To: The McKinney Community  
From: Cynthia Baker, Director of Experiential Learning  
Re: Clinics and externships for spring and summer 2020  
Date: April 6, 2020

The following guidance relates to experiential learning through clinics and externships for spring and summer semesters of 2020.

**Regarding current, spring 2020 externships and clinics:** The McKinney community received this information on March 27th (in a memo regarding S/F grading for the spring semester):

*What if I am unable to complete my externship or clinic hours?*

Students should work with faculty advisors for their respective clinics and externships to make best efforts to complete their experiential hours for this semester and should document those best efforts. We are committed to ensuring that every student enrolled in an experiential learning course has a substantial experience that is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks. Under the circumstances of this semester, this may involve the faculty advisor and the supervising attorney (for externships) and the faculty clinician (for clinics) designing simulation-style projects to allow students to complete the experiential hours required for their course. Students’ work on these assignments will be held to the same quality as their other experiential learning assignments and the students’ work product will be subject to the same review and reflection accorded clinical and experiential work under normal circumstances.

If you foresee that you will be unable to complete your required hours by mid-May (the end of the spring semester), students should work with their faculty advisors (and, for externships, work, as well, with the supervising lawyer for that externship) to draft a one-page memo, reviewed and approved by the faculty advisor and/or supervising lawyer for the experiential learning course, that sets forth the credit hours sought, the number of experiential hours gained, the efforts and strategies used to complete those hours in light of the ramifications of the COVID-19 pandemic, and a request for an exception to the required hours for the experiential course in which the student is enrolled. This memo should be sent to the Director of Experiential Learning, Professor Cynthia Baker (cabaker@iu.edu); a copy of that correspondence and memo should also be sent to: the faculty advisor for the clinic or externship and, if applicable, the supervising lawyer/s or judge/s for the externship. Professor Baker will review such cases in conjunction with the respective faculty advisors on a case by case basis. For students graduating in May, we will make every effort to help you earn your experiential learning hours. For other students, your faculty advisor may issue an incomplete until such time as you can complete the necessary hours for the externship or clinical course.
This guidance provides more detail and direction for all involved in externships and clinics, for this spring and the summer 2020 semester.

**Current, spring 2020 externships and clinics:** How can students complete their externships and clinics if they can only work remotely?

1) Just do it. From the anecdotal information I’ve been able to garner, e.g., the Office of the Governor, the Office of the Attorney General, and many health law externships have made relatively smooth transitions to having the lawyers work remotely and have allowed externs to work remotely as well. Similarly, I understand that many of our clinics have adjusted and students will be able to complete their clinic hours remotely.

2) Where placements will not allow externs to take work home nor access work from home computers (due to technology, confidentiality, or other concerns), faculty advisors and supervising lawyers and judges at these placements should work together to design simulation style projects (that, if possible, will inure to the benefit of the lawyer or legal office of chambers). Similarly, where clinics are not able to operate, faculty should design simulation style projects (that, if possible, will inure to the benefit of the clinic or clinic clients).

To satisfy the ABA standard for experiential learning, these projects (like all work assigned in a clinical setting) should provide a substantial experience that is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks. Accordingly, these assignments would deserve the same level and quality of feedback and reflection that a “regular” clinic or externship assignment would demand. If you are interested in ideas and examples of what faculty advisors are doing, here and at law schools across the country, and that might work for your student’s situation, please contact me.

3) For students who are not graduating in May, issue an incomplete for the current semester and make a plan (with the faculty advisor, the supervising lawyer, and the student, working together) to finish the externship, clinic, and/or simulation hours in the coming weeks or months. A faculty member has one year to change a grade of incomplete to a completion grade (in this case, a S/F).

4) Students who are graduating in May and have not completed their hours by May 7 should prepare the memo described above and, if they have not already done so, immediately contact their faculty supervisor and Professor Baker for guidance.

**Summer 2020 externships:** Looking forward to summer 2020 externships, will we allow students to enroll in externships, given our understanding of the COVID-19 pandemic on externship placements and IU’s policy on remote learning for summer 2020?
Brief Answer: Under the correct circumstances, yes.

Indiana University will not host in-person activities on any of its campuses this summer. This means that our summer session classes, including evaluations, will be distance learning courses. However, at the moment, if an externship placement (a courthouse, an agency or corporate office of legal counsel) is open for business, and a student is willing to go to his or her externship placement as a part of their externship, a student can do that. We advise all students, faculty supervisors, and externship supervisors to abide by current health protocols and Indiana University travel policies (e.g., no IU-sponsored or affiliated travel outside of Indiana) as they make these decisions throughout the summer semester, understanding that we are all learning evolving public-health approaches as the COVID-19 situation develops. Students need to continue building their lawyering skills and developing professionally through externships. Ongoing spring externships indicate that it is certainly possible to engage in “substantial experiences that are reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks” while working remotely. Just as lawyers and judges are adapting to this evolving situation, so must we.

The threshold question, for all externships, is whether a supervising lawyer or judge is willing and able to be engaged with the externship student by orienting the student to the law office, assigning legal work that is in line with the student’s educational objectives, communicating with the faculty advisor about the externship experience, and providing meaningful feedback to the student about the quality and professionalism of the student’s work. As this COVID-19 situation evolves, many lawyers in our network of supervising attorneys simply may not be able to commit to, on top of all of the other issues that they are handling, supervising externships.

What externships we can offer this summer are going to have to be determined on a case by case basis in what seems to be a constantly evolving environment, through communication between each faculty member and prospective supervising attorney and judge and through the placement process of summer externships. Faculty who supervise externships should: 1) get a gauge on the possibility of remote (or partially remote) externships going forward (that is, to find out what is going on at our traditional externship placements, which could be instructive going forward) and, 2) to, where appropriate, introduce students to their prospective future supervising attorneys, perhaps putting us in a position to pre-place students for the fall or a subsequent semester.

In the circumstance that prospective supervising attorneys are willing and able to supervise our law students for summer externships, threshold questions for the faculty advisor to pose to supervising attorneys and students would include:

1) Would you be able to assign suitable legal work to the extern, even if you and/or the extern had to work remotely for a majority of the summer?
2) Would the student be able to have a quality externship experience, given that the traditional externship experiences (such as “being in the office,” shadowing meetings and deliberations in person, participating in hearings and depositions in person) might not be able to happen as they have in the past?

3) As guidelines and protocols for remote working develop, are you willing to mentor the student on these aspects of his or her externship?

4) Understanding the uncertainties of how the COVID-19 pandemic will continue to influence our work and workplaces over the summer, does your office have the technology to include your potential externship student in conversations and meetings remotely? Will students be able to have access to necessary documents, systems, in a way that protects confidentiality and security concerns? Do you have conditions for the student’s remote working environment that might influence the student’s externship semester (a quiet, private place to work, a workspace that is out of earshot of housemates?).

5) Is there a supervising attorney or judge who could take over supervision of the externship in the unfortunate circumstance where a supervisor falls ill?

6) Do the student and the supervising attorney or judge understand that, if externship hours are not earned during the summer, the student may have to take an incomplete and earn the hours at a later date?

In addition to asking these questions, faculty teaching externships will need to explain IU’s policy of entirely virtual learning over the summer to supervising attorneys, including that our faculty’s communications with the student and supervising lawyer will be entirely virtual. This is not, particularly for summer externships, unusual. However, if the externship would be able to physically host a student extern (for even part of the summer or for particular externship projects), an extern’s physical presence at the externship placement would be permissible under IU’s virtual learning policy for the summer. For clarity and a mutual understanding of expectations of all involved, these elements of the summer 2020 externships should be incorporated into the externship agreements, drafted or revised by the students, for the student, the supervising attorney, and the faculty advisor to review and approve.

In short, students may participate in summer externships that permit remote work when the following conditions are met: the student can be kept safe and there is a high likelihood that the externship hours can be completed in the event the COVID-19 pandemic does not subside until late summer. Because this is a rapidly evolving situation, we will hold off on registering students for externships until May 1.