneys; keep them available for quick reference
- Balance producing work product with experiential observation opportunities like hearings, meetings, and interviews
- Be creative: consider field trips, office pro bono projects, bar events or CLEs, and meetings with senior management. Anything that is part of the professional life of a lawyer counts!



Giving Assignments: Information Checklist

- When are drafts of the assignment due, and when is the final product due?
- How much time do you expect the student to spend on the assignment, including time for research and drafting (keeping in mind that students are often inexperienced and require extra time for thorough research).
- How many issues do you expect the student to address?
- How technically perfect do you want the letter/memo/brief to be in terms of case cites, for example? Do you want a rough draft or a more polished draft?
- How often should the student check in with you for a progress meeting? Is your schedule communicated to the student, and the student's schedule communicated to you, so that progress meetings are accomplished as planned?
- Is the student aware of the format you require or expect? Have you provided the student with an example of the format of the memo, brief or letter to assist the student in understanding your expectations?
- Who should the student ask for assistance if you are unavailable?
- Have you provided the student with some guidance in terms of starting points for legal research to help focus the issue?
- Have you asked the student if they have questions (again, remembering that some students may be unfamiliar with the substantive area of law you are asking them to address)?
- Ask the student to summarize his/her understanding of the assignment.



Giving Feedback

- Externs crave feedback -- particularly constructive criticism. This is an educational experience, so they want to know what they could have done better and to use that feedback to improve their skills.
- We understand that providing good feedback is not easy. Please reference the next slide for tips on the best way to give feedback.



6-Step Method for Providing Feedback

1. **See:** Assess in light of the assignment given
 - a. For assignments that are not written, take notes with specific examples to discuss with student later
2. **Identify:** Critically review why this is or is not what you would expect for this type of assignment/skill
 - a. The items you focus on depend on the nature of the assignment
 - b. Use the contextual rubrics under Helpful Resources to guide your critical review
3. **Prioritize:** You cannot discuss everything, so prioritize a focus for this assignment
 - a. Big picture (overall structure/approach)
 - b. Most frequent errors
 - c. Errors that, if corrected, could have the biggest impact
 - d. Tailor the scope of comments on this assignment to how often you think you will be able provide feedback on later assignments (perhaps with a different focus)



6-Step Method for Providing Feedback (Cont.)

4. **Plan:** How will you deliver this information?

- a. In person is ideal to set tone, ensure student understands
- b. A memo can work
- c. For written product that you end up using (with or without edits), provide redlined final
- d. Consider more than one mode of delivery for impact/retention

5. **Deliver:** Close in time to assignment completion

- a. Identify “substance” vs. “style” critiques
- b. Give concrete examples of errors and fixes

6. **Follow Up:**

- a. Provide additional opportunities to apply feedback to similar assignment OR
- b. Provide opportunity for student to apply feedback to this assignment

At the End of the Semester



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End of Semester Supervisor Responsibilities



Evaluations



Exit Interviews



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Evaluations

- You will receive an email with an evaluation link for the midterm, and also for the final evaluation for each student.
- Evaluations focus primarily on the student's learning objectives, so you will need to review the learning objectives memo you and the student agreed upon at the start of the semester.
- Evaluations seek ratings on an objective proficiency scale. The question is not whether the student was “Excellent” or “Very Good,” but the extent to which the student was able to perform the skill/competency independently or with minimal guidance, and whether there was improvement over the course of the semester.
- Students will not receive a grade if we have not received an evaluation!

Exit Interviews

- You are strongly encouraged but not required to have an exit interview to discuss the student's work performance, answer questions about feedback on specific assignments, and otherwise provide more detail than in the written evaluation.
- Professors will have their own exit interview with the student before classes end to discuss the learning experience and professional development; faculty must have your written evaluation of the student for this exit interview.

Student Responsibilities



Handing off
Work



Timesheets



Placement
Evaluation



Handing Off Work

- Please advise students several weeks before the end of the semester of procedures and expectations for handing off work and leaving memos for the file/next extern.

Placement Evaluation

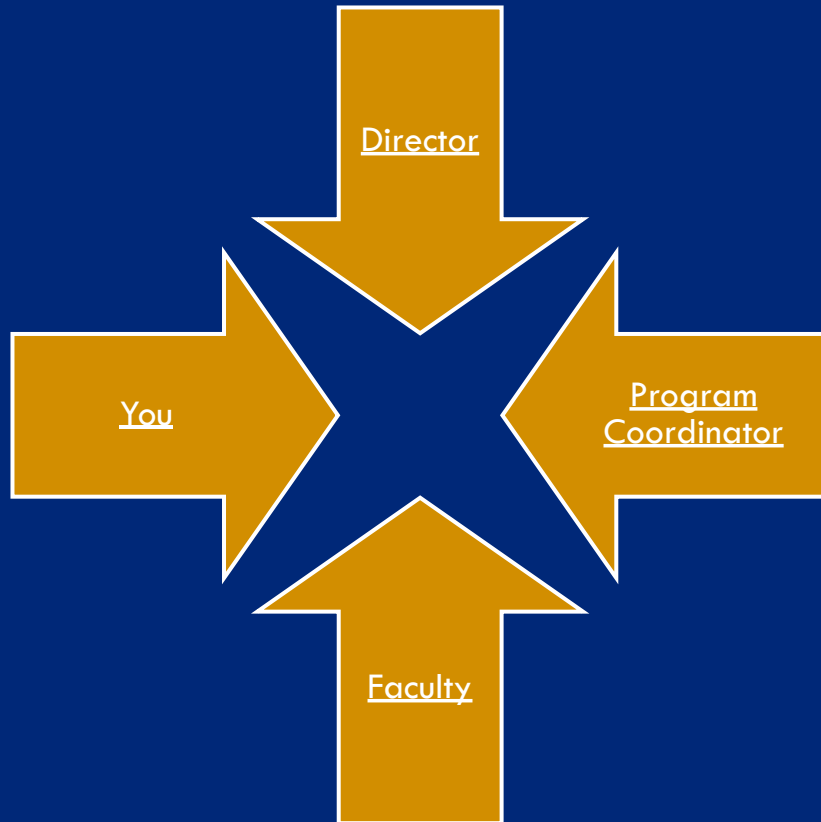
- Students are required to complete a placement evaluation, which is confidential to ensure students are comfortable being candid.
- We will discuss summarized evaluation results with you if there is any concern.



Administrative Information



Who is responsible for what?



Director is primarily responsible for...

- Structure of the overall program and systems/processes used for program administration
- Program requirements and restrictions, both course content and administration
- Approval of an externship placement, concerns about the quality of the placement, and termination of a placement
- Changes to the externship from what was originally approved (frequency, number of students, department)
- Signatures on any agreements on behalf of Emory Law School regarding an externship
- Concerns about student performance that rise to the level of requiring discipline or that haven't been resolved with the instructor
- Concerns about adjunct faculty or about the content of an adjunct faculty member's course

Program Coordinator is Primarily Responsible for...

- Managing the application/interview/offer process and notifying supervisors of process and deadlines
- Enrollment of students in appropriate courses and changes in enrollment
- Managing/coordinating externship events such as the externship fair, CLEs, other speaking opportunities
- Assisting students, supervisors and faculty with Symplicity, Canvas and other online systems
- Assisting faculty with notifying supervisors about supervision deadlines (learning objectives and evaluations) and posting grades



Course faculty are primarily responsible for...

- Ensuring all students complete common course requirements: a pre-externship preparation quiz, learning objectives, instruction on confidentiality, a mid-term self-assessment, a final self-assessment, an exit interview with the instructor and a timesheet
- Setting and enforcing course requirements and restrictions beyond common rules regarding attendance, and common course requirements listed above
- Developing a syllabus appropriate to the subject matter area and enrolled students' placements and experience
- Mentoring the students individually as needed and raising concerns to the Director as appropriate



You are primarily responsible for...

- Providing information to students who have accepted externships about background checks and other onboarding processes and other office policies
- Communicating with students about start dates, work schedules, absences, etc.
- Providing reimbursement for parking and other externship-related expenses to the extent possible
- Having a conversation with the student about their learning objectives at the beginning of the semester
- Supervising student work, including training and physical presence/supervision required for all student work under the Student Practice Rule

What else do we need you to do?

- Mentor students in their professional development
- Provide feedback to the student, including detailed feedback on at least one assignment
- Provide timely online evaluations as requested
- Communicate with the Director and/or other instructors in a timely fashion about concerns you have about a student's performance, absences, professionalism, work ethic, etc.

Administration

Director of Externships

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How Do I...?

- Apply to be Listed or Change my posting information
- Apply for higher credit or 2Ls doing student practice
- Address a Concern about a Student
- Resolve Technical Problems with Symplicity



Apply to be Listed or Make Changes to a Posting

- To apply as a **new General program placement**, speak with Professor Howard. To update a posting, including updates to the primary supervising attorney, email lawexternships@emory.edu.
- To apply as a **new Small Firm placement**, after having had an interview with Prof. Howard, complete the onboarding agreement. If you haven't yet talked to the Externship Director, email him to set an appointment.
- If you have made an offer to a student for a **Summer externship** and need to apply to be approved, please speak with Prof. Howard. If you wish to post for a summer intern, please submit a job posting to Career Services: <https://emorylaw.wufoo.com/forms/z16jc5u010bryqr/>.



Apply for Higher-Credit or 2L Student Practice

- Most placements are 3 credits, which require 150 hours of work including class time and preparation, which typically means about 10 hours a week. Although many students are willing to work more, placements should not *expect* more than about 5-10% more than the minimum requirement because students usually carry an additional 11-14 credits (33-42 hours of total weekly class time and work) *in addition to* the externship. Placements who consistently require more than 10-11 hours a week or offer a substantively different experience to students who can be on site for more hours should consider being a **higher-credit placement** (but please be aware that higher-credit placements are limited to 3Ls).

- Most placements also do not require student practice certification. See Georgia Bar Advisory Opinion 21 (<https://www.gabar.org/Handbook/index.cfm#handbook/rule469>), Guidelines for Attorneys Utilizing Paralegals, which applies equally to student law clerks. However, if the student will be required to exercise legal judgment without attorney intervention in decision-making -- such as speaking in court or advising a client -- student certification is required.
 - Emory certifies all 3Ls and rising 3Ls under the Georgia Supreme Court Practice Rule: <https://www.gabaradmissions.org/studpracrule>.
 - Only limited certification is available for 2Ls, and they must be in a program under law school supervision (including clinics, practicums, and certain externships and structured pro bono programs).



Address a Concern About a Current Student

Try these (in this order):

- Email or call to discuss the issue with the student and document response.
- Have a face-to-face conversation with the student to discuss the issue and document any agreed next steps.
- Contact the faculty member responsible for the weekly course to discuss.
- Note the concern in the student midterm or final evaluation (be candid!)
- Contact the Director if the situation is urgent or attempts to resolve have failed.

Barring outrageous conduct requiring immediate action, please do not fire a student without consulting with us early enough for us to institute education and corrective action. Firing a student from an externship can have serious long-term consequences (including failure of the student to graduate on time due to inadequate credits and/or the necessity of reporting to Bar Certification of Fitness Board).

Resolve Technical Problems with Symplicity

- Review emails we've sent you previously-- we often send visual guides with our instructions.
- Email us at lawexternships@emory.edu.

Helpful Resources



Dept of Labor/WHD and FLSA Law on Externs

[DOL Fact Sheet #71 Re Interns](#) updates the DOL's guidance on the circumstances under which an intern is considered an "employee" and thus must be paid minimum wage. While the DOL has relaxed its guidance recently in light of recent court decisions, academic credit alone is still not determinative.

The DOL has issued guidance on specific settings as well. A 1988 DOL letter regarding in-house clerks (https://www.dol.gov/sites/dolgov/files/WHD/opinion-letters/legacy/ol_1988-01-28_a.pdf) describes a law clerk intern for a corporate counsel's office that the DOL found acceptable. Similarly, this 2013 [DOL Letter regarding Student Pro Bono at Law Firms](#), which was requested by the ABA, describes circumstances in which students working on pro bono matters for law firms would not be considered employees (who must therefore be paid). Both were issued under the DOL's previous, stricter guidance.

The DOL's recent updates respond to a series of federal circuit court decisions (in various settings outside law) finding the six-factor test to be an overly strict interpretation of the underlying Supreme Court decision (*Walling v. Portland Terminal* (1947)) and rejecting deference to the DOL test in favor of a more flexible "primary beneficiary" test or some version thereof. This started with [Solis v. Laurelbrook Sanitarium](#) in the 6th Circuit (642 F.3d 518 (2011)). In the 11th Circuit, the court explicitly rejected the DOL test in the [Schumann](#) case (803 F.3d 1199 (2015)), and many may have heard of the [Fox Searchlight](#) case (811 F.3d 528 (2016)), in which the 2nd Circuit reversed the district court's decision in favor of plaintiffs, based on the same principle.



Law School/Academic Resources on FLSA Issues

[ABA Standard 304](#), which defines externships (field placements) for which law schools are permitted to grant academic credit, sets standards for externships that functionally ensure they meet the stricter (DOL requirements or at least the requirements of the recent federal decisions. Although the ABA no longer prohibits compensation for externships (besides reimbursement of reasonable out of pocket expenses), most law schools (including Emory) still prohibit additional compensation for any credit-granting program.

[This article](#) by externship professor Niki Kuckes discusses in detail the FLSA requirements and exceptions, and describes a compliant externship program.

Also, particularly as it regards international students (but in the course of discussion, describing general FLSA requirements), this [NACE Article](#) on Externships, the FLSA, and International Students provides a good overview of both FLSA requirements and the work authorization available for interns/externs.

Ultimately, we expect that a placement with a genuine interest in helping to educate and mentor future lawyers, that provides the supervision required of students performing legal work, and that complies with our program requirements and those of the ABA, will also be in compliance with the FLSA. However, as “insurance,” we encourage placements to institute their own educational structures, such as regular workshops or training sessions, to supplement our program and enhance the student learning experience.

Ethics and Professionalism Resources

[Georgia Rules of Professional Conduct](#)

[Georgia Supreme Court Student Practice Rule](#)

[Emory Law School Professional Conduct Code](#)

[GALE CLE Materials on Ethics in Supervision](#)



Georgia Rules of Professional Conduct

- Main Page:

- <https://www.gabar.org/Handbook/index.cfm#handbook/ha2>

- In particular, please review:

- Rule 5.1: Responsibilities of Partners, Managers and Supervisory Lawyers
<https://www.gabar.org/Handbook/index.cfm#handbook/rule302>

- Rule 5.3: Responsibilities Regarding Nonlawyer Assistants
<https://www.gabar.org/Handbook/index.cfm#handbook/rule115>



Georgia Student Practice Rule

- <https://www.gabaradmissions.org/studpracrule>
- Full rules at: <https://www.gasupreme.us/wp-content/uploads/2024/07/SUPREME-COURT-RULES--MASTER-updated-June-28-2024.pdf> (see Section XV - Student Practice Rule)

Emory certifies all 3Ls or rising 3Ls, and 2Ls on a limited basis. See <https://law.emory.edu/center-for-professional-and-career-development/students/student-practice-policy.html>. Placements wishing to supervise 2Ls in student practice must first apply on [this page](#) before the student can be certified.

- Note that placements must be one of the types of permitted supervisors (government agency, nonprofit serving persons of limited means, or law firm working for someone who cannot afford legal services) in order to be eligible to utilize student practice.
- Please also note that Rule 95 requires **physical presence** of supervising attorneys in court.
- Some placements (e.g., prosecutors) may be subject to statutes or local rules that require additional procedures, but the Rule applies to all students doing the work described by the Rule in Georgia for the described clients/agencies, regardless of any additional



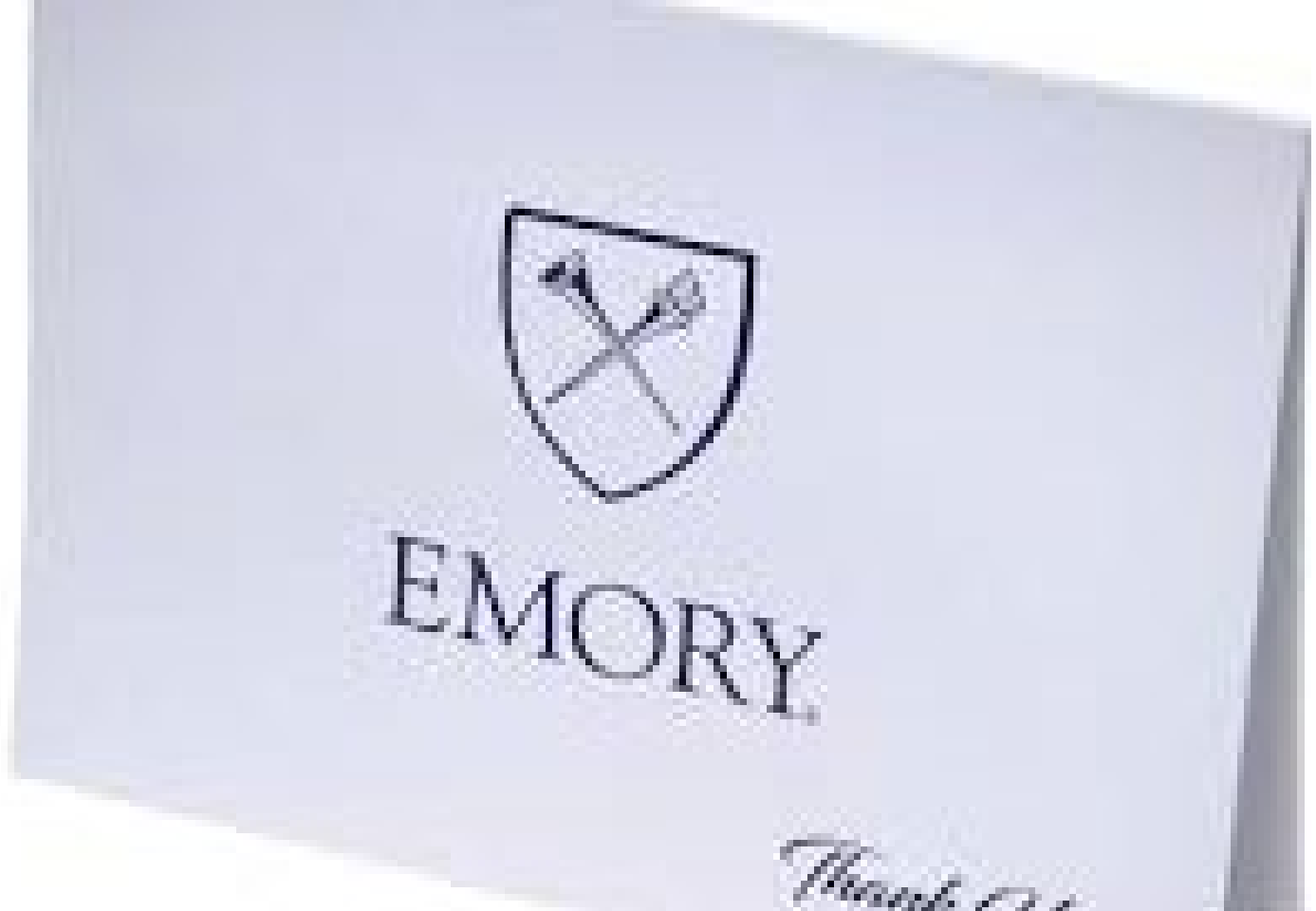
Supervision and Feedback Resources

- See sample evaluation form:

<https://emorylaw.wufoo.com/forms/experiential-learning-employer-final-evaluation>

- This is for reference only -- supervisors will be sent a link to complete the form online for each student.





Thank you for being part of our Externship Program!

Professor Derrick Howard, J.D.
Director of Externship Program



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