

CLINICAL PROGRAM ETHICS REQUIREMENTS REGARDING HOURS OF WORK & PROFESSIONALISM ISSUES CONFLICTS, CONFIDENTIALITY & STUDENT STATUS

HOURS OF CLINIC WORK

The credit (P/F) awarded for your clinical work in all instances requires you to devote and document a minimum number of hours of legal work. For each credit you are expected to devote 50 hours of work. The typical 3-credit clinic requiring 150 hours of work is consistent with the hours of preparation and class attendance generally expected in a 3-credit class. In most Clinics, you will need to complete your hours of work on site (in court, at the office) during regular office hours, and to coordinate your hours with your supervisor. If difficulties arise, please discuss them with the Clinical Program Director; a change of placement or of your schedule may be necessary.

PROFESSIONALISM ISSUES

In all Clinics you are filling an actual role within the legal system. Accordingly, it is crucial that you be aware of your ethical and professional obligations. It is recommended that you take the Legal Profession course prior to or simultaneously with any Clinic to be fully aware of these issues. Failing that, you should carefully review the applicable Rules of Professional Conduct and Codes of Judicial Conduct (typically provided in your orientation materials). Judicial interns & externs should read the article regarding Ethics of Judicial Clerks included in the orientation materials. The remainder of this memo highlights the most significant professionalism issues likely to arise.

STATUS AS NON-LAWYER ASSISTANT

Everything you do is done as a non-lawyer assistant and under the supervision, direction and control of a lawyer. It is crucial that you respect your supervising attorney's right and obligation to control and direct your work. You may not give YOUR legal opinion to a client, although you may communicate the legal opinion of your supervising attorney and you may be permitted to communicate legal information that your supervisor has given you. You must not hold yourself out as an attorney. *You should insure that all persons with whom you deal know that you are a law student and not an attorney.*

If you have completed 4 semesters in law school, you are permitted to appear in court in accordance with the Law Student Assistance Rule. You must comply with the provisions of this Rule and with your supervisor's policies for overseeing your in-court work.

QUESTIONS

Because you are an assistant to a lawyer or judge, and you have confidentiality obligations to that lawyer's client or to that judge; your supervising attorney or judge should be the first person to talk with about a problem. However, your faculty supervisor and the Clinical Program Director are co-responsible for this educational program. Within the constraints of confidentiality (see below), you are welcome to discuss any question, concern or problem with either your faculty supervisor or the Director.

CONFLICTS OF INTEREST

You should not be involved in a case for which you have a "conflict of interest." Such conflicts can arise in a multitude of ways. A typical problem occurs when a student is an employed clerk in an office that opposes his intern office in a case or appears before her supervising judge in a case. Other conflicts arise due to a student's personal life (parents who are attorneys, students' own legal case). Whether the student intern may be shielded from the conflicting case or should be assigned to another office or judge to avoid the conflict is a legal decision that the supervising attorney or judge must be permitted to make.

The student's obligation is to make the supervising judge or attorney aware of ALL potential conflicts. This means letting the supervisor know of any employment and any personal interest or relationship that might potentially create a conflict of interest. Only then can the supervising attorney or judge decide the action which should be taken.

CONFIDENTIALITY

As a volunteer non-lawyer assistant to a lawyer or volunteer clerk to a judge, you should be aware of your professional obligation of confidentiality. Things you learn about your client from the client or from other sources are confidential. These things should not be shared with your friends, classmates or family, but only revealed in the course of the representation and with the client's permission.

Your judge's intended ruling, legal theories about a case, and thoughts about other judges or lawyers should similarly be protected as confidential. The judge's rulings, theories and thoughts are communicated through written orders and opinions; and you must not add to or take away from such official acts.

In order to oversee the Clinical Program the College of Law asks interns to inform us of the nature of the clinical work done (e.g. interviewing clients, preparing cross-examination outlines, drafting an opinion). We do not need or wish to know the name of the client or the case, or (usually) the legal issue involved. There should be no reason to breach confidentiality in reporting the nature of your work to us. Similarly, we ask to review written work product at the end of the clinic. In all instances this should be work product that has been made public (Memos that have been filed in court, Opinions that have been issued) or work product that your supervisor explicitly permits you to share with us.

In order to enhance your learning, we encourage you to discuss your experiences in a classroom setting and/or in papers for the class. Again, we expect to have such discussions without any breach of confidentiality. It should be possible to discuss your experiences in general terms so that no client or case could be identified. (E.g. "The tenant claimed he had not been given notice. But later I discovered there had been a notice which the client 'forgot.'" or "The advocate basically refused to answer the judge's question; the judge told me afterward that avoiding her concern was the worst move a lawyer could make.") Because judges are permitted and encouraged to speak and teach to improve the legal system, it is possible that many things the judge told you are general lessons that the judge would not intend you to keep confidential. Please -- before the end of your clinical semester, discuss confidentiality with the judge and the lessons you may share in class!