

**TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK
REPORT OF THE LAW SCHOOL INVOLVEMENT WORKING GROUP**

**THIRD ANNUAL CONFERENCE
ACCESS TO JUSTICE:**

**THE CONVERSATION CONTINUES—
THE ROLE OF LAW SCHOOLS IN HELPING MEET
THE ESSENTIAL CIVIL LEGAL NEEDS OF LOW INCOME NEW YORKERS**

BASED ON A CONFERENCE CONVENED BY THE
TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK
AT CUNY SCHOOL OF LAW ON MAY 12, 2014



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KEY RECOMMENDATIONS ADOPTED BY THE TASK FORCE

1. Annual Law School Conference

The Task Force will convene the Fourth Annual Law School Conference in the Spring of 2015 to encourage dialogue and promote communication and collaboration among New York's 15 law schools and legal services providers, law firm *pro bono* coordinators, bar associations and the courts, on collective efforts to help meet the essential civil legal needs of low income New Yorkers, and to discuss how to instill in new lawyers an awareness of the value and impact that their *pro bono* work will have in bridging the justice gap.

2. Statewide Law School Access to Justice Council

The Statewide Law School Access to Justice Council, composed of deans, administrative deans and representatives from all 15 schools, several legal services providers and members of the Task Force and court system, is continuing its collaborative work on issues relating to student *pro bono* and matters of mutual interest that promote law school *pro bono* efforts to narrow the justice gap.

3. Best Practices for Supervising Students Performing *Pro Bono* Work

A Manual on Best Practices for Supervising Students Performing *Pro Bono* Work is being developed under the auspices of the Statewide Law School Access to Justice Council. The Manual is intended to present guidelines designed to foster well-structured programs and ensure productive *pro bono* experiences for students and clients alike. Guidelines for student-led projects will be included.

4. Access to Justice in the Law School Curriculum and Skills Training

Law schools should continue to expand the integration of access to justice across the curriculum, and in clinical and experiential programs, with a directed focus on creating a continuum of learning that will equip graduating students with the skills and values to practice law, pursue public interest careers, and perform *pro bono* work. Particular attention should be given to enhancing the first-year curriculum's focus on access to justice and skills training. Law schools should also explore adding simulation courses to the core curriculum, which, among other things, are effective tools for increasing cultural and language competencies and socio-economic awareness.

5. Access to Justice on the Bar Examination

Questions on all topics tested on the bar examination should be infused with access-to-justice fact patterns, principles and terminology. Access to justice should be tested pervasively on the bar examination, not simply in isolated questions. Law schools should assess the impact of these changes to the bar examination on the curriculum and identify additional refinements, modifications and proposals related to the bar examination to promote access to justice.

6. Role of Law Schools in Working with “Non-Lawyer Advocates” to Help Narrow the Justice Gap

Law schools should consider their roles in developing training programs for “non-lawyer” advocates that will effectively train such persons to act as “non-lawyer” advocates. Law schools should

assist in resolving issues relating to supervision and unauthorized practice of law in relation to non-lawyer advocates.

7. ***Pro Bono* Scholars Program**

Law Schools should develop curricular pathways geared to preparing students to participate in the *Pro Bono* Scholars Program. Such pathways should enable students to plan their legal studies so they can complete all coursework required for graduation and take the February bar examination, prior to beginning work as a *Pro Bono* Scholar. The impact of the *Pro Bono* Scholars Program should be assessed both in terms of outcomes for students and the Program's impact on the justice gap.

OVERVIEW OF THE THIRD ANNUAL LAW SCHOOL CONFERENCE

SINCE 2012, THE TASK FORCE TO EXPAND ACCESS TO JUSTICE IN NEW YORK has convened an annual conference to encourage and promote communication and collaboration among New York's 15 law schools and legal services providers, law firm *pro bono* coordinators, bar associations and the courts, on collective efforts to help meet the essential civil legal needs of low income New Yorkers, and to discuss how to instill in new lawyers awareness of the value and impact that their *pro bono* work will have in bridging the justice gap.¹ This year, the Third Annual Law School Conference, titled "The Conversation Continues: The Role of Law Schools in Helping Meet the Essential Civil Legal Needs of Low income New Yorkers," was held on May 12, 2014 at CUNY School of Law. The Law School Conference is convened annually, in accordance with a recommendation from the 2012 Conference, which was adopted by the Task Force in its 2012 Annual Report to the Chief Judge.

New York's 15 law schools play a pivotal role in Chief Judge Jonathan Lippman's efforts to narrow the justice gap. The Annual Law School Conferences have generated recommendations that have been instrumental in advancing how access to justice is integrated into law school education, both across the curriculum and in practice-based and experiential settings. In 2013, the Chief Judge announced New York Court of Appeals Rule 520.16 mandating that every person seeking admission to the New York Bar on or after January 1, 2015 perform 50 hours of *pro bono* service in addition to passing the bar examination, after an appropriate course of legal education. Nearly all of New York's law schools have designated a faculty or administrative member responsible for student *pro bono*, particularly to ensure that students understand their responsibility to complete 50 hours of *pro bono* service prior to admission to the bar and to identify qualifying service. Significantly, at this year's Conference, the Statewide Law School Access to Justice Council (Council), composed of deans, administrative deans and representatives from all 15 schools, several legal services providers, and members of the Task Force and court system, previewed a proposed Statewide Consortium Website for Student *Pro Bono* Opportunities intended to facilitate *pro bono* placements.

This year, the Chief Judge announced that law students entering their third year in September 2014 are eligible to participate in the *Pro Bono* Scholars Program (PBSP). Students accepted into the Scholars Program will take the bar examination in February and then spend their final semester in supervised placements where they will assist in the provision of legal services to economically disadvantaged individuals. Upon graduation and passage of the bar examination, Scholars' bar applications will receive expedited review. The law schools have embraced the Chief Judge's initiatives, meeting the challenges to ensure every law student has access to *pro bono* opportunities by developing innovative curricular and experiential offerings.

The reach of the recommendations from the 2012 and 2013 Law School Conferences is also evident in the current study underway by the Board of Law Examiners on how to organically incorporate access to justice into bar exam questions. It is notable that the recommendation, first announced in 2012 and repeated in 2013, that law schools endeavor to add skills-based courses that seamlessly integrate access to justice, has been implemented or is in development at each school and will complement the PBSP.

Task Force Chair Helaine M. Barnett welcomed 167 participants to the May 12 Conference. The par-

ticipants included ten law school deans, 79 professors and administrative representatives from all 15 New York law schools and one state university, and six law students. In addition, there were 13 representatives of the judiciary and Office of Court Administration, a member of the Board of Law Examiners, 33 representatives of legal services providers and 25 bar leaders, including seven law firm *pro bono* counsel. Ms. Barnett noted that, as in prior years, Conference attendees would participate in work groups, and that following a presentation by Chief Administrative Judge A. Gail Prudenti and Court of Appeals Senior Associate Judge Victoria A. Graffeo, the afternoon sessions of the Work Groups would focus on the *Pro Bono* Scholars Program.² Ms. Barnett acknowledged the significance of the ideas and suggestions generated from the prior two Conferences and thanked the attendees for their continuing involvement and contributions.

Ms. Barnett introduced Chief Judge Lippman, describing him as a visionary whose inspired leadership is bringing us closer to achieving the ideal of access to justice for all. Chief Judge Lippman emphasized law schools' responsibility as the educators of the next generation of lawyers to ensure students understand what it means to be a lawyer and the obligation to ensure everyone has access to justice to achieve the goal of equal justice. The Chief Judge pointed to the work of the Task Force in helping to create a template for responding to the crisis in civil legal services with innovative non-monetary initiatives, like the Annual Law School Conference, the creation of the Statewide Law School Access to Justice Council and pilot programs for non-lawyer advocates to assist unrepresented individuals, to name a few. The Chief Judge acknowledged the judiciary's partnership with the legislature and the executive in supporting the allocation of funds in the judiciary budget for civil legal services programs, totaling \$70 million in the current fiscal cycle, and how the continuing need for a consistent revenue stream to fund such services is amply demonstrated in the annual Civil Legal Services Hearings, which the Task Force helps organize. The Chief Judge declared that it is our constitutional duty and obligation as lawyers, sworn to serve the public good, to help our most vulnerable citizens. Chief Judge Lippman remarked that by infusing legal education with the importance of a lifetime of *pro bono* service, together with all of our collaborative work, equal justice can become a reality.

Opening Plenary Session

The Opening Plenary Session provided an overview of access to justice in legal education. Judge Fern A. Fisher, Director of the NYS Courts Access to Justice Program and Deputy Chief Administrative Judge for New York City Courts, moderated the panel, which featured Dean Michelle Anderson of CUNY School of Law, Court of Appeals Associate Judge Jenny Rivera and James R. Silkenat, President of the American Bar Association. Judge Fisher noted that the panel would set the stage for the four Conference Work Groups, and, in keeping with the structure of the prior two Conferences, the recommendations put forth by each Work Group will be considered by the Task Force for inclusion in the Annual Report to the Chief Judge, to be issued in late November.

ABA President Silkenat stated that a founding principle of our country, "liberty and justice for all," remains illusory to so many — statistics show that only one in five people qualifies for legal assistance, and yet only 57% of 2013 law school graduates are employed in jobs that require a J.D. This disconnect has motivated Mr. Silkenat's work as ABA President, where he has endeavored to harness the talent and resources of the ABA's 400,000 national members to improve the ratio of only one legal aid lawyer available to serve every 6,400 low income persons. Mr. Silkenat stressed that law schools are critical to addressing this crisis, which defies the rules of supply and demand, and the programs launched by

the ABA are catalysts for new employment models that can make the legal marketplace more accessible to recent graduates.

Judge Rivera recognized the challenges law schools face in training lawyers to serve society's interests. While acknowledging that it is incumbent upon law schools to ensure that students are properly trained and work toward narrowing the justice gap, it is equally true that law professors must inspire students to engage in work for the public good.

Dean Anderson focused her remarks on the 2013 Report of the New York City Bar Association Task Force on New Lawyers in a Changing Profession,³ from her perspectives as a task force member, law school dean and law professor. Among the many salient findings made by the Task Force, the one with particular relevance to the work of the Conference is that law schools must do more to refocus student expectations. Dean Anderson echoed Mr. Silkenat's reference to the oversupply of lawyers and the continuing unmet need for civil legal services, characterizing it as a mandate for re-evaluation of the expectations of the profession and redefinition of what success means in today's legal market.

Conference Work Groups

The Law School Involvement Working Group has coordinated the Annual Law School Conferences convened by the Task Force over the last three years. Each year, the Working Group forms a Law School Conference Planning Committee to develop the themes for the Conference Work Groups. Following the framework of the 2012 and 2013 Conferences, the 2014 Conference attendees joined one of four Work Groups, each charged with examining a distinct set of issues. The four Conference Work Groups each convened a panel to identify the key issues that the participants would discuss. In three of the Work Groups, participants divided into small discussion groups to tackle specific issues. Subsequent to those small group discussions, these Work Groups re-assembled to hear consensus reports from the small group facilitators. Each Work Group moderator then developed a report containing recommendations for consideration by the Task Force.

This year's Work Groups were as follows:

Preparing Students for Access-to-Justice Activities in Clinical Courses

Moderated by CUNY School of Law Professor Susan Bryant, this Work Group began with a panel discussion among CUNY School of Law Professor Ann Cammett; Carey Dunne, President of the New York City Bar Association and a partner at Davis Polk & Wardwell LLP; and David Udell, Executive Director of the National Center for Access to Justice and a Visiting Professor From Practice at Benjamin N. Cardozo School of Law. The panel and ensuing Work Group discussions addressed the following questions:

- What professional values, knowledge and/or skills do law students need to learn to be competent in access-to-justice activities while in law school and in practice?
- How can we educate law students to adopt a professional identity that embraces the professional responsibility for achieving justice and providing access to justice?
- How do different clinics, externships, and practicums educate and equip students with the knowledge, skills and values to deliver a range of legal services and address the legal needs of low income people?

Best Practices for Supervising Student *Pro Bono* Work

The Work Group was charged with examining the supervision of law student *pro bono* and to jump-start the creation of a new guidebook for the supervision of students engaged in *pro bono* work in connection with the 50 hour rule, the *Pro Bono* Scholars Program and other *pro bono* structures and initiatives in New York State, including those under student leadership.

Moderated by Columbia Law School Dean for Social Justice Initiatives Ellen P. Chapnick, the session opened with a roundtable discussion among Chief Counsel of the Empire Justice Center, Bryan Hetherington; Executive Director of the City Bar Justice Center, Lynn M. Kelly; and, Steven Lee, a law student at the Maurice A. Deane School of Law and the Director of the Veterans Legal Assistance Project at the law school, to identify best practices for supervising all types of student *pro bono* activities in a variety of practice contexts. Topical issues addressed included how best to inform law students about professional ethics/responsibility applicable to the assigned *pro bono* project; best ways of providing orientation and training on the assigned *pro bono* project; mechanisms for responding to questions and giving feedback and evaluation to students; and how to capture student evaluation of the *pro bono* experience.

Following the discussion, the Work Group divided itself into small groups to consider discrete best practice “supervisory” issues. Jennifer Gundlach, Senior Associate Dean for Experiential Education and Clinical Professor of Law, Maurice A. Deane School of Law, Hofstra University, facilitated the small group discussion centered on best practices for developing an access-to-justice *pro bono* project for law students which has significant impact. Harlene Katzman, *Pro Bono* Counsel and Director at Simpson, Thacher & Bartlett LLP, led the discussion focused on best practices for providing orientation and training to a student at the project’s outset. Carolyn Silver, Chief Program Officer at Lenox Hill Neighborhood House, facilitated the discussion on best practices most suited for assuring competent performance, responding to questions, giving feedback, and evaluating the student during the project. And, J. McGregor Smyth, Executive Director of New York Lawyers for the Public Interest, directed the small group discussion on best practices for informing law students about professional responsibility and ethics relevant to their *pro bono* project.

The Law School Conference presented a very rare opportunity to develop a framework for a guidebook for *pro bono* supervisors that reflects the insights and needs of the multiple stakeholders in the law student *pro bono* service matrix (law schools, not-for profit organizations, courts, law firms, bar associations, etc.). The Work Group expects to further develop and disseminate the guidebook under the auspices of the Council.

Developing a Blueprint for an Access-to-Justice Curriculum and Testing Access to Justice on the Bar Examination

Associate Dean for Clinical Programs at CUNY School of Law Joseph Rosenberg moderated the panel, which featured New York State Board of Law Examiners member Michael Colodner; Lillian Moy, Executive Director of the Legal Aid Society of Northeastern New York; Yogi Patel, a partner at Lloyd Patel, LLP; CUNY School of Law Assistant Dean for Academic Affairs and Professor Allie Robbins; and CUNY School of Law Distinguished Professor of Law Ruthann Robson.

The Work Group examined a host of issues, including how to utilize the “traditional” law school curriculum to prepare students for access-to-justice careers by, e.g., highlighting actual and potential

courses that would provide students with the skills and knowledge necessary for access-to-justice careers, and identifying methods and/or models to create opportunities for providing legal services in conjunction with such courses.

Significantly, the Work Group discussed possible suggestions to present to the New York Board of Law Examiners (BOLE) in conjunction with the statewide study underway on modifications to the “Content Outline and Bar Examination Questions” to test student knowledge and skills important for working with underserved populations in matters involving landlord/tenant issues, foreclosures, family law, installment contracts, consumer credit proceedings and access to public benefits, and considered other topical areas that warrant consideration for testing on future bar examinations in the access-to-justice context.

Role of Law Schools in Working with Non-Lawyer Advocates to Help Narrow the Justice Gap

This Work Group was moderated by Judge Fern Fisher and Thomas Maligno, Executive Director of the Public Advocacy Center and Director of Public Interest at Touro College, Jacob D. Fuchsberg Law Center, and explored the pilots underway in New York and Washington with panelists Kim Diana Connolly, SUNY Buffalo Law School Professor of Law and Vice Dean for Legal Skills; Hector Manuel Fernandez, Associate Professor and Director of Paralegal Studies, Business & Technology Department at LaGuardia Community College; Paula Littlewood, Executive Director of the Washington State Bar Association, who participated via Skype; Roger J. Maldonado, Co-Chair of the Committee on Non-Lawyers and the Justice Gap and a partner at Balber Pickard Maldonado & Van DerTuin, PC; Dean Patricia E. Salkin of the Jacob D. Fuchsberg Law Center; and Jane M. Spinak, Edward Ross Aranow Clinical Professor of Law at Columbia Law School.

Following the panel presentation, the Work Group considered the following questions:

- What role do non-lawyers have in helping to close the justice gap?
- What role do law schools have in training non-lawyer advocates?
- Is there a direct role for non-lawyer advocates to play in access-to-justice efforts at the law schools by, e.g., partnering with students, working with clinics?
- What factors — financial, philosophical, ethical and cultural — will the law school encounter in developing programs for non-lawyers, and what is the sentiment among faculty?
- What type of supervision is appropriate for non-lawyers?
- What type of training and support is incumbent upon the law school to provide for such supervision?
- Could the development of non-lawyer advocate programs be perceived as devaluing the mission of law school and/or the J.D. degree?

Mid-Day Plenary Session

After the morning work group sessions, Jennifer A. Gundlach, Senior Associate Dean for Experiential Education & Clinical Professor of Law at the Maurice A. Deane School of Law, Hofstra University, and Laren Spierer, Director of *Pro Bono* Programs at Columbia Law School, previewed the proposed

Statewide Consortium Website for Student *Pro Bono* Opportunities, spearheaded by the Council, as recommended in the 2012 Law School Conference Report and adopted by the Task Force. The 15 New York law schools are considering whether the site will be a useful “marketplace” for posting of *pro bono* placements for New York law students.

The Conference participants were then addressed by Chief Administrative Judge Prudenti and Judge Graffeo on the guidelines for the *Pro Bono* Scholars Program.⁴ Following this presentation, the Work Groups re-convened with discussions primarily focused on the PBSB.

Closing Plenary Session

At the conclusion of the day, the participants reconvened in a Plenary Session, led by Matthew Diller, Dean of the Benjamin N. Cardozo School of Law. The moderators from each Work Group shared highlights from both the morning and afternoon work group sessions, including comments and concerns for the implementation of the *Pro Bono* Scholars Program in the upcoming academic year.

Dean Diller remarked that the educational mission of law schools includes integrating access to justice into the curriculum, and now is the time to determine what it takes to educate and prepare our students to practice law with a social conscience, and become leaders in the access-to-justice movement. This means that the law school curriculum include not only legal principles and rules, but must also impart a set of values and skills. In New York, and nationally, there is a renewed emphasis in nurturing values, skills and professionalism in law schools. There is also a recognition that law schools can inspire students to embrace the culture of service long associated with the legal profession.

Dean Diller acknowledged that we all agree that students must graduate ready to practice law, equipped with knowledge of the law, cultural competencies, including sensitivity to socio-economic challenges, and problem-solving abilities. Access-to-justice work offers a unique opportunity for students to develop skills, values and a sense of professionalism in real-world settings, serving clients who otherwise would not have legal representation. There is an urgent need, and our law students can make a difference.

The Board of Law Examiners is currently studying how access to justice can be incorporated into the bar examination. The *Pro Bono* Scholars Program is an important initiative designed for an immersive public service experience for second semester third-year students. Law schools working to integrate this Program are developing protocols for the substantive, skills and leadership training students need to appropriately and effectively represent clients, and for supervision models. Further, methods to evaluate students and student experiences are being refined.

The legal community — law schools and law school clinics, bar associations, practitioners, legal services providers and the courts — are thinking creatively about how to best prepare students for a profession dedicated to narrowing the justice gap. We must continue to pursue innovative solutions, for example, using properly trained non-lawyers to assist unrepresented litigants with ministerial matters. This, Dean Diller concluded, will help us achieve the constitutional dictate of a legal system that is fair and just for everyone.

SUMMARIES OF THE CONFERENCE WORK GROUP REPORTS

THIS SECTION PRESENTS THE RECOMMENDATIONS OF THE WORK GROUPS and offers a summary of the narratives produced after the Conference to provide context for the Work Groups' recommendations. A summary of the afternoon sessions of those Work Group discussions that focused on the information provided by Judge Prudenti and Judge Graffeo in the Mid-Day Plenary Session on the PBSP follows.

Preparing Students for Access-to-Justice Activities in Clinical Courses

Recommendations of the Work Group

Law schools should recognize their responsibility for preparing students for access-to-justice work, both in law school and after graduation. The Work Group considered how a law school might think expansively about who can and should be teachers of the various competencies needed for access to justice practice. (For example, career services faculty can teach professional lessons about business letters that can be applicable to job application cover letters, as well as demand letters in landlord-tenant cases). Each school may develop its own strategies, but, at a minimum, the strategies should include:

1. Developing “student outcomes” or benchmarks for students that identify the knowledge, skills and values needed to perform competent access-to-justice work in school and after graduation.⁵
2. Requiring all students to take a law school course⁶ that teaches what access to justice work means, including the impact of the law on poor clients, the roles of access-to-justice lawyers and other topics identified in the course recommended in the 2012 Law School Conference Report.⁷
3. Consulting with access-to-justice providers to ensure that overall competencies include “practice-ready” competencies targeting access-to-justice work, such as the ones suggested by the current working group — professionalism, judgment, empathy, cross-cultural competency and language skills, problem solving, familiarity with poverty contexts, communication skills and a variety of other skills like those associated with trial or transactional work.
4. Explicitly teaching the responsibility of lawyers to provide access to justice through clinical work that creates empathy for clients and motivates students to continue such work.

Synopsis of Discussion

Given the near universal recognition that law schools must enhance skills training, discussion focused on how law schools can prepare students to be “practice ready” upon graduation. Echoing the recommendations that the Task Force adopted from the 2012 and 2013 Annual Law School Conferences, the Work Group agreed that skills training, with a directed focus on public interest and *pro bono*, is critical. Restating the 2012 recommendation of the Task Force, the Work Group recommends a required course in the first year and/or directing that access-to-justice issues be holistically integrated into the first-year curriculum and successively reinforced in doctrinal, clinical and experientially second- and third-year offerings. Of course, schools might need multiple strategies since one strategy may not be successful in reaching all students, and various approaches may yield the same result.

Equally important, law schools must endeavor to instruct students about the ethical and professional values and skills attendant to the practice of law, and spark the commitment to engage in work to close

the justice gap, a responsibility that has long been recognized as incumbent upon members of the bar. Reference was made to the 50 hour bar admission rule, mandatory *pro bono* reporting by lawyers on the biennial attorney registration, the newly minted *Pro Bono* Scholars Program for third-year students, and the review currently underway by the New York Board of Law Examiners to integrate access to justice in topical matters tested on the bar examinations⁸ as recent examples of how the legal profession is working to narrow the justice gap statewide.

The Work Group considered the skills, knowledge and professional identity that students need to develop in order to be “practice ready,” and to help them embrace responsibility for achieving and providing access to justice. The group noted, that in addition to imparting traditional skills for transactional and litigation work, law schools must endeavor to assist students in developing cultural and professional competencies. Helping students develop their own sense of what being a competent, ethical, and client-centered practitioner is important in clinical teaching. Even though clinics and practicums provide students with different experiences, a core group of skills and values should be integrated into any program that seeks to make students ready for real-world practice. This core group of skills should include: (1) the art of practice, beginning at the outset of law school, (2) skills, (3) values and professional training, and (4) development and integration of professional identity.

There was strong sentiment that the “practice-ready” graduate understands that the law can be used as an instrument to effectuate change, possesses problem solving skills; trial-ready skills; understands professionalism, including the ability to write a letter to a client and/or communicate appropriately to clients; law office skills (how to deal with colleagues and co-workers and the division of office responsibilities); project management skills; cultural competence, including understanding poverty and the ability to collaborate with colleagues and community members. Practicing in a poverty law setting in law school is essential to the development of these competencies and client skills.

To prepare students for access-to-justice work, they must be provided with an understanding of clients and their problems in the context of their environments. There was discussion of a mandatory first-year course, possibly an intensive class over five days that must be taken before students perform their 50 hours of *pro bono* work. In-house skills development, such as interviewing, counseling, and other ethics-based goals, and critical cross-cultural lawyering skills, are important and provide depth and insight into the way students initially imagine interactions with clients, opposing counsel and the courts, before they actually enter the practice setting. For example, if students are to be problem solvers that understand how mass criminalization, the child welfare system and other systems reinforce subordination in the lives of poor clients, teachers should create simulations (and/or take real cases) that probe the effects of the other systems on the “legal” cases on which students work.

Concern was expressed about the opposition to viewing *pro bono* work as an obligation by law students and law graduates, and it was suggested that more needs to be done to change negative perceptions if the current efforts to address the justice gap are to be meaningful.⁹ To ensure maximum participation by students, law schools will have to overcome obstacles created by student resistance to the type of work being done in clinical courses and to *pro bono* work generally, perhaps by including transactional or other commercial/corporate work that contains transferable lessons.¹⁰ Success in reaching students who are not interested in clinical work or litigation can only enhance the fortunate convergence of skills training and access-to-justice initiatives currently underway. Without due consideration of these concerns, there is a real risk of disenfranchising students and missing a large segment of the profession that could perform *pro bono* legal work.

Best Practices for Supervising Student *Pro Bono* Work

Recommendations of the Work Group

1. New York's 50 hour bar admission rule and *Pro Bono* Scholars Programs should foster the principle that well-structured law student *pro bono* projects are important investments in future public interest and *pro bono* attorneys.
2. A Guidebook on Best Practices for *Pro Bono* supervisors should be developed and disseminated under the auspices of the Statewide Law School Access to Justice Council. The Guidebook should cover, among other topics, specific issues raised by *pro bono* service performed in satisfaction of the requirements of the 50 hour rule and the *Pro Bono* Scholars Program.
3. Students should be educated about access to justice issues, cultural competence concerns, and professional ethics before beginning *pro bono* service. Ideally, these issues would be integrated into the first year curriculum at all law schools in New York State.
4. Although the specifics will vary among *pro bono* projects, all should include well-designed training, supervision, and evaluation components, as well as intrinsic and instrumental incentives for students to do excellent work.
5. Technology and collaboration among and between all stakeholders (including law schools, not-for-profit organizations, courts, law firms and bar associations) should be explored to leverage limited resources and sustain high standards of service for clients and for the education of students.

Synopsis of Discussion

An effective guidebook for *pro bono* supervisors should help institutions and organizations analyze their situations and select best practices for their projects. Best practices will differ across various dimensions. For example, by:

- a. Organization capacity: what are the resources for training and supervision of law student volunteers?
- b. Duration and student schedule: are the students volunteering full-time (summer, spring break and *Pro Bono* Scholars Program), on a regular weekly schedule over the course of a semester, or on a time-limited specific project?
- c. Structure: is the project based at a not-for-profit organization, law school clinic or school public interest office, a student-directed project, bar association or law firm (or is it a partnership among several of these)?
- d. Nature of work: is the project mostly research and writing; does it require interaction with clients or others; does it seek a specific outcome?

Importantly, the group identified that it is a best practice to manage expectations and to resolve conflicts throughout the project by securing the agreement of all parties early in the process. Some participants recommended (a) appointing a liaison at the law school and at the host organization, (b) clarifying who is in the "evaluation loop," or (c) entering into an Memorandum of Understanding (MOU) among the student, the law school and the host organization about expectations of each stakeholder (what each will contribute to and receive from the program), the standards and process of supervision and evalu-

ation, and dispute resolution mechanisms.

The design of *pro bono* projects for law students requires consideration of multiple factors which are part of effective supervision. There often will be tension in choosing whether to create a new project or to improve or expand an existing project. Among other things, the design should include intrinsic incentives for students to participate, such as learning about the importance of their work to the overall project, on behalf of a group or issue of particular concern to them; gaining an in-depth understanding of an issue; developing skills and knowledge of substantive law; having contact with the client or affected community; as well as more instrumentalist motives like recommendations, writing samples and networking. Students should have some ownership of their work, and there should be leadership roles for especially committed students. Students should have meaningful opportunities for evaluation of the project and their thoughts should be incorporated into project improvements and into the design of new projects. The design should take into account the resources needed to do the project well, and should also identify, at the outset, the particular institutions that will contribute the essential resources (not-for-profit organizations, law firms, law schools, courts, etc.).

Formal training should be carried out before the project to introduce students to the skills, law and procedures that they will use, and to provide students with an understanding of the larger context in which the project will take place. Students should be instructed on the host organization's underlying mission, issues arising from poverty and the client base of the organization. Training techniques may include poverty simulations, in-person trainings on diversity and cultural competence, meetings with representative clients, and training videos.

Organizations that do similar work can leverage their resources by collaborating on common training, manuals and models. A survey could be done in New York to identify existing resources before new ones are created. Technology provides a means to collaborate on and share training materials. Well-designed on-line training, such as webinars that include assessment tests, might better suit students' varied schedules.

Direct supervision, including feedback and evaluation, is key not only to successful project results but also to whether the students have an experience that will lead them to perform *pro bono* service in the future, including after graduation. Work Group participants have concerns about student-directed projects, and most believe that supervision by faculty members or by experienced practitioners, perhaps alumni of the school or project, should be required. Not-for-profit organizations do not always have staff to devote for close supervision of student work, and many host organization lawyers think it better to just do the work themselves. In some situations, the remedy is education about the need for and benefits of student *pro bono* service. In others, it will be necessary to rely on law school faculty and administration members, law firm lawyers or other practitioners to supervise.

Feedback on students' work product will vary with such factors as complexity, duration and size of the project (large group or individualized). The organization should advise students who on the staff will answer questions and provide feedback. It is important to encourage students to be active participants in these discussions and to be proactive about seeking help. Where face-to-face discussions are unfeasible, surveys or weekly email reports and updates may be helpful.

Law schools should bear primary responsibility for teaching professionalism and ethics to their students before they begin *pro bono* service. But, at present, most students take professional responsibility in their third year, which is too late for students who volunteer in their first and second years of law school.

Few, if any, law school public interest offices provide, much less require, ethics preparation as a condition for participating in *pro bono* service. As a practical matter, host organizations introduce many students to the rules (unauthorized practice of law, confidentiality), cultural competency and professionalism (punctuality, meeting deadlines, always doing their best work, “managing up,” etc.). Some projects will require specialized education about topics, like representing children or adults with mental disabilities, or limited scope representation. Economies of scale can be achieved by teaching students at several similar organizations about professional responsibility in joint sessions, perhaps taught by law school professors.

The Work Group deferred in-depth discussion of additional best practices for supervision to the authors of the anticipated guidebook. Further discussion may include such subjects as:

- a. the appropriate ratio of supervisors to students, and the appropriate size of projects,
- b. the circumstances under which supervisors should be “in the room,” “on call,” or otherwise available at the time *pro bono* service is performed;
- c. under what circumstances, if any, experienced students have an appropriate role in helping to train and/or supervise inexperienced students; and
- d. implications of the distinction between supervising students’ professional interactions with clients, colleagues, and other institutions, and supervising students’ performance of skilled tasks requiring substantive knowledge of the law and of lawyering techniques.

Developing a Blueprint for an Access-to-Justice Curriculum and Testing Access to Justice on the Bar Examination

Recommendations of the Work Group

Law School Curriculum¹¹

1. Infuse access to justice throughout all aspects of the law school curriculum to reflect its central value to the legal profession. Law Schools should promote integration of access to justice across the curriculum by professors and nurture and encourage justice idealism in students.
 - a. Add first-year opportunities in doctrinal courses (with the caution of some participants that not all first-year law students are ready):
 - i. Design (first-year) “lawyering labs” linked to doctrinal courses.
 - ii. Create (first-year) simulations that connect students with access to justice issues, activities, case, and clients.
 - iii. Incorporate experiential learning in the first year, for example, involvement with the work of a clinic to gain exposure (e.g., hearing about real cases, including ethical issues, from clinic students) and perhaps some clinical experience with clients (e.g., by participating in client intake or interviews), and lawyering activities (e.g., helping to draft a document or participating in a “know your rights” training in collaboration with clinic students and faculty).
 - iii. Provide *pro bono* experience (in the first year) that connects students with outside attorneys, courts or organizations engaged in public interest work relevant to the course.

2. Encourage collaborations between doctrinal and clinical/experiential courses. For example, the class could form a “law firm clinic” to provide a broader experience for students.
3. Create access to justice related experiential opportunities for students throughout law school, and encourage collaboration with the practicing bar.
4. Develop certification programs for law students in a particular practice area based on successfully completing a designed series of courses, clinics, and externships that integrate access to justice issues.
5. Build on and encourage clinics, supervised externship practicums, and hybrids, and make them mandatory, with at least a minimum of six credits (this is the ABA requirement; California now has a 15-credit requirement).¹² Consider an extended externship or semester in practice, perhaps similar to PBSP. Connect clinics with legal writing to introduce experiential learning into first-year legal writing and lawyering courses.
6. Law schools should have a research agenda that focuses on skills and professional competencies as part of the “curriculum inventory.”
7. Teach ethics pervasively throughout the law school curriculum and in context as part of doctrinal subjects and lawyering skills.
8. Promote cultural competence skills in law students.
9. When courses are evaluated, include an access to justice mission component.
10. Require law school faculty to participate in *pro bono*/access-to-justice activities.
11. When professors are evaluated, include access to justice coverage, scholarship, and service activities as criteria for reappointment and tenure.
12. Law schools should conceptualize their mission as including an access to justice dimension under the new ABA guidelines.
13. Research and assess the efficacy and impact of new access-to-justice programs and initiatives.

Bar Examination

The Work Group recommends the following other access to justice related bar exam reform proposals to build upon the BOLE and PBSP initiatives:

1. Modify the bar exam as follows:
 - a. Test access to justice pervasively, not as a separate topical question (including, e.g., substantive topics, due process rights, access to counsel, limited representation, and related ethical issues).
 - b. Use language and fact pattern narratives that are more inclusive.
 - c. Limit the role that “speediness” plays in answering questions.
 - d. Reduce the number of topics tested.
 - e. Increase the use of the Multistate Performance Test (MPT) format, adjusted to allow more time, as it tests practical lawyering skills and knowledge (not rote memorization).

2. Pilot an access to justice/public service alternative path to bar admission. Explore the possibility of creating an access to justice curricular program, the successful completion of which will culminate in admission to the New York bar, perhaps similar to the model of the University of New Hampshire Daniel Webster Scholars program.¹³
3. Award advance credit for the bar examination for access to justice activities in clinics and supervised externships.¹⁴

Synopsis of Discussion

A. Law School Curriculum

The Work Group examined how to utilize the “traditional” law school curriculum to prepare students for access to justice careers. There is a heightened need for cultural competence awareness and skills across the curriculum.¹⁵ The Work Group Report acknowledges the excellent efforts and Reports of the 2012 Work Group on Incorporation of Access to Justice Issues in the Basic Law School Curriculum and the 2013 Curriculum Work Group.¹⁶ As those Reports demonstrate, there is no shortage of innovative initiatives and thoughtful approaches intended to bridge the access to justice gap that involve law schools, practitioners, the judiciary, and community based organizations

The recently adopted PBSP program, in which third-year students take the bar exam in February and then devote their final semester to a full-time access to justice practice experience, creates new opportunities for law students and law schools. This initiative will influence the curriculum of many, if not all, law schools in New York State. The role of law schools in producing “profession ready” law graduates, who understand the central values of public service, requires more initiatives, similar to the PBSP, that shake up the law school curriculum, provide students more flexibility in their law school experience, and create more options for admission to the bar.

Relatedly, the ABA’s Standards Review Committee of the Section of Legal Education and Admission to the Bar is reviewing “student outcomes” expected for graduating students, and the overall course of legal education, that will provide law schools with potential opportunities to select its particular mission(s) and reform the curriculum.¹⁷ This will likely involve widespread participation by faculty in each law school. Access to justice should become a key component of a law school’s mission as a response to the ABA mandate.

Law schools need concrete strategies on how to change the “legal education culture” and the curriculum to create professional support for access to justice. Awareness of access to justice issues must start at law school orientation and extend beyond the 50 hour *pro bono* bar admission requirement. It is critical for first year faculty to embrace access to justice issues to enable students to understand these issues as an essential part of the law school curriculum from the outset, which would help build a foundation for the entire law school curriculum. Professional responsibility and ethics should be explicitly acknowledged as central issues in access to justice.

Access to justice should be embedded in courses in many ways, including through hypotheticals and problem sets; simulations in roles as attorneys; writing assignments; guest speakers; reading briefs of both sides in assigned cases; projects and opportunities for external field placements as part of a class. Law school courses should increase awareness by law students of the consequences resulting when a person does not have access to a lawyer. In law school, so much time is spent on legal doctrine, with relatively little emphasis on how useless the law is when a person does not have competent represen-

tation. All law schools should require experiential courses, clinics, and supervised externships. As part of preparing students for bar admission, law schools should include courses, resources and other opportunities to learn about the practicalities of independent, self-sufficient autonomous law practice, including law collectives, solo practice, incubators, and affiliations with community-based organizations.

Law schools should analyze a law professor's access to justice coverage in courses, scholarship, and services activities in relation to tenure decisions. Access to justice coverage in courses is generally not valued for purposes of earning tenure. Traditional academia values publishing articles on obscure topics much more than scholarship, teaching, and service activities that address access to justice issues.¹⁸ Efforts should be made to build connections around access to justice in all parts of the curriculum, which could also help eliminate the dichotomy between "podium" and "experiential" professors.

Law schools should be encouraged to find ways to encourage students who come in with a commitment to social justice, including access to justice. Many students enter law school with aspirations to do access to justice work, but something happens along the way that dampens their idealism. Law schools need to encourage and incentivize public interest work. However, law schools cannot force all students to do public interest work, and ultimately cannot control students' commitment to public interest work following the course of study at law school and opportunities after graduation.

In this regard, faculty influence should not be overvalued. The values shared by public interest professors and attorneys are not universally shared. Therefore, research to evaluate whether programs and initiatives are working should be supported, to assess, for example, the impact of the 50 hour rule on law students, and how to assess the PBSP and structure it to maximize efficiencies and outcomes that discernibly work to narrow the justice gap.¹⁹ Participants agreed that law schools do not, but should, assess traditional doctrinal courses as rigorously. Concern was expressed that clinics, supervised externships, and access to justice courses and activities will be subject to a different and heightened level of scrutiny and assessment.

From a practice point of view, law schools must give law students skills to make them employable, including classes that focus on specific practice areas and that highlight and integrate practical lawyering skills and activities in doctrinal areas that are relevant to community-based practice.²⁰ Law school assignments should help develop knowledge and expertise in the practicalities of a lawyer's work from client interactions (e.g., interviewing, advising and counseling), to drafting documents (e.g., letters, memoranda, and motions), to problem solving (e.g., informal, alternative dispute resolution, and litigation). Also, law students and graduates should have fundamental knowledge of what employers will expect from them, and upon graduation be "profession ready."

B. Bar Examination

The Work Group was also charged with considering how to test access to justice on future bar examinations and other potential changes to the bar exam. Under the jurisdiction of the Court of Appeals, the BOLE effort to revise the content outline and specifically integrate access to justice issues and topics on the New York bar exam is a watershed event.²¹ Access to justice issues and topics on the bar exam could include: torts and environmental impact; corporations and shareholder proxy voting rights; assessing and dealing with legal consequences of a family member with diminished capacity to make decisions involving housing, health care, government benefits, and other personal and property management needs; criminal and civil issues relating to arrest, incarceration, and re-entry. Access to justice issues probably are most effectively integrated within questions about specific topic areas, rather

than being added as a separate access to justice essay. There is a heightened need for cultural competence awareness and skills across the curriculum.²²

The Work Group recognized the strengths and utility of the New York bar exam, and the need for a test that will accommodate the large number of bar exam takers.²³ There is a synergy “back and forth” between the law school curriculum and the bar exam. If the bar exam includes access to justice that, in turn, will influence law schools to increase their access to justice/public interest mission and curriculum, which will then also influence the prevalence and testing methodology of those topics on the bar exam.²⁴ There was also general agreement that the access to justice crisis, the well-chronicled need for law schools to better prepare students for the profession, and the contraction of the legal job market²⁵ all create an opportunity to build on the PBSP, and to explore the possibility of an access to justice alternative path to bar admission.²⁶

Designed to test basic knowledge and skills, the content of the bar exam impacts the law school curriculum; it is essential that students be prepared to pass the bar exam (in addition to being “profession ready” among other valid goals law schools may have for their students).²⁷ Most law schools in New York (and nationally) balance a sequence of doctrinal courses, electives, lawyering seminars, practicums, clinics, supervised externships, and other course designs, some or all of which may incorporate access to justice. Law schools that have found it necessary to adopt more flexible admissions criteria to attract a full student body also need to provide appropriate levels of academic support and careful curricular design to prepare students for both practice and the bar exam, each of which require substantially different “skill sets.”

To graduate students who are “profession ready,” assessment of skills must be more than the ability to memorize and quickly regurgitate legal principles. Concerns about the bar exam include the large number of subjects tested, the relatively short time available for each question, and the effectiveness and relevance of the bar exam as it currently exists. The Multistate Performance Test (MPT) appears to be more connected to the actual work and strategic thinking required of lawyers, and the use of MPT “type” problems should be increased. However, members of the group expressed the view that the benefits of the MPT are undercut to some extent by anecdotal reports that its “speediness” requirement makes it extremely difficult to finish the MPT component.

Role of Law Schools in Working with Non-Lawyer Advocates to Help Narrow the Justice Gap

Conclusions of the Work Group

1. It is appropriate to explore the expansion of the use of non-lawyer advocates because the needs of low-to-moderate income litigants who lack access to legal assistance are too great to live with the status quo, and outcomes for such clients will improve with effective assistance.
2. The outcomes from the “navigator pilots” and the future projects to be undertaken by the Committee on Non-Lawyers and the Justice Gap are highly anticipated.
3. Any non-lawyer advocate project must consider the concerns of the organized bar, law schools, the public interest community and the public.
4. Any proposal must also successfully respond to concerns about the quality of services delivered, the costs and source of the resources.

Synopsis of Discussion

The work of the Task Force demonstrates that efforts to help narrow the justice gap must embrace a wide array of resources and non-traditional approaches. The use of non-lawyer advocates, referred to as “navigators” in the New York State court system, is an example. Following study by the Advisory Committee on Non-Lawyers and the Justice Gap, pilot programs were launched to use appropriately trained and qualified non-lawyer advocates to help low income clients confronting consumer credit matters in Bronx Civil Court and housing matters in Brooklyn Civil Court. Under court rules, navigators are allowed to accompany unrepresented people into the courtroom but may not directly address the court, unless the judge specifically directs a factual question to the navigator. Although these initial pilots are underway, debate surrounding issues of this type of representation, even use of the term “non-lawyer advocate,” remains robust, particularly with regard to ensuring protection of the public against unscrupulous practices.

Critics of limited-practice licensing worry that allowing non-lawyers to perform certain legal tasks may increase opportunities for fraud. Another complaint and concern is that the effort would take work away from lawyers. The ABA studied the idea of licensing legal technicians in the mid-1990s. Nothing came to fruition, even though all of the studies supported the concept. Washington State has the distinction of becoming the first state in the country to create a licensing structure and education protocol for non-lawyer advocates. To draw from the experience of Washington State, the Executive Director of the Washington State Bar Association was invited to participate by Skype and lead off the discussion.

A confluence of factors, including the decline in law school applications, the increasing national income disparity between the rich and poor, and the appetite of consumers to save money by employing a do-it-yourself approach and/or technological legal assistance or court-based tools, created a more receptive climate for an alternative approach to lawyering. Although it went into effect only recently, Washington’s Limited License Legal Technician (LLLT) Program dates back to 2001, when legislation was passed establishing the State’s Practice of Law Board’s (Board) right to investigate allegations of the unauthorized practice of law. The Board was also empowered to issue advisory opinions regarding the authority of non-lawyers to perform legal services and to make recommendations to the Supreme Court about services that non-lawyers could perform to fill the need for legal services. On September 1, 2012, the Washington Supreme Court adopted the LLLT rule authorizing non-attorneys who meet certain educational requirements to advise and assist clients in approved practice areas of law.²⁸ LLLTs will work independently and help clients with discrete tasks, including selecting and completing court forms, informing clients of procedures and timelines, and reviewing and explaining pleadings. LLLTs are not, however, allowed to represent the clients in court and cannot negotiate with opposing counsel on the client’s behalf.

Discussion of the use of non-lawyer advocates must consider: (1) the impact on and role of law schools in training and/or supervising these “legal assistants;” (2) how the work of the non-lawyer advocates is viewed in relation to unauthorized practice of law rules; (3) the type of training and education required to serve as a non-lawyer advocate; (4) the implications for professionalism; (5) whether non-lawyer advocates must carry malpractice insurance; and (6) the implications to attorney/client privilege for work performed by non-lawyer advocates. In New York, the Non-Lawyer Advisory Committee is presently reviewing New York’s practice of law regulations in the context of the work of non-lawyer advocates, including how to define “legal services.”

There is some tension in the law school community regarding whether the education and training of non-lawyer advocates will ultimately “de-value” a J.D. degree. Similarly, if law schools unwittingly become stewards of the education and training of this para-profession, how will law schools preserve their distinction as “gatekeepers” to the legal profession? How will this impact ABA accreditation for law schools? Will law students willingly register for courses that are also designed to educate non-lawyers? This highlights the conundrum presented by the fact that law students are actually “non-lawyers” while in law school. Interestingly, law students at the University of Buffalo Law School, which has spearheaded several new programs to educate students about the justice gap and *pro bono* based on the Task Force’s work, are interning in Erie County Family Court and Buffalo Federal District Court to help self-represented civil litigants navigate the unfamiliar court system, not offer legal advice.²⁹

It is notable that many law schools already work with non-lawyer advocates, typically paralegals and social workers who are involved in clinical and experiential programs. Interdisciplinary collaboration among law school clinics and legal services providers and para-professional programs is gaining additional momentum as a means to alleviate the access to justice crisis. Fellowships and post graduate seminars with these types of collaborative educational experiences are successfully underway at public interest law schools, like CUNY School of Law. Viewed in the context of lawyers expanding the scope of their ability to serve their clients (and the number of clients) by adding social workers, paralegals and/or lay advocates to their practices certainly merits serious consideration. Of course, the training, supervision and support of such non-lawyers is critical, particularly if they may be performing unbundled legal work on behalf of litigants. There are legitimate concerns about “who” would assume responsibility for and the cost of training and supervising these non-lawyer advocates. Whether the already overburdened courts and legal services community can afford to take on these extra costs is not a question with an easily discernible answer.

Likewise, there are no clear answers to questions such as if law schools train this new type of professional,³⁰ will it lead to an economically viable career? Will law firms incorporate these new professionals into the law firm business model? How competitive will non-lawyer advocate jobs will be with jobs for social workers or paralegals? What does that mean in terms of professionalism? Will non-lawyer advocates be required to perform *pro bono*? Will New York adopt a “bar-type exam” similar to that adopted by Washington? Or a licensing scheme for non-lawyer advocates?

The Work Group agreed that the following suggestions merit further study:

- a. Non-lawyers do have a role in helping to close the justice gap.
- b. Law schools probably should have a role in training non-lawyer advocates; with so many law schools in New York, there is probably room for experimentation and divergent educational options.
- c. Non-lawyer advocates already play an important role in access-to-justice efforts at law schools, by, e.g., partnering with students, working with clinics and in *pro bono* projects.
- d. The profession should encourage discussion of the factors — financial, philosophical, ethical and cultural — that law schools might encounter in developing programs for non-lawyers, and assess faculty sentiment.
- e. The legislature must join with the courts and organized bar to decide what type of supervision is appropriate for non-lawyers.

- f. There should be a blueprint for what type of training and support is incumbent upon the law school to provide and who is responsible for supervision of non-lawyers.
- g. Consideration must be given to the issue raised by the development of non-lawyer advocate programs as devaluing the mission of law school and/or the J.D. degree, which is distinct from the idea that law students are non-lawyers.

PRO BONO SCHOLARS PROGRAM

THE WORK GROUPS RECOGNIZED THAT THE PBSP IS STILL UNDER DEVELOPMENT and schools may potentially adopt differing models. The recent appointment of the Executive Director of the PBSP is expected to lead to the resolution of many open issues. The law schools have endeavored to introduce flexible and practical courses and practicums to properly prepare students to take the bar examination in February and then enter practice for their sixth semester.

Suggestions

1. Law Schools should consider including fifth-semester preparation for the PBSP to better prepare students for their full-time PBSP semester in practice. Consideration should also be given to offering a uniform classroom seminar that would enable all law schools to share materials and resources.
 - a. The law schools and the host organizations should share responsibility for providing training. The law schools could teach the subjects relevant to all of its Scholars, as currently done in many externship seminars (e.g., ethics and professionalism, access to justice, poverty law overview). The providers could take primary responsibility for training Scholars on the substantive law and skills relevant to the Scholars' specific projects.
 - b. Given that a Scholar's graduation from law school and eligibility for early admission to the bar depends on successful completion of both the academic and field components of the PBSP, the standards by which they are evaluated must be very clear and appropriate. The host organizations should design their evaluation criteria and process in close consultation with the law schools, which have expertise in evaluating students.
2. Explore the possibility of expanding the PBSP to include a greater number of students who may excel as attorneys, but who may be reluctant to "compress" their law school curriculum into five semesters and take the bar exam in February.

Discussion

Based on the lunchtime presentation on PBSP, it appeared that a priority was on selecting "high achievers" and an emphasis on bar exam passage in February, with an expectation that PBSP will provide participants with an advantage in securing public interest jobs. In response, some participants expressed the concern that PBSP will advantage those who need it the least, and the program may not be structured to maximize the diversity of participants due to its compression of the law school curriculum and early taking of the bar exam. Conversely, there is a sense that some students may want to participate but not want to take the bar examination early. There is some question about how to accommodate students who do not feel either "bar exam ready" or "practice ready," but would relish the opportunity presented by a semester of practice. Some expressed the view that PBSP should develop into an alternative path to bar admission. It was agreed that Chief Judge Lippman's intent has to be embraced. Although it is not clear that PBSP will increase access to justice (or decrease the gap), hopefully it will do so and also possibly infuse law students' "DNA" with the importance of *pro bono* as the Chief Judge intends.

To derive the most benefit for the student Scholars, the design of the program should include substantial preparation and experiential opportunities. Concern was expressed that the PBSP sixth semester not merely make students available to serve as interns; if that were the case, and law schools continue to charge tuition for that sixth semester, that would be problematic.

Matching Process

Importantly, information was not available about the matching process for *Pro Bono* Scholars and host organizations. Nevertheless, there was a strong consensus that the success of the PBSP depends, in large part, on the “fit” between the individual *Pro Bono* Scholar and the host organization, including the specific work to be done. It is essential, therefore, that the matching process allow organizations to select their Scholars and allow students to have input into their placements and projects.

The PBSP website could facilitate a participatory process by including the organization’s responses to a standardized questionnaire about the organization and the specific project, including the issues, skills and knowledge that will be developed, clients who will be assisted, etc. Similarly, Scholars selected by their law schools could post statements of interest, standardized bios, transcripts and a list of their top placement choices. The matching process would have to be completed early enough for students who are not satisfied with their placement to withdraw from the PBSP before they have to commit to it in mid-September and in time to register for Spring semester classes at their law schools. Matching may also be facilitated through initiatives identified by the Task Force, and under development by the Council, for using new technology to match students to *pro bono* opportunities in contexts other than the PBSP.

Managing the PBSB: Student and Host Organizations Expectations

Close collaboration between and among the Scholars, the host organizations, and law schools will be necessary, and written agreements may be useful. For example, it will be necessary to determine how the students’ time will be divided between academic and practice components; the division of responsibility for educating students about substantive law, skills, ethics and being reflective lawyers; and what the evaluation process will be and whether it will include the law school.

Similarly, law schools should provide general oversight of the Scholars’ professional development, while the host organizations supervise the Scholars’ individual projects. This allocation of responsibility recognizes that the rules of confidentiality may prevent Scholars from sharing certain details about their cases outside of the organization that serves as attorney of record. Additionally, because supervision of students who volunteer full-time will require enormous lawyer resources, some host organizations may want to rely on mentors from the Scholar’s law school or on PBSP alumni to help supervise the activities of their Scholars.



EXHIBIT TO CURRICULUM WORK GROUP REPORT

Specific Suggestions and Examples of Access to Justice Topics for Selected Doctrinal Courses and the Bar Exam:

Administrative Law

- Due process rights at hearings (e.g., denial, reduction, termination of government benefits).

Contracts

- Analyze an actual contract; negotiate and draft a contract (e.g., a lease for a rental apartment).
- Consumer contracts, unfair and deceptive practices, and unconscionability issues.
- The attorney-client relationship: for example, client rights generally; retainer agreements; and the right to a copy of the client's file (and how to obtain it without having to engage a lawyer).
- Landlord/tenant issues.
- Foreclosure and mortgage issues.

Corporations

- Shareholder proxy rights to address corporate policies and actions.
- Corporate responsibility issues.
- Not-for-profit, tax-deductible, charitable organizations.

Criminal Law³¹

- Criminal law highlights the differences between access to justice and social justice. In criminal law/procedure there are many more "social justice" issues than "access" issues.
- Many criminal law related issues involve civil law:
- Criminal arrest, incarceration, and re-entry.
- Prisoners' rights issues, including questions about solitary confinement.
- Standards for clemency, pardons, and commutation of sentences raised by Attorney General Holder.
- Rights of defendants at arraignment.
- Stop-and-frisk issues.
- Bail decisions.
- Criminal and civil issues relating to arrest, incarceration, and re-entry.
- False and/or coerced confessions (e.g., the Central Park Five) and the greater attention being paid to due process with respect to voluntariness of confessions.
- DNA exonerations and identification procedures.
- Brady issues related to the prosecution's duty to disclose exculpatory evidence.

Domestic Relations Law (DRL)³²

In addition to learning New York statutory law on traditional family law subjects (*i.e.*, marriage divorce, custody, visitation, child support, etc.) for the bar exam, here are some of the social justice and “experiential” approaches for a DRL class:

- **Retainer Agreements:** Students research and draft family law retainer agreements to have them comport with professional standards based on New York State regulations for ethical behavior in family representation.
- **Uncontested Divorce documents:** Students draft a complete set of actual uncontested divorce documents based on an in-class hypothetical.
- **Analyze New York Courts:** To determine what courts poor people were typically tracked to depending upon their marital status or the type of case they were litigating. (For example married people, who tend to have more resources, can have most of their family needs met in Supreme Court, which is a “lawyer’s court,” runs in a more timely fashion, and is generally more respectful toward litigants. Conversely, family court adjudicates the custody, visitation, and child support needs of unmarried litigants, and is typically a pro se court, with more delays, continuances, and more of a coercive and unprofessional atmosphere. Moreover, it is the court of exclusive jurisdiction for child welfare cases, PINS petitions, and juvenile court matters — all issues disproportionately affecting poor people and people of color.)
- **Child Welfare:** Cover issues of child welfare (abuse and neglect) in more depth than typical domestic relations court classes. Over 98% of children removed from their families to foster care are children of color. While there are good reasons to remove some children, 89% of these cases are for neglect that stems from poverty.
- **Incarceration:** Address issues of mass incarceration and the effect that it has on parents and children in litigation in many family law areas. Since many low income New Yorkers are affected by mass criminalization, it is an important and appropriate lens through which we should analyze family law issues.
- **Federal statutes (jurisdiction):** Family law is generally a creature of state statutes. The Constitution is generally interpreted to require that most family issues are left to the states. Federal law regulates many of the issues affecting poor people and marginal populations: child welfare; child support enforcement; gay marriage; and others.

New York Practice³³

- Infuse CPRL rules with examples—for example, when discussing time limits and service requirements for a notice of claim, create relevant hypotheticals that involve police brutality, lead paint in rental apartments, and medical malpractice in public hospitals.
- Teach CPLR Article 78 in context with, for example, government benefits; prisoner appeals; police brutality; and environmental issues.

Professional Responsibility

- Issues that arise when an attorney interacts with unrepresented parties.

- Decision making between attorney and client, including how to advise and counsel a client so that the explanation is clear and the client is able to make an informed decision.
- Duty to disclose relevant facts and law to a court.
- Limits on interacting *ex parte* with a court.
- Representing a client with diminished decision making capacity.
- Ethical issues and obligations when an attorney or law office provides unbundled legal services, including limited advice and counseling, drafting of documents, and other discrete lawyering tasks that are not “full representation.”

Property

- Housing issues that affect low-and middle-income people, including predatory lending, mortgages, and landlord-tenant issues (eviction, warranty of habitability, affirmative defenses, counterclaims, role of guardian ad litem).
- Community benefits agreements.
- Land trusts.
- Environmental issues.

Property/Land Use³⁴

- Focus on public processes and alternatives for community groups seeking to weigh in on development proposals, either using existing state and/or local government mechanisms.
- Students participate in a simulated negotiation role play based on an actual community benefits agreement; *e.g.*, Columbia University’s expansion into West Harlem.
- Student group projects often focus on housing issues and recourse for tenants (*e.g.*, legal challenges to NYCHA infill proposals; abusive landlord practices).

Wills, Trusts, and Estates

- Incorporate ethical issues that arise within an access to justice context that often includes “non-traditional families” and includes the following issues:
 - Who is the client, confidentiality, and attorney-client privilege.
 - Multiple representation and conflicts of interest.
 - Representing a client with diminished capacity.
 - Malpractice liability of drafting attorney to beneficiaries of a will, trust, and intestate estate.
- Examine how probate and intestacy laws and patterns vary among demographic groups (in the U.S. with comparison to other countries) and impact ownership of residential property.
- Analyze the various types of supplemental needs trusts for people with disabilities.
- Examine the role of Surrogate’s Court and access-to-justice issues affecting low-and middle-income litigants.

- Assign simulated lawyering activities and assignments that include interviewing, counseling, and drafting a will with commentary on relevant legal doctrine.³⁵
- Use actual New York bar essay questions and similar problems and hypotheticals that incorporate access to justice issues and fact patterns (e.g., involving unmarried and married couples; LGBT, straight, and multi-generational families that include elders; inheritance rights of children and descendants of “nontraditional” families; elective share issues; supplemental needs trusts for people with disabilities, and small estates).
- Identify standards for decision-making capacity.
- Examine economic implications of state and federal estate tax and how inheritance impacts individuals, families, and the distribution of wealth.

ACKNOWLEDGMENTS

THE MEMBERS OF THE LAW SCHOOL CONFERENCE PLANNING COMMITTEE, as recognized in the Program, attached as Exhibit 1, are:

Michelle Anderson

Dean and Professor of Law, CUNY School of Law

Helaine M. Barnett

Chair, Task Force to Expand Access to Civil Legal Services in New York

Susan Bryant

Professor of Law, CUNY School of Law

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Executive Director, Public Advocacy Center; Director of Public Interest; Touro College Jacob D. Fuchsberg Law Center

Lillian M. Moy

Executive Director, Legal Aid Society of Northeastern New York

Joseph Rosenberg

Associate Dean for Clinical Programs, CUNY School of Law

ENDNOTES

- ¹ Reports from the 2012 and 2013 Law School Conferences are included as Appendix 15 to the 2012 and 2013 Task Force Reports, respectively, each available on the Task Force website at <http://www.nycourts.gov/ip/access-civil-legal-services/index.shtml>. The history of the Law School Conference is recounted in Appendix 15 to the 2013 Task Force Report, available at <http://www.nycourts.gov/IP/access-civil-legal-services/PDF/2013CLS-Appendices.pdf>. As noted there, the Task Force to Expand Access to Civil Legal Services in New York was appointed by Chief Judge Jonathan Lippman in 2010 to develop a comprehensive approach to the provision of civil legal services to low income New Yorkers. Beginning in 2010, the Chief Judge, assisted by the Task Force, has held annual statewide hearings to assess the level of unmet need for civil legal services in New York. Subsequent to the annual hearings, the Task Force prepares a Report to the Chief Judge for his consideration in advance of his recommendations, as requested by the 2010 joint legislative resolution, to address the documented unmet need for civil legal services in New York. Over the past five years, the Task Force's Reports have detailed the crisis in our legal system resulting from the lack of access to civil legal services for millions of low income New Yorkers. Due to the contraction of resources in both the public and private sectors, the Task Force has encouraged all the constituent organizations in New York's legal system to work collaboratively to find solutions to this crisis. See *2013 Report of the Task Force to Expand Access to Civil Legal Services in New York: Appendix 15*, cited above, at 8.
- ² The program from the Third Annual Law School Conference is attached as Exhibit 1.
- ³ The fall 2013 report of the City Bar's Task Force, *Developing Legal Careers and Delivering Justice in the 21st Century*, is available at <http://www2.nycbar.org/pdf/developing-legal-careers-and-delivering-justice-in-the-21st-century.pdf>.
- ⁴ The *Pro Bono* Scholars Program Guide is available at <http://www.nycourts.gov/attorneys/probonoscholars/ProBono-Scholars-Program-Guide-2014.pdf>.
- ⁵ Subsequent to the Conference, on August 11, 2014, the ABA House of Delegates adopted new standards proposed by the Council of the ABA Section of Legal Education and Admissions to the Bar, requiring law schools to publish specific student learning outcomes that achieve the objectives for admission to the bar and effective, ethical and responsible participation in the profession. See Standard 301(b), ABA Revised Standards for Approval of Law Schools, available at http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/201406_revised_standards_redline.pdf; see also "Revised Standards and Rules Concurred in by ABA House of Delegates," Announcement of the ABA Section of Legal Education and Admissions to the Bar, available at http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/2014_hod_standards_concurrence_announcement.pdf.
- ⁶ This offering could be a stand-alone one-credit course required in the second year or integrated into a broader skills and values course.
- ⁷ The 2012 Law School Conference Report is included as Appendix 15 to the Task Force's 2012 Annual Report, and is available at <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS2012-APPENDICES.pdf>.
- ⁸ In April 2014, the Supreme Judicial Court of Massachusetts approved and promulgated an amendment to the rules of the Massachusetts Board of Bar Examiners, effective July 1, 2016, adding "Access to Justice" as a legal field to be tested on the Massachusetts bar examination. (Supreme Judicial Court of Massachusetts, Notice of Approval, April 25, 2014, available at <http://www.mass.gov/courts/docs/sjc/rule-changes/bbe-rule-301-amendment.pdf>.) In October 2013, the Board of Trustees of the California State Bar, acting on the recommendation of its Task Force on Admissions Regulation Reform, adopted competency training standards requiring candidates for bar admission to take 15 credits of experiential course work. Rule 303(a)(3) of the ABA's recently adopted Standards and Rules of Procedure for Approval of Law Schools also requires law school curricula to include six credit hours of experiential coursework. See sources cited above in note 5.
- ⁹ The former President of the New York City Bar Association proposed a few ideas that might make *pro bono* work more universally appealing to both students and graduates at all stages of their legal careers, such as (1) greater availability of client-based *pro bono* opportunities (not just "simulations") outside of the litigation setting (e.g., transactional work, small business programs, estate planning, benefits work, etc.) to attract the interest of more students; (2) additional *pro bono* or clinical requirements by law schools and state licensing authorities; and (3) a better articulation by law school administrators and faculty, bar associations, accrediting organizations, etc., of the importance of such "non-litigation" *pro bono* experiences.

- ¹⁰ Suggestions to overcome student resistance to public interest work include: (1) including significantly more transactional clinical work to match students’ future career goals, and (2) improved messaging about the connection to future transactional work which litigation and adversarial based clinics bring by explicitly addressing the transferable lessons that work with all types of clients creates; e.g., interacting with real clients, resolving clients’ needs, and developing a “bedside manner” are important and valuable skills to learn.
- ¹¹ Recommendations for specific courses can be found in the Curriculum Exhibit at the end of the Conference Report.
- ¹² According to one participant: “Experience = employment. This could be a marketing opportunity for law schools: As a student here, you will have these opportunities.”
- ¹³ See William M. Sullivan, *Align Preparation and Assessment With Practice: A New Direction for the Bar Examination*, 85 NYSBA Journal 41 (September 2013); John Burwell Garvey, “Making Law Students Client-Ready”—*The Daniel Webster Scholar Honors Program: A Performance-Based Variant of the Bar Exam*, 85 NYSBA Journal 44 (September 2013); a similar “Public Service Alternative to the Bar Exam” was recommended in the NYSBA *Report of the Task Force on the Future of the Legal Profession* (April 2011), available at <http://www.nysba.org/futurereport/>.
- ¹⁴ This proposal is similar to the “Practice Readiness Evaluation Program” recommended in the NYSBA *Report of the Task Force on the Future of the Legal Profession* (April 2011), available at <http://www.nysba.org/futurereport/>.
- ¹⁵ Language access issues are also an important part of access to justice. One participant urged law schools to explore ways to provide incentives in the curriculum for students to learn another language.
- ¹⁶ The 2012 Report of the Work Group on Incorporation of Access to Justice Issues in the Basic Law School Curriculum recognized the importance of the findings and recommendations of the Carnegie Report (William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond and Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law*. San Francisco: Jossey-Bass, 2007) and noted the following: law professors continue to use casebooks and rely on a common law approach instead of a distinct focus on skills, experiential education, and access to justice; there is a need for more courses on poverty law; there is also a need to integrate access to justice issues throughout the curriculum, including professional responsibility courses, in order to emphasize the public interest obligations of the profession and the “core value” of providing service to low income and “underserved,” people beginning with law school orientation and including spring break service projects; including access to justice issues on the bar exam would create a “strong incentive for change” in the law school curriculum; law schools need to create greater opportunities for information sharing and collaboration between “podium”/doctrinal professors and clinical/experiential professors (e.g., linking a doctrinal course with a clinic or including an externship component in a doctrinal course); law school must adopt more approaches that facilitate “curricular and philosophical reform,” including: more credits for skills training, stipends and other incentives for faculty to adopt new teaching methodologies, and hiring professors with practical experience, particularly in access to justice issues. See *2012 Report of the Task Force to Expand Access to Civil Legal Services in New York: Appendix 15*, cited above at note 7, at 34—37.

The 2013 Curriculum Work Group Report further noted that its diverse proposals had to be adapted to the needs, possibilities, and strengths of each law school. All of the proposals envisioned a collaboration between the practicing bar and law schools, which requires attention to potential problems in supervision and quality control. Law schools should measure results systematically, even if the focus is on short-term results (how many matters) rather than long-term impact (success in getting students to do public interest work). The Report also noted the impact of the bar exam on the law school curriculum and stated that in order to truly develop a focus on access-to-justice issues and lawyers devoted to the public interest, the bar exam—if one is to exist at all—must focus on those issues. The Report cited the following examples of curricular reform: a first-year lawyering seminar with a service component; an upper-level course studying public interest practice models and ethical issues, including drafting documents needed in practice, from pleadings to grant proposals; a “concentration” in small firm practice, with 26 credits in practice skills, practice management, guided experience in handling cases, and training in substantive legal areas; an immigration *pro bono* clearinghouse project (e.g., the New York Law School Safe Passage project) in which law students and *pro bono* attorneys cooperate to represent juvenile clients in immigration court; a “clinical year” program, such as New York Law School’s 24-credit pilot program for third-year students, which includes three nine-week rotations and in-house courses taught by adjuncts who practice in externship sites; and compressing law school into two years, for example, Brooklyn Law School’s 2-3-4 program. The Report incorporated a rubric to evaluate curricular programs using the following criteria: effectiveness in skills training; effectiveness in infusing access to justice issues into law school curriculum; quality of legal services and supervision provided; impact on community legal needs; meeting the 50-hour *pro bono* bar admission requirement; use

of technology to help provide services; cost in terms of money, time, and resources; impact on other curriculum and acceptance within a school; potential for broader applicability and collaboration among schools; assessment, best practices utilized, and areas for improvement. See *2013 Report of the Task Force to Expand Access to Civil Legal Services in New York: Appendix 15*, cited above at note 1, at 8.

- ¹⁷ See ABA Section of Legal Education and Admissions to the Bar Standards Review Committee, Revised Standards for Approval of Law Schools, CHAPTER 3: PROGRAM OF LEGAL EDUCATION (Draft for meeting of July 9-10, 2011), available at http://www.americanbar.org/content/dam/aba/migrated/2011_build/legal_education/committees/standards_review_documents/july2011meeting/20110621_ch_3_program_of_legal_education_clean_copy.pdf; cf. Footnote 5 and accompanying text.
- ¹⁸ For example, at Albany Law School, faculty engages in and is energized by *pro bono* activities. The curriculum now includes one-credit modules with labor law and family law, and students can spend time with a *pro bono* attorney or at a local family help center as part of the course.
- ¹⁹ NYU School of Law Professor Oscar Chase strongly emphasized the need to assess programs and pointed out that “mandatory military service did not make him want to serve in the armed forces.”
- ²⁰ For example, commercial lease agreements; debtor and creditor (including demand letters, bankruptcy); elder law; immigration; landlord/tenant; wills, trusts, estate administration; and workers’ rights, employment and labor).
- ²¹ Massachusetts is also adding access to justice topics on its bar exam effective July 1, 2016, albeit as a discrete topic, and not integrated within other content areas. See note 8 above.
- ²² Language access issues are also an important part of access to justice. One participant urged law schools to explore ways to provide incentives in the curriculum for students to learn another language.
- ²³ Approximately 16,000 candidates sit for the New York State bar examination each year (<http://www.nybarexam.org/press/press.htm>).
- ²⁴ However, one participant cautioned that it is not necessarily the purpose of access to justice on the bar to create more lawyers who will engage in public service. The overwhelming number of lawyers do not perform *pro bono* work, yet are told repeatedly that they should do *pro bono* work.
- ²⁵ See, e.g., *Developing Legal Careers and Delivering Justice in the 21st Century: A Report by the New York City Bar Association Task Force on New Lawyers in a Changing Profession* (Fall 2013), available at <http://www2.nycbar.org/pdf/developing-legal-careers-and-delivering-justice-in-the-21st-century.pdf>; Eileen D. Millett and Eileen R. Kaufman, eds., *The Future of Legal Education and Admission to the Bar*, 85 NYSBA Journal (September 2013); *NYSBA Report of the Task Force on the Future of the Legal Profession* (April 2, 2011), available at <http://www.nysba.org/futurereport/>.
- ²⁶ See Mary A. Lynch and Kim Diana Connolly, *Is It Time for Real Reform? NYSBA’s 20 Years of Examining the Bar Exam*, 85 NYSBA Journal 31 (September 2013).
- ²⁷ The multi-state portions of the bar exam used in New York are purchased by the BOLE from the National Conference of Bar Examiners (NCBE). For a description of the Multistate Performance Test (MPT) see *The New York State Bar Examination: Multistate Performance Test*, <http://www.nybarexam.org/TheBar/TheBar.htm#mpt>. For a description of the MBE, see *The New York State Bar Examination: MBE Information*, <http://www.ncbex.org/about-ncbe-exams/mbe/>. The NCBE has also developed the multistate Uniform Bar Examination, which consists of the Multistate Essay Examination, two MPTs, and the MBE. See *National Conference of Bar Examiners: The Uniform Bar Examination*, <http://www.ncbex.org/about-ncbe-exams/ube/>.
- ²⁸ In conjunction with the rule, the Washington Supreme Court established the LLLT Board to administer the program. In late December 2012, the Supreme Court appointed the first LLLT Board, which includes several non-attorneys and a legal educator. The Board’s charter for the first year is to begin creating and drafting the operational details for the LLLT program. This includes regulations for professional conduct, exam procedures, continuing education requirements, and disciplinary procedures. The LLLT Board recommended family law as the first practice area in which to license LLLTs, which the Supreme Court unanimously approved in March 2013. Technicians must be trained and approved by the LLLT Board. In January 2014, the first courses were offered at the Washington law schools to prepare the enrollees for licensing. The LLLT Board is expected to begin accepting applications for the licensing examination in March 2015 and begin licensing of LLLTs in 2015 (<http://www.WSBA.org/Legal-Community/Committees-Boards-and-Other-Groups/Limited-License-Legal-Technician-Board>).

- ²⁹ Professor of Law, Vice Dean for Legal Skills and Director of Clinical Legal Education at Buffalo Law School, Kim Diana Connolly, described the innovative “*Pro Se* Civil Litigation Practicum” that is open to second-and third-year law students and is based on the access to justice needs identified by the Task Force. Students work across practice areas in both state and federal courts, under the supervision of a volunteer attorney, and conduct intake interviews with new clients, record information on their cases and prepare clients to meet with their attorney. The students then accompany the client to meet with their volunteer attorney, who provides limited-scope representation by advising the client about the *pro se* process. The arrangement is designed to expose students to a variety of court settings and clients, while also meeting a critical need in helping *pro se* clients effectively navigate the court system. In addition to their court duties, students in the practicum work on community education projects, such as preparing pamphlets that can answer basic questions for *pro se* litigants. Students also gather weekly for a substantive class that requires a final academic paper on an access-to-justice issue.
- ³⁰ In Washington State, the law schools initially opposed the non-legal program and refused to participate, but after the community college stated that they would be happy to offer the program, the law schools had a change of heart. Now, all the Washington law schools are participating by offering classes and training for the limited license program.
- ³¹ Adapted from email correspondence with Work Group participant CUNY School of Law Professor Steve Zeidman on file with the Work Group Moderator.
- ³² Adapted from email correspondence with Conference participant CUNY School of Law Professor Ann Cammett, on file with the Work Group Moderator.
- ³³ Based on conversation with Work Group participant CUNY School of Law Professor Sarah Valentine.
- ³⁴ Adapted from email correspondence with Work Group participant CUNY School of Law Professor Andrea McArdle, on file with the Work Group Moderator.
- ³⁵ See e.g., Leslie A. Gordon, *No Will But a Way: Law Prof and Students Launch African Probate & Policy Initiative*, ABA Journal, November 1, 2012, available at http://www.abajournal.com/magazine/article/no_will_but_a_way_law_prof_and_students_launch_african_probate_policy/.

EXHIBIT 1

Third Annual Law School Conference

May 12, 2014 Program

ACCESS TO JUSTICE

THE ROLE OF NEW YORK'S LAW SCHOOLS

THE CONVERSATION CONTINUES
THE ROLE OF LAW SCHOOLS
IN HELPING MEET THE ESSENTIAL
CIVIL LEGAL NEEDS OF
LOW INCOME NEW YORKERS



CONVENED BY THE
TASK FORCE TO EXPAND
ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

CUNY SCHOOL OF LAW, LONG ISLAND CITY

May 12, 2014

ACCESS TO JUSTICE

THE ROLE OF NEW YORK'S LAW SCHOOLS

THE CONVERSATION CONTINUES • THE ROLE OF LAW SCHOOLS IN HELPING TO MEET THE ESSENTIAL CIVIL LEGAL NEEDS OF LOW-INCOME NEW YORKERS

MAY 12, 2014 • CUNY SCHOOL OF LAW, LONG ISLAND CITY, NEW YORK



9:00–9:30 A.M. REGISTRATION AND CHECK IN LOBBY
LIGHT REFRESHMENTS SECOND FLOOR

9:30–10:00 A.M. WELCOME AND INTRODUCTION AUDITORIUM
HELAINÉ M. BARNETT CHAIR, TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

OPENING REMARKS

HON. JONATHAN LIPPMAN CHIEF JUDGE OF THE STATE OF NEW YORK

10:00–10:45 A.M. OPENING PLENARY SESSION AUDITORIUM

OVERVIEW: ACCESS TO JUSTICE IN LEGAL EDUCATION

MODERATOR: HON. FERN A. FISHER DIRECTOR, NYS COURTS ACCESS TO JUSTICE PROGRAM
DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR NEW YORK CITY COURTS

PANELISTS: DEAN MICHELLE ANDERSON DEAN AND PROFESSOR OF LAW, CUNY SCHOOL OF LAW

HON. JENNY RIVERA ASSOCIATE JUDGE, NEW YORK STATE COURT OF APPEALS

JAMES R. SILKENAT PRESIDENT, AMERICAN BAR ASSOCIATION; SULLIVAN & WORCESTER LLP

10:45–12:30 P.M. MORNING WORK GROUP SESSIONS

A. PREPARING STUDENTS FOR ACCESS-TO-JUSTICE ACTIVITIES IN CLINICAL COURSES

ROOM 3/114

MODERATOR: SUSAN BRYANT PROFESSOR OF LAW, CUNY SCHOOL OF LAW

PANELISTS: ANN CAMMETT PROFESSOR OF LAW, CUNY SCHOOL OF LAW

CAREY DUNNE PRESIDENT, NEW YORK CITY BAR ASSOCIATION; DAVIS POLK & WARDWELL LLP

DAVID UDELL EXECUTIVE DIRECTOR, NATIONAL CENTER FOR ACCESS TO JUSTICE; VISITING PROFESSOR FROM PRACTICE, BENJAMIN N. CARDOZO SCHOOL OF LAW

The Work Group will consider the following questions:

- What professional values, knowledge and/or skills do law students need to learn to be competent in access-to-justice activities while in law school and in practice?
- How can we educate law students to adopt a professional identity that embraces the professional responsibility for achieving justice and providing access to justice?
- How do different clinics, externships and practicums educate and equip students with the knowledge, skills and values to deliver a range of legal services and address the legal needs of low-income people?

B. BEST PRACTICES FOR SUPERVISING STUDENT PRO BONO WORK ROUNDTABLE DISCUSSION:

ROOM 3/115

MODERATOR: ELLEN P. CHAPNICK DEAN FOR SOCIAL JUSTICE INITIATIVES, COLUMBIA LAW SCHOOL

PARTICIPANTS: BRYAN HETHERINGTON CHIEF COUNSEL, EMPIRE JUSTICE CENTER

LYNN M. KELLY EXECUTIVE DIRECTOR, CITY BAR JUSTICE CENTER

STEVEN LEE J.D. EXPECTED 2015, MAURICE A. DEANE SCHOOL OF LAW AT HOFSTRA UNIVERSITY;
DIRECTOR, VETERANS LEGAL ASSISTANCE PROJECT (VLAP)

The Work Group will develop guidelines for a manual that references best practices for supervising all types of student *pro bono* activities in a variety of practice contexts. The Roundtable discussion will

identify best practices and provide an outline of the framework for creating the manual. Following the discussion, the Work Group will divide into small groups to consider discrete best practice “supervisory” issues, such as informing law students about professional ethics/responsibility applicable to the assigned *pro bono* project; providing orientation and training on the assigned *pro bono* project; developing mechanisms for responding to questions and giving feedback and evaluation to students; and, for student evaluation of the *pro bono* experience.

The project to create the manual will continue after the close of the Conference.

C. DEVELOPING A BLUEPRINT FOR AN ACCESS-TO-JUSTICE CURRICULUM AND TESTING ACCESS TO JUSTICE ON THE BAR EXAMINATION

ROOM 3/302

MODERATOR: JOSEPH ROSENBERG *ASSOCIATE DEAN FOR CLINICAL PROGRAMS, CUNY SCHOOL OF LAW*

PANELISTS: MICHAEL COLODNER *MEMBER, NEW YORK STATE BOARD OF LAW EXAMINERS*

LILLIAN MOY *EXECUTIVE DIRECTOR, LEGAL AID SOCIETY OF NORTHEASTERN NEW YORK*

YOGI PATEL *LLOYD PATEL, LLP*

ALLIE ROBBINS *ASSISTANT DEAN FOR ACADEMIC AFFAIRS, CUNY SCHOOL OF LAW*

RUTHANN ROBSON *DISTINGUISHED PROFESSOR OF LAW, CUNY SCHOOL OF LAW*

The Work Group will:

- Examine how to utilize the “traditional” law school curriculum to prepare students for access-to-justice careers by, e.g., highlighting actual and potential courses that would provide students with the skills and knowledge necessary for access-to-justice careers, and identifying methods and/or models to create opportunities for providing legal services in conjunction with such courses.
- Develop Proposed Questions for Bar Examination:
Offer suggestions to supplement the statewide study underway on modifications to the “Content Outline and Bar Examination Questions” to test student knowledge and skills important for working with underserved populations in matters involving landlord/tenant issues, foreclosures, family law, installment contracts, consumer credit proceedings and access to public benefits, and propose other topical areas that warrant consideration for testing on future bar examinations.

D. ROLE OF LAW SCHOOLS IN WORKING WITH NON-LAWYER ADVOCATES TO HELP NARROW THE JUSTICE GAP

ROOM 3/301

MODERATOR: HON. FERN FISHER *DIRECTOR, NYS COURTS ACCESS TO JUSTICE PROGRAM;
DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR NEW YORK CITY COURTS*

THOMAS MALIGNO *EXECUTIVE DIRECTOR, PUBLIC ADVOCACY CENTER; DIRECTOR OF PUBLIC INTEREST,
TOURO COLLEGE, JACOB D. FUCHSBERG LAW CENTER*

PANELISTS: KIM DIANA CONNOLLY *PROFESSOR OF LAW; VICE DEAN FOR LEGAL SKILLS; DIRECTOR, CLINICAL LEGAL
EDUCATION, SUNY BUFFALO LAW SCHOOL*

HECTOR MANUEL FERNANDEZ *ASSOCIATE PROFESSOR; DIRECTOR OF PARALEGAL STUDIES BUSINESS &
TECHNOLOGY DEPARTMENT, LA GUARDIA COMMUNITY COLLEGE, CUNY*

PAULA LITTLEWOOD *EXECUTIVE DIRECTOR, WASHINGTON STATE BAR ASSOCIATION (VIA SKYPE)*

ROGER J. MALDONADO *CO-CHAIR, COMMITTEE ON NON-LAWYERS AND THE JUSTICE GAP;
BALBER PICKARD MALDONADO & VAN DER TUIN, PC*

DEAN PATRICIA E. SALKIN *DEAN AND PROFESSOR OF LAW, TOURO COLLEGE, JACOB D. FUCHSBERG LAW CENTER*

JANE M. SPINAK *EDWARD ROSS ARANOW CLINICAL PROFESSOR OF LAW, COLUMBIA LAW SCHOOL*

Based on the panel presentation, the Work Group will consider the following questions:

- What role do non-lawyers have in helping to close the justice gap?
- What role do law schools have in training non-lawyer advocates?
- Is there a direct role for non-lawyer advocates to play in access-to-justice efforts at the law schools by, e.g., partnering with students, working with clinics?

- What factors — financial, philosophical, ethical and cultural — will the law school encounter in developing programs for non-lawyers, and what is the sentiment among faculty?
- What type of supervision is appropriate for non-lawyers?
- What type of training and support is incumbent upon the law school to provide for such supervision?
- Could the development of non-lawyer advocate programs be perceived as devaluing the mission of law school and/or the J.D. degree?

12:30–12:50 P.M. BOX LUNCH PICK UP **SECOND FLOOR BEACON/AUDITORIUM**

12:50–1:10 P.M. DEMONSTRATION OF STATEWIDE CONSORTIUM WEBSITE FOR STUDENT *PRO BONO* OPPORTUNITIES **AUDITORIUM**

JENNIFER A. GUNDLACH *SENIOR ASSOCIATE DEAN FOR EXPERIENTIAL EDUCATION & CLINICAL PROFESSOR OF LAW, MAURICE A. DEANE SCHOOL OF LAW AT HOFSTRA UNIVERSITY*

LAREN E. SPIRER *DIRECTOR OF PRO BONO PROGRAMS, COLUMBIA LAW SCHOOL*

1:15–1:45 P.M. PRESENTATION: *PRO BONO* SCHOLARS PROGRAM **AUDITORIUM**

HON. A. GAIL PRUDENTI *CHIEF ADMINISTRATIVE JUDGE, NEW YORK STATE UNIFIED COURT SYSTEM*

HON. VICTORIA A. GRAFFEO *SENIOR ASSOCIATE JUDGE, NEW YORK STATE COURT OF APPEALS*

1:45–2:00 P.M. QUESTION AND ANSWER PERIOD: *PRO BONO* SCHOLARS PROGRAM

2:15–3:45 P.M. AFTERNOON WORK GROUP SESSIONS **RETURN TO ROOMS**

Morning Work Groups will reconvene in concurrent sessions to consider the following questions related to the *Pro Bono* Scholars Program and to finalize topical recommendations based on morning work group sessions for presentation at the closing plenary session.

- How will the *Pro Bono* Scholars Program generally affect legal education, and what will the overall academic course of study for *pro bono* scholars specifically include in terms of courses, both pre-requisites and required courses, lawyering seminars with clinical or simulation components, doctrinal courses, bar electives, practicums, supervised externships, law school clinics, etc.?
- How will the academic component for *pro bono* scholars be defined for externships and clinical placements?
- What are the best practices for supervising students in the *Pro Bono* Scholars Program including, but not limited to, the division of responsibility among law school professors and the host organizations (providers, courts, law firms, etc.) and for the evaluation of both students and programs?
- What are the potential implications of the *Pro Bono* Scholars Program on employment opportunities for all law graduates?

3:45–4:30 P.M. CLOSING PLENARY SESSION **AUDITORIUM**

DEAN MATTHEW DILLER *DEAN AND PROFESSOR OF LAW, BENJAMIN N. CARDOZO SCHOOL OF LAW*

Reports from Work Group Sessions and Conference Recap

CONCLUDING REMARKS

HELAINÉ M. BARNETT *CHAIR, TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK*

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