

From: Rebecca Rosenfeld
Sent: Friday, April 18, 2014 11:02 AM
To: Clark, JR
Subject: Comments opposing the proposed change to Interpretation 305-3

Mr. Clark:

I am writing to urge the Committee to reject the proposed change to Interpretation 305-3.

As the Committee appreciates, Interpretation 305-3 currently allows schools to support both paid and credited opportunities for law students. In paid employment, students earn money that can help to offset the cost of law school while learning to meet employers' legal needs in a work environment. In credited externships, students enjoy deep learning opportunities with supervising attorney-mentors who spend extra time answering questions, exposing students to the broader implications of their work, and providing the highly educational practices of shadowing and observing.

I oppose the change because it is likely to decrease public-interest participation in valuable externships, especially for students who are making up their minds about whether to pursue careers in public service. A career supervising attorney at New York City's largest legal aid office has advised me that her agency will not be able to create paid positions. Another public-sector externship employer voiced the concern to me that he would be unable to fill his organization's volunteer externship positions if forced to compete against paid positions. I believe that the opportunity to receive pay would induce students to take paid positions in-house (for example, at Chanel or MTV) rather than enroll in credited positions in our nonprofit-based clinics (for example, the Consumer Rights Field Clinic).

Allowing pay for credited externship positions would also undercut the pedagogical focus of the externships and reduce the quality of the skills training provided. One attorney in a high-end shoe manufacturer who supervises students year after year in Cardozo's in-house externship program explains that if pay were provided to the externs, she would reduce the number from four students per term to one because the firm would need to insist on greater productivity from the student who is an employee. Similarly, a Cardozo alumna at a global fashion house wrote me that the firm would no longer be able to place students in their general counsel's office -- if required to pay student externs, the long ramp-up time for students to become sufficiently productive and efficient would outweigh the benefit of having them. Externships for the benefit of the student are a completely different animal from paid labor for the benefit of the employer.

The current system doesn't proscribe paid employment. Paid employment is a good thing. Students can do paid internships and credited externships at various points in their law school careers. The two opportunities serve different needs and accomplish different goals. The Carnegie Report and numerous subsequent commentators have emphasized the importance of values and skills learning in experiential legal education. Externship courses geared towards teaching critical self-reflection arm students with essential tools to enrich their careers and our society. Credited externships should be on a parallel course with paid work, not conflated with it.

As so many have noted both within and outside of the profession, the law school community needs to expand its efforts to teach students the values of the profession, especially in an era in which millions of people in our state courts have no access to legal assistance. The proposed change to Interpretation 305-3, by removing the prohibition on paying students for credited work, seems especially ill considered in that it is likely to draw students away from organizations and externships that effectively teach values and skills, increasing access to justice and inspiring students to pursue careers in public service.

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