

Collaboration Between Students and Supervisors: Learning From Apprenticeships

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Apprenticeships

Professor Howard Gardner (Harvard School of Education – the GoodWork Project):
I was searching for learning situations that minimize the kind of mindless, context-less learning that takes place in schools and maximize people's understanding of why they're doing things—by giving them opportunities to try things out in new ways. And I came up with these institutions. ... there are powerful lessons to be learned from observing a good apprenticeship or a good children's museum. In an apprenticeship, you see a young person hanging around a very knowledgeable adult—an expert, someone who really knows what he or she is doing—watching that person, day after day, as he uses his knowledge. “On Teaching for Understanding: A Conversation with Howard Gardner”, *Authentic Learning*, Volume 50, (April 1993): 4-7.

Articling

Nova Scotia – “Articling Checklist” in *A Guide to Articling & Admission in Nova Scotia* (Revised October 2003):

The primary purpose of articles is to allow law school graduates to put to use the basic legal knowledge acquired in law school. Having studied statutory and case law, as well as procedures, the articling period provides students the opportunity to understand and experience the practical applications of law. The relationship between a principal and clerk is both a professional one, and one of educator and student. Articled clerks are to focus their attention on learning, and gaining practical experience ...

Articling Handbook (Law Society of Alberta, Canadian Centre for Professional legal Education):

Generally speaking, the obligations of the principal to the student are: ...
to set an example of the highest standards of practice and professionalism;
to closely supervise the student's work;
to communicate openly with the student in order to adequately monitor the student's work and progress;
to ensure the student is exposed to as many areas of legal practice as possible ..., and
to minimize routine and repetitive work assignments of limited educational value.

When assigning work, the principal should be clear about what is expected and when the work is due. Students should be given a reasonable head start by receiving references to resource materials and precedents where appropriate. Once the work is assigned, allow the student to take responsibility for its completion. Deadlines should be reasonable and if several lawyers give work to the student, the student should be given guidance as to the priority of the work assigned.

Cooperative Education

Cooperative Education is a structured method of combining academic education with practical work experience. http://en.wikipedia.org/wiki/Cooperative_education

Ricks suggests affirming the work-based learning principles upon which co-op is based. These principles assert that cooperative education fosters self-directed learning, reflective practice, and transformative learning; and integrates school and work learning experiences that are grounded in adult learning theories. Ricks, F. "Principles for Structuring Cooperative Education Programs." *Journal of Cooperative Education* 31, nos. 2-3 (Winter-Spring 1996): 8-22.

<http://www.ceiainc.org> Cooperative Education and Internship Association

<http://www.co-op.edu/aboutcoop.htm> National Commission for Cooperative Education

<http://www.waceinc.org/> World Association for Cooperative Education

Community of Practice

Etienne Wenger, Community of Practice

www.ewenger.com (Homepage of the Community of Practice researcher and consultant who coined the term along with Jean Lave.) Lave, J., & Wenger, E., *Situated Learning: Legitimate Peripheral Participation*. Learning in Doing: Social, Cognitive, and Computational Perspectives. Cambridge University Press (1991).

I am trying to understand the connection between knowledge, community, learning, and identity. The basic idea is that human knowing is fundamentally a social act.

Where does the concept come from?

Anthropologist Jean Lave and I coined the term while studying apprenticeship as a learning model. People usually think of apprenticeship as a relationship between a student and a master, but studies of apprenticeship reveal a more complex set of social relationships through which learning takes place. Wenger E., *Communities of practice. Learning Meaning and Identity*. Cambridge University Press (1998).

Externships

American Bar Association, Standards for Approval of Law Schools, Standard 305 (2005).

James H. Backman, Where Do Externships Fit? A New Paradigm Is Needed: Marshaling Law School Resources to Provide an Experiential Education Externship for Every Student (accepted for publication in Journal of Legal Education, 2006).

Characteristics of Large Externship Programs Providing an Externship Program that is Available to Virtually Every Law Student

Clinic-based Externships

- Emphasis on role of faculty supervisor
- Frequent contacts with
 - Students (classroom component)
 - Site Supervisors (site visits)

Apprenticeship-based Externships

- Emphasis on Supervising Judge or Attorney
- Primary Responsibility on Student
- Reflective Journals to Faculty Supervisor
- Faculty Contact with Student – Orientation, Individual Meetings, Final Interview
- Faculty Contact with Site Supervisor – Site Visits or Telephone Conferences

Clinic-based Characteristics

- Low Faculty-to-Student Ratios
- Modeled on Seminar
- Majority of Students Unable to Participate

Apprenticeship-based Characteristics

- Higher Faculty-to-Student Ratios
- Available to More Students
- Accommodations for Summer Externships
- Distant Externships Possible
- Private Law Firm and Corporate Positions as Approved Placements

Historical Overview of Externships

- Era of Apprenticeships (1800 to 1900's)
- Era of CLEPR Funding (1960's to 1970's)
- Era of Minimal Regulation (1973 to 1986)
- Era of “Highly Structured” Regulation (1986 - 2005)

Growing Influence of MacCrate Report - (1992 -2005)
Era of Flexible Regulation (2005 to ????)
Future -- De-regulation of Externship Programs (????)

Where Are We Going?

Reduced Barriers to Entry

E.g., Classroom component to reflection,

Periodic site visits from 6+ to 3+

Summer/International

Full time and Distant Programs

More Placements with Private Law Firms

Differences between Introductory and Capstone Externships

Best Practices: The Clinical Legal Education Association (CLEA) undertakes "Best Practices Project" to determine the best practices for preparing new lawyers for the practice of law. Last updated March 31, 2006:

Work assigned to students at their externship sites should meet as many of the following criteria as are consistent with the educational goals of the externship. The work:

a) is substantial legal work, appropriate for students, including more advanced work for students as they become more capable;

b) consists of the authentic work of the placement, and does not include work assignments created solely to occupy the student without reference to the work demands of the office;

c) is appropriate to the student and law school educational objectives;

d) places students in the lawyering roles to the extent possible, which may include:

i) a primary counsel role, subject to relevant student practice rules, and/or

ii) a supporting role, in which the student engages in collaborative work with the supervising attorney, and/or

iii) a role in which the student is given opportunities to observe experienced lawyers or judges performing complex tasks and tasks that are beyond the scope of the student's current capabilities and to discuss those observations with mentors;

e) provides the student with an understanding of all aspects of the work of the placement; and

f) exposes students to decision-making on active cases or problems, whether through staff meetings, conversations with mentors and other attorneys, or other collaborative work processes.

Standards for supervision should communicate to supervisors that they are expected to:

a) understand the educational objectives of the externship course or program;

b) provide an orientation to the resources and mission of the placement site;

- c) assist students in developing appropriate individualized educational objectives that are appropriate to the work of the field placement and that take advantage of all of the experiences the placement has to offer to students;
- d) assign work consistent with the principles stated in this document;
- e) encourage students to evaluate their field experience critically and regularly engage the student in constructive critical evaluation of the student's field experience;
- f) observe or review student practice at regular intervals, and provide constructive feedback on student performance designed to improve student skills and understanding;
- g) provide constructive evaluation to students about their general professional development;
- h) regularly communicate with the externship faculty about student progress;
- i) model the reflective and conscientious practitioner and welcome questioning of aspects and techniques of practice.

Number Involved in Field Placements from ABA Official Guide to Law Schools:

1998	16,762	(1996 report)
1999	17,665	(1997 report)
2000	15,654	(1998 report)
2001	14,814	(1999 report)
2002	13,781	(2000 report)
2003	13,202	(2001 report)
2004	13,518	(2002 report)
2005	14,849	(2003 report)
2006	17,343	(2004 report)

Student Journal Reflections:

One 3L Student:

I have now worked at a law firm, in a government office, for corporate in-house counsel, as a research assistant for a law professor, and at a court.

Student in small Idaho law firm:

I have had three great mentors who have a diversity of experience and who have taken time to instruct me, not just on the law, but on the profession of being a lawyer. I have been exposed to everything from criminal prosecution/defense, and the guardian ad litem, to adoptions, to divorce, to water law, to real estate, to corporate law, to trusts, to probate, and to litigation.

I truly enjoyed seeing clients and working with them, along side the attorneys

I had great access to my supervising attorney and his partners. I almost feel bad about how much time they took to discuss matters with me because I know they were losing money each minute they did. Yet, they never mentioned it and in my estimation, went above and beyond the call of duty. I began to learn the lingo of the law in my conversations.

I have recounted in my journals many of the conversations I've had with the attorneys. I cherish these opportunities, not only for their substantive lessons, but for the opportunity to become indoctrinated and to begin the process of truly becoming an attorney and a member of a noble profession.

Student with a federal circuit judge:

I learned that a lot is expected of the clerks and the interns. I learned that the judge wants me to tell him how the case should come out, or how he should decide. That was surprising and somewhat of a shock, but upon further reflection I decided that it was actually a really cool thing. I get to be the first person at this level of the process to get into the case in depth. I will know more about what is going on in that particular case than the clerks and probably even more than the judge. When the argument week approaches, I will be the one the judge turns to for any questions about that case, and I will explain the case and give my opinion to the whole staff when we get together to discuss the cases. I learned that I am in a very interesting and responsible position.

Student with a mid-sized law firm:

I am learning so much and the firm's attorneys are so willing to take the time to teach me. I am working on due diligence almost non-stop, which it seems is part of this type of the law. They are allowing me to have a first glance at the due diligence books and then report to them about things that I find peculiar, interesting, or inaccurate. From there, we talk about what I've seen and what I may have possibly missed in my review of the materials. The feedback is really encouraging and I am learning so much.

Student with a federal judge:

I was very impressed with the Judge and the amount of time and care he took in reviewing my report. We sat in his chambers for about 30 minutes and talked about the report, the legal arguments that I made, and the manner in which I made them. It was great to go line by line through my work to receive feedback and to learn from the judge the way that he would have done it and why. This was a terrific experience for me. I realize that not many students have the opportunity to receive that amount of feedback from a judge, and I was extremely grateful for it. After we reviewed my work, I made the appropriate changes and resubmitted the report to the Judge. When I went in yesterday to finish up some scheduling orders, he sent me a copy of my order with his signature on it. That was thrilling for me. It was a great experience to see my work with the Judge's signature on it. Of course, I cannot claim all the credit and say that it was solely my work, because I received substantial feedback and recommendations for change, but I wrote the report and did all the research for it.

Student with a large Chicago law firm:

Of all the skills I have learned so far, I feel that I am now better equipped to communicate with attorneys, ask questions, and elicit feedback and advice for various projects. My first project was quite rough because I did not really know what I was looking for and did not receive an adequate amount of instruction. Since I have struggled through the process once, I now know better what questions to ask about different projects, their format, content, and time constraints. If I could work on my first project

again, I would make sure to ask questions about the legal issues involved, clarify the facts of the case, and ask for more advice about a research strategy at the outset and as different issues and problems arose.

Student with a state attorney general's office:

My supervisor took me into his office, sat me down, and gave me my first assignment. He spent an hour walking through it with me and making sure I understood what I was to do. And that kind of thing happened all day. The attorneys have invited me in and explained the cases that we're working on. I'm in the know, which I didn't think an extern would necessarily be. By being so friendly they've created an atmosphere of cooperation and interest.

Student with a small firm in Arizona:

I was asked to draft a demand letter and an offer of judgment for one of the main cases I will be assisting with this summer. To begin with I thoroughly reviewed the client's file so I could have a grasp of what is going on in the case and find out what point we are at in the litigation process. The biggest lesson I learned from this project was that I need to have confidence in my abilities despite my lack of legal experience. I came to this conclusion when I reviewed the file and found a letter from the opposing attorney that I thought misapplied a pertinent statute in a way that was detrimental to our client's case. When I came across the judge's minutes and discovered that the judge applied the law in the same way, I almost dismissed my suspicions because I assumed that I, not two experienced legal professionals, was more prone to make a mistake in understanding the law. I finally got up the guts to point out the indiscretion to my supervising attorney to ask him his opinion. He reviewed the statute and judge's minutes and said that he thought I might be right. This was encouragement enough for me to pursue the issue further. I spent the next day researching pertinent statutes and case laws to see how AZ courts have applied the statute and others like it. After a lot of research and some digging it looks like I was right. My supervising attorney was really impressed at it seems as if this could be clutch in us winning the case. He has begun drafting a request that the judge review her ruling and has cited mostly to the cases that I have uncovered. This has definitely increased both my confidence and enthusiasm for the work that I'm doing because I realize that my attorney gives real weight to my ideas and that the work that I'm doing can make a difference for both the firm and our clients.