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Extern! Extern! Read All About Them!

Law schools want to place them, law students seek the opportunity, and local government law offices can benefit.



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Extern! Extern! Read All About Them!

By: MATTHEW PENTZ,
Senior Assistant Town Attorney, Cary, North Carolina



Hello fellow local government legal practitioner! Do you like the thought of being able to provide tangible experience and guidance to future lawyers? What about the idea of advancing the interests of our local government practice area and the legal profession as a whole? What about making progress on that one project you just never seem to have time to work on? What if I told you that you can do all of these things at the same time! "Well of course, please tell me more!" is certainly the phrase you just uttered in your head, and I, of course, will be delighted to do so. You, for the low price of exactly $0.00, can accomplish all of the above by doing one thing: have your organization establish an externship placement program!

That's right! We're talking about externs! What are they? Why should your organization consider being a placement site for them? What are things to keep in mind when serving as such a placement site? I'm going to speak to you about all of these things and more with the intent of convincing those of you whose organizations currently don't host externs to start doing so.

What are "externs" (and how do they differ from "interns")?
This is an excellent question, both because externs are the subject of this article and because this WILL be the question practically every non-attorney employee of your organization will ask when you first introduce your externs to them.[1] The trusty dictionary is of little help in answering this question, as various ones all define an "extern" as some variant of "a person connected with an institution but not residing in it, as a doctor or medical student at a hospital."[2] This is, unfortunately, not a particularly helpful definition for us legal practitioners.

Luckily, and far more pertinent for our purposes, the American Bar Association ("ABA") has its own definition of the term: "Externships are non-compensated positions in settings outside a law school, for which students receive academic credit."[3] This definition is a bit closer to the mark and is the one that has been accepted into the legal profession's vernacular. The receipt of academic credit seems to be the core aspect of what makes an extern an extern, so that is the aspect that appears to be their defining feature and what sets them apart from traditional interns.

I've heard this arrangement as sometimes being described as externs being "paid in experience," which is as apt a description as any. It also makes for some fun wordplay, as it allows for the oh so clever conversion of the "ex" prefix from it's original "out of, outside"[4] meaning to, instead, reference the experience said externs are receiving. That is the answer I normally give people who ask me the million-dollar question: "An extern is an intern that is paid in experience," and is an answer that usually results in knowing nods, hints of smiles, and sets the perfect mood for the actual introduction of the extern. While we are on the subject of definitions, I want to clarify the meanings of the terms "externship program" and "externship placement program" as I use these them. "Externship programs" are the programs through which law schools offer law students the opportunity to be externs and offer the academic credit externs receive. "Externship placement programs" are the programs organizations set up to host externs within their organizations, which includes the program I administer for my organization and the one that I hope you will establish for yours!

Who are you and how do you know anything about externs?
This is another excellent question! I'm currently the Senior Assistant Town Attorney for the Town of Cary, North Carolina, a municipality with around 1,200 fulltime employees and a citizen population of approximately 180,000 people located in central North Carolina (just outside of Raleigh). I attended the University of North Carolina at Chapel Hill School of Law, during which I externed at the North Carolina Court of Appeals, and began my legal career at a general practice law firm in Statesville, North Carolina. I then joined Cary's Legal Department and will have been part of Cary's four-person legal team (three attorneys and a legal assistant) eight years this September.

Prior to my coming to Cary, the Legal Department had a fledgling placement program that had hosted one or two externs over several years. My superiors thought my arrival to be a perfect

opportunity to ramp up the program, so becoming Cary's "Extern Program Coordinator" became one of my duties and has remained one to this day. Over that period, Cary has hosted over 25 externs from multiple law schools (including one from out of state!), several of whom have gone on to become local government attorneys or to practice local government law in some capacity. I've found my experience as Cary's Extern Program Coordinator to be fulfilling on multiple levels due to the benefits it has provided to the externs we host, my organization, and my own professional development. My intent with this article is to outline those benefits and methods by which to achieve them in the hope that other individuals and organizations can learn from my experience and benefit in a similar fashion.

Prior to discussing those benefits, however, I want to address the thought that is probably at the forefront of your mind…

What if I'm too busy to manage a placement program?
You might be, but I'm willing to bet this isn't true. As much as I would like to say (and for my superiors to hear) that my role as Cary's Extern Program Coordinator is demanding and requires the utmost attention and focus, that simply isn't the case. There is work involved, and it is important work that does sometimes require me to prioritize it over other things, but the actual amount is minimal compared to the benefits the program and externs provide. I acknowledge that my continued talk of "structuring" a placement program could make it sound like some kind of substantial endeavor involving a curriculum somehow separate from the day-to-day work of your office. However, as you'll see in my recommendations on how to structure a program, there is a way run things where the impact on your day-to-day work will be minimal because the curriculum of the program IS the day-to-day work you do.

What are the benefits of having a placement program?
I keep extolling the benefits of having a program, so I suppose it's time to outline what I believe those benefits to be. I've found that having a placement program provides distinct benefits in five areas: 1) to the externs being hosted, 2) to the practice area of local government law, 3) to the legal profession as a whole, 4) to the organization doing the hosting, and 5) to the professional development of the persons managing and working with the externs.

Getting any kind of real-world experience practicing any kind of law is beneficial to law students at all stages of their education, and local government practice involves working in various practice areas that will benefit all externs no matter what career path they end up taking, so providing a placement program will provide that benefit to every extern an organization hosts.

1. **Benefits to externs:**
I don't think it's controversial to say that providing experiential learning is one of the best, if not the best, method by which students of any trade can learn that trade. Local government externship placement programs offer law students accessible opportunities to get real-word experience working for organizations that often cannot offer traditional internships due to budgetary constraints. Getting any kind of real-world experience practicing any kind of law is beneficial to law students at all stages of their education, and local government practice involves working in various practice areas that will benefit all externs no matter what career path they end up taking, so providing a placement program will provide that benefit to every extern an organization hosts. More importantly, however, local government externships may be the ONLY chance most externs have to dip their toes into local government practice prior to graduating. Gaining such experience can be of immense help to externs who have a potential interest in local government law or who may not be aware such a career is possible, providing these students with otherwise unobtainable information that can help them shape the rest of their professional lives.

2. Benefits to local government practice as a practice area:
The strength of any practice area is predicated on the quality and number of attorneys practicing in it. Those attorneys are the ones who pay attention and influence legislation applicable to the area, run the trade groups that support area practitioners (like IMLA!), and provide the wells of knowledge individual practitioners can turn to when in need of help. The more competent local government practitioners we have practicing alongside us, the wider the resource pool is to support all of these endeavors. Placement programs are one of the best chances we have to show law students just how great a gig being a local govern attorney can be by strengthening the resolve of those students already interested in the area, introducing the area to those who had not thought about it, or convincing some that it is not a path they wish to travel. All of these are worthwhile goals as each result in the potential for the community of local government practitioners to grow and improve to the benefit of all its current and future members.

3. Benefits to the legal profession as a whole:
These benefits are similar to those I list in the prior section and boil down to the fundamental concept that the more competent, informed, and experienced lawyers we have as part of our ranks, the higher the quality of our work and the opinion of the profession in the eyes of society at large. Hosting externs provides us with the ability to pass on some of

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our own experience and provide models by which these soon-to-be attorneys can look to when embarking on their own practice. Also, the work we do as local government attorneys touches on so many practice areas beyond local government specific topics, giving us a somewhat unique opportunity to provide externs with exposure to more practice areas than many other placement sites. Such exposure gives externs experience in those areas and helps them decide which areas they can see themselves working in for the rest of their careers (or which ones they want to desperately avoid). I personally find the quality of my work to, at least partially, equate to my enthusiasm for the same, so I believe any contribution to guiding externs into practice areas they will enjoy, no matter how small, to be worth the effort. Hosting externs gives us the ability to provide such experience.

4. Benefits to the hosting organization.
This benefit is a very practical one: externs can work on those projects you want to do but never have time for due to having to put out the numerous fires that crop up each day. If you are anything like me, you routinely come across issues or questions – an obscure concept you've always wanted to know the history of, a recent state appeals or supreme court case that involves a local government issue but not one that is pressing in your jurisdiction, that back-burner project you never seem to have time to plug away at - that you would love to take the time to dig deeper into but can't justify spending that time when there are other, more pressing matters that need to be attended to. All of these are perfect extern projects where the externs can perform the research, brief the case, or work on the project, gaining experience and providing you with current, useful work that makes your job easier.

5. Benefits to professional development.
Being Cary's Extern Program Coordinator has assisted in my professional development in substantial ways. It has provided me with experience in supervision and project management. More importantly, it has offered me the opportunity to teach about various aspects of local government law and the inner workings of my organization at levels deeper than what I normally do when speaking with Cary staff. I've found

The more competent, informed, and experienced lawyers we have as part of our ranks, the higher the quality of our work and the opinion of the profession in the eyes of society at large. Hosting externs provides us with the ability to pass on some of our own experience and provide models by which these soon-to-be attorneys can look to when embarking on their own practice.

that being in this position of pseudo-law school professor shifts my perspective on the topics being taught, requiring me to distil often complex topics into teachable concepts appropriate for law students. This exercise betters my own understanding of those topics and reveals gaps in that understanding that I can then correct. Teaching these topics has also increased my confidence in my own abilities, as it has made me realize that I do actually know a thing or two about local government law. My involvement with Cary's placement program has provided me with tangible benefits to my own development and is helping to make me a better at my job.

How would I structure an extern placement program?
I mentioned previously that there is a way to structure a placement program so that its content is the day-to-day work you do. Here at Cary, me and my colleagues' workdays consist mostly of attending meetings, putting out fires, and using whatever time remains in between to work on the numerous assignments or projects we're involved in.

Our placement program is structured so that the experience of our externs mirrors this day-to-day work we do as municipal attorneys, meaning it's barely "structured" at all because our own days lack any kind of consistent structure. We include our externs in every meeting we can, leverage their help in putting our fires when possible, and give them assignments to work on in the time they are not at those meetings or helping us put out fires. Also, a consequence of including our externs in much of or daily activities is that it creates pockets of time – walking to meetings, meetings ending early, short gaps between meetings – where we can talk with the externs about their assignments, questions they may have about things they've heard at meetings, local government law, the legal profession in general, and or any other topic that may come up.

That's our program structure, and it's resulted in an externship experience that has consistently received high ratings from the students who have externed with us. Common reviews are that the externs appreciate the breadth of issues they are exposed to, the ability to be involved in pertinent and topical matters, the ability to frequently observe our attorneys interacting with staff and outside parties, and the amount of time they get to spend with us.

You'll also notice that this "structure" and the externs' presence alters me and my colleagues' days barely at all, as we would be doing all of these things whether we had externs are not. This is what I mean when I say the content of your program can be your day-to-day work. I'm again willing to bet that your workdays are at least similar to mine. If that's the case, you already have your program structure in place. All you need now is to add some externs into the mix!

It can't be that simple, what are you not telling me?
There is a *little* extra work required, but it is minimal. The law schools your externs come from will have certain requirements in place as part of their externship programs that will require some input from you. This normally takes the form of completing certain introductory forms at the outset of the externship and completing evaluation forms at the midpoint and conclusion of the externship. In my experience, the law schools understand the imposition these forms impose and have endeavored to make them as painless possible (and they mostly succeed - the forms I fill out are, at absolute most, two or three pages long).

The bigger task is reviewing and providing feedback on the assignments you have your externs complete but, again, I would argue this is no great imposition. This is because, if you provide topical assignments, you *want* to look at them when they come in because they may hold the answer to an

issue you're currently working on. Once you're looking at the document, it's easy to make edits and comments and meet with the extern to discuss needed edits or additional research that needs to be done, as all that effort goes towards a finished product you can then put to immediate use.

Also, you'll have to remember the Rule of Professional Conduct. We as lawyers should be keeping them the rules in mind in all things we do, but there are a few rules that could come into prominence when working with externs:

1. Rule 1.6: Confidentiality of Information[5]
You will need to make sure you speak with your externs about this rule and how it applies to the work your organization does. This discussion should include who the client actually is, the types of information that will need to be kept confidential and, perhaps most importantly in a local government context, the types of information that can't be kept confidential. For example, here in Cary, we make it a point to educate our externs on the nuances of our Town Council being the client we represent and how that client designation does not include individual Council Members or any Town employees. We also discuss how, because Town employees are not our clients, our communications with them are not confidential and what that means in light of our applicable public records law.

2. Rule 5.3: Responsibilities Regarding Nonlawyer Assistance[6]
Externs are not yet lawyers and, as such, will be nonlawyers "employed or retained by or associated"[7] with you, the lawyer, when externing at your placement site. That means you will be responsible for making "reasonable efforts to ensure that" your externs' "conduct is compatible with the professional obligations of the lawyer" and you will be held responsible for any of your externs' violations of these obligations if you knowingly ratify the conduct involved or fail to take "reasonable remedial action" related to the conduct.[8]

How would I find externs who want to be placed my organization?
As I mentioned previously, law schools are incentivized to assist you in the administration of your placement program and have established extern programs of their own. They will often have preexisting application processes in place through which they will list your placement site as being available, collect application materials from prospective externs, and provide those materials to you for your review. The schools Cary works with allow us to specify what materials we want to receive from prospective externs (we ask for a cover letter, resume, and writing sample), collect those from interested applicants, and then provide them to us several months prior to the beginning of the respective externship semester. This allows us time to review the materials, schedule interviews, and make selections well before the start of the semester.

In addition to their established processes, your organization will become known to the law schools' externship program administrators and they may reach out to you directly if they have a student who is specifically seeking local government experience or who they think might be a good fit. This has happened in Cary on numerous occasions and Cary has never had difficulty finding interested externs.

While on the subject of law schools, it's worth quickly mentioning that some also provide site supervisor handbooks or similar resources that provide guidance on how to prepare for and interact with externs along with other resources that can help you run a program. I've also found them to be fully cognizant of the perceived burden of hosting externs, consistently asking for and implementing feedback on how they can make their programs work better for Cary as a placement site. This is much appreciated and shows their willingness to support Cary's placement program. I would be very surprised if your nearby law schools would not be similarly inclined to support yours.

What if no externs want to be placed with my organization?
The American Bar Association ("ABA") mandates that all accredited law schools require students to take at least some "experiential courses"[9] as part of their legal education. Standard 302 of the *ABA Standards for the Approval of Law Schools* requires law schools to offer a curriculum that requires each student to, among other things, complete "one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or a field placement, as defined in Standard 304."[10] Standard 303 of the ABA Standards requires law schools to "provide substantial opportunities to students for "…field placement(s)."[11]

The ABA maintains a list of "Responding Schools" that have provided it with information on their respective externship programs.[12] This list contains over 175 ABA-accredited law schools from across the country and includes almost all of the 2023-2024 Best Law Schools as listed by the U.S. News & World Report.[13] The above shows that law students are required to take experiential courses, there are a large number of law schools actively looking for externship placement sites, and an even larger pool of law students interested in being placed.

How many externs should I consider hosting?
As I mentioned earlier, Cary's Legal Department is a four-person office with three attorneys working for a municipality with 1,200 fulltime employees and a citizen population of approximately 180,000 people. We, on average, host two externs during each academic semester (often from different law schools), meaning we host about six a year. This has been completely manageable from an administrative perspective, and we have never lacked assignments to doll out. In fact, we've discussed the possibility of increasing the number of externs we host but have not done so because we currently have space limitations and can't physically accommodate more.

I'm providing this information as a data point for you to compare to your own organization to provide an idea of how many externs you might be able to handle. More externs mean more administrative work for you, but it also means more externs will benefit from the externship experience and increases the amount of work those externs produce.

The most I personally have supervised at one time has been three, and that was done at the height of the Covid-19 lockdown in an effort to help provide externship experiences to more students due to the lockdown limiting the number of placement sites available that academic year. That was the first time I felt the amount of administrative work required bordered on burdensome for me, but we were fully remote at that time and that was certainly an added challenge. However, even with three externs, we were never short on assignments to provide and it was nice to have willing hands to help with much of the time-sensitive and novel work we were having to do at the time, so I will again maintain that the benefits provided by the externs far outweighed the burden they imposed.

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You mentioned having space limitations – what if we don't have a space to host externs?

Your externs will need a space to work, but that space does not need to be a fully kitted office. Here at Cary, our externs bring their own computers and set up shop in our Legal Department conference room. This is rarely inconvenient, as they are invited to most of the meetings that occur in that room, and it has proven to be an adequate space for as long as I've been with Cary.

That being said, our extern accommodations are an area I would like to improve and I would love to provide future externs with a more legitimate workspace, but the point I'm attempting to convey is that there are multiple ways to accommodate externs and lack of traditional office space is not necessarily a deal breaker. In fact, that leads me to my next point: remote work!

Thanks to Covid-19, all of our organizations can accommodate, at least partially, remote work. In Cary, the shift to remote work had some unexpected benefits to our externship program (it allowed us to host an out-of-state extern) and we continue to allow our externs to work remotely in a hybrid manner. This decision to allow current externs to partially work remotely is a facet of our program that many have positively commented on. We much prefer our externs to be on-site whenever possible, as that allows us to more easily include them in short-notice meetings and elicit their help in putting out fires, but allowing at least some remote work can alleviate space concerns and make your placement site more attractive to prospective externs.

What kind of assignments should I give externs?

Here in Cary, we endeavor to assign projects that are topical and related to the work the attorneys in the office are currently doing. As an example, I'm writing this during the summer semester of 2023 and we currently have two externs working with us. One extern recently completed a memo on a question related to the dedication of easements that resulted from a zoning question that came from our Planning Department while the other extern is researching and gathering artificial intelligence use policies to assist us in advising Cary on how to approach that emerging technology. We also often ask externs to brief new North Carolina Supreme and Appeals Court cases that may have local government implications as they come down or other legal cases we hear about via other channels.

One thing to keep in mind, however, is that externs are law students, coming to you with zero or very little experience in some of the practice areas they may be asked to work in, so that needs to be taken into consideration when deciding what types of tasks to assign. Also, the actual hours the externs will be working should be considered. The law schools Cary works with offer externships during all academic semesters – fall, spring, and summer. The fall and spring externs work for Cary while also taking their law school classes for that semester, meaning that their externships last the length of that academic semester (January to May in the spring and August to November in the fall) and they work between seven to ten hours a week depending on the amount of academic credit they seek to receive. Summer externs work for a shorter period (June to late July/early August) but they work far more hours in that time frame (upwards of twenty to thirty hours a week). I keep these schedules in mind when deciding the kinds of assignments I give to our externs, as I've found spring and fall externs are better equipped to handle smaller projects and shorter research assignments due to their intermittent presence and other time demands while summer externs can be given larger and more complicated assignments due to their increased presence and available focus. This has resulted in better work product and ensures that spring and fall externs get exposed to a variety of matters and issues.

Beyond these potential limitations, feel free to give assignments based on whatever comes in the door! That's how we get our work, so why shouldn't it be the same way the externs get theirs?

Having an externship placement program does sound like a worthwhile endeavor, doesn't it?

I obviously think so, and I'm glad you agree! In all seriousness, managing Cary's externship placement program has been a highlight of my time with Cary and I firmly believe it produces the numerous benefits I have discussed with you today. My hope is that you will strongly consider establishing your own program so that you can contribute to and begin reaping these benefits for yourself and your organization. ML

Notes

1. If I had a dollar for every time I have been asked this question, I would be writing this article while relaxing on my own private island.
2. Extern, Dictionary.com (June 16, 2023), https://www.dictionary.com/browse/extern. *See also* Extern, Meriam-webster.com (June 16, 2023), https://www.merriam- webster.com/dictionary/extern ("a person connected with an institution but not living or boarding in it: specifically : a nonresident doctor or medical student at a hospital"). *See also* Extern, Oxfordlearnersdictionaries.com (June 16, 2023), https://www.oxfordlearnersdictionaries.com/us/definition/english/extern_1?q=extern ("a person who works in an institution but does not live there, especially a doctor or other worker in a hospital.").
3. Public Interest Externships & Internships, Americanbar.org (June 16, 2023) https://www.americanbar.org/groups/center-pro- bono/resources/directory_of_law_school_public_interest_pro_bono_programs/definitions/pi_externships_internships/.
4. Ex, Meriam-webster.com (June 21, 2023) https://www.merriam-webster.com/dictionary/ex.
5. Model Rules Of Prof'l Conduct R. 1.6 (Am. Bar Ass'n 1983).
6. Model Rules Of Prof'l Conduct R 5.3 (Am. Bar Ass'n 1983).
7. *Id.*
8. *Id.*
9. Aba Standards And Rules Of Procedure For Approval Of Law Schools 2022-2023 Standard 303(a)(3) (Am. Bar Ass'n 2023).
10. Aba Standards And Rules Of Procedure For Approval Of Law Schools 2022-2023 Standard 303(a)(3) (Am. Bar Ass'n 2023).
11. *Id.* at Standard 303(b)(1).
12. *Public Interest Externships, supra note 3.*
13. 2023-2024 Best Law Schools, USNews.com (June 16, 2023 3:24 PM), https://www.usnews.com/best-graduate-schools/top-law-schools/law-rankings.