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# Significant but Unheralded Growth of Large Externship Programs

James H. Backman  
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James H. Backman\* & Cory S. Clements\*\*

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## INTRODUCTION

In the summer of 1992, the faculty at the Brigham Young University J. Reuben Clark Law School established an externship task force to increase student involvement in the community. At the time, the academy had published very little information about externships, and relatively few law schools had externship programs available for more than a score of law students each semester.<sup>1</sup> The American Bar Association's standards for accreditation were basically hostile to this form of clinical legal education, as evidenced by the pejorative title of "outhouse clinics"<sup>2</sup> given to externships, as contrasted to the more widely accepted "in-house clinics."<sup>3</sup> Over the intervening twenty years, the growth of externship programs has been one of the least understood features of curriculum development in law schools.

Many factors have changed the relative importance of clinical legal education over the past twenty years. Today, law schools more widely offer and embrace all forms of clinical programs as important features of legal education. The Section on Clinical Legal Education of the Association of American Law Schools (AALS) has encompassed three approaches to clinical programs.<sup>4</sup> It is fair to say, however, that law schools have given the most attention and highest status to in-house clinics over externships and simulated-skills courses. The growth of all three approaches is evident in the sizeable increases in clinical-section membership, in the growing attendance at annual clinical workshops, and in the establishment of the independent, sister organization, the Clinical Legal Education Association (CLEA).<sup>5</sup> Leadership in both the AALS clinical section and the CLEA continues to come primarily from in-house-clinic faculty. While the number of externship faculty has also increased, their influence on the developments in clinical education has been downplayed.

Though many leaders in clinical legal education acknowledge the importance of externships in providing students with clinical opportunities,<sup>6</sup> the influence of externship faculty is blunted—even though the number of students participating in externships has surpassed the number participating in in-house clinics over the past ten years.<sup>7</sup> Formal evidence of this largely unnoticed change is not well publicized. The clinical section and CLEA have had externship committees over the years, but they have functioned largely in lesser-known corners of the organizations. Only

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1. The Catholic University of America has assembled an excellent collection of books and articles on legal externships. See J.P. Ogilvy & Harriet Katz, Catholic Univ. of Am., *Legal Externship Bibliography*, LEXTERNWEB (Dec. 2011), <http://lexternweb.law.edu/bibliography.cfm>.

2. See Daniel J. Givelber, Brook K. Baker, John McDevitt & Robyn Miliano, *Learning Through Work: An Empirical Study of Legal Internship*, 45 J. LEGAL EDUC. 1, 5 n.14 (1995) (citing Stephen T. Maher, *The Praise of Folly: A Defense of Practical Supervision in Clinical Legal Education*, 69 NEB. L. REV. 537, 538 n.3 (1990)) (noting the varied names for externship programs, including "out-of-house clinics" and "outhouse clinics").

3. See Robert Dinerstein, Introduction, *Report of the Committee on the Future of the In-House Clinic*, 42 J. LEGAL EDUC. 508 (1992); Hans P. Sinha, *Prosecutorial Externship Programs: Past, Present and Future*, 74 MISS. L.J. 1297, 1311 (2005) ("In-house clinics can be distinguished from field placement programs by the virtue of law school faculty providing the supervision of the students and the cases, as opposed to field placement programs where attorneys outside of the law school provide this supervision.").

4. The Section on Clinical Legal Education of the AALS was formed to help coordinate the efforts of clinical professors as they help students gain real-world experience and skills. The three types of clinical programs are in-house clinics, externships, and simulated-skills courses. *Section on Clinical Legal Education*, ASSOC. OF AM. LAW SCH., [http://bit.ly/AALS\\_CLES](http://bit.ly/AALS_CLES) (last visited July 8, 2012).

5. According to CLEA's mission statement, the purpose of the organization is "to advocate clinical legal education as fundamental to the education of lawyers." *Mission*, CLINICAL LEGAL EDUC. ASS'N, <http://www.cleaweb.org/mission> (last visited July 8, 2012) (listing CLEA's goals: "foster excellent teaching and scholarship by clinical educators; integrate clinical teaching and extend its methods into the legal education program of every law school; reform legal education so as to prepare law students for excellent and reflective law practice; advance regulation of legal education that insures the continued vitality of clinical education in law schools; and pursue and promote justice and diversity as core values of the legal profession.").

6. ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 146–52 (2007), *available at* [http://www.cleaweb.org/Resources/Documents/best\\_practices-full.pdf](http://www.cleaweb.org/Resources/Documents/best_practices-full.pdf) (detailing best practices for externship courses).

7. See *infra* Part VI.

recently have externship faculty been part of the elected boards directing these clinical-education organizations.<sup>8</sup> During recent years, the annual clinical conference has included specific programs and breakout sessions dealing with externship issues and pedagogy.<sup>9</sup> The working groups typically established in clinical conferences have included an externship category in recent years. A few years ago, an externship conference group was available but only after externship faculty noted that an externship group was not originally part of the conference plan. At the 2012 clinical conference in Los Angeles, several externship groups were available.<sup>10</sup>

CLEA has published the *Clinical Law Review* for the past 18 years.<sup>11</sup> And while externship-related articles have appeared with increasing frequency in the journal, they are overwhelmingly surpassed by the number of articles connected to in-house clinics. In recent years, however, the *Clinical Law Review* has dedicated several issues primarily to papers presented at the Externships conferences.<sup>12</sup> Catholic University Law School hosted the first two of these programs devoted exclusively to externships—Externships 1 and Externships 2. Since then, Externships conferences have taken place every two years, each time in a different city.<sup>13</sup> The initial number in attendance was approximately 100 participants. In 2012, the number had increased to more than 250 participants.

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8. For example, during the past decade, Robert Kuehn has served on the executive committee of the AALS Section on Clinical Legal Education and as president of the CLEA. Robert R. Kuehn, *Faculty Profile*, WASH. UNIV. LAW, [http://law.wustl.edu/faculty\\_profiles/profiles.aspx?id=7284](http://law.wustl.edu/faculty_profiles/profiles.aspx?id=7284) (last visited July 8, 2012) (curriculum vitae).

9. For example, at the April 2012 AALS Conference on Clinical Legal Education, there were several sessions that addressed externship issues. These sessions included a poster presentation on students' externship experiences and four sessions discussing externships, such as "The Golden Mean: Evaluating Student-Clinician Ratios in Field Placement Programs" and "Clerkship-Ready: Preparing Students for Judicial Externships and Clerkships," ASSOC. OF AM. LAW SCH., CONFERENCE ON CLINICAL LEGAL EDUCATION 8, 14 (2012), available at <http://www.aals.org/clinical2012/2012clinical-booklet.pdf>.

10. See *id.*

11. The *Clinical Law Review* was established in 1994. Stephen Ellmann, Isabelle R. Gunning & Randy Hertz, Foreword, *Why Not a Clinical Lawyer-Journal*, 1 CLINICAL L. REV. 1, 4 (1994) ("The *Clinical Law Review* is jointly sponsored by three organizations: CLEA; AALS; and N.Y.U. School of Law, which serves as the host school for the journal.").

12. See Alexis Andreson, Arlene Kanter & Cindy Slane, *Ethics in Externships: Confidentiality, Conflicts, and Competence Issues in the Field and in the Classroom*, 10 CLINICAL L. REV. 473 (2004); James H. Backman, *Law School Externships: Reevaluating Compensation Policies to Permit Paid Externships*, 17 CLINICAL L. REV. 21 (2010) [hereinafter Backman, *Compensation Policies*]; James H. Backman, *Practical Examples for Establishing an Externship Program Available to Every Student*, 14 CLINICAL L. REV. 1 (2007) [hereinafter Backman, *Practical Examples*]; Cynthia Baker & Robert Lancaster, *Under Pressure: Rethinking Externships in a Bleak Economy*, 17 CLINICAL L. REV. 71 (2010); Cynthia Batt & Harriet N. Katz, *Confronting Students: Evaluation in the Process for Mentoring Student Professional Development*, 10 CLINICAL L. REV. 581 (2004); Barbara A. Blanco & Sande L. Buhai, *Externship Field Supervision: Effective Techniques for Training Supervisors and Students*, 10 CLINICAL L. REV. 611 (2004); Carl J. Circo, *An Educational Partnership Model for Establishing, Structuring, and Implementing a Successful Corporate Counsel Externship*, 17 CLINICAL L. REV. 99 (2010); Erica M. Eisinger, *The Externship Class Requirement: An Idea Whose Time Has Passed*, 10 CLINICAL L. REV. 659 (2004); Bernadette T. Feeley, *Examining the Use of For-Profit Placements in Law School Externship Programs*, 14 CLINICAL L. REV. 37 (2007) [hereinafter Feeley, *For-Profit Placements in Law School*]; Bernadette T. Feeley, *Training Field Supervisors to be Efficient and Effective Critics of Student Writing*, 15 CLINICAL L. REV. 211 (2009); Anahid Gharakhanian, *ABA Standard 305's Guided Reflections: A Perfect Fit for Grounded Fieldwork*, 14 CLINICAL L. REV. 61 (2007); Peter A. Joy, *Evolution of ABA Standards Relating to Externships: Steps in the Right Direction*, 10 CLINICAL L. REV. 681 (2004); Harriet N. Katz & Alexander Scherr, *Toward a New World of Externships: Introduction to Papers from Externships 4 and 5*, 17 CLINICAL L. REV. 1 (2010); Harriet N. Katz, *Counseling Externship Students*, 15 CLINICAL L. REV. 239 (2009); Nancy M. Maurer & Robert F. Seibel, *Addressing Problems of Power and Supervision in Field Placements*, 17 CLINICAL L. REV. 145 (2010); Susan K. McClellan, *Externships for Millennial Generation Law Students: Bridging the Generation Gap*, 15 CLINICAL L. REV. 255 (2009); J.P. Ogilvy, *Introduction to the Symposium on Legal Externships 2: Learning from Practice*, 10 CLINICAL L. REV. 469 (2004); Linda F. Smith, *Why Clinical Programs Should Embrace Civic Engagement, Service Learning and Community Based Research*, 10 CLINICAL L. REV. 723 (2004).

13. Externships 1: Learning from Practice: Developments in Externship Pedagogy, 1998, Catholic University Law School; Externships 2: Learning from Practice, March 7–8, 2003, Catholic University Law School; Externships 3: Learning from Practice, A National Externship Conference March 24–25, 2005, Loyola Law School and Southwestern Law School (Los Angeles); Externships 4: A Bridge to Practice, February 15–16, 2008, Seattle University School of Law; Externships 5: Externships: Respond to Changing Times, March 4–7, 2010, University of Miami School of Law; Externships 6: Preparing Lawyers: The Role of Field Placement, March 1–4, 2012, Northeastern University School of Law (Boston).

Law schools have offered student externships for several decades.<sup>14</sup> The number of participating students has fluctuated over time. At first, more law students participated in externships than in in-house clinics,<sup>15</sup> but that changed in the 1980s and remained consistent for many years. Starting in the early- to mid-1990s, externship enrollment surpassed in-house-clinic participation again<sup>16</sup> and has continued to increase in the past decade, each year widening the gap between these two primary forms of practice-based experiential learning.<sup>17</sup> Today, externships have never been more important as a means of providing practical legal education to the current generation of law students.

This Article proceeds as follows. Part I reviews the megatrends in externship programs based on statistics over the past thirty years.

Part II applies the disruptive-innovation theory developed by Professor Clayton Christensen from the Harvard business faculty.<sup>18</sup> The historical view of the rise of the clinical-legal-education movement and the later development of large externship programs serve as excellent examples of disruptive-innovation theory's predictive features.

Part III explores two different patterns for externship programs that have emerged in law schools<sup>19</sup>: the clinic-based model and the apprenticeship model.<sup>20</sup>

Part IV exposes the difficulties caused by the ambiguous wording the ABA has used to gather information about externships for its annual *Official Guide* and provides a concrete solution to the current reporting ambiguity. In fact, while writing this Article, we successfully persuaded the ABA Consultant on Legal Education to adopt our solution, which will be implemented in 2013.

Part V takes a closer look at the growth of externships over the past ten years.

Part VI explores the development of externship programs at the ninety-five law schools that have achieved high levels of externship availability since 2006. It also uncovers some of the primary reasons for the growth of externship opportunities at an ever-increasing number of law schools. We base our conclusions in part on a survey we sent to externship directors at most of these ninety-five law schools.<sup>21</sup>

Finally, Part VII focuses on the externship models of the thirty law schools that achieved the highest levels of externship participation over the six-year period from 2006 through 2011.

Part VIII concludes that the approach adopted by a law school for delivering externships is the most important factor influencing externship growth—more than a law school's ranking, its geographical location, or its size.

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14. Sudeb Basu & J.P. "Sandy" Ogilvy, *Externship Demographics Across Two Decades with Lessons for Future Surveys*, 19 CLINICAL L. REV. 1 (2012); see also <http://www.northeastern.edu/law/pdfs/academics/x6/ogilvy-basu.pdf> (showing charts and statistics).

15. Givelber et al., *supra* note 2, at 5–6.

16. *Id.* at 6 n.16 (noting that "externship enrollments were slightly higher (10,695 to 9,343)" than enrollments in in-house clinics).

17. See *infra* Part VI.

18. See generally CLAYTON M. CHRISTENSEN, *THE INNOVATOR'S DILEMMA: WHEN NEW TECHNOLOGIES CAUSE GREAT FIRMS TO FAIL* (1997).

19. Joy, *supra* note 12.

20. James H. Backman, *Where Do Externships Fit? A New Paradigm Is Needed: Marshaling Law School Resources to Provide an Externship for Every Student*, 56 J. LEGAL EDUC. 615 (2006) [hereinafter Backman, *A New Paradigm*].

21. Not surprisingly, an independent study conducted by the Center for the Study of Applied Legal Education supports our calculation. Of approximately 147 law schools that do not require some form of clinical legal education for graduation, 98 schools self-reported that 26% or more of their students participate in at least one externship before graduation. See DAVID A. SANTACROCE & ROBERT R. KUEHN, CTR. FOR STUDY OF APPLIED LEGAL EDUC., *THE 2010-11 SURVEY OF APPLIED LEGAL EDUCATION 1–3*, 9–10 (2012), available at <http://www.csale.org/files/CSALE.Report.on.2010-11.Survey.5.16.12.Revised.pdf> (surveying 163 of the then-195 ABA fully accredited law schools).

## I. STATISTICAL OVERVIEW: EXTERNSHIP-PROGRAM GROWTH

Since 2006, Professor Backman has published five articles about externships;<sup>22</sup> in three of them, he tracked the statistics for the law schools whose externship programs reached the highest percentage of eligible students.<sup>23</sup> Using the numbers that law schools annually report to the ABA—published in the *ABA-LSAC Official Guide to ABA-Approved Law Schools*<sup>24</sup>—he calculated each school’s respective ranking based on the percentage of law students involved in externships.

In October 2011, *The National Jurist* created a list of the top twenty law schools “with the highest percent of externships to enrollment,” which was also based on the annual *Official Guide*.<sup>25</sup> Law schools became aware of their comparative rankings based on the number of law students participating in externships at law schools throughout the nation.

This externship-focused publicity has helped increase awareness among law schools and law students about the level of externship opportunities their specific law schools provide. In the past, law-school participation in in-house clinics received much more attention.<sup>26</sup> By contrast, externship programs and the growth of student opportunities through externships remained relatively obscure until recently.

The statistics tell the story well. In 2004,<sup>27</sup> only twenty-two schools with externship programs reached 35% of their eligible second- and third-year students.<sup>28</sup> In 2007, fifty-five schools reached 35% of their eligible students.<sup>29</sup> In the years since, many other law schools have made the list. This Article identifies ninety-five law schools that have reached at least 25% of their full-time students—which includes first-year students even though they are not eligible to participate in externships for credit until after their first year of law school—earning externship credits in a single year.<sup>30</sup>

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22. James H. Backman & Jana B. Eliason, *The Student-Friendly Model: Creating Cost-Effective Externship Programs*, 28 TOURO L. REV. 1339 (2012) [hereinafter Backman & Eliason, *Cost-Effective Externship Programs*]; Backman, *Compensation Policies*, *supra* note 12; Backman, *A New Paradigm*, *supra* note 20; James H. Backman, *Externships and New Lawyer Mentoring: The Practicing Lawyer’s Role in Educating New Lawyers*, 24 BYU J. PUB. L. 65 (2009) [hereinafter Backman, *New Lawyer Mentoring*]; Backman, *Practical Examples*, *supra* note 12.

23. See Backman, *Practical Examples*, *supra* note 12, at 7–8; Backman, *New Lawyer Mentoring*, *supra* note 22, at 69 n.5; Backman, *Compensation Policies*, *supra* note 12, at 34.

24. See AM. BAR ASS’N & LAW SCH. ADMISSION COUNCIL, ABA-LSAC OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS (2006 ed. 2004).

25. Michelle Wyenberg, *Top Law Schools for Externship Opportunities*, NAT’L JURIST, Oct. 2011, at 19, available at <http://www.nxtbook.com/nxtbooks/cypress/nationaljurist1011/index.php#/18>; *Another Look at the Top Schools for Externships*, NAT’L JURIST (Oct. 28, 2011, 10:48 AM), <http://www.nationaljurist.com/content/another-look-top-schools-externships> (noting inaccuracies in original article’s methodology and listing corrected rankings and percentages).

26. See WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 120–22, (2007) (little or no reference to externships).

27. For clarity, any time we list a year throughout this Article, it reflects the academic year that began in the fall of the previous year and ended in the spring of the year listed. Thus, 2004 reflects the 2003–04 academic year, which was reported in the 2006 Edition of the *Official Guide*.

28. Backman, *Practical Examples*, *supra* note 12, at 8–9 n.3.

29. Backman, *New Lawyer Mentoring*, *supra* note 22, at 66–67 n.4.

30. In fall 2011, we initially identified seventy-five schools at which the number of full-time students divided by the number of field placements—externships—was 25% or greater. We sent letters to the externship directors at each school, notifying them of their schools’ statistics and inviting them to complete an Internet-based survey. We sent a follow-up letter and in the end, twenty-four externship directors completed our online survey.

Our Internet survey asked the following:

- (1) Name of the person answering these questions:
- (2) Your position or title in connection to externships:
- (3) Your faculty status (select one):
  - a. tenured faculty

It is helpful to divide the law schools with high rates of externship participation into several categories based on the trajectory of their growing or declining statistics (or a combination of both trends) over the most recent six years reported in the annual *Official Guide*.<sup>31</sup> We can gather a few conclusions by considering these individual law-school records.

## II. DISRUPTIVE-INNOVATION THEORY APPLIED TO CLINICAL LEGAL EDUCATION'S EFFECT ON LAW SCHOOLS OVER THE PAST FIFTY YEARS

Clayton Christensen at the Harvard Business School has developed and coined a fascinating theory called Disruptive Innovation.<sup>32</sup> It explains significant changes in major industries by

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- b. *long-term contract faculty*
  - c. *non-faculty administrator*
  - d. *non-faculty staff*
  - e. *other (please explain)*
  - f. *Note that "Prefer not to be interviewed" was also a valid option.*
- (4) *Your email address:*
- (5) *Why do you think that externship placements have grown by 69% over the past ten years, as explained in a recent magazine article of the National Jurist?*
- (6) *What are the reasons behind these numbers—especially any changes—at your law school? Please check all applicable factors:*
- a. *student demand*
  - b. *faculty emphasis*
  - c. *new director*
  - d. *competition with law schools in my region*
  - e. *increase in summer externships*
  - f. *economic downturn and difficulty for students to find paid legal work*
  - g. *change in our faculty rules regarding credit*
  - h. *change in our approach to externship-class requirements*
  - i. *site visits*
  - j. *other (please specify)*
- (7) *How many externship credits can a student count toward graduation?*
- (8) *We have as many (or more) law students in summer externships as in a regular academic semester. (Yes/No).*
- (9) *What changes, if any, have occurred in faculty involvement because of these changes in number of externship placements? Do you have more tenured faculty involved? Do you have more adjunct faculty involved? Explain.*
- (10) *Has the role of the Career Services office changed along with the noted changes for your law school? (Yes/No).*
- (11) *Please indicate to what extent each group at your law school would either agree or disagree with the following statement: \_\_\_\_\_ are generally pleased with the direction of our externship program and the changes noted in number of placements. (Strongly disagree–Strongly Agree Likert scale).*
- a. *Faculty members*
  - b. *Law-school administrators*
  - c. *Students*
- (12) *What do you expect in the future for externships at your law school?*
- a. *Much greater growth than decline*
  - b. *Greater growth than decline*
  - c. *About the same as now*
  - d. *Greater decline than growth*
  - e. *Much greater decline than growth*
- (13) *Please briefly explain your response to the previous question (future expectations for externships).*

In fall 2012, when the ABA released the 2013 Edition of the *Official Guide*, we identified twenty more schools that had reached the 25% threshold for the first time. We did not, however, send letters to the externship directors at those twenty schools or ask them to take our Internet survey.

31. See *infra* Part VI.

32. *Key Concepts*, CLAYTONCHRISTENSEN.COM, <http://www.claytonchristensen.com/key-concepts> (last visited Nov. 16, 2012) (“Disruptive innovation, a term of art coined by Clayton Christensen, describes a process by which a product or service takes root initially in simple applications at the bottom of a market and then relentlessly moves up market, eventually displacing established

pointing to a pattern that occurs when a new approach becomes available because of an invention or innovation, which he calls a disruptive innovation.<sup>33</sup> The market eventually rewards industry participants who embrace the disruptive innovation and penalizes those who ignore the disruptive change.<sup>34</sup> As time goes on, the initial expense of the original disruptive innovation leads to further cost-saving innovations by industry players who learn to provide the new approach through more competitive prices. We have applied these theories to legal education and discovered that the changes in legal education brought about by an original disruptive innovation (clinical legal education) have now transformed, as the theory predicts, into inexpensive forms (externships) of the expensive innovation. Together, the dynamic changes explored in this Article provide an excellent example of the application of the Disruptive Innovation theory.

The biggest changes in legal education over the past fifty years have come about through the introduction and growth of clinical legal education.<sup>35</sup> The Socratic Method was the original approach adopted to usher in modern legal education in the 1890s.<sup>36</sup> It was unchallenged as the method of delivering legal training for many years. In fact, over its first six decades of supremacy, it virtually eliminated the apprenticeship method of training lawyers.<sup>37</sup> Now everyone is forced to seek legal education in a law school based on teaching through the Socratic Method.

But the Socratic Method is currently facing competition from a new disruptive innovation: in-house clinics. Clinics were the next major innovation in legal education since the emergence of Langdell's use of the Socratic Method ninety years earlier.<sup>38</sup> Grants from the Ford Foundation supported and encouraged the creation of new clinics at law schools during the 1960s and 1970s.<sup>39</sup> Many law schools adopted this new method of training law students, which emphasized learning from experiential work with real clients under the direction of a clinical faculty member. As clinical pedagogy developed and standards were set, the in-house clinic was very popular, and the demand for participation by law students grew. The expense of this form of training was

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competitors.”).

33. Disruptive innovations do not disrupt merely because they are better products but rather because they are more affordable and simpler to use, allowing a completely new type of consumer to access the product.

A disruptive innovation is *not* a breakthrough improvement. Instead of sustaining the traditional improvement trajectory in the established plane of competition, it *disrupts* that trajectory by bringing to the market a product or service that actually is not as good as what companies historically had been selling. Because it is not as good, the existing customers in the [market] cannot use it. But by making the product affordable and simple to use, the disruptive innovation benefits people who had been unable to consume the [original] product[.]

CLAYTON M. CHRISTENSEN, MICHAEL B. HORN & CURTIS W. JOHNSON, *DISRUPTING CLASS: HOW DISRUPTIVE INNOVATION WILL CHANGE THE WAY THE WORLD LEARNS* 47 (McGraw Hill, 2008).

34. *Id.* at 48–50 (noting that Digital Equipment Corp., the leading minicomputer company and “one of the most admired companies in the world economy” during the 1970s and 1980s, went under in the later 1980s because it failed to adopt a disruptive innovation: the personal computer).

35. SULLIVAN ET AL., *supra* note 26; Laurie Barron, *Learning How to Learn: Carnegie's Third Apprenticeship*, 18 *CLINICAL L. REV.* 101 (2011); Margaret Martin Barry, Jon C. Dubin & Peter A. Joy, *Clinical Education for this Millennium: The Third Wave*, 7 *CLINICAL L. REV.* 1, 5 (2000) (“[C]linical legal education is ‘so often called the most significant change in how law was taught since the invention of the case method that it now sounds trite’” (quoting PHILIP G. SCHRAG & MICHAEL MELTSNER, *REFLECTIONS ON CLINICAL LEGAL EDUCATION* 5 (1998))).

36. See Charles R. McManis, *The History of First Century American Legal Education: A Revisionist Perspective*, 59 *WASH. U. L.Q.* 597, 598 (1981).

37. See Peter A. Joy & Robert R. Kuehn, *The Evolution of ABA Standards for Clinical Faculty*, 75 *TENN. L. REV.* 183, 184 (2008).

38. *Id.* at 187.

39. *Id.* (“From 1968 to 1978, the Council on Legal Education for Professional Responsibility (CLEPR), funded by the Ford Foundation, awarded grants for clinical programs to 107 ABA-approved law schools.”); see also ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* (1983); Barry, Dubin & Joy, *supra* note 35; J.P. Ogilvy, *Celebrating CLEPR's 40<sup>th</sup> Anniversary: The Early Development of Clinical Legal Education and Legal Ethics Instruction in U.S. Law Schools*, 16 *CLINICAL L. REV.* 1, 14–15 (2009).



significant because of recommendations that clinical faculty members supervise no more than eight students in a single course.<sup>40</sup> This was indeed a major disruption for legal educators, who had been used to large classroom settings in which one professor might teach 50, 100, or even 150 students in a single class.

Once the grant money was no longer available, many law schools had to reduce the number of in-house clinic offerings or place special emphasis on continuing and even expanding their in-house clinic opportunities by raising additional earmarked funds and hiring new clinical professors who often had previous experience as lawyers with legal-service organizations.<sup>41</sup> Law schools mitigated the expense by hiring practicing lawyers out of the public-interest sector to teach clinical classes.<sup>42</sup> These clinical professors were usually paid less than the lawyers recruited from private law firms for regular faculty positions to teach classes using the Socratic Method in large classroom settings.

These expensive features of the in-house clinics were limitations that opened up a new round of disruptive innovation through the development and significant growth of externships as a new method of providing experiential legal education. In harmony with Christensen's theory, many law schools started to provide externship opportunities to their students as a cost-saving means for delivering experiential, practical clinical education. By doing so, law schools reduced the expensive manpower factor of hiring clinical supervisors. Instead, willing attorneys and judges took on the primary supervisory role for each individual student. The student, in turn, handled assignments and observed legal practice in an office through the externship. At the same time, the serious restriction applying to in-house clinics on the number of students who could be involved dissipated. One faculty supervisor could oversee an externship course with as many as 20, 30, or even 50 students participating.<sup>43</sup> The same clinical advantages offered through in-house clinics were made available to the students who were working on real cases, meeting real clients, observing real hearings and trials, and participating in other forms of legal practice, but at a greatly reduced price for the law school. Externships have provided an affordable means for law schools to provide the practical experiences that have increasingly been viewed as necessary to prepare law students for the practice of law. In fact, the availability of externships finally permitted the American Bar Association accreditation standards to add a provision requiring every student to take a practice-based experiential course during law school.<sup>44</sup> Simulations and

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40. Ass'n of Am. Law Sch., *Report of the Committee on the Future of the In-House Clinic*, 42 J. LEGAL EDUC. 508, 565 (1992); J.P. Ogilvy, *Guidelines with Commentary for the Evaluation of Legal Externship Programs*, 38 GONZ. L. REV. 155 (2003).

41. Many law schools established their initial in-house clinics using grant money from the Ford Foundation. One historical overview mentions that more than 200 law schools created live-client clinics. When the funding was no longer available, it is likely that many fledgling in-house clinics did not continue. Other law schools, like Georgetown and American, established a greater number of in-house clinics for their students, even though they were expensive. The deans and faculty simply believed in the importance of these programs and were willing to pay the price to have them continue and expand.

42. Until the 1960s, few ABA-approved law schools had clinical programs: only 35 of 126 schools had clinical programs in the late 1950s. Those numbers began to change in the 1960s thanks to support from grants to establish clinical programs. By 1978, 107 schools had received funding, and by 1997, at least 147 of 178 ABA-approved schools had clinical programs. See Joy & Kuehn, *supra* note 37, at 187–88. Clinical programs began at a handful of schools, including Cincinnati, Denver, George Washington, Harvard, Minnesota, Northwestern, Pennsylvania, Tennessee, and Yale. These schools established volunteer legal-aid clinics in the late 1890s and early 1900s. See Barry, Dubin & Joy, *supra* note 35, at 6; John S. Bradway, *The Nature of a Legal Aid Clinic*, 3 S. CAL. L. REV. 173, 174 (1930); Joy, *supra* note 12; Robert MacCrate, *Educating a Changing Profession: From Clinic to Continuum*, 64 TENN. L. REV. 1099, 1102–03 (1997); William V. Rowe, *Legal Clinics and Better Trained Lawyers—A Necessity*, 11 ILL. L. REV. 591, 591 (1917).

43. See Backman, *A New Paradigm*, *supra* note 20, at 628; Backman, *Practical Examples*, *supra* note 12, at 21–23.

44. Standard 302(b)(1) reads as follows:

(b) A law school shall offer substantial opportunities for:

(1) live-client or other real-life practice experiences, appropriately supervised and designed to encourage reflection by students on their experiences and on the values and responsibilities of the legal profession, and the development of

externships are increasingly common means of fulfilling that requirement in addition to the in-house clinics that paved the way in establishing clinical-education options.

The in-house clinic is like the huge mainframe computer in the computing industry, the integrated steel-mill operation in the steel-making industry, or the luxury car in the automobile-manufacturing sector.<sup>45</sup> Each of these innovations caused a significant disruption in its industry. Consumers willing to pay could enjoy for the first time the benefits of these high-priced innovations, which changed long decades of making do with the slide rule (for computing), the small-scale steel-making oven, and the Model T Ford or other widely available automobiles. These expensive, new approaches were limited to consumption by the wealthy, because each of these innovative products was too costly for the masses.

Pressure to make these innovations more widely available gave rise to further innovations that provided part of the full package, which otherwise could be afforded only by the affluent. The inexpensive innovation disrupted the monopoly position of the original innovation, but the manufacturers of the high-priced, original innovation were not willing to adjust to capture the lower-price-conscious public. Eventually, waves of new products markedly changed the industry, leaving the expensive product vulnerable to decreases in demand, being purchased less often, or becoming obsolete.<sup>46</sup> At the same time, newer products came out to challenge the inexpensive innovation<sup>47</sup> with the lowest-capacity product.<sup>48</sup> Similarly, in legal education, the in-house clinic (the original disruptive innovation) was challenged by a product that was affordable to a larger range of law schools and student consumers: the externship (the newest disruptive innovation).<sup>49</sup>

### III. TWO TYPICAL APPROACHES TO EXTERNSHIP PROGRAMS: THE CLINIC-BASED AND THE APPRENTICESHIP-BASED MODELS

Law schools model their externship programs after one of two competing paradigm approaches for providing students with valuable learning opportunities: the clinic-based and the apprenticeship models.<sup>50</sup> Each externship model has specific advantages and disadvantages. In the end, however, we argue that the apprenticeship model has contributed to the significant growth in most of the law schools providing more than half of their students with externship opportunities in recent years.

#### *A. The Clinic-Based Model*

We characterize the first approach as the clinic-based model. Many law schools continue to

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one's ability to assess his or her performance and level of competence[.] STANDARDS FOR APPROVAL OF LAW SCH., Standard 302 (2007), available at <http://www.abanet.org/legaled/standards/20072008StandardsWebContent/Chapter%203.pdf>; Harriet N. Katz, *Evaluating the Skills Curriculum: Challenges and Opportunities for Law Schools*, 59 MERCER L. REV. 909, 909 (2008) ("A new ABA Standard for Accreditation [302] . . . , revised in 2005 to mandate skills education for every law student, is now being applied at law school reaccreditation reviews.").

45. See CHRISTENSEN, *supra* note 18, at 61–72, 87–93.

46. Products long considered obsolete include the mainframe computer, the integrated steel-mill operation, and the luxury car.

47. See *id.* at 92–93.

48. For example, the minicomputer, which could fit in a closet rather than in a large basement of a building, first challenged the mainframe computer. The personal computer, with a large component standing at the end of the desk, then challenged the minicomputer. See CLAYTON M. CHRISTENSEN, MICHAEL B. HORN & CURTIS W. JOHNSON, *DISRUPTING CLASS: HOW DISRUPTIVE INNOVATION WILL CHANGE THE WAY THE WORLD LEARNS* 47–48 (McGraw Hill, 2008). The smaller, desktop computer, which was eventually challenged by the laptop computer, first challenged the bigger, personal computer. Now, smartphones and tablet computers are challenging the laptop computer and starting to take additional shares of the public dollars.

49. In actuality, externships are the newest disruptive innovation in legal education, displacing to an extent the original disruptive innovation of the in-house clinic.

50. See Backman, *A New Paradigm*, *supra* note 20, at 628. Professor Backman originally suggested this idea back in 2006. Evidence over the intervening years underscores his thesis in that article.

build their externship programs on this basis by insisting that clinical-faculty involvement is central to the students' learning experience. As with in-house clinics, a crucial component of clinic-based models is a simultaneous class taught at the law school for at least two or three hours per week. Often the same persons in charge of the externship program also are faculty members who have previously—and oftentimes concurrently—taught in the in-house clinics. Because the clinic-based model places substantial importance on the classroom interaction between the clinical faculty and the externship students, the number of students in each externship classroom section is relatively low—ten to fifteen students being the ideal.<sup>51</sup> To grow, clinic-based programs must involve a number of adjunct faculty from the practicing bar to teach small classroom sections.

Clinic-based externships also greatly emphasize site visits,<sup>52</sup> which allow the clinical faculty to have in-person interactions with the supervising attorney or judge and the law student. Because of their emphasis on classroom sessions and site visits, virtually every clinic-based externship program limits the approved externships to local offices.<sup>53</sup> Clinic-based externship programs also tend to reach a small percentage of law students, amounting to less than a majority.<sup>54</sup> Often these externship opportunities have to be rationed—resulting in a waiting list—because more students want to participate than can be accommodated.<sup>55</sup>

Law schools with strong in-house clinic programs have generally followed the clinic-based model because it fits more closely to other clinical offerings available to the students. Students and faculty are used to regular and more intensive classroom contact with each other in relatively small groups. The number of students in a typical externship class, in an arrangement based on the clinic model, is ideally set at approximately a dozen students.<sup>56</sup> This is larger than the ideal size of an in-house clinic, which is usually about half of that number. Faculty members prize the opportunity to guide the students' learning experiences more directly, and they highly value the interaction among students as they share insights and raise issues in the classroom—all while connected to their field experiences. Faculty members who conduct regular classroom sessions justifiably feel they lose many of the advantages of the classroom interaction if the number of students exceeds these levels. These law schools view the resulting limitation on the number of participating students to be a necessary cost to insure that the clinical pedagogy they embrace is applied.<sup>57</sup> These law schools may even point to tuition dollars stemming from student enrollments in externships as an argument to justify the cost of providing the added benefit of having law-school and adjunct faculty members contribute to the students' externship learning opportunities in the clinic-based model.<sup>58</sup>

### *B. The Apprenticeship-Based Model*

We characterize the second approach to externship programs as the apprenticeship-based model. Apprenticeship programs emphasize the experiential-learning side of the externship, and

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51. Eisinger, *supra* note 12, at 664; Ogilvy, *supra* note 40, at 165.

52. Backman, *A New Paradigm*, *supra* note 20, at 639; William W. Patton, *Externship Site Inspections: Fitting Well-Rounded Programs into the Four Corners of the ABA Guidelines*, 3 CLINICAL L. REV. 471 (1997).

53. See Backman, *Practical Examples*, *supra* note 12, at 12–13.

54. Externships based on the apprenticeship model are largely responsible for the number of law schools now offering externships to a majority of their students.

55. See Backman, *Practical Examples*, *supra* note 12, at 12–13.

56. Ogilvy, *supra* note 40, at 161.

57. STUCKEY ET AL., *supra* note 6, at 146–52.

58. Liz Ryan Cole, *Externships: A Special Focus to Help Understand and Advance Social Justice*, in THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE (Frank S. Bloch, ed., Oxford Univ. Press 2010); Liz Ryan Cole, *Lessons from a Semester in Practice*, 1 CLINICAL L. REV. 173 (1994); Liz Ryan Cole, *Training the Mentor: Improving the Ability of Legal Experts to Teach Students and New Lawyers*, 19 N.M. L. REV. 163 (1989).

the primary responsibility for the student's learning opportunities and assignments falls on the supervising attorney or judge.<sup>59</sup> Faculty members design and direct the program and set the procedures required for the student to maximize the opportunities to gain valuable educational benefits from the experience. They guide the student in reflecting on what he or she is experiencing and learning by requiring the student to create a learning plan—with the approval of their supervising attorney or judge—to shape the student's externship opportunities. They also read and respond to the student's weekly reflective journals. They remain engaged in the student's experience by scheduling a site visit or telephone call with both the student and the externship supervisor. Faculty members also require the student to submit reports and evaluations at midterm and at the end of the externship, and they interview the student at the end of the externship.<sup>60</sup> Faculty members typically hold any classroom sessions at the beginning of the externship or they host video conferencing sessions in a virtual classroom.

If a law school uses the apprenticeship model to establish its externship program, it is likely to experience at least four consequences. First, the number of students participating is much higher because a majority of students can be involved. Second, externship placements are not restricted to the immediate area near the law school and may even include a worldwide distribution during summers because students are not required to attend class sessions at the law school. Third, individual faculty members who direct the program can be responsible for a greater number of students; in fact, many law schools have as many as fifty students per faculty member. Finally, the cost of delivering the externship program is significantly less per student than the more demanding clinic-based externship model.<sup>61</sup>

Law schools that follow more closely the apprenticeship model often build a close connection between the externship program and the career services office.<sup>62</sup> Often, these law schools have weaker in-house-clinic offerings than the law schools that adopt the clinic-based model. Recent trends suggest a substantial increase in the number of law schools choosing the apprenticeship model for externships, as indicated by the steady growth in externship programs that reach a majority of law students.<sup>63</sup> Two consequences of adopting the apprenticeship model have special appeal to law schools. First, law schools view with concern the extra expense of providing programs with relatively lower student-to-faculty ratios. These law schools appreciate the added opportunities for practical, experiential learning available through the dedicated mentoring provided by externship-supervising attorneys and judges. Because the law school receives these resources without direct costs, it has a significant impact on the law school's budget.<sup>64</sup> Some law schools have found ways to pass on these cost-saving impacts to the students by adjusting the tuition costs for summer externships. Every law school that adopts the apprenticeship model ought to consider this approach of exploring student-friendly fiscal impacts, because the law school in fact has far lower budget impacts for this type of externship than the clinic-based externship model.<sup>65</sup>

The apprenticeship model is closely connected to the increasing concerns that law students need more practical experience during their law school years in order to more easily make the

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59. See Backman, *A New Paradigm*, *supra* note 20, at 618.

60. *Id.* at 629–37; Backman, *Practical Examples*, *supra* note 12, at 13–18.

61. Backman, *A New Paradigm*, *supra* note 20, at 620–21; *see infra* Part VI.

62. See Backman, *A New Paradigm*, *supra* note 20, at 640; Baker & Lancaster, *supra* note 12, at 94.

63. *See infra* Part VI.

64. See Backman & Eliason, *Cost-Effective Externship Programs*, *supra* note 22, at 117; Baker & Lancaster, *supra* note 12, at 93; Henry Rose, *Legal Externships: Can They Be Valuable Clinical Experiences for Law Students?*, 12 NOVA L. REV. 95, 112 (1987).

65. See Backman & Eliason, *Cost-Effective Externship Programs*, *supra* note 22, at 118.

transition from being a student to being a new lawyer.<sup>66</sup> Economic realities have deeply affected the availability of paid clerkships during the summers between academic years, especially for the number of students following their 1L school year who are able to be hired for summer clerkships.<sup>67</sup> Students, law school administrators, and career-service professionals agree with the practicing bar that students should have more learning experiences connected to the actual practice of law.<sup>68</sup> Externships provide a cost-effective method of expanding the number of students who can have clinical learning opportunities during their law school years. The alternative of creating additional enrollments in in-house clinics or even expanding the offerings in simulated-skills courses is often unachievable because of law-school fiscal restraints.<sup>69</sup>

The apprenticeship model provides students with increased practice-based experiences through actual law-office or court-related opportunities. The law school's required learning components in an externship provide the pedagogical frame<sup>70</sup> to turn what otherwise would be unstructured volunteer work into experiential learning structured around required reflection assignments.<sup>71</sup> These law schools provide learning experiences connecting faculty and students through learning plans, structured tutorials and interviews, regular reflective journals,<sup>72</sup> and periodic reports exploring what the student is learning and observing through his or her externship assignments provided by the supervising attorney or judge.

Law schools are also increasingly turning to larger programs because of the advantages the law students receive from externships, even if the characteristic classroom component and physical-site visit features of the program are being pared down. The ABA standards governing externships permit alternative means of satisfying the reflection<sup>73</sup> and site-visit requirements<sup>74</sup> that are characteristic features of many apprenticeship-modeled externship programs. Thus, the required student reflection may occur in settings other than the classroom. Reflective journals with structured topics and small-group or individual tutorials are typical means of satisfying the student reflection required by the standards. Similarly, many large externship programs have replaced the in-person, physical-site visit with video conferencing or telephone calls involving the student, the supervising attorney or judge, and the responsible law school faculty members. The ABA standards adopted in 2005 specifically permit these accommodations as alternative means of fulfilling the objectives previously connected to the regular classroom component and the on-site visits requiring a faculty member to take the time and travel expense to actually visit the externship site.

In 2004, only twenty-five law schools fit into the category of large externship programs as discussed in this Article. That number has grown now to ninety-five law schools as explained in Part VI.<sup>75</sup> The statistics we present in this Article underscore the increasing scale of change as

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66. STUCKEY ET AL., *supra* note 6, at 146–52; SULLIVAN ET AL., *supra* note 26.

67. See Baker & Lancaster, *supra* note 12, at 72; Daniel Thies, Comment, *Rethinking Legal Education in Hard Times: The Recession, Practical Legal Education, and the New Job Market*, 59 J. LEGAL EDUC. 598, 607 (2010).

68. American Bar Association, Section of Legal Education and Admissions to the Bar (July 1992), Report of The Task Force on Law Schools and the Profession: Narrowing the Gap (the MacCrate Report); STUCKEY ET AL., *supra* note 6, at 146–52; SULLIVAN ET AL., *supra* note 26.

69. Thies, *supra* note 67, at 608.

70. ABA Standard 305(e)(1); Ogilvy, *supra* note 40, at 160–62.

71. Harriet N. Katz, *Personal Journals in Law School Externship Programs: Improving Pedagogy*, 1 T. M. COOLEY J. PRAC. & CLINICAL L. 7 (1997).

72. See *id.*

73. 2010–2011 ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS 305, Interpretation 305-3, ABA Standard 305(e)(7).

74. ABA Standard 305(e)(5).

75. See Backman, *Compensation Policies*, *supra* note 12, at 34–35; Backman, *New Lawyer Mentoring*, *supra* note 22, at 66–67; Backman, *Practical Examples*, *supra* note 12, at 7–8.

externship programs have grown significantly at the ninety-five law schools ; their externship programs have grown to reach more than half of their full-time law students before they graduate.<sup>76</sup> Most of these schools could not accomplish that result if they continued to follow the clinic-based model. It is likely that almost all of the law schools that have implemented large externship programs have moved their programs to more closely fit the apprenticeship model for externships.<sup>77</sup>

### *C. Professor Backman's Experiences in Establishing an Externship Program at BYU Law School*

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It is helpful to suggest two differing scenarios as background for the establishment of a law school's externship program. The path my law school followed is undoubtedly similar to others. In 1992, we did not have anything more than a single placement opportunity in which a pair of students could participate each semester. That externship was with our local office for Utah Legal Services, the legal services provider in our area. I do not recall that the student experience was even referred to as an externship. We simply granted students credit for working under the supervision of attorneys in that office. The placement doubtless grew out of the involvement of one of our faculty members as a participant in the entity's board of trustees. When I succeeded my colleague in that position, I became more aware that Utah Legal Services provides extensive legal access to low-income individuals . I also came to recognize the severe resource limitations these legal-services offices face.<sup>79</sup>

Our law school established a task force in the early 1990s to consider how we could promote greater student involvement in the community. A faculty retreat took up that issue one December, and the decision was made to establish a committee to explore the question of community engagement. The group consisted of faculty, law school administrators from the alumni and career services office, alumni in private practice, and alumni connected with Utah Legal Services. The group eventually organized several subcommittees including one to consider a new poverty-law course for first-year students<sup>80</sup> and one to explore externships. I remember taking on the responsibility to prepare the memorandum to the dean in explaining the recommendations of the externship subcommittee. I had done research about externships at some law schools, ABA standards for field studies, and internships in a few other departments at our university.

The result was a plan to establish an approved new externship program. I committed myself to taking on the role of developing the program if the dean would relieve me from other teaching responsibilities during the following academic year so I could focus on designing, establishing, and directing our new externship program. The dean agreed to this suggestion and gave his full support to the creation of an externship program. The curriculum committee eventually approved the proposal, and we launched our first externships in the summer of 1992. The new externship program started small, with forty-three student enrollments in that first academic year. The

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76. *See infra* Part VI.

77. The University of Washington, Wisconsin, and Vermont, however, are all examples of law schools that have adhered to the clinic-based model of externships and have remained within the top thirty law-school externship programs. Albany and American Law Schools both have relatively large externship programs based on a clinical model, but they have not reached the same level of their students, largely because they adhere to the clinic-based approach.

78. Professor Backman authored this subsection C. We thought it best to let him recount his experiences in a more natural, first-person-narrative writing style.

79. BRENNAN CTR. FOR JUSTICE, CIVIL LEGAL SERVICES: LOW-INCOME CLIENTS HAVE NOWHERE TO TURN AMID THE ECONOMIC CRISIS (2010), available at <http://www.brennancenter.org/page/-/Justice/CLS/LSC-%20New%20Need.pdf>; D.C. ACCESS TO JUSTICE COMM'N & D.C. CONSORTIUM OF LEGAL SERVS. PROVIDERS, RATIONING JUSTICE: THE EFFECT OF THE RECESSION ON ACCESS TO JUSTICE IN THE DISTRICT OF COLUMBIA (2009), <http://www.legalaidc.org/documents/RationingJusticeReport..pdf>.

80. The proposed poverty-law course was added to the 1L curriculum for several years but was dropped in about 1997.

numbers increased each year on a steady trajectory. Summer externships have been the most popular. We designed the program from the start so students could enroll for multiple externships. I emphasized that each student had six time periods (two summers and four academic semesters) in which they could take advantage of learning through externships. In the initial years, the only private law-office placements we approved needed to show that the student's work was limited to pro-bono cases handled by that firm. Many other law schools have similar limitations in their externship programs,<sup>81</sup> though we have since removed that limitation.

In the first seven years, we limited placements to judicial, government, and public-interest placements, mirroring many other externship programs—especially those built on the clinic-based model. In 1999, we set up a task force of faculty members, career-services administrators, and alumni to approach private and corporate in-house-counsel offices to set up externship opportunities for our students. This resulted in an initial set of matched externship placements in for-profit legal offices. The matched placements worked on a medical-residency model. Both students and private offices ranked their choices from lists of approved private placements and applying students. If more than one student applied for a specific placement, we attempted to place the student with the greatest interest in a specific office who also received the highest rankings from that office.

We were satisfied by the results of approving private placements for the first time. We noted a much smaller impact on the not-for-profit placements than expected: they continued to have steady enrollments among our students. The noticeable impact was the significant increase in the number of students seeking to participate in the externship program. Since 1999, our numbers have increased by about 40% and have continued in the same range ever since. We have not found any significant differences between the learning opportunities and experiences in the private placements as compared to the non-profit positions. The main advantage of the expansion is that students are better able to shape their externship choices to the kinds of career positions they want to explore. We also feel that approval of private law firms and corporate in-house-counsel offices takes away problems that were present when a student was supposed to work exclusively on pro-bono cases.

### *1. Influences of the S. J. Quinney College of Law at the University of Utah*

In designing our externship program, we benefited from the large externship program already established at the S. J. Quinney College of Law at the University of Utah. Professor Linda Smith was very generous in sharing their policies and materials. Professor Smith also wrote a helpful article on judicial externships in the early years of our developing externship program.<sup>82</sup> We adopted many of the same approaches. From the beginning, however, we were more generous in approving externship placements. At Utah, students had to choose externships from a relatively short list of approved placements. We permitted students to choose previously approved placements or to petition to have a new placement approved. Another major difference in our programs was geographical. At Utah, students were limited to placements in Salt Lake City because they were required to enroll in a contemporaneous class that met several times each week at the law school. We permitted students to have externships in any location. Especially in the summers, students took advantage of this feature of the program so they could have externships in areas of the country where their families lived or where they hoped to eventually seek their first

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81. Baker & Lancaster, *supra* note 12, at 78; Feeley, *For-Profit Placements in Law School*, *supra* note 12.

82. Linda Smith, *Designing an Extern Clinical Program: Or as You Sow, so Shall You Reap*, 5 CLINICAL L. REV. 527 (1999); Linda F. Smith, *The Judicial Clinic: Theory and Method in a Live Laboratory of Law*, 1993 UTAH L. REV. 429 [hereinafter Smith, *The Judicial Clinic*].

career positions.

Like the students at the Utah College of Law, our externship students were at first required to attend a class during the semester or summer of their externships. At the beginning, we permitted students to take fourteen hours of class in a one-week period before they departed for their various geographical locations or, alternatively, students could return for the class sessions at the end of the summer. After a few years, however, we changed that requirement. The early class held before the students were in their placements lacked the benefit of students sharing actual learning experiences from their externships. The later class was unsatisfactory too because we were not meeting with them at a time when our class lessons and discussions could help them in their actual externships.

We eventually eliminated the summer approach of providing a concentrated set of classes in a single week at the beginning or at the end of the externships. We continued having the students enroll in an externship seminar that met weekly during the regular academic semesters. Summer students were required to show that they had completed the externship class either before or after their summer externships. In time, we eventually dropped this form of externship class for several reasons. First, we did not see any significant advantages for the students in having the externship seminar during the same semester as they were earning their externship credits. Summer students seemed to be involved in the externship class in the same way as students concurrently enrolled in their externships. Second, we struggled to find a curriculum fit that did not duplicate in large measure other law school courses that they were also taking. We focused our externship classes on professional responsibility. We used a good text that brought up and explored dilemmas that many lawyers faced in following the ethical rules of our profession. But it became apparent that, in large part, the externship course covered material that was part of the required professional-responsibility class. Rather than seek an exemption from the required professional-responsibility class for students enrolled in the externship class, we decided to eliminate the externship class completely.

Other approaches we could have adopted as the focus of the externship class were also adequately covered in courses that a majority of the externship students had taken or could take in the future. These included the professional-skills approach, used primarily in the Utah College of Law's course, and the career-exploration approach that many other law schools used for their externship courses. At our law school, we had excellent skills courses in which a majority of our students had enrolled. These included courses in negotiations, client interviewing and counseling, mediation, and criminal- and civil-trial practice. We had a large number of these skills courses because our faculty decided to favor simulated-skills courses—using our state-of-the-art technology—over other clinical-education approaches before they approved expansion into the externship program. There was an explicit rejection of in-house clinics from the early years of our law school.

In a similar manner, most students had already been enrolled in an excellent series of professional-development courses taught by the law school's Career Services Office. These half-credit offerings focused on resume building, interviewing, job searching, networking, and other job-search topics on a wide variety of career options available to our students. These last mentioned classes were taught by visiting guest speakers chosen from our alumni.

Eventually, the approach we adopted to satisfy the classroom-component requirements for externships was a front-loaded set of classes provided for every 1L student. These were taught as a series of sessions over both 1L semesters designed to introduce students to the externship program, suggested approaches for choosing and finding appropriate externships, and the externship requirements as contained in the extensive Externship Log each student follows. A final half-day session, held the day after 1L finals are finished, presents information about safety, cultural awareness, working with a supervisor, receiving and clarifying assignments, feedback,



reflection through weekly journals including assigned weekly topics to be included, professional responsibility standards applicable to the externship experience, and general orientation to the externships many of them would begin in the upcoming summer weeks. The classroom sessions amount to seven hours of learning in this format.

## 2. Influences of Utah Valley State College

The second main contributor to our program was the assistance and borrowed materials developed at a neighboring state college from their cooperative-education office. Utah Valley State College, now Utah Valley University, had extensive involvement in internships in a wide range of their academic departments as part of their commitment to being an engaged campus in the community. In many universities, cooperative education was more narrowly defined and did not embrace internships. Utah Valley State College called their program cooperative education, but they were primarily involved in internships. In its pure form, cooperative education primarily involved students from engineering and business departments.<sup>83</sup> Coop students were primarily involved in full-time placements for multiple periods of time with the same business. Students sometimes earned credits on a minimal basis, but they worked with offices that provided them with practical learning experiences closely related to their university program. The primary responsibility for the student learning experiences was handled by the experience provider at the placement. Most coop positions were in private industry, but in recent decades, they expanded into many non-profit areas as well. One of the main purposes of cooperative education was to provide students with a means to pay for their university studies by working for relatively good income at these placements.<sup>84</sup>

In following the externship model from the University of Utah College of Law and the cooperative-education internship program from Utah Valley State College, we created our basic approach. The student work was outlined in an externship log containing all of the forms and instructions for the student to complete during the course of the externship. Students needed to have their externship approved by the director (me) or the head of the Career Services Office, and they had to sign the student portion of the university's master internship agreement. Externship providers were also required to sign this agreement if it was the first time that a student from our law school was in that particular placement<sup>85</sup>

The student submits and obtains approval of the learning plan from the supervising attorney or judge.. The student sends in weekly reflective journals responding to assigned weekly topics and covering the highlights of what the student has accomplished on assignments and what they are learning through the assignments and experiences in the externship. At midterm, the student submits a report form signed by the student and the supervising attorney or judge detailing the hours worked and indicating any adjustments in the student Learning Plan that have become necessary. The student also submits at least ten pages of work product created during the externship. At the end of the externship, the student turns in a final evaluation report in which the

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83. William G. Bissell & H. Russell Hettinger, *Cooperative Learning Education at Northeastern University*, 3 J. CONTEMP. L. 210 (1977); Thomas P. Campbell, Jr., *Training Law Students Outside the Classroom: Some Experience and Some Comments*, 26 J. LEGAL EDUC. 208 (1974).

84. KENNETH G. RYDER & JAMES W. WILSON, *COOPERATIVE EDUCATION IN A NEW ERA: UNDERSTANDING AND STRENGTHENING THE LINKS BETWEEN COLLEGE AND THE WORKPLACE* (1987); John-Pierre Smollins, *The Making of the History: Ninety Years of Northeastern Co-op*, 24 NE. U. MAG, May 1999.

85. The university uses this arrangement to insure that the university and the student are adequately protected and indemnified in case of any damages suffered or caused by the student in fulfilling an externship. The university also provides a \$3 million professional liability policy to protect the experience provider from any negligent acts causing damage to the placement or to others based on the student's externship.

student explains how the Learning Plan objectives were met, detailing the hours for the externship and providing a self-evaluation to be reviewed with comments from the supervising attorney or judge and signed by both. In addition, the student sends in a confidential evaluation form concerning the kinds of experiences the supervisor provided for the student and rating the supervisor on a number of criteria as well as the overall externship experience at that office. Finally, the student prepares a description of the externship to alert future students what they can expect if they choose this particular externship with an overview of the kinds of assignments received and accomplished, positive and negative experiences the student encountered, and the quality of the supervision and feedback the student received. The Externship Log has been a significant means of ensuring that every student has the kind of experience we expect through an externship and of demonstrating the academic content of the experience to justify law-school credit for the externship.

It is helpful to consider the differing approach adopted by a law school choosing to follow the clinic-based model for their externship program. The following paragraphs are based on a hypothetical law school, but they describe what influences and decisions have led law schools to take this path. Assuming that the law school has not previously had externships, this description creates a true parallel with the approach described above for the apprenticeship-based model of externships.

Law schools choosing the clinic-based model have usually had years of experience in providing in-house clinic opportunities for their students. The typical law school already has dedicated faculty specifically identified as clinical faculty who are responsible for the in-house clinics. Often these same faculty members also teach simulated skills courses as well. They view the classroom sessions<sup>86</sup> with the students to be essential components of any clinical teaching they are doing. The law school is interested in establishing an externship program because they have watched as many other law schools have started providing experience-based learning by approving credits for students working with specifically identified law offices. Another motivation comes from students who are increasingly aware of these opportunities at other law schools and are pressing their law school to start an externship program. Finally, law schools are legitimately concerned that many students are not able to participate in their valued in-house clinics and simulated skills courses because of a lack of teaching resources. Each of these clinical offerings is costly because the student-to-faculty ratio is kept purposefully low.<sup>87</sup> In-house clinics aim to have no more than ten students for each faculty member and many achieve even lower ratios. Skills courses also have lower student-to-faculty ratios than the usual law classes based on the traditional Socratic Method because they require numerous simulated exercises with videotaped reviews by both peer students and faculty. The primary advisors for a new externship director are the existing clinical faculty teachers at the law school.

The typical program created against this background has the following characteristics, almost without exception. The classroom component is central to the externship program and is built around many of the same classroom lessons used in the in-house clinic or in simulated skills courses. Duplication and repetition of many of these lessons is usually not a problem because these law schools expect that the majority of students in the externship program have probably not had an in-house clinic or extensive simulated skills course experience. These classroom sessions typically involve a larger student-to-faculty ratio than in-house clinics, but most law schools following this model prefer to keep the number of students in a class to no more than

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86. Ogilvy, *supra* note 40, at 165.

87. *See id.*

fifteen to twenty students.<sup>88</sup> As the externship program grows, the original externship faculty coming from the existing clinical faculty is usually supplemented by bringing in practicing attorneys or judges as adjunct faculty for the externship classes. Adjunct faculty compensation is much less expensive to the law school than corresponding salaries for full-time or even part-time clinical faculty members, and the cost is even better when compared to the tenured or tenure-track professors teaching doctrinal classes or clinical faculty that have achieved that status.

Because the class sessions are valued so highly, the law school also naturally places great importance on the participating externship faculty. It naturally flows that the role of faculty is extensive, and it is probably fair to say that faculty responsibilities are greater in the clinic-based model than in the apprenticeship-based approach. It is less common to use the assistance of the Career Services Office in advising, screening, and approving externship placements. Faculty more often insist on requiring students to be involved in a set of externship placements that have been pre-approved after careful review of the kinds of experiences the law student can be expected to have there.<sup>89</sup> Thus, it is less common in this type of externship program to permit students to find and seek approval of externship placements that have not previously been available to students. Another common feature of clinic-based externship programs is that supervising attorneys or judges are invited to receive training from the externship faculty in class sessions designed to prepare the supervisors to understand how they can apply clinical faculty approaches to their role in supervising the students' work.<sup>90</sup>

It has already been mentioned that most law school programs of this type will not involve students in placements outside of the geographic area of the law school. If a placement is more than one or two hours away from the law school, it will typically not be available to students. The driving policy here is that the student must be close enough to the law school to attend the externship classes offered several days each week. Even if the externship is designed to be a full-time placement for the student and students do not have other law school classes requiring their attendance, the classroom sessions at the law school make it impossible for the student to be in a placement at a distant location. In recent years, a number of law schools have overcome this problem by offering online, virtual classroom sessions for their students. In these cases, students are able to take part in externships at distant locations during summer terms or when the externship is the only course the student has in that semester as, for example, in an externship for 12 or more law-school credits in which the student is working close to a full-time schedule at the externship.

Reflective journals,<sup>91</sup> which are usually crucial in apprenticeship-based programs, may be a part of the clinic-based externship program but they are usually an ancillary part of the externship requirements. Faculty members rely more heavily on in-class activities such as discussion, simulated exercises, and presentations about each student's specific work.<sup>92</sup> The faculty members expect that students will raise concerns and issues arising in their externships in the classroom discussions or in personal conversations with the professors before or after class. They have multiple contacts with the students each week, so the need to stay in touch with the students through required weekly journals is simply not emphasized. If journals are used in connection with the classroom sessions, they are often focused at least in part on the students' reactions to the interactions they are having with other students in the classroom.

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88. *See id.*

89. *See id.* at 163.

90. Cole, *Lessons from a Semester in Practice*, *supra* note 58

91. Katz, *supra* note 71.

92. Smith, *The Judicial Clinic*, *supra* note 82, at 451.

One of the clear advantages of the classroom sessions is the opportunity for students to have valuable interactions with each other concerning issues they are facing in the externship. Students share experiences with each other and pass on suggestions about difficulties one or more of the students may disclose in the class discussions. These face-to-face opportunities replace blogs and other means of viewing and posting interactive responses with other students.

On-site visits by faculty to become better acquainted with a student's externship setting and the supervising attorney or judge are also a common feature of clinic-based externships. Faculty members coming from an in-house clinic context are used to being part of the student's work on specific cases as they closely supervise the student's assignments. The large group nature of the externship classroom setting does not satisfy the purposes served by the one-on-one consultations between the in-house clinic faculty member and the student. The on-site visit permits externship faculty to step into the student's work environment and have personal ties to the attorney or judge supervising the student's daily assignments. Because the externship placements are in the close geographical proximity of the law school, these site visits are feasible even though they are very time-consuming. Each faculty member also has fewer students in the externship class than is usually the case in apprenticeship-based externship programs. The geographic location and the low student-to-faculty ratio are factors that make on-site visits more manageable in clinic-based programs.

Because both students and faculty spend significant time in classroom settings and because students fulfill many class-based assignments, the classroom component is graded separately from the field experience. Faculty members have plenty of opportunities to measure a student's participation in the class, so the task of giving some students higher grades than others is feasible. In contrast, apprenticeship-based programs do not generally grade the students except on a pass-fail basis because students' practice assignments are not directly supervised by the faculty member. For that same reason, the field portion of most externships in both types of programs is generally given pass-fail grades.<sup>93</sup> Many programs also give separate credits often amounting to two or three credits in a semester for the classroom portion of the externship. These credits are in addition to the two to four credits most often awarded to students on the pass-fail basis for their field experiences. These credits are usually measured by the number of hours a student reports for a given externship placement. Usually one credit is awarded for something between 40 and 60 hours of work at the externship site. The most common measure is 50 hours per credit.

A faculty member proposing a new externship program in a clinic-based law school must expect that the other faculty members will insist on having a substantial classroom component for the externship. The faculty voting to establish this kind of program will also be very concerned if the student-to-faculty ratio exceeds more than twelve to eighteen students. Curriculum committees will undoubtedly be willing to give externship credits for a classroom component, but they will be hesitant to approve a pass-fail grading approach to the classroom portion of the externship.

In contrast, the apprenticeship-based externship program focuses on other aspects of the program. Faculty curriculum committees will be interested in the quality of the externship placements, the academic features of the externship requirements for each student, the reporting and evaluation aspects of the program, and the involvement of faculty overseeing the externship program. Existing faculty members willing to organize, establish and supervise the program are likely to be important because the law school is launching a new educational program for its students. The trust and confidence the full faculty can give to an existing faculty colleague will be greater than if the initiating faculty member is new to the law school or if the program is being established by a faculty member who is not in a full tenure-track position. The faculty curriculum

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93. Ogilvy, *supra* note 40, at 173.

committee will be guided in a new venture of this kind by the accreditation standards of the American Bar Association.<sup>94</sup> Examples of successful programs at other law schools will also be considered carefully. The resulting program will often be significantly different than the externship programs established at law schools with existing in-house clinical programs.

When we were establishing our externship program in 1992, the ABA standards required a classroom component contemporaneous with the externship for any student earning more than six credits.<sup>95</sup> The same credit-counting rule applied to site visits. From the beginning, we only conducted site visits for the rare externship in which the student was earning seven or more credits. During the academic semesters, students never earned more than three credits. In summers, most students earned four credits or less. Students could earn up to six credits in the summers with special approval. The six-hour limit was designed to make sure that we were in compliance with the ABA standards because we were not conducting site visits for externships within those limits. We required from the beginning that students submit weekly reflective journals. We felt that the journals were a much better connection between the student and our externship faculty because they were reporting contemporaneously on the experiences they were having. As we looked closely at the ABA standards governing externships at that time, we determined that we could do away with the classroom sessions because we were not awarding the students more than six credits for their externships.

When the ABA amended the externship standard in 2005, it began requiring classroom sessions and on-site visits for externships with a lower credit threshold. The requirement applied to externships earning four or more credits. The majority of our summer externships were for four to six credits. In the regular semesters, we limited our credits to three, so the new standard did not apply. The final amendment adopted by the ABA provided room for law schools to handle reflection through means other than a contemporaneous classroom component, such as small group tutorials or other means of promoting reflection. We took advantage of this leeway by using our weekly reflective journals instead of classroom sessions.

The new four-credit trigger also applied to on-site visits. We began a systematic means of having regular site visits by way of telephone conferences involving the students, the supervising attorney or judge and a member of our externship faculty. We also had a telephone conference interview with every new externship placement in which the student was earning four or more credits during the summer. We were following the alternative procedure permitted by the new ABA standard requiring a site visit or its equivalent. Because of the large number of distant externships we have each summer, including approximately fifty international externship placements, we determined that the alternative method for fulfilling this quality assurance procedure fit our situation best. We were using the leeway provided in the standard in having a regular site visit “or its equivalent” for every externship in which a student earns at least four credits.

#### IV. AN AMBIGUITY PROBLEM IN SELF-REPORTING EXTERNSHIP STATISTICS AND A RECOMMENDED SOLUTION

Ambiguity is a serious concern in any data-gathering process. Ambiguity is particularly troubling when the information is self-reported with few independent means of verifying the accuracy of the reported figures. This is a significant concern for the numbers reported for the

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94. See Backman, *Practical Examples*, *supra* note 12, at 1 n.2 (“From 1986 to 2005, the Standard stated a preference for a classroom component and site visits in all externships and specifically required these features for every externship in which a student earned more than six credits. In 2005, Standard 305 was amended to make externship requirements more flexible for externships for four or more credits. For externships for three credits or less, there are no specific requirements.”).

95. Joy, *supra* note 12.

annual *Official Guide to ABA-Approved Law Schools*. Many externship directors' survey responses confirm the problem: some law schools report numbers very differently than others. Rankings based on these numbers are directly impacted by these individual interpretations of what numbers the ABA wants a law school to report.

The ambiguity is most evident when the report-triggering question for externships—called “field placements” in the *Official Guide*—is compared to the equivalent question both for simulations and for faculty-supervised clinical positions. For simulations and clinical positions, the wording has been “number of simulation positions filled” and “number of faculty-supervised clinical positions filled.” In contrast, externships have been reported as the “number involved in field placements.”

There are several concerns with the reporting of externships. First, it is odd that the Guide refers to field placements instead of externships as they are generally named in the law school curriculum. Some law schools may be confused about what types of experiential learning opportunities should be counted under the potentially broader term of field placements. For example, should other credit-bearing programs be included such as practical experiential placements, often given the name of “hybrid clinics”<sup>96</sup> to differentiate these placements from more traditional in-house clinics? These hybrid clinical experiences are similar to externships because the students work with an agency in serving clients under the supervision of a field supervisor or experience provider away from the law school.

Another set of experiences that might be considered a field placement are paid clerkships like those required by Northeastern School of Law.<sup>97</sup> These “field placements” are not eligible to be counted as externships because the students may be compensated for their work, which is contrary to the governing accreditation rule stating that externships must be without compensation for the student to earn credit.<sup>98</sup> Similarly, some law schools provide paid fellowships with specific legal offices arranged through the law school. Again, this form of “field placement” is not eligible to be considered an externship because it involves compensation beyond reasonable reimbursement of expenses connected to the field experience. If the prompt asked for the “number involved in externships” rather than the “number involved in field placements,” this particular ambiguity would be eliminated.

The more troubling ambiguity arises because a law school must decide what to report when one student enrolls in more than one externship during the reporting year. This may occur in two different situations. First, a student may have one externship in Fall Semester and a second externship in Spring Semester or during the summer. Second, a student may be involved in two or more field placements in the same semester or summer under some law school programs. For example, a student may earn two or three credits in an office in a distant city during the summer and return for a judicial externship with a local judge for the second half of the summer for additional credit. Usually, a student in two different placements in the same semester or summer has a single externship enrollment covering the full set of credits being awarded.

It is obvious from the responses from externship directors that some law schools report an individual student's externship experiences more than once under the category of “number involved in field placements.” A number of law schools take a much more conservative approach

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96. Barry, Dubin & Joy, *supra* note 35, at 7; Margaret M. Barry, *Clinical Legal Education in the Law University: Goals and Challenges*, 2007 INT'L J. CLINICAL LEGAL EDUC. 27, 43–48 (2007); Margaret A. (Peggy) Tonon, *Beauty and the Beast—Hybrid Prosecution Externships in a Non-Urban Setting*, 74 MISS. L.J. 1043 (2005).

97. Givelber et al., *supra* note 2, at 5.

98. A.B.A. Standard 305, Interpretation 305-3, available at [http://www.americanbar.org/content/dam/aba/migrated/legaied/standards/20072008StandardsWebContent/Chapter\\_3.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/legaied/standards/20072008StandardsWebContent/Chapter_3.authcheckdam.pdf).

to this ambiguity. They simply count the number of students involved in externships, even if some of these students have multiple externships (field placements) during the academic year.<sup>99</sup> In deciding what number to report to the ABA, law schools reporting in this last-described approach seriously underreport the “number involved in field placements” in comparison to the law schools counting an individual student’s multiple externships. The problem is compounded even more over a set of years if a single school sometimes reports in the most conservative means of interpreting the ambiguous request for information and sometimes reports under the more liberal means of counting the number of field placements.

Once rankings are compiled based on these reports, some schools artificially appear to have a more extensive externship program, and others are viewed as having a lesser percentage of student involvement in externships. To explain our concern about the ambiguous instructions for reporting the total number of externship placements, we sent a memorandum to the ABA Consultant on Legal Education,<sup>100</sup> responsible for soliciting and gathering the information for the annual *Official Guide*.<sup>101</sup> While preparing this Article, we received a response from the ABA

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99. We have taken this conservative approach at Brigham Young University Law School, so our numbers are underreported in comparison to other law schools.

100. The ABA Consultant on Legal Education is in charge of administering law school accreditation as well as providing information about legal education to the ABA, bar-admission authorities, and law schools. *ABA Consultant on Legal Education*, AM. BAR ASS’N, <http://apps.americanbar.org/legaled/section/consultant/consultant.html> (last visited Nov. 14, 2012).

101. The following text is from the memorandum:

We are writing an article for law review publication on the 75 largest law school externship programs based on the percentage of law students participating. We have taken the data from the annual editions of the *Official Guide to ABA-Approved Law Schools*. In contacting a number of externship directors at these schools, we are discovering major differences in the ways the field-placement numbers are being reported. We hope you will consider a proposal to change the language you use in asking law schools to report this data about their students’ involvement in externships. If necessary, we are happy to approach law-school directors to sign a petition agreeing that a change is important.

In an earlier article published in the *Clinical Law Review*, Professor Backman described the problem. Here is what he mentioned in the article. We hope it helps you understand the ambiguity problem and the different approaches law schools take in providing your requested data.

It is likely that some of the reported data is inaccurate or is reported inconsistently among schools (and from year to year in the reports from individual schools) because of possible differences in interpreting what is being asked in the annual reports. . . .

It is also possible that some schools are unsure how they should report the number of students participating in externships. This confusion stems from the wording and the sequence of categories in the Annual Guide. Previous categories ask for the “number of seminar positions filled” and the “number of simulation positions filled” and the “number of faculty supervised clinical positions filled.” But the category for field placements calls for the “number involved in field placements.” To be consistent with the prior categories, the school ought to report the number of externship positions filled, rather than the number of individual students involved. Otherwise, a law school counting the number of individual students involved in externships will under-report in this category compared to a school that reports an individual student more than once in a year if that student has participated in multiple field placements during a year. For example, if a few students have more than one placement during a year, it is unclear whether it is proper to report more field placements than the number of individual students who have participated. A more accurate way to assess student involvement would be to include a student each time he or she is enrolled even if that student is enrolled more than once during the academic year.

This confusion should be cleared up by restating the category as “number of field placement positions filled” instead of the current category of “number involved in field placements.” In addition, an explanation should accompany the report form instructions indicating what should be reported if one student has enrolled in field placements in more than one semester.

Backman, *Practical Examples*, *supra* note 12, at 5–7 (footnotes omitted).

Assume student X is enrolled in a judicial externship in Fall Semester for 3 credits and that the same student also participated for credit in another externship during the [following] summer for 2 credits. That student’s experience should be reported two times under the current category asking for “# involved in field placements” or in the newly suggested category for “# of field placement positions filled.” A law school reporting only one time for that student under “# involved in field placements” is not reporting correctly.

*Id.* at 7 n.20.

Consultant.<sup>102</sup> The letter stated that our suggested revisions will be included beginning with the 2012 ABA Annual Questionnaire, whose results will be used to compile the 2014 Official Guide.<sup>103</sup>

## V. STATISTICAL PICTURE OF EXTERNSHIP GROWTH AND DYNAMICS

The most telling statistical evidence showing the growth of externships since 2006 is the increase from twenty-five law schools with large externship programs reaching a majority of their students to as many as ninety-five law schools that have achieved that level of student participation at least once in the past six years. Most law schools that reach the 25% plateau for the first time continue to deliver that size of an externship program in subsequent years. A number of law schools have fallen from that list in the last couple of reported years after being included for several years. These appear to be the anomaly in these years of steady growth overall.

It is also helpful to note that both externships and in-house clinic participation have increased every year over the past decade, but it is helpful to note that externships have grown more rapidly every year than in-house clinic participation. In 2002–03, the number of clinical positions filled exceeded the total number involved in externships. Every year since then, however, that result has

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We are very interested in pursuing this problem and seeking a suitable solution for it. The importance of this matter is increased because of articles like ours that are reporting on the comparative ranking of law schools based on the numbers reported in the *Official Guide*. In fact, the *National Jurist* magazine published an article in October 2011 ranking the top twenty law school externship programs. It is a shame if these rankings are based on reports using inconsistent interpretations of the information being requested for the *Official Guide*.

We are pleased to be available to discuss this concern to clarify any questions you or the consultants might have. Thank you for your valuable publications and your assistance.

Memorandum from James H. Backman, Stephen L Richards Professor of Law, J. Reuben Clark Law Sch., to Scott F. Norberg, Deputy Consultant on Legal Educ., Am. Bar Ass'n, Section of Legal Educ. & Admissions to the Bar (written in the first months of 2012) (on file with author).

102. E-mail from Scott F. Norberg, Deputy Consultant on Legal Educ., Am. Bar Ass'n, Section of Legal Educ. & Admissions to the Bar, to James H. Backman, Stephen L. Richards Professor of Law, J. Reuben Clark Law Sch. (July 25, 2012, 10:52 MDT) (on file with author).

103. Thus, the very problem we identify in this Section IV appears to be resolved for future editions of the *Official Guide*, but not for the 2013 *Official Guide*, which reports on the 2010–11 academic year. The ABA Consultant's e-mail explains:

The Questionnaire Committee has approved the following revised questions on the topic, which are to appear in the 2012 AQ [Annual Questionnaire]:

- 12.e. (i) Number of faculty supervised clinical course titles
- (ii) Number of positions available in faculty supervised clinical courses
- (iii) Number of positions filled in faculty supervised clinical courses

f. Number of field placement positions filled  
all broken down by full-time and part-time program

These replace these questions from the current AQ [Annual Questionnaire]:

- 12.i. (i) Number of positions available in faculty supervised clinical courses
- (ii) Number of students in faculty supervised clinical courses
- j. Number of students involved in field placements.

Email from Scott F. Norberg, *supra* note 102.

In addition, the 2012 *Annual Questionnaire Instructions* clarifies the common approach law schools should take in counting the number of students involved in field placements during the 2011-2012 academic year:

Note: Question 12, sub-parts d (ii), e (iii), f, g, h, and i (below) all ask for a count of positions (seats) filled or a headcount of students taking the various courses listed. In all cases, we want you to provide a duplicated seat or student head-count, meaning a student should be counted twice or more if he or she fits the criteria below. For example, if a full-time student takes two faculty-supervised clinical courses during the 2011-2012 academic year, she would be counted twice in question 12. e (iii) under the full-time student column.

AM. BAR ASS'N, SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, 2012 ANNUAL QUESTIONNAIRE INSTRUCTIONS PART I 7–8 (2012),

[http://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/governancedocument/s/2012\\_part\\_1\\_general\\_information.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocument/s/2012_part_1_general_information.authcheckdam.pdf).



been reversed with more total externships than in-house clinic positions filled. The survey of large externship program directors referred to below gives some explanations for that change.

It is actually remarkable that more attention has not been given to the overall steep increases in both in-house clinic students and externship students over the past eight years. These kinds of increases directly impact the number of students in traditional classrooms based on the case method and the Socratic dialogue. The fact that 86% overall growth in externships has occurred since 2003 is mirrored by lower enrollments in standard 2L and 3L classes. Faculty and administrators undoubtedly welcome the change, as each faculty member in these regular classes has a reduced load of student papers and examinations to read at the end of each semester. It also means that the number of students participating in seminars that have traditionally been in smaller classroom settings than the large case-and-problem-based courses is correspondingly reduced as well. Faculty can give more attention to the students involved in these smaller class settings.

The fiscal impact of these changes is also significant. Law schools could potentially require fewer classrooms if the law school chooses to reduce the number of course offerings rather than to simply have fewer students in each course, which is an alternative approach. Fewer courses could mean fewer regular faculty. Another possibility that law school administrators can choose is to readjust existing faculty assignments so that fewer faculty members are handling the large, standard courses and more faculty resources are dedicated to small-group simulation or in-house clinic courses that they had previously not been able to provide for the students. Again, it is surprising that greater attention has not been given to the “significant but unheralded growth of externships” because of these impacts on the other curriculum offerings at the law school that result when one segment of the law school program grows more than 86% in a decade.

There are many ways of analyzing the variety of externship data Professor Backman has collected going back as far as 1998. All of these numbers come from the *Official Guide to ABA-Approved Law Schools* published annually from 2000 through 2013:

there were law schools with significant increases in externship participation from 1998 to 2002 to 2006 and to 2010 (for example Arizona State has gone from 71 (1998) to 83 (2001) to 122 (2006) and to 248 (2010));

there were twenty Law schools with more clinical enrollments than field placements in 1998, but that order is reversed with more field placements in 2006 (for example Columbia had 154 clinical enrollments and 73 externships in 1998 but they had 170 clinical enrollments and 276 externships in 2006);

there were 27 Law schools going in the opposite direction with more field placements than clinical enrollments in 1998, but ending up with more clinical positions than field placements in 2006 (for example Fordham had 105 clinical positions filled and 389 externships in 1998 but reversed those numbers with 318 clinical positions and 181 externships in 2006);

there were law schools with significantly reduced field placements in 2006 as compared to 1998 (for example, Emory had 271 externships in 1998 and 176 in 2006);

there were 14 law schools with no clinical positions filled but reporting externships (for example Marquette reported 0 clinical positions filled and 193 externships); and

there were six law schools reporting clinical positions filled but no field placements (For example, New York University had 277 clinical positions and 0 externships).

Statistics show that both clinical positions filled and number involved in field placements have been consistently growing since 2001, 2002 and 2003, the most recent years in which more students filled clinical positions (15,183) than were involved in field placements (14,849) (in the

2002-03 academic year). The next year the scales tipped and have remained consistent since then with field placements exceeding the number of clinical positions filled as shown in the following chart. Both types of experiential learning have increased significantly, but externships have outpaced the growth of clinical positions filled.

**TABLE 1: ANNUAL TOTAL CLINICAL POSITIONS AND FIELD PLACEMENTS (1996–2011)**

Academic year	<i>Official Guide</i>	# of clinical positions filled	# involved in field placements	Schools reporting
1995–96	1998 ed.	13,594	16,762	180 schools
1996–97	1999 ed.	13,828	17,665	179 schools
1997–98	2000 ed.	14,319	15,654	182 schools
1998–99	2001 ed.	13,964	14,814	183 schools
1999–2000	2002 ed.	13,581	13,756	184 schools
2000–01	2003 ed.	13,546	12,770	185 schools
2001–02	2004 ed.	14,282	13,391	187 schools
2002–03	2005 ed.	15,183	14,849	188 schools
2003–04	2006 ed.	16,009	17,227	189 schools
2004–05	2007 ed.	18,280	20,486	190 schools
2005–06	2008 ed.	18,907	21,085	194 schools
2006–07	2009 ed.	19,024	22,423	196 schools
2007–08	2010 ed.	20,119	23,482	199 schools
2008–09	2011 ed.	21,716	25,392	198 schools
2009–10	2012 ed.	22,868	26,936	199 schools
2010–11	2013 ed.	22,865	27,586	200 schools

Another approach taken in this statistical study is an attempt to organize certain large law school programs into groups based on common characteristics concerning the growth, decline or other measurements regarding externships at these law schools. There are seven categories based on numbers of externships between 2006 and 2011.

One additional measure is instructive as the *US News and World Report* rankings of law schools are applied to these groups of large externship programs. In each case, this Article shows which law schools are ranked in the first, second, third or fourth tiers of these rankings. There are first to fourth tier law schools in each of these groupings.

## VI. SURVEY OF THE NINETY-FIVE LARGEST EXTERNSHIP PROGRAMS

In 2011 and 2012, we surveyed several externship directors at law schools whose programs have reached at least 25% of their eligible second- and third-year students in a single year.<sup>104</sup> We chose 25% student participation as the benchmark because at least half of the school’s eligible second- and third-year students would have the opportunity to participate in an externship before

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104. In previous articles, Professor Backman used the benchmark of 35% participation by “eligible full-time students.” *E.g.*, Backman, *Practical Examples*, *supra* note 12, at 7 (reporting on “the 38 law schools with more than 35% of their eligible full-time students involved in field placements in a single year”). He calculated each school’s percentage using a formula in which the numerator was total field placements and the denominator was full-time students multiplied by 0.67 [# involved in full-time field placements/ (0.67 × full-time students) ≈ % 2L, 3L students involved in field placements]. The formula approximated “the percentage of eligible 2L and 3L students who participated in the law school’s reported field experiences in the reporting year.” *Id.* at 8. In this Article, we opted to calculate externship-to-enrollment percentages for the 2006–11 academic years using the simpler formula of total field placements divided by full-time students, as featured in the *National Jurist*. See sources cited *supra* note 25.

graduating from that law school. We designed the questions to uncover what factors have led to growth of the directors' externship programs to reach that level of student involvement. Many of their responses help explain why externships have grown so dramatically over the past six years, as previously noted by the *National Jurist* article, which is illustrated by the statistical picture in this Article.

Faculty responses indicate that the economy and the resulting downturn in paid clerkship opportunities for students have been factors leading to the steep growth in externships. Student demand may be connected to the economic difficulties, but it is undoubtedly leading to increased participation in externships according to the survey results. The increased attention to preparation for the practice of law because of law-firm and attorney pressure is another factor cited by faculty members involved in externships. Law firms admit that they do not provide the same level of training that may have been common earlier, so they are looking to the law schools to provide students with more practical experiences in their legal education. Clearly, in-house clinics and externships are two of the ways that students gain actual practice experiences going beyond what the skills simulation courses provide. Finally, the survey responses also point to the influence of the lower costs associated with externships as compared to the more expensive in-house clinic programs.

Many of the externship programs involve tenured or tenure-track professors in their programs. Faculty members on long-term contracts or in administrative positions, however, direct the majority of programs. About half of the survey respondents indicated that their law schools have increased the number of adjunct faculty to help with the growth of externships. All but one of the respondents expected that their externship programs will increase in size rather than decline in future years. The responses also indicated that faculty, administrators, and students all view the growth of externships at their law schools positively.<sup>105</sup>

#### A. Seven Focus Groups

We divided the ninety-five largest externship programs into seven categories, or focus groups, to make statistical comparisons more relevant. We compared law school programs that resemble each other in terms of the growth, decline, or fluctuation patterns they have experienced as noted in the *Official Guides* from 2008 to 2013. Each *Official Guide* actually reports the figures for earlier academic years. Therefore, in this case, the figures reported are from the academic years concluding in 2006 through 2011.

The seven focus groups are law schools that between 2006 and 2011 (1) experienced significant growth (+13% or higher); (2) showed steady growth (from +2% to +12%); (3) reached 25% or higher for the first time in 2010 or 2011; (4) maintained consistently high participation except for one off-year; (5) fluctuated, stagnated, or declined (from +1% to -10%); (6) reached 25% or higher once but declined ever since; and (7) suffered significant decline (-11% or greater).

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105. For a more detailed explanation of our survey, see *supra* note 30 and accompanying text.

1. Experienced significant growth ( $\geq 13\%$ )

TABLE 2: LAW SCHOOLS THAT EXPERIENCED SIGNIFICANT GROWTH ( $\geq 13\%$ )																		
# Involved in Field Placements from <i>ABA-LSAC Official Guide to ABA-Approved Law Schools 2008–13</i>																		
Field Placements Divided by Enrollment full-time = Ratio Participation percentage																		
<i>Official Guide</i>	2008			2009			2010			2011			2012			2013		
Year Data Collected	2006			2007			2008			2009			2010			2011		
	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)
Arizona	43	463	9	42	453	9	123	469	26	137	475	29	115	469	25	112	440	25
Arizona State	122	629	19	174	595	29	175	539	32	234	576	41	248	614	40	282	602	47
Brooklyn	447	1152	39	518	1186	44	586	1211	48	574	1278	45	713	1293	55	688	1204	57
Capital	102	470	22	95	459	21	132	446	30	138	461	30	157	486	32	174	456	38
Catholic	130	604	22	132	607	22	97	592	16	152	574	26	202	562	36	186	506	37
Dayton	35	458	8	119	424	28	114	479	24	156	500	31	141	524	27	135	488	28
Denver	210	827	25	256	855	30	355	839	42	365	786	46	324	768	42	397	769	52
Houston	195	815	24	222	785	28	151	748	20	153	715	21	176	701	25	258	676	38
Indiana, Bloomington	171	648	26	183	619	30	156	612	25	217	620	35	258	646	40	279	692	40
La Verne	49	172	28	49	205	24	24	241	10	48	275	17	62	312	20	102	181	56
Mississippi College	52	528	10	58	528	11	72	537	13	148	521	28	170	536	32	154	555	28
Nevada, Las Vegas	103	338	30	122	341	36	127	371	34	134	366	37	125	347	36	142	324	44
Northeastern	414	626	66	412	624	66	546	615	89	524	602	87	483	629	77	538	656	82
Pace	81	499	16	115	533	22	170	543	31	140	562	25	189	614	31	214	644	33
Santa Clara	250	743	34	268	728	37	185	732	25	233	749	31	382	749	51	382	738	52
St. Thomas-Minn.	560	443	126	601	467	129	624	451	138	621	457	136	609	475	128	637	481	132
Southwestern	220	676	33	257	698	37	286	699	41	269	729	37	267	741	36	302	738	41
Utah	192	391	49	196	397	49	256	385	66	221	381	58	278	402	69	330	398	83
Whittier	33	449	7	100	372	27	81	364	22	100	450	22	129	475	27	158	564	28

This group lists law schools that experienced significant growth of 13% or higher over the six-year period. After each law school's name appears the number of students in field placements

and the ratio of participation among that school's full-time students for each of the six years.

In considering this group of large programs that have experienced significant growth over these six years, we note that the growth has occurred both in law schools with large programs (Brooklyn with a maximum of 713 students in externships during 2010 and St. Thomas-Minnesota with a maximum of 624 students in externships during 2008) and in law schools with much smaller programs (Arizona with 137 externship students during 2009 and Whittier with 129 externship students during 2010). This level of significant growth has happened in schools beginning with a low 7% ratio of participation and rising as high as 28% (Whittier); beginning with 8% and rising as high as 31% (Dayton); and beginning with 9% and rising as high as 29% (Arizona). In contrast, schools beginning with high participation ratios (126% for St. Thomas-Minnesota and 49% for Utah) are also showing significant growth (St. Thomas-Minnesota rising to a high of 138% and Utah to a high of 83%). It should be mentioned that the program at St. Thomas-Minnesota differs from traditional externship programs because it is a mandatory mentoring program involving all of their students with practical experience components in the program.<sup>106</sup>

It is most interesting to explore what caused the big jump in the ratio of participation in the year of greatest change (for Arizona, jumping from 9% to 26% in 2008; for Arizona State, going from 19% to 29% in 2007 and from 32% to 41% in 2009; for Brooklyn, going from 45% to 55% in 2010; for Capital from 21% to 30% in 2008; for Catholic, going in successive years from 16% to 26% in 2009 and from 26% to 36% in 2010; for Dayton, going from 8% to 28% in 2007; for Denver, going from 30% to 42% in 2008; for Houston going from 25% to 38% in 2011; for Indiana-Bloomington, going from 25% to 35% in 2009; for LaVerne, going from 20% to 56% in 2011; for Mississippi College, going from 13% to 28% in 2009; for Pace, going from 22% to 31% in 2008; for Santa Clara, going from 31% to 51% in 2010; for St. Thomas-Minnesota, going from 114% to 138% in 2008; for Utah, going from 49% to 66% in 2008 and from 69% to 83% in 2011; for Whittier, going from 7% to 27% in 2007). It is notable that in virtually all of these cases, the law schools continued at the higher plateaus or close to them once they reached those high points. Obviously, once students have the opportunity to participate in externships at a higher rate, the law school continues to experience that kind of student choice of this form of experiential education.

It should be explored why seven of these nineteen law schools (plus Brigham Young and Golden Gate in the next group) have reached rates of participation exceeding 50% in a single year. These nine law schools provide on average at least one externship for every student before that student graduates. This is noteworthy even among these 95 law schools studied in this Article that have reached at least 25% of eligible 2L and 3L students in one year, meaning that in a two-year cycle, the majority of eligible students (more than 50%) could participate in an externship.

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106. See Backman, *Practical Examples*, *supra* note 12, at 9 ("St. Thomas University in Minneapolis . . . has a mentor externship program in which every student is assigned to meet periodically with practicing lawyers in the community to satisfy a requirement of 24 hours of field experience each year."); Neil Hamilton & Lisa Montpetit Brabbit, *Fostering Professionalism Through Mentoring*, 57 J. LEGAL EDUC. 102, 123 (2007) ("The mentor externship is required for every student in each year of law study."); Lisa Montpetit Brabbit & David M. Bateson, *Mentors Mind the Legal Gap*, LEGAL TIMES, Sept. 4, 2006.

2. Showed steady growth (from 2% to 12%)

TABLE 3: LAW SCHOOLS THAT SHOWED STEADY GROWTH (FROM 2% TO 12%)																		
Official Guide	2008			2009			2010			2011			2012			2013		
Year Data Collected	2006			2007			2008			2009			2010			2011		
	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)
Baylor	93	401	23	101	411	25	101	418	24	91	465	20	128	466	27	129	435	30
Brigham Young	249	460	54	253	457	55	214	458	47	195	447	44	252	443	57	245	430	57
Chapman	97	516	19	129	474	27	158	507	31	153	510	30	179	546	33	141	506	28
Connecticut	92	464	20	105	484	22	135	479	28	118	450	26	122	440	28	109	461	24
Emory	191	674	28	176	709	25	173	697	25	188	715	26	240	792	30	269	810	33
George Washington	277	1428	19	321	1412	23	335	1398	24	331	1328	25	381	1410	27	343	1430	24
Golden Gate	129	602	21	206	538	38	255	515	50	198	529	37	171	616	28	190	568	33
Illinois	169	626	27	150	587	26	178	587	30	199	617	32	257	640	40	233	639	36
Kansas	109	482	23	119	491	24	101	489	21	131	499	26	129	497	26	138	463	30
Louisville	106	303	35	94	323	29	90	351	26	110	368	30	148	379	39	142	363	39
Marquette	158	499	32	150	530	28	159	563	28	167	563	30	196	585	34	204	586	35
Maryland	163	673	24	161	678	24	177	714	25	246	723	34	230	734	31	234	735	32
Michigan State	269	730	37	214	696	31	258	812	32	267	892	30	352	804	44	328	716	46
Ohio Northern	75	311	24	73	311	23	77	309	25	85	307	28	82	313	26	82	311	26
Stetson	187	806	23	179	765	23	200	791	25	234	876	27	267	867	31	289	855	34
Touro	104	501	21	129	513	25	142	498	29	138	553	25	119	601	20	142	580	24
Wisconsin	210	817	26	214	807	27	199	788	25	198	792	25	219	755	29	256	748	34

This group of law schools had from 2% to 12% growth in their programs between 2006 and 2011. These law schools had more consistent participation ratios than the first group mentioned. The biggest changes were for Golden Gate from 21% to 38% in 2007 and then from 38% to 50% in 2008; for Louisville from 30% to 39% in 2010; for Maryland, from 25% to 34% in 2008; for Chapman, from 19% to 27% in 2007; for Illinois, from 32% to 40% in 2010; and for Michigan State from 30% to 44% in 2010; and for Ohio Northern, the drop occurred in 2009, when participation dipped from 25% to 11%. The only law schools in this group to rise above the 25% threshold and then to fall below that level are Baylor; Connecticut; George Washington; and Touro.

3. Reached 25% or higher participation for the first time in 2010 or 2011

TABLE 4: LAW SCHOOLS THAT REACHED 25% PARTICIPATION FOR THE FIRST TIME IN 2010 OR 2011																		
Official Guide	2008			2009			2010			2011			2012			2013		
Year Data Collected	2006			2007			2008			2009			2010			2011		
	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)
American	180	1216	15	261	1246	21	190	1235	15	238	1195	20	290	1243	23	312	1239	25
California - Western	161	748	22	147	755	19	153	793	19	164	791	21	156	786	20	183	681	27
Campbell	45	342	13	47	339	14	43	361	12	83	405	20	107	450	24	194	475	41
Cardozo	187	952	20	179	948	19	210	975	22	199	1020	20	266	1025	26	267	1038	26
Chicago-Kent	130	776	17	167	751	22	150	705	21	154	769	20	206	785	26	205	755	27
DePaul	152	725	21	90	745	12	106	909	12	134	772	17	153	853	18	244	828	29
Drake	103	429	24	26	414	6	29	437	7	76	451	17	132	451	29	138	434	32
Florida	199	1364	15	174	1290	13	181	1224	15	269	1106	24	295	1044	28	281	976	29
Florida International	15	237	6	15	307	5	33	365	9	0	294	0	41	395	10	93	369	25
Gonzaga	71	535	13	106	549	19	87	545	16	117	516	23	150	503	30	139	506	27
Idaho	49	313	16	40	308	13	51	305	17	70	319	22	70	349	20	88	358	25
John Marshall	172	1073	16	230	1067	22	238	1000	24	232	1038	22	62	1125	6	315	1200	26
Liberty	0	155	0	31	164	19	35	219	16	21	267	8	21	313	7	84	286	29
Missouri - Kansas	68	478	14	78	467	17	70	448	16	70	489	14	72	459	16	113	438	26
Montana	48	242	20	48	254	19	47	245	19	51	248	21	58	256	23	73	252	29
New Hampshire													91	419	22	132	392	34
New York	149	1150	13	153	1165	13	156	1190	13	162	1408	12	259	1492	17	352	1365	26
Pittsburgh	130	731	18	161	714	23	144	698	21	135	682	20	122	739	17	205	701	29
San Diego	116	738	16	149	768	19	171	795	22	192	816	24	117	831	14	278	840	33
Southern Illinois	38	353	11	32	352	9	49	361	14	36	382	9	94	380	25	105	373	28
SUNY Buffalo	75	728	10	79	746	11	84	739	11	76	718	11	97	693	14	166	637	26
Tulsa	74	460	16	62	452	14	83	415	20	44	382	12	62	368	17	140	322	43

Vanderbilt	108	630	17	117	601	19	112	578	19	122	594	21	141	586	24	146	586	25
Villanova	121	720	17	110	727	15	132	744	18	170	754	23	127	765	17	212	725	29
Washburn	53	449	12	66	445	15	71	429	17	85	441	19	98	454	22	113	413	27
Washington and Lee	23	390	6	33	395	8	69	391	18	59	390	15	100	407	25	98	395	25
William & Mary	136	607	22	126	617	20	135	626	22	147	626	23	174	628	28	169	637	27
Wyoming	27	231	12	37	228	16	36	223	16	35	225	16	53	231	23	61	226	27

Several law schools in this group have had a dramatic upturn in participation, causing their programs to reach the 25% level for the first time in the academic years 2010 or 2011. Drake's trajectory is interesting because it was at 24% in 2006 before dropping for two years to 6% and 7% in 2007 and 2008. In 2010, however, Drake grew from 17% to 29%. The University of Florida's increased percentage is partly explained in a sharply dwindling full-time enrollment from 1364 students in 2006 to 976 in 2011. At the same time, however, the student-externship participation has grown from 199 students in 2006 to 281 students in 2011. The largest increase occurred in 2009 when participation went from 15% with 181 students enrolled to 24% with 269 students enrolled. Southern Illinois had the largest single-year jump in participation from 9% to 25% in 2010. The other law schools had relatively consistent numbers until the significant growth took place in 2010.

4. Maintained consistently high participation except for one off-year

TABLE 5: LAW SCHOOLS WITH CONSISTENTLY HIGH PARTICIPATION EXCEPT FOR ONE OFF-YEAR																		
Official Guide	2008			2009			2010			2011			2012			2013		
Year Data Collected	2006			2007			2008			2009			2010			2011		
	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)
Cincinnati	112	376	30	87	356	24	107	361	30	135	391	35	143	408	35	157	409	38
New England	229	719	32	206	715	29	183	703	26	191	737	26	160	796	20	233	815	29
Northwestern	151	768	20	191	771	25	168	779	22	220	814	27	263	817	32	272	801	34
Pacific (McGeorge)	149	605	25	177	615	29	148	620	24	205	660	31	209	724	29	231	653	35
Pepperdine	152	639	24	166	633	26	146	640	23	178	667	27	199	667	30	179	629	28
Temple	201	775	26	185	754	25	191	773	25	189	784	24	215	797	27	257	722	36
Thomas Jefferson	161	580	28	200	581	34	141	608	23	233	648	36	368	687	54	285	759	38
Vermont	167	552	30	112	555	20	133	537	25	157	567	28	158	607	26	188	566	33



The question in each of these cases is why there was a steep decline in one specific year. For Cincinnati, it was in 2007 when participation fell from 30% to 24%; and for Thomas Jefferson, there was a drop from 34% to 23% in 2008 and from 54% to 38% in 2011. In each case, the percentage returned to previous high levels in the next year after the decline.

5. *Fluctuated, stagnated, or declined (from +1% to -10%)*

TABLE 6: LAW SCHOOLS THAT FLUCTUATED, STAGNATED, OR DECLINED (+1% TO -10%)																		
Official Guide	2008			2009			2010			2011			2012			2013		
Year Data Collected	2006			2007			2008			2009			2010			2011		
	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)
Albany	208	680	31	215	662	32	171	707	24	164	712	23	206	697	30	192	670	29
Appalachian	135	369	37	150	340	44	124	350	35	127	334	38	112	313	36	124	332	37
Colorado	195	511	38	169	530	32	181	520	35	182	547	33	199	546	36	213	540	39
Georgia	124	670	19	124	642	19	170	660	26	185	694	27	135	703	19	115	691	17
Georgia State	171	453	38	156	473	33	63	472	13	139	480	29	94	457	21	149	466	32
Hawaii	134	308	44	98	257	38	59	264	22	61	285	21	40	295	14	109	276	39
Penn State	100	540	19	146	573	25	167	547	31	146	586	25	85	617	14	92	596	15
St. John's	193	724	27	211	748	28	226	719	31	243	737	33	196	764	26	190	787	24
St. Thomas, Miami	165	665	25	156	625	25	149	639	23	194	682	28	158	733	22	135	719	19
Valparaiso	175	462	38	142	486	29	164	519	32	197	541	36	176	531	33	170	541	31
Univ. of Washington	202	544	37	194	528	37	166	534	31	147	530	28	164	550	30	169	545	31
Wayne State	120	553	22	83	481	17	145	459	32	113	457	25	127	482	26	106	462	23

Hawaii dropped from 44% to 14% from 2006 through 2010 with the big drop coming in 2007, from 44% to 28% participation; but rising again to 39% in 2011.

6. Reached 25% participation once but declined ever since

TABLE 7: LAW SCHOOLS THAT REACHED 25% PARTICIPATION ONCE BUT DECLINED EVER SINCE																		
Official Guide	2008			2009			2010			2011			2012			2013		
Year Data Collected	2006			2007			2008			2009			2010			2011		
	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)
Ave Maria	63	380	17	52	331	16	77	302	25	50	375	13	26	468	6	51	489	10
Baltimore	114	726	16	117	657	18	105	633	17	184	672	27	105	730	14	159	738	22
California-Berkeley	98	879	11	102	864	12	224	865	26	127	892	14	133	916	15	148	869	17
Detroit Mercy	125	552	23	101	591	17	169	589	29	111	586	19	115	572	20	89	556	16
Fordham	207	1186	17	391	1191	33	264	1229	21	233	1160	20	279	1217	23	100	1244	8
Mercer	62	446	14	84	448	19	77	443	17	101	431	23	111	439	25	108	451	24
North Carolina Central	54	426	13	29	478	6	152	519	29	27	480	6	63	491	13	81	437	19

It is worth considering in each of these cases what occurred to push them above the 25% level for one single year before falling back again the very next year. For Baltimore, participation increased from 17% to 27% in 2009 and then fell back to 14% in 2010, growing back to 22% in 2011; for Ave Maria, the increase came in 2008 going from 16% to 25% in 2008 before falling back to 13% in 2009; for California-Berkeley, the jump came in 2008 with an increase from 12% to 26% and then it fell to 14% in 2009; for Detroit Mercy, there was an increase from 17% to 29% in 2008 and then a decline to 19% in 2009; for North Carolina Central, a large, unexplained increase occurred in 2008 rising from 6% to 29% and then fell back to 6% in 2009; for Fordham, participation went from 17% to 33% in 2007 and fell back to 21% in 2008 and fell from 23% to 8% in 2011. For Mercer, the decline was minor from 25% to 24% in 2011 and it is likely that the percentage will climb again in future years.

7. Suffered significant decline ( $\leq -11\%$ )

TABLE 8: LAW SCHOOLS THAT SUFFERED SIGNIFICANT DECLINE ( $\leq -11\%$ )																		
Official Guide	2008			2009			2010			2011			2012			2013		
Year Data Collected	2006			2007			2008			2009			2010			2011		
	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)	Field Placements	Enrollment full-time	Ratio Participation (%)
Drexel							226	422	54	124	410	30	222	440	50	136	450	30
Quinnipiac	99	300	33	99	235	42	72	248	29	100	291	34	92	340	27	79	356	22
San Francisco	216	562	38	137	556	25	150	521	29	125	574	22	130	589	22	121	582	21
Toledo	114	344	33	140	348	40	123	342	36	104	346	30	105	365	29	83	357	23

These law schools apparently made changes resulting in a big decline that is seemingly continuing. San Francisco declined from 38% to 22% overall with the largest drop coming in 2007, from 38% to 25%. New England started at 32% in 2007 and declined consistently to 20% by 2010. For Drexel, participation dropped from 54% to 30% in 2009 and from 50% to 30% in 2011. Quinnipiac dropped from a high of 42% in 2007 to a low of 22% in 2011.

*B. The 25% Threshold*

We have chosen the 25% participation level as the measurement of this Article’s focus. The significance of this figure is that if a 25% level of participation exists, the majority of eligible second- and third-year students have an opportunity to participate in an externship. In other words, over a two-year period, half of the eligible students could be involved in an externship.

It is also helpful to consider what it means for a program if a law school reaches the 25% level. Take for example a law school like Washington & Lee, which reached the 25% level for the first time in 2010, rising from 15% participation in 2009. In terms of the number of students served, the program went from 59 students to 100 students. It will be interesting to discover what additional resources were required to expand the program that much in one year. The answer differs theoretically, depending on which model the externship program most closely resembles.

For example, if the externship program follows a clinic-based approach, it is likely that the law school had to add two or three new classroom sections to accommodate the forty-one additional students and to provide on-site visits to each of the sites. With a program that increases by a jump of 67% of what was already in place, the program resources may need to expand by more than half of what was previously needed. Because the clinic-based model focuses more heavily on faculty involvement, it is likely that if three faculty members were needed earlier, then two additional faculty members would be required to grow this much in one year.

On the other hand, if the externship program is an apprenticeship-based model, it may be that the existing framework of faculty resources can expand to handle the additional forty-one students being added to the previous fifty-nine students. This is possible because the faculty role is not as crucial, and there is less emphasis placed on the classroom and on-site-visit aspects of the

program. Classes offered can be expanded. If two faculty members handled the program previously for fifty-nine students, the same two faculty members would likely be sufficient for the expanded number of students. The classroom sections would be larger in the same way that standard classes in traditional areas of the curriculum are permitted to expand. It is only in the clinic-based programs that the student-to-faculty ratio is expected to stay relatively low. In the apprenticeship-based programs, the emphasis is placed on the supervising attorneys and judges and their role in providing meaningful learning experiences for the students. It is no problem for a law school to find an additional forty-one supervising attorneys and judges to take students into their offices and to provide them with good, practical assignments and observation opportunities.

In the apprenticeship-based model, law schools may be relying more heavily on alternative means of providing students with opportunities to reflect on what they are learning through their externships in the form of weekly journals as a significant part of the externship program. The same two faculty members handling Washington & Lee's 59 previous students could take on additional journal-reading and journal-responding assignments to cover the 100 students enrolled in externships in 2010. In a similar manner, if the faculty are not trying to visit externship sites in person, but are using alternative means as permitted by the field placement accreditation standards, they can add these additional students without the need to expand the faculty assigned to run the externship program. The standards expressly require that a law school's resources dedicated to the externship program expand to adequately handle the supervisory responsibilities of the program. Eventually, additional growth will undoubtedly require Washington & Lee to add new faculty members to the team directing the program. But it is likely that the 67% expansion in going from 59 students to 100 students would not involve additional faculty.

Other characteristics of the clinic-based externship program model may impact the possibility of expanding this much in a single year. Because the clinic-based model generally limits the externship placements to be in the same geographic area of the law school, it may be hard for a law school in a rural area to increase the number of externship sites this dramatically in one year. Similarly, the general requirement in clinic-based externships limits the types of placements that will be approved. If a law school cannot include for-profit law firms as approved externship placements, this factor may also affect the expandability of the program in a single year.

It is useful to count the number of law schools reaching this 25% threshold in successive years as a means of emphasizing the significant but unheralded growth of externships from 2006 to 2011. In 2006, there were 34 law schools reaching 25% or higher participation levels; in 2007, 44 law schools; in 2008, 47 law schools; in 2009, 52 law schools; in 2010, 60 law schools; and in 2011, 76 law schools. A total of 95 law schools reached this level at least once during those years. It is staggering to notice that the number of law schools providing the majority of eligible second- and third-year law students with externship opportunities more than doubled from 34 law schools in 2006 to 75 law schools in 2011. It can be expected, based on the trajectory and the survey responses of current externship directors, that this increase will continue at a similar rapid pace.

### C. The National Jurist's *Top 20 Law Schools Rankings*

*The National Jurist* rankings appeared first in the October 2011 issue.<sup>107</sup> The originally published list was based on total enrollment. The editor adjusted these figures so full-time enrollment was counted because of the impact their former approach had on law schools with large numbers of part-time students.<sup>108</sup> They recognized that part-time students are not able to

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107. See *supra* note 23.

108. See *id.*

participate in externships as often as full-time students because most of them have full-time jobs. It is interesting to point out that seven of the top 20 they mention in one or both of these lists have not had high percentages through all of these six years. Arizona State was at 19% in 2006 rising to 47% in 2011. Cincinnati was at 24% in 2007, rising to 38% in 2011. Thomas Jefferson was at a low of 23% in 2008, rising to 54% in 2010, but falling back to 38% in 2011. Chapman was at 19% in 2006, rising to 33% in 2010. Maryland had 24% in 2006, rising to 32% in 2011. Valparaiso has fluctuated from a high of 38% in 2006 to a low of 29% in 2007 and rising to 36% in 2010; and Golden Gate was at 21% in 2006, rising to 50% in 2008 before falling off to 28% in 2010 and back up to 33% in 2011.

When we ran the numbers for this Article, we came up with a slightly different Top 20 list of law schools than *The National Jurist*,<sup>109</sup> dropping Valparaiso, Maryland, and Golden Gate from the list used in *The National Jurist* rankings and adding Michigan State, Louisville, and Catholic. Michigan State achieved 44% (up from 30% in 2009) and is in the 9th position in the rankings for 2010. Louisville is number 14 at 39% in 2010, up from 30% in 2009. Catholic is 19th in our rankings list with 36% in 2010, up from 26% in 2009.

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109. Michelle Wyenberg, *Top Law Schools for Externship Opportunities*, NAT'L JURIST, Oct. 2011, at 19, available at <http://www.nxtbook.com/nxtbooks/cypress/nationaljurist1011/index.php#/18>; *Another Look at the Top Schools for Externships*, NAT'L JURIST (Oct. 28, 2011, 10:48 AM), <http://www.nationaljurist.com/content/another-look-top-schools-externships> (noting inaccuracies in original article's methodology and listing corrected rankings and percentages). Following is how *The National Jurist* listed its top 20 law schools:

NATIONAL JURIST'S TOP LAW SCHOOLS FOR EXTERNSHIP OPPORTUNITIES	
ORIGINAL RANKINGS	CORRECTED RANKINGS
1. St. Thomas-Minn.	1. St. Thomas-Minn.
2. Northeastern	2. Northeastern
3. Utah	3. Utah
4. Brigham Young	4. Brigham Young
5. Brooklyn	5. Thomas Jefferson
6. Drexel	6. Denver
7. Arizona state	7. Brooklyn
8. Indiana Bloomington	8. Santa Clara
9. Appalachian	9. Arizona State
10. Univ. of Illinois	10. Drexel
11. Colorado	11. Indiana Bloomington
12. Denver	12. Appalachian
13. Cincinnati	13. Southwestern
14. Valparaiso	14. Nevada—Las Vegas
15. Thomas Jefferson	15. Illinois
16. Santa Clara	16. Colorado
17. Chapman	17. Cincinnati
18. Nevada—Las Vegas	18. Valparaiso
19. Golden Gate	19. Maryland
20. Southwestern	20. Golden Gate

**TABLE 9: OUR RANKINGS USING SAME DATA AS THE *NATIONAL JURIST***

<i>Official Guide</i>		2011			2012		
Year Data Collected		2009			2010		
Rank Oct. 2011	Law School	Field Placements	Enrollment full-time	Ratio Participation	Field Placements	Enrollment full-time	Ratio Participation
		1	St. Thomas–Minn.	621	457	136%	609
2	Northeastern	524	602	87.0%	483	629	76.8%
3	Utah	221	381	58.0%	278	402	69.2%
4	Brigham Young	195	447	43.6%	252	443	56.9%
5	Brooklyn	574	1278	44.9%	713	1293	55.1%
6	Thomas Jefferson	233	648	36.0%	368	687	53.6%
7	Santa Clara	233	749	31.1%	382	749	51.0%
8	Drexel	124	410	30.2%	222	440	50.5%
9	Michigan State	267	892	29.9%	352	804	43.8%
10	Denver	365	786	46.4%	324	768	42.2%
11	Arizona State	234	576	40.6%	248	614	40.4%
12	Ind., Bloomington	217	620	32.3%	258	646	40.2%
13	Illinois	199	617	35.0%	257	640	39.9%
14	Louisville	110	368	29.9%	148	379	39.1%
15	Appalachian	127	334	33.3%	112	313	36.4%
16	Southwestern	269	729	36.9%	267	741	36.0%
16	Nevada, Las Vegas	134	366	36.6%	125	347	36.0%
18	Colorado	182	547	26.5%	199	546	35.9%
19	Catholic	152	574	38.0%	202	562	35.8%
20	Cincinnati	135	391	34.5%	143	408	35.0%

TABLE 10: TOP LAW SCHOOLS PROVIDING EXTERNSHIPS IN 2010 AND 2011

<i>Official Guide</i>		2012	<i>Official Guide</i>		2013
Year Data Collected		2010	Year Data Collected		2011
Rank	School		Rank	School	
1	St. Thomas–Minn.	128%	1	St. Thomas–Minn.	132.4%
2	Northeastern	77%	2	Utah	82.9%
3	Utah	69%	3	Northeastern	82.0%
4	Brigham Young	57%	4	Southwestern	78.9%
5	Brooklyn	55%	5	Brooklyn	57.1%
6	Thomas Jefferson	54%	6	Brigham Young	57.0%
7	Santa Clara	51%	7	La Verne	56.4%
8	Drexel	50%	8	Santa Clara	51.8%
9	Michigan State	44%	9	Denver	51.6%
10	Denver	42%	10	Arizona State	46.8%
11	Arizona State	40%	11	Michigan State	45.8%
12	Ind., Bloomington	40%	12	Nevada—Las Vegas	43.8%
13	Illinois	40%	13	Tulsa	43.5%
14	Louisville	39%	14	Campbell	40.8%
15	Appalachian	36%	15	Ind., Bloomington	40.3%
16	Southwestern	36%	16	Hawaii	39.5%
17	Nevada—Las Vegas	36%	17	Colorado	39.4%
18	Colorado	36%	18	Louisville	39.1%
19	Catholic	36%	19	Cincinnati	38.4%
20	Cincinnati	35%	20	Houston	38.2%

## VII. CONSIDERING EXTERNSHIP MODELS ADOPTED BY THE THIRTY LAW SCHOOLS WITH THE HIGHEST PARTICIPATION PERCENTAGES

Another way of highlighting the significance of the model chosen by a specific law school—as between a clinic-based model or an apprenticeship-based model—is to look at the twenty-one law schools that have reached the 25% threshold participation level in all six of the years from 2006 to 2011. They are Appalachian, Brigham Young, Brooklyn, Colorado, Denver, Drexel,<sup>110</sup> Emory, Illinois, Indiana-Bloomington, Louisville, Marquette, Michigan State, Nevada-Las Vegas, Northeastern, Santa Clara, Southwestern, St. Thomas-Minnesota, Utah, Valparaiso, University of Washington, and Wisconsin. There were another nine law schools—Arizona State, Chapman, Cincinnati, New England, Quinnipiac, St. John’s, Temple, Toledo and Vermont—that made it to the 25% level in all but one of the years. These two groups combined form the top thirty law schools with the highest participation percentages.

According to our expectations, most of these schools have probably developed their externship programs before their law schools had very significant involvement in in-house clinics. In fact, the annual *Official Guide* for 2008 illustrates this prediction. It is not surprising that the law schools with the highest percentage of students participating in externships are schools that have had fewer in-house clinic offerings for the last several years. Of the thirty schools, twenty-eight of them had more externships than in-house clinic enrollments in the 2006 academic year. They were Appalachian, Arizona State, Brigham Young, Brooklyn, Catholic, Chapman, Cincinnati, Colorado, Denver, Emory, Golden Gate, Illinois, Indiana-Bloomington, Louisville, Marquette, Michigan State, Nevada-Las Vegas, New England, Northeastern, Santa Clara, St. John’s, St. Thomas-Minneapolis, Southwestern, Temple, Thomas Jefferson, Toledo, Utah, and University of Washington. It may be expected that the number of law schools consistently reaching these higher percentages of student participation in externships will continue to rise, based on the fact that the number of law schools with more externship enrollments than in-house clinic enrollments continues to increase.

## VIII. CONCLUSION

The 95 law schools included in this Article represent a real cross-section of the 201 ABA-approved law schools. Based on the rankings in the *U.S. News and World Report*,<sup>111</sup> there are equally as many first- and second-tier law schools (47 total) as there are third- and fourth-tier law schools (47 total).<sup>112</sup> There are slightly more first-tier law schools (22)<sup>113</sup> than fourth-tier law schools (20).<sup>114</sup> And there are slightly more third-tier law schools (27)<sup>115</sup> than second-tier law

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110. Drexel has reached the 25% threshold participation level ever since it first began reporting data to the ABA in 2008.

111. See *2013 Best Law Schools*, U.S. NEWS & WORLD REP., <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings> (last visited Feb. 8, 2013).

112. *U.S. News* currently has a rank for 94 of the 95 law schools we have identified in this Article. The University of St. Thomas-Minneapolis is currently unranked.

113. First-tier law schools include any school that is ranked 1 to 50 in the *2013 U.S. News Best Law Schools* rankings (ranked in 2012). Following are the twenty-two schools: American, Arizona, Arizona State, Brigham Young, California-Berkeley, Colorado, Emory, Florida, Fordham, George Washington, Georgia, Illinois, Indiana-Bloomington, Maryland, Northwestern, Pepperdine, Utah, Vanderbilt, University of Washington, Washington and Lee, William and Mary, and Wisconsin.

114. Fourth-tier law schools include any school that is ranked but whose rank *U.S. News* does not publish. Following are the twenty schools: Appalachian, Ave Maria, California Western, Campbell, Capital, Dayton, Detroit Mercy, Golden Gate, La Verne, Liberty, Mississippi College, New England, North Carolina Central, Ohio Northern, Southern Illinois, St. Thomas-Miami, Thomas Jefferson, Touro, Valparaiso, and Whittier.

115. Third-tier law schools include any school that is ranked 101 to 145 in the *2013 U.S. News Best Law Schools* rankings. Following are the twenty-seven schools: Baltimore, Chapman, Drake, Drexel, Florida International, Gonzaga, Hawaii, Idaho, John Marshall, Mercer, Missouri-Kansas City, Montana, New Hampshire, New York Law School, Pace, Pacific (McGeorge), Quinnipiac,



schools (25).<sup>116</sup> Among the ninety-five law schools, thirty-seven are small law schools with full-time student enrollment below 500; twenty-nine are mid-sized law schools with full-time enrollment between 500 and 699 students; twenty-two are large law schools with full-time enrollment between 700 and 999 ; and 7 are super-sized law schools with more than 1000 full-time students.

There are forty law schools from the East,<sup>117</sup> twenty-nine law schools from Midwest states,<sup>118</sup> and twenty-six law schools from the West (beginning with Colorado).<sup>119</sup> This underscores the assumption that the major difference between law schools that have reached 25% participation of their eligible students in externships is that most of these law schools have followed an apprenticeship-based model rather than a clinic-based model for their externship programs. This factor—schools adopting an apprenticeship-based model—serves well to explain these statistics, whereas the size of the law school, rankings in *U.S. News and World Report*, and geographical location do not.

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San Francisco, Southwestern, Stetson, Toledo, Vermont, Villanova, Washburn, Wayne State, and Wyoming.

116. Second-tier law schools include any school that is ranked 101 to 145 in the 2013 *U.S. News Best Law Schools* rankings. Following are the twenty-five schools: Baylor, Brooklyn, Catholic, Chicago-Kent, Cincinnati, Connecticut, Denver, DePaul, Georgia State, Houston, Kansas, Louisville, Marquette, Michigan State, Nevada–Las Vegas, Northeastern, Pennsylvania State, Pittsburgh, San Diego, Santa Clara, St. John’s, SUNY Buffalo, Temple, Tulsa, and Yeshiva (Cardozo).

117. The forty law schools from the East hail from the following states: Connecticut, District of Columbia, Florida, Georgia, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Vermont, and Virginia.

118. The twenty-nine law schools from the Midwest are in the following states: Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Mississippi, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin.

119. The twenty-six law schools from the West are in the following states: Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, Utah, Washington, and Wyoming.

TABLE 11: TOP LAW SCHOOLS PROVIDING EXTERNSHIPS AND THEIR U.S. NEWS RANKINGS					
Official Guide Edition			2013		
Year Data Collected			2011		
Externship Program Rank Sept. 2012	U.S. News & World Report Rank Mar. 2012	Law School	Field Placements	Enrollment full-time	Ratio Participation
1	Unranked	St. Thomas–Minnesota <sup>†</sup>	637	481	132.4%
2	47	Utah	330	398	82.9%
3	76	Northeastern	538	656	82.0%
4	129	Southwestern	302	383	78.9%
6	65	Brooklyn	688	1204	57.1%
7	39	Brigham Young	245	430	57.0%
8	4th Tier	La Verne	102	181	56.4%
9	96	Santa Clara	382	738	51.8%
10	69	Denver	397	769	51.6%
11	26	Arizona State	282	602	46.8%
12	82	Michigan State	328	716	45.8%
13	76	Nevada–Las Vegas	142	324	43.8%
14	99	Tulsa	140	322	43.5%
15	4th Tier	Campbell	194	475	40.8%
16	26	Indiana–Bloomington	279	692	40.3%
17	106	Hawaii	109	276	39.5%
18	44	Colorado	213	540	39.4%
19	89	Louisville	142	363	39.1%
20	69	Cincinnati	157	409	38.4%
21	57	Houston	258	676	38.2%
21	4th Tier	Capital	174	456	38.2%
23	4th Tier	Thomas Jefferson	285	759	37.5%
24	4th Tier	Appalachian	124	332	37.3%
25	82	Catholic	186	506	36.8%
26	35	Illinois	233	639	36.5%
27	58	Temple	257	722	35.6%

<sup>†</sup> “The University of St. Thomas School of Law has changed from being a ranked school in the 2013 edition of Best Law Schools to an unranked school, based on a data reporting error.” *Best Law Schools: University of St. Thomas*, U.S. NEWS RANKINGS & REVS. <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/school-of-law-03191#blurb> (last visited Feb. 8, 2013).

28	101	Pacific (McGeorge)	231	653	35.4%
29	96	Marquette	204	586	34.8%
30	12	Northwestern	272	801	34.0%
31	35	Wisconsin–Madison	256	755	33.9%
32	119	Stetson	289	855	33.8%
33	142	New Hampshire	132	392	33.7%
34	4th Tier	Golden Gate	190	568	33.5%
35	142	Pace	214	644	33.2%
35	119	Vermont	188	566	33.2%
35	24	Emory	269	810	33.2%
38	65	San Diego	278	840	33.1%
37	58	Georgia State	149	466	32.0%
39	39	Maryland	234	735	31.8%
39	106	Drake	138	434	31.8%
41	4th Tier	Valparaiso	170	541	31.4%
42	20	University of Washington	169	545	31.0%
43	119	Drexel	136	450	30.2%
44	89	Kansas	138	463	29.8%
45	51	Baylor	129	435	29.7%
46	89	DePaul	244	828	29.5%
47	4th Tier	Liberty	84	286	29.4%
48	69	Pittsburgh	205	701	29.2%
48	101	Villanova	212	725	29.2%
50	145	Montana	73	252	29.0%
51	48	Florida	281	976	28.8%
52	113	Albany	192	670	28.7%
53	4th Tier	New England	233	815	28.6%
54	49	Pepperdine	179	629	28.5%
55	4th Tier	Southern Illinois	105	373	28.2%
56	4th Tier	Whittier	158	564	28.0%
57	110	Chapman	141	506	27.9%
58	4th Tier	Mississippi College	154	555	27.7%
58	4th Tier	Dayton	135	488	27.7%
60	113	Gonzaga	139	506	27.5%
61	129	Washburn	113	413	27.4%
62	62	Chicago-Kent	205	755	27.2%
63	127	Wyoming	61	226	27.0%
64	4th Tier	California Western	183	681	26.9%
65	35	William and Mary	169	637	26.5%
66	4th Tier	Ohio Northern	82	311	26.4%
67	129	John Marshall	315	1200	26.3%

68	82	SUNY Buffalo	166	637	26.1%
69	135	Missouri–Kansas City	113	438	25.8%
69	135	New York Law School	352	1365	25.8%
71	56	Yeshiva	267	1038	25.7%
72	43	Arizona	112	440	25.5%
72	113	Florida International	93	369	25.2%
72	49	American	312	1239	25.2%
75	16	Vanderbilt	146	586	24.9%
76	24	Washington and Lee	98	395	24.8%
77	129	Idaho	88	358	24.6%
78	79	St. John’s	190	787	24.1%
79	20	George Washington	343	1430	24.0%
80	110	Mercer	108	451	23.9%
81	62	Connecticut	109	461	23.6%
84	129	Toledo	83	357	23.2%
87	110	Wayne State	106	462	22.9%
91	113	Quinnipiac	79	356	22.2%
97	113	Baltimore	159	738	21.5%
101	106	San Francisco	121	582	20.8%
114	4th Tier	North Carolina Central	81	427	19.0%
115	4th Tier	St. Thomas–Miami	135	719	18.8%
126	7	California–Berkeley	148	869	17.0%
129	34	Georgia	115	691	16.6%
132	4th Tier	Detroit Mercy	89	556	16.0%
139	76	Pennsylvania State	92	596	15.4%
168	4th Tier	Ave Maria	51	489	10.4%
176	29	Fordham	100	1244	8.0%
187	4th Tier	Touro	36	580	6.2%