Externships at For-Profit Placements

Field Placement Applications for externships at for-profit placements must be approved in advance by the Curriculum Committee. The law school’s rules provide the following guidelines:

“Placements with for-profit law firms will be approved if the externship provides the student with an opportunity to engage in an area of the law that is not well covered by the law school’s curriculum, the law firm agrees that it will not bill for student time, and the law firm provides a list of the kinds of tasks that it expects the student to perform and an estimate of the percentage of time the student will spend on each kind of task and the tasks and time are consistent with the purpose of the externship program.”

Externships at for-profit firms and in-house counsel provide unique opportunities for students but also unique challenges for the placement, field supervisors, and faculty supervisors. One of those challenges is ensuring that the student is truly an unpaid extern and not an employee subject to the Fair Labor Standards Act (FLSA) or any state labor regulations.

Placements and field supervisors should be aware not only of the specific federal regulations and any regulations in their jurisdiction, but also of the attached letter from the Department of Labor to the Immediate Past Presidents of the American Bar Association. This letter lays out the criteria under which an extern is truly an extern and not an employee. The letter may provide some guidance into crafting an educational experience for the extern.

Faculty supervisors should also be aware of federal and state regulations as well as the Department of Labor letter. In addition, this language from the Wage and Hour Division’s Fact Sheet #71 provides some insight into the role of the faculty supervisor:

“In general, the more an internship program is structured around a classroom or academic experience as opposed to the employer’s actual operations, the more likely the internship will be viewed as an extension of the individual’s educational experience (this often occurs where a college or university exercises oversight over the internship program and provides educational credit).”

Again, both the law and the Department of Labor letter may help the faculty supervisor to craft the course component of the externship in a way that allows the student to fully take advantage of the educational experience.