

Connecticut Bar Association
Task Force on the Future of Legal Education
and Standards of Admission

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I. INTRODUCTION

Changes in the legal marketplace have caused law schools, law firms, bar associations and governmental regulators to reconsider the purpose, content and very nature of legal education. For decades, law schools utilized the Socratic Method to teach law students to “think like a lawyer.” Thereafter, these newly admitted attorneys would be scooped up by law firms who would train and mold them into well paid and productive attorneys. But then the world changed. Small law firms stopped hiring while BigLaw began hiring fewer lawyers and often, only after they had a few years of experience. Moreover, many new lawyers are leaving law school saddled with crushing debt and faced with dismal employment prospects. They are then resorting to hanging out their own shingle with no mentor, partner or compass to guide them. A national debate was ensuing concerning the reform of legal education, the bar examination, criteria for admission and whether newly admitted lawyers were adequately prepared for the practice of law. Discussions were being held across the country and several comprehensive studies have been published.

This Task Force was established for the purpose of reviewing relevant surveys and reports to develop recommendations for including more practice-centered instruction in the law school curriculum and to consider changes to the rules governing the Connecticut Bar examination.

The breadth and depth of the experience and influence of this Task Force is both impressive and inspiring. The group includes four law school deans, law school professors with oversight of their schools’ clinical programs, bar leaders including past and future presidents of the CBA, leaders of the Young Lawyers Section of the CBA, a law student, members of the judiciary, members of the Bar Examining Committee, a member of the Rules Committee, Statewide Bar Counsel, practicing attorneys who teach at law schools, corporate counsel as well as experienced attorneys in large, medium and small practices with hiring responsibilities. Together, this group of knowledgeable, influential and committed individuals was able to address the problems and offer potential solutions from all perspectives. (See Appendix A).

Early on, the Task Force divided into subcommittees reflecting the stakeholders involved with these issues: law schools, bar associations, law firms and governmental regulators. It was clear from the outset that the Task Force could not simply “tell the law schools what they are doing wrong.” During the course of its meetings the Task Force narrowed and defined its mission as follows:

To facilitate a collaborative and cooperative effort between law schools, lawyers, bar associations and governmental regulators to better educate and prepare competent new lawyers.

II. THE PROBLEMS FACING LAW SCHOOLS AND THE LEGAL PROFESSION

This Task Force was assembled during a time of vigorous national debate about legal education and the way law schools and the organized bar prepare students to enter the legal profession. The debate has been remarkable in that it has taken place not only within the profession, but in the popular press and across the internet as well. The New York Times made

the story news.¹ Scores of bloggers cropped up to decry the “Law School Scam.”² The American Bar Association appointed a committee to examine the “Future of Legal Education.”³ The Connecticut Bar Association, along with many other state and local bars,⁴ appointed a Task Force and commissioned a report.

Much of the discussion has been valuable to legal educators, bar examiners, and bar associations and many useful, constructive, suggestions have emerged from the debate. At the same time, the discussion has been colored by the current weak economy, the relative scarcity of full-time, long-term jobs requiring a JD, a restructuring of “BigLaw” hiring practices, and the high cost of attending law school, all of which understandably have resulted in anger and frustration on the part of some voices in the discussion. Participants in the debate have ranged from tenured law professors who warn reformers not to throw the baby out with the bathwater to unemployed recent law graduates venting their frustration and demanding the whole system be dismantled. The most productive comments have been found in the more moderated and thoughtful critiques.

The ongoing discussion has resulted in a re-examination of the process for training legal professionals. Indeed, with or without this Task Force and its Report, legal education is in the midst of major changes. For example, after many years of debate about the importance of including meaningful practice skills in the law school curriculum,⁵ the academy is finally taking

¹ David Segal, *Is Law School a Losing Game?* NEW YORK TIMES, Jan. 8, 2011 [available online at <http://www.nytimes.com/2011/01/09/business/09law.html?pagewanted=all&r=0>].

² See, e.g., the Law School Scam, <http://thelawchoolscam.com/>; Inside the Law School Scam, <http://insidethelawchoolscam.blogspot.com/>; and Outside the Law School Scam, <http://outsidethelawchoolscam.blogspot.com/>.

³ For background and a copy of the Task Force’s Report, see, http://www.americanbar.org/groups/professional_responsibility/taskforceonthefuturelegaleducation.html.

⁴ See, e.g., Ohio [available online at: https://www.ohiobar.org/GeneralResources/pubs/OSBA_Legal_Education_Task_Force_Report.pdf], California [available online at: http://www.calbar.ca.gov/Portals/0/documents/bog/bot_ExecDir/ADAVersion_STATE_BAR_TASK_FORCE_REPORT_FINAL_AS_APPROVED_6_11_13_062413.pdf], New York [available online at: http://www.nysba.org/AM/Template.cfm?Section=Task_Force_on_the_Future_of_the_Legal_Profession_Home&Template=/CM/ContentDisplay.cfm&ContentID=48108], Oregon [available online at: <http://www.osbar.org/docs/resources/08AdmissionsTaskForce.pdf>], Illinois [available online at: <http://www.isba.org/sites/default/files/committees/LawSchoolDebtReport-3-8-13.pdf>] and Massachusetts [available online at: <http://www.massbar.org/media/1246788/beginningtheconversation.pdf>]. By far the best of these reports was the one prepared by the New York City Bar [available online at: <http://bit.ly/1a4Juo4>].

⁵ Criticism of legal education for failing to produce lawyers who can actually practice law is hardly a new phenomenon. It goes back at least to the 1930s, see, Jerome Frank, *Why Not a Clinical Lawyer-School?*, 81 U. PA. L. REV. 907 (1933), and recurs periodically, such as in a 1953 report on legal education that had subchapters discussing law schools’ “Neglect in Training in Practical Skills,” and “Failure to Inculcate Professional Standards and Ideals.” See ALBERT J. HARNO, *LEGAL EDUCATION IN THE UNITED STATES*, at 122-160 (1953). In the late 1970s a group of law professors penned a sweeping critique of legal education and included a chapter on “The Need for Greater Emphasis on Skills Development.” See *LEGAL EDUCATION AND LAWYER COMPETENCY: CURRICULA FOR CHANGE*, at 11-32 (Fernand N. Dutilleul, ed., 1981). Over the years, the American Bar Association has issued reports urging law schools to do better job preparing students for the world of practice: *REPORT AND RECOMMENDATIONS OF THE TASK FORCE ON LAWYER COMPETENCY: THE ROLE OF THE LAW SCHOOLS* (1979) [the so-called “Cramton Report”] and *AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT - AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP* (1992) [the “McCrack Report”].

skills training seriously. The culture of law faculties is evolving as well. Increasingly, law faculty recognize that law schools are professional schools, not graduate schools, and that law schools grant JDs, not Ph.Ds. Although the law professoriate rightfully continues to embrace the important role of developing legal knowledge through scholarship and engaging in public debate, they also understand that law students need to be given the opportunity to develop the professional skills that lawyers employ in legal representation.

The appreciation of the need to provide professional skills training in law school flows from the recognition of the fact that upon graduating and passing the bar, law students technically are considered lawyers and are permitted to represent the public. In prior years those new lawyers would have joined a firm and learned the art of “lawyering” at the elbow of a seasoned practitioner, but today that path is much less common than it was historically. Today, many new lawyers find themselves in the legal market starting a legal practice on their own or with other inexperienced lawyers. While they may have a certain amount of knowledge about the “law” as a result of their law school education, they may not know as much about the other tools lawyers use in practicing the subtle art of lawyering.

The discontinuity between a new graduate’s knowledge of substantive law on the one hand, and the possession of skills to use that knowledge to represent clients, on the other, has been a persistent problem for legal education. One of the primary messages from the influential “Carnegie Report” was that while law schools do a good job teaching substantive law, they do a poor job of training students in the professional norms, ethics, values and practices of lawyers.⁶ While we recognize that law schools are doing better on that front, we also note that they have room to improve as well. As shown in Appendix B of this Report, however, the law schools that participated in this Task Force all offer significant opportunities for law students to hone the skills necessary for law practice. The schools remain committed to finding new ways to provide education in legal skills.

That being said, calls from the bar for law schools to produce “practice ready” lawyers are naïve and unrealistic. Some things about practicing law can only be learned in context, by experience. Law schools have increased their offerings of externships and clinics, but even these efforts can only produce students who are practice “readier,” not practice “ready.” The professional maturation process to go from law student to law graduate to new lawyer to “practice ready” lawyer takes time and is probably best facilitated through a joint effort between the academy and the bar. The New York City Bar Association is currently developing some exciting pilot programs that may provide a blueprint for helping new lawyers become practice ready.⁷ The Connecticut Bar should keep a close eye on those experiments to see if any of them can be adapted here.

It is also important to note that law schools are quite different one from the other and any prescription for change ought to recognize that one size cannot fit all. Indeed, one major thread of recent law school reform efforts is to encourage innovation in legal education by loosening the “command and control” type regulations that law schools must adhere to and replacing them with

⁶ WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW at 47 (2007) (more commonly known as the “CARNegie REPORT”).

⁷ See, New York City Bar Association, Report of the Task Force on New Lawyers in a Changing Profession [available online at: <http://bit.ly/1a4Juo4>].

more standards-based goals that can be satisfied in a variety of ways depending on a particular school's focus, mission, and resources. We applaud those efforts and encourage further movement along those lines.

With that as introduction, the remainder of this section provides context for the rest of this Report by summarizing the two leading critiques of legal education that have animated the national discussion. Understanding the criticism is essential because the reforms that have been proposed in the national debate purportedly address issues framed by these critiques. Indeed, the proposals made in this Report ought to be understood within the context of these critiques as well.

Certain facts about the current state of law school admissions and the legal services industry are not in dispute. Since 2004 (with a brief upward departure at the start of the Great Recession) there has been a steady decline in the number of prospective students applying to law schools.⁸ The Law School Admission Council's numbers indicate that applications for the 2013-14 admissions cycle will be the lowest in over 30 years. At the same time, the ABA continues to approve new law schools. In 2004 there were 190 ABA approved law schools. In that same year, the total number of applicants to U.S. law schools reached a high water mark of 100,600. In June 2013, Belmont University in Tennessee became the 203rd ABA approved law school. In that same year, data showed the national applicant pool had contracted by 41% since 2004: for the law school class entering in the fall of 2013, the national applicant pool totaled only 59,400.

Reasonable minds can differ about the cause of this decline. Some say it is a natural market correction for an industry where the supply of new lawyers has exceeded the demand for new lawyers for a number of years. According to some observers, greater transparency in employment data, among other things, has resulted in media reports making the case that for many students law school is a losing financial proposition. These critics, led by Prof. Brian Tamanaha, a law professor at Washington University School of Law and author of the book "Failing Law Schools," say that for most students, law school is a bad investment of money and time.

Another view posits that there are fundamental changes afoot in the practice of law and that law schools are not doing a good job responding to those changes. This view says that we are in the midst of a sea change in the legal profession and that law schools have not kept pace with the realities of modern legal practice. In the "Sea Change" view, if law schools do not change they will become obsolete.

Of course, neither of these critiques are unique to law schools, as many other disciplines⁹ and even the whole higher education enterprise have seen the same phenomenon of highly trained

⁸ The Law School Admissions Council maintains statistics about law school application volume. The data in this Report can be found at: <http://www.lsac.org/lisacresources/data/lisac-volume-summary>.

⁹ The professional fields where highly trained graduates exceed the number of available positions is by no means limited to the legal profession. Here is a sampling from other areas: Dan Carsen, *There's Not Enough Work For Veterinarians*, NATIONAL PUBLIC RADIO, Aug. 26, 2013 [available at <http://www.npr.org/2013/08/26/215795012/not-enough-work-for-veterinarians>] (noting the problem of new veterinarians with high debt loads and few job prospects); *The disposable academic: Why doing a PhD is often a waste of time*, THE ECONOMIST, Dec. 16, 2010 [available at <http://www.economist.com/node/17723223>] (reporting on the scarcity of positions for new PhDs); Blake Farmer, *An Overdose of Pharmacy Students*, MARKETPLACE, May 21, 2012 [available online at <http://www.marketplace.org/topics/life/overdose-pharmacy-students>] (noting the

(and debt-burdened) graduates being unable to find employment in their fields. In any event, we examine each of these critiques in turn as they relate to law schools.

1. Law School as “Bad Investment” Critique

The “bad investment” critique leads potential students to focus on a “return on investment” (ROI) analysis in deciding whether to go to law school. To decide if law school is a worthwhile endeavor, a potential law student needs to assess (1) the costs of attending, (2) the lifetime financial and non-financial benefits accruing from the attainment of the degree, and (3) whether the investment of (1) to receive a pay-off of (2) is the most productive way to invest resources. Currently, both the cost and the benefit assessments in the ROI analysis are difficult for prospective applicants to make with accuracy. Much of the “analysis,” one fears, is based on short term assessments or by merely embracing of rumor, reputation, and ranking.

a. Problems with Assessing “Cost”

Determining the costs of attending law school is not an easy task. First, law school pricing is extremely opaque. The excesses of run-away tuition discounting are well-documented, so there is no need to recount them here. Suffice it to say, a high tuition “sticker price” anchors the prospective applicant’s analysis of how much the degree will cost. Law schools offer significant “scholarships” to attract the students they want, but those scholarships are really tuition discounts, so it is difficult to show the true net cost of the JD degree, because a given applicant does not learn of the net tuition cost until after completing the application process and receiving an award letter.

Much of the unsophisticated analysis of the cost of legal education goes awry by treating the listed tuition price as if that were the price most students actually pay for their education. At most schools, the average student pays significantly less than the “sticker” price. To counter the sticker price anchoring problem, several schools have re-set their tuition, reducing their sticker

oversupply of new pharmacy graduates and the lack of jobs for them); Joshua Wright, *Unemployment by College Major: The Dim Job Prospects for Architecture Grads, New and Old*, EMSI WEBSITE, Jan. 5, 2012 [available online at: <http://www.economicmodeling.com/2012/01/05/unemployment-by-college-major-the-dim-job-prospects-for-architecture-grads-new-and-old/>] (discussing the bleak employment outlook for architects); Brian Vastag, *U.S. pushes for more scientists, but the jobs aren't there*, WASHINGTON POST, Jul. 7, 2012 [available online at http://www.washingtonpost.com/national/health-science/us-pushes-for-more-scientists-but-the-jobs-arent-there/2012/07/07/gJQAZJpQUW_story.html] (providing report about the lack of jobs for STEM workers); Paul Tosto, *Are Colleges Oversupplying Nurses?*, Minnesota Public Radio, June 15, 2010 [available online at <http://blogs.mprnews.org/minnecon/2010/06/nursing-supply-and-demand-out-of-whack/>] (reporting state-by-state on the persistent oversupply of nurses); Ruth Simon, *For Newly Minted M.B.A.s, a Smaller Paycheck Awaits*, WALL ST. JOURNAL, Jan. 6, 2013 [available online at http://online.wsj.com/article/SB10001424127887324296604578175764143141622.html?mod=WSJ_hpp_LEFTTopStories] (reporting on the lack of jobs for students with MBAs, many of whom having big student loan debt); and Emma Beck, *K-5 teacher overload: Too many trained, not enough jobs*, USA TODAY, Feb. 19, 2013 [available online at <http://www.usatoday.com/story/news/nation/2013/02/18/oversupply-elementary-education/1917569/>] (reporting that "the nation is training twice as many K-5 elementary school teachers as needed each year").

price by a significant percentage, while preserving the ability to engage in some discounting to attract specifically targeted students.¹⁰

In addition to tuition, a prospective student ought to consider cost of living expenses and the foregone income from not doing something else while studying in law school.¹¹ While much of the discussion in the blogosphere focuses on tuition costs, these other costs are significant and vary considerably based on, among other things, where the law school is located (cost of living) and the applicant's other employment prospects (opportunity costs). With regard to opportunity costs, a student in, say, computer science, where a job right out of college with a salary in the mid-60's is a possibility, might conclude that attending law school is a poor trade-off. On the other hand, a sociology major working at Starbucks may see the investment in a law degree as making a lot of sense.

b. Problems with assessing "Benefit"

The second component of the ROI analysis is assessing the benefits of a law degree. The idea of "benefit" is quite broad and might include not only financial remuneration, but reputational benefits, psychic income, and other hard to quantify positive rewards. That being said, to perform the ROI analysis the applicant needs something that can be measured, and the obvious proxies for "benefit" are outcome measures such as bar passage and job placement. The assessment of both of these items is fraught with difficulty.

First, the bar passage data that is available for prospective students to analyze is the data for first-time test takers. Although at most schools, about 90% of students who persist after initial failure eventually pass the bar, the first-time taker statistic is the gold standard. Second, placement rates are linked to bar passage, so a low bar pass rate for a particular school likely correlates to a low placement rate in jobs requiring a JD, especially when measured within nine months after graduation.

Another wrinkle in the placement outcome measure is how the employment data is reported. Placement statistics separate jobs into several categories including "Bar Passage Required," "JD Advantage," and "Professional," with "Bar Passage Required" being the gold standard, apparently on the assumption that every student who goes to law school plans to use their law degree in the practice of law. In reality, however, a significant number of students want to enhance their credentials in a non-legal field,¹² so graduates employed in the "JD Advantage" and "Professional" categories often garner higher wages than the entry-level "Bar Passage Required" jobs. In the eyes of law school critics and the so-called scambloggers, however, anything but a "Bar Passage Required" job is viewed negatively and dismissed as not worth the

¹⁰ The following law schools have announced tuition freezes or deep discounts: Akron, Arizona State, Ave Maria, Brooklyn, George Mason, Iowa, LaVerne, Maryland, Miami, New Hampshire, Penn State, Regent, Roger Williams, St. Thomas, UMass-Dartmouth, Temple, Tulsa, and Western New England.

¹¹ This cost is exacerbated by the fact that the ABA rules restrict the number of hours that full-time students can work.

¹² The longitudinal study conducted by the American Bar Foundation, "After the JD," showed respondents increasingly moving into the business sector, with 27.7 percent of respondents working in the business sector in 2012, compared with only 8.4 percent in 2003 [summary available online at:

http://www.americanbar.org/news/abanews/aba-news-archives/2014/02/10_interesting_stats.html.]

investment – even when these are highly remunerative jobs. Therefore, schools that produce a significant number of “JD Advantage/Other Professional” placements do poorly in the placement statistics.

For the potential student trying to assess the outcomes aspect of the ROI analysis, the final challenge is the available wage information. First, all law schools’ salary data suffers from the same statistical myopia: prospective students only have salary data for the first job out of law school. Actual salary data over time is much different, yet prospective applicants plug the first job salary number into the ROI as if it is the return over a lifetime. Certain press outlets and blogs fan the flames and do little to bring a more sophisticated understanding to the discussion. This system leads to prospective students assessing future lifetime earning potential based on the report of very limited short-term reported salary data.

In addition, wages vary from place to place, with employers in bigger cities typically paying higher wages, which makes law schools in those places look like they provide a better ROI. Yet a dollar in one locale may go further than a dollar in another locale. Taking cost of living into account, a graduate earning, say, \$50,000 in New London may be doing just fine whereas a graduate getting \$50,000 in New York City will have trouble paying the rent. Unfortunately, the ROI discussions on the web rarely adjust for local cost of living.

A rigorous academic paper by Michael Simkovic and Frank McIntyre¹³ showed that given current tuition levels, the median and even 25th percentile annual earnings premiums enjoyed by law graduates over their careers justify attending law school. For most law school graduates, the net present value of a law degree typically exceeds its cost by hundreds of thousands of dollars. The mean annual earnings premium of a law degree is approximately \$53,300 in 2012 dollars, and they estimate the mean pre-tax lifetime value of a law degree as approximately \$1,000,000. Predictably, the “scambloggers” attacked the study, though their critiques have been convincingly rebuffed by Professors Simkovic and McIntyre.

2. The “Sea Change” Critique

While the “bad investment” view has its adherents, another view, for which British law professor Richard Susskind is best known, says the world is in the midst of a sea change in the provision of legal services and law schools have not kept pace with the realities of practice in the 21st century. According to him and other proponents of the “sea change” view, like Prof. Bill Henderson at the Indiana University Mauer School of Law, if the legal education world doesn’t wake up, law schools – and the legal profession as we now know it – will become irrelevant.

In a nutshell, Susskind argues that like many other service providers, information brokers, and intellectual property dealers in the old economic order (e.g., travel agents, car dealers, the postal service, newspapers, music sellers and bookstores) information technology and the internet are changing the time-honored practice of law. From the traditional notion of lawyering being a one-on-one, made-to-fit, each-client-is-unique proposition (what Susskind calls “bespoke” legal

¹³ Steven M. Davidoff, *Debating, Yet Again, the Worth of Law School*, NEW YORK TIMES, Jul. 18, 2013 [available online at: <http://dealbook.nytimes.com/2013/07/18/debating-yet-again-the-worth-of-law-school/>] (summarizing the debate over the Simkovic and McIntyre paper).

work), the provision of legal services is moving toward commoditization, where the bread-and-butter output of lawyers from years gone by is now just a download away.¹⁴

This technological onslaught is but one piece of a larger tsunami of change which includes widespread access to legal information by clients, the routinization of many legal tasks, demands by clients for more control of legal service delivery, and the emergence of an increasingly competitive marketplace with non-lawyers providing services that were once the province of attorneys. This restructuring in the way legal services are delivered affects all lawyers and law firms—regardless of size, geographic location, and substantive practice area—although it may impact different firms in different ways.

In that world, Susskind, Henderson, and others argue, the “lawyer” needs to know more than just law. They need to know finance and project management and negotiation and “domain knowledge” about their clients’ business. In this view, law schools need to do more with interdisciplinary work, leadership training, technology training, and the realities of law practice as a business. Also, because many law graduates practice in small or solo practice as a result of the demise of large and mid-size firms,¹⁵ graduates need additional training in skills such as client counseling, legal research and writing, and professional management.

At the same time, in the new world of legal services some jobs that were once performed by lawyers are now being handled by non-lawyers who know just enough law to do what they need to do. These, non-lawyers want to know more about the law without going through the entire JD degree. Law schools ought to move in the direction of training these people in the law without insisting that they get the whole JD. There is likely a market for master degrees for non-legal professionals whose work involves legal matters on a regular basis, such as Human Resources directors, compliance professionals, police officers, educators, health organization administrators and others.

Meanwhile, the bar and the bench look at the students being produced by law schools and find great deficits in “practical skills,” something that once was taught in the firm but now is increasingly considered the responsibility of law schools. The bar wants law schools to prepare students for practice – teach them the law, of course, but put it into practical context and develop a professional praxis along the way.

The observations of the “sea change” school cannot be dismissed out of hand. There is clear evidence that the practice of law is evolving, as it has since the beginning of the profession. Nevertheless, while the business of law practice is no doubt changing, the talents that law firms seek from new lawyers—the ability to think critically, display integrity, and solve legal problems – remain more or less the same as they have always been. The specific market structures that surround law practice will continue to evolve—machine document searches will increasingly take the place of human searches, for example—but the work that lawyers actually do will remain, in the abstract, fairly constant.

¹⁴ These ideas come from Susskind’s books, *Tomorrow’s Lawyers* and *The End of Lawyers?* More information is available on his website: <http://www.susskind.com/>

¹⁵ See Noam Scheiber, *The Last Days of Big Law*, NEW REPUBLIC, Jul. 21, 2013 [available online at: <http://www.newrepublic.com/article/113941/big-law-firms-trouble-when-money-dries>] (summarizing the current economic predicament of large law firms and the widely-held view that the “BigLaw” model is unsustainable).

Of course, the fields of practice will continue to evolve as well. The volume of “law” in our society never shrinks; it always grows. It is easy to make a long list of current legal issues involving technology, for example, that did not even exist 30 years ago or were in their infancy: internet, Wi-Fi, smartphone/tablet technology, GPS technology, cloud computing, digital music, digital photography, homeland security, drones, genetic technology, human genome project, biotechnology, bioengineered/genetically modified food, stem-cell research, anti-locking brakes, and electric cars, among many other things. All of these developments bring serious legal issues with them. The development of the economy, technology, and culture will necessarily entail the development of law. It has always been so. The increase in new areas of law, in turn may cause an increase in the expense of law schools since they must re-tool to prepare students for fields that didn’t exist 30 years ago. Yet since new lawyers rarely know in what field they will practice, the best law schools can actually do by way of preparation is to create an active and honorable mind that will learn and adjust as the environment changes. The question of how to do that in light of changing conditions is what the section on legal education should be concerned with.

III. CHANGES WHICH ARE PRESENTLY OCCURRING

Contrary to the prevailing view that the legal profession and the education of lawyers is stuck in the past, nothing could be farther from the truth. The legal profession is undergoing broad, fundamental changes. Law schools, law firms, bar associations and governmental regulators are anticipating and reacting to changes in the legal profession. As newly admitted lawyers confront changes in a profession that would have been unrecognizable a decade ago, the schools which educate them, the law firms which employ them, the governmental regulators which oversee them and the bar associations comprised of these lawyers are identifying and implementing new initiatives to modify law school curriculum, enhance new lawyer training, assist law school graduates in finding jobs and enhancing their careers and finding new ways to match a supply of qualified lawyers with the legal needs of people of moderate means.

A. Law Firms

In the past many young lawyers began practice in law firms, large and small, where more experienced lawyers served as mentors. Changes in the demands for legal services and in the business models of modern law firms have eroded this traditional mentoring model. As a result, more young lawyers enter practice with little professional support. Clients, courts and the integrity of the profession suffer from this lack of guidance. Professional development for new lawyers should not end at commencement. The Task Force believes that law firms, as well as law schools and bar associations, bear the responsibility for training new lawyers.

Firms have decreased their hiring of new lawyers. Small law firms cannot afford to hire, mentor and wait for new attorneys to become profitable for them. The number of new graduates hired by BigLaw has declined significantly. Many large corporate clients refuse to pay for legal services performed by first and second year lawyers. How long this trend will last is uncertain. However, the prospects at firms for new graduates, while diminished, have not evaporated. The need to deliver value to clients remains the guiding principle. Better trained new lawyers, at a lower billing rate, can help satisfy client demands for value in legal services. Yet as training opportunities with law firms decline, more and more law school graduates enter practice with little guidance in their early years.

Many Connecticut firms have for a long time trained new associates in trial practice. Some larger firms have even built mock courtrooms and some firms have instituted extensive internal training programs in “core competencies” of litigation, transactional practice and professional skills. Typical skills include negotiation, writing, research, interviewing, counseling and advocacy.

The Task Force has only anecdotal information of Connecticut firm training programs in transactional lawyering skills but a committee of the Business Law Section of the American Bar Association is currently exploring the development of core competencies for business lawyers and ways in which practitioners can work with law schools to provide more practical training. The results of their work may well assist both firms and bar associations in the training of new lawyers.

The Leadership Program of the Alabama Bar Association is one of the best programs in the country in developing leadership skills in young attorneys and is an excellent model worth considering.

Recently the Association of the Bar of the City of New York announced the creation of a New Lawyer Institute. The Institute will provide job search and career development services for new lawyers, mentoring in various forms, workshops in core competencies and networking opportunities.

Finally, several states, including New York, New Jersey and Illinois, have mandatory “Bridge to Practice” programs for newly admitted attorneys which Connecticut should consider implementing.

B. Governmental Regulators

Over the last three years, the Connecticut Judicial Branch has taken a number of steps that are designed not only to help ease the Access to Justice issues faced by our residents, but also to make it easier for those wishing to provide assistance, including the law school community, to do so. Most prominent among the Branch’s initiatives, particularly as they relate to law schools, are the following:

1. Law School Professors

The Rules Committee of the Superior Court is considering a proposal to amend Practice Book § 2-13 to ease admission by waiver of faculty members at accredited law schools in Connecticut. On January 27, 2014, the Committee voted unanimously to submit to public hearing the proposed amendments, which would allow full-time faculty members or clinical fellows to be admitted to the Connecticut bar without taking the state bar examination if they are admitted to the bar in another jurisdiction. It also makes clear that teaching at a Connecticut law school constitutes the required practice necessary for admission to the Connecticut bar. Among other benefits these rule changes would have for law schools, they should make it easier for professors to provide the one-on-one supervision required by the student practice rule. Consequently, more students should be able to take advantage of this hands-on learning experience.

2. Judicial Branch's Volunteer Attorney Program - Partnership with University of Connecticut School of Law

The Judicial Branch has partnered with the University of Connecticut School of Law to provide interested law students with the opportunity to get involved in the Judicial Branch's family and foreclosure Volunteer Attorney Programs. The law students have had the opportunity to shadow the volunteer attorneys, as well as to assist with the intake of self-represented parties, and they have reported having a very positive experience. Students gain exposure to family and foreclosure law and they are able to observe attorney-client advice sessions.

3. Law School Interns

Law students from the University of Connecticut School of Law and Quinnipiac University School of Law intern in the Court Service Centers assisting patrons with paperwork and providing procedural assistance. The students work alongside Court Service Center staff and receive training not only on the proper completion of court forms, but also on the court process. Students interact with members of the bar and the bench and are able to work one-on-one with self-represented parties who need assistance with their court case and require a thorough and plain language explanation of court procedures.

In addition, law students from Yale Law School staff the TRO (Temporary Restraining Order) room in the New Haven Judicial District. Here, the students meet one-on-one with self-represented parties and assist with restraining order paperwork. Like the UCONN and Quinnipiac law students, this internship provides the students with the opportunity to explain complicated and often confusing court processes to self-represented parties. Students gain exposure to the types of situations and questions that future clients may ask. They also gain insight into how difficult the court process can be for a non-lawyer or someone who is Limited English Proficient (LEP).

In addition, the Judicial Branch continues to offer judicial internships to law students either during the school year or in the summer. During these internships, students are given the opportunity to work directly with and learn from judges in virtually all of our courts. Students who participate in the internship program can in some cases receive academic credit or a stipend funded by their law school.

4. LawyerCorps Connecticut

This project will create, in the first year, three distinct three-year fellowships for new law school graduates who will work as staff attorneys with legal aid providers at the three legal aid partner agencies (Connecticut Legal Services, Greater Hartford Legal Aid, and New Haven Legal Assistance Association). Corporate sponsors, including United Technologies Corp. and General Electric, will fund the Fellows' salaries, health care and benefits. LawyerCorps Connecticut brings together private organizations, legal aid service organizations, and the Connecticut Judicial Branch and its Access to Justice Commission, partnering to address a vital public need not currently being met through existing funding and pro bono hours directed to legal aid programs. The new lawyers will partner with and be

supervised by experienced legal aid attorneys and gain practical, real-world experience, including intake, client relations, and courtroom advocacy. The Fellows project will demonstrate to other potential corporate partners the power of strengthening Connecticut's communities and vulnerable populations by supporting non-profit legal providers that help the poor, elderly, disabled, children, battered women, and low-wage workers.

5. Retired Attorneys

Practice Book § 2-55 was amended on June 14, 2013, and took effect on January 1, 2014, to include the following language, under newly created subsection (e):

An attorney who has retired pursuant to this section may engage in uncompensated services to clients under the supervision of an organized legal aid society, a state or local bar association project, or a court-affiliated pro bono program. While this rule change is primarily intended to further engage retired attorneys in pro bono matters, the Branch is considering how such attorneys can work with law school students in mentoring relationships on such matters.

6. Authorized House Counsel

Practice Book § 2-15A (c) was amended on June 15, 2012, and took effect on January 1, 2013, to include the following language, under newly created subdivision (5):

Notwithstanding anything to the contrary in this section, an authorized house counsel may participate in the provision of any and all legal services pro bono publico in Connecticut offered under the supervision of an organized legal aid society or state/local bar association project, or of a member of the Connecticut bar who is also working on the pro bono representation.” Again, law students should have expanded opportunities to work with even more lawyers on pro bono matters.

C. The Connecticut Bar Association

In addressing the issue of law education and standards of admission, it is the opinion of this Task Force that the legal profession in Connecticut is currently beset by two growing problems whereby an increasing population of lawyers (particularly new attorneys) are unable to find suitable employment and an increasing population of new attorneys are not prepared to engage in the practice of law upon their admission to the Bar.

The question remains as to whether these problems are related to law school teachings, a confluence of economic issues that has resulted in many law firms being unable or unwilling to take the financial risks associated with hiring and training newly admitted attorneys, or a combination of both. We submit that in an economy where the private bar is unable to hire the majority of new admittees for a substantial period of time, the legal community is, in effect, forcing newly admitted attorneys to commence their careers by practicing without appropriate training in procedure or in legal standards and traditions.

As an organization, the Connecticut Bar Association has recognized that it has a duty to assist all of its members, both seasoned and those recently admitted. The organization maintains a strong commitment to protecting the integrity of the legal profession, and seeks to be a leader in taking significant steps towards assisting Connecticut's schools in improving the quality of legal education, both during law school and in the years that follow as graduates become practitioners in our state.

To assist in combating the above problems, the Connecticut Bar Association will be implementing two programs in the coming years. The first is a state-wide Modest Means program. The program, which is intended to provide legal services to those who cannot afford the regular legal rates of practicing attorneys, and who also cannot qualify for pro bono services, will provide resources, facilities, training and mentoring, and financial opportunities to attorneys, including new admittees, who are either unemployed or underemployed. One of the first steps of the program to be executed will be the creation of a Modest Means Academy, where new admittees will have the opportunity to attend legal training sessions where they will learn basic experiential practice skills that they may not otherwise be exposed to while in law school. This training will include, but not necessarily be limited to, initial client intake sessions, drafting of fee agreements/client engagement letters, introductory family law and trust & estates practice, and creating a trial notebook.

The second program will be an expansion of a mentoring program that currently exists. Similar to the Modest Means program, the expansion of the CBA's mentoring program will be spearheaded by the Connecticut Bar Association's Young Lawyers Section. The intent of this program will be to continue to match new admittees with senior attorneys, but to also start the process earlier, giving law students the opportunity to be mentored by young attorneys. As people that have started their legal careers, but who are also not far removed from the educational setting, these young attorneys will be able to provide invaluable guidance, support, and references to our state's law students.

While we believe the above programs will greatly assist in the training and maturity of both law students and newly admitted attorneys, the Connecticut Bar Association recognizes that to truly implement changes to law related education, Connecticut law schools need to be the driving force behind this movement. Although the Connecticut Bar Association acknowledges that our state's law schools have made great strides in practical law related training with the creation of various law school clinics and externship programs, we believe this is an area that should further expand as part of the law school curriculum.

D. Law Schools

The opportunities for law students for experiential and practical skills education have never been broader. Law schools here and around the country have proactively risen to the challenge to make available and in some cases, require that their students be exposed to an ever increasing spectrum of experiential education to make them "practice ready" for their legal careers. A complete summary of practical skills education at each institution represented on this Task Force is found at **Appendix B**.

IV. “FIXES” THE TASK FORCE CONSIDERED AND REJECTED

In the course of its investigations and discussions, the Task Force considered and rejected a number of legal education “fixes” that have been proposed elsewhere, most prominently in the recent report of the ABA’s Task Force on the Future of Legal Education (“ABA Task Force Report”). In this section, we summarize the most widely publicized legal education reform proposals that our Task Force chose not to endorse in this report, and explain briefly why we rejected them or at least chose not to offer specific recommendations to implement them.

A. A Two-Year JD Degree.

Driven in significant part by the high cost of a legal education, a number of commentators including President Barack Obama have suggested that law school should perhaps be compressed to two years, allowing students to complete at least the law school portion of their legal education with reduced expenditures on tuition and with a shorter period of time away from paid employment.

While our Task Force is recommending that Connecticut consider the possibility of licensing individuals to work in limited practice areas without having first completed three years of legal education, the Task Force was not persuaded that a reduction of the training period for JD-degree candidates from three years to two makes sense at this time. Indeed, as noted below, much of the training that law schools currently provide to help students graduate more “practice ready” takes place in the third year of law school. In an environment in which most employers seem to be arguing that students should graduate law school knowing more – not less – the system-wide reduction of law school from a three-year to a two-year program does not seem to the Task Force a helpful approach, at least at this time.

B. Lower the Cost of a JD and “Re-engineer” the Financing of Legal Education.

The ABA Task Force report devoted extensive attention to the issues of the current cost of legal education, the heavy debt loads burdening many law school graduates, and the manner in which many law schools use most of their financial aid budgets to “discount” heavily the cost of attendance for the best qualified students, with the result that the least qualified students are most likely to pay “full freight” and amass the most debt. (The problem is exacerbated by the fact that many schools pursuing these strategies have only limited funds available to give need-based financial aid to incoming students.) While the ABA Task Force concluded that these problems are so serious that the whole system of financing legal education should be “re-engineered,” the ABA Task Force members also concluded that “[t]he time and resources available to the Task Force have made it impractical to develop a structure of equitable and effective solutions” to this particular set of challenges. Accordingly, the ABA Task Force Report recommended that the ABA undertake “a prompt, but fuller examination of these issues, in order to develop comprehensive sets of recommendations to correct the deficiencies in financing and pricing legal education.”

Like the ABA Task Force, the CBA Task Force believes that the cost of legal education and our current approaches for financing it are serious problems requiring attention and – perhaps – “re-engineering.” Like the ABA Task Force, however, our Task Force also concluded that the

enormous economic and political complexity of the law education financing issue made it impractical for our Task Force to develop and include in this report a set of recommendations for reform. Instead, we conclude – much as the ABA Task Force did – that the problems stemming from the cost of modern legal education and the current approaches for financing it are very serious, and that these problems warrant continuing and focused attention from law schools, from regulators, and from other constituents concerned about the present and future of legal education.

C. Change the Culture of Law School Faculties to De-emphasize Scholarship and Encourage Hiring of More Practice-Oriented Professors.

The ABA Task Force and many other commentators have blamed the culture of law school faculties for some key aspects of the current challenges for modern legal education. In particular, these critics argue that law schools' emphasis on faculty members' scholarly work has increased the costs of legal education (in part by reducing faculty members' teaching loads), encouraged law schools to hire faculty members with little law practice experience, and incentivized faculty members to seek enhanced status by committing a significant percentage of their time to research and writing (often on highly theoretical topics), at the expense of committing more time to teaching students and helping them to graduate more "practice-ready." Reflecting these views, the ABA Task Force Report recommended that "[t]here should be constructive change in faculty culture and faculty work," even while acknowledging that law schools will vary considerably in their willingness to move to a model that deemphasizes faculty members' commitment to traditional scholarship.

Our Task Force concluded that our report did not need to include a separate recommendation for a change in faculty culture. Based on our investigations and discussions – informed by the robust participation of deans and faculty members from the law schools at Quinnipiac, UCONN, Western New England, and Yale – our Task Force believes that the law schools in our area are already undertaking a broad range of initiatives to respond to the challenges facing legal education. The breadth of these initiatives persuades the Task Force that the prevailing faculty culture at our area law schools is already receptive to change and aware that changes are both necessary and inevitable. Our decision not to include a recommendation for a change in faculty culture was also bolstered by our view – emphasized elsewhere in our report – that law schools should be encouraged to explore a range of ways of innovating and to adopt a range of missions and emphases in pedagogical approaches, rather than being required to conform a "one-size-fits-all" approach. In light of this view, we conclude that there should be room in the academy for a range of faculty cultures, and that it would be unhelpful for us to suggest the need for a pervasive change in faculty culture across the broad range of law schools that are already engaged in ambitious reforms.

D. Modify the Third Year of the Law School Program to Emphasize Principally or Exclusively Experiential Training.

Some commentators have suggested that the third year of law school should be changed to emphasize exclusively or at least principally experiential training. (These proposals are sometimes posed as an alternative to the proposal that law school should be reduced from a three-year program to a two-year program of study.)

Our Task Force chose not to include this particular recommendation, for three principal reasons. First, and most significantly, at most law schools the third year already offers most students the opportunity to focus much or most of their time on experiential learning in settings like clinics, externships, interschool advocacy competitions, and simulations classes (e.g., trial practice, mediation, negotiation, client counseling, etc.). Second, a recommendation that would require law schools to require all students to commit their third year to experiential training seems to us to cut against the view that we and many others hold, namely that regulatory requirements should be reduced in order to allow law schools greater flexibility to innovate, and to permit greater heterogeneity among law schools. Third, our Task Force concluded that a better strategy for encouraging law schools to provide more students with experiential learning opportunities – while preserving appropriate institutional flexibility for innovation – is to require that candidates for admission to the bar have completed six hours of experiential learning before being admitted to the bar.

E. Reduce the Influence of the US News & World Report Rankings.

The ABA Task Force and a host of other commentators in recent years have decried the pernicious effects that the US News and World Report rankings have had on legal education. As the ABA Task Force and other critics explain – with persuasive evidence – the US News ranking scheme has engendered very strong incentives that have significantly influenced law schools’ behaviors across a broad range of decisions including admissions strategies, use of financial aid budgets, reporting of consumer information, publicity/marketing of law schools’ accomplishments, and overall levels of expenditures. The ABA Task Force thus included as its final recommendation that “U.S. News & World Report should cease using law school expenditures as a component of its system for ranking law schools and, in general, should ensure that its ranking methodology does not promote conduct damaging to the interests of law students and the system of legal education.”

Our Task Force shares the concern that the ABA Task Force and others have expressed about the pernicious role that the US News rankings have played and continue to play in influencing law schools’ behaviors and incentives. Given how widely understood this pernicious role is, however, our Task Force did not feel that we have a meaningful and helpful recommendation to add to the long-standing chorus of other voices calling for a solution to the U.S. News problem. All that we will do here is express our hope that the current and future crisis for legal education may provide the impetus that will finally motivate law schools, universities and other entities with influence in this area to work more effectively to reduce the unfortunate role that the rankings are playing in critically important decisions for legal education.

V. RECOMMENDATIONS OF THE TASK FORCE

While the above referenced changes which have already occurred are necessary and welcome, more can and should be done. It is the recommendation of this Task Force that those same stake holders consider and adopt the following innovations to the education, testing, nurturing, mentoring, training and employing of law students and attorneys.

A. Law Firms and Lawyers

Law firms should consider employing newly admitted lawyers as paid interns without the promise or guarantee of permanent employment. In addition, the use of law student externs should be expanded whereby the student receives credit for the experience. Under present ABA rules, the student extern is not permitted to be compensated. If firms are not permitted to compensate student externs, federal law does not permit firms to bill clients for a student's services. The ABA is considering changes to the rule but, in the meantime, student externs can provide a variety of valuable, non-billable legal services for law firms such as client updates of legal developments or contributing to legal research databases. The use of mentors, already in place through the CBA Standing Committee on Professionalism should be encouraged and expanded. Together with the CBA, there should be instituted a series of practice oriented nuts and bolts trainings instituted in a variety of fields to educate newly admitted lawyers in basic areas of law as well as in ethics, advertising, law office management, technology and client's funds accounts. Connecticut firms, both large and small, can further contribute to the professional development of new lawyers who are not their employees by working with bar association programs to train new lawyers, participating in presenting these training sessions for new lawyers. Finally, experienced practitioners should partner with academic professors to co-teach or guest lecture on an as needed basis and serve on law school advisory boards to convey the needs of legal employers and to identify skill gaps in recent graduates.

B. Governmental Regulators

Consistent with the ABA requirement for law school accreditation, The Bar Examining Committee should require the same 6 hours of experiential education or the equivalent in practical experience in order to sit for the bar exam. It was recognized that as law schools engage in further experiential or practical experience education, it should be tested in a meaningful way in the bar examination.

The Rules Committee should consider modifying the requirement of supervision for student practice. Recognizing that much legal work is already being performed by individuals with credentials less than fully licensed attorneys (known as the nurse practitioner model) the concept should be expanded so that non-lawyers be permitted to offer some basic legal services to the public. This would be a post-bachelor's degree training (more than a paralegal but less than a JD) and it is expected that if the Rules Committee permitted such practitioners, schools would happily train them and consumers would likely utilize them. The Judicial Branch should continue to study and ultimately establish a Modest/Moderate Means Legal Services program whereby lawyers would volunteer to offer their services to qualifying individuals at reduced fees. The Rules Committee should amend Practice Book § 2-13 to ease admission by waiver of faculty members at accredited law schools to allow professors to supervise law students under the Student Practice Rule.

Finally, all lawyers should be required to attend 12 hours of some form of Continuing Legal Education each year with at least 2 hours in legal ethics.

C. Bar Associations

The organized bar is perhaps the only entity under whose umbrella all of these initiatives can come together as evidenced by the existence of this Task Force. Never before have all of the stakeholders come together to bring their many talents and influence to address these issues. The Connecticut Bar Association Young Lawyers Section (YLS) is the largest and most active section of the CBA. It consists of both young lawyers and newly admitted lawyers of any age and already does much to welcome, mentor, train and otherwise introduce new lawyers to the legal community and to the practice of law. The CBA should further publicize the fact that newly admitted attorneys may join the CBA for free for one year and utilize the YLS as a platform for training, networking, and education.

The CBA should convene a half day summit to explore the possibility of matching new lawyers seeking work with clients who can afford modestly priced legal services (the Modest Means Program) or limited scope representation. This should be a commercially sustainable business model to enable new lawyers to address the unmet civil legal needs of people of moderate means while developing their own sustainable professional practices. The ABA has just established a grant program, Legal Access Job Corps to give between \$5,000 and \$15,000 to entities which will employ new lawyers to address the legal needs of poor and moderate income individuals. Perhaps the CBA should pursue that or other grant sources.

The CBA could create a solo and small firm resource center which would provide support for these lawyers including access to practice aids, legal research, client information materials as well as mentors.

The use of mentors, already in place through the CBA Standing Committee on Professionalism and Legal Education should be encouraged and expanded through the Young Lawyers Section. The program has shown great success for several years in Hartford and New Haven counties.

The CBA should continue to make available practice oriented nuts and bolts trainings in a variety of fields to educate newly admitted lawyers in basic areas of law such as simple divorce, landlord tenant, bankruptcy, real estate, criminal procedure and foreclosure defense as well as in ethics, advertising, law office management and client's funds accounts.

Finally, the CBA should appoint a Standing Committee on the Future of Legal Education and Standards of Admission. The committee would meet two times per year to review the progress of its recommendations, to consider making new recommendations and to otherwise serve as an opportunity for discourse among those so interested and vested in the subject.

D. Law Schools

The law schools are to be commended for recognizing and adjusting to dramatic and unprecedented changes within a legal profession unrecognizable just a few years ago. Advances in technology, a shrinking job market, clients who demand innovative billing methods, staggering educational debt and an increasing number of people who cannot or will not hire an attorney have rendered the profession dramatically different. While the opportunities for law students for

experiential and practical skills education have never been broader, law schools must continue to proactively adapt to an ever-changing profession. As changes in regulation, technology, energy, healthcare and population demographics create new demands for legal services, opportunities are created for newly admitted attorneys who are properly trained and educated to take advantage of them. While there are still too many new lawyers chasing an ever shrinking supply of jobs, there is also a huge unmet demand for legal services among middle-class persons, a phenomenon commonly referred to as the “justice gap.”

We strongly recommend the incorporation of more experiential learning to that which is already ongoing. Law schools must coordinate curriculum to enhance the clinical experience, including the cross migration of clinics within the law school. There ought to be changes to the student practice rule which would allow law students, with appropriate supervision, to engage with under- served litigants as well as work in corporations, legal services providers and not for profit entities. The use of student interns in law firms, corporations, not for profit entities and in the courts should be expanded. Under proper supervision, these student interns can render legal services to the underserved litigants in the judicial process.

There was a strong divergence of opinion within the Task Force and in the profession itself about whether law schools should require a minimum number of credits in practice based or experiential learning as a graduation requirement. The ABA has rendered that debate moot with its Council on Legal Education voting to require that all accredited law schools demand six credits of experiential education as a graduation requirement of all students. It is expected that the ABA House of Delegates will adopt this requirement and henceforth, all accredited law schools will phase in this mandate. At the same time, law schools should be encouraged to search for better ways to evaluate practical skill development, problem-solving and the exercise of judgment in lawyering.

Finally, students should be engaged in the technology required for the practice of law which they desire and receive substantive expertise in emerging areas of the law.

VI. CONCLUSION

It is the hope of this Task Force that its work will be as beneficial to the legal profession as it has already been to its individual members and the institutions which they represent. It is the consensus of the Task Force that the recommendations contained herein will serve to better educate and prepare competent new lawyers. We very much hope that the law schools, law firms, governmental regulators and the Connecticut Bar Association accept and implement these recommendations. On behalf of all of the members of the CBA Task Force on the Future of Legal Education and Standards of Admission, we are grateful for the opportunity to have served together in this important undertaking.

APPENDIX A

TASK FORCE MEMBERS

Hon. Kenneth L. Shluger, Task Force Chair and Judge of the Superior Court

Atty. James W. Bergenn, partner, Shipman & Goodwin, LLP and Adjunct Professor, University of Connecticut School of Law

Atty. Michael P. Bowler, Statewide Bar Counsel, State of Connecticut

Hon. William H. Bright Jr., Judge of the Superior Court and member Rules Committee, State of Connecticut

Dean Jennifer G. Brown, Dean, Quinnipiac University School of Law

Dean Paul Chill, Associate Dean for Clinical and Experiential Education & Clinical Professor of Law, University of Connecticut School of Law

Hon. Anne C. Dranginis, partner, Rome McGuigan, P.C., Chair, Bar Examining Committee and retired Judge

Atty. Mark A. Dubois, President Elect, Connecticut Bar Association and former Chief Disciplinary Counsel

Dean Timothy S. Fisher, Dean, University of Connecticut School of Law

Dean Eric Gouvin, Dean, Western New England University School of Law

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Atty. Matthew S. Necci, partner, Halloran & Sage LLP and President Elect, Young Lawyers Section, Connecticut Bar Association

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Atty. Frederic S. Ury, partner, Ury & Moscow LLC and past President, Connecticut Bar Association

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Prof. Michael Wishnie, William O. Douglas Clinical Professor of Law & Deputy Dean for Experiential Education, Yale Law School

APPENDIX B

EXPERIENTIAL EDUCATION AT LAW SCHOOLS TODAY

A. Experiential Education at Yale Law School

Students and faculty at Yale Law School have long viewed experiential learning as vital to a comprehensive legal education. In the early years of the last century, voluntary student groups at the law school organized legal aid programs and sometimes worked with faculty engaged in pro bono and early civil rights cases. In that period, Yale Law Professor Jerome N. Frank's article "Why Not a Clinical Lawyer-School?" 81 U. PA. L. REV. 907 (1933) became an important spur to include more practice-oriented training in legal education. In the 1970s, Steve Wizner, Denny Curtis and Dan Freed launched the law school's in-house, live-client clinical programs. The judiciary encouraged this development in part by adopting the most generous student-practice rule in the nation. Conn. Practice Book § 3-16(a)(2) (permitting law student intern appearances after one semester of legal studies in faculty supervised law school clinical program and upon certification by dean). As the only Connecticut law school that permits students to enroll in clinical programs after one semester, in the only state that permits student practice that early, Yale's current curriculum reflects its long-standing commitment to practical training.

Yale's commitment is also manifested in its dedication of substantial resources to support these programs, which are generally more resource-intensive than traditional lecture or seminar classes. According to 2011 and 2013 surveys, Yale offers more clinical opportunities per student than any other law school in the nation, and by a wide margin. And while Yale does not require any experiential credits as a condition of graduation, in recent years more than 90% of students have voluntarily enrolled in at least one experiential course.

The experiential offerings at YLS are numerous and varied and include in-house live client clinics, externship-oriented live-client projects, simulation-based courses, moot court offerings, legal writing classes, and student-organized programs. Additionally, many clinics allow students to remain enrolled for multiple semesters. The resulting opportunity for students to participate in a complex case as it develops over months or years, or in multiple smaller cases, is another hallmark of experiential education at YLS. In 2013-14, these diverse courses have been taught by Yale's full-time clinical and academic faculty, a small number of clinical fellows and more than 70 judges and practicing attorneys. Yale does not award academic credit for externships, and despite the new ABA and California bar requirements for minimal numbers of experiential credits, does not expect to do so. In the coming years, YLS is likely to expand its simulation-based business practice courses to include new offerings on negotiating and drafting M&A agreements, private equity transactions, international arbitration, start-ups and the law, and other topics.

B. Experiential Education at Western New England University School of Law

Western New England University School of Law (the "School") is committed to helping students develop the professional skills needed to practice law successfully and responsibly. Its goal is to provide professional skills instruction throughout the curriculum. The following offerings are central to its delivery of professional skills education:

1. *Simulation courses.* The School has long offered a wide array of courses that provide students with an opportunity to develop particular professional skills through a series of simulation exercises in which the professor first teaches the skills and then observes and individually assesses students as they work to master them. These courses often have a specific substantive focus, which requires the students not just to master the skills but to apply them in the role of an adviser, planner, or litigator and to understand their relationship to the professional and ethical responsibilities of lawyers.

2. *Clinics.* The School offers six legal clinics and a wide range of externship placement opportunities. Virtually every student at the School who desires to participate in a clinic can be assured of doing so. The clinics include the Criminal Law Clinic, the Legal Services Clinic, the Real Estate Practicum, the Small Business Clinic, the Consumer Protection Clinic/Housing Clinic, and the International Human Rights Clinic.

3. *Externship Program.* The School offers two primary externship programs. One program is supervised by individual faculty members and allows a student to earn two credits, the other allocates three credits for the field placement and requires students to participate in a one credit seminar taught by a full-time faculty member. The three credit externships fall into two categories: Judicial Externships and Public Interest Externships. Students enrolled in the Judicial Externship are placed in chambers of judges in the federal district courts and state superior, district, probate, juvenile, and family courts in Connecticut and in western Massachusetts, while the Public Interest externs work in a variety of city and state offices, agencies, and public defender organizations.

4. *Pro Bono Opportunities.* Students must complete twenty hours of pro bono legal work between the end of their first semester of law school and 75 days prior to graduation. The School's pro bono requirement is intentionally flexible, allowing students to satisfy their twenty hours by participating in a single intensive program such as an alternative spring break program. Others will secure unpaid, non-credit summer internships that satisfy the requirement. Some will perform their service periodically during the school year by participating in activities such as staffing the ACLU Hotline.

5. *Moot Court.* The School provides many opportunities for students to participate in moot court and lawyering skills competitions for academic credit. We are proud of our many successful teams. For example, in recent years, teams from our School have won national titles in the ABA Law Student Tax Challenge, the National Moot Court competition, the Negotiation competition, the Rendigs Products Liability competition, the First Amendment competition, and the Transactional Law Meet.

6. *Law Review.* The School publishes one general interest journal: the Western New England Law Review. The law review is a student-run publication that receives faculty guidance from a faculty committee.

C. Experiential Education at Quinnipiac University School of Law

Quinnipiac's first year is a traditional curriculum, with a focus on learning doctrine and the skills of legal analysis, as well as those of legal research and writing. Simulation exercises are used to give context.

In second and/or third years, students have a wide variety of course choices in which to satisfy their requirement of taking one or more courses designated as "skills." Quinnipiac offers Doctrinal Courses with a skills component which are courses primarily designed to teach the subject area and yet use experiential methodologies, such as skill oriented simulations. Fundamental Skills Courses are offered, with every student guaranteed one or more courses designed to teach core lawyering skills, and which use simulation/role assumption as the primary means of teaching. Practicum Courses offer students some nexus to "real life," albeit less intensely than clinical legal education programs.

In second and/or third years, students have a wide variety of choices to earn credits in programs where they will perform real-life legal work, under supervision. Every student is guaranteed an opportunity to enroll and over 85% do while more than 50% take more than one clinical course. These programs give students a chance to engage in student practice in a full array of practice settings, subject areas, and perspectives. Students may choose how many "credits" (i.e., hours per week) for each semester, with a range of 2-8 credits per semester (10-24 hours per week), with one satellite "Semester-in-Practice" course (full time; 10 credits) offered in a remote location. Quinnipiac has a fully functioning "law firm" within the law school, with two programs: Civil Justice Clinic & Tax Clinic. Students are supervised by full-time faculty, and "work" approx. 16 hours per week on casework.

Field placement program for credit (16 different courses) or externships are offered where students perform legal work off-site, under the direct supervision of practicing judges, lawyers, and mediators, in both private and public settings. Most subject areas of law are available.

Significant faculty resources designing and teaching the program assures that supervisors are performing their mentoring and teaching duties well, and that students working in the field have a classroom experience to assist with learning from their experiences. Students are in the field from 10-20 hours per week. Clinical programs are offered in partnership with the State of CT Judicial Branch which are hosted on-site but which are not part of the "law firm" operated by the law school.

Defense Appellate Clinic, Prosecution Appellate Clinic, and Legal Ethics Project are available for evening students taught by Visiting Clinical Instructors. Co-Curricular Competitions are afforded to qualifying students who may participate in one of three journals: Law Review, Probate Journal, Health Law Journal. All students also have opportunities to compete for a chance to develop skills by participating in competition teams for three societies: Moot Court (appellate advocacy); Mock Trial (trial skills), Society for Dispute Resolution (negotiation, mediation advocacy, arbitration, and client counseling).

D. Experiential Education at University of Connecticut School of Law

The University of Connecticut was an early leader in experiential legal education and remains one today. In the late 1960s, UConn Law School was one of the first to open an in-house, live-client clinic to train students while providing legal services to poor and other under-represented clientele. In 2012, UConn became one of the first 15 U.S. law schools to adopt a "practice-based learning requirement" – a requirement that all students take at least one clinic or supervised externship in order to graduate. In 2013, the school created the position of Associate Dean for Clinical and Experiential Education to oversee and coordinate its growing range of experiential programs.

Experiential education begins in the first year at UConn. As at most law schools, students take a required fall course in legal research and writing in which they draft and receive feedback on multiple predictive and persuasive legal memoranda. The traditional second-semester moot court course, in which students write and argue an appellate brief, is condensed into an intensive month-long "interterm." That leaves room in the spring for the most distinctive feature of the Law School's first-year curriculum: a required simulation course that introduces students to the core lawyering skills of client interviewing, counseling and negotiation. At last count, only about 10% of U.S. law schools had a similar requirement.

Upperclass students can choose from a wide range of clinical and externship offerings. The Law School currently operates 16 clinical programs. These include five in-house clinics supervised by full-time faculty members in which students are given significant responsibility for all aspects of client representation. Students in these programs represent: refugees seeking asylum from persecution; indigent criminal defendants at both the trial and appellate levels; low-income taxpayers in disputes with the IRS; and individuals and small-businesses seeking patents or trademarks. In addition, students in the in-house Mediation Clinic mediate cases in Connecticut courts and administrative agencies. The Law School also operates several "partnership" and externship clinics in cooperation with non-profit organizations and government agencies. Partners include: the Center for Children's Advocacy; the Connecticut Urban Legal Initiative; the Connecticut Fund for the Environment; Connecticut Legal Services; the Civil Rights Enforcement Unit of the U.S. Attorney's Office for the District of Connecticut; and the Office of the Connecticut Chief State's Attorney. Students in these clinics work under the supervision of agency lawyers and participate in a concurrent seminar taught by agency lawyers who serve as adjunct faculty. Students in the innovative Semester in DC program extern at government agencies and non-profits on a nearly full-time basis while participating in seminars on advanced topics in legislation and regulation. Other externship clinics provide students with opportunities to clerk for judges, state legislators and legislative staff, and lawyers at the Connecticut Department of Energy and Environmental Protection as well as other state agencies. Finally, a robust individual externship program offers students the opportunity to earn academic credit through individual field placements with lawyers or judges while engaging in a structured process of reflection and critique. Beginning in the fall of 2014, students in these externships will have the option of enrolling in a concurrent seminar (although it will be mandatory for those seeking to fulfill the new Practice-Based Learning Requirement) that explores practical, ethical, and professional-role issues students are likely to encounter in their placements and as novice lawyers..

The Law School also offers a rapidly-expanding assortment of nonclinical upperclass courses that include substantial experiential components – simulations, shorter role-play exercises, drafting exercises, and other active-learning modalities. The school supports four student-run law journals as well as a student-run Moot Court Board and Mock Trial Society, the latter two of which sponsor intramural competitions and regularly send student teams to participate in extramural competitions. The Law School has established a Pro Bono Pledge program to encourage and recognize student participation in pro bono activities and community service projects for which no academic credit or compensation is received.