



ALBANY LAW SCHOOL

ALBANY LAW SCHOOL PRO BONO PROGRAM

SUPERVISOR MANUAL 2011-2012

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ALBANY LAW SCHOOL PRO BONO PROGRAM

SUPERVISOR MANUAL 2011-2012

INTRODUCTION

To perform public service is one of the greatest callings of the law and the legal profession. Through Albany Law School's Pro Bono Program, students have an opportunity to learn more about the needs of the underrepresented by performing law-related public service in Albany and nationwide.

The growth and vitality of the Pro Bono Program, an integral part of the law students' educational experience, rests in large measure on the high level of support by the legal community. Indeed, many preeminent public interest practitioners and pro bono attorneys from Albany and nationwide participate in the Program as community partners and trainers.

The Pro Bono Program is accessible for both students and supervisors. We provide forms for students to complete for participation. [Our Combined Preference and Commitment Form](#) lists all of the available placements and is [also](#) accessible on our website. We can also add new placements, or change existing ones, quickly and upon submissions from Student Leaders. Students are advised, both through the Handbook they receive and through training, that they must perform tasks in a professionally responsible manner.

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This manual contains operational information about the Program, including relevant forms. The Program is structured to efficiently match a student with an eligible placement, assist in facilitating meaningful and substantive work for both the student and the sponsoring organization, provide a mechanism to monitor the students' compliance with Program requirements, and motivate students to reflect on public service and their own placement experience.

We urge sponsors to read this manual carefully before participating in the Program in order to insure a mutually beneficial experience.

Special thanks to the Erie County Bar Foundation and the Law Students in Action EJW Project of Legal Assistance of Western New York in generously sharing their materials from which sections of this guide have been adopted.

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OVERVIEW OF STUDENT RESPONSIBILITIES & PLACEMENT PROCESS

The Pro Bono Program

All students at Albany Law are encouraged to perform 45 hours of law related service during their three years of law school. Students *may not* receive academic credit or compensation for their pro bono work.

Student Responsibilities

Students are responsible for adhering to the Program’s monitoring mechanisms in a timely manner and for performing work in a professionally responsible manner.

Once a student’s pro bono assignment has been confirmed with a community partner, the student is expected to complete the assigned work on the project. Failure to carry through on a confirmed assignment is a serious breach of student responsibility and injures the Program as a whole. If any compelling problems arise which prevent a student from following through on a confirmed assignment, the student should contact the Pro Bono Student Director and Student Leader for the specific project immediately.

Students are to perform all assignments in a professionally responsible manner and in accordance with the relevant Rules of Professional Conduct. Rules 1.1, requiring competence, 1.3, requiring diligence and promptness, and 1.6, generally requiring confidentiality, are of particular importance. With respect to the rules on competence and diligence, the Program notes as especially important thoroughness, preparation, the avoidance of procrastination, undue delay, over-emphasis on personal convenience, and prejudicial failure to carry a matter through to conclusion.

Students are also required to complete all Program paperwork and submit to the Pro Bono Student Director according to Program deadlines in order to receive credit for hours completed.

Matching

Students “reserve” a placement slot in the Pro Bono Program by completing a Placement Preference & Commitment Form during designated sign-up periods in the fall and spring semesters. Given the large volume of students, it is not feasible for the Pro Bono Program to negotiate each assignment with the Community Partner. Thus, after a student receives his/her project assignment, it is the student’s responsibility to work with the Student Leader for the project and the Community Partner to coordinate the timing of the assignment.

Once a student is assigned to a Pro Bono Project, he or she has ten working days from the date of the sign-up to contact the Student Leader and Community Partner and, where appropriate, obtain a signed Placement Confirmation Agreement. Completion of this form is appropriate when the supervisor and student have regular face-to-face contact. The Placement Confirmation Agreement demonstrates that the student and Community Partner have reached an agreement on the scheduling of the work and the nature of the assignment. If the Community Partner assigns a student to work with another supervisor, the student must list the name(s) and phone number(s) of the supervisor(s) on the Placement Confirmation Agreement.

We urge placement contacts/supervisors to return student calls as soon as possible.

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SUPERVISORY ROLE

Eligible Tasks

Supervisors are asked to assign eligible legal or law related work. Such work includes, but is not limited to: case preparation, citizen legal education, client and witness interviewing and investigation, drafting documents, legislative analysis and policy interpretation, research and writing, trial assistance, case theory development, community organizing, and administrative hearings.

Supervisors are urged *not* to assign tasks of the following nature: administrative/clerical work, data entry (unless it is part of a larger litigation project in which the student is involved), or events/conference planning. Students will not receive credit for these tasks/duties.

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Compensation

Students cannot be compensated by community partners while they are fulfilling the Pro Bono requirement.

Time Allocation

Students are encouraged to perform forty-five (45) hours of public service during their three (3) years in law school. Therefore, we urge supervisors to assign projects in a timely manner so that students can satisfy their hourly requirement at one placement site.

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Training, Travel Time, Expenses

Students are permitted to allocate four (4) hours of training time, for their projects, toward the requirement. Students are free to choose projects with additional training requirements. However, only four (4) hours can be credited toward the requirement. Travel to and from the project site is not counted toward the forty-five (45) hour requirement, so we request that Community Partner not assign projects that include excessive travel. Community Partners are expected to incur any costs related to an assigned project (copying, materials, etc.), except for transportation costs to and from the placement site.

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Placement Type

- **Case Representation, Litigation, and Other Legal Matters.** For students working on matters under the direct supervision of an attorney, the ultimate responsibility of such legal matters rests with the attorney-supervisor. Students can work diligently on a matter, perform much of the development of a case including research, drafting documents, contacting clients, and, in some instances, appear in court. *However, as non-attorneys, students must be supervised by a practicing attorney who has ultimate responsibility for the matter.*
- **Non-Profits.** Students who do advocacy work on behalf of clients and are not directly supervised by an attorney must be supervised by an advocate with expertise in the relevant subject area. In addition, the organizations should ensure that students obtain special consent by the clients or members of the public for the particular forms of advocacy that are being performed and are permitted to be

performed by non-attorney advocates. *Albany Law students should not be used as a substitute for consultation with legal counsel by the organization.*

- **Legislators.** Work with legislators should be confined to research on policy matters or laws and legislation requested by the legislator. By accepting the student, the legislator acknowledges that Albany Law students are not attorneys and that the work product of the students should not be used as a substitute for consultation with relevant legal counsel.
- **Private Practice.** For attorneys in private practice, the work must be pro bono work, such as work done for no fee or at a substantially reduced fee on behalf of a person or group ordinarily unable to secure legal representation. Certain court appointments, particularly those for indigent defendants, fit within the faculty guidelines. Working on behalf of non-profit community groups is eligible if it is done by the supervisor in his or her role as counsel to the organization.

Supervisor as Mentor

We encourage supervisors to give the students as much responsibility as possible. Supervisors should also be aware that students engaged in actual practice often confront important ethical and professional responsibility issues; we encourage you to discuss such issues with the students. We also encourage you to share with the student your views on the public service work you perform.

GUIDELINES FOR SUPERVISORS

Effectively Crafting Assignments

The keystone to creating a positive summer experience for both the law student and supervising attorney is in giving good assignments.

- **Tips on What Makes a Good Assignment.** Explain the background and context of an assignment – this helps the student by providing a better understanding of the desired result and helps ensure that the end product is indeed what was requested.

Give a deadline – even if you do not need a memo by a certain date, provide a due date to the student, which takes into account their remaining workload and how long you anticipate the assignment should take.

Produce a work product – written or oral projects provide students with the opportunity to show off their blossoming skills and gain experience in a particular area.

Provide an opportunity for a high level of feedback – develop projects that allow for feedback and provide that feedback.

- **Examples of Good Assignments.** Client intake: students gain client interaction skills and improve issue spotting.

Give students a file and ask them to write a memo summarizing the case to date or particular documents (i.e. medical records). Have students draft opening or closing memos, which provides students with a great opportunity for the law student to summarize a client's situation or the result in a particular case.

Have students attend client meetings or court with you and ask that they take notes in order to send a follow-up letter to the client. Having a specific task makes it more meaningful for the student and ensures that clients fully understand and retain what happened and what will happen next in their case. It also provides a great record for your file of what happened and what either you or the client have to follow up on. It also provides a good way for the student to ensure they understood all that happened and can be a great teaching tool.

Research projects – either case specific or for the creation of client self-help materials, research projects give students the opportunity to improve legal research and writing skills while allowing them the opportunity to become an “expert” in a specific issue area.

Draft court documents, motions or pleadings.

- **Checklist for Giving Good Assignments.** A key to a successful internship is the ability of a supervising attorney or clerk to give assignments to the intern effectively. When any project is assigned, it is important to know exactly what you expect from the student and communicate all aspects of your expectations to him or her. Below is a checklist you may find helpful to ensure less confusion and more productivity for both you and your law student intern.

Explain the assignment in a manner that takes into account the student's relative experience.

Provide the student with some guidance in terms of a starting point for legal research to help focus the issue. Ask the student if he or she has questions.

Discuss the basic objectives of the assignment or project with the student. Explain to the student how this particular assignment fits into the overall case file and what the assignment will help you or the judge accomplish or resolve.

Explain the expected time commitment of the assignment. Effective supervisors take the time to explain when drafts of the assignment are due, when the final product is due, and how much time you expect the student to spend on the assignment, including time for research and drafting – keep in mind that students are often inexperienced and require extra time for thorough research.

Explain what the assignment should look like when completed – formatting, style, rough vs. polished draft, etc. If possible, provide an example of the desired format to assist the

student in better understanding your expectations.

Explain to the student how to follow up with you. If progress meetings are desired, be sure to explain how often and the means by which such meetings should occur. If possible, provide the student with an alternate contact in case you cannot be reached.

Above all else, follow up with your student. 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. Since interactions during this phase are frequently marked by informality and brevity, the importance of these exchanges can be easily overlooked.

Providing Constructive Feedback

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

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. All supervisors should provide feedback early in the semester so any problems can be addressed before the internship proceeds too far. Most students are eager to become good lawyers and welcome specific advice on how they can sharpen their skills.

When giving feedback, it is always 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 him or her how to edit and rewrite the assignment.¹

While this kind of feedback can be time-consuming, it is also the most helpful. Below are seven categories you may want to consider when reviewing a student's performance.² 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 it may help both you and the student to focus on the areas of concern.

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¹ Adapted from the Greater Los Angeles Consortium on Internships 2007-2008 Field Placement Supervision Manual.

² 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*, at pp. 216-217. See also, Beryl Blaustone, Teaching Law Students to Self-Critique and to Develop Critical Clinical Self-Awareness in Performance, 13 CLIN. L. REV. 601 (2006).

- **Research Ability.** (1) Knows the basic, non-computer library research tools and how to use them; (2) Is familiar with computerized legal research resources; (3) Does thorough, careful and accurate work; (4) Produces practical and useful results; and (5) Legal Analysis (integrates legal concepts and theory with facts in a coherent and logical progression and is able to identify relevant issues and distinguish a logical hierarchy among them)
- **Intellectual Capacity.** (1) Displays intellectual curiosity; (2) Thinks creatively and imaginatively; (3) Develops alternative avenues of argument; (4) Pursues analogous extensions in areas where the law is nebulous; and (5) Writing skill (writes clearly, precisely and persuasively; drafts well-organized written assignments; cites accurately and properly)
- **Clarity of Oral Expression.** (1) Speaks well and is easily understood; (2) Is able to discuss issues clearly; and (3) Communicates effectively in various advocacy proceedings
- **Judgment.** (1) Is mature; (2) Exercises good common sense; (3) Knows how and when to ask questions or seek additional consultation; and (4) Sets appropriate priorities in handling assigned work
- **Responsibility.** (1) Is trustworthy and acts ethically; (2) Takes initiative; (3) Is dependable and conscientious about work; (4) Meets deadlines and manages time well; (5) Works independently and efficiently without sacrificing quality; and (6) Accepts criticism and constructively modifies work habits
- **Client Relations.** (1) Develops effective working relationships with clients; (2) Is sensitive and responsive to client needs; and (3) Knows how to be diplomatically persistent
- **“Plus” Traits.** (1) Shows an interest in the employer’s work; (2) Has a sense of humor; (3) Is cooperative and accommodating to the needs of the office; (4) Is even-tempered; (5) Remains unruffled in emergency situations; (6) Is courteous and respectful to all staff; (6) Demonstrates sensitivity to office human relations dynamics; (7) Appears self-confident and enthusiastic; and (8) Maintains a professional demeanor

ETHICAL CONSIDERATIONS³

Ethics and Professionalism

Pro bono participants are expected to work in an ethical and professional manner while involved in the Program. We have set out in the Student Handbook detailed information about ethics and professionalism. Program participants are also required to attend a training in ethics and cultural competency. In this section, we will address some of the ethical issues involved in supervising law student interns.

³ This section is adopted with permission from materials from the Law Students in Action Project (LSAP) Legal Assistance of Western New York (LAWNY) and the Erie County Bar Association.

Law students, like other non-lawyer employees of your office, must abide by the New York State Lawyer's Rules of Professional Conduct. Pro Bono participants are subject to the same ethics rules as the attorneys who supervise them, and supervising attorneys are responsible for the conduct of students working under their direction. If you experience difficulty with a pro bono participant or have any questions about the ethics of what they are doing, please do not ignore the problem. Address it with the student as quickly and as constructively as possible. If you continue to experience difficulty with your student's professionalism or ethical behavior, please talk to the Pro Bono Student Director. Ethical violations will be reported to both the student's school and the New York State Board of Law Examiners as required under Rule 8.1.

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Confidentiality

Pro Bono interns should pay particular attention to issues concerning the preservation of client confidences and must protect client information and maintain confidentiality. Pursuant to the Rules of Professional Conduct, Rule 1.6, a lawyer shall not knowingly reveal the confidences or secrets of a client. The contents of client files and communications with clients are privileged material. Pro Bono participants should discuss cases only with their supervising attorney, not with other students, employers, co-workers, family, friends, or public service program staff. Breaches of confidentiality should be reported to the Pro Bono Student Director immediately.

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Conflict Checks

If Pro Bono interns are liable for breaches of client confidentiality, it goes without saying that they are also liable for conflicts of interest. Prior to the student beginning his or her assignment, he or she must complete a conflict check form. The best way to avoid a conflict of interest problem is to have your intern perform a conflict check each time they start a new assignment at your office. Make sure your student understands how your organization handles conflict checks.

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Example: A law student in a law school clinical program was going to represent a mother in a termination of parental rights case. At the same time, the student also worked in a local public defender's office where the Law Guardian for the children was also employed. The student was told she had a conflict of interest and had to get the mother's permission to continue representation. The mother then signed a form recognizing the conflict of interest and the student was able to continue on the case.

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Legal Advice vs. Legal Information

The line between legal information and legal advice can sometimes be blurry. Even if your intern is working under a practice order, they must be careful not to create the impression that they are dispensing legal advice – only an attorney can do that. Please discuss with your intern at the beginning of their internship what kinds of information they may ethically provide to clients.

Legal information is just that: general information about what the law says or how the court works. If the person seeking assistance is asking “how to” questions, they are seeking legal information. Student interns may answer these questions with information about how to fill out forms, general procedures, etc.

Legal advice consists of advising a client to take a particular course of action based on the facts of their case. If the person is asking about what will happen in their particular case or what they should do, they are seeking legal advice, and your intern may not answer those questions. Even with a

practice order in place, student interns should not tell any client whether or not they should accept a particular offer, plea deal, etc. Providing such advice puts the intern in an attorney-client relationship.

Activities of eligible law students and law school graduates is authorized by sections 478 and 484 of the Judiciary Law. N.Y. Sup. Ct., App Div., 3rd Dept., Part 805 Admission of Attorneys.

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- (a) Any officer or agency of the state, or of a subdivision thereof, or any legal aid organization whose principal office is located in this department, may make application to the presiding justice of this court for an order authorizing the employment or utilization of law students who have completed at least two semesters of law school and eligible law school graduates as law interns to render and perform legal services, to the extent set forth in paragraph (b) hereof, which the officer, agency or organization making the application is authorized to perform. The application shall set forth the names and addresses of the persons to be appointed and facts showing their eligibility for appointment, together with applicant's certification that they are of good character and competent legal ability.
- (b) Authorized activities. Law students who have completed at least two semesters of law school and law school graduates appointed as law interns are authorized to engage in the following activities:
 - (1) In the Appellate Division, Third Department, to prepare briefs and memorandums of law and, upon prior approval of the court and when under immediate supervision of a supervising attorney, to argue appeals and motions in both civil and criminal actions and proceedings.
 - (2) In criminal matters, in superior courts, under general supervision of a supervising attorney, to render legal services at arraignments, bail applications, pleas, sentencing, preliminary hearings and post-conviction proceedings, including appeals.
 - (3) In criminal matters, in inferior courts, under general supervision, to render legal services at arraignments, pleas, sentencing, preliminary hearings, post-conviction proceedings and at non-jury trials in cases involving misdemeanors and lesser offenses; and, when under immediate supervision of a supervising attorney, at jury trials in cases involving misdemeanors.
 - (4) In family court, under general supervision, to render legal services on motions and in uncontested proceedings, and in contested matters when under immediate supervision of a supervising attorney.
 - (5) In civil actions and proceedings in or before any court or administrative agency, under general supervision, to render legal services in motions and uncontested matters, and, under immediate supervision, in contested civil matters. Appearances before federal

courts and state and federal administrative agencies shall be subject to the rules and regulations of the particular court or agency involved.

- (c) Requirements and limitations. A law intern may appear in the courts and administrative agencies specified in paragraph (b) above if the person on whose behalf the intern is appearing and the supervising attorney have indicated in writing their consent to the appearance. The consents referred to shall be filed with and brought to the attention of the presiding officer of the court or administrative agency. Pleadings, legal documents, briefs and memorandums shall be indorsed by the supervising attorney and may contain the name of the law intern who participated in their preparation.

Supervisor Liability

Although a student may not be insulated from liability because they have a supervising attorney, the supervising attorney has a duty to: assume personal professional responsibility and supervision for the student's work; sign all pleadings, legal documents, briefs, memoranda, and client advice letters; assist the student as needed; and appear with the student in all trials and court proceedings if the student is working under a practice order.

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MONITORING THE REQUIREMENT

Students must complete an *Hours Log*, an accounting of time for an assigned project, and a *Student Evaluation*, a descriptive evaluation of the assigned project specifically and the Pro Bono Program generally, to receive credit for Pro Bono hours worked.

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The supervisor and the student are also encouraged to sign the Supervisory Report and return it to the Pro Bono Program Student Director. Supervisors are asked to give a brief report, certifying that the work was done in a professionally responsible manner.

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CONCLUSION

Albany Law School's Pro Bono Program has had a great impact on students, public interest and pro bono attorneys and the clients they serve. For many, their involvement adds critical practical dimension to their classroom experience. Others are inspired to pursue public interest careers. And virtually all benefit both personally and professionally from their experience. Attorneys and other supervisors have been extremely pleased with the quality of work the students produce and their sense of professional responsibility. The legal community at large feels that the Program has engendered a feeling of social responsibility on the part of our students, which will serve the community and the profession.

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**ALBANY LAW SCHOOL
PRO BONO PROGRAM
PROJECT CONFIRMATION AGREEMENT**

Student Name _____

Pro Bono Project Name _____

Community Partner _____

Project Supervisor _____

Project Supervisor's Phone Number _____

Student's Proposed Work Schedule

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

By signing this Project Confirmation Agreement, I _____, acknowledge that I am agreeing to complete the work assigned to me by my project supervisor. Should circumstances arise to prevent me from completing my pro bono assignment obligation, I will contact my Project Supervisor and Pro Bono Project Student Leader as soon as practicable.

I also acknowledge that I am to conduct myself in a professional manner, providing adequate warning if I cannot appear for work on a particular day or complete an assignment on time.

Student Signature

Date

I acknowledge that the above student has confirmed his/her Pro Bono placement with the organization provided on this form.

Supervisor Signature

Date

**ALBANY LAW SCHOOL
PRO BONO PROGRAM
SUPERVISORY REPORT**

Pro Bono Student Name _____

Date assignment began _____ Date assignment ended _____

Student's Primary Responsibilities _____

Are the hours reported in the student's log appropriate to the tasks performed?
_____Yes _____No

Did the student complete the work in a timely manner? _____Yes _____No

Did the student conduct him or herself in a professionally responsible manner?
_____Yes _____No

Would you supervise another Pro Bono Program participant? _____Yes _____No

What was most beneficial for your organization about this experience?

Name of Supervisor _____
Community Partner Organization _____
Phone _____ Email _____

Supervisor Signature _____ Date _____

You may give this completed form to the student to submit, or send it to the following address:
Associate Dean of Student Affairs Susan Feathers, Albany Law School, 80 New Scotland Avenue,
Albany, NY, 12208.

Students will not receive credit for pro bono service until this form is returned.