The Ugly Ducking Comes of Age: The Promise of Full-Time Field Placements

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INTRODUCTION

In the hierarchy of academic programs within America’s law schools, field placements fall near the bottom.1 Relatively little has been written about their importance in providing robust opportunities for students to learn about the actual practice of law in real-life settings while still in school.2 Perhaps for this reason, field placements were almost completely ignored in a comprehensive analysis of legal education in America recently published by the Carnegie Foundation.3 Yet, the Carnegie Report stresses the importance of law students gaining practical knowledge and skills beginning with simulations and “moving into actual responsibility for

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1 Each of us has spent much of the last decade developing, expanding and managing the field placement programs at our respective law schools. During that time we witnessed, at our own two schools and more generally at other schools, significant improvements in the professionalism and educational quality of field placement programs. Nonetheless, the resources directed by law schools to field placement programs both in the aggregate and especially on a per-student basis remain limited. And, quality control issues are often raised as a criticism, albeit always without any data other than occasional anecdotal references, by professors and commentators who have little or no recent experience in the area.

2 But see 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. 616 (2006), and Kelly S. Terry, Externships: A Signature Pedagogy for the Apprenticeship of Professional Identity and Practice, 59 J. LEGAL EDUC. 240 (2009). J. P. Ogilvy (Catholic) and Harriet Katz (Rutgers-Camden) maintain a selected bibliography of books and articles relating to the design, critique and pedagogy of legal externships at LexternWeb, THE CATHOLIC UNIVERSITY OF AMERICA (last updated Nov. 1, 2010), http://lexternweb.law.edu. Aside from the two articles mentioned in this footnote, most of the articles listed in that bibliography deal either with specific components of field placement program design, or are relatively dated in an area of experiential learning which is changing so rapidly.

clients” with “professional judgment gained through typical situations of practice.” Unfortunately, law schools are unable to provide on-campus, live-client experiences for significant numbers of additional students, and employers are no longer spending the time and financial resources necessary for extended on-the-job training of new lawyers.6

It thus has become increasingly important for legal education to be more creative in finding opportunities to train and inculcate soon-to-be lawyers with the educational experience they need to be successful practitioners. The time has come to set aside ancient biases against field placement programs and to take better advantage of this undervalued educational resource for preparing tomorrow’s lawyers.

Experiential education, specifically learning-while-doing is, of course, not new to legal education. Indeed, historically, future lawyers trained for their profession by “reading the law” while apprenticed to practicing lawyers. Even after the late 1800’s when legal education entered the academy, there often remained a practice-based component.7 This practical focus gained momentum with the development and expansion of clinical programs in the 1960s and 70s.8 Clinical programs continue to serve a vital role for those students able to enroll in them. However, few law schools can offer a clinic experience to every student because clinics are expensive to run. Moreover, since clinics are expensive, schools are limited in the number of clinics they can create and maintain. Thus, clinics can’t provide “real-life” experience in the many diverse legal fields and specialties now available to law school graduates.

Thus, we argue that there is an increasingly important place for field placement programs. Of course, almost all law schools offer students field placement courses that allow them to earn law school credit while performing legal tasks as externs working in government agencies, non-profit organizations or, at some schools, in law firms or for-profit placements.9

4 CARNEGIE REPORT, at 195.
5 CARNEGIE REPORT, at 196
6 See Part II on Changing Conditions for a discussion of the state of the economy, legal education, and the employment and training opportunities available to new lawyers during the period in which this Article was researched and written.
7 In many countries of the world significant “real-world” practical training still remains a requirement for those who wish to be licensed to practice law. Generally that training occurs after graduation and the practical experience component of the new lawyer’s education is not monitored or supported by faculty as is the case in a field placement program structured to meet the ABA Standards.
8 In this Article, we use the term “clinic” or “clinical” to refer primarily to “in-house” clinics operating on a law school’s campus or in facilities owned or leased by the school and supervised by law school professors, sometimes called “clinicians.” Field placements or externships refer to students working off-campus in practicing law offices or departments supervised by field placement supervisors who are normally practicing attorneys. We recognize that externships can be considered a form of clinic and, further, that there are also some so-called “hybrid clinics.” The hybrid clinics adopt a number of different models, but often involve law school faculty co-teaching in partnership with private attorneys who supervise students working in public defender’s offices, public interest legal aid societies, or similar real-life legal settings.
9 See the program description links for almost all 200 ABA approved law schools set forth at Sandy Ogilvy, Program Descriptions, LexternWeb, THE CATHOLIC UNIVERSITY OF AMERICA (last updated November 1, 2010) http://lexternweb.law.edu/program.cfm.
Traditionally, students work part-time, one or two days a week, at their placement site, while earning academic credit equivalent to one law school course (typically 2 to 6 units). The part-time nature of those externships allows students to schedule their on-site field placement experience around classroom courses taken during the same semester.

However, our experience at two law schools, each of which also offer full-time field placements, demonstrates drawbacks in the traditional part-time approach. Part-time externships impose limits on the kinds of projects students can become involved with and the degree to which students can become integrated into and become familiar with “typical situations of practice.” By contrast, full-time field placements avoid these problems. Moreover, because full-time field placements constitute a student’s entire coursework for a given semester, the student is freed from the home institution and may travel to distant parts of the nation, or even internationally, to take part in an externship that is particularly suited to that student’s individual academic and professional interests. Thus, for this Article we have chosen to explore and advocate for full-time field placements.

For purposes of this Article, a for-credit, full-time, semester-long externship is one in which a student can elect a course that allows the student to work 36 to 40 hours a week at an off-campus field placement site throughout an entire academic semester while earning sufficient law school credits (generally 10 to 12) to graduate in a normal three-year day (or four-year evening) law school program. Externships meeting those parameters are referred to in this Article alternatively as “full-time field placements” or “full-time externships.”

Although we strongly believe in the educational and professional benefits of full-time field placements, we recognize that establishing and maintaining a full-time field placement program creates challenges. Thus, Part I of this Article explains both the advantages to and challenges in developing and maintaining a full-time field placement program. Part II explains why, in light of those advantages and despite the disadvantages, now is the time to establish a full-time field placement program if your law school does not already have one, or perhaps to consider expanding an already existing full-time field placement program.

The heart of this Article, Part III, provides ground-breaking empirical research to paint a broad picture of the current status of full-time field placement programs. In 2010 we sent a survey to all 200 ABA approved law schools. The purpose of that survey was to learn how other schools structured their full-time field placement electives to address applicable ABA standards. At least two law schools offer programs that do not meet this definition even though students work full-time at placement sites, because neither school grants law school credit for that experiential learning, and hence neither program is subject to the requirements of the American Bar Association (the “ABA”) Standards for Approval of Law Schools. Northeastern University School of Law’s Cooperative Legal Education Program requires that its students complete four quarters of full-time professional experience in real-life settings during its three year long legal education program. Golden Gate University School of Law offers its HLP program to qualifying students. HLP students attend a regular first-year curriculum, participate in an intensive skills-focused summer session, and work at a full-time fall apprenticeship. In the spring, students return to full-time classes. During their third year, students complete a second apprenticeship and have the option to enroll in additional, practice-based courses.

ABA Standards for Approval of Law Schools (the “ABA Standards”), Standard 305, Study Outside the Classroom (2009-2010), primarily focusing on Section 305(e). ABA Standard, Standard 306, Distance Education (2009-2010), applies only if the “educational process is characterized by the separation, in time or place, between the instructor
and to ensure the educational quality of their field placements. With some follow-up on our part, 192 out of 200 schools ultimately provided answers to our survey questions. The information shared by our sister law schools was so rich in detail, and otherwise unavailable in the legal literature, that we became convinced of the need to share this information more broadly. It provides a comprehensive picture of what is now happening in American law schools and can serve as a guide to law schools considering developing or expanding their full-time field placement programs.

Part IV allows the reader to move from the expanse of the national data to two particular externship programs. There, the reader can see how different programmatic structures can be added or combined to create a program that works for a school’s particular needs, and the reader can see how a faculty initially resistant to the idea of full-time externships can be won over. Finally, Part V summarizes the conclusions we have derived from the survey and from our experiences.

Based on the advantages that full-time externships afford both students and their law schools and considering the changes in regulations and technology that make full-time field placements ever easier to develop and monitor, this Article recommends that all law schools begin to innovate and experiment in their field placement program offerings and, specifically, to think about a full-time field placement option. By providing the detailed survey information, law schools can consider the different ways their sister law schools approach their full-time field placement program. Then, each school can design a program that addresses both the ABA’s requirements and their individual school’s goals and requirements.

and the student.” Although the term “instructor” is not defined, we believe that the primary source of education in a field placement is the interaction between the student and the field placement supervisor (supplemented by the student’s interaction with other attorneys and staff at the placement site). Under that interpretation, Standard 306 would be applicable only if the student were not physically located at the placement site, or the law school “faculty member” identified in Section 305(c) and (e) separately grades the required reflective component, or a separate course, offered principally by distance means.

Our empirical findings are summarized in Section IV of this Article, and detailed results of our survey are available at on the Internet at the “url” sites identified on the last page of this Article.

J. P. “Sandy” Ogilvy, Columbus School of law, The Catholic University of America, and Robert F. Seibel, Visiting Professor at California Western School of Law, completed a Survey of externship programs in 2004, and Professor Ogilvy created a website, Program Descriptions, LexternWeb, THE CATHOLIC UNIVERSITY OF AMERICA (last updated November 1, 2010) http://laworgs.cua.edu/lexternweb/index.htm that contains a large amount of information about field placement programs. The Center for the Study of Applied Legal Education (CSALE) completed a survey in 2007-2008 of clinics and field placement programs which is available at http://www.csale.org/SURVEY.html. Section E of the CSALE Report prepared by David A. Santacroce, University of Michigan, and Robert R Kuehn, Washington University School of Law, provides a great deal of information about field placement programs. However, neither of these surveys focused on full-time field placement programs.

In fact while we have been working on this Article, Santa Clara Law School and Golden Gate Law School have relied upon the data we developed to support expansions of their full-time externship offerings, and two other law schools recently used the field placement community’s list-serve to request information about full-time externship programs.
Ultimately, we hope that the information presented in this Article will provoke new thoughts and discussion about the place of externships, and in particular full-time field placements, in modern legal education.

I. LESSONS LEARNED: THE ADVANTAGES AND CHALLENGES OF FULL-TIME FIELD PLACEMENTS

Full-time externships affect students and their law schools differently. Thus we begin by considering the advantages and challenges of full-time placements from the perspectives of these different stake-holders: first, we consider the advantages to the student and law school, and then we consider the challenges to each stake-holder.15

A. Advantages

1. For the Student:

a) Full Immersion: Fully immersing a student into the life of a placement site is perhaps the most important and persuasive reason to advocate for full-time field placements.16 Being in the office full-time allows students to be part of a legal team that takes on emergency projects and also lets students attend last-minute meetings or respond to crisis situations. A student who is on site full-time can also become part of the daily life of the office, directly and comprehensively observing how the work flow progresses, how the office is organized, and how the attorneys and staff do their jobs. Professor Kelly S. Terry argues that externships are particularly well suited to address the Carnegie Report’s “third apprenticeship,” one that teaches “the ethical standards, social roles and responsibilities that mark a professional.” A full-time extern seeking to begin to form a “professional identity and purpose”18 can start to learn the culture of the organization and of its attorneys and support staff much more effectively than can a part-time extern.

By contrast, when externs are at their placement site only a day or two a week, we often hear complaints about their not being available during the entire week. When students are working on current cases and projects (as opposed to more general research

15 We recognize that advantages and challenges to students are sometimes also advantages and challenges to the school, but attempted to list specific advantages and challenges under the heading of the group they most directly impact.

16 We wish to state emphatically that we advocate full-time field placements only as one option in a field placement program which includes, and probably relies on, part-time externships. For many students, and in many situations, a part-time externship is sufficient to give a student much of the learning she would receive in a full-time externship, while requiring a greatly reduced investment of time and effort. Full-time field placements may be most appropriate for students who know exactly what type of law they wish to practice, or those who could not get a desired field experience without being willing to invest an entire semester.

17 Kelly S. Terry, supra note 2.

18 CARNEGIE REPORT, Chapter 4.
assignments) issues can arise which require immediate attention, and the placement’s attorneys and supervisors may not be able to work around the student’s part-time schedule. We also hear that when they are not present during the entire week, extern’s perform their assignments less efficiently. And, of course part-time externs miss much of the professional interaction that goes on at the placement site. Thus, students who strive to become an integral part of the office face a difficult task when they are only in the office on a limited basis.

b) **Distant Placements:** For some motivated students, the biggest single advantage of full-time field placements is that they facilitate externships at placement sites distant from the law school’s campus. With legal practice becoming transnational and international, the importance of offering a student the chance to immerse herself in a real-life legal work setting away from the campus, whether in our nation’s capital, overseas, or wherever she wants to live and practice after law school, is increasingly obvious. Moreover, some types of practice – such as international criminal and human right courts – are available only overseas. Other practice experiences – such as working in a federal agency or working for a major NGO – may be available only in a state or the Nation’s capitol.

c) **Expanded Placement Opportunities:** In addition to enlarging the pool of placements due to the geographic limits being relaxed, the list of placements that will take full-time but not part-time students also adds to the riches in this area. For example, federal judges in Sacramento, located in the Eastern District of California, have a higher case load than other federal trial court judges and most refuse to consider part-time judicial externs because they recognize the time it takes to train a student and want to make sure they are able to find that time and make it worthwhile for the student and the court. Berkeley Law encountered the same requirement from many federal judges in the San Francisco Bay Area, and that is one of the main reasons it allowed its students to pursue full-time judicial externships near the school.

d) **Competition for Placements:** Students attending schools that do not offer full-time externships during the academic year are generally forced to pursue those opportunities during the summer when there are more students pursuing the same opportunities and competition for those positions is much more intense. Supervising attorneys attest to the fact that summer is the most competitive time for students pursuing externship opportunities. This issue is particularly important for desirable “high-profile”

19 The Eastern District of California is geographically large, and includes numerous prisons and prisoners, a breeding ground for federal civil rights cases. In addition, politics has limited the number of judges authorized for the District while often delaying confirmation hearings for those nominated to fill vacancies. The result is the largest per-judge case load in the Federal system.

20 While historically some individuals not familiar with modern field placement programs referred to externs as “free labor”, the reality is that supervising, training and educating law students requires real effort. Most field placement supervisors take their responsibilities to educate externs seriously, and one of the responsibilities of a Field Placement Director is to ensure that students are placed only in situations where learning is paramount.

21 Elizabeth Kristen, Director of the Gender Equity Program at the Legal Aid Society of San Francisco states in her 1/24/2011 e-mail “When I interview students I try to get a sense of their availability. If law students have the option to work with us in the fall or spring they have a much better chance of coming to our office because we
placement sites such as international courts. Thus, mid-ranked schools may want to consider full-time field placements as a way to give their students a better chance to land those positions.

e) **Improved Mentorship:** Another factor is that when students are working in full-time field placements during academic semesters, there tend to be fewer other students at the placement site and also more on-site mentors who have yet to leave for, or have returned from, their summer vacations. The reality is that students will normally get more attention and can become more of a known entity at a placement when they extern outside of the “busy” summer session. In addition, the fall and spring semesters are typically longer than summer sessions. This increased exposure may give students a better learning experience, as well as a possible advantage if they hope to become better acquainted with supervising attorneys and other mentors who may be able to provide references or help students pursue future employment opportunities.

e) **Law School Involvement:** Students attending law schools which offer full-time field placements may choose to enroll in their school’s program during the fall or spring semester instead of volunteering during the summer at a placement site which may be distant from the law school. When students enroll in field placement programs designed in accordance with ABA standards and law school requirements, field placement directors and faculty seminar leaders work with them to help them identify their goals and to structure their learning experiences, while providing opportunities and direction for reflective learning. Also to the student’s advantage, is the role the school plays with the placement which includes training, evaluating and communicating and approving field placement supervisors. In essence, the ABA standards and law school involvement are intended to, and actually do, make a “for-credit” externship a better and deeper learning experience for the student than a volunteer position (or, for that matter, paid employment).

2. **For the School:**

a) **Expanded School/Student Reputation:** Most law schools are best known in the geographic region where they are located, although their reputation may expand as their alumni move on to national or international prominence. Field placement programs are a great way to get the school and the quality of its students known to a new audience. This

have limited summer positions. The other great part of having students work with us during the semester is that because we have fewer students in the fall and spring, supervising attorneys may have more time with each student.” (a copy of this e-mail is available from the authors).

22 Even at law schools which offer “for-credit” summer sessions, students whose field experience is limited to the summer tend to volunteer rather than register in a field placement program to save tuition expense, especially at law schools that charge tuition by the semester rather than by the number of credits taken. If a student volunteers, she is essentially invisible to the school’s field placement staff, and the student loses the benefit of the law school’s input on placement selection as well as the faculty directed reflective component while the school loses the benefit of the students’ input regarding the educational quality of their experience.
“reputational” benefit increases to the extent that full-time field placements make the new placements sites available to students both locally and in distant legal centers.

b) **Competition for Motivated Students:** Students choosing between competing law schools may find the fact that a particular law school offers full-time field placements attractive. That may be true even if a student chooses such a school and ultimately decides not to elect a full-time field placement. Many undergraduate majors either require or encourage students to pursue experiential learning opportunities. Students who took advantage of those programs as undergraduates may be eager to pursue similar opportunities as graduate students.

c) **Expanding Experiential Learning Opportunities:** Most schools are seeking to expand meaningful experiential learning opportunities. Some schools are responding to reports such as the Carnegie Report and the report, titled *Best Practices for Legal Education*, published by the Clinical Legal Education Association, both of which advocate for expanded and improved experiential learning experiences. Others are simply responding to the increased student demand. Whatever the reason, full-time field placements provide a logical extension of the part-time externships now offered by virtually all law schools.

d) **Responding to Changing Conditions:** Given the current economic conditions and student interest in making informed decisions about their future careers, schools may find full-time field placement options an important way to give their students as much “real-life” practice experience as possible before they have to make important decisions about their own careers. Importantly, since some students will choose, or be forced by economic conditions, to start their own practices, law schools may also have a responsibility to expose students to “real-life” legal practice in a supervised educational setting while still in law school. Thus, offering full-time field placements is a service to the students, their future clients, and the legal profession itself.

**B. Challenges**

1. **For the Student:**

   a) **Advance Planning:** A student who expects to be away from the law campus for a full semester, even if not travelling to a distant location, needs to schedule her required classes to accommodate her absence. And, of course, distant placements must be approved far enough in advance to allow the student time to make travel and living arrangements. In addition, often desirable placement sites (especially international courts) require applications six to nine months in advance of the semester when the student hopes to extern. For those reasons, it takes significantly more initiative and individual responsibility on the part of a student to plan and execute a full-time

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23 When asked whether college students choosing between law schools consider factors such as the range of externships available at each school, Pacific McGeorge’s Assistant Dean for Admissions sent the following response: “As the law school competes for the best and brightest law students, more and more of these top students are interested in what externship opportunities are available to them, particularly international placements and judicial clerkships.”
externship than it does to simply sign up for law school courses at the last possible minute. Some students by their very nature will find advance planning very difficult, and even the most diligent will find their advance planning efforts challenged by the sheer amount of day-to-day effort that attending law school requires from all students.

b) Extra Effort and Expense: Full-time field placements generally require extra effort to line up and to perform, even if the full-time program is well-structured and available placement sites are already identified. If a student is seeking a specific kind of experience beyond those available in the approved placement list, she may need to perform research to identify appropriate placements sites and to learn their application requirements and procedures. Many schools will also require an internal review or approval process which must be completed in a timely fashion before the student can enroll in a full-time field placement.

If the placement site is in a distant location, students must make travel arrangements, find a place to live, and handle financial responsibilities, generally while engaged in other ongoing course and law school activities. Extra travel and living expense can normally be expected if a student chooses to extern at a placement site distant from the law school, especially if that choice involves a high cost-of-living city. All of these issues are more complicated if the placement is over-seas. In particular, placements in third world countries may require a visa or other country specific permission and special arrangements for health and travel insurance.

c) Missed Opportunities: Devoting a full semester to an externship is no small commitment and students should be counseled about the trade-offs they will be forced to make. A full-time field placement will interfere with a student’s ability to take doctrinal courses, and other skills, clinics, or experiential learning courses. A full-time externship may also negatively impact a student’s ability to participate on law review boards or moot court teams. Students should be advised clearly about those trade-offs and realize they are devoting one sixth of their law school education to this experience. Besides the courses and on-campus programs that a student will miss, a student performing a full-time field placement at a distant placement site must come to terms with the fact that she will be away from her family, friends, and her law school support network for an entire semester. While the absence of a readily available network is obvious to most students, appropriate law school counseling can help them understand what that is likely to mean and find ways to minimize its impact on their experience.

d) Quality Control: Finally, the student, as well as the school, is subject to the quality control issue described more fully in the next sub-section. If a full-time field placement experience is not positive, it impacts a much greater part of the student’s law school career that does a bad part-time externship, clinic or podium course. For this reason, among others, it is incumbent upon the law school to properly design and manage full-time field placement programs as well as to counsel students appropriately, advising them about the risks and need to be certain that they are committed to the particular type of entity and legal practice they will encounter at the placement site.
2. **For the School:**

**Quality Control:** Law schools considering offering full-time field placements need to address the important concern that a particular placement site might not offer educational benefits the school deems worthy of a full semester of credit. This “quality control” issue deserves careful examination. First, the possibility of a poor externship cannot be discounted. However, the possibility of a poor experience can be managed and reduced if the program is well run and supported. Further, we would suggest that the possibility, perhaps even the probability, of an isolated experience that does not meet the school’s standards is not a sufficient reason to refuse to offer a full-time field placement elective. The benefits and opportunities for other students, who have incomparable, sometimes even life-changing experiences, can greatly outweigh the problems that law schools and individual students may encounter as programs are built or expanded.

e) **Extra Effort and Expense:** Any new program will involve the expenditure of extra effort and expense, especially during its start-up phase. Our schools have made that investment; we believe with excellent results.25

II. **NOW IS AN IDEAL TIME TO DEVELOP INNOVATIVE FIELD PLACEMENT PROGRAMS**

A. **Commentators and Regulators Call for Increased Practical Training in Legal Education**

The need for greater practical training during law school is not a new idea. Commentators have made this point for decades. Published almost twenty years ago, the MacCrate Report urged greater attention to practical legal skills training. In response, during the intervening 20 years, many law schools expanded their skills training offerings. In fact, clinical training has gained such broad acceptance that it is now a nationally ranked specialty for law schools in the U.S. News and World Report ranking system.

24 Of course, quality control is an issue throughout legal education and is not limited to field placements. But, the importance of adequately staffing and supporting a full-time field placement program, both in terms of providing sufficient administrative help and involving highly qualified and committed professionals, to insure quality control throughout the program is obvious.

25 We believe that the cost increase for full-time local judicial externships is minimal and that the pay-off to students and the school is both immediate and significant. Berkeley Law has been able to share the expense of its distant UCDC Law Program with three sister UC System law schools. Similar cost sharing arrangements might work for other law schools. This is an example of one innovative cost reducing approach; there are almost certainly many others.

Legal education regulators followed suit a decade later. In 2004, the American Bar Association\(^ {27} \) revised the Curriculum section of the ABA Standards for Approval of Law Schools to add two skills requirements:

1. A law school **shall require** that each student receive substantial instruction in: other professional skills generally regarded as necessary for effective and responsible participation in the legal profession;\(^ {28} \)

2. A law school **shall offer** substantial opportunities for 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 one’s ability to assess his or her performance and level of competence;\(^ {29} \)

In 2007, the Carnegie Report concluded that, despite these improvements in clinical training, law schools still fail to impart necessary “practical skills” and, perhaps most important, do little to create the “professional identity and purpose” needed to justify the privileged position the profession enjoys in response to the public duties for which it is responsible.\(^ {30} \)

Externships can provide just those “real life” experiences that the Carnegie Report urges and that the ABA regulations require. Externships allow students to try the practice of law in a particular real life setting “on-for-size.” At many schools, students can choose between working with federal defenders for the United States, in a county district attorney’s office, in one departments of the state attorney general’s office, or in numerous other offices, settings and legal specialties.\(^ {31} \)

Importantly, field placement programs also help law students gain cultural understanding and competence relating to the practice of law in a “real world” setting and help students begin to form a “professional identity and purpose.” Externships accomplish this by letting law students work under practicing attorneys in a setting where field placement administrators provide “buffering” by selecting placement sites and training field placement supervisors, and where law school professors remain involved to educate students in related seminars, helping them deepen their experiences through meaningful reflection—with the goal of making such

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\(^{27}\) The U.S. Department of Education has delegated primary responsibility for the regulation of legal education to the American Bar Association (the “ABA”). Most states require that persons eligible to sit for the bar exam be graduates of ABA approved law schools.

\(^{28}\) ABA STANDARDS, STANDARD 302(a)(4), emphasis added.

\(^{29}\) ABA STANDARDS, STANDARD 302(b)(1), emphasis added.

\(^{30}\) CARNEGIE REPORT, Chapter 4.

\(^{31}\) At Pacific McGeorge law students can extern behind the bench at a judge’s “elbow” or in a broad range of government agencies or non-profit entities practicing law in fields such as: criminal justice, labor law, legislative law, environmental law, and public interest law – the list is almost as broad as the profession itself. This year at least 30 students will extern in judicial chambers and over 300 will enroll in an externship in a legal field of their choice.
reflection and the learning from it into a life-long learning habit. If, while performing externships, students are able to begin to build a professional network, identify a mentor, build a base of experience and learn the skill of self-criticism, they will also advance their future legal careers, a distinct educational benefit.

B. Recent Changes to ABA Standards and Improved Technology Permit Greater Diversity in Field Placements

Forty years ago, responding to criticism that many field placement programs then offered were not well supervised, the ABA began to increase its attention to them, establishing and periodically tightening its Standards and interpretations governing those programs. Over time this increasing regulation had the beneficial effect of improving the overall quality of field placement programs, increasingly documented by positive student evaluations but with the perhaps unintended by-product of forcing most schools’ offerings into a relatively common mold, often offering only local placement sites. Steps to relax this regulatory trend began in 2005 when the ABA standards were amended to require “periodic site visits or their equivalent by a faculty member if the field placement program awards four or more academic credits…” and “opportunities for student reflection on their field placement experience, through “a seminar, regularly scheduled tutorials, or other means of guided reflection.” This seemingly minor change greatly facilitates field placements generally, and especially distant field placements, since law school administrators and faculty may now use methods in addition to, or in place of, face-to-face interaction to both monitor placement quality and facilitate student reflective learning.

Technological advances complement these regulatory changes. Technology now allows faculty to quickly and easily communicate with students who are not on the law school’s campus. Meanwhile law student and faculty comfort levels with these new tools has also


34 In the past eight years, student evaluations of their externship experiences at Pacific McGeorge averaged 1.32 in a 5.0 point scale where 1.0 is the best possible student rating (an average based on over 1,200 reporting students), a rating which exceeds that given to most “podium” courses.

35 ABA STANDARDS, STANDARD 305(e)(5), with emphasis added to identify text which was added by the 2005 amendment.

36 ABA STANDARDS, STANDARD 305(e)(7), with emphasis added to identify text which was added by the 2005 amendment. The 2003 version of ABA STANDARDS, STANDARD 305(f)(3) and (f)(4) required an on-site visit by a faculty member each academic term to any field placement where a student could earn six or more academic credits per semester, and also required that the program include a seminar or tutorial component taught by a faculty member contemporaneously with the field placement unless the law school could demonstrate the educational adequacy of its alternative. In essence, the burden was on the law school to demonstrate the educational adequacy of any deviation from a model that seemed to require that placement sites be located geographically near the law school so that students could attend contemporaneous seminar or tutorial meetings with a faculty member.
increased, allowing them to use the technology more effectively. This advance in technology has produced new educational theory and practice. Reflective components may now combine pre-semester orientations or classes with reflective seminars taught in whole or in part using these new technologies while the students remain off campus, whether just downtown at the courthouse, across the country or half a world away, opening up many new opportunities.

The recent changes in regulation, accompanied by new technological advances, have set the stage for important innovations in field placement programs.

C. The Increasing Relevance of Cost to Educational Benefit

Ideally clinics and field placements, the two “live-client” types of experiential learning, would be widely available for every student. In a perfect world, every student would enroll in a clinical experience first, learn from its more intense supervision, and then to build upon that experience by participating in one of a broad array of field placement opportunities. But that ideal confronts a problem mentioned, but not resolved by the Carnegie Report’s authors: Clinical staffing is so expensive that few schools can afford to offer every student a robust, well-supervised clinical experience, let alone one tailored to each student’s particular substantive practice interests. If experiential learning—the kind that permits both “skills training” and the development of a “professional identity and purpose”—is to be expanded to meet the needs of all students as the Carnegie report recommends, less expensive approaches will have to do the lion’s share of the work.

Especially now, as a result of the “Great Recession” of the last several years, the cost of all programs is likely to come under increasing scrutiny. For many law schools clinical offerings will be no exception. We believe that the continued growth of clinics may not be sustainable under current economic conditions. Like all other components of education, clinics,

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37 Southwestern Law School began teaching its externship reflective component electronically a few years ago – see Anahid Gharakhanian, ABA Standard 305’s “Guided Reflections”: a Perfect Fit for Guided Field Work, 14 CLIN. L. REV. 61 (2007). Many law schools now handle at least a portion of their communication with students using TWEN, Blackboard, Sakai, or other internet communication tools. New tools including Skype, Elluminate, webinars, and the ability to transmit pre-recorded or even streaming video, are available now or soon will be at many schools.

38 This fall, University education theory specialists are teaching a short course on Pacific McGeorge’s campus with the goal of educating interested law professors who want to learn more about offering distance or blended-education courses to law students.


too, may be subjected to a much more aggressive “cost-benefit” analysis.\textsuperscript{41} Hence less costly approaches to experiential education, field placement programs among them, will become increasingly relevant, and in the future there will be even greater need, as well as opportunities, for experimentation and innovation in those offerings.

\textbf{D. A Demanding Job Market Accelerates the Need for Innovative Skills Training}

The economic downturn actually impacts field placement programs in two ways. Not only will they be seen by some law schools as a more affordable approach to increased student opportunities for experiential education, but increasingly the flexibility they offer will draw students, eager for real-life experience, to them. The economic downturn has significantly affected all of education. For our students, this impact is exacerbated by the abrupt decline in the job market for young lawyers. Hiring by law firms, corporations, and government agencies has declined significantly; in some cases it has actually disappeared.\textsuperscript{42}

More than employment alone, however, the economic downturn has also affected the training opportunities that were traditionally provided by summer internships and law firm training programs for new associates. All of those programs have also been sharply reduced. No longer can law students rely on getting the necessary practical training through summer clerkships or their first years in law practice.\textsuperscript{43} Increasingly, they are expected to be “practice ready” at graduation. To address this gap in their preparation, law students have already turned aggressively to field placement opportunities, swelling enrollment in the programs\textsuperscript{44} that have become the only option for many students to gain relevant experience.

\textbf{E. Practice Opportunities and Required Skills Are Increasingly National or Global}

The flexibility in field placement locations is yet another factor of increasing relevance. The world is becoming an increasingly interconnected place. We now find a number of students who are interested in working in Washington, D.C. where the range of legal experiences and employment opportunities for lawyers is typically unique - different than in any other area of the country. The world of law and lawyering has also become increasingly international and transnational, and student interest in overseas opportunities is also increasing. Helping students

\textsuperscript{41} Daniel Theis, \textit{Rethinking Legal Education in Hard Times: The Recession, Practical Legal Education, and the Job Market}, 59 J. LEGAL EDUC. 598, May 2010. Beginning in the 1980’s law school tuition has consistently risen at a rate more than two times the rate of inflation (see page 608). The author predicts that law schools are facing a significant decline in revenue which will in part be met by law school budget cuts.

\textsuperscript{42} David Segal, \textit{Is Law School a Losing Game}, N. Y. TIMES, Jan. 9, 2011 at B1, available at http://www.nytimes.com/2011/01/09/business/09law.html?_r=1&scp=1&sq=is%20law%20school%20a%20losing%20game&st=cse (last visited 1/17/2011). At the moment in California and perhaps other states the pool of “under-employed” young attorneys grows from two sides as it new graduates enter the field while government agencies and other employers lay off experienced attorneys.


\textsuperscript{44} Student enrollments in externships at Pacific McGeorge held steady at approximately 200 students per year from 2004 through 2008. Perhaps not surprisingly, enrollments steadily increased after the start of the “Great Recession”, and over 300 students a year enroll in field placements now.
gain access to international markets, and giving them an opportunity for exposure to legal practice in truly diverse international settings, is arguably a responsibility of every law school training the next generation of lawyers.

III. THE EMPIRICAL DATA

To learn more about what appeared to us to be a movement by law schools to offer new, or to expand existing, full-time field placement programs,45 we drafted a detailed survey (the “Survey”) to identify law schools that offered full-time field placements and to learn more about those offerings. We sent the Survey to field placement representatives at all 200 ABA-approved law schools in January 2010. 46 Responses were collected and analyzed over the next few months. 47

With some follow-up on our part, 192 out of the 200 law schools provided answers to our Survey questions, and we were able to obtain basic data about the offerings of the remaining 8 schools from their web-sites. We were surprised to learn that only sixty offered full-time field placements, although twenty other schools were actively considering full-time field placements. The remaining 120 law schools did not offer full-time field placements and were not considering offering them when they responded to our Survey.48

Although only sixty schools currently offer full-time externships, the Survey allowed us to learn a great deal about the approaches at those sixty schools. As a result of the Survey, we now have a comprehensive picture of how American law schools approach their full-time field placement programs. In fact, the information shared by our sister law schools was so rich in

45 Berkeley Law had recently joined with its sister University of California System law schools to fund a shared full-time externship center located in Washington D.C., while Pacific McGeorge was considering expanding its full-time judicial field placement program, and there were also reports that other law schools had expanded or were considering expanding their field placement programs to permit full-time externships in our Nation’s capitol.

46 At Berkeley Law, we wish to acknowledge and thank the following individuals who prepared the Survey and managed Survey responses: Joelle Brown, Legal Assistant; Devin Jones, Manager of Software Development; Mason Louie, Applications Programmer; and Cathy Romanski, Legal Assistant. At Pacific McGeorge, we wish to acknowledge and thank Rose Mapu, Administrative Assistant/Student Liaison, who prepared the table summarizing the law school responses, and Svend Holst, Website Project Manager, who posted the Survey and the law school responses on the Internet. Without their help and support, the Survey and the tabulating of results would have never been completed. In addition, we are indebted to Joan Malmud Rocklin, University of Oregon School of Law, for her invaluable editorial suggestions and assistance in finalizing this Article.

47 Anecdotally, we know that since that time, Santa Clara School of Law and Golden Gate School of Law have expanded their full-time externship programs, and the University of Texas School of Law, which was considering full-time field placements when the Survey was conducted, has decided to implement a full-time program, as did Texas Tech University School of Law. And, the University of Tulsa College of Law and UC – Irvine, a new law school still undergoing the ABA accreditation process, recently asked for information about full-time, overseas field placements.

48 An attached summary identifies the law schools that offered full-time field placements, those that were considering offering them, and those that were not, at the time they responded to our Survey.
detail, and otherwise unavailable in the legal literature,\textsuperscript{49} that we became convinced of the need to share this information more broadly.\textsuperscript{50}

The Survey itself and its results, including tables organizing the detailed responses received from the sixty schools that offered full-time field placements at the time they responded to the Survey, are posted on the Internet. Please type: \url{http://www.mcgeorge.edu/x7640.xml} into the address bar at the top of an Internet page to access the following Index, which will link you to the underlying data and also let you print it in a PDF format.\textsuperscript{51}

\begin{figure}
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\end{figure}

\textsuperscript{49} J. P. Ogilvy, Columbus School of law, The Catholic University of America, and Robert F. Seibel, Visiting Professor at California Western School of Law, completed a Survey of externship programs in 2004, and Professor Ogilvy created a website, \url{http://laworgs.cua.edu/lexternweb/index.htm} (last visited 11/30/2010), that contains a large amount of information about field placement programs. The Center for the Study of Applied Legal Education (CSALE) completed a survey in 2007-2008 of clinics and field placement programs. Section E of the CSALE Report prepared by David A. Santacroce, University of Michigan, and Robert R Kuehn, Washington University School of Law, available at \url{http://www.csale.org/SURVEY.html} (last visited 11/10/2010), provides a great deal of information about field placement programs. However, neither of these surveys focused on full-time field placement programs.

\textsuperscript{50} In fact while we have been working on this Article, Santa Clara Law School and Golden Gate Law School have relied upon the data we developed to support expansions of their full-time externship offerings, and two other law schools recently used the field placement community’s list-serve to request information about full-time externship programs.

\textsuperscript{51} Although we and our assistants worked hard to produce accurate and meaningful Survey responses, readers should be aware that, among other things: (i) survey design is an acquired skill, and the organization and phrasing of some of the questions could have been improved, (ii) some Survey answers required interpretation, rephrasing or editing for readability, and (iii) the answers some of the schools gave to some of the questions may no longer be accurate due to changes which have occurred since the answers were given in the spring of 2010. We apologize to
We summarize the Survey results in the following sub-sections, but our summaries are a poor substitute for the 74 pages of raw data, and we urge you to review the detailed responses received from each of the sixty schools by visiting the Index webpage, if only to glance at it to familiarize yourself generally with the data for subsequent reference.

A. Student Enrollment

Our first finding was that most full-time field placement programs have low student enrollment.

The low enrollment numbers were surprising to us, with roughly one third of the schools reporting an annual enrollment of 10 students or less and over half reporting an enrollment of 25 or fewer students during the 2009 calendar year. Twenty schools report that enrollment in their
full-time field placement program is growing. On the other hand, ten schools report that enrollment is stable and two schools report that enrollment is actually shrinking.

A number of schools reported a long history with full-time field placement electives. Boston College of Law, like Berkeley Law, began its program in the 1970's. Twenty-one schools reported programs initiated before 2000, although seven schools reported that their full-time field placement electives were initiated only within the last two years.

Few, if any, law schools offer tuition discounts for full-time field placement electives, although some provide addition financial aid to help defray travel expenses or the higher cost of some distant living environments, and four have limited funds available from private or university sources to help cover some of the increased expenses incurred in travel and living expenses in distant, sometimes high cost-of-living, locations.

**B. Placement Locations**

Law schools offering full-time field placements may restrict placement site locations to areas that are geographically within commuting distance of the law school campus or conversely to locations that are distant from the law school campus. Some schools place no restrictions on the location of a full-time field placement.

There seem to be two models for distant field placements. In one, the law school hires a local professor or administrator, or relocates an existing professor or administrator to a distant location, and that person assumes responsibility for the program, which probably must enroll a significant number of students to support the on-site investment while at the same time limiting the students to a single (albeit distant) geographic location. In the other, the responsible professor or administrator remains housed at the main law school campus, communicating with students by electronic means and perhaps visiting occasionally, which allows students to extern at numerous distant locations without the same level of financial commitment to a single location on the part of the law school.

Twenty-nine of the schools have full-time field placement programs that allow students to extern at sites outside of the United States. Some schools, such as the University of Michigan Law School, have ongoing field placement programs in specific foreign locations, while others

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52 See the Miscellaneous Information table posted on the Internet.
53 See the Miscellaneous Information table posted on the Internet.
54 See the Miscellaneous Information table posted on the Internet. ABA STANDARDS, INTERPRETATION 305-3 provides that a law school may not grant credit for a field placement program for which a student receives compensation, but reimbursement of reasonable out-of-pocket expenses related to the field placement is permitted.
55 As Pacific McGeorge did when it initially approved its full-time judicial externship program.
56 As Berkeley Law did when it first allowed a few students to enroll in full-time field placements.
57 We sometimes refer to programs that offer placements concentrated in a single location away from the law school campus that are directed by a professor or administrator who lives in or regularly visits that location, as “supported” distant programs.
58 Geneva in the spring semester and the Union of South Africa in the fall semester.
support full-time field placements with international courts or organizations located in The Hague, Geneva, or Vienna. Others, such as New England Law School, have allowed students to extern in locations as diverse as Arusha, Tanzania, Phnom Penh, Sierra Leone, Katmandu, and other international human rights “hot-spots.” Perhaps the most common distant full-time field placement location is Washington, D.C. It is also the most common location for the recent expansion of full-time field placement electives. Fifteen law schools located at varying distances from Washington, D.C., permit full-time field placements there. A number of law schools support full-time field placement electives in their home state’s capital (e.g., Stetson University College of Law, located in Tampa, FL, allows full-time field placements in Washington, D.C. and Tallahassee, FL).

Most schools seem to have few if any added administrative requirements for international placements. Seven schools require that students must have some form of insurance, usually some type of health insurance. Five schools ask students to sign a waiver of liability form. Only three schools require sensitivity or cultural training.

C. Placement Types

Judicial externships are by far the most common full-time field placement. Over 80% of those schools with full-time field placement programs permit students to work in judges’ chambers or court research attorneys’ offices. Although some schools limit their full-time field placements to judicial externships, most schools that allow full-time judicial externships also allow students to extern full-time with governmental agencies or non-profit entities. Full-time field placement placements with law firms or corporate counsel are much less common, allowed by only eighteen of the schools that offer full-time field placements. Many of the schools that allow such placements face special circumstances, such as Santa Clara University School of Law that has an active IP program (government or non-profit placements that practice intellectual property law are notoriously hard to find), or Vermont Law School and Cornell Law School that are located in places without convenient access to numerous government agencies or non-profit entities.

D. Student Eligibility

Most law schools allow all upper level students to participate in their full-time field placement electives, although some schools require that students be in their third or final year of school. Only a few schools impose a student enrollment cap on their full-time field placement electives although, as discussed earlier, student enrollment numbers are often relatively low.

59 Interestingly, most law schools located in or near Washington, D.C. do not offer full-time field placements.
60 See the Miscellaneous Information table posted on the Internet.
61 No article about full-time field placements would be complete without referring to Liz Ryan Cole’s ground-breaking work developing and managing her Semester-in-Practice Program at Vermont Law School. See Liz Ryan Cole, Lessons from a Semester in Practice, 1 CLIN. L. REV. 173 (1994).
62 All law schools limit student participation by excluding first year law students from eligibility as required by ABA STANDARDS, STANDARD 305(e)(6).
Forty percent of the schools require that students meet a GPA or class-standing requirement in order to elect a full-time field placement, while other schools note that since their application process is competitive, placement supervisors (often judges) tend to choose only those students who are near the top of their class. Schools that have a GPA or class-standing eligibility requirements generally allow a fairly broad group of students to participate.

E. Credit Limits and Externship Units

Many schools have limits on the number of non-classroom credits a student may count toward graduation requirements. Approximately one quarter of the schools with full-time field placement electives specifically limit the number of field placement credits that can be counted toward graduation requirements and, for schools with those limits, one full-time externship often uses most or all of the student's allowable field placement credits.

By far the most common number of credits law schools award for a full-time field placement is 12; in fact, one third of the schools offering full-time field placement electives have settled on 12 units. Ten units (or even, in a few cases, nine) eleven, and thirteen are also reported by a few schools. Gonzaga Law School recently increased its full-time field placement credit allocation from 10 to 15 to allow students with distant placements to more easily accumulate sufficient credits to graduate with their class, and Pacific McGeorge’s recent provisional expansion of its full-time field placement elective increased its credits from 12 to 14 for the same reason.

![Full-Time Externship Credits by Number of Schools](image)

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63 Those restrictions are probably driven by ABA STANDARDS, STANDARD 304(b) that requires at least 45,000 minutes of instruction time be by attendance in regularly scheduled class sessions.

64 Information regarding each school's limits, if any, on the number of units of non-classroom hours or field placement hours that can be applied to graduation requirements are set forth in the fifth and sixth columns of the Students/Credit Limits and Externship Units table published on the Internet.

65 We intentionally defined full-time externship electives as those where a student can earn at least 9 units of credit.

66 The number of units each school awards for full-time externship electives is set forth in the last column of the Student/Credit Limits and Externship Units table published on the Internet.
Some schools, especially those with local placements or supported distant field placements such as a dedicated Washington, D.C. program, reduce the number of units applicable to the field work component of the externship while offering or requiring that students take a separate, often related course, such as “Legislative Advocacy and the Law”\textsuperscript{67} or the UCDC Law Program’s “Lawmaking and Lawyering in the Nation’s Capital”, in order to accumulate a full semester’s worth of credit units.

\textbf{F. Grading}

ABA Standards require that field placements include a reflective component.\textsuperscript{68} When looking at grading, we were primarily interested in three things: (i) whether the guided reflection component (or a separate orientation session required before the field work) is graded separately from the field work component; (ii) the unit breakdown between the field work and the reflective component, if the two are separately graded; and (iii) whether the grading is on a credit/no credit (or pass/fail) basis or on a letter grade scale.

Almost exactly half of the schools offering full-time field placement electives do not separately grade the reflective component. When the reflective component is separately graded, most schools assign two units (although the range is from one to four units) and grade on a letter grade or equivalent scale.\textsuperscript{69} Six schools, however, grade even the reflective component on a credit/no credit basis.

Almost without exception, the field work is graded on a pass/fail basis. Presumably, this is because the actual legal work the students are doing is assigned and overseen by their field placement supervisors and the academic seminar leader or lecturer normally does not review or provide feedback on specific assignments or projects. The difficulty of setting or ensuring adherence to, grading standards in such a situation may enter into a school’s decision that field work should not be graded.

\textbf{G. Pre-Semester Orientation/Post-Semester Wrap-up}

One quarter of the schools with full-time field placement electives have no pre-semester orientation or opportunity for the students to meet before they begin their placements. The remaining schools break down into two groups: those that have a short orientation session primarily directed to course requirements and other “housekeeping” matters, and those that have an expanded “substantive” orientation.

\textsuperscript{67} Offered by Arizona State University in connection with its Washington, D.C. Legal Externship Program.

\textsuperscript{68} ABA \textsc{St}\textsc{a}ndards, \textsc{S}\textsc{tandard} 305(e)(7). This sub-section focuses on how the reflective component is graded. A more complete description of the means law schools use to teach the reflective component is contained in the following sub-section.

\textsuperscript{69} Schools that separately grade a reflective component where the educational process is characterized by a separation in time or place between the instructor and the student should review ABA \textsc{S}\textsc{t}\textsc{a}ndards, \textsc{S}\textsc{t}andard 306, \textit{supra}, note 11, to determine whether that Standard and its interpretations apply. However, even if a school determines that \textsc{S}\textsc{t}\textsc{andard} 306 does apply, compliance with it should not be overly burdensome, as long as the law school does not exceed the limits on distance education contained in Sub-section 306(d).
The shorter orientations cover such things as requirements for completing the hourly work requirements and the reflective components of the externship, strategies for planning and getting the most out of the experience, goal-setting, and often a short course in basic professional responsibilities. Twenty of the schools that have full-time externships have orientations programs that fit generally into the shorter category. The shorter orientation sessions range from a personal meeting with the program director up to a 3 to 4 hour session. Most of the remaining schools require a one-day or two-day orientation. Finally, a few schools require students to complete an entire course before the students may enroll in a full-time field placement.

Most schools require that the student prepare a final report or reflection paper regarding her experience, and many require an exit interview. Of course, the reflective component at most schools, discussed separately in the next sub-section, also involves ongoing communication with students during the semester.

H. ABA Requirements – School/Student Perspective

Law schools use a combination of methods to facilitate student learning and to monitor the quality of the placement experience, as well as to comply with the detailed ABA Standard that regulates field placements. In this sub-section, we focus on the law school, its faculty, and the students. The next sub-section deals with field placement supervisor selection, training and evaluation, and faculty site visits.

By far, the most common means of encouraging and guiding student reflection is by requiring that students keep reflective journals, either weekly or every other week. Over half of the schools used the term “journal” to describe opportunities for student reflection. Other schools vary the journal approach by requiring reflective papers, logs, or other assignments in which students respond to specific questions designed to encourage and direct student reflection. The journaling requirement has widespread support in scholarly literature, and also has the advantage of working effectively for both local and distant placements. A number of schools supplement journal requirements with periodic of internet or E-mail supported asynchronous discussions. Seminar or class meetings are sometimes added to the reflective mix, and some schools also require a significant end-of-semester scholarly or reflective paper. Finally, some schools require mid-term student self-evaluations, or assign specific readings or assignments designed to expand the student's learning and on-site interaction as the placement experience progresses. Interestingly, only a few schools reported using more advanced distance education methods or communication technology such as Skype to facilitate live or synchronous discussions.

70 ABA STANDARDS, STANDARD 305, supra note 11.

71 J. P. Ogilvy, Chapter 11, Journals, in LEARNING FROM PRACTICE: A PROFESSIONAL DEVELOPMENT TEXT FOR LEGAL EXTERNS 199 (J. P. Ogilvy et al., 2d ed. 2007) (this book is the most authoritative publication dealing comprehensively with field placement programs). See also Harriet N. Katz, Personal Journals in Law School Externship Programs; Improving Pedagogy, 1 T. M. COOLEY J. PRAC. & CLINICAL L. 7 (1997).
I. ABA Requirements – Field Placement Supervision/Site Visits

Field placement supervisors are essential to the success of any field placement experience. Some schools reported that they require students to find their own placement sites and placement supervisors and then obtain the field placement director’s approval of both the site and the supervisor. Many schools have an application form that prospective supervisors must complete. Some schools find field supervisors through pre-existing networks. For example alumni may volunteer or be recruited to act as field placement supervisors. Finally, schools often report that many field placement supervisors are known quantities, having worked with the field placement program over a number of years, with good results from the perspective of both former externs and professor/administrator site visit evaluations.

Of course, some field placement supervisors are selected on an “opt out” basis. That is that, while an initial selection may be made by someone other than the field placement director, if experience over time with the supervising attorney is not positive, and training or feedback to the attorney does not resolve the problem, the law school can simply stop approving students for that site. While there can be political difficulties, for example because an important alumni is involved or because a placement is particularly popular, the field placement director and faculty members retain control of the program and are responsible for ensuring positive educational placement experiences.

Field placement supervisor training falls into three general categories. First, almost one quarter of the schools that have full-time field placement programs provide no formal training, although there may be an initial discussions regarding the school’s expectations and desires, sometimes included in a written agreement between the school and the placement. At these schools, “on-the-job” training may take place during site visits, where the field placement director can focus both on general and more specific feedback about that placement based on student input. In the second category, which includes half the law schools with full-time externship programs, field placement supervisors are provided with supervisor training manuals. Both the Greater Los Angeles Consortium of Externships (GLACE) and Bay Area Consortium of Externships (BACE) have prepared training manuals for field placement supervisors, which are posted on the Internet and distributed to field placement supervisors. Other schools have their own individual printed training materials. Finally, roughly a quarter of the schools host periodic (annual or bi-annual) formal training sessions open to all field placement supervisors.

Site visits are commonly used to evaluate field placement supervisors, either formally or informally, as well as to learn about the placement and to provide some placement specific training or counseling. Some schools visit each active site (i.e., a site that has an extern during the semester visited) annually, probably due to the limited number of placements and the relatively large time investment made by the externs. Others visit bi-annually or only initially during the site’s first year in the program and as needed thereafter. Where actual visits are not made, field placement directors often substitute other forms of communication such as contact during bench/bar or other professional activities or telephone conversations. And, some schools

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72 GLACE is consortium of nine Los Angeles metropolitan-area law schools. BACE, a consortium of eight law schools in the San Francisco Bay Area, was subsequently formed along the model pioneered by GLACE.

73 See LexternWeb, supra note 3, for links to many of those manuals.
are starting to use teleconferencing or other technologies to facilitate the equivalent of a site visit, as now permitted by the revised ABA Standards.\textsuperscript{74}

In addition, students evaluate field placement supervisor through their feedback in reflective journals, in specific end-of-semester evaluations (required by almost all schools), or in exit interviews with the field placement director or staff. The quantity and quality of the work assigned to the students, as judged by descriptions in student-kept timesheets, in students’ reflective journals, in exit interviews and conversations with students also provides a way to evaluate the field placement supervision.

\textbf{J. Adequate Resources}

Responses to Survey questions about the resources and support allocated to full-time externship programs indicated that law schools treat their full-time externship programs as serious components of a quality law school education. Somewhat to our surprise, a majority of the Survey responses (all responders were promised anonymity for this portion of the Survey) indicated that resources available to operate their full-time field placement electives are adequate. Those who felt they needed more resources generally reported a need/desire either for more administrative or secretarial support (six schools) or, for a few, greater teaching or faculty support. In addition, a few schools reported being asked to run a new or growing program without additional resources.

A surprising number of schools reported a long history with full-time field placement electives. Boston College, like Berkeley Law, began its program in the 1970's. Twenty-one schools reported programs initiated before 2000, although seven schools reported that their full-time field placement electives were initiated only within the last two years. Twenty schools report that their full-time field placement elective is becoming more popular and is growing. On the other hand, ten schools report that their program enrollments are stable, and two schools report that program enrollment is shrinking.

\textbf{IV. FULL-TIME FIELD PLACEMENTS: TWO CASE STUDIES}

Although the empirical data provides a “snap-shot” showing what full-time externship programs currently look like across the nation, for some it will be helpful to see how choices in structure and scope may be adjusted over time to meet changing conditions. For that reason, we describe the history of full-time field placement electives at the two schools we know best: the University of California, Berkeley School of Law and the University of the Pacific, McGeorge School of Law. From Berkeley Law’s experience, you can see how one school, which began offering full-time field placements to a very limited number of students over forty years ago, slowly expanded its offerings to meet the needs of its students as their demands increased and diversified. From Pacific McGeorge’s experience, you can see how a faculty’s initial skepticism about a full-time field placement program can, over time, change.

\textsuperscript{74} \textit{ABA Standards, Standard 305(e)(5).}
Berkeley Law began its externship program in 1968. Eight years later, in 1976, it first allowed a very few students to work full-time in public interest and judicial externship settings for academic credit. Since then the Field Placement Program has undergone several reviews and transformations in response to faculty concerns, student interest, and to stay in compliance with changing ABA Standards. In essence, the changes moved the program towards being more integrated into Berkeley Law’s academic program, as well as ultimately creating three separate full-time externship alternatives. A major change occurred in 1993 when the program was taken over by the Dean of Students. At that time, full-time placements were only allowed outside the San Francisco Bay Area and were limited to the absence of the particular type of placement in the vicinity of the law school or to exigent personal circumstances. Those full-time externships were a very small part of a larger field placement program. Over time, the places where students could work full-time expanded to include international placements.

The first significant expansion of Berkeley’s full-time externship program occurred when judges in the Bay area indicated their preference for full-time externs. At that time, Berkeley Law’s Judicial Externship Program morphed from allowing students to earn 2 units of credits to allowing students to work for a full semester’s worth of credits, or 10 units, for 40 hours of work over a 14-week semester. Initially, students doing judicial externships were restricted to the San Francisco Bay Area except for unique externships such as the District of Columbia Circuit Court of Appeals, or to accommodate exigent personal circumstances. Students who participated in the Judicial Externship Program as externs in Bay Area courts attend a 1-unit required Judicial Externship Seminar that is front-loaded with a full day of orientation the first week of the semester, followed by seminar meetings several times during the semester.

Over time the number of students who were interested in working further afield grew. The Berkeley program expanded to meet that demand, and Berkeley established its Away Field Placement program, which provides structure and oversight for any student who wishes to find a field placement outside the Bay Area. Students enrolled in Berkeley Law’s Away Field Placement Program, normally with faculty guidance, find a distant placement site where they will do legal work under the supervision of an attorney. In this program, students attend an orientation before they leave for their field work, and are required to submit weekly timesheets, bi-weekly journals, and various forms and reports, as well as to maintain contact with the Field Placement Director through scheduled meetings. In the Away Field Placement Program, students have pursued opportunities mainly with international law organizations, non-profit organizations, and government agencies. Ten to twenty students pursue this opportunity every

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75 Berkeley Law is located on the UC Berkeley campus. Most students who pursue part-time placements work in San Francisco. Most students who pursue full-time placements work either for judges or at locations away from the campus including Washington, D.C., The Hague, and other international non-profits and government agencies.

76 Currently, the Law School has a waiver from the University that allows 10 units to be considered a full-time load for registration and financial aid purposes.

77 Students in the Judicial Externship Program who are situated in courts located outside the Bay Area also participate in this reflective component regimen.
academic year. Students must receive approval from the Dean of Students and the Field Placement Director, who screens and approves all placements. The goals of these away placements are to enable students to pursue an academic or practice setting interest they might not be able to get in the San Francisco Bay Area, and to provide a mechanism for students who for valid reasons want to be in a different geographic region.

The newest addition to Berkeley Law’s full-time field placement offerings is the UCDC Law Program. Started in spring 2009, this program is a collaboration between Berkeley Law and its California University System sister law schools: UCLA, UC Davis, and the newest law school member, UC Irvine. The UC law schools joined together to hire a Washington D.C. attorney who acts as full-time director to create and administer the UCDC Law program and to teach a 3- unit companion course, “Lawmaking and Lawyering in the Nation’s Capital.” The UCDC Program is housed in the California University System’s multi-story “Washington Center” building. A primary goal of the Program is to provide students an opportunity to see how federal laws are made, administered, and challenged. The director assists students in identifying appropriate placements and provides oversight for the placement component of the program. Placement sites include the U.S. Department of Justice, the White House, and the NAACP Legal Defense Fund.

Students who have participated in the Judicial Externship Program, the Away Field Placement Program, or the UCDC Law Program stress that they think these full-time placements are one of (it not the) most valuable experience they had at Berkeley Law. For many, this is a way to gain exposure to practices and settings they might not otherwise ever be able to experience. For others, it is a way to explore and reflect about where they want to begin their legal careers.

B. PACIFIC MCGEORGE

Pacific McGeorge’s experience with full-time field placements dates back to 2002, when a Justice in the California Court of Appeal approached the Law School’s Dean to request that Pacific McGeorge follow the lead of a neighboring school by permitting full-time judicial externships. The Justice noted that students enrolled in Pacific McGeorge’s judicial externship program typically worked in chambers only twelve hours a week. He suggested that Pacific McGeorge offer a course that would let its students elect a full-time judicial externship so they could compete for judicial externships on equal footing with students from the neighboring school. With this impetus, fueled by increasing student demand, a full-time judicial externship course was designed and proposed to the faculty.

It was not an “easy sell.” Some members of the faculty were concerned about the impact a full-time field placement might have on problems the law school then faced with its graduates’

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78 Pacific McGeorge is a mid-ranked law school, part of a small comprehensive university focused on practical preparation of law students through experiential learning. It is located in Sacramento, California, the capital of the eighth largest economy in the world, where students have externship opportunities available in a broad range of courts, government agencies and non-profit entities. The School’s full-time judicial externship program successfully sought to expand student opportunities in prestigious local courts.
bar pass rate. They worried that students who elected a full-time judicial externship might not get enough academic preparation to pass the bar exam. Other faculty members were concerned that students might not perform as well as in judicial externships as the school would hope. Then there was also a group of faculty members who felt that a judicial externship might not be rigorously educational unless closely monitored by the school. The proposed elective was carefully crafted to address those concerns.

The drafters’ proposed that enrollment in the full-time judicial externship be limited to students in the top 10% of the class who are in their final year of law school. To assist in monitoring, the program was initially limited to the area around Pacific McGeorge—that is, to Sacramento-based California Courts of Appeal and Federal District Court Judges, all of whom were located within a few miles of the law school. The proposal required that students work in chambers 40 hours a week during the semester and take a concurrent reflective seminar taught by a professor, for which they received 12 units of pass/fail credit. After an extended debate, the proposal passed on a closely divided faculty vote.

The new elective, introduced proved to be a complete success. Five students performed full-time judicial externships during the first year, and the annual enrollment grew steadily until leveling off at approximately 30 students a year. Importantly, the initial concerns expressed when full-time judicial externships were first considered did not materialize. All of the students who elected full-time judicial externships passed the bar exam (in most cases the notoriously difficult California bar). As a result the faculty relaxed the class standing restriction from the top 10% to the top 25%, and the Grading and Advancement Committee routinely makes exceptions permitting such externships for students in the top third of the class. An important side benefit is that the students’ performance is actually building the reputation of the law school and its faculty, as Judges note the quality of the students and their preparation, describing them positively to other colleagues.

The educational quality of judicial externships was evaluated by student feedback and student reports regarding the type and sophistication of the work they were assigned, as well as professor/student interaction in the reflective seminar, and field placement director site visits. With over 200 students reporting, the average student rating of judicial externships was 1.1 on the same 5.0 scale Pacific McGeorge uses to rate all professors, where 1.0 is the best possible rating. The lowest rated judge earned a 1.7 rating and the highest rated judge received a rating of 1.0 from all 17 of his judicial externs. All of our doctrinal professors would be pleased to receive those ratings. In fact, the most frequent student comment was that their judicial externship was the best experience they had during law school.

The increase in judicial externs occurred during a period when the number of Pacific McGeorge graduates who obtained judicial clerkships after graduation fell as more judges moved from hiring term clerks to permanent clerks, and as competition for the remaining positions increased dramatically when the economic downturn began to impact all law school graduates. Pacific McGeorge’s experience is consistent with a November, 2010 NALP bulletin which reports that the number of judicial clerkships obtained by law school graduates has decreased significantly over the last 10 years (A Demographic Profile of Judicial Clerks – Patterns of Disproportionality, NALP BULLETIN (Nov., 2010) available at http://www.nalp.org/nov2010_demog_clerkships). In essence, if a significant number of Pacific McGeorge students want to experience working for a judge in today’s world, full-time field placements need to be part of the curriculum. We believe that the same will be true for most other law schools as well.
As positive student and judicial feedback increased, the faculty has embraced the program, expanding it to include all California appellate courts including the California Supreme Court, any U.S. District Court located in California or Nevada, and the Ninth Circuit Court of Appeals. Further evidence of the program’s success occurred this fall when, without debate or dissent, Pacific McGeorge’s Experiential Learning Committee and its Curriculum Committee approved a provisional expansion of the full-time judicial externship program that will allow students to elect full-time field placements at courts, government agencies, or non-profit entities located anywhere in the world, subject to certain approvals. To their credit, both faculty and students have come to recognize and embrace the value of these full-time field placements as a way to expand meaningful experiential learning opportunities.

V. SUMMARY

A combination of conditions, including influential critiques of law school education, a changing regulatory climate, new technology and teaching theories, and harsh economic conditions make this a critical time to experiment with innovative ways of structuring field placement offerings. For this Article, we have chosen to focus on full-time field placements. Based on our experience and research, we draw the following conclusions about full-time field placements:

- Sixty of the 200 ABA approved law schools offer full-time field placements and 20 were actively considering full-time field placements. The remaining 120 law schools did not offer full-time field placements and were not considering offering them when they responded to our Survey.

- Advantages of full-time field placements include the benefits of a full immersion into the work and culture of the placement site, as well as the ability to offer students experiences not available in the vicinity of their law school.

- Challenges of full-time field placements include the extra planning, effort and added expense for distant placements as well as the risk of “having all your eggs in one basket” if the placement experience does not live up to the student’s and the school’s expectations – a danger which can only be managed, not eliminated.

- Externships offered as electives in field placement program that are structured to comply with the ABA standards and tailored to address a law school’s individual goals and objectives are very likely to provide a better educational return to students.

80 The faculty also approved modifications to other academic rules to facilitate the judicial extern program. For example, students found that the 12 unit pass/fail grading caused a problem for them when viewed in the context of the relatively high number of required classes, and especially graduation requirements, that provided that a student needed 88 units to graduate, and that 76 of them had to be graded units. In effect, a full-time judicial externship used the student’s entire 12 unit "pass/fail" budget. That was significant because many of the best students also wanted to work on law review or participate in a moot court competition, which were also generally graded on a pass/fail basis. Recently the faculty voted to reduce the number of graded units needed to graduate from 76 to 72.
than alternatives such as volunteer positions or paid employment.

- Student enrollment in full-time field placement electives is generally limited, sometimes to fewer than 10 students a year and often fewer than 20. A few schools have large full-time field placement programs.
- Seven schools initiated new full-time field placement electives in 2009, with Washington, D.C. being the most common location for new full-time field placement electives.
- The most common type of placement is judicial. Half of the schools permit international placements. Only 1/3 of the schools allowing full-time field placement placements in for-profit law firms or corporations.
- Twelve is the most common number of units given for full-time field placement electives.
- To comply with the ABA’s requirement that students have an opportunity for reflection, most schools require student reflective journals, sometimes supplemented by mid-term evaluations, reflective papers, or Westlaw/TWEN postings.
- Schools monitor placement quality through student feedback and evaluations as well as site visits. Placements that do not get good student reviews are generally not repeated.
- In the short term, full-time field placements can be expected to remain a relatively minor portion of field placement enrollments, with most schools’ programs and students primarily focusing on part-time placements.
- Full-time field placement electives represent a logical extension of part-time externships and appear to be an appropriate response to changing conditions in the legal market, the legal academy, student needs, and the economy.
- Full-time field placements give both students and law schools a viable option to respond to calls for more experiential learning opportunities, for new ways of delivering effective and responsive legal education, and for strategies to expose students to the internationalization of the practice of law.

Full-time field placements may not be right for all schools, and certainly are not the best election for every student, but we believe that there is enough value in them that each school should at least consider offering them to upper level students, perhaps as a capstone “real-life” experiential learning elective. We hope that the information presented in this Article will provoke new thoughts and discussion about the place of externships, and in particular full-time field placements or other innovative field placement electives, in modern legal education. We also hope that the research data included here will help those schools considering offering a full-time field placement elective design one that fits their school’s individual educational goals and mission, and responds to the interests and needs of its student body, while also addressing the requirements of ABA Standards and Best Practices, at least in the sense of choosing those design elements which seem most likely to create a high quality educational offering from the many alternatives adopted by schools already proceeding down this path.

February 18, 2011
## Results of 2010 BACE Full-Time Externship Survey

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<tr>
<th>Full-time field placement Program*</th>
<th>Considering Full-time field placement Program</th>
<th>No Full-time field placement Program</th>
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<td>64. Drexel University</td>
<td>84. Appalachian</td>
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<td>5. Boston University</td>
<td>65. Duquesne</td>
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<td>6. California Western</td>
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<td>8. California-Davis</td>
<td>68. Hofstra</td>
<td>88. Ave Maria School of Law</td>
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<td>11. Case Western Reserve</td>
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*Survey results describing the full-time externship program at each of the 60 schools are set forth at [http://www.mcgeorge.edu/x7640.xml](http://www.mcgeorge.edu/x7640.xml).*