

THE UNIVERSITY OF TULSA COLLEGE OF LAW

Field Study Externships:
Field Supervision Manual

SUPERVISION MANUAL FOR FIELD STUDY SUPERVISORS

The purpose of the College of Law Field Supervision Manual (Manual) is to develop consistent standards for the field supervision of externs by judge and attorney supervisors, judicial clerks, and research attorneys. This Manual incorporates those standards and highlights common workplace issues that are often of interest to student externs and field supervisors. Your participation in our program as a supervising judge or attorney and educator is our most valued asset. We hope these materials will be useful to you in your supervision efforts and thank you for your willingness to mentor our students.

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SECTION I

EXPERIENTIAL LEARNING AND THE PROCESS OF BECOMING AN ATTORNEY

The College of Law Field Study Externship Program has a number of educational objectives, including helping students: experience different models of lawyering skills related to specific areas of legal practice; acquire greater insight into the process of lawyering; develop a sense of professional responsibility; and develop the awareness and ability to reflect on and learn from experiences. We stress to students that “doing” the work that they see performed by their field supervisors is just one component of the externship experience. Equally as important is the process through which students learn to reflect on their observations in order to make sense of their experiences and integrate that reflection “to create new, or modify existing knowledge.”¹

As an externship director, I may define your role as a field supervisor and mentor more broadly than you. Although we appreciate the attention you give externs regarding the performance of legal tasks such as drafting documents, discovering and using facts, and arguing motions, externs can learn other invaluable insights from your observations about the legal system. To many of the externs your office will be their first experience with law practice or judicial chambers; the legal world is an unknown universe. Externs are like cultural anthropologists who need to discover the professional mores in order to understand and respond to the legal ethos. We, therefore, often request externs over the course of their externship to focus on a different aspect of the lifestyle of lawyers in the particular legal field in which they are practicing. For instance, in order for students to understand the legal context in which they practice, they need to reflect on a number of issues such as the: (1) relationships between the attorneys and support staff, clients, opposing counsel, and judges; (2) lifestyle and demographics of attorneys, including gender, race, age, salary, and working conditions; (3) relationship between the legal work and attorney values, perceptions, and concepts of self-worth; and (4) ethical conundrums inherent in that type of law practice.

We expect students to discuss many of their observations with you. In turn, you can add a context to the student's observation by sharing your opinions about the legal system and the lifestyle of an attorney specializing in your particular field of practice. We also expect students to reflect on their experiences in journals. The process of writing complements the process of reflecting. Therefore, you and the extern should discuss at your earliest convenience the scope of confidentiality with respect to the written journals. This discussion provides an excellent opportunity to discuss with the student the ethical and legal parameters of court and client confidentiality and any specific rules that your office may have regarding client loyalty and privilege.

It is clear to us that you provide students a wealth of opportunities to not only practice law and observe the processes of court, but to experience and reflect upon the socialization process of becoming an attorney, as well as the quality of life your legal discipline or service might provide.

¹ J.P. Ogilvy, Leah Wortham & Lisa G. Lerman, *Learning From Practice: A Professional Development Text For Legal Externs 6* (West 1998).

SECTION II

PROVIDING STRUCTURE FOR AND FEEDBACK TO EXTERNING LAW STUDENTS

During the time you supervise our law students, you are providing a critical part of their legal education. Our students can earn a substantial number of credit hours for field study experience, and we are understandably concerned that they receive appropriately challenging work and regular, effective feedback. This section contains suggestions on preparing assignments for externs and provides you with a Six Step Model approach to giving students feedback in a constructive manner. The goal is to assist them to self-critique their future work so that they will produce work that meets your expectations for the assigned project.

A. STRUCTURING THE EXPERIENCE

1. Be prepared for the externs' arrival:

Some externship placements have formal, well-established externship programs that provide new externs with materials describing everything from the structure of the office, to the externs' duties, to the local eateries. It is far more common, however, to find that placements, whether large or small, run their externship program more informally. While there is nothing inherently wrong with some informality, students sometimes report that early in the externship they spend a significant amount of time figuring out what they are supposed to do and what is expected of them.

You can avoid this problem by taking a few steps to prepare for the students' arrival. First, ask yourself what you expect the externs to do in your office. Will they be working primarily with one attorney or several? Who will be primarily responsible for assigning and reviewing work? Who will oversee the externs' assignments to ensure the students receive appropriate work that has sound pedagogical value? These questions embody basic concerns for all students, and everyone is helped if you have these issues settled before the students start work.

When the students arrive, take the time to conduct a brief orientation to the office. Particularly in large offices, it is very helpful if students are given a tour of the office and are introduced to people they will need to know. Explain up front your expectations and the students' obligations.

Before the first work is assigned, each supervisor should meet with his or her extern to discuss the extern's educational goals for the semester or summer. Prior to the placement, you and your extern will have prepared a learning plan titled "Statement of Expectations" that sets forth the student's academic goals for the semester, the feasibility of your office to meet those goals, and the guide for the student's progress to those goals during the externship. This dialogue and learning plan will significantly increase the likelihood that the student will be assigned work that promotes the stated goals.

2. Provide Appropriate and Well Defined Assignments

Central to achieving the stated learning goals are the number and type of assignments students receive and the clarity of the supervisor's communication about what is expected from each assignment. Students often fail to ask questions to clarify assignments. We are addressing those problems through checklists and class discussions about the need to communicate with the supervisors. These problems, however, can also be easily solved if one supervising attorney or clerk acts as a "clearinghouse" through which all assignments must pass in offices where the extern works for multiple lawyers. That attorney should gather potential assignments from other attorneys and review the proposed work before it is assigned. In this way, the placement can ensure that the assigning attorney has provided an adequate description of the work required and has equipped the student with enough back-ground information to get the work done. In addition, if one person takes responsibility for all extern assignments, she can make sure that no one student has too much or too little work and that no student gets bogged down with an assignment that is too burdensome. At some placements, attorneys who wish to assign work to an extern use a standard "Request for Extern Help" form in which they describe the assignment so the proposed task can be reviewed and approved before it is passed along to a student extern. For more specific suggestions on designing and structuring assignments, please refer to the checklists in parts C and D of this section.

3. Arrange Weekly Conferences with Your Extern

This suggestion seems obvious, yet it is often overlooked. Because all supervisors are extremely busy judges and practitioners, weeks could easily go by without the supervisor spending any time one on one with the student. But all students must meet individually with their supervisors at least once a week to check in, review completed work, address any problems and discuss future assignments. If you schedule a weekly "standing appointment" to meet with your extern, you are far less likely to find that your daily work prevents you from regularly meeting with the student.

B. THE WORKPLACE ENVIRONMENT FOR STUDENT EXTERNS

The workplace environment is extremely important to the successful externship experience. Students who feel comfortable and welcome are more productive. While it may not always be possible to provide separate workspace for each extern, we recommend, at a minimum, that students be provided with:

- A desk or other secure workspace that is their own;
- A phone or easy access to a phone;
- A desktop computer, or sufficient access to one to facilitate prompt assignment completion;
- Sufficient office supplies to accomplish assigned tasks;
- Access to adequate legal research materials to accomplish assigned tasks;
- Access to support staff if necessary to accomplish a task;
- Office keys or restroom keys, if necessary;
- Copier and fax access if necessary to accomplish a task;
- Clear instructions regarding parking or reimbursement for parking expenses;
- Written office procedures and policies.

Along with the physical set up of the office, students should be included in the office culture. The more the student is treated as part of the team, the better the experience will be for the student and, most likely, performance will be positively influenced. As a minimum, consider some of the following:

- Students should be invited to meetings if they are relevant to the work or may enhance understanding of the project or task;
- Students should be included in investigation or research out of the office, if appropriate and if it may enhance the understanding of the task or project;
- Office memoranda should be circulated to students, if appropriate;
- Students should be included in the informal matters of the workplace, such as celebrations or group luncheons;
- Students should be formally introduced to all staff they will likely encounter during the workday;
- Students should receive instructions about any workplace limitations, such as areas that may be off limits or files or materials that may be sensitive or confidential.

Finally, communicate clearly and frequently with your externs. Open communication can prevent misunderstandings, clarify office relationships and ensure that your extern is a functioning member of your work environment and the mission of your team.

C. SUPERVISOR'S CHECKLIST FOR ASSIGNMENT CLARIFICATION

A key to a successful externship, whether in judicial chambers or in a law office, is the ability of a supervising attorney or clerk to give assignments to the extern effectively. When any project is assigned, you should tell the student what you expect from the student and communicate all aspects of your expectations to him. Below is a checklist you may find helpful to ensure less confusion and more productivity for both you and the extern.

1. Have you explained each assignment with the relative inexperience of the student in mind?

- Have you discussed the basic objectives of the assignment or project with the student? Does the student know how this particular assignment fits into the overall case file and what the assignment will help you accomplish or resolve? Effective supervisors take the time to explain:

When draft and final work products are due;

How much time you expect the student to spend on the assignment, including time for research and drafting (keeping in mind that students are often inexperienced and require extra time for thorough research);

How many issues you expect the student to address;

How technically perfect you want the letter/memo/brief to be in terms of case cites, for example;

Whether you want a rough draft or a more polished draft; and

How often the student should check in with you for a progress meeting.

Is the student aware of the format you require or expect? Have you provided the student with an example of the format of the opinion, memo, brief or letter to assist the student in understanding your expectations?

- Who should the student ask for assistance if you are unavailable?
- Have you provided the student with some guidance in terms of starting points for legal

research to help focus the issue?

- Have you asked the student if he has questions (again, remembering that some students may be unfamiliar with the substantive area of law you are asking them to address)?

2. Have you followed up regularly with your students as assignments progress?

As students begin working on assignments, they often need additional and periodic help, assignment clarification, reassurance, or relief. Redefinition of the task is common as the student gathers information and gains a more precise understanding of the assignment. Inasmuch as interactions during this phase are frequently marked by informality and brevity, the importance of these exchanges can be easily overlooked. Have you been diligent in keeping those scheduled progress meetings?

3. Have you provided students with feedback on their work?

As the assignment progresses, and again at the completion of it, you should solicit the student's impressions about performance and convey your impressions about the performance on the assignment. In the following section we offer a Six Step Model you may find useful. Without periodic feedback, neither you nor the student can effectively evaluate her performance and make any necessary changes to result in a final product that closely resembles your goals for the assignment and provides your student with a sense of accomplishment.

D. A SIX STEP MODEL APPROACH IN PROVIDING USEFUL AND EFFECTIVE FEEDBACK

Beryl Blaustone, Professor of Law, CUNY School of Law and the Director of the Mediation Clinic at Main Street Legal Services, Inc., developed a Six Step Model to assist field or clinical supervisors in giving students constructive feedback.² A goal of her model is to begin teaching law students to self-critique their own work and to begin to develop critical self-awareness in performance.

Step One: The Student Identifies Strengths of the Performance: The student should identify those aspects of the work that he believes were done well, including an identification of what the performance accomplished.

Step Two: The Supervisor Responds Solely to Those Items Raised by The Student: Giving only positive feedback, the supervisor at this stage confines remarks to those items raised by the student.

Step Three: The Supervisor Identifies Other Strengths in the Performance: The supervisor now adds additional points that were done well. This wide open stage explores all facets of the performance that were accomplished satisfactorily or that show a

² Beryl Blaustone, *Teaching Law Students to Self-Critique and to Develop Critical Clinical Self Awareness in Performance*, 13 CLIN.L.REV. 601(2006).

potential for success, with specific illustrations of why these aspects were successfully executed.

Step Four: The Student Identifies Difficulties and/or Changes to be Made: The student takes the initiative in identifying areas in need of improvement and in coming forward with specific comments.

Step Five: The Supervisor Responds to the Identified Difficulties: Confining remarks to areas identified by the student for improvement, the supervisor comments on how the issues could be handled differently next time.

Step Six: The Supervisor Indicates Additional Difficulties: This final stage involves another wide open exploration of all facets of the performance. The discussion focuses on aspects that were not satisfactorily accomplished, again with specific illustrations and concrete analysis.

To assist field supervisors in implementing the Six Step Model, we suggest the following:

1. Provide Feedback on All Assignments

The assigning attorney should provide timely feedback on every assignment the extern completes. Obviously, the nature of the feedback will vary depending on the type of assignment involved: a short research assignment resulting in a brief oral report may only warrant a five or ten minute conversation, while a substantial written project deserves more time and attention. Students consistently report that receiving regular feedback throughout their externship highlighted their areas of weakness and greatly improved the learning experience. In addition, constructive feedback benefits the supervising attorneys by facilitating vastly improved student performance.

When we talk about "providing feedback" we do not mean to suggest that the attorney should offer suggestions and the student should sit passively and accept those suggestions. Students will get far more out of a discussion when they are actively involved in evaluating their own performance.³ To that end, students should be encouraged to assess their own work and to provide suggestions as to how the work could be improved.

2. Solicit Student Assessment of Performance on All Assignments

When reviewing an extern's work, ask the student to evaluate both the assignment and his own performance. For example, did he think the assignment was appropriately challenging? Was it too difficult? Was the project adequately explained so she knew what was expected of her? If she encountered obstacles or questions along the way, did the assigning attorney provide helpful guidance? Is the student satisfied with his own performance? If not, what changes would he make? These questions will help not only focus the conversation, but they will force the student to reflect on the work she has done and what she could have done to improve it. The student is far more likely to accept suggestions for improvement if

³ See generally, A. Alexander and J. Smith, *A Practical Guide to Cooperative Supervision for Law Students and Legal Employers*, 29 L. Off. Econ. & Mgt. 207 (1988).

he has independently recognized the areas that need attention. Furthermore, the student's assessment may help highlight problems that need to be addressed. Perhaps problems with the final work product were created by: the attorney's limited description of the assignment; by the student's unfamiliarity with the necessary research tools; or by the student's failure to ask for clarification. If the attorney elicits the student's impressions, these issues can be uncovered and handled more effectively.

3. *Providing Constructive Feedback*

Most extern supervisors are very concerned with making the student's externship pleasant and, as a result, may shy away from the sometimes uncomfortable task of critiquing the student's work. While this impulse is understandable, students need, deserve and actually want honest feedback on their work.

In our experience, students often assume that "no news is good news," and will continue to repeat the same errors unless they are given specific notice that improvement is necessary. We, therefore, urge all supervisors to provide feedback early in the semester so any problems can be addressed before the externship proceeds too far. Most students are eager to become good lawyers and welcome specific advice on how they can sharpen their skills.

The sort of feedback you should offer and how you should go about it are the central concerns. First, include a healthy dose of positive feedback. In fact, it is a good idea to start off on a positive note. For example, even if the student's writing needs improvement, you may be able to honestly commend the student's research abilities. And if the research was weak, perhaps the student's eagerness and curiosity warrant a compliment. While you should not be reluctant to criticize the work where necessary, students are apt to be less defensive if they hear some good news first.

In order to be effective, suggestions for improvement should be as specific as possible. Instead of telling a student to "tighten up the writing" or "use the facts more effectively," take a portion of the student's work and show her how to edit and rewrite the assignment. While this kind of feedback can be time consuming, it is also the most helpful.

We recognize that it can be difficult to systematically review a student's work and cover all the relevant points. Below we have set out nine categories you may want to consider when reviewing a student's performance.⁴ You may not need or want to touch on each of these categories during every feedback session. But if you assess the student's performance on a specific assignment with these categories in mind, you may find that both you and the student are better focused on the areas of concern.

a) *Research Ability*

- knows the basic, non-computer library research tools and how to use them
- is familiar with computerized legal research resources
- does thorough, careful and accurate work
- produces practical and useful results

⁴ This list is presented and discussed in A. Alexander and J. Smith, *A Practical Guide for Cooperative Supervision for Law Students and Legal Employers*, supra n. 3, pp. 216-217. See also, Blaustone, *Teaching Law Students to Self Critique and to Develop Critical Clinical Self Awareness in Performance*, supra n. 2

b) Legal Analysis

- integrates legal concepts and theory with facts in a coherent and logical progression
- identifies relevant issues and distinguishes a logical hierarchy among them

(c) Intellectual Capacity

- displays intellectual curiosity
- thinks creatively and imaginatively
- develops alternative avenues of argument
- pursues analogous extensions in areas where the law is nebulous
- explores subsidiary and related issues uncovered by research to develop innovative legal theory

(d) Writing Skill

- writes clearly, precisely and persuasively
- drafts well organized written assignments
- cites accurately and effectively

(e) Clarity of Oral Expression

- speaks well and is easily understood
- is able to discuss issues clearly
- communicates effectively in various advocacy proceedings

(f) Judgment

- is mature
- exercises good common sense
- knows how and when to ask questions or seek additional consultation
- sets appropriate priorities in handling assigned work

(g) Responsibility

- is trustworthy and acts ethically
- takes initiative
- is dependable and conscientious about work
- meets deadlines and manages time well
- works independently and efficiently without sacrificing quality
- accepts criticism and constructively modifies work habits

(h) Client Relations

- develops effective working relationships with clients
- is sensitive and responsive to client needs
- knows how to be diplomatically persistent

(i) “Plus” Traits

- shows an interest in the employer's work
- has a sense of humor
- is cooperative and accommodating to the needs of the office
- is even tempered
- remains unruffled in emergency situations
- is courteous and respectful to all staff
- demonstrates sensitivity to office human relations dynamics
- appears self-confident and enthusiastic
- maintains a professional demeanor

4. Keep the lines of communication open:

No matter how informal and friendly your office may be, a significant imbalance of power exists between supervising judges and attorneys and their externs. Most students are exquisitely aware of their place in the office hierarchy and may be reluctant to ask questions or seek advice for fear of appearing incompetent or foolish. In our experience, the best supervisory relationships exist when students feel free to approach their supervisors with all questions, large or small. Supervisors should, therefore, make every effort to create and maintain a comfortable and effective working relationship that will maximize both the students' educational experience and their contributions to your judicial chambers or office.

SECTION III

LAW STUDENTS AND WORKPLACE CONFIDENTIALITY

A fundamental principle of the lawyer client relationship requires lawyers and their respective employees to uphold ethical obligations of confidentiality. We recommend that all externship placements implement steps to ensure that law students, who may or may not have experienced formal training in professional responsibility at the time of the placement, are aware of the specific confidentiality policies of the placement. Thus, we recommend that:

- Confidentiality policies be put in writing and distributed to each extern or law student volunteer each semester or summer session;
- Students sign an acknowledgement of receipt of the policies; and
- Throughout the term of the placement, students actively engage in dialogue with supervising attorneys about the importance of confidentiality and the ethical implications involved in individual cases or circumstances.

For your reference and convenience, Appendix A contains:

- **Okla. Stat. tit. 5 § 3 (West 2001), setting forth among other duties, an attorney’s duty to maintain confidentiality.**

- **Oklahoma Rules of Professional Conduct, Preamble and Rule 1.6**

A sample written confidentiality policy and acknowledgement of receipt and agreement for externs from the College of Law is set out in Appendix B.

SECTION IV

TYPICAL FIELD PLACEMENT ISSUES

According to the American Bar Association standards regulating law school field placements and the academic standards of the College of Law, several objectives and standards of supervision must be met to maintain the quality and academic integrity of externship programs. Such standards are specifically addressed in ABA Standard 305⁵ and the College of Law Guidelines for Supervision of Externship Students. Many of the more typical issues that occur have already been alluded to in this manual through discussion of steps and processes that can lead to productive and satisfying field study experiences for both the supervisor and the student. A few others are discussed below.

1. Lack of meaningful supervision

Below are several issues with field study supervision that constitute a lack of meaningful supervision:

(a) Too many students under the supervision of one placement supervisor.

An externship is most successful when each supervising attorney or judge is responsible for no more than three students. On more than one occasion a placement supervisor has had primary responsibility for five or more students during a semester. To provide constructive feedback, meet regularly with students individually and monitor student progress in the placement, field supervisors should limit the number of students they are directly supervising. This limitation allows more time and flexibility for the supervisor and gives the student a more personal and valuable learning experience.

(b) Not providing enough work

Occasionally, students are not given a sufficient amount of work throughout the semester. Some students have to create their own work or wait idly for something substantive to do. Although the College of Law encourages students to be proactive and assertive in seeking assignments, ultimately the supervisor must make certain, at all times, the students have meaningful work. Law schools can only award academic credit and evaluate each student based on the work they actually perform.

(c) Hours required may be excessive in relation to externship expectations At the opposite extreme, sometimes supervisors assign students far more work than can actually be performed in the amount of time the student and the school have allotted for the externship. As is true for all of us, the demands of a law student are many. Students will typically schedule their classes based on the time they know they will spend at an externship. While students understand that life as a

⁵ See Appendix C

lawyer demands a constant struggle to balance priorities, often they will make time to work for the externship to the detriment of other course work. To this end, placement supervisors should consider a law student's external demands when asking him to work hours in excess of the weekly time allotted for the placement.

(d) Assigning non substantive/administrative/personal tasks.

Students are sometimes given administrative or even personal tasks to perform. The supervising attorney has the responsibility to maintain the academic credibility of the externship program by assigning substantive legal work. Understandably, as with most organizations, team efforts to meet deadlines or prepare for trial are often required. During such times, attorneys and other professional staff may perform tasks that are not standard for their position. However, it is difficult for schools to assert the value of an externship when students report they are spending entire days photocopying documents or organizing a filing system for current cases. Time spent performing administrative tasks should be minimized by the supervising attorney and personal errands or tasks should never be assigned.

(e) Lack of communication with College of Law contact.

Finally, field supervisors sometimes wait too long to involve the law College of Law contact when problems arise. Keeping open lines of communication is essential to successful placements. When any sort of conflict arises, whether it is related to the quality of the student's work, work habits, or general attitude toward the supervisor or the work, please contact the College of Law to identify the problem and discuss potential remedies before the conclusion of the program. As our goals are to ensure the most mutually beneficial relationship between both parties, we can typically offer assistance in resolving the issue or dealing with the problem completely from our end. When, in a final evaluation of the student's work, we discover a student has not performed up to standard, we are faced with the difficult dilemma of failing her or substantially reducing the amount of credits received. If we are able to intervene early, we may prevent this unfortunate circumstance and remedy the problem behavior, or, if most appropriate, terminate the placement.

In conclusion, while most of our placements are excellent and provide a wonderful practical training ground for our students, field supervisors can improve dramatically the overall effectiveness of the program by avoiding these pitfalls. Each supervising attorney or judge is encouraged to carefully review Section II of this Manual which discusses proven methods of supervision and critique of student work. Use the College of Law as a resource whenever any problem arises. Each College of Law director for particular placements and the Director of Field Study Programs are available by phone or e-mail. Contact information for the director is provided on the second page of this Manual. Please do not hesitate to discuss issues with us as they arise. Together we can keep a potentially difficult situation from spiraling into an uncontrollable problem that frustrates the learning process and the benefit of externships for all parties.

SECTION V

WORKPLACE ACCESS FOR PERSONS WITH DISABILITIES

Externship programs must be accessible to students with disabilities. The number of law students with disabilities is dramatically increasing. In large part this increase directly relates to the increased educational opportunities for elementary and high school students since the 1970's and the passage and publicity of the Americans with Disabilities Act in 1990.⁶ It is estimated that approximately 10 percent of all law students have some sort of disability, which may or may not require a reasonable accommodation. The University of Tulsa College of Law is an ABA-accredited law school and a member of the Association of American Law Schools. We value and appreciate the diversity of our student body and adhere to the non-discrimination standards of the ABA and the AALS bylaws. Accordingly, as a condition of the assistance of our Professional Development Office and/or use of our career services facilities, we expect that all employers will observe and comply with the principles of non-discrimination and equality of opportunity on the basis of race, color, religion, national origin, gender, sexual orientation, age and disability in regard to hiring, promotion, retention, and conditions of employment.

SECTION VI

WORKPLACE FREE OF ILLEGAL OR UNWANTED HARASSMENT

As are you, the College of Law is committed to providing students with internship and externship placements that are free from illegal and unwelcome harassment. Sexual harassment is prohibited under both Federal and State law. The University of Tulsa Harassment Policy is provided in Appendix D for your consideration. We expect all field study placement offices to provide a work environment for students free of harassment

A student who believes he or she has been harassed is encouraged to promptly report the incident to the faculty supervisor or the Director of Field Study Programs. The University of Tulsa has internal policies and procedures regarding harassment and will take appropriate steps as required in the policy, including contact with the placement office about which a complaint has been asserted, if appropriate.

⁶ 42 U.S.C. § 12101 et. seq.

APPENDIX A

Oklahoma Rules Governing Client Confidentiality

Okla. Stat. tit. 5 § 3 (West 2001).

It is the duty of an attorney and counselor:

First. To maintain, while in the presence of the courts of justice, or in the presence of judicial officers engaged in the discharge of judicial duties, the respect due to the . . . courts and judicial officers, and at all times to obey all lawful orders and writs of the court.

Second. To counsel and maintain no actions, proceedings or defenses, except those which appear to him legal and just, except the defense of a person charged with a public offense.

Third. To employ for the purpose of maintaining the causes confided to him such means only as are consistent with truth, and never to seek to mislead the judges by any artifice or false statements of facts or law.

Fourth. To maintain inviolate the confidence, and, at any peril to himself, to preserve the secrets of his client.

Fifth. To abstain from all offensive personalities, and to advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which he is charged.

Sixth. Not to encourage either the commencement or continuance of an action or proceeding from motive of passion or interest.

Seventh. Never to reject for any consideration personal to himself the cause of the defenseless or the oppressed.

Okla. Stat. tit. 5, Ch. 1 App. 3-A (West 2001), Oklahoma Rules of Professional Conduct

Preamble: A Lawyer's Responsibilities

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[4] In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law.

Rule 1.6. Confidentiality of Information

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to representation of a client to the extent the lawyer reasonably believes necessary:

(1) to prevent reasonably certain death or substantial bodily harm;

(2) to prevent the client from committing:

(i) a crime; or

(ii) a fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;

(c) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services, provided that the lawyer has first made reasonable efforts to contact the client so that the client can rectify such criminal or fraudulent act, but the lawyer has been unable to do so, or the lawyer has contacted the client and called upon the client to rectify such criminal or fraudulent act and the client has refused or has been unable to do so;

(d) to secure legal advice about the lawyer's compliance with these Rules;

(e) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or

(f) as permitted or required to comply with these Rules, other law or a court order.

Comment

[1] This Rule governs the disclosure by a lawyer of information relating to the representation of a client during the lawyer's representation of the client. See Rule 1.18 for the lawyer's duties with respect to information provided to the lawyer by a prospective client, Rule 1.9(c)(2) for the lawyer's duty to not reveal information relating to the lawyer's prior representation of a former client and Rules 1.8(b) and 1.9(c)(1) for the lawyer's duties with respect to the use of such information to the disadvantage of clients and former clients.

[2] A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent, the lawyer must not reveal information relating to the representation. See Rule 1.0(e) for the definition of informed consent. This contributes to the trust that is the hallmark of the client-lawyer relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter. The lawyer needs this

information to represent the client effectively and, if necessary, to advise the client to refrain from wrongful conduct. Almost without exception, clients come to lawyers in order to determine their rights and what is, in the complex maze of law and regulations deemed to be legal and correct. Based upon experience, lawyers know that almost all clients follow the advice given, and the law is upheld.

[3] The principle of client-lawyer confidentiality is given effect by related bodies of law: the attorney-client privilege, the work product doctrine and the rule of confidentiality established in professional ethics. The attorney-client privilege and work product doctrine apply in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law. The confidentiality rule, for example, applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source. A lawyer may not disclose such information except as authorized or required by the Rules of Professional Conduct or other law. See also Scope.

[4] Paragraph (a) prohibits a lawyer from revealing information relating to the representation of a client. This prohibition also applies to disclosures by a lawyer that do not in themselves reveal protected information but could reasonably lead to the discovery of such information by a third person. A lawyer's use of a hypothetical to discuss issues relating to the representation is permissible so long as there is no reasonable likelihood that the listener will be able to ascertain the identity of the client or the situation involved.

[4A] The requirement of maintaining confidentiality of information relating to representation applies to government lawyers who may disagree with the policy goals that their representation is designed to advance.

Authorized Disclosure

[5] Except to the extent that the client's instructions or special circumstances limit the authority, a lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation. In some situations, for example, a lawyer may be impliedly authorized to admit a fact that cannot properly be disputed or to make, a disclosure that facilitates a satisfactory conclusion to a matter. Lawyers in a firm may, in the course of the firm's practice, disclose to each other information relating to a client of the firm, unless the client has instructed that particular information be confined to specified lawyers.

Disclosure Adverse to Client

[6] Although the public interest is usually best served by a strict rule requiring lawyers to preserve the confidentiality of information relating to the representation of their clients, the confidentiality rule is subject to limited exceptions. Paragraph (b)(1) recognizes the overriding value of life and physical integrity and permits disclosure reasonably necessary to prevent reasonably certain death or substantial bodily harm. Such harm is reasonably certain to occur if it will be suffered imminently or if there is a present and substantial threat that a person will suffer such harm at a later date if the lawyer fails to take action necessary to eliminate the threat. Thus, a lawyer who knows that a client has accidentally discharged toxic waste into a town's water supply may reveal this information to the authorities if there is a present and substantial risk that a person who drinks the water will contract a life-threatening disease or

debilitating disease and the lawyer's disclosure is necessary to eliminate the threat or reduce the number of victims.

[7] Paragraph (b)(2) is a limited exception to the rule of confidentiality that permits the lawyer to reveal information to the extent necessary to enable affected persons or appropriate authorities to prevent the client from committing any crime, or a fraud as defined in Rule 1.0(d) that is reasonably certain to result in substantial injury to the financial or property interests of another and in furtherance of which the client has used or is using the lawyer's services. Such a serious abuse of the client-lawyer relationship by the client forfeits the protection of this Rule. The client can, of course, prevent such disclosure by refraining from the wrongful conduct. Although paragraph (b)(2) does not require the lawyer to reveal the client's misconduct, the lawyer may not counsel or assist the client in conduct the lawyer knows is criminal or fraudulent. See Rule 1.2(d). See also Rule 1.16 with respect to the lawyer's obligation or right to withdraw from the representation of the client in such circumstances, and Rule 1.13(c), which permits the lawyer, where the client is an organization, to reveal information relating to the representation in limited circumstances.

[8] Paragraph (b)(3) addresses the situation in which the lawyer does not learn of the client's crime or fraud until after it has been consummated. Although the client no longer has the option of preventing disclosure by refraining from the wrongful conduct, there will be situations in which the loss suffered by the affected person can be prevented, rectified or mitigated. In such situations, the lawyer may disclose information relating to the representation to the extent necessary to enable the affected persons to prevent or mitigate reasonably certain losses or to attempt to recoup their losses. Paragraph (b)(3) does not apply when a person who has committed a crime or fraud thereafter employs a lawyer for representation concerning that offense.

[8A] Before using or disclosing confidential information under paragraph (b)(3), the lawyer should, if practicable, inform the client of the lawyer's ability to use or disclose information as provided in this Rule and the consequences thereof. The exercise of the lawyer's discretion should be guided by the potential for rectification of the consequences of the client's criminal or fraudulent conduct, and not considerations relating to the lawyer's personal interests or professional reputation.

[9] A lawyer's confidentiality obligations do not preclude a lawyer from securing confidential legal advice about the lawyer's personal responsibility to comply with these Rules. In most situations, disclosing information to secure such advice will be impliedly authorized for the lawyer to carry out the representation. Even when the disclosure is not impliedly authorized, paragraph (b)(4) permits such disclosure because of the importance of a lawyer's compliance with the Rules of Professional Conduct.

[10] Where a legal claim or disciplinary charge alleges complicity of the lawyer in a client's conduct or other misconduct of the lawyer involving representation of the client, the lawyer may respond to the extent the lawyer reasonably believes necessary to establish a defense. The same is true with respect to a claim involving the conduct or representation of a former client. Such a charge can arise in a civil, criminal, disciplinary or other proceeding and can be based on a wrong allegedly committed by the lawyer against the client or on a wrong alleged by a third person, for example, a person claiming to have been defrauded by the lawyer and client acting together. The lawyer's right to respond arises when an assertion of such complicity has been made. Paragraph (b)(5) does not require the lawyer to await the commencement of an action or proceeding that charges such complicity, so that the defense may be

established by responding directly to a third party who has made such an assertion. The right to defend also applies, of course, where a proceeding has been commenced.

[11] A lawyer entitled to a fee is permitted by paragraph (b)(5) to prove the services rendered in an action to collect it. This aspect of the rule expresses the principle that the beneficiary of a fiduciary relationship may not exploit it to the detriment of the fiduciary.

[12] Other law may require that a lawyer disclose information about a client. Whether such a law supersedes Rule 1.6 is a question of law beyond the scope of these Rules. When disclosure of information relating to the representation appears to be required by other law, the lawyer must discuss the matter with the client to the extent required by Rule 1.4. If, however, the other law supersedes this Rule and requires disclosure, paragraph (b)(6) permits the lawyer to make such disclosures as are necessary to comply with the law.

[13] A lawyer may be ordered to reveal information relating to the representation of a client by a court or by another tribunal or governmental entity claiming authority pursuant to other law to compel the disclosure. Absent informed consent of the client to do otherwise, the lawyer should assert on behalf of the client all non-frivolous claims that the order is not authorized by other law or that the information sought is protected against disclosure by the attorney-client privilege or other applicable law. In the event of an adverse ruling, the lawyer must consult with the client about the possibility of appeal to the extent required by Rule 1.4. Unless review is sought, however, paragraph (b)(6) permits the lawyer to comply with the court's order.

[14] Paragraph (b) permits disclosure only to the extent the lawyer reasonably believes the disclosure is necessary to accomplish one of the purposes specified. Where practicable, the lawyer should first seek to persuade the client to take suitable action to obviate the need for disclosure. In any case, a disclosure adverse to the client's interest should be no greater than the lawyer reasonably believes necessary to accomplish the purpose. If the disclosure will be made in connection with a judicial proceeding, the disclosure should be made in a manner that limits access to the information to the tribunal or other persons having a need to know it and appropriate protective orders or other arrangements should be sought by the lawyer to the fullest extent practicable.

[15] Paragraph (b) permits but does not require the disclosure of information relating to a client's representation to accomplish the purposes specified in paragraphs (b)(1) through (b)(6). In exercising the discretion conferred by this Rule, the lawyer may consider such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the lawyer's own involvement in the transaction and factors that may extenuate the conduct in question. A lawyer's decision not to disclose as permitted by paragraph (b) does not violate this Rule. Disclosure may be required, however, by other Rules. Some Rules require disclosure only if such disclosure would be permitted by paragraph (b). See Rules 1.2(d), 4.1(b), 8.1 and 8.3. Rule 3.3, on the other hand, requires disclosure in some circumstances regardless of whether such disclosure is permitted by this Rule. See Rule 3.3(c).

Acting Competently to Preserve Confidentiality

[16] A lawyer must act competently to safeguard information relating to the representation of a client against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1, and 5.3.

[17] When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule.

Former Client

[18] The duty of confidentiality continues after the client-lawyer relationship has terminated. See Rule 1.9(c)(2). See Rule 1.9(c)(1) for the prohibition against using such information to the disadvantage of the former client.

APPENDIX B

THE UNIVERSITY OF TULSA COLLEGE OF LAW FIELD STUDY EXTERNSHIP PROGRAM STUDENT PERFORMANCE AGREEMENT

As a University of Tulsa College of Law off campus extern, I agree that: I am familiar with law school externship programs and policies as set forth in the document provided to me entitled *The University of Tulsa College of Law Field Study Guidelines*. I agree to comply with law school off campus policies and procedures.

1. I will check my TU email at least one time per week during the semester and promptly reply to requests.
2. I will make myself aware of my professional obligations at all times in my workplace. I am familiar with the confidentiality policy of the Externship Program and will adhere to the policy. The confidentiality policy requires that I shall not reveal information designated as confidential by the supervising attorney or judicial chambers. I shall not reveal information relating to the representation of a client, disclose the identity of a client or reveal information leading to the disclosure or identity of a case or client without the express advance authorization of the supervising attorney. I agree to redact all written work as necessary to preserve client confidentiality. I understand that I am not permitted to give legal advice to any person or client unless I am supervised by an attorney or expressly authorized to give advice by my supervising attorney.
3. I understand that it is solely my responsibility to submit all documents on time that are required to complete this externship course. The College of Law has no obligation to notify me of any deficiencies in advance of entering a failing grade if I fail to adhere to my obligations under this paragraph.
4. I agree that if my grade point average puts me on Academic Probation during the term of my externship, or in the event that I disqualify from the law school during the term of my externship, the units for which I enrolled may be adjusted or denied

I have read this *Student Performance Agreement* and understand it. My signature reflects my agreement with the terms herein and acknowledges receipt of the document entitled *The University of Tulsa College of Law Field Study Guidelines*.

Print Name: _____ Date: _____

Signature: _____

APPENDIX C

AMERICAN BAR ASSOCIATION STANDARDS FOR APPROVAL OF LAW SCHOOLS

All law schools accredited by the American Bar Association are subject to periodic accreditation reviews. As part of regular accreditation inspections, Accreditation Committees are required to evaluate field placement programs. In particular, Committees are required to evaluate the qualifications, training and performance of field instructors and to determine whether the placements are meeting their stated educational objectives. Additionally, the Standards require frequent contact with supervisors, visits to field placements, and in some instances, mandatory classroom components. To more fully assist you in understanding the structure of our program and the requirements imposed on our students, faculty and field supervisors, we include Standard 305 and its interpretations in this Manual.

STANDARD 305. STUDY OUTSIDE THE CLASSROOM⁷

- (a) A law school may grant credit toward the J. D. degree for courses or a program that permits or requires student participation in studies or activities away from the law school or in a format that does not involve attendance at regularly scheduled class sessions.
- (b) Credit granted shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.
- (c) Each student's academic achievement shall be evaluated by a faculty member. For purposes of Standard 305 and its Interpretations, the term "faculty member" means a member of the full time or part time faculty. When appropriate a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program.
- (d) The studies or activities shall be approved in advance and periodically reviewed following the school's established procedures for approval of the curriculum.
- (e) A field placement program shall include:
 - (1) a clear statement of the goals and methods, and a demonstrated relationship between those goals and methods to the program in operation;
 - (2) adequate instructional resources, including faculty teaching in and supervising the program who devote the requisite time and attention to satisfy program goals and are sufficiently available to students;
 - (3) a clearly articulated method of evaluating each student's academic performance involving both a

⁷American Bar Association Section of Legal Education and Admissions to the Bar, Standards for Approval of Law Schools, compiled and distributed by the Consultant on Legal Education to the American Bar Association, 550 West North Street Indianapolis, Indiana 46202 (317) 2648340 Fax:(317) 264-8355 <http://www.abanet.org/legaled>, revised and adopted February, 2005.

faculty member and the field placement supervisor;

(4) a method for selecting, training, evaluating, and communicating with field supervisors;

(5) periodic onsite visits or their equivalent by a faculty member if the field placement program awards four or more academic credits (or equivalent) for fieldwork in any academic term or if onsite visits or their equivalent are otherwise necessary and appropriate;

(6) a requirement that students have successfully completed one academic year of study prior to participation in the field placement program;

(7) opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student can earn four or more academic credits (or equivalent) in the program for field work, the seminar, tutorial, or other means of guided reflection must be provided contemporaneously.

Interpretation 305(¬1):

Activities covered by Standard 305(a) include field placement, moot court, law review, and directed research programs or courses for which credit toward the J. D. degree is granted, as well as courses taken in parts of the college or university outside the law school for credit toward the J. D. degree is granted. (August 2004)

Interpretation 305(¬2):

The nature of field placement programs presents special opportunities and unique challenges for the maintenance of educational quality. Field placement programs accordingly require particular attention from the law school and the Accreditation Committee. (August 1999)

Interpretation 305¬(3):

A law school may not grant credit to a student for participation in a field placement program for which the student receives compensation. This interpretation does not preclude reimbursement of reasonable out¬ of pocket expenses related to the field placement. (August 2004)

Interpretation 305(¬4):

(a) A law school that has a field placement program shall develop, publish and communicate to students and field instructors a statement that describes the educational objectives of the program.

(b) In a field placement program, as the number of students involved or the number of students increase, the level of instructional resources devoted to the program should also increase. (August 1999)

Interpretation 305(¬5):

Standard 305 by its own force does not allow credit for Distance Education courses. (August 2002)

APPENDIX D

The University of Tulsa Policy on Harassment
Effective Date: August 9, 2005

Purpose

The University of Tulsa is committed to fostering a civil campus community. The University expects participants in this community to support an employment, educational, co-curricular, social and living environment in which all participants are free from unlawful or otherwise inappropriate conduct on any basis, actual or perceived.

Indeed, the University expects of all such participants that they will treat each other respectfully and refrain from any inappropriate conduct, especially conduct that rises to the level of being prohibited under this policy. Such conduct is unacceptable behavior and will not be tolerated. The purpose of this policy is to protect participants from conduct which is unsolicited, unwelcome and inappropriate, in any form and by any means. This policy may not be used to infringe upon academic freedom, but will guide social and professional interactions.

All participants in the campus community must be aware of the need for freedom of inquiry and openness of discussion in the University's educational and research programs, and must strive to create and maintain an atmosphere of intellectual seriousness and mutual tolerance in which these essential features of academic life can thrive. No university can or should guarantee that every idea expressed on its premises or through its media will be inoffensive to all; pursued seriously, campus residential life, participation in campus community, education and scholarship, at times entail raising questions about perceived opinions and conventional interpretations. The University of Tulsa does guarantee, however, that credible accusations of inappropriate conduct under this policy will be investigated promptly, thoroughly, and fairly.

Who is Covered

This policy applies to all full-time, part-time, and temporary faculty members, administrative/professional and hourly employees, trustees, students, contract workers, business invitees, visitors and guests (collectively, the "Campus Community"), at all times and places in any connection with this institution, whether on or off campus. This policy shall be applied and interpreted in conjunction with the following existing documents (and any amendments or successor documents): The Statement on Academic Freedom Responsibility and Tenure (faculty); The Student Code of Conduct and The University of Tulsa Statement on Rights, Freedoms and Responsibilities (students); The University Policies and Procedures Manual (non-faculty employees); The University of Tulsa Policy on Non-Discrimination, as adopted by the Board of Trustees on September 18, 1991 and The University of Tulsa Student Pledge and Commitment, created and approved by the student body and accepted by the Board of Trustees in the Fall of 2003. Additionally the Ethical Conduct in Academic Research and Scholarship policy may also apply to any situation. All of these documents are available online, and as links in this policy.

Policy

Any form of inappropriate conduct that constitutes Prohibited Harassment (see following definition) of or by any participants in the Campus Community is prohibited by this policy.

Such conduct may also constitute violations of criminal and civil laws of the State of Oklahoma and the United States, and the accused may be charged by appropriate external agencies. Further, such conduct may also constitute violations of the Sexual Assault Policy protecting students or other university policies (or amended or successor policy).

Such conduct most often takes place in situations with a power differential between the persons involved; the university also recognizes that it may occur between persons of the same Campus Community status.

The University of Tulsa will take appropriate actions within its power to prevent, correct, and discipline conduct that violates this policy.

A. Definition of Prohibited Harassment

(1). General - Conduct which is prohibited by this policy (herein referred to as "Prohibited Harassment") may be verbal, physical, or visual; it may be conduct related to favoritism, or based upon a person's legally protected status, or any actual or perceived status that motivates inappropriate conduct, such as inappropriate conduct based on color, age, disability, gender, gender identity, national or ethnic origin, race, religion, sexual orientation, veteran status, marital status or personal physical trait. Prohibited Harassment also may include inappropriate conduct harmful to an individual's reputation.

(2). Verbal/Physical/Visual - Verbal Prohibited Harassment may occur in person, by telephone or other audio means. Physical Prohibited Harassment may be conduct such as assault, impeding or blocking movement or any physical interference with normal activities or movement. Visual forms of Prohibited Harassment may include notes, email, blogging or other electronic means, derogatory posters, cartoons, graffiti or drawings.

(3). Reputation - Prohibited Harassment related to an individual's reputation may include any form of inappropriate conduct which is defamatory, demeaning, intimidating, threatening, or otherwise places an individual in fear of harm to his or her person or reputation on or off campus.

(4). Sexual Harassment - Sexual harassment is defined by law and also constitutes Prohibited Harassment; generally under the law, it includes any unwanted or unsolicited sexual gesture, physical contact, or statement which, when viewed from the perspective of a reasonable person similarly situated, is offensive, threatening, humiliating, or interferes with a person's ability to perform his or her job, educational pursuit, or participation in campus life.

(5). Sexual Favors - Conduct which constitutes Prohibited Harassment related to sexual favors includes unwanted sexual advances which condition terms of employment, academic opportunity, housing options or other benefit upon sexual favors.

(6). Favoritism in General - Conduct related to favoritism on the basis of any of the above identified characteristics may constitute Prohibited Harassment where someone suffers harm, such as loss of job promotion or course work opportunity, due to the conduct. Prohibited Harassment may also include preferential treatment of one or more individuals, to the detriment of others.

(7). Standard - For each of the foregoing examples, under this policy, the standard of determining whether Prohibited Harassment occurred shall be the perspective of a reasonable person similarly situated; these examples are meant to be illustrative and are not all inclusive. Conduct which constitutes Prohibited Harassment, under this policy may or may not also be unlawful. An occasional remark or act which may hurt feelings, or otherwise offend, will not necessarily rise to the level of Prohibited Harassment under the reasonable person standard.

B. Prohibited Acts

(1). Effect of Conduct Assessment - For the purpose of this policy, Prohibited Harassment may take many forms - subtle and indirect, or blatant and overt. It may consist of repeated actions or may even arise from a single incident if sufficiently extreme. In assessing whether a particular act or acts constitute Prohibited Harassment under this policy, the standard shall be the perspective of a reasonable person similarly situated.

Prohibited Harassment includes any conduct or behavior of an inappropriate nature where:

- a. Submission to or acceptance of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or participation in a university-sponsored educational program, activity or in campus residency;
- b. Submission to or rejection of such conduct by an individual is used as the basis for academic, housing or employment decisions;
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or of creating an intimidating, hostile or offensive working, educational or campus living environment;

(2). Examples - Some examples of Prohibited Harassment include, but are not limited to:

- a. unwelcome physical contact or intentional physical contact without consent;
- b. physical assault, including date or acquaintance rape;
- c. verbal or written comments or statements that are intimidating, threatening, demeaning, humiliating, sexually suggestive, insulting, vulgar, or lewd;
- d. unwelcome visual contact that communicates a threatening or intimidating sexual message;
- e. unwelcome request for sexual favors or acts, or other inappropriate requests;
- f. requests for dates or a more personal relationship (whether sexual or not) by an individual who is, or is perceived to be, in a position of authority able to affect the campus status of the individual subject to the request;
- g. inappropriate conversations of a sexual nature or similar jokes and stories, whether sexual or related to any actual or perceived status as set out at A.1 hereinabove;
- h. continued expression of sexual interest after being informed that the interest is unwelcome;
- i. the inappropriate use or display of materials such as posters, photos, cartoons or graffiti that are demeaning or offensive;

- j. inappropriate comments, communicated by any means, that demean, intimidate, threaten or harm an individual's reputation;
- k. telephone or other audio contact, letters, notes, blog or other postings, or electronic mail containing comments, words, or images as described above;
- l. "bullying", "stalking", or activities which may constitute "hazing", as defined by Oklahoma and/or other state laws;

The facts and circumstances will be determinative of whether any of the above or other behaviors would violate this policy, under the reasonable person standard.

(3). Relationships - Prohibited Harassment may occur within a variety of relationships, including classroom situations involving instruction, online chat rooms, departments (faculty or staff) or campus life. It may occur among peers. It may occur where no relationship exists between the parties other than being co-employees or co-students, or simply interaction for other reason. Especially injurious, however, is Prohibited Harassment in relationships characterized by an imbalance of power and authority. Typically, such relationships are found between:

- a. employer and employee [usually supervisor and subordinate]
- b. administrator and faculty
- c. administrator and student
- d. employee and student
- e. senior and junior faculty
- f. graduate assistant and undergraduate student
- g. faculty and student [Examples are when the student is enrolled in a faculty member's class, or when the student is in a position to require continuing evaluation or work or letters of recommendations from faculty]
- h. vendor representative and TU employee

C. Other Conduct Prohibited by the Policy on Harassment

(1). Reprisals/Retaliation -

- a. Against the Complainant: It is a violation of the Policy on Harassment to retaliate against a complainant for filing a charge of Prohibited Harassment. A complaint of retaliation will be pursued using the steps followed for a complaint of Prohibited Harassment.
- b. Against the Accused/Respondent: Lodging a complaint of Prohibited Harassment does not constitute proof. A complaint shall not be taken into account during reappointment, tenure, promotion, merit, or other evaluation or review until a final determination has been made that the Policy on Harassment has been violated; however, a decision on such matters may be delayed, pending the resolution of an investigation.
- c. Administrators and supervisors have the legal responsibility to protect a complainant or victim from continued Prohibited Harassment or retaliation and a person accused of Prohibited Harassment from potential damage by false allegations.

(2). Knowingly False or Malicious Complaints -

- a. To file a knowingly false or malicious complaint of Prohibited Harassment or of retaliation is a violation of the Policy on Harassment, under the reasonable person standard.
- b. A complaint that a knowingly false or malicious complaint has been filed will be pursued using the steps followed for a complaint of Prohibited Harassment.
- c. A credible complaint under C.(2).b. shall not constitute prohibited retaliation.

D. Prompt Attention

Complaints of Prohibited Harassment, submitted in writing or orally, are taken seriously and will be dealt with promptly. Anonymous complaints of Prohibited Harassment will be taken seriously and may be investigated. Allegations of Prohibited Harassment shall be evaluated on the facts of the particular case and the context in which the alleged incident(s) occurred. The complainant has the responsibility of providing all known relevant evidence of the alleged Prohibited Harassment, including names of witnesses, dates, times, places and other pertinent information.

E. Confidentiality

Throughout the complaint and investigation process, every effort will be made to assure and provide confidentiality to the fullest extent reasonably possible to protect against retaliation. Subject to applicable law, communication will be limited to a minimum "need to know" basis, coupled with a directive not to discuss the matter outside the process. However, the investigation of such complaints will generally require disclosure to the accused party and other witnesses in order to gather pertinent facts.

F. Disciplinary Actions for Violations of the Policy on Harassment

Disciplinary actions for violations of the Policy on Harassment can include: oral and/or written reprimand, reassignment, suspension, counseling, demotion, termination, probation, dismissal or any combination thereof. Offenders may be disciplined under the appropriate governing code of conduct (See "Who is Covered", First paragraph, hereinabove). Sanctions for Prohibited Harassment depend upon the circumstances in each case.

G. Statement on Consenting Relationships

(1). Be Aware - The intent of the Policy on Harassment, with regard to consenting relationships, is to inform the Campus Community of the expectation that individuals will not engage in Prohibited Harassment, rather than to prevent personal and social relationships. However, it should be understood by all members of the Campus Community that sexual relationships, which occur in the context of educational/employment supervision and evaluation or their equivalent, are generally deemed unwise even when the parties consent, because of the underlying power imbalance in such relationships.

(2). No Defense I - It is incumbent upon those with authority not to abuse or appear to abuse the power with which they have been entrusted. Should a charge of Prohibited Harassment be brought by a person in a subordinate position, "consent to the relationship" shall not be deemed a sufficient defense or justification for conduct which otherwise would be deemed Prohibited Harassment under the university's policy.

(3). No Defense II - This concept of "consent" also extends to conduct among individuals engaged in non-sexual relationships, particularly where there is a power differential, such as faculty/student or supervisor/employee. Examples include inappropriate conduct or remarks by someone in a position of

actual or perceived authority, at after-hours social gatherings, intimidating, or otherwise inappropriate conduct by a senior colleague to a junior colleague, etc.

H. Informational Sessions

The University of Tulsa will conduct informational sessions (either in person or online) on the Policy on Harassment for all new employees, including faculty. In addition, each employee will be required to take a "refresher" course (usually offered online) on at least a biannual basis. Students will have the opportunity to attend a Policy on Harassment training session during their orientation session and at other times during the academic year. Trustees will be advised of such informational sessions. These sessions will address strategies for preventing Prohibited Harassment in order to allow individuals to reach their full potential within their roles in the Campus Community. Individuals who attended a session under the predecessor sexual harassment policy (which is replaced by this Policy on Harassment) will be provided a copy of this policy and are expected to review it, ask questions or complete a session on this policy, in order to be fully informed.

I. Pursuit of Complaint Outside the University

This policy does not preclude anyone from pursuing a complaint, at any stage of the process, with any external agency or other entity (such as an incident occurring where a student is in an internship or field placement, a faculty member is visiting at another institution, etc.).

J. Responsibilities of Faculty, Administrators and Supervisors

(1). Duty to Act - University faculty, administrators, and supervisors are responsible for fostering and maintaining a work place, educational and living environment that results in a campus culture where Prohibited Harassment is not tolerated. Faculty, administrators and supervisors have a legal obligation to act whenever they learn--directly or indirectly--about the occurrence of Prohibited Harassment. Faculty, administrators and supervisors shall immediately notify the appropriate University officers (see below, Procedure A-4).

(2). Failure to Act - Failure of faculty, administrators or supervisors to notify the appropriate University officer or the Office of Human Resources of allegations of Prohibited Harassment, or failure to take timely corrective action as advised, may be a violation of University policy and of the law. Faculty, administrators or supervisors who engage in such misconduct may be subject to appropriate disciplinary action, under this or other policies.

K. Record Keeping

The Office of the Provost, Office of Human Resources and the Office of Student Affairs will track reports of Prohibited Harassment for statistical purposes and report at least annually through the Office of Human Resources to the University President concerning their number, nature, and disposition.

Procedure

A. Investigations of Prohibited Harassment complaints will be formally administered by the appropriate University officer, or the Office of Human Resources. These offices shall have the final determination of

discipline based primarily upon the investigations and recommendations derived from the outlined process; however, discipline shall be subject to the appropriate process as set out in documents identified hereinabove under "Who is Covered". Successor documents to those identified herein will replace the named documents, upon adoption; any process underway at the time of adoption of an amended (or successor) document will continue under the document in place at the time the process began, unless both complainant and the accused agree in writing to proceed under the new documents.

(1). Reporting Option - An incident of perceived Prohibited Harassment may be reported to any University official or faculty member, including an individual's supervisor, department chair or dean, or the appropriate University officer, or the Office Human Resources.

(2). After Hours Reporting - Individuals who need to report a perceived incident of Prohibited Harassment after regular business hours of the University should report the incident to the Campus Security Office. The Campus Security Office will take appropriate action regarding the report, at the time received, and will notify the appropriate administrative office at the beginning of the next business day.

(3). Visitors - Perceived incidents of Prohibited Harassment involving visitors should be reported directly to the appropriate University officer or the Senior Administrator with appropriate oversight responsibility, or, if after regular business hours, to the Campus Security Office.

(4). Appropriate University Officer - The University of Tulsa designates appropriate University officers to handle allegations of Prohibited Harassment. The offices and officers responsible for investigation of allegations of alleged Prohibited Harassment, depending on the specific circumstances are: Associate VP of Human Resources and Risk Management or his/her designate (Office of Human Resources); Provost or his/her designate (Office of the Provost); Dean of Students or his/her designate (Office of Student Affairs), or persons holding the successor titles to these positions.

(5). Other Than Appropriate University Officer - Individuals who witness possible Prohibited Harassment, or who receive a report of possible Prohibited Harassment, should immediately notify the appropriate University officer or the Office of Human Resources. Individuals should not take any action to investigate, or resolve the matter informally and must act only on direction from such office. After hours incidents should be reported to the Campus Security Office.

(6). Referral to Other Entity - Complaints involving only individuals who do not come within the jurisdiction of an internal University complaint resolution procedure (e.g. complaints between guests on campus, etc.) may be referred to other entities for handling.

B. Complaint Process

(1). Informal Complaint Process

a. In the event that an individual believes Prohibited Harassment has been or is occurring, he or she will be encouraged to communicate clearly, preferably in writing (keep a copy), to the alleged harasser and state that the conduct is not acceptable. The individual is also encouraged to maintain careful written records of the perceived Prohibited Harassment and to continue maintaining current records throughout the process.

- i. The individual will be given an opportunity to meet with an appropriate University officer to discuss the Prohibited Harassment allegation. If an individual cannot decide whether to initiate a formal complaint or is reluctant to discuss the matter with the supervisor, he or she may seek the advice and counsel of an appropriate University officer who, with the individual's permission, may seek to resolve the issue informally through discussions with the supervisor and the accused.
- ii. A signed, written complaint shall not be required to initiate the informal complaint process. If the individual does not wish to prepare a signed, written complaint, written documentation shall be prepared by an appropriate University officer or representative of the Office of Human Resources. Such written documentation shall include the nature of the complaint and the date(s) on which the alleged incident(s) occurred. The complaining individual shall be asked to read the written documentation prepared by the appropriate University officer to correct and acknowledge its accuracy; a written acknowledgement will be preferred and may be made in a separate document.
- iii. Written documentation shall be prepared before any informal discussions are held with the supervisor and the accused. The accused shall be given an opportunity to read the written documentation, which may be edited by the appropriate University officer or Office of Human Resources to protect the anonymity of the complaining individual.
- iv. The University will proceed on an informal complaint, even if the individual does not wish to do so, to either confirm the allegations or take appropriate action or to clear the name of the accused from a malicious or unwarranted complaint.
- v. If the parties are unable to reach a mutually satisfactory agreement after meeting, the option of filing a formal complaint is still available.

(2). Formal Complaint Process -

- a. If an individual wishes to file a formal complaint, he/she must submit a signed written statement alleging Prohibited Harassment, to the appropriate University officer. Documentation should include the name of the complainant, the name of the accused, the nature of the complaint, date(s), witnesses, the name(s) of the person(s) who received the complaint, and any other information relevant to the case. If some of this information is not available, the reason(s) for unavailability, if known, should be documented.
- b. The appropriate University officer will investigate all formal Prohibited Harassment complaints according to the following procedures:
 - i. When a formal complaint is made naming the accused individual, that accused individual shall be informed as soon as possible and in accordance with the appropriate procedures governing the individual participants in the Campus Community. The accused will not be informed of the name of the accuser or the name of the alleged victim unless and until they each have consented. If the complainant does not consent to disclosure of his or her name, the investigation will proceed pursuant to the discretion of the appropriate University officer, in the best interests of preventing future Prohibited Harassment, whether against the complainant or others. In no event will a sanction be imposed without the accused having an opportunity to respond, in writing, to a formal complaint.

ii. The appropriate University officer (or the officer's designee) shall gather relevant evidence by interviewing the complainant, the victim (if not the complainant), the accused, and any witnesses determined to be appropriate.

iii. A copy of the complaint will be provided to the accused. The accused will be given an opportunity to respond to the complaint orally and in writing, and may provide evidence and/or witnesses.

iv. Investigations, and if appropriate, hearings shall be conducted in accordance with the appropriate governing document (See "Who Is Covered", first paragraph, hereinabove).

v. Once a determination has been made by the appropriate University officer, and, if appropriate, the Office of Human Resources both the complainant and the accused will be notified of any finding and action to be taken. Pursuant to FERPA (Family and Educational Rights to Privacy Act), disciplinary student records will remain confidential unless the affected student (complainant, accused, or witness) provides written consent to release of information.

vi. If either party disagrees with the determination made and/or the action taken, he/she may make an appeal in accordance with the appropriate governing university procedures. (See "Who is Covered", first paragraph, hereinabove). Appeals shall be limited to a review of the investigation, and the initial conclusion may be revised if appropriate; however, no new investigation will be brought about from an appeal.

WHOM TO CONTACT

This is a contact list for your file of whom to call for guidance, information, or informal resolution.

Informal Complaints - Contact any of the following persons on campus:

Your supervisor, chair, director, or dean

The Employee Relations Coordinator, Lorie Austin (631-2615)

The Associate Director of Human Resources, Sherry Eskew (631-2250)

The Associate V.P. for Human Resources and Risk Management, Wayne Paulison (631-2616)

The Provost, Roger Blais (631-2554) (faculty)

Associate V.P. for Enrollment & Student Services, Dean of Students, Yolanda Taylor (631-2965)
(students)

The Director of Campus Security, Joe Timmons (631-5555)