

The Internship Model to Teach Legal Research and Writing

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Teaching Legal Research and Writing

For many years, I have applied for research grants to employ and train students to assist with various legal research projects. Not only do I find these grant applications and the recruitment, interview and payroll processes time consuming, the assistance outcomes were invariably disappointing from my perspective. Training needs and salaries and benefits seemed disproportionately high for the outputs generated at the end of the summer employment period. Perhaps because my academic home was a business school, some law students evinced an attitude that little remained for them to learn (at least little of value that I could teach them) in academic legal research and writing. I spent most of the summer working to improve their academic skills and technique, paid them handsomely for the privilege, and obtained little benefit at the end of the summer. I would still put their names on my papers, as this was another expectation to be managed. My summers and research accounts were depleted for the sole benefit of maybe some skill development with only modest intrinsic return for me.

I wondered whether that model could be improved. Was there a way to better align the students' interests with mine? I sought to reduce the administrative load of writing grant applications, hiring student applicants, and selecting the most teachable students for whom a co-authored legal publication was a more significant motivation than employment entitlements. The internship model came to mind.

Inviting Volunteer Student Researchers

In the spring of 2011, I sent out an email notice to the last two years of students who had taken law courses with me in the business school. This group numbered around 300 students. Most were still in their last year or two of their first degree; a few had already graduated or were graduating when I circulated the notice.

In the mass email, I said some legal research projects would benefit from volunteer "research assistants" (they could have alternatively been conferred the title of "legal research interns" or something similar) over the summer. I communicated that I would not be able to pay the student but would offer co-authorship if earned. Thus, the net was cast broadly. The students' contribution would be part time and flexible. There was a wide range of research topics. Yet, it was also a narrow opening as there was no stipend, no guarantees of a co-authored publication, and the window was only open for the four summer months. I did not present the opportunity as a developmental program but more as a way to achieve a distinction few students can claim, a co-authored academic publication.

I did not know what to expect from this invitation. I thought a few students might "kick the tires" and, upon further, informed reflection, decide it was not for them. I predicted a few academically-inclined students who were not otherwise employed might sign on.

The Response

Some 35 students responded to this invitation. I discreetly screened out five of them after checking on their academic performance in my course(s). My threshold was low, but there was a bar nevertheless. I reckoned that if a student attained lower than a C grade in my course, the research internship would probably not succeed on good intentions alone. The initial response included four students to whom friends had passed along the invitation. While we did not know each other, they remained in the pool because it was gutsy to make contact.

I sent all who contacted me a description of the three formats of articles on offer: (1.) professional article or book review; (2.) case comment or note; and (3.) full law review article. I listed many topics under each format. The chances of publication were best with the easiest formats. I authored and edit two regular, featured categories of a professional journal so I knew that professional outlet offered strong prospects. Moreover, because the professional journal format was the easiest introduction to academic writing, I expected most students to start with the first format. All did.

I reiterated that this opportunity was an unpaid internship, and I would work with each student in the same measure as they were able or willing to work on a project. Email exchanges occurred between me and the remaining 30 students over the next few weeks to discuss and negotiate the degree to which the student would volunteer and what project each student would work on.

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Outcomes

The table below shows what happened to these 30 volunteer student research assistants. The range of performance outcomes are described below.

Volunteer Student Legal Research Assistants Performance Outcomes						
<i>Internship Model</i> (n = 30)						
			<i>Performance Agreement Mutually Negotiated</i>			
Final Outcome	Student fully unresponsive after first contact	High initial engagement but no final commitment	Commitment made but no performance at all	Delivery below expectations	Delivery met expectations	Delivery exceeded expectations
Number of Students	3	10	6	4	5	2

Fleeting Interest

Notwithstanding their first voluntary expression of interest, I was unable to reach, at all, three of the students.

High Maintenance

Ten students went further and engaged me, some at considerable length and depth, about topics or other aspects of the experience. Several of them declared an excitement to do legal research and looked forward to possibly getting a co-authored publication. Many were clearly buying time, had lost interest in legal research as the spring progressed and/or as they saw the list of topics and the effort they would need to apply. They expressed an abundance of hope and promises. They engaged me but took no action.

Three of these nine were particularly memorable. One made a point to volunteer that he was “very detailed oriented.” That caught my attention. He did not continue.

Another engaged with me for six weeks and suggested that the list of issues and topics was not robust enough for him. Ultimately, he could not find any of the 25 or so topics to his taste.

The third student delayed while he was choosing between two topics. We communicated many times and even met to discuss the topics twice. Eventually, he wrote to say he was withdrawing: “I apologize I’ve taken so long to respond—this has been a difficult decision for me. I’m concerned about my ability to excel in [other activities] and produce high-quality legal research on the side. I have no interest in committing to work I can’t complete, and I have no interest in submitting work that doesn’t meet my highest standards. For these reasons, I must opt-out of our legal research. I must stress that this doesn’t represent a lack of interest on my part. I very much look forward to keeping in touch and I hope that, as conditions permit, we can build one hell of an article sometime.”

Commitment Made But No Performance

These last four categories all covered students who agreed with me to produce some specific work. Six of these students produced nothing. Most of them never contacted me again. A few of them contacted me to say they withdrew.

Under-Delivery

Four students did some work but not close to what they promised.

Met Expectations

Five students performed what was negotiated. All of them got their name on a professional journal publication and, I believe, a reasonable practical education in legal research and academic writing.

Exceeded Expectations

Two of the 30 students stood out. They assisted (and will be co-authors) on two articles each. Their work was strong and on time. They were highly motivated, teachable and reliable. Both have asked to continue in this volunteer work and moved up to more challenging formats. They would be an asset to any law professor.

What about the four students who were referred by other students? One made no further contact, another engaged and dropped away. The other two met expectations.

Conclusion

This internship model of inviting students to volunteer as research interns was attempted as an alternative to the salaried employee model. My experience was that formal employment had complicated the relationship by setting up researcher and assistant with a chimera of elevated expectations and

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Repeat Performances

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during our next supervision session.

When he did so, the student's performance was markedly improved; he beamed with confidence afterwards. I cannot be certain, but I do not think the student improved merely because he was more relaxed performing for me in a law school meeting room than he was performing for the judge in an agency courtroom. Nor do I think he improved merely because he had the opportunity to learn from repetition.

Rather, from our discussions, I think he improved so significantly because he received the chance to do the exact same thing again after he had already completed the "real" performance—that is, after the hearing itself. In his follow-up closing argument, the student had drawn on his experience in the crucible of the hearing, much more so than on the practice sessions before the hearing, to shape his understanding of closing argument skills.

This is a step before transfer. And despite the fact that I stumbled upon it, it may be a useful tool to consider adding to our teaching toolbox. For clinics in particular, how many times do we ask students to perform anew parts of the case event after the real event is over? At least for this student, it proved an immensely valuable experience to undertake before he was asked to engage in learning by transfer. It reaffirmed key lessons, revealed new insights, and solidified confidence. Indeed, it made the subsequent learning by transfer even more successful. Perhaps we ought to consider "repeat performances" more often.

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rights that were not optimally aligned.

In this internship model, I expected little. If the student volunteer did not produce work—and most of them did not—they expected nothing in return. All these students already knew me as a former instructor, so we began with familiarity of each other, which is rarely the case in competitive hiring.

The compensation I offered was wholly intrinsic. A title (such as "Research Assistant with Professor X"), association with a professor (several asked for letters of reference), research and writing skill development, and co-authorship of a published article can be powerful inducements. This opportunity is not a course or experience for which the student receives credit on the transcript, or money in the bank, but it is of inestimable value in burnishing one's curriculum vitae and distinguishing the student from one's peers.

This small experience yielded a normal curve of outcomes. If my experience is predictive of anything, professors adopting this internship model might expect something close to half the students who initially step forward to not ultimately commit to assist. The key will be to identify these students as early as possible as non-committers. The others will assist and work toward their promise in some way, and a few of them will soar.

In the end, seven students out of 30 went the distance for themselves and for legal research. Five articles were produced and co-authored, and several more are in progress.

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TEACHING AND LEARNING NUGGET

Consider giving your students a say in the construction of your syllabus. Students who have contributed to decisions regarding coverage and grading are more likely to invest themselves in the course.