

Judicial Clerkship Guide

**Law School Career Services
University of California, Davis
2009 Edition**

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INTRODUCTION

We encourage you to consider judicial clerkships in your career planning. Clerkships are post-J.D. positions in the federal or state courts. Law clerks are research assistants, either to an individual judge or to a court. Clerks often summarize and analyze cases, research legal questions, and draft opinions. Most clerkships are for a short term - one or two years - although the number of career positions is increasing.

This guide outlines the benefits of clerking, summarizes the types of clerkships available and describes the application process.

Career Services staff is here to help you. Clerkships are competitive, some more so than others. We can help you decide which positions to target. Please keep us posted as you apply for clerkships. Tell us where you apply and what your experience is. This information will enable us both to assist you and to advise future classes.

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CHAPTER 1: THE VALUE OF A JUDICIAL CLERKSHIP

Although a judicial clerkship is hard work, it is also an opportunity to reap great personal and professional rewards, immediate and long term.

An Inside Perspective: A clerkship exposes the recent graduate to the inner workings of the court and provides a judge's-eye view of cases, counsel and the law.

Involvement In Justice: This is important work. It may have a significant impact on the lives and fortunes of litigants. A law clerk's research and recommendations contribute to the quality of case law produced by our judicial system. A clerkship brings one's legal education to bear on significant current issues.

Intellectual Stimulation: According to a survey conducted by the American Bar Association's Young Lawyers Division, the single most important determinant of job satisfaction is whether or not it provides intellectual challenge. Few legal jobs offer comparable opportunities to reason and reflect.

Broad Exposure: Most law clerks work with a wide range of cases and legal issues. This breadth of exposure is useful in making future career choices, in enhancing marketability to potential employers and in developing experience to draw on later in practice.

Breathing Space: A clerkship makes it possible to defer major career decisions for a year or two and to base these decisions on a more extensive acquaintance with practice. For those students who ultimately want to work for organizations that will only hire after Bar admission, a clerkship is an excellent interim opportunity.

Intensive Training And Skill Development: A judicial clerkship exercises and refines the graduate's research, analytic writing and persuasive communication skills. Clerks develop a confidence seldom felt by new associates in private practice.

Mentoring: At its best, the close working relationship established with a judge can teach a novice lawyer much about good writing, good persuasive argument, good law and good lawyering, and can be the basis of a life-long friendship.

A Career Boost: The prestige of a judicial clerkship follows a lawyer throughout his or her career. Some employers actively recruit judicial clerks. Nearly all potential employers recognize the honor attached to a clerkship and the value of its "inside" experience.

The judge, who may have extensive contacts in the legal community, often assists in a clerk's job search. Other clerks, judges and court administrators also may provide job referrals. Trial court clerks' contacts with local practitioners often result in job offers.

CHAPTER 2: CLERKSHIPS DEFINED

Clerkships vary in their setting within the court organization, type of court and duration:

"Elbow Clerks" vs. Central Staff

Most **judicial clerks** are hired by and work as confidential professional assistants to individual judges. This guide emphasizes the law student application process for "elbow clerk" positions on judges' personal staff.

A court's central staff is usually made up of long-term **staff attorneys**. There has been a recent trend, especially in state courts, toward greater use of a central pool of clerks. Although most staff attorney positions are permanent and require experience, a few are open to law school applicants. Watch for announcements and review Career Services office resources. At the federal circuit court level, central staff attorney positions may be for a fixed term of up to five years.

Court System / Levels Of Court

The nature of a clerkship is determined by the type of court setting - trial or appellate, state or federal. The traits of the particular judge can also significantly affect the responsibilities and quality of a clerkship. Generally speaking, federal clerkships are considered more prestigious than state clerkships, although some state supreme-court clerkships are competitive with federal circuit court clerkships. The higher the level of the court, the more prestigious the position is and the more difficult it is to obtain. Among state supreme courts, some are more highly sought after than others, again depending on the court's reputation. There is no consensus regarding the relative prestige of federal district court and state appeals court clerkships.

The reputation of an individual judge carries great weight in these evaluative distinctions. While you must recognize the realities of the profession's value system, you should not lose sight of your own goals as you look at clerkship options.

Federal Courts: Federal courts at every level, as well as many non-Article III judicial officers, employ law clerks. There are over 500 clerkships nationwide in the federal appellate courts. Each judge has two or four clerks, and every circuit has a central staff as well. The federal system also includes several hundred district court judges, most of whom have two clerks. There are valuable elbow-clerking opportunities at the district court level with United States magistrates. District courts also employ central staff attorneys (often called writ clerks, or Pro Se clerks).

Each district has a U.S. Bankruptcy Court, employing law clerks. Law clerks work with the U.S. Court of Federal Claims, the Court of International Trade, the Tax Court, the Court of Military Appeals, and the Court of Veterans Appeals. In addition, many federal administrative law judges also hire law clerks to assist them in hearing cases pertaining to their particular agencies.

State Courts: States vary both in what they call their various courts and in their use of law clerks. Most state supreme courts and many intermediate appellate and trial-level courts depend on the assistance of attorneys.

Duration

“Term” Clerkships: These are opportunities to work in a court for a fixed period of time. While the majority are for one year, there are many two-year clerkships. In fact, the trend in federal district courts is toward two-year clerkships. Most term clerkships are filled by new graduates; hiring usually takes place while candidates are in their final year of law school. Some courts choose to hire as term clerks individuals who have already graduated or seek attorneys who plan to take a year away from practice.

Consider whether you are interested in a two-year clerkship or sequential clerkships. A court may view clerks as more productive in the second year, but some clerks feel they will be burned out or will learn less after the first year, and some know they will want to move on to the next stage in their careers. Others look forward to an extended clerkship experience or a chance to clerk at a second court.

Career Positions: Researchers, called **staff attorneys** or **research attorneys**, are found in a wide variety of courts. Most California courts, at the appellate and trial level, have created career positions in place of fixed-term clerkships. When openings occur for staff attorneys, these courts usually seek candidates with some law practice experience.

CHAPTER 3: A LAW CLERK'S WORK

In 1875, Horace Gray, Chief Justice of the Massachusetts Supreme Judicial Court of Errors, employed the first law clerk to assist with his heavy workload. When he was appointed to the United States Supreme Court in 1882, he brought along a personal assistant to help deal with the Court's increased workload and concomitant delays in judicial action. By 1888, all the justices used law clerks, and by the 1930's law clerks were at work throughout the federal judiciary.¹

Today, the law clerk's primary role is still to assist the court in managing an enormous workload. In every setting, clerks conduct legal research, perform legal analysis, draft opinions, prepare memoranda, edit and check citations. Many also do such administrative or clerical work as maintaining the library, filing and photocopying. Some attend court, where they may act as bailiffs.

In deciding where to apply, you should consider not only where your chances are strongest and which clerkships offer the most resume-enhancing prestige, but which offer the experience *you* value most for *your* career. The trial-court law clerk performs much work related to trial of the case. The appellate-level clerk's job is more scholarly, but also provides insights into effective trial and appellate practice.

The needs and practices of individual judges determine the law clerk's job to a great extent. Some judges prefer oral briefings; others want written memoranda. Some judges discuss their decisions with their clerks; others do not.

A typical law clerk in a trial court works on all aspects of litigation, from pre-trial motions to the trial itself. Much of the clerk's time is spent on matters pending on the judge's law and motion calendar. A job description for this position would include some or all of the following tasks:

- prepare memoranda
- attend oral arguments
- conduct settlement conferences
- write draft opinions and orders
- prepare judge's bench, organize exhibits
- keep records, handle scheduling and other administrative tasks
- interact extensively with attorneys and witnesses
- review and make recommendations on a variety of motions
- prepare trial memoranda for the judge, including a synopsis of the issues in a particular case

Appellate clerks examine issues raised in trial records. A typical appellate court clerk's job description would include:

- assist with screening cases
- draft bench memoranda, summarizing parties' briefs
- draft memoranda on issues key to rulings
- handle administrative preparation for oral arguments

¹J. Daniel Mahoney, "Law Clerks, For Better or Worse," 54 Brooklyn L. Rev. 321 (1988)

- attend oral arguments; assist judge as necessary
- draft judge's opinions according to instructions, including extensive research and analysis
- draft dissents, concurrences, rulings

Central staff in appellate courts typically prepares memoranda on pro se appeals, appeals to be decided summarily, substantive motions and questions concerning the court's jurisdiction.

At the appellate level, research and writing are the clerk's primary concern. Research must be thorough and painstaking. There may be time for reflection that is not always available at the trial level, where research and writing must fit into a wider range of activities. The pace of decision-making in trial court demands that the trial clerk's research be done especially quickly.

The proportion of evidentiary, discovery and procedural issues is usually quite different at the trial and appellate levels. Also, federal appellate courts review a number of agency appeals, exposing clerks to tax, OSHA and labor matters. Contact with local attorneys is extensive for most trial court law clerks; it is very limited for appellate court clerks. The collegial quality of most appellate courts, in contrast, puts law clerks in contact with judges and clerks in other chambers.

At every level of the court system, the clerk bears heavy professional responsibilities. The quality of the court's decisions depends on the care with which the clerk conducts research and the candor with which the results are reported. This is particularly true when genuine factual or legal questions are presented that demand the judge's personal assessment.

In all cases, a law clerk must maintain the highest standards of professionalism and confidentiality. A clerk may never, for example, speak outside the court about pending matters nor may a clerk or former clerk ever discuss publicly how decisions were made in specific cases that came before the court during the clerk's tenure. The clerk's own role is similarly confidential, much like that of a ghost writer. Whether or not a clerk drafts materials that are used by the judge, the judge takes the responsibility for all language above the signature line and, with it, the entire credit or blame. No footnotes ever credit clerks for their assistance! Only with express advance authorization from the judge, therefore, may a clerk ever provide draft work or published opinions as examples of the clerk's work product.

CHAPTER 4: NOTES ON SPECIFIC CLERKSHIPS

U.S. Supreme Court: Each justice has four clerks, hired to serve for one-year terms. Clerks assist in evaluating certiorari petitions, in preparing for oral argument and "conference", and in drafting opinions prior to their stint at the Supreme Court. Although the justices have differing selection criteria, only applications from individuals with extraordinary academic records are given serious consideration and almost all will have had at least one year of clerkship experience at a prestigious lower court.

U.S. Courts of Appeals: Elbow clerks write bench memoranda, draft opinions and assist in preparation for oral argument. Central staff also write bench memoranda and handle preliminary screening, recommending for or against oral argument. Many central staff members are assigned to a unit handling preliminary motions.

U.S. District Courts: Elbow clerks review motions and handle trial court duties listed in the preceding section. District courts also employ Writ or Pro Se clerks, who handle petitions from prisoners. These clerks, often referred to as staff attorneys, may be on central staff or supervised by a particular magistrate, and may be in term clerkships or career positions, depending on the court.

U.S. Magistrate: Magistrates are appointed by federal district court judges to handle preliminary and pre-trial matters in many civil and criminal cases, and to conduct trials on minor criminal matters. Clerks' tasks vary depending on the magistrates' responsibilities.

U.S. Bankruptcy Courts: Clerks draft opinions and orders, work on reviewing and preparing the weekly calendar. They take substantial responsibility for procedural and administrative matters. These clerkships are good preparation for practice in commercial, consumer and tax law, as well as in bankruptcy law.

"Specialty" Federal Courts: These courts may require specific backgrounds. Example of specialty courts include the United States Tax Court located in Washington, DC which hears disputes involving the Internal Revenue Service and the United States Court of Federal Claims which has jurisdiction over civil claims, other than torts, against the federal government such as government contract dispute and patent or copyright violations by the government.

State Supreme Courts: These clerkships are very prestigious, especially those at leading courts. Many hire both elbow clerks and central staff attorneys. In California, all justices except Justice Carlos Moreno now hire permanent research attorneys rather than short-term "elbow" law clerks, because of the level of experience they feel is required for the heavy volume of death penalty cases. Criminal appeals, particularly death penalty matters, consume an increasing proportion of California's Supreme Court docket. Central staff handle criminal matters primarily (petitions and writs) and prescreen and distribute cases. Central staff positions in California are long-term. When budget permits The California Supreme Court hires an "annual clerk" for civil work and one for criminal.

State supreme courts are courts of last resort for most of the cases that reach them. Clerking for a state court may permit more creativity than a federal clerkship, because the court is bound only by its own prior decisions, not by those of a higher court.

State Courts Of Appeal: Not all states have an intermediate level of appeal between trial courts and the highest court. Such courts are called by various names. In a state appellate

court, the central staff's primary function is screening appeals and disposing of routine appeals with bench memoranda. These staff attorneys also handle many writs and motions. Judges' career elbow clerks, often called "research attorneys" conduct research and draft opinions on matters scheduled for oral argument.

Many states offer one-year appellate court clerkships. In California, however, both elbow clerkships with individual justices and central staff-attorney positions with the Courts of Appeal are career positions.

State Trial Courts: Trial courts in every state use law clerks and/or research attorneys. These may be one or two-year positions (sometimes only open for application to graduates who are already admitted to the bar) or they may be career clerkships. In California, there are few superior court term clerkships for recent graduates. Most California counties use long-term research attorneys. Even the short-term, entry-level positions are often not filled on a predictable schedule, and may only be open to graduates who are already admitted to the bar. Contact current research attorneys or the court administrator for application deadlines and advice.

Administrative Law Judges (ALJs): ALJs are independent, impartial triers of fact in formal administrative hearings. More than 30 federal government departments and agencies employ ALJs and may hire recent law school graduates as law clerks for either a term or an indefinite period.

International Courts: A variety of international clerkship opportunities are available with international courts and tribunals. Examples include the Criminal Court in The Hague, the International Court of Justice in The Hague, the European Court of Human Rights, the European Court of Justice, and the WTO Appellate Body. Yale Law School updates a resource on opportunities with international courts and tribunals every year and it is available on-line at <http://www.law.yale.edu/studentlife/CDOGuides.asp>

Tribal Courts: Some states have tribal courts that hire law clerks. Information can be found at the National American Indian Court Judges Association at www.naicja.org and at www.tribal-institute.org, which is a clearinghouse of information on tribal courts. Another resource where job are often posted is Indian Country Today, a newspaper that is available on-line at www.indiancountry.com.

Research attorneys for civil trial courts work on law and motion matters, reviewing files, briefing motions and making verbal recommendations to judges. Criminal court researchers review all pre-trial motions on habeas corpus, prisoners' correspondence and other administrative matters. Research attorneys sometimes serve as commissioners or judges pro tem. A trial court clerkship is an excellent entree to practice in a community.

CHAPTER 5: QUALIFICATIONS

Clerkships are competitive. The more prestigious the court, the more coveted the clerkship. Investigating all reasonable options, identifying practical goals, researching thoroughly and preparing application materials carefully will give you the greatest chance of success. The first hurdle is getting an interview.

To select from the many applications they receive, nearly all judges look first at grades. They consider law school academic success the primary indicator of the analytical skills they seek. The most competitive clerkships, such as federal appellate positions, go to students who rank near the top of their classes. There is a wide range of judicial clerkship options, however, for students with good, but not spectacular, academic records. And students with lower GPAs who are able to demonstrate their capability and are committed to obtaining a clerkship can succeed and have done so.

Judges look for significant writing experience and demonstrable writing skill. Research and writing constitute the core of the law clerk's job. Law review involvement is very important. Law review hones research and writing abilities, and suggests analytical interests and abilities. A judicial externship can be a plus: the work an extern performs is similar to that of a law clerk, and a reference from chambers is invaluable. The cover letter can make a difference, particularly for what it says about writing ability and attention to detail.

Judges give great weight to recommendations, particularly from faculty members, other judges and former clerks. They often consider which college and law school an applicant attended and may be influenced by regional ties, particularly those that indicate a candidate's genuine interest in the judge, the court or its location.

Note that federal clerks must be United States citizens or otherwise eligible for federal employment within the United States. Non-citizens should consult the United States Office of Personnel Management website at: http://www.opm.gov/employ/html/non_cit.htm, or call the Office of General Counsel, Administrative Office of the U.S. Courts at (202) 502-1100.

Once into the interview, judges look for:

- Preparation. How much the applicant knows about this judge and how cogently he or she can discuss the judge's decisions.
- Keen interest in the law. Evidence of analytic ability.
- Indications of maturity, integrity, initiative, diligence and ability to accept supervision.
- Professional compatibility. Most judges work closely with their clerks and look for a personality fit as well as potential compatibility with other clerks and staff members.

See Attachment G regarding preferred skills, knowledge and abilities ("Interview Questions About KSAs").

CHAPTER 6: WHEN AND HOW TO APPLY

Basic Timing

Under the Federal Law Clerk Hiring Plan, which went into effect in 2002-03, students and graduates should not apply until fall of the year before the clerkship is to begin. Some judges indicated their intention to keep track of candidates who contravened this timetable. NALP's guidelines for implementing the plan specify the second day after Labor Day as the beginning date for sending applications and providing references. **Plan to start your preparations in March of the preceding spring semester, and to have all your materials ready by mid-August.**

You should be aware that some federal judges, including new appointees, hire later in the year. Announcements are often made in the OSCAR system and some judges contact Career Services directly with openings posted in the "Jobs" section of Symplicity.

State court selection timing varies. Consult the Vermont Law School state clerkship directory. In early fall, Career Services will coordinate application collection for the Alaska Supreme Court.

While law schools now receive very few direct notices from judges, we do receive several. You should check Symplicity throughout the year for clerkship listings. Full announcements are filed in the "Judicial Clerkships" binder in Career Services.

The Application Process

Selecting Judges: Determine the type and level of court and the geographic areas where you wish to clerk. As you consider where to apply, keep in mind that the majority of applicants from law schools throughout the U.S. tend to concentrate on major East Coast and California cities. Other regions are less competitive. Be aware, however, that you may have a harder sell with judges who care about geographic ties. Where possible, seek out areas where you have some connection, but that are not in the hottest demand.

For identifying federal clerkship opportunities, your first stop should be the OSCAR on-line application system at <http://oscar.uscourts.gov/>. Unfortunately, **not all judges use this system.** It provides names of judges, their clerkship terms, application dates, materials to submit, hiring criteria, interview dates, etc. Amplify the list of judges you compile from the OSCAR website using Symplicity's Clerkship Module, Internet, Career Services and Law Library resources. Vermont Law School's Guide to State Judicial Clerkships is available in Career Services and accessible online (see Attachment B for link and password). Be sure to check the Jobs Section of Symplicity for any clerkship announcements sent directly to Career Services. You will also use the Clerkship Module of Symplicity for compiling your list of federal judges for the excel spreadsheets you will submit during the summer.

The proprietary site: <http://judicialclerkships.com> provides links to directories, judges' biographies, and new appointment lists, as well as providing valuable tips. For print resources in Career Services and the Law Library, consult Attachment B to this guide. Decide where your chances are best and for which judges you would like to work. Judges who have already taken clerks from Davis are often happy to repeat the experience. For ideas, check the list of past Davis clerkships in Attachment C at the end of this guide. You can search Westlaw WLD Judge for names of judges' past and present clerks, including their law schools. Consult current and

former law clerks and externs, faculty, staff and your own network of attorney contacts. Look at evaluations from previous summer and school year externs (in Career Services and the Clinicals Office respectively).

Review judges' opinions on LEXIS or WESTLAW. The L.A. Daily Journal and The Recorder run excellent biographies of judges in courts throughout California, reprinted in bound volumes. You need not be in accord with a judge politically to establish a productive relationship where you will learn and be comfortable, but you should be aware of the political orientation of judges to whom you might apply. Ideally, you want to work with a judge who is intelligent, conscientious and fair, who will be concerned for your professional growth and with whom you will get along.

Verify application requirements, timelines and procedures with the OSCAR website and with any individual announcements in the Clerkship binder in Career Services. You may call judges' chambers directly to confirm openings, deadlines and application procedures, taking care not to bother them if the information is easily accessible otherwise.

Many faculty who were judicial clerks (see Attachment D) are happy to consult with you during office hours concerning your application choices, your cover letter(s) and your resume. Apply widely, as competition is intense.

Application Steps:

Outlined below are important procedural instructions and critical deadlines for the class of 2010, as well as advice on preparing your application materials.

The Law School will cover many of the costs of applying for clerkships, including envelopes, mailing labels and postage for mailing application materials, and will help you with the process in a number of ways. Generally, you should plan to apply broadly and send up to 150 federal paper applications. **The Law School has set a limit of 150 as the maximum number of federal paper applications you may send.** This limit does not include electronic applications through the OSCAR system or state clerkship applications. Follow the steps outlined below to insure your own success and to make it possible for the Law School to provide you assistance. Career Services staff is available to advise and help you. Please be sure to consult faculty as you prepare as well.

Clerkship applications should include:

- a signed cover letter
- a current resume
- a copy of your law school transcript
- recommendation letters (usually 3). Note: most judges prefer letters from faculty
- a list of references (optional but recommended)
- a writing sample of 5-10 pages.

Resume: Update your resume. You may wish to reframe it to emphasize those accomplishments, particularly academic ones, of most interest to judges. Include your second summer job, if known. If you have arranged a future judicial externship, include it. Stress work you have done for faculty as a tutor, teaching or research assistant. Add any recent work experience, award or volunteer involvement. Have a Career Services adviser review the resume.

Cover Letter: The letter should be succinct, and may amplify, but should not reiterate your

resume. If you feel the resume does not fully convey your writing experience, other relevant experience, or other special qualifications you offer, include those. In some circumstances, you will have occasion to tailor your letter to a particular court and/or judge. If you have some tie to a court's geographic locale, you may explain the connection. If you are applying to a specialty court (e.g. tax, bankruptcy, immigration, etc.) be sure to mention any relevant coursework and why you want to clerk for such a court.

Your style should be clear and straightforward. The letter should not exceed one page in length. This is the judge's introduction to your writing. Check and double check for mistakes and typos. Make sure you have the correct spelling of judges' names. The "clerkship guru", Debra Strauss, counsels "the less said the better, but say it with perfect precision." Note that some courts do prefer to know more about you (still within one page), as the Massachusetts Superior Court system indicates in their application instructions: "We read cover letters thoroughly and often learn a great deal about the applicant from them. Cover letters are another opportunity to highlight one's experiences, interests and individuality."

Attachment A outlines how to address judges and justices. Attachment F provides invaluable advice and sample letters provided by U.S District Court Judge Dean Pregerson '76, as well as samples from two King Hall alums who formerly clerked. Ask your Career Services advisor to review your letter(s).

Forgive what may seem an unnecessary reminder, but be sure to *sign* your letters! For applications to be mailed the day after Labor Day, you should postdate any letters you prepare in advance.

Writing Sample: Although a few judges do not require writing samples, we suggest you always include one in your application packet. The writing sample should be your very best work, and **yours alone**. It should be short or excerpted (5-10 pages), preferably related to the type of writing you would do as a clerk. In some circumstances, you may want to send a longer article with one section marked as a writing sample for those judges who do not want to spend the time reading the entire manuscript. Some judges prefer to see evaluative rather than argumentative writing.

Above all, you should show that you can think logically and can write clearly and concisely. One former clerk advised that writing samples be "manageable enough to read quickly and self-contained enough to show how your mind works."

If you use a writing sample from a job, get permission from your employer. Make sure it is scrupulously sanitized; the court should see your concern for confidentiality. Never leave in any identifying information from a pending case; mask names with a felt-tip pen. Check for grammar and spelling and send a clean typed copy. Law journal writing, published or unpublished, is appropriate as a writing sample, as is a moot court brief. You may also excerpt a paper written for a course, seminar, selected legal problem or the advanced writing requirement.

Transcript: Include a photocopy of your most current law school transcript.

References and Recommendation Letters: We advise that you prepare a page listing your references with contact information to include with your application in addition to asking for recommendation letters. At least two of your three recommendations (the usual number judges request) should be from faculty. Ask faculty who know you to serve as references. You may use a work reference as well, but, as a general rule, judges' value faculty recommendations

more highly than those from employers. If you did an externship and the judge is willing to provide references - some will not – and you feel that you did well, you should request a letter.

In seeking a faculty letter, your task will be easier if you have participated sufficiently in class so that the professor knows more about your abilities than is contained in your blue book. You should ask professors for recommendation letters and advice in March of your second year. A lukewarm recommendation can kill your chances. Ask each professor to tell you candidly what they would say about you and whether you would be better off seeking a different faculty member's recommendation.

Provide each professor with a copy of your resume and transcript. If you ask for letters from faculty members who don't know you well, you may wish to supplement the resume you provide them with a written statement about your goals and experience. As you develop a list of the judges to whom you plan to apply, review it with your references and any other faculty who might offer suggestions.

We suggest that you send a thank you note to your faculty and others who have agreed to write references. This is not only gracious; it will serve as a reminder.

Faculty Support staff will word-process faculty recommendation letters. See detailed application instructions below. If you choose to have a person outside of the UC Davis Faculty write a recommendation letter for you, you or the outside recommender will be responsible for merging and processing the letters for each judge. Ask that persons outside King Hall mail their letters directly to judges or provide them to you in a confidential sealed envelope to include with your application packet. Outside recommendation letters may also be mailed to Lori Reifschneider, Assistant Director of Career Services. The envelopes must have a notation: "Clerkship recommendation for ____" so that the letters can easily be collated with your application materials. For OSCAR applications, please instruct the outside recommender to use the OSCAR system to upload the letter electronically.

APPLICATIONS TO FEDERAL JUDGES FOR THE 2010-11 OR 2010-12 TERM

Applications cannot be mailed before Wednesday, September 8, 2009. But, to be competitive, application materials, as well as any separate recommendation letters, should be mailed on or very shortly after that date, unless you are certain that a specific judge wishes to receive applications at a later time.

Timeline

By April 30, 2009, email Lori Reifschneider (judicialclerkships@law.ucdavis.edu) in Career Services of your intention to apply for a federal clerkship.

By April 30, ask those professors whom you wish to use as references to write letters of recommendation, and inform Career Services. Professors will be asked to complete these letters by **July 1**.

By July 6, select the federal judges to whom you will apply, and email Lori Reifschneider in Career Services (lareifschneider@ucdavis.edu), providing:

- The names of the faculty members who have agreed to write recommendation letters.

- An Excel file attachment, with your name at the top left, containing the names and addresses of the judges to be used for mail-merging faculty recommendation letters. The Law School cannot promise that recommendation letters will be ready for mailing on September 8 if you have not met the July 6 deadline for submitting your Excel file. Please use the export function of Symplicity's Clerkship module to create your spreadsheet. It is user-friendly and will ensure your data is accurate. The Symplicity Clerkship module is updated monthly with judicial information.

PROOFREAD YOUR ADDRESS LIST CAREFULLY! Modifications to your lists, adding or deleting judges, may be made only with Career Services' prior approval.

By July 6, deadline to advise Lori Reifschneider that you are withdrawing from the clerkship application process.

By July 6, select or add your faculty and outside recommenders to your "My Recommendations" tab in OSCAR.

By August 1 you should:

- Order your transcript.
- Update your resume, including your summer job.
- Draft your clerkship cover letter, which you may post-date September 8, 2009.
- Have your letter and resume critiqued by Career Services, in person, by email or telephone.

The Mailing Process

The week of August 14, bring your application materials to Career Services. These consist of:

- As many printed resumes as judges to whom you are applying.
- Cover letters, post-dated September 8, 2009, and addressed to specific judges.
- One copy of your transcript, or the original.
- One copy of your writing sample.
- One copy of your reference list.

Tuesday, September 1 is the LAST DAY you will be able to collate and seal your application materials to be included in the school mailing. Plan ahead and give yourself ample time, as this process may take several hours to complete.

Career Services will provide you with access to the Law School copying machine to photocopy your transcript, writing sample, and reference list. You will be responsible for assembling your application packets including your sealed recommendation letters and clipping them together. Because your recommendation letters are confidential and must be included with your applications, you will be required to assemble your application packets in the Career Services office. The law school will provide you with envelopes and mailing labels that you can prepare ahead of time. You will receive an amount equal to the number of federal paper applications you intend to submit. Should you have any left over or withdraw from the process, please return any unused materials to Career Services.

Because of the enormity of this mailing and to ensure timely receipt of applications, we have set the September 1st deadline. To improve your chances, please adhere to these strict deadlines.

The Law School will cover postage costs and mail up to 150 federal paper application packets

through the campus Mail Division. If you have any concern about that limit, please discuss it with Career Services.

If you choose not to use the Law School's services outlined above, do not mail federal clerkship applications before September 8, 2009.

The critical dates under the Law Clerk Hiring Plan for 2009 are as follows:

Event	Fall 2009
First date when applications may be sent ("postmarked"):	Tuesday, September 8, 2009 OSCAR releases applications at 7:00am PT
First date when Judges may begin scheduling interviews:	7:00am PT, Friday, September 11, 2009
First date and time on which interviews may be held and offers made:	5:00am PT, Thursday, September 17, 2009

NOTE: A few state courts have spring or summer 2009 application deadlines. Be sure to discuss your plans to apply to such courts with Career Services well in advance of your mailing deadline.

OSCAR: ANOTHER APPLICATION PROCESS

OSCAR, the On-line System for Clerkship Application and Review program, is a great tool to use for clerkship applications. There are currently 803 federal judges who have signed up to participate in this online application program for students to apply for clerkships. OSCAR 5.0 will launch to student applicants on May 22, 2009. Until then, information from the last recruiting cycle will be available. Please check OSCAR regularly for the most up to date clerkship information.

NOTE ABOUT THE JUDGE LISTINGS:

In Spring of 2008, the Federal Law Clerk Information Site and OSCAR merged into one system for easier access and a more centralized process. More information will be forth coming as OSCAR announces more information.

OSCAR APPLICATION STEPS:

1. Go to <http://oscar.uscourts.gov/> to see the list of participating judges.
2. Review the participating judges and cross-reference with your spreadsheet you compiled with Symplicity. You can sort your spreadsheet data by the clicking on "Data", then "Sort", and finally sorting by the column "OSCAR".
After you select your faculty recommenders and start building an application for each OSCAR judge, the Faculty Support Staff will then be able to upload your recommendation letters electronically to the OSCAR system for the appropriate judges.
3. Review the student applicant user guide

4. Go to <http://oscar.uscourts.gov/> register as an applicant and sign into the OSCAR system.
5. Submit your application materials electronically to those judges any time between now and September 8th. Judges will have access to applicants' materials on September 8th.
6. When you identify your recommender for each OSCAR application, you MUST also Cc: Glenda McGlashan glmcglashan@ucdavis.edu. Professors and Glenda will then be sent an e-vite from OSCAR informing them to submit your recommendation to each judge.

IMPORTANT FAQ:

Q: Do you know if the OSCAR participating judges will continue to accept paper applications?

A: The court working group left the decision about how to treat paper applications to the discretion of each OSCAR judge. It is probably safe to say that OSCAR judges are not expecting paper applications, and their participation in the (OSCAR) program indicates their clear preference for electronic applications.

TECHNICAL INFO:

1. Users must use Internet Explorer 5.5 and above, Firefox, or Netscape 7.2 as their Internet browser when accessing the OSCAR System. We have found by answering several help desk calls that users who use an older version of Internet Explorer or Netscape do not see all of the navigation bars/tabs on the OSCAR screens. As a result, we are posting a message on the OSCAR website.

2. When an applicant applies for a clerkship, a warning screen appears that informs the user that they are locking in their recommenders. This "locking recommenders" means that the user will not be able to add, change, or delete the recommender(s) once the application is submitted.

3. The OSCAR Support Desk has received several inquiries from applicants who have withdrawn an application and then tried to reapply to that judge. OSCAR does not allow an applicant to reapply to a judge once he/she has withdrawn that application. We have posted a new announcement on the website for the applicants warning them that they cannot reapply to a clerkship that has been withdrawn. The vendor is changing the warning message that appears for withdrawing an application so that the applicant will see the message "The system will not permit you to reapply to that judge." -OSCAR Support

For questions about your recommendation letters, please contact Glenda McGlashan at glmcglashan@ucdavis.edu. For general OSCAR questions, please refer to the user guide <http://oscar.dcd.uscourts.gov/applicant-resources.html>.

APPLICATIONS TO STATE COURTS AND TO FEDERAL COURTS WITH LATER OPENINGS

Several federal judges, including new appointees, will have openings after September 8, the mailing date for the vast majority of federal clerkship applications. A resource to check is www.nalp.org under the Career Path section. Choose Judicial Clerkships and a list of documents and resources will be available for review. NALP's Judicial Clerkship committee makes a limited amount of phone call to judicial chambers to verify hiring needs. Any information that they gather is shared on this website. Also, there are many clerkship opportunities with state judges for which you may apply during the 2009-2010 school year.

For state appellate and trial court applications, you should follow the timing instructions of the particular courts to which you want to apply. When you have compiled a spreadsheet with address information, please send it to Lori Reifschneider in Career Services at judicialclerkships@law.ucdavis.edu . It will then be sent to the appropriate Faculty Support Staff. Please give faculty support staff as much lead-time as possible so that your applications for such openings can be sent within your desired time frame. As with federal applications, UC Davis will provide you with mailing envelopes, labels and postage for your application materials mailed from the school. If you need to make special arrangements during the summer or at any other time, please contact Lori or the Career Services Office.

CHAPTER 7: THE INTERVIEW

You can expect to hear from judges or those judicial clerks who screen applications for their judges. Many simply acknowledge receipt of your materials. If you hear nothing after several weeks, you may call the judge's secretary or current clerk to find out the judge's decision-making timetable. Please be patient; chambers are likely to be flooded with applications, all mailed on the day after Labor Day! Be sure your voicemail is working and that it has a simple and serious recording.

Respond immediately if you are invited to interview. Judges almost always require a personal interview, but, in special circumstances, may be open to a request for a telephone or video conference interview if the applicant lives far from the court. The Career Services Office has video conference equipment that you may use for interviews. We need at least one week notice to schedule your request and handle all the logistics. Please contact our office as soon as possible to schedule a video conference. Schedule your interview appointment for an early date to increase your chances, since many judges extend offers as soon as they find students they wish to hire.

Judges do not reimburse travel expenses. Once a judge in a city to which you would have to travel has granted you an interview, it is appropriate to get in contact with other judges to whom you applied to see if they would interview you while you are in their area.

Judges look for objective criteria to choose who they interview:

- Grades (often in the top 10-15% for federal clerkships), writing skills, Journal or Moot Court experience (because of their emphasis on writing), references/letters of recommendation (faculty member and other judges carry more weight, usually, than letters from former employers).

Somewhat subjective criteria comes into play at the interview level:

- Personality and fit are important because of the close working relationship.
- You need to demonstrate that you can get along with everyone, not just the judge.
- Whether you have a geographic connection to the area you are applying is often considered a hiring factor for out-of state clerkships. This appears to be more important for state clerkships rather than federal.

Make the most of your interview – prepare:

- Research the judge's rulings so you can be familiar with his/her background.
- Review and brush up on the legal issues addressed in your writing sample(s).
- Contact former clerks to get information about a judge's interview style.

PREPARE, PREPARE, PREPARE! Judges interview from five to twenty-five applicants. Use the resources discussed above under "Selecting Judges." Run a LEXIS or WESTLAW search for opinions and recent articles written by the judge. Develop a list of questions to ask the judge and current clerk, and think through your answers to questions you may be asked.

Deference and respect are always appropriate. You may be surprised by the degree of formality, especially at higher courts and in other parts of the country. Address judges' staff as "Mr.," or "Ms.," unless you are asked to use first names. You should address and refer to your potential employer as "Judge X" or "Justice X," depending on the court's usage. You may use

"sir" or "your honor" as appropriate, but it is far riskier to use "ma'am". Although it is always appropriate to ask how the judge wishes to be addressed by the law clerks, in case of doubt, remain formal. Never assume that because the judge uses first names with long-term staff that this egalitarian informality extends to you. Always introduce yourself with your full name and make sure to grasp the last name of anyone who is introduced to you.

Clerkship interviews vary greatly in length, content and format. Many judges include their current law clerks in the interviewing process. Interviews last anywhere from 15 minutes to two hours. Some are casual conversations; some are vigorous oral examinations, complete with hypotheticals. Whatever the form, judges want to know if you are hard-working, smart, and nice! They want to know if they can be confident of your abilities, can trust your judgment and will enjoy working closely with you.

Judges may ask you any of the usual job interview questions. Expect questions about your interest in various areas of law. If you are on Law Review, be prepared to discuss your article and journal involvement. You may be asked how you would approach a particular case, problem or legal issue and what issues concern you most. Some judges ask candidates' opinions on judicial activism and stare decisis.

You might be asked how you would handle having to draft an opinion incorporating the judge's viewpoint if it differed sharply from yours. Criminal court judges may ask your views on the death penalty.

Most judges seek a vigorous intellectual give-and-take with their clerks, along with an acceptance that it is the judge who makes the eventual decision. Show concern for the court's confidentiality and ethics issues. You are also likely to be asked about outside interests and other indicators of who you are as a whole person. Elbow clerks work so closely with their judges that compatibility is a key criterion. See Attachment G for a list of sample questions, with the skills, knowledge and abilities needed for clerking on which the questions are based. These questions were distributed as suggestions to judges for clerkships interviews by the Federal Judicial Center in a 1999 guide.

Questions a Judge/Current Clerk might ask an applicant:

Why did you decide to go to law school?

Why do you want to clerk?

Why this particular court?

What do you know about this court?

What do you hope to learn from a clerkship?

Why do you want to clerk for me?

How would you prepare yourself for this job?

Why do you want to clerk in this city, state, region?

What qualities do you have that might make you a valuable law clerk?

What legal experiences have you had and what did you like/dislike about them?

What do you consider your greatest strengths? Weaknesses?

What are your short/long range legal career goals? How does a clerkship fit?

Where do you hope to practice after your clerkship?

What type of law interests you most?

What do you think about this social/political issue?

Describe your work experience.

Describe the work you have completed for your law journal.

Tell me about the courses (grades, professors) you had in law school.

To which judges (courts) have you applied?
How would you approach this particular issue, case, problem?
Do you prefer to work with others or independently?
How do you view the long hours and low pay associated with being a law clerk?
If you and I disagree about a certain issue, would you have a problem drafting an opinion incorporating my viewpoint?
What interests do you have outside of law school?
Describe your thinking in analyzing a case. For example, how have you gone about applying the law to the facts of a case in a judicious manner? How did you weigh the competing arguments?
How would you go about researching a topic that was unfamiliar to you?
You may find yourself juggling competing deadline and priorities. Can you describe a situation in which you have done that and how you handled it?
Who is your favorite Supreme Court Justice (opinion) and why?
Do you have any questions for me?

Come to your interview with questions for the judge. Ask about the judge's hiring criteria, the selection process and its timetable. Inquire about the nature of the judge's docket, the scope of the law clerk's job and the relative amount of time spent on each responsibility. Try to learn more about the judge's legal philosophy and view of the court's role.

Questions to ask the Judge:

What criteria do you use in selecting a clerk?
What will be the scope of my responsibilities?
What is the nature of your docket?
Could we discuss the issues you had to reconcile in the your recent decision of *Doe v. Smith*? (do not pick a controversial topic)
What is your timetable for making a decision?
Do your clerks have contact with local attorneys?
How much time do the clerks spend in the courtroom?
What percentage of my time will be spent in court, conducting research, drafting opinions?
When do you prefer your clerks to look for jobs?
Would you allow your clerk to accept a job with a firm before the clerkship period is complete?
How is a case handled from start to finish?
How involved are clerks in preparing drafts of the Judge's opinions? What other documents do clerks draft?
Do clerks assist in administrative work or other projects for the Judge (e.g. Judicial Conference committee work, writing speeches or articles, preparing materials for classes taught by the Judge)?
What is the timing for extending offers?
How much time do you provide to consider an offer?

You can learn a great deal from a judge's current clerk, with whom you will probably have a separate meeting. Try to find out what the clerk does. What is the proportion of time spent in court, conducting research, drafting opinions, and meeting with the judge? What responsibilities does he or she have? How closely does the clerk work with the judge? What is their relationship? What is the judge's work style? How much contact does the clerk have with other clerks, other judges, and local attorneys? What are the benefits and drawbacks of clerking with this particular judge? Ask about how the clerkship affected the current clerk's job search. Finally, ask about the judge's hiring criteria. Keep in mind when you talk to current clerks that

they can provide many helpful inside tips, but that you must be professional in your dealings with them. Judges usually give considerable weight to the hiring recommendations of their present clerks. Therefore you should treat conversations with a judge's clerks as an important part of the interview process.

Questions to ask a current Clerk:

Describe a typical day as a clerk in this court.

What responsibilities do you have?

Describe your relationship with the judge.

What is the judge's management style in relation to his/her clerks?

What contact do you have with other clerks (practicing attorneys in the area)?

Tell me about this city (state, region) as a place to live.

How has this clerkship affected your job search? Your career goals?

What percentage of your time do you spend in court, conducting research, drafting opinions?

What criteria seem to affect the judge's selection of a clerk?

Does this judge sit in other cities? Do clerks travel with the judge?

What kind of workspace and library access do clerks have?

How much interaction does the judge have with his/her clerks? How much opportunity is there for the Judge to discuss the cases and the law with clerks?

In some chambers, the secretaries are involved in selecting clerks. In all cases, you should treat judges' secretaries with courtesy and respect, whether during the interviewing process or on the job. Clerks come and go, but secretaries are often with their judges for many years. The secretary can be very helpful to you, but if you cause offense, your behavior may (quite appropriately) affect your job chances or the quality of your clerkship experience.

The information and advice above deals with interviews for positions on a judge's personal staff. For central staff positions in a court, you can be more certain of structured formal interviews, often conducted by a panel of interviewers. Nevertheless, most of the suggestions above are equally pertinent to preparing for central staff clerkship interviews, because similar qualities are sought in applicants.

Thank You Letter: Send a thank you letter immediately after the interview.

Follow Up: If you have heard nothing after three weeks, you may call the current clerk or secretary to express your continuing interest and ask when the judge will make a decision.

After the interview:

- If after an interview you decide you would rather not work for the judge, you should write or call immediately and withdraw your name from consideration.
- If you do want to work for the judge, you should express a desire to receive an offer and your intention to accept it.

Please keep the Career Services office apprised of the progress of your search for a clerkship and, if you obtain one, of your experience as a judicial law clerk. We are here to advise and assist you. We are concerned about your individual clerkship searches, and the Law School needs to keep abreast of who applies and how their efforts work out. Your feedback on the process will help us counsel future King Hall students

CHAPTER 8: OFFER/ACCEPTANCE ETIQUETTE

Some judges make on-the-spot offers. Be prepared to accept or decline at the interview. Applicants may decline offers or ask that they be held open for a period of time without necessarily doing irreparable damage to their own professional reputations or that of King Hall, but neither decision should be made capriciously. If you request time to consider an offer, make it brief. The offer might otherwise be withdrawn. For more on this topic, see excerpts from Judge Alex Kozinski's article, "Confessions of A Bad Apple" (Attachment I).

A few caveats are in order: (1) You should withdraw an application immediately if you conclude that you would not accept the position if offered. (2) Etiquette requires that applicants treat judges with **respect and courtesy**. This means that a request for time within which to respond to an offer should seek no more time than is absolutely necessary, and should -- if the judge inquires -- include an honest explanation as to why the time is sought. This is not an area in which you can expect to bid up your offers; even if you get away with it at the moment, it can damage your professional reputation for years to come. In other words, if your application is active, you need to **be prepared** for the judge to ask that you make an immediate decision. Remember that alternative candidates may go elsewhere while the judge awaits your response.

In any event, if you request time to consider the offer, you need to listen carefully to the judge's timetable so that there is no room for misunderstanding, and honor the agreement. This also means that if you reject an offer, you should do so as politely as possible and as soon as you have made up your mind. (3) Many applicants turn down reasonably good offers only to find that the other judges for whom they were waiting have picked other applicants. Students are thus advised to bear in mind the adage about a bird in the hand being worth two in the bush. (4) Turning down an offer from a judge may decrease (and perhaps eliminate) an applicant's chances of receiving an offer from other judges on the same court. Some courts have a policy of not "fighting over" clerks.

As soon as you accept a judge's offer, you should write to all other judges before whom you have applications pending and withdraw from consideration, while thanking them for their consideration. You must not, of course, withdraw an acceptance in order to clerk with a different judge. Should an emergency arise that affects your ability to carry through on your commitment, please consult with Career Services so that we can help you minimize any damage to yourself or future King Hall applicants.