

FULFILLING SKILLS AND WRITING REQUIREMENTS IN EXTERNSHIP

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Although nearly all law schools have adopted academic rules to meet the American Bar Association (ABA) Standards' skills and writing curriculum requirements, relatively few allow writing or skills performances by students at externship field placements to count in fulfilling those mandates, as revealed in a survey conducted by the author. Objections to recognition include concern for fair assessment, faculty supervision, and academic content. In this article, each objection is examined from the perspective of how students learn skills while participating in a practice setting within a law school externship program. While students may learn legal writing and other skills in externship in ways that differ from how students learn in a traditional classroom context, some of these differences represent professional development opportunities. Externship faculty can design ways to comply with their law schools' requirements that acknowledge practice-based professional development based on how students learn from experience. The ABA's newly announced Revised Standards for Accreditation of Law Schools, approved in August 2014, after the completion of the survey, should have a positive impact on these efforts in regard to recognizing professional skills learned in externship; their impact on recognition of writing experience in externship is unclear. Nevertheless, working toward greater academic recognition of writing and other skills in externship is an appropriate goal for externship faculty. Achieving recognition would help inform students of the value of experiential education.

INTRODUCTION

Responses to a survey distributed by the author show that a significant percentage of law schools do not allow skills performance at externship placements to fulfill academic rules mandating law student enrollment in skills courses and almost none allow writing at extern-

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ship placements to fulfill academic requirements for upper level writing.¹ Section I of this Article provides data that detail this pattern and the principal objections to granting such credit. Section II critiques these objections and advocates strategies to support recognition of skills and writing in externship, principally by asserting the educational value to law students of the substance and process of learning skills in a practice setting.

In August 2014, the American Bar Association (ABA), charged with setting and regularly reviewing accreditation requirements for most law schools nationwide changed its standards, including the requirements for skills and writing education.² Prior to that date, and during the time period of the survey reported on in this Article, the standards were somewhat different. The prior version of Standard 302 mandated that law schools teach “skills necessary. . .to the practice of law,” so that “each student receive substantial instruction in. . .professional skills generally regarded as necessary for effective and responsible participation in the legal profession”³ and that each student receive “substantial instruction in. . .writing in a legal context, including at least one rigorous writing experience . . .after the first year.”⁴ While there were ambiguities in the interpretation of the ABA Standard that set out these educational requirements,⁵ the core meanings were reasonably clear. With regard to skills other than writing, law schools had to provide skills instruction, which could be provided in various ways, not necessarily in a required course. However provided, “each student” was to be “engaged in skills performances that are assessed by an instructor.”⁶ With regard to writing, in addition to a first-year requirement, law schools were required to provide every student with “substantial instruction in. . .writing in a legal context, including. . .at least one rigorous writing experience after the first

¹ Survey, “Skills teaching in Externship” conducted via SurveyMonkey at <http://www.surveymonkey.com/s/PP9WMVM> (July 19, 2013), and distributed via *lextern*, the externship listserv (Aug. 27, 2013) (analysis of results on file with author).

² ABA Revised Standards for Approval of Law Schools (August 2014) [hereinafter ABA Revised Standards], available at http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/201406_revised_standards_clean_copy.authcheckdam.pdf.

³ ABA Standards and Rules of Procedure for Approval of Law Schools, Standard 302(a)(4) (2013-2014) [hereinafter ABA Skills Standard], available at http://www.americanbar.org/groups/legal_education/resources/standards.html. As noted *supra* note 2, these Standards were revised in August 2014.

⁴ ABA Standards and Rules of Procedure for Approval of Law Schools, Standard 302(a)(3) (2013-2014) [hereinafter ABA Writing Standard], available at http://www.americanbar.org/groups/legal_education/resources/standards.html.

⁵ Harriet N. Katz, *Evaluating the Skills Curriculum: Challenges and Opportunities for Law Schools*, 59 *MERCER L. REV.* 909, 913-17 (2008).

⁶ ABA Skills Standard, *supra* note 3.

year.”⁷

As a result, academic requirements mandating student completion of courses involving lawyering performance and upper-level rigorous research and writing have become nearly universal among ABA-accredited law schools. Well-designed externships—fieldwork supervised by practicing lawyers or sitting judges and monitored by law school faculty—seem like obvious choices to meet these requirements, providing challenging real-world experience in these essentials of lawyering. Yet not all law schools allow externship to meet the skills and writing requirements.

Respondents to the author’s survey offered several reasons for law schools’ reluctance to recognize skills or writing in externship. These included a lingering suspicion about the quality of learning in law offices, a cautious view of requirements set by the ABA Skills and Writing Standards, and a conceptual conflict between traditional academic perspectives about how to teach and assess learning and common characteristics of how novices learn in a professional setting. In addition, the divided supervision between the student’s practice setting and on-campus resources, such as classes or tutorials, in most externship programs, creates legitimate challenges in assessing skills or writing learning in externship, especially, but not only, when common academic criteria are applied.

This Article reports information from ninety-one law schools on their practices regarding recognizing skills or writing in externship, including the views of the respondents as to the reasons for these practices. The Article examines concerns about whether externship can legitimately “count” as skills or writing education, taking into account how law schools currently define these educational goals, and the acknowledged challenges of evaluating student learning in externship. It discusses how a law school can manage these concerns so that performance-based skills and legal writing in externship can be recognized. The Article proposes strategies to increase recognition of skills and writing learning in externship: modifying existing rules while striving to bring externship education into line with traditional expectations, establishing separate criteria for recognition that are built on how students learn skills and legal writing in externship, and supporting more significant changes in legal education. The Article concludes by considering how externship faculty might prioritize advocacy on this issue among other concerns.

In August 2014, after the survey was completed, the ABA approved changes to the Standards that modified somewhat the skills

⁷ ABA Writing Standard, *supra* note 4.

and writing education requirements. The Revised Standards continue to mandate teaching skills and writing in the law school curriculum. However, Revised Standard 302 focuses on educational goals, as opposed to curriculum design; law schools are mandated to establish skills and writing “learning outcomes” instead of providing “substantial instruction.”⁸

Specific curriculum requirements for skills and writing appear in Revised Standard 303.⁹ The new writing standard continues to require two writing experiences, one in the first year and one later; as before, both are to be “in a legal context.” The word “rigorous” has been omitted from the Standard but remains in an Interpretation that offers criteria for evaluating whether a writing experience is “rigorous.”¹⁰ The requirement of faculty supervision for writing has been moved from an Interpretation to the Standard itself, with the word “faculty” replacing “instructor.”¹¹ Previously, an Interpretation stated that skills performance was to be “assessed by an instructor” – however, as currently published, the Revised Standard does not include that Interpretation.¹² Skills are explicitly teachable in “experiential” courses, including externship, and skills teaching must provide multiple opportunities for performance and opportunities for self-evaluation.¹³

⁸ Revised Standard 302 states as follows:

LEARNING OUTCOMES

“A law school shall establish learning outcomes that shall, as a minimum, include competency in the following: . . .

(b) legal analysis and reasoning, legal research, problem solving, and writing and oral communication in the legal context; . . .

(d) other professional skills needed for competent and ethical participation as a member of the legal profession.”

ABA Revised Standards, *supra* note 2.

⁹ Revised Standard 303 states as follows:

CURRICULUM

“(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following: . . .

(2) one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty supervised; and

(3) one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or a field placement. To satisfy this requirement, a course must be primarily experiential in nature and must:

(i) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302;

(ii) develop the concepts underlying the professional skills being taught;

(iii) provide multiple opportunities for performance; and

(iv) provide opportunities for self-evaluation.”

ABA Revised Standards, *supra* note 2.

¹⁰ ABA Revised Standards, *supra* note 2, Interpretation 303-2 (this Interpretation is comparable to former Interpretation 302-2).

¹¹ ABA Revised Standard 303, *supra* note 9.

¹² *Id.*

¹³ *Id.*

Survey responses are examined below in the light of the previously applicable Standards; suggestions about how to proceed in the future are considered in the light of the Revised Standards. Although the Revised Standards are effective as of August 12, 2014, a transition plan published by the Section of Legal Education and Admission to the Bar prescribes steps for applying them in accreditation reviews over the next several years as new students are admitted to law schools.¹⁴

I. WHERE WE ARE TODAY: EXTERNSHIPS AND SKILLS AND WRITING EDUCATION IN 2014

A. Overall Survey Results

Among the sample of externship programs whose faculty responded to the author's survey, almost no law schools credit writing done in externship placements as fulfilling a "rigorous writing" standard. Only slightly more than half of the responding law schools credit "skills" performed by externship students as fulfilling a skills requirement. Reasons for this pattern reflect traditional academic attitudes, as well as concerns about how to assess what students learn in externship experiences.

Information from ninety-one law schools was provided by members of the externship faculty listserv *lextern* between August 2013 and February 2014.¹⁵ Respondents were asked whether their law schools had a mandate for students to complete a skills course as a way to implement the ABA Skills Standard, whether externship courses counted in fulfilling this mandate, and if not, why not. Next, respondents were asked whether their law schools had a mandate for students to complete an upper-level rigorous writing requirement to implement the ABA Writing Standard, and again, whether writing done at an externship would count, and if not, why not. Follow-up email or personal conversations helped to augment or clarify a number of responses.

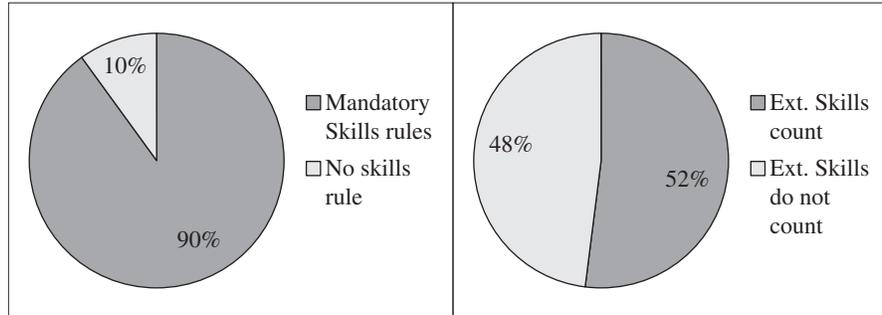
With regard to skills, 90% (eighty-two law schools out of ninety-one) of the responding schools, mandated that each student complete at least one course teaching skills.¹⁶ *Figure 1*. Of these eighty-two

¹⁴ ABA Section of Legal Education and Admissions to the Bar, "Transition to and Implementation of the New Standards and Rules of Procedure for Approval of Law Schools" (August 13, 2014), *available at* http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2014_august_transition_and_implementation_of_new_aba_standards_and_rules.authcheckdam.pdf.

¹⁵ Survey, *supra* note 1. Percentages for all data are rounded.

¹⁶ In addition, one school (Mississippi College of Law) does not have a skills mandate, but encourages students to complete skills courses and includes externship in the list of

schools, 52% (forty-three law schools) allow students to count skills performed in externship placements to fulfill that requirement. *Figure 2.*



FIGURES 1 AND 2: SKILLS RULES IN LAW SCHOOLS

For the remaining 48% (thirty-nine schools)¹⁷ that do not count externship as a skills course, respondents who supplied a reason said that students fulfilled their skills requirement by enrolling in one of a limited number of specially designated courses (eight responses, or about 20% of the “no credit” responses), or that skills credit was only available for courses where the practice skill was supervised by faculty (five responses, or about 13%). To be sure that the skills information reflected recognition of fieldwork, as opposed to classroom assignments, follow-up questions posed to respondents from the “yes” schools asked them to confirm whether the recognized skills were performed at the placement under the supervision of the field supervisor. Respondents who confirmed that the credited skills were performed at the placement and supervised by attorney-supervisors often provided guidance to field supervisors on how to offer multiple opportunities for student skills experience, provide feedback, and evaluate student performance. A few law school respondents clarified that the skills recognized in externship were practiced in the classroom using simulation problems, due to a belief that skills must be assessed by faculty in order to comply with the ABA Skills Standard. These schools were re-coded as not recognizing skills in externship. *Figure 3.*

With regard to writing, every respondent stated that their law

approved skills courses. The Skills Standard does not explicitly mandate that law schools require every student to enroll in a skills course. ABA Standard 302(a)((4), Interpretation 302-3, *supra* note 3.

¹⁷ This number includes three law schools that reported that skills count based on simulation exercises done in the externship class, and not work on done at the placement; the author coded these as a “no” for skills in externship.

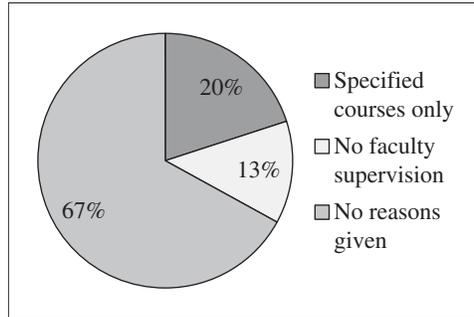
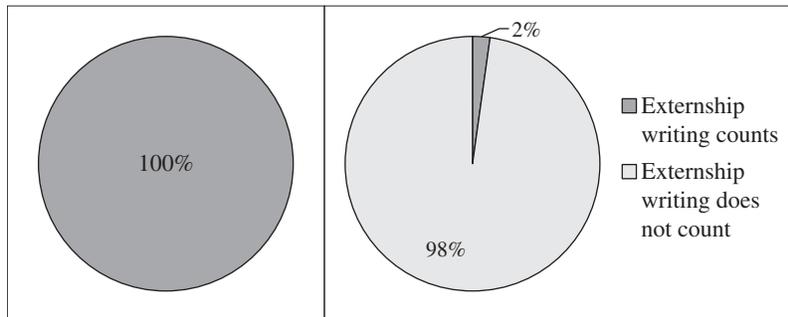


FIGURE 3: WHY EXTERNSHIP SKILLS PERFORMANCES ARE NOT ACCEPTED IN FULFILLMENT OF SKILLS RULES

school requires each student to produce upper level rigorous writing. *Figure 4*. Only two schools (2%), however, allow externship students to fulfill this requirement through writing done at their placements, such as briefs, opinions, or policy analyses. *Figure 5*. The no-credit category includes three law schools that had reported that writing in externship counts, but only for academic papers on a topic deriving from the externship experience and written under the supervision of the law school’s externship faculty; these were coded by the author as “no” for writing in externship.



FIGURES 4 AND 5: WRITING RULES IN LAW SCHOOLS

For the remaining eighty-nine law schools (98% of the respondents), principal reasons cited by respondents for not counting writing were that upper-level writing had to be supervised by a faculty member (twenty-one respondents, or 24% of the no-credit law schools), or scholarly (eight respondents, or 9% of the no-credit law schools), or both faculty-supervised and scholarly (twenty-two respondents, or 25% of the no-credit law schools). In sum, therefore, a total of fifty-one respondents (57% of the no-credit law schools) cited rules requir-

ing either faculty supervision, scholarly writing, or both. At eight additional schools (9% of the no-credit schools), students were required to select from a list of designated upper level writing courses, a practice that may also reflect a preference for faculty supervision. The remaining no-writing-credit respondents, about one-third of the total responding law schools, did not indicate a reason for not crediting writing done at externship placements. *Figure 6.*

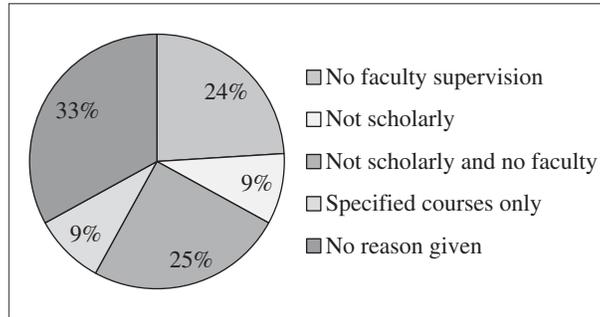


FIGURE 6: WHY EXTERNSHIP WRITING IS NOT ACCEPTED IN FULFILLMENT OF WRITING RULES

As a comparison, a similar but more detailed question was asked in the annual survey of legal writing conducted by the Legal Writing Institute (LWI).¹⁸ In the 2013 LWI survey, respondents from 190 law schools reported that at 174 out of the 190 schools, students were required to complete an upper-level writing course. Of the 174, eighty respondents (46%) stated that required upper-level writing must be “scholarly.” However, respondents from many other schools reported that several forms of practice-based writing were acceptable for completion of writing requirements, including legislative, transactional, or litigation drafting, and “advanced advocacy” materials.¹⁹ To be consistent with data in the author’s survey, this information may reflect writing in various other on-campus courses, including clinics and practice-oriented subject matter courses. Given the apparent acceptability of practice-related materials for writing credit, it is possible that at many law schools, externship faculty have not given any real consideration as to whether they would succeed in advocating that practice-based

¹⁸ “The Legal Writing Institute (LWI) is a non-profit organization dedicated to improving legal writing by providing a forum for discussion and scholarship about legal writing, analysis, and research. . . through. . . publications, workshops, [and]. . . conferences.” LEGAL WRITING INSTITUTE, <http://lwionline.org/> (last visited August 25, 2014).

¹⁹ Association of Legal Writing Directors and Legal Writing Institute, *Report of the Annual Legal Writing Survey 24* (2013), available at <http://www.lwionline.org/uploads/FileUpload/2013SurveyReportfinal.pdf>.

writing at externships should count toward writing requirements. Possibly, writing credit for at least some kinds of writing done at externship could be recognized if advocated.

With regard to both skills and writing, comments offered by respondents on the author's survey form or in subsequent exchanges with the author explained their law schools' policies in various additional ways. Some respondents cited the newness of their externship program, such that policies are not fully developed yet. Some stated that there were enough opportunities for writing in the curriculum that externship students, who are generally third-year students, have already met these academic requirements. Several respondents mentioned concerns about the variability of individual student experience, due to uneven assignments and supervision among placements, as reasons to refrain from crediting writing or skills done by every externship student in a class. In addition, some mentioned that writing for use in a law office or judicial chambers was likely to have significant input from others and not be wholly original to the student, a practice regarded by these respondents as inconsistent with credit for the student's work.

No obvious differences among law schools appeared to correlate with the data. The author compared responses from law schools with various *U.S. News and World Report* rankings and saw no difference based on ranking.²⁰ One could speculate whether the status of externship faculty may make a difference. Possibly, a law school is more likely to accept work done by students at externship placements in fulfillment of academic requirements if its externship faculty has traditional or clinical tenure or is in other ways well regarded by faculty and administration. However, this would be hard to determine without very detailed information, and quite likely would present a chicken/egg problem; law schools may establish significant status for externship faculty because they recognize and value, or anticipate and want to support, student achievement in externship.

The survey was sent to the externship listserv *lextern*²¹ exclusively rather than other e-mail vehicles that could reach law faculty more broadly, such as *lawclinic*.²² This limited responses to externship faculty or administrators who are more connected to the national externship community. The results may therefore be skewed somewhat

²⁰ *Best Law Schools*, U. S. NEWS AND WORLD REPORT, available at <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings>.

²¹ *Lextern* reaches externship faculty and administrators and is hosted by Catholic University.

²² *Lawclinic* reaches law school clinicians and is hosted by Washington University School of Law.

in favor of recognition of externship, assuming the connection between respondents and the externship teaching community is indicative of their law schools' commitment to the educational value of externship. This was intentional. The assumption was that data from law schools where the externship faculty are connected with the national externship community would reflect the most developed format for recognition of externship learning. Information from these respondents therefore may not be representative of what is happening at other law schools, which can be predicted to be even less likely to credit skills or writing done in externship.

The survey also asked whether there were additional rules that must be complied with before credit is given for completion of either skills or writing requirements when they are done via externship. This question was posed to gather information about how a law school would verify the bona fides of either skills or writing done by students at a location remote from the law school. At the time, the ABA Skills Standard required instructor assessment, while the ABA Writing Standard required rigor. A law school may have chosen to impose additional precise rubrics to be sure that off-campus instructors such as field supervisors were meeting a reasonable definition of these requirements.

Few respondents stated that their law schools had any such additional rules or policies applying to skills or writing in externship. Two exceptions were Chapman University Fowler School of Law and Rutgers School of Law – Camden, the only law schools responding to the survey that allow practice-based writing supervised by a field supervisor to meet a writing requirement. Chapman requires students to accomplish two writing requirements, one academic and one that is practice-based; the Chapman respondent commented that writing of a sufficient length done at the externship field placement satisfied what they call a practical writing requirement. Rutgers-Camden requires the student's supervisor to verify that the writing meets the requirements of the relevant academic rule, as part of the final evaluation of the student. In addition, the externship faculty must review drafts (which may be redacted) for the purpose of verifying that multiple drafts were produced, but not to evaluate the student's writing.²³ Rutgers asks for similar supervisor verification of a skills

²³ Credit for rigorous writing may be earned at Rutgers-Camden School of Law based on externship work when the student has written material of sufficient length, complexity, quality, and originality, and has revised the product(s) after feedback; the field supervisor must certify these accomplishments as part of the final evaluation of the student; the externship director reviews drafts, redacted as necessary, only to verify that more than one draft was produced. Rutgers School of Law-Camden, Externship Writing Credit, *available at* <https://camlaw.rutgers.edu/externship-writing-credit>.

performance.²⁴

To further explore the landscape of skills and writing in externship, more information might be relevant. Exactly what kinds of writing and other skills are actually performed by externship students at their placements? How demanding are these performances and writing? How independent are the students in skills performance or in creation of written work? In addition to these aspects of the student learning experience, which are likely to directly relate to traditional academic concerns, it would be helpful to determine if a law school has developed a reliable assessment of whether a student's competence has improved as a result of his or her work at the placement.

In short, questions about whether student work at externship placements "count" in meeting ABA Skills and Writing requirements arise from concerns about the substance of the work or performance, the teaching method employed by supervising attorneys, or the reliability of assessment by non-faculty members. Implicitly, critics may be comparing assignments and supervision of students in a law office or judicial chambers to teaching practices in simulation-based skills courses or on-campus clinics or to the norms that apply in exam-based academic settings. Some observations about the most frequently raised concerns follow.

B. Key Issues and Challenges Suggested By The Survey Responses

1. Variable Assignments

Student assignments at externship placements do vary both between offices and among students. Some tasks given to students will require less originality or knowledge than others, raising questions about suitability as a performance of "upper level skills." For example, when a student at a prosecutor's office presents a guilty plea, she learns where to sit, when to stand, and how to be comfortable in the courtroom. Though essentially reciting a script, such a student is proud to have appeared "on the record" and will often report that she has learned a lot about how to appear in court. A law school may reasonably prefer, however, that a performed skill by an upper-level law student be more complex, if it is to count for the purpose of fulfilling a rule based on the ABA Skills Standard. And, in fact, that student will in time handle a more difficult advocacy task, for example, appearing in court on a suppression motion, presenting her law en-

²⁴ Credit for skills may be earned at Rutgers Law based on externship work if the student has repeat opportunities for one or a sequence of skills, performance and feedback are reflected in journal entries and the supervising attorney certifies these factors in the student's final evaluation. Rutgers School of Law-Camden, Externship Skills Credit, *available at* <https://camlaw.rutgers.edu/externship-skills-credit>.

forcement witness and making an argument, while her public defender colleague at the same proceeding cross-examines the police officer and also makes a legal argument.

Similarly, writing assignments can range from compiling case references to composing a coherent predictive memo, persuasive brief, pleadings, or strategic analysis of transaction options. Initial assignments that require relatively straightforward tasks following a prescribed pattern allow the student to become familiar with basics of practice before moving on to more difficult matters. As with skills, it is reasonable to require that if writing credit is earned for tasks performed at an externship placement, the student should tackle increasingly more advanced assignments, as well as receive individualized feedback with opportunities for rewrites.

Uneven student experience across placements, particularly in classes with diverse types of placements, makes it more challenging to award credit in an even-handed way than in a classroom, where students perform lawyering tasks that are calibrated to be comparable. In a simulation course, for example, the faculty has designed problems requiring performances of equivalent difficulty for students on any side of a negotiation, or in various types of interviews, witness examinations, or trial presentations. In on-campus clinics, students may have similar numbers of cases or cases of similar difficulty, although since real clients are involved, some accommodation may be imposed in recognition of different levels of student skill.

2. *Inconsistent Supervisory Feedback*

Learning from practice requires, or is at least enhanced by, some level of feedback from a supervisor and reflection by the learner.²⁵ Supervisors should periodically critique students on their performances and writing. However, feedback from supervising attorneys, whose primary occupation is practice and not teaching, may not match the frequency or level of detail of that provided by faculty in on-campus courses.²⁶ For a written product, does the attorney supervisor instruct students in corrections to be made, or does she discuss principles of good legal writing, point out examples, and review the

²⁵ See Laurie Barron, *Learning How to Learn: Carnegie's Third Apprenticeship*, 18 CLIN. L. REV. 101, 104 (2011) (introducing the idea that students should learn how to be "effectively supervised"). The new ABA Revised Standards similarly require that experiential courses "provide multiple opportunities for performance. . .and self-evaluation." ABA Revised Standard 303, *supra* note 9.

²⁶ See Brook K. Baker, *Learning to Fish, Fishing to Learn: Guided Participation in the Interpersonal Ecology of Practice*, 6 CLIN. L. REV. 1, 75-76 (1999) (enlisting participation and providing timely guidance during a skill performance is relatively more important to the development of a novice's skills than feedback after a performance).

student's work with the assumption that the student will attempt a rewrite herself? Is "good job" enough feedback for a performed skill?

Possibly, practicing lawyers will emphasize techniques and results and devote less time to explicit reflection on theory, although they may understand the theory quite well implicitly. A theoretical foundation of skills competency in interviewing requires understanding the importance of rapport; counseling requires a blend of empathy and objectivity; and negotiation begins with analysis of the bargaining zone. If theory is thought to be helpful in teaching the foundation of skills, its absence is a concern.²⁷

3. *Collaborative Versus Independent Writing*

Traditional academic norms mandate that work for credit be individual and original. But practice-based legal writers often consult an office-approved template and submit their work to the edits of others. There are sound reasons for this. Beginning with prior work grounds advocacy or judicial opinion in consistent positions taken by the office or chambers. Review by others serves to improve the product, reflecting a commitment to the office's reputation and competence. Although collaboration is an accepted and useful practice among lawyers, it is traditionally regarded as undesirable when awarding credit in an academic context. Presumably, this is because the traditional academic goal of assessing student accomplishment is evaluation of the student's ability compared to that of other students as demonstrated by her final product and not evaluation of how she improved her abilities as a result of the process of learning.

4. *Practice-Based Versus Scholarly Writing*

The data confirm that law school faculty frequently privilege scholarly writing over writing for law practice as a work product suitable for every student to accomplish. It is worth noting that the ABA Writing Standard was and continues to be silent on the precise topics suitable for credit, other than requiring writing to be "in a legal context."²⁸ A scholarly writing requirement nevertheless appears to confer credit to a seminar paper, while excluding student writing such as appellate briefs or judicial opinions. It may be relevant that law school faculties regard their own primary purpose as producing scholarship, a perspective that likely influences the definition of student writing.²⁹

²⁷ But see Brooke K. Baker, *Beyond McCrate: The Role of Context, Experience, Theory and Reflection in Ecological Learning*, 36 ARIZ. L. REV. 287, 332-348 (1994) (arguing for a relatively modest role for theory in learning skills).

²⁸ ABA Writing Standard, *supra* note 4.

²⁹ This perspective has been criticized. See, e.g., BRIAN Z. TAMANAHA, *FAILING LAW*

5. *Faculty Supervision*

The strong preference for faculty supervision over writing and skills education might arise from a concern for even-handed quality control. Faculty attuned to the law school's educational goals will, it might be assumed, set appropriately high standards and apply them fairly to all students. Perhaps a professor would focus on teaching and so would assign challenging skills performance or writing assignments and would require a student to complete the task, while a practitioner would assign easier skills so as not to take risks with a case and would take over and rewrite a document rather than taking the time to guide a student in a revision.

II. GOING FORWARD: RECOGNIZING SKILLS LEARNING IN EXTERNSHIP

Law school course requirements both assist students through a generally self-guided program of legal education and signal to them what is valued about their preparation for the legal profession. Arguably, current law school skills and writing requirements, as evidenced by the survey responses discussed above, misdirect students by undervaluing how experiential learning contributes to professional growth. Some combination of strategies would help strengthen recognition of skills learned in externship, encouraging students to appreciate the value of learning in a real practice context.

A. *Strategy I: Fitting Externship into Prevailing Law School Rules*

Externship programs can work toward modest modifications of law school policies or of their own course practices, making compliance possible.

1. *Reduce Inconsistency in Assignments and Supervisory Feedback*

A law school that credits skills or writing in externship would need to manage concerns about variable assignments and uneven feedback. One approach is training externship supervisors, teaching them feedback methods and setting expectations about how to construct assignments.³⁰ In awarding credits for skills or writing, the externship faculty would also need to commit to individual assessment

SCHOOLS, 55-61 (2012) (arguing that while scholarship can be valuable, law schools have emphasized scholarship "above all else" to the detriment of the cost and effectiveness of legal education).

³⁰ See generally Barbara A. Blanco & Sande L. Buhai, *Externship Field Supervision: Effective Techniques for Training Supervisors and Students*, 10 CLIN. L. REV. 611 (2004); Liz Ryan Cole, *Training the Mentor: Improving the Ability of Legal Experts to Teach Students and New Lawyers*, 19 N.M. L. REV. 163 (1989).

of student achievement of skills or satisfaction of writing standards. That is, within the externship enrollment, each student's experience would be evaluated by some concrete, definable criteria, perhaps with a checklist of requirements, certified by the supervising attorney. Tracking the language of the former ABA Standards, this review might consider, for writing, whether the student composed multiple drafts, and for skills, whether the student's skill performance was assessed by an instructor. In addition, the law school may ask supervisors to assess whether student performance was at a level of competence expected of a second or third year student.

2. *Provide Faculty Supervision*

Faculty supervision presents one of the most interesting challenges to an effort to increase recognition of externship skills and writing. Several survey respondents explained that requiring law school faculty to supervise skills or writing comes in part from reliance on the ABA Standards. The official "Interpretations" of the former Skills Standard stated that skills were to be performed by each student and "assessed by an instructor."³¹ The word "instructor" was not defined, but the Standards elsewhere used the word "faculty" in regard to a core of the teaching staff, suggesting that the word "instructor" differs from, and could be more broadly understood than, "faculty."³² At the same time, the Writing Standard required upper level writing to be "rigorous," which may have implicitly supported the idea of faculty supervision. In addition, a law school may have been and may continue to be committed to faculty oversight of skills and writing credits, no matter how the Standards are worded.

With regard to writing, the Revised Standards now explicitly mandate "faculty" supervision of both the first year and upper-level required writing experience.³³ It remains to be seen whether the word "faculty" excludes others with instructional responsibilities such as externship field supervisors, but that may well be the case. The new wording may reflect appropriate recognition of the status of legal writing specialists on law school faculties; it does appear to be consistent with general faculty opinion, as reflected in responses to the author's survey.

³¹ Interpretation 302-3 to ABA Skills Standard 302, *supra* note 3.

³² *See, e.g.*, former ABA Standard 403(a), providing that "full-time faculty" should teach most of the curriculum, while also stating at 403(c) that a law school "should include experienced practicing lawyers and judges as teaching resources. . . ." ABA Standards and Rules of Procedure for Approval of Law Schools, Standard 403 (2013-2014), *available at* http://www.americanbar.org/groups/legal_education/resources/standards.html The revised Standard 403 omits sub-part (c). ABA Revised Standard 403, *supra* note 2.

³³ ABA Standard 303(a)(2), *supra* note 9.

With regard to skills, Revised Standard 303 places important elements of skills instruction, including multiple performances and opportunities for reflection, in the context of mandated experiential education, which includes externship, defined as “fieldwork,” along with clinic and simulation courses.³⁴ The primary argument to make on behalf of credit for skills in externship, therefore, is that this format implicitly acknowledges that supervision in fieldwork is assumed to be appropriate for a skills education experience.

If a law school continues to take the position that direct faculty supervision is necessary for both skills and writing, externship faculty could make the effort to personally observe at least some examples of student skills performance, or read drafts of written material. This practice would have the advantage of increasing the faculty member’s knowledge about each student’s progress toward learning goals. Faculty and field supervisors could share responsibility for assessment. The two may have different standards, but could learn from each other.

Note, however, that the externship faculty member is not a member of the firm for the purpose of access to confidential material.³⁵ Observing skills performed in a setting that is open to the public, such as a courtroom proceeding in regard to an adult criminal charge, would not be problematic. But skills involving discovery preparation, client counseling, negotiation, and many others would present ethical barriers and presumably would not be directly accessible. Alternative ways to assess the skills would need to be developed, such as checklists developed by the faculty member and completed by the student and supervisor. The confidentiality issue could be even more pronounced with regard to written material, as even documents destined for publication, such as court opinions, need to be handled discreetly while being prepared.

Alternatively, a law school could bring field supervisors into the faculty fold by creating adjunct faculty positions, and thereafter advising and mentoring their teaching abilities as for any other adjunct. A number of law schools do structure externship courses so that class-

³⁴ ABA Standard 303(a)(3), *supra* note 9.

³⁵ See J. P. OGILVY, LEAH WORTHAM, & LISA G. LERMAN, *LEARNING FROM PRACTICE: A PROFESSIONAL DEVELOPMENT TEXT FOR LEGAL EXTERNS* 71 (2d ed. 2007) (discussing permissible scope of disclosure for the purpose of mentoring by the faculty member, stating that “neither your fellow students nor your faculty supervisor is part of the attorney-client relationship. . .”); Alexis Anderson, Arlene Kanter & Cindy Slane, *Ethics in Externship: Confidentiality, Conflicts, and Competence in the Field and in the Classroom*, 10 CLIN. L. REV. 473, 482-505 (2004) (framing the issue of confidentiality with more complexity, asserting that students are expected to seek faculty guidance on issues arising in the workplace, including ethical concerns, and therefore need to learn how to discuss case matters in a way that can be educationally valuable, while respecting confidentiality).

room components are taught by supervising lawyers and judges.³⁶ However, while adjunct status for these teachers may be welcomed as a scaffold for improving their teaching, it may not satisfy a requirement for “faculty” supervision.

3. Require Primarily Independent Writing for at Least One Assignment or Draft

Even if a practice-based writing assignment will eventually be edited by others, faculty could review the drafts that are independently written by the student, possibly early in the process, for the purpose of granting writing credit. However, as discussed above, professional responsibility issues also arise if drafts are reviewed by externship faculty. Again, faculty are not privileged to have access to confidential material or work-product. They also may be supervising students in opposing positions, such as public defenders and prosecutors, or legal service attorneys and judges, an additional reason to be careful about disclosure of confidential material. To avoid violation or appearance of violation of professional responsibility norms, materials reviewed by externship faculty would, at least, need to be redacted and, possibly, limited to publicly available documents.

4. Define Writing Assignments that are Both Scholarly and Practice-Oriented

The biggest challenge may be overcoming the widespread law school preference for “scholarly” writing by students. Questioning this commitment implicates the longstanding debate over the purpose of legal education. It appears that law faculty strongly value student efforts to write non-advocacy analyses of a legal issue during their law school career. Given that the ABA Writing Standard language continues to specify that upper level rigorous writing be done “in a legal context,” one reasonable approach to working with an existing writing rule requiring a scholarly product could be to add practice-based writing to requirements, without subtracting scholarly writing. Chapman University Fowler School of Law takes this approach.³⁷

Another approach would be to encourage students to identify a writing topic that could be investigated in a rigorous and scholarly manner, using the broader range of perspectives that would be appropriate for an academic piece, while also oriented to being useful for practice. Many topics can fit this description. How do pension protec-

³⁶ Sudeb Basu & J. P. “Sandy” Ogilvy, *Externship Demographics across Two Decades with Lessons for Future Surveys*, 19 CLIN. L. REV. 1, 30 (2012).

³⁷ Survey response from Externship Director Carolyn Young Larmore (Aug. 27, 2013) (on file with author).

tion laws apply in a changing labor market? Are child custody precedents consistent with the best knowledge about child psychological needs? How are the rehabilitative goals of juvenile court affected by plea bargaining practices? One can imagine many more, in every field, with insights derived in part from student experience at a work setting, as well as from academic sources.³⁸ Ideally, the selected topic would be one that is relevant to the student's placement, so that the supervising attorney would provide an appropriate level of supervision. If not, externship or other law school faculty would need to devote time to working with the student.

B. Strategy II: Embrace and Promote The Distinct Educational Method Of Externship

A second approach recasts some of these objections to crediting skills and writing in externship as opportunities. Faculty could identify the distinct characteristics of practice-based learning, establish standards consistent with the best opportunities to learn from practice, and advocate for this perspective in determining what student field-work counts for skills or writing credits. If the law school faculty as a whole, as the body that decides on academic standards, is not persuaded, the externship faculty can establish separate expectations for students within externship programs, designed to acknowledge how skills and writing can be learned in a lawyering experience. This celebrate-our-differences approach could be augmented, if desired, by establishing a form of recognition of skills or writing within the externship curriculum, with or without a struggle over whether the rest of the faculty agrees.

1. Appreciate Diverse Styles of Supervisory Feedback

To be sure, feedback in law offices often differs from feedback from clinical professors. Supervising lawyers may use methods of guidance that are avoided by on-campus clinical law faculty, including directive instruction, demonstration of a skill, and open collaboration with a student.³⁹ These methods, widely used to develop the professional skills of novices in law offices, can be very effective and are welcomed by students. In addition, students in a practice context, like

³⁸ This approach was suggested by Sarah J. Bannister, Associate Director, Alternative and Public Interest Careers, Center for Career Planning and Professional Development, University of Oregon School of Law, at the author's presentation of this research at Externships 7 Conference, March 1, 2014.

³⁹ See Harriet N. Katz, *Reconsidering Collaboration and Modeling: Enriching Clinical Pedagogy*, 41 GONZ. L. REV. 315 (2005-2006) (documenting patterns of supervision methods and student evaluation of such methods, and encouraging on-campus clinicians to consider expanding their supervisory repertoire).

practicing lawyers, get daily feedback by virtue of the results of their actions, from judges and others, which can be fruitfully discussed in the externship class.

2. *Expect Individualized Learning Through Individualized Assignments*

Varied assignments mean that students are learning at an individualized pace. Ideally, externship students have different experiences among placements, or at the same placement as other students, because supervisors select assignments for each student to match and, over the term of enrollment, to challenge each student's existing capability. This is a strength of externship. However, this pattern may create problems in grading (no doubt, why few externship faculty use letter or numerical grades for fieldwork),⁴⁰ but should mean that each student is learning at her own pace, in contrast to the uniform educational practice in most classrooms. A range of assignments can help students integrate their learning within a framework of client advocacy.⁴¹

3. *Acknowledge the Educational Value of Collaboration in Writing*

A collaborative writing process is a powerful tool for learning to write well.⁴² Like the writing of less experienced attorneys, student writing in a practice context or a judicial chambers will be edited by others. Supervisors in any responsible law office or chambers will work with a student, or for that matter a new associate or law clerk, to produce a final written product that effectively represents a client's goals and consistently protects an office's reputation for competent work. This collaborative process derives from the attorney's obligation to produce work that best serves the goals of their clients, or a judge's obligation to serve the interests of justice. A collaborative ap-

⁴⁰ See Sudeb Basu & J. P. Ogilvy, *supra* note 36, at 28-29 (reporting survey results showing that over 84% of externship students receive pass-fail or credit-no credit grades on their fieldwork hours, a finding that is consistent with other data and previous surveys).

⁴¹ "The first case I worked on taught me an important lesson in ethics as a lawyer. . . The subsequent cases. . . allowed me to apply issues in criminal procedure and evidence that I had only seen in textbooks before. . . a wonderful way to tie together everything I had learned." Journal entry, Kay Chen, Rutgers-Camden School of Law, Spring 2013 (on file with author).

⁴² "The level of collaboration and constructive feedback that I have received on my writing assignments from my supervisor has also been invaluable. I can honestly say that I have learned more about legal writing in the last two months than I did in my first two years of law school. My supervisor and I frequently sit down in his office to discuss ongoing cases and to review and revise my writing assignments. Every time that he revises one of my writing assignments, I am amazed at how much better it becomes. More importantly, I can feel myself becoming a better writer and researcher every day." Journal entry, Kevin Balistreri, Rutgers-Camden School of Law, Spring 2014, (on file with author).

proach to writing is consistent with a focus on each student developing greater writing ability and at the same time learning what lawyers value about good writing in practice.

4. *Acknowledge the Educational Value of the Writing Experience*

The ABA Writing Standard continues to require each student to have a “writing *experience*”⁴³—wording which suggests an emphasis on the writing process, and not on a final product. Novice writers learn from the process of consultation, reviewing and rewriting.⁴⁴ A student required to produce work-product in a collaborative and client-centered manner, receiving feedback or observing and comparing final products with his own drafts, both improves his own writing and internalizes as important lesson in how a law office strives to produce consistent quality work. To monitor student learning as part of a process of writing, journal entries or other short reports could be used to direct students to reflect on how their writing is improving.

5. *Honor the Teaching Role of Field Supervisors*

As noted above, “instructor” was not defined in the ABA Standards that were applicable during the survey period and could be read to include persons with teaching responsibilities other than those with faculty status. Arguably, this category would reasonably have included field supervisors, along with adjunct professors, administrators with teaching responsibilities in their fields of expertise, and others. Workshops, individual consultations, and other forms of teaching training can bring field supervisors into a conversation about teaching methods and goals, furthering this purpose, as well as ameliorating concerns about practicing attorneys’ competence as teachers. It is possible that field supervisors would not be considered “faculty” under the Revised Standards, but externship programs can, nevertheless, continue to recognize how practicing lawyers teach effectively by example and collaboration.

6. *Recognize Complex and Rigorous Practice-Based Writing Exemplars “In A Legal Context” as Equivalent to Scholarly Work*

Material such as briefs, opinions, pleadings, and predictive memoranda are composed and edited with the urgency conferred by knowing that real controversies and litigants will depend on the care with which they are written. Preparing these materials seems very likely to

⁴³ ABA Writing Standard, *supra* note 4, and ABA Revised Standard 303, *supra* note 9.

⁴⁴ RUTH ANN ROBBINS, STEVE JOHANSEN, & KEN CHESTEK, *YOUR CLIENT’S STORY: PERSUASIVE LEGAL WRITING*, 4-6 (2013) (describing “the recursive process of writing”).

provide a rigorous writing experience, as previously defined in regard to upper-level writing. The ABA Writing Standard continues to mandate writing “in a legal context.” Although the word “rigorous” no longer appears in the Standard, it is likely due to the word being deemed not necessary, not because rigor is not desirable.

Put plainly, “in a legal context” might include “scholarly” work but seems unlikely to mean *only* scholarly work. Again, elsewhere, the ABA Standards refer to opportunities for “scholarly research” by faculty⁴⁵ and to policies that define faculty scholarship responsibilities.⁴⁶ Since the word “scholarly” does not appear in the writing standard, it seems unlikely to be the ABA’s intention to require student writing to be scholarly. Of course, as discussed above, the original impetus toward requiring scholarly work from students may come from faculty values and have little to do with ABA Writing Standard.

7. *Champion the Educational Goal of Achieving a Professional Perspective*

As discussed above, traditional academic norms require identical assignments for each student, sole responsibility for the work, and assessment of a final product. The aim in that school context appears to be “fair” grading, but only if grading is primarily to compare students to each other rather than to assess individual student learning. In contrast, students in field placements, as in on-campus clinics or employment, learn to shift their definition of success from getting good grades to meeting client needs and contributing to the mission of their agency.

This non-student perspective is a foundation of professionalism. As in all clinical legal education, developing that professional identity is an important educational goal of externship.⁴⁷ When that goal is appreciated by the student, practicing a lawyering skill is no longer, or not just, a performance or a writing assignment, but a task that the student knows is helping create her long-term character as a lawyer. Fulfilling skills and writing requirements in externship, along with

⁴⁵ Former ABA Standards and Rules of Procedure for Approval of Law Schools, Standard 402(a)(3) (2013-2014), now ABA Revised Standard 402(b), *supra* note 2.

⁴⁶ Former ABA Standards and Rules of Procedure for Approval of Law Schools, Standard 404(a) and (a)(2) (2013-2014), now ABA Revised Standard 404(3), *supra* note 2.

⁴⁷ See WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND, & LEE S. SHULMAN, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 28, 126-61 (2007) (commonly known as the “Carnegie Report”). See also American Bar Association Task Force on the Future of Legal Education, Report and Recommendations 26 (Jan. 2014) (“The educational programs of a law school should be designed so that graduates will have . . . some competencies in delivering. . . some legal services.”), available at http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.authcheckdam.pdf.

other assessments and curriculum design, should support that transition.

III. STEPS TOWARD RECOGNITION? OR TOWARD MORE RADICAL CHANGE?

The two strategic approaches suggested here are not exclusive. To gain maximum flexibility and results, it seems that several steps can be taken. With regard to law school governance, externship faculty should take an active role in crafting skills rules and curriculum planning at their law schools, working cooperatively with others, especially legal writing and other clinic faculty. Within an externship program, faculty should identify writing and other skills learned in each externship placement, determine reasonable expectations for how the student experience of those skills may be evidenced and assessed, create appropriate assessment tools, and communicate those expectations to students and supervisors.

Either strategy would be most likely to succeed if externship faculty participate in the process of drafting law school academic rules. At Rutgers, for example, the author was on the committee to draft her law school's current skills and writing rules. That circumstance may be another chicken/egg situation, though. If there had not been an intention of broadly including practice-based lawyering as the source for recognizing quality skills or writing instruction, the Dean would not have appointed the author, along with other clinical and nonclinical faculty who support skills education, to the 2007 committee charged with drafting a new rule establishing a skills requirement and a revision to the academic rule on writing requirements.

In addition, externship faculty are poised to support more significant changes in law school academic structure as part of the "experiential education" the ABA now mandates. A deluge of critical opinions on the state of legal education has asserted a serious gap in preparing law students to be practice-ready, or to put this concern another important way, to prepare students to be "client-ready."⁴⁸ In response, the ABA has required that law schools provide "substantial opportunities" for "law clinics or field placements."⁴⁹ In addition, the newly approved Standard 303 mandates experiential education for every law student, broadly defined to include clinical, field placement, or simulation courses.⁵⁰ Other changes in law school curricula are also being discussed by both the ABA and by legal scholars in the light of

⁴⁸ Ruth Anne Robbins, *Law School Grads Should be Client-Ready*, NATIONAL L.J. (Feb. 18, 2013).

⁴⁹ ABA Revised Standard 303(b)(1), *supra* note 2.

⁵⁰ ABA Revised Standard 303(a)(3), *supra* note 9.

changes in the economics of law practice and of law schools.⁵¹

Before the 2014 reforms, many law schools did not wait for the debate on the new proposal to be resolved, but moved ahead independently of a national mandate, providing access to experiential education for every law student.⁵² Some initiatives take the form of requiring or making opportunities available to each student to enroll in clinic or externship, establishing capstone courses that combine process and substantive law in a sophisticated simulation, or other innovations.⁵³

These recent developments suggest that this “join-the-revolution” strategy emphasizing substantial experiential requirements will bring fieldwork to the fore. Externship faculty who understand the educational value of externship can stand up for recognition of its unique methods of teaching writing and other professional skills. Along with thoughtful implementation of modifying rules and embracing educational differences, externship will be recognized as a valuable resource in skills and writing instruction.

IV. SHOULD SEEKING WRITING AND SKILLS RECOGNITION BE A PRIORITY?

Students learn writing and other skills in externship fieldwork experiences, which demand a level of expertise situated in a real practice or judicial context. Yet law schools often fail to recognize this learning in their academic requirements. Does it follow that externship faculty should make achieving this academic recognition a priority?

In some ways, the status quo may be beneficial to student learning. If required to earn writing or skills credits in other courses, externship students are exposed to writing and skills in multiple settings in addition to externship, such as simulation courses, on-campus clinics, advanced writing courses taught by the legal writing specialists on

⁵¹ Report and Recommendations of the American Bar Association Task Force on the Future of Legal Education (Jan. 23, 2014), *available at* http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.authcheckdam.pdf. *See also* Katherine R. Kruse, *Legal Education and Professional Skills: Myths and Misconceptions About Theory and Practice*, 45 *McGEORGE L. REV.* 7, 23 (2013) (examining how the law school curriculum can be better “integrated,” “progressive,” and “collaborative” between doctrinal and skills teaching).

⁵² *See* Karen Tokarz, Antoinette Sedillo Lopez, Peggy Maisel, and Robert Seibel, *Legal Education at a Crossroads: Innovation, Integration, and Pluralism Required!*, 43 *WASH. U. J. OF LAW AND POLICY* 11, 45-47 (2013).

⁵³ *See id.* (listing twenty-three law schools requiring clinic or externship for every student and fourteen explicitly guaranteeing each student a seat in clinic or externship, based on a survey conducted through October 2013, and noting that many other schools de facto provide clinic or externship opportunities for every student but do not explicitly guarantee each student a seat in those courses).

the faculty. Current rules may also steer students to courses focused exclusively on rigorous upper-level writing experiences. Perhaps upper level writing curriculum policy should be weighted in favor of courses taught by legal writing experts, including both legal writing faculty specialists and doctrinal faculty who are skilled at mentoring writing. This may be especially valuable if, as is typical, a law school requires only one such course.⁵⁴

The status quo may also modestly support a core value of externship. Externship pedagogy stresses continued learning as an important element of professional development. Ideally, externship students learn to embrace commitment to continued improvement in their skills by learning from experience.⁵⁵ Learning their craft without attention to getting comparative grades or completing a checklist of course requirements may help communicate that professional perspective. Arguably, formal recognition of skills and writing learned in fieldwork, however much merited, nudges externship students away from a client-centered perspective, in which responsibly meeting the needs of the client is the measure of success, and back toward the school-centered view of what is valued in education. Would that structure subtly undermine this feature of the externship experience?

In addition, externship faculty have competing priorities. With regard to law school policy and administration, faculty may be advocating for adequate credits for fieldwork, improved coordination with clinic, pro bono, and other community outreach, and secure faculty status. As they teach externship courses, faculty are considering whether to prioritize time for site visits facilitating supervisor consultation and development,⁵⁶ outreach to increase placement opportuni-

⁵⁴ Schools that mandate that writing requirements be met only in a designated upper level writing courses include Villanova University School of Law, Faulkner University (Thomas Good Jones School of Law), and Thomas M. Cooley Law School. *See supra* note 1. Further investigation may be needed to determine whether this is due to a preference for legal writing expertise among faculty or to a preference for scholarly topics generated in these classes. Students at The John Marshall Law School in Chicago meet upper-level writing requirements by taking two upper-level writing courses: Lawyering Skills 3 (an appellate advocacy course) and Lawyering Skills 4 (a drafting course in a specific area of the law). *See* e-mail from Anthony Niedwiecki, Associate Dean for Skills, Experiential Learning, The John Marshall Law School, to author (June 16, 2014) (on file with author). Law schools that require skills credit be earned in specified courses include Washington and Lee University School of Law and William & Mary Law School. *See supra* note 1.

⁵⁵ The final assignment for students in the author's Practice Externship course at Rutgers asks students: "If you were to set learning goals for a future work experience in your career, what would they be. . .?" Syllabus, Practice Externship, Summer 2014 (on file with author). *See also* J.P. OGILVY ET AL., *supra* note 35, at 11 (discussing the role of setting goals for work experiences) and 458 (suggesting students follow their reflection on a completed externship by establishing "new goals and objectives").

⁵⁶ *See* Laurie Barron, *supra* note 25 (examining the teaching potential of in-person mid-term reviews with supervisors and students).

ties,⁵⁷ and student counseling,⁵⁸ to name a few concerns.

CONCLUSION: MAKING A COMMITMENT TO CHANGE

While some practical and educational policy reasons suggest caution, striving to establish recognition of the educational benefits of writing and skills experience in externship seems well worth the effort. Working toward this goal is especially timely, as the new ABA Standards will be implemented over the next several years. The prospect for academic recognition of skills experiences gained in externship seems very promising, both because ABA Revised Standard 303 describes skills requirements in the context of experiential courses, including “field placements,” and because the data show that many law schools are already providing that recognition.

A law school formally recognizing skills and writing learning from practice could guide students toward experiential courses like externship, where they will learn why skills and writing matter in the service of clients. This recognition could also help elevate externship teaching methods for both faculty and field supervisors. Externship faculty will increase their scrutiny of student skills achievement and collaborate with fieldwork supervisors and with legal writing colleagues to improve mentoring. In turn, these developments may inform the general faculty understanding of how skills and writing are learned in an externship context as students prepare to enter the legal profession.

⁵⁷ See Carl J. Circo, *An Educational Partnership Model for Establishing, Structuring, and Implementing a Successful Corporate Counsel Externship*, 17 CLIN. L. REV. 99 (2010) (recommending steps in pursuing educationally valuable externship placements with corporate in-house law departments).

⁵⁸ See Harriet N. Katz, *Counseling Externship Students*, 15 CLIN. L. REV. 239 (2009) (describing goals and methods of counseling students at various points in the externship process).

