

**UNIVERSITY OF UTAH COLLEGE OF LAW
GUIDELINES FOR THE JUDICIAL CLINIC
(INTERN AND EXTERN PLACEMENT)**

The University of Utah College of Law Clinical Program Committee has developed these Guidelines to set forth the educational goals which are sought from a student's participation in a clinical placement with a court, and the procedures and methods which are recommended to attain those goals. These Guidelines also describe the methods which the College of Law will employ in compliance with the ABA Standards for Approval of Law Schools to review the participation of students in judicial clinical placements.

I. EDUCATIONAL GOALS

A judicial placement in which a law student acts as a judge's law clerk offers unique educational opportunities. The educational benefits which can be derived from this experience include the student improving legal analytical, research and writing skills, learning how judicial decisions are made, and becoming familiar with various court procedures.

The student should do challenging legal analysis, research, and writing for the judge on cases pending before the court. The student should be able to work directly with the judge, and to receive the judge's careful critique about his written work product. As a result the student should improve his¹ analytical and writing skills generally.

Secondly, the student should come to understand some things about how judges make decisions. This will come about by observing how the judge disposes of various questions in different cases, and by discussing the judge's reasoning process with her. (The College of Law will also offer a course in the Judicial Process which will be required of all students in judicial placements and which will focus upon judicial decision-making in a more comprehensive way.) Third, in the course of his work the student should take part in and gain familiarity with various legal procedures.

II. RECOMMENDED EDUCATIONAL METHODS

A. To Improve Legal Analysis and Writing

Students most frequently cite their desire to improve their legal writing skills as their reason for enrolling in a judicial clinical placement. Closely associated with this goal is that of gaining experience and confidence in analyzing concrete legal problems in actual cases. Both of these goals can be realized through judicial clinical placements if certain procedures are followed by the student and the judge:

¹ For linguistic ease and clarity, the male gender will be used to refer to the student and the female gender to refer to the judge, although either student or judge could be male or female.

1. Specific Cases Should Be Assigned.

Whenever possible, the student should be assigned a research or writing task in the context of an actual case. In this way the student's analytical task is more challenging--he must deal with rich factual possibilities as well as the more abstract "law." New facts raise new legal issues, and new legal issues inform the court of what other facts may be relevant. Similarly, the writing exercise will be more useful to the student. He will need to discuss both the facts and the law, rather than simply recite "black letter" generalities.

2. Writing Assignments Should be Frequent and Challenging.

The process of putting one's thoughts and conclusions into writing forces one to clarify and refine those thoughts. Except for the most mundane of research projects, a student's analysis will be much superior if he is forced to put his conclusions and reasoning into written form. Similarly, once the student becomes a practicing attorney, his communication with the court about legal issues will be almost entirely through the written word. The clinical semester is the ideal time to instill in the student appropriate forms and methods for such legal writing.

3. Written Work and Legal Analysis Should Be Critiqued.

Students learn a good deal from having to put their reasoning onto paper. They learn a good deal more (about the topic at hand and about their own analytical and writing skills) when their work product is carefully criticized. Many law students feel that they gain inadequate opportunities to write and have their written work criticized in traditional large academic classes. They look to the one-on-one working relationship with a judge as a prime opportunity to get individualized feed-back about their written work. Moreover, students who have the opportunity to be trained by an experienced jurist will be less likely to be unclear, disorganized, confusing writers when they enter practice.

Judges should feel free to ask students to re-write memoranda or draft opinions after a critique. It is very valuable for students to have their written work critiqued. However, it is even more beneficial for them to learn how to correct their mistakes and improve their work product themselves after such a critique.

4. Students Should Have Direct and Regular Access to Their Supervising Judges.

Judges who have full-time clerks in their chambers should nevertheless maintain a personal working relationship with the clinical student. While a full-time clerk can be helpful in orienting the student, directing the student to library resources etc., her involvement with the student should not become a substitute for the judge's supervision and ultimate critique of the student's work. Moreover, only the judge can offer the student significant insights into the decision-making process of the court. (See below).

Because a clinical student may be unclear about the research/writing assignment, or uncertain of the soundness of his tentative conclusions, it is important that he be able to raise questions and ask for further direction as frequently as necessary. It is better if a court has space where such a student can work in close proximity to the judge. Failing that, it is important for the student and judge to meet regularly and frequently. Similarly, it may often be best if the judge assigns smaller, shorter projects initially so that she can gauge the student's abilities (and provide additional guidance and critique where necessary). This will also allow the student to learn the judge's preferences and gain confidence in his analytical and writing abilities before any major project is undertaken.

B. To Learn How Judicial Decisions Are Made

1. Observe Court Proceedings in All Cases Researched/Briefed/Etc.

Traditional law school classes emphasize the importance of appellate case law in determining disputes. The judicial clinical placements offer prime opportunities for students to see how the facts of cases (or the findings at trial) influence particular results. Similarly, students can gain an understanding of how the strengths and tactics of counsel and the institutional procedures help to shape results in litigation. Students will gain insight into these issues most successfully if they are able to see how their legal research and writing interacts with these other factors in the judge's handling and ultimate decision of a case. Accordingly, once a student is assigned to do research and writing in a case, he should be involved whenever possible in other aspects of that case (e.g. observing law and motion session, oral argument, pre-trial conference, trial, etc.)

Observing cases in which the student has no direct involvement is significantly less useful to the student. In those cases, the student does not know the law and is unable to see how the law, the facts etc. impact one another. Such general observations should be limited to those useful in orienting the student to the court's operation or to specific procedures relevant to the student's future assignments.

2. The Judge Should Discuss Her Decision and Reasoning in All Cases the Student Works On and/or Observes.

It will be instructive to the student to see how the court makes use of his legal research in an actual case. The value to the student will be increased if the judge also discusses with the student how she decided the case, why she decided the case in the way she did, and in what way the student's research and other factors influenced the decision.

C. To Become Familiar With Some Court Procedures

The judicial clinical placements are not designed to offer students a comprehensive survey of court procedures, although judicial externs may gain such broad familiarity. However, the student should understand the legal research and writing he does in light of the proceeding in which it is used. Whenever the student has performed research or writing in a case, he should be invited to observe the proceedings in which that work is used. the student will thus gain a familiarity with the legal process as well as the substantive law, and come to understand their interrelation.

Similarly, whenever the student does observe court proceedings, the supervising judge should be available to discuss the student's observations with him.

III. COLLEGE OF LAW OVERSIGHT AND ACADEMIC COMPONENT

The ABA Standards for Approval of Law Schools require that any work away from the law school (i.e. in a clinical placement) be regularly reviewed by a faculty member to insure that the educational goals of the program are met, that the proper amount of credit is accorded that work, and that each student's participation in work away from the law school meets the educational goals established and merits the credit awarded. Accordingly, the College of Law has adopted the following system for reviewing and enhancing the work and learning experiences of students in judicial placements.

A. Students Must Maintain and Submit Time/Task Logs.

Students should keep regular and on-going accounts of their clinical work to confirm that they have worked the requisite hours for the placement and the credit. At present, the following time commitments are typically required of the students:

Placements	Hrs./Sem.	Credit
Appellate Courts	150	3
Third District Court	100	2
All Extern Placements	50 hrs per 1 credit	

The Time/Task Logs should also indicate the nature of the student's work (i.e. research/drafting/re-drafting/discussion with judge, etc.), without indicating the name or nature of the case or project.

B. Students Must Complete Evaluation Forms.

At the end of the semester, all students are asked to complete evaluation forms regarding their placements.

C. Judges Are Asked to Submit Written Critiques About Each Student

Each judge is asked to indicate not only whether a student should receive credit for the placement, but also to critique the student's performance in writing. (These written comments may be made to the College of Law and the student on a form which will not become a part of the student's permanent record, or may be made in a form which the student may use as a letter of recommendation.) the judge should focus upon the quality of the student's work (i.e. legal analysis, research and writing skills) as well as upon the student's work habits.

The judge may also wish to describe the nature of the legal work done by the student or the substantive issues explored by the student. Such information should be included whenever the student is not able to submit written work product to the College of Law.

D. Students Should Submit Representative Written Work When Judicial Confidentiality Allows and After Approval by the Judge.

Each student should submit representative samples of his written work to the College of Law. Such written work should only be submitted after the issue has been decided and the decision published by the court. Similarly, each student should confirm with the judge that a particular item of written work may be submitted before doing so. The written work may include the student's initial drafts or only the court's final published opinion, at the court's option. (Students placed with the U.S. Bankruptcy Court will not submit any written work. A detailed description of the nature of the writing projects and other work will be provided by the judges and/or the students instead.)

E. For Externs Earning Six (6) Credits or More -- Students Must Meet With A Faculty Sponsor To Discuss The Placement Once Each Month.

Students who are placed in substantial judicial externships must discuss their work and observations with the faculty sponsor at least once each month. These discussions may, but need not, include the submission of time logs, written work, etc. Each such meeting should take 45 minutes to 1 hour.

F. For Externs Earning Six (6) Credits or More -- Judges Are Asked to Review The Placement With the Faculty Sponsor Monthly.

When students are placed with judges as externs for substantial time, the supervising judges are asked to review (by telephone or in person) the student's participation in the placement at least once each month with the faculty sponsor. Such reviews should not require more than 15-20 minutes on each occasion.

G. Students Must Enroll in the Judicial Process Course and Write a Paper About An Aspect of the Judicial Process.

Students are required to enroll in the Judicial Process course (offered both Fall and Spring Semesters) during or following their clinical experience.

The goal of the Judicial Process Course is to encourage students to think critically about the procedures and practices they have observed and participated in. The Judicial Process Course focuses upon the judicial decision-making process, including how different courts (trial, appellate, and administrative agencies) make decision, fashion rulings and write opinions, and why certain results are reached through this process. The course also deals with the selection, conduct, and socialization of judges, and with judges' views of attorneys and lawyering practices. The students are encouraged to discuss their observations of the judicial process and any insights they have gained from their supervising judges during their clinical work. (Students are cautioned that such discussions should not reveal confidential information about the court or about any case.) Students are also asked to prepare a paper about some aspect of the judicial process, ideally based in part upon their own observations.

Supervising judges are invited to participate in various class sessions, and should feel free to volunteer their interest in doing so.

IV. CONCLUSION

The College of Law encourages judges from trial and appellate courts and from administrative agencies to participate in the Judicial Clinic on a regular basis. They are encouraged to discuss any questions they may have about these Guidelines with the Clinical Program Director. Judges' suggestions about improvements to the Judicial Clinic are always welcomed.

Any questions, concerns or suggestions should be referred to the Clinical Program Director and Professor Linda F. Smith (581-4077, smithl@law.utah.edu).