Thank you for collecting comments.

I am writing to add my voice to those opposing the elimination of Interpretation 305-3, the paid externship rule.

I have been a law professor for 25 years, teaching primarily in-house clinic and other lawyering courses but for the last six years, I have taught the majority of the externship courses at Quinnipiac. We have a highly structured externship program, and offer our students a wide array of opportunities in the full range of placement settings, including some for-profit corporate law offices and law firms. We have careful faculty oversight of the placement process and the monitoring of the quality of the education at the site.

I believe that the ban on paid externships has been a crucial and positive feature for my externship teaching. I am concerned that its elimination will undermine my authority and ability to assure high quality, credit-worth educational experiences, particularly in certain categories of externship settings, and will distort the enrollment choices of students -- offering in exchange little financial gain to students. Mounting student debt is a real concern, but paid externships are not even part of the answer.

For the majority of my placement sites, payments for externs would never be an option (e.g., government, legal aid, and other public interest legal settings). Of course, at those places, other pressures often exist that can undermine the quality of the assignments, feedback, and overall educational experience for students. As a result, our school developed a number of features to assure that students were getting their tuition money's worth, whether they are at their site for 10 hours a week or over 20 hours. The “bargain” is free help but only so long as the student's educational needs are met. I know I essentially am asking supervisors to give more than they will get, and am able to speak with insider knowledge, having been an in-house professor. Not everyone is willing, or able, to be such a mentor. Being a distinguished lawyer or judge does not always translate into effective externship supervision. I am always enormously grateful when good folks step up to the plate to help educate the next generation of lawyers, and I am happy to report, there are many such good people.

When it came time to expand our program into the private sector as a way to broaden student learning opportunities, we carried over the same methods, standards and expectations to ensure educational value to our students. It worked just as well there. I have met extraordinary mentor-minded lawyers in just about every placement setting. In light of the FLSA/Department of Labor requirements which require that unpaid internships be centered around the educational experience, I have been successful in resisting pressure from less-able supervisors and students to approve awarding credit for low quality educational experiences. I see the DOL requirements as a positive incentive and have structured our program to assure we meet them. I have no qualms about reminding supervisors that the student is paying tuition for the privilege of “working” for free for the lawyer, and that it is my duty to assure the student gets her money's worth. We are then all on the same page.
I remain sensitive to the enormous financial pressure facing law students. However, permitting paid externships will be little more than a drop in the bucket for a small percentage of students -- and yet, its potential for rippling negative impact far outweighs the financial gain. CLEA’s position paper ably articulates my reasons: essentially, (1) I would lose my ability to “oversee” the quality of an employee’s experience at the placement, and (2) some students would be more likely to shift their enrollment choices to paid opportunities, without thought of what might be better for their educational progression.

I offer an anecdote from my site visits just this last week illustrating the different kinds of experiences students often have, depending on the “paid” status. A 2L student extern interested in family law has spent 15 hours per week at a family law small firm. One particularly mentor minded partner has taken responsibility for the student, and the student has had a ring-side seat to all the best opportunities, in and out of court, and has worked on interesting projects that are assigned based solely on his personal learning goals. The student has done so well that the firm has offered him a paid clerk position for the summer. Now, however, the student will work on projects as needed by all three lawyers. While I have no doubt that the summer will offer him additional learning and be of value, he will spend the majority of his time at a desk all summer, working on repetitive projects relating to documents and discovery, and will be expected to take assignments based on the firm’s needs, not his. I asked the partner whether the student would be attending court this summer; the partner chuckled and said “Only if one of us needs him to carry our bags; I can't afford to pay him just to learn. That was what his externship was for.” This lawyer's response was typical and wholly appropriate. For me it illustrates the extraordinary gift that mentor-minded lawyers are willing to give to be part of the educational endeavor through externships. I simply cannot expect such a lawyer to pay the student and at the same time to give of his/her time and energy to make the student’s needs the primary concern.

I urge the ABA Council not to revoke Interpretation 305-3.

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