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## *IJA BRENNAN LECTURE*

### LAW SCHOOLS AND STATE SUPREME COURTS MUST CONSIDER CREATIVE CHANGE TO MEET THE LEGAL NEEDS OF UNDERSERVED POPULATIONS

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## INTRODUCTION

The gap in access to justice in the United States has remained at a crisis level for too long. Statistics from recent national surveys are alarming. A 2020 survey of a representative sample of people in the United States reported that 66% of individuals had faced one or more civil legal issues in the preceding four years and that only 49% of those legal issues were resolved.<sup>1</sup> Perhaps unsurprisingly, these legal issues are not equally distributed across the U.S. population. “[T]he rates at which people encounter legal problems, the relative seriousness of those problems, and the rates at which they were able to completely resolve their legal problems” demonstrate that certain populations—the poor, women, people of color, younger people, and people living in very rural or very urban communities—are more likely to be affected by the access to justice crisis.<sup>2</sup>

While there are many explanations for this persistent crisis and for the patterns within it, one contributor is likely to be the uneven distribution of the U.S. lawyer population—both geographically and in terms of professional specialty. Lawyers are not geographically available to many Americans, and they are not trained to meet some of the most essential legal needs that real people face at prices that real people can afford.

The American Bar Association’s (ABA) 2020 *Profile of the Legal Profession* report highlighted the uneven geographic distribution of lawyers in the United States, finding that they tend to cluster around major metropolitan areas and state capitals, leaving smaller, remote, and rural areas with fewer attorneys.<sup>3</sup> Forty percent of U.S. counties do not have a single attorney for every one thousand residents.<sup>4</sup> Even this number misses important limitations—in some states, lists of lawyers may include inactive as well as active attorneys.<sup>5</sup> And some of the attorneys in rural communities likely work for the government and

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<sup>1</sup> MARTIN GRAMATIKOV, RODRIGO NÚÑEZ, ISABELLA BANKS, MAURITS BARENDRECHT, JELMER BROUWER, BRITTANY KAUFFMAN & LOGAN CORNETT, HAGUE INST. FOR INNOVATION OF L. & THE INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA 2021: LEGAL PROBLEMS IN DAILY LIFE 4–6 (2021), <https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf> [<https://perma.cc/4YF4-Q8QB>].

<sup>2</sup> *Id.* at 8.

<sup>3</sup> AM. BAR ASS’N, 2020 ABA PROFILE OF THE LEGAL PROFESSION 2 (2020), <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/profile-of-profession.pdf> [<https://perma.cc/CU2X-WBBX>].

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 3; see also David J. Peters, Emma Bartling & Emily Meyer, *Understanding Rural Legal Deserts to Inform Public Policy: Identifying and Describing Lawyer Gaps in Non-Metropolitan Counties*, 40 S.D. L. REV. 253, 254 (2025) (“Such lists often include lawyers who

are therefore not available to represent private clients.<sup>6</sup> Further, many rural communities find that they cannot recruit public attorneys—the district attorneys and the public defenders—necessary to address the criminal justice needs of those communities.<sup>7</sup> Adding to the issue of fewer lawyers in rural areas is the difficulty in physical and technological access to those few lawyers. Rural areas may cover vast expanses of a state, making it difficult to see an attorney in person (and impossible if an individual requires public transportation to meet the attorney). Moreover, rural areas may lack reliable cell phone and broadband or high-speed internet coverage to support phone or Zoom calls with a lawyer.<sup>8</sup>

As for the uneven professional distribution of lawyers, that has been widely remarked upon.<sup>9</sup> But less has been said about how the legal community is preparing young lawyers to enter this professional landscape. Increasingly, lawyers represent business entities, not people. When lawyers do represent people—for example, in family law matters—they charge rates that most individuals cannot afford to pay.<sup>10</sup> Law schools are not training students to do the kinds of law that most people need or to run law practices in a way that would allow them to provide their services at prices that most people can afford.<sup>11</sup> When

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are retired, inactive, or who work in government or non-law businesses, which overcounts the number of private practice lawyers who are available for hire.”).

<sup>6</sup> AM. BAR ASS’N, *supra* note 3, at 3.

<sup>7</sup> See, e.g., DEASON CRIM. JUST. REFORM CTR., GREENING THE DESERT: STRATEGIES AND INNOVATIONS TO RECRUIT, TRAIN, AND RETAIN CRIMINAL LAW PRACTITIONERS FOR STAR COMMUNITIES 4–5 (2020), <https://www.smu.edu/-/media/site/law/deason-center/publications/star-justice/greening-the-desert/report-greening-the-desert-final.pdf> [<https://perma.cc/4CDT-VPVR>] (discussing how “STAR criminal justice systems struggle to recruit and retain criminal lawyers who can serve as judges, prosecutors, public defenders, and private defense counsel”).

<sup>8</sup> See Lisa R. Pruitt, Amanda L. Kool, Lauren Sudeall, Michele Statz, Danielle M. Conway & Hannah Haksgaard, *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL’Y REV. 15, 22 (2018).

<sup>9</sup> See, e.g., Gabriel Kuris, *Why Law School Location Matters*, U.S. NEWS & WORLD REPORT (Sept. 23, 2024, 4:21 PM), <https://www.usnews.com/education/blogs/law-admissions-lowdown/articles/why-law-school-location-matters> [<https://perma.cc/SEB5-MD5T>] (“Law schools, however, are unevenly distributed: Half the states have only one or two, and Alaska has none.”); Grace Yurish, *Legal Deserts Widen the Justice Gap in New Hampshire*, N.H. BAR ASSOC., (Oct. 16, 2024), <https://www.nhbar.org/legal-deserts-widen-the-justice-gap-in-new-hampshire> [<https://perma.cc/M4A5-LQ7C>] (discussing the uneven distribution of lawyers in New Hampshire).

<sup>10</sup> See, e.g., LEGAL SERVS. CORP., THE JUSTICE GAP: THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 52 (2022), <https://justicegap.lsc.gov/the-report> [<https://perma.cc/KG8Q-P2M8>] (finding that, of over two thousand survey respondents who identified as low-income, “53% of low-income Americans do not know if they would be able to find a lawyer that they could afford if they needed help with a serious civil legal problem”).

<sup>11</sup> See *infra* Part III.

the National Conference of Bar Examiners (NCBE) first proposed the NextGen Bar, it announced that it would eliminate testing of Family Law and Wills and Trusts—two state law subjects central to the legal needs of people—while retaining a number of corporate subjects.<sup>12</sup> There has been some shift on that decision,<sup>13</sup> but legal education and the introduction to the profession as a whole has not been designed to focus new lawyers on meeting the needs of people—and certainly not those of a majority of people.

These challenges have not gone unnoticed. On August 2, 2023, during the joint Annual Meeting of the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA), members of these two organizations adopted Resolution 1, which created the Working Committee on Legal Education and Admissions Reform, known as the “CLEAR” Committee.<sup>14</sup> In March 2024, CLEAR released a Landscape Brief that set out its ambitious goal of “work[ing] to catalyze high-impact reforms from state supreme courts aimed at further aligning bar admissions and legal education around bringing practice-ready, competent attorneys to meet the legal needs of communities across the country.”<sup>15</sup> CLEAR also planned to create a final report and recommendations and present it to the CCJ and COSCA in July 2025—less than two years after CLEAR’s creation.<sup>16</sup> CLEAR’s report and recommendations would be informed in part by interactions with and feedback from relevant stakeholders, including individuals and groups from the bench and bar, legal education, and bar admissions.<sup>17</sup>

CLEAR will ultimately make recommendations in three areas: “1) bar admissions and assessing minimum competence, 2) law schools’ ability to ensure graduates are practice ready, and 3) factors that

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<sup>12</sup> See *infra* notes 131–35 and accompanying text.

<sup>13</sup> See Press Release, Nat’l Conf. of Bar Exam’rs, NCBE Announces Update to NextGen Exam Content, Extends Availability of Current Bar Exam (Oct. 25, 2023), <https://www.ncbex.org/news-resources/update-nextgen-exam-content-extends-availability> [<https://perma.cc/5FP7-3B8Y>] (“In response to feedback from jurisdiction high courts, . . . NCBE has determined that family law will be added to the list of foundational concepts and principles to be tested on the NextGen exam beginning with the July 2028 administration.”).

<sup>14</sup> *Resolution 1: In Support of Establishing the Working Committee on Legal Education and Admissions Reform (CLEAR)*, CONF. CHIEF JUSTS. (Aug. 2, 2023), <https://ccj.ncsc.org/resources-courts/support-establishing-working-committee-legal-education-and-admissions-reform-clear> [<https://perma.cc/TN4Q-9CR2>].

<sup>15</sup> Nat’l Ctr. for State Cts. & Access Lex Inst., Conference of Chief Justices and Conference of State Court Committee on Legal Education and Admissions Reform: Landscape Brief 3 (Mar. 14, 2024) (working draft) (on file with the New York University Law Review) [hereinafter CLEAR Landscape Brief].

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

incentivize and enable new lawyers to practice in the public interest.”<sup>18</sup> Each of CLEAR’s three areas of investigation is broad and brings up significant questions. Moreover, the three areas are intertwined: What students learn in law school should, in theory, set them up with minimum competence to practice law. The bar admissions process should, in theory, evaluate whether the people entering the profession have actually achieved minimum competence for the practice. And if we are going to address the access to justice crisis, in part by offering legal assistance to the people and communities currently going without, more of these new lawyers are going to need the skills and capacity—the minimum competence—to practice in the interests of underserved people.

This Article is organized around CLEAR’s three areas of inquiry and related questions that must be answered to drive reform. Part I considers the purposes of legal education and potential changes to its structure and curriculum. Part II questions whether the bar exam truly tests minimum competence, and if it does not, whether better alternatives exist or can be created. Part III explores how states are addressing the justice gap—both by encouraging lawyers to fill it and by looking elsewhere if lawyers won’t meet the urgent need.

## I

### LEGAL EDUCATION—PURPOSE, STATISTICS, AND IDEAS FOR CHANGE

One of CLEAR’s areas of focus is what law schools should be doing to ensure that new law school graduates come out of school ready to practice law.<sup>19</sup> We believe this can be divided into (at least) two questions: First, what is the purpose of legal education? And second, could stakeholders in the legal community outside of the academy—state supreme courts, the practicing bar, the Council of the ABA Section of Legal Education and Admission to the Bar (the Council), which is the primary law school accrediting body—take steps to push for changes in the format or content of legal education? Even if those changes might not be universal, could they be encouraged in some law schools or could we expand public awareness that there is already a more diverse range of legal education options than we currently acknowledge?

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<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

### A. Purpose of Legal Education

A law degree has long been seen as what Yale Law School Dean Heather Gerken termed “a thinking degree.”<sup>20</sup> Legal education today continues to use the “case method” developed 150 years ago by Harvard Law School Dean Christopher Columbus Langdell,<sup>21</sup> as well as the nearly-universal first-year law school curriculum, with courses in Civil Procedure, Criminal Law, Contracts, Property, and Torts.<sup>22</sup> Dean Langdell hired law professors not with law practice backgrounds, but with experience in learning law (“reading and analyzing cases” and “expand[ing] on the rules of law”).<sup>23</sup> The background of the law faculty and the new teaching methods made legal education an academic discipline, more akin to a science due to the reasoning employed to learn the law, than to a trade school.<sup>24</sup> Law was based on data (legal cases), and its principles could be discovered via “inductive, scientific reasoning” led by a professor.<sup>25</sup> Further, legal education’s duration of three years became standard in 1906 when it was mandated as a membership requirement of the Association for American Law Schools.<sup>26</sup> Legal education today still remains focused on teaching students how to “think like lawyers,”<sup>27</sup> with, anecdotally, some law school deans and professors asserting that graduating practice-ready law students is not the job of law schools.<sup>28</sup> Focusing on the lawyering work done by most new attorneys has not been central to the

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<sup>20</sup> See M.P. McQueen, *How Law Schools Are Preparing Students for the New World of Work*, BLOOMBERG LAW: BEFORE THE BAR (Oct. 10, 2024), <https://news.bloomberglaw.com/before-the-bar/how-law-schools-are-preparing-students-for-the-new-world-of-work> [https://perma.cc/9DP6-PRDF] (describing recent efforts to introduce more practical curricula into law schools).

<sup>21</sup> Rachel Gurvich, L. Danielle Tully, Laura A. Webb, Alexa Z. Chew, Jane E. Cross & Joy Kanwar, *Reimagining Langdell's Legacy: Puncturing the Equilibrium in Law School Pedagogy*, 101 N.C. L. REV. F. 118, 129–30, 133 (2023).

<sup>22</sup> *Id.* at 129 & n.50.

<sup>23</sup> *Id.* at 128–29.

<sup>24</sup> See *id.* at 127–32 (outlining Langdell’s new practices); WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 5–6 (2007) [hereinafter *CARNEGIE REPORT*] (describing how Langdell’s methods transformed law into an academic discipline). This book is more commonly referred to as the Carnegie Report, since it was part of the Carnegie Foundation for the Advancement of Teaching’s *Preparation for the Professions* series.

<sup>25</sup> Susan Katcher, *Legal Training in the United States: A Brief History*, 24 WIS. INT’L L.J. 335, 357 (2006).

<sup>26</sup> Warren A. Seavey, *The Association of American Law Schools in Retrospect*, 3 J. LEGAL EDUC. 153, 159 (1950).

<sup>27</sup> See McQueen, *supra* note 20.

<sup>28</sup> See, e.g., Jacob Gershman, *The Practice-Ready Law Graduate Is a ‘Fantasy,’ Says Professor*, WALL ST. J. (Aug. 30, 2013, 4:44 PM) (citing Robert J. Condlin, “Practice Ready Graduates”: A Millennialist Fantasy, 31 Touro L. REV. 75 (2015)), <https://www.wsj.com/articles/BL-LB-45734> [https://perma.cc/6D4W-6G9M] (“In a new paper, University of

legal education curriculum. Indeed, during the twentieth century, “legal education would come to emphasize legal knowledge and reasoning at the expense of attention to the practice skills.”<sup>29</sup>

That has changed somewhat in recent years. One of the ways in which legal education has evolved is with the addition of clinical programs.<sup>30</sup> For example, Justice Hart, a Harvard Law School graduate, recalls a single available legal aid clinic during her time in law school; now, Harvard Law has twenty-four in-house legal clinics.<sup>31</sup> As a law student, Dr. Winek participated in Michigan State University College of Law’s (MSU Law) Low Income Taxpayer Clinic, then one of a few in-house law clinics. Now, MSU Law has expanded to eight law clinics.<sup>32</sup> More recently, many law schools have particularly robust field placement offerings,<sup>33</sup> with some law schools, such as the University of Denver Sturm College of Law, placing a special emphasis on field placements.<sup>34</sup> Further, law schools have become more creative about adding coursework related to business skills, transactional legal practice, and technology.<sup>35</sup> As Dean Gerken explained, “[W]e wanted to be more self-conscious and intentional about making sure we train every single student for their last job and not just their first.”<sup>36</sup>

These are choices made by the law schools, presumably driven by student interest and a sense within the institutions that there is value to practice-based learning. There are also some curricular requirements for accreditation imposed by the Council, which is the national J.D. degree accrediting agency recognized in all fifty states and by the U.S. Department of Education,<sup>37</sup> but they are very limited. The 2024–2025 *ABA Standards and Rules of Procedure for Approval of Law Schools*

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Maryland law professor Robert Condlin takes aim at the ‘practice ready’ concept, arguing that it’s a nostrum that won’t cure the ills of legal education.”).

<sup>29</sup> CARNEGIE REPORT, *supra* note 24, at 7.

<sup>30</sup> See Edward Rubin, *What’s Wrong with Langdell’s Method, and What To Do About It*, 60 VAND. L. REV. 609, 610 (2019).

<sup>31</sup> *In-House Clinics*, HARV. L. SCH., <https://hls.harvard.edu/clinics/in-house-clinics> [<https://perma.cc/TXL4-ED79>].

<sup>32</sup> *MSU Law Clinic*, MICH. STATE UNIV. COLL. L., <https://www.law.msu.edu/clinics> [<https://perma.cc/DV2K-DCYN>].

<sup>33</sup> Niki Kuckes, *Designing Law School Externships that Comply with the FLSA*, 21 CLINICAL L. REV. 79, 79–80 (2014).

<sup>34</sup> See *Externships*, UNIV. OF DENV. STURM COLL. L., [https://www.law.du.edu/academics/practical-experience/externships#externship\\_student\\_info](https://www.law.du.edu/academics/practical-experience/externships#externship_student_info) [<https://perma.cc/3QJT-F7LY>]. While the University of Denver refers to “field placements” as “externships,” we use the term “field placements” as this is the terminology used by the Council.

<sup>35</sup> See McQueen, *supra* note 20.

<sup>36</sup> *Id.*

<sup>37</sup> *Institutional Accrediting Agencies*, U.S. DEP’T EDUC., <https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/college-accreditation/institutional-accrediting-agencies#RegionalInstitutional%23RegionalInstitutional> [<https://perma.cc/V3UW-PSZ8>].



require “one course of at least two credit hours in professional responsibility,” “one writing experience in the first year and at least one additional writing experience after the first year,” and “one or more experiential course(s) totaling at least six credit hours . . . [which] must be a simulation course, a law clinic, or a field placement, as defined in Standard 304.”<sup>38</sup> The Council first required law schools to teach their students legal ethics in 1974 (although a standalone ethics course was not required as it is now) in light of the Watergate scandal<sup>39</sup> and added the six-credit hour experiential learning course requirement in 2014.<sup>40</sup>

The Council is actively considering revisions to the six-credit hour experiential requirement. At its May 2025 meeting, the Council approved for notice and comment a recommendation by its Standards Committee to increase the experiential learning requirement from six to twelve credit hours, require three of the twelve credit hours to be earned in a clinic or field placement (for direct client experience), and exclude from the twelve credit hours any experiential learning credit hours earned in the first year of law school.<sup>41</sup> The rationale for the proposed change is that the Council’s

research reveal[ed] agreement among educators that experiential education is the preferred method for teaching a range of skills that are necessary for effective, ethical, and responsible participation in the profession, including enhanced professionalism and professional identity, the development of critical thinking and problem-solving skills, and the acquisition of “soft skills,” such as time management and empathy.<sup>42</sup>

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<sup>38</sup> AM. BAR ASS’N SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS: 2024–2025, at 20 (2024) [hereinafter 2024–2025 ABA STANDARDS].

<sup>39</sup> See Laurel S. Terry, *A Survey of Legal Ethics Education in Law Schools*, in ETHICS IN ACADEMIA 61, 65–66 (S.K. Majumdar, H.S. Pitkow, L.P. Bird & E.W. Miller eds., 2000).

<sup>40</sup> See Robert Kuehn, *Implementation of the ABA’s New Experiential Training Requirement: More Whimper than Bang*, BEST PRACS. FOR LEGAL EDUC. BLOG (Apr. 28, 2021), <https://bestpracticeslegaled.com/2021/04/28/implementation-of-the-abas-new-experiential-training-requirement-more-whimper-than-bang> [<https://perma.cc/R3CW-VMH9>] (describing the limited change to law school curricula this change spurred); AM. BAR ASS’N SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS: 2014–2015, at 16 (2014).

<sup>41</sup> Memorandum from David A. Brennen, Council Chair, Daniel Thies, Council Chair-Elect & Jennifer Rosato Perea, Managing Director, Council of the Section of Legal Educ. & Admissions to the Bar, on Increasing the Number of Required Experiential Learning Credits to Interested Parties and Entities 1–2, 8 (May 14, 2025) [hereinafter Memorandum from Brennen, Thies & Perea], [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/council\\_reports\\_and\\_resolutions/may25/25-may-experiential-learning-memo-notice-comment.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/may25/25-may-experiential-learning-memo-notice-comment.pdf) [<https://perma.cc/5BHW-RXJM>].

<sup>42</sup> *Id.* at 5 (citation omitted).



The Council further noted that “surveys of students, new lawyers, supervising lawyers, and judges support the proposition that new graduates do not feel prepared [to practice] and that their employers do not believe they are graduating ready for the transition to practice.”<sup>43</sup> Thus, increasing the number of experiential learning credits required for graduation seemed to the Council like the type of minimum standard necessary to earn a law degree. This conclusion was bolstered by the fact that other professional degrees require significantly more experiential learning for accreditation.<sup>44</sup>

Almost immediately, the proposal was subject to criticism from the law school community, with concerns related to the costs law schools would face in increasing the amount of experiential learning available to students, reduced flexibility for students to take desired elective courses or courses in bar exam subject areas, challenges for part-time students to meet the requirements, and the charge that the Council was exceeding its role as an accreditor by imposing any additional curricular requirements.<sup>45</sup>

The negative reaction to the proposed increased experiential learning credit hour requirement is, in some ways, unsurprising. Any new accreditation requirement is a burden to law schools and likely involves increased costs and staff time, even if only in reorganizing schedules and responsibilities. Effective experiential education can be expensive since the student-faculty ratio in a law school clinic will be much lower

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<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 8.

<sup>45</sup> See, e.g., Karen Sloan, *ABA Plan to Boost Law Students' Hands-On Experience Spurs Criticism About Accreditor Overreach*, REUTERS (May 22, 2025, 1:13 PM), <https://www.reuters.com/legal/government/aba-plan-boost-law-students-hands-on-experience-spurs-criticism-about-accreditor-2025-05-20> [<https://perma.cc/QR57-8L8T>]; Paul Caron, *Opposition Grows to the ABA's Proposal to Double the Number of Experiential Learning Accreditation Requirement*, TAXPROF BLOG (May 16, 2025), [https://taxprof.typepad.com/taxprof\\_blog/2025/05/opposition-grows-to-abas-proposal-to-double-the-experiential-learning-accreditation-requirement.html](https://taxprof.typepad.com/taxprof_blog/2025/05/opposition-grows-to-abas-proposal-to-double-the-experiential-learning-accreditation-requirement.html) [<https://perma.cc/NF4N-C23M>]; Paul Caron, Kearney, Leiter, and Muller Urge ABA to Withdraw Proposal to Double the Number of Required Experiential Learning Credits, TAXPROF BLOG (June 27, 2025), [https://taxprof.typepad.com/taxprof\\_blog/2025/06/deans-and-faculty-urge-aba-to-withdraw-proposal-to-double-the-number-of-required-experiential-credits.html](https://taxprof.typepad.com/taxprof_blog/2025/06/deans-and-faculty-urge-aba-to-withdraw-proposal-to-double-the-number-of-required-experiential-credits.html) [<https://perma.cc/ZZ2E-YX8X>]. After the forty-five-day Notice and Comment Period ended on June 30, 2025, the Council had received nearly forty comments, totaling over 300 pages (which included appendices sent along with the comments). Most of these comments opposed the proposed changes to the experiential learning credit hour requirement. See *Comments Received - Standards 303, 304, and 311*, A.B.A., [https://www.americanbar.org/groups/legal\\_education/resources/notice\\_and\\_comment](https://www.americanbar.org/groups/legal_education/resources/notice_and_comment) (navigate to “May 2025”; then click “Comments Received - Standards 303, 304, and 311”) [<https://perma.cc/BAB3-Y5JZ>]; Karen Sloan, *ABA's Plan to Double Hands-On Credits for Law Students Is Rife with Flaws, Deans Say*, REUTERS (July 2, 2025, 12:01 PM), <https://www.reuters.com/legal/government/abas-plan-double-hands-on-credits-law-students-is-rife-with-flaws-deans-say-2025-07-02> [<https://perma.cc/X3VY-N4E6>].

than in a doctrinal podium course.<sup>46</sup> Nearly every law school offers field placements where law students get supervised, hands-on legal experience outside a law school clinic,<sup>47</sup> but field placements require supervision of the student by both the field placement site supervisor and a law faculty member, as well as faculty instruction or guided reflection and faculty evaluation of the law student's achievement in the field placement.<sup>48</sup> The costs of field placements are lower than clinical courses, but they do require law faculty to function,<sup>49</sup> not to mention lawyers at field placement sites willing to supervise students and provide a meaningful educational experience.

Despite the Council's currently minimal curricular requirements, including in the area of experiential learning, the Council still emphasizes readiness for post-graduate legal work as a priority for meeting minimum accreditation standards. Standard 301, entitled, "Objectives of Program of Legal Education," requires law schools to "maintain a rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession."<sup>50</sup>

This set of objectives encapsulates the findings of two influential studies on the skills and values that new lawyers need to bring to their practice of law—the 1992 *MacCrate Report*<sup>51</sup> and the 2007 *Carnegie Report*.<sup>52</sup> The *MacCrate Report* recognized ten fundamental skills and four fundamental values needed for the legal profession.<sup>53</sup> Standard 301 incorporates both skills and values since it requires law schools to prepare their students for admission to the bar (which requires teaching and learning lawyering skills and substantive legal knowledge) and for

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<sup>46</sup> See Peter A. Joy, *The Cost of Clinical Legal Education*, 32 B.C. J.L. & Soc. JUST. 309, 309, 321 (2012) ("[I]n-house clinical legal education is expensive due in large part to the low student-to-faculty ratio . . .").

<sup>47</sup> The Center for the Study of Applied Legal Education's (CSALE) 2022-23 Survey of Applied Legal Education surveyed ninety-six percent of law schools on their experiential learning opportunities. ROBERT R. KUEHN, DAVID A. SANTACROCE, MARGARET REUTER, JUNE T. TAI & G.S. HANS, CTR. FOR THE STUDY OF APPLIED LEGAL EDUC., 2022-23 SURVEY OF APPLIED LEGAL EDUCATION 2 (2023). While the kinds of offerings varied, 97% of schools surveyed offered a field placement at a public interest or nonprofit organization, and between 95-96% of schools offered placements in public defenders' offices, prosecutors' offices, judicial chambers, or in other areas of government. *Id.* at 10.

<sup>48</sup> See 2024–2025 ABA STANDARDS, *supra* note 38, at 22–23.

<sup>49</sup> See Joy, *supra* note 46, at 321–22.

<sup>50</sup> 2024–2025 ABA STANDARDS, *supra* note 38, at 19.

<sup>51</sup> AM. BAR ASS'N SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM (1992) [hereinafter MACCRATE REPORT]. This report is more commonly known as the MacCrate Report since Robert MacCrate served as the Task Force's Chairperson.

<sup>52</sup> CARNEGIE REPORT, *supra* note 24.

<sup>53</sup> MACCRATE REPORT, *supra* note 51, at 138–41.

effective, ethical, and responsible practice (all of which touch on both skills and values). Further, the language in Standard 301 effectively codifies the *Carnegie Report's* three “apprenticeships” that apply to professional education—cognitive, practical, and “identity and purpose.”<sup>54</sup> Put simply, professional schools, including law schools, must teach their students “to think, to perform, and to conduct themselves like professionals.”<sup>55</sup>

Over the last several decades, there has been a recognition by the law school community that students *can* get practical experience during their three years in law school. However, the fact that students *can* get this experience is a different question from whether they *should*. CLEAR and the Council are asking that second question: *Should* students get practical experience as part of earning a law degree? Is this a purpose of legal education?

Law school deans and professors ask the Council to explain how new accreditation requirements are relevant to the minimum standards for practicing lawyers—a fair question to ask an accrediting body. This brings us to our second big question about legal education: Should all law schools be changing to provide a more practice-focused education? If not, can we encourage some law schools to change the legal education they provide—balancing CLEAR’s desire for practical legal experience for students with accreditation’s purpose of setting minimum standards, not best practices?

### B. Changing How Law Schools Look

The second question we identified related to legal education is whether and how the legal community at large can change the way legal education works at some law schools. There are currently 197 Council-approved law schools spread out among 51 U.S. jurisdictions—49 states plus Washington, D.C. and Puerto Rico.<sup>56</sup> This includes 86 public and 111 private law schools.<sup>57</sup>

However, law schools are not evenly spread through the United States or even within their states of residence. Alaska has no law school,

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<sup>54</sup> CARNEGIE REPORT, *supra* note 24, at 27–28.

<sup>55</sup> *Id.* at 27.

<sup>56</sup> See *ABA-Approved Law Schools*, A.B.A., [https://www.americanbar.org/groups/legal\\_education/resources/aba\\_approved\\_law\\_schools](https://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools) [<https://perma.cc/L8YY-R4VJ>]; *Schools by State*, A.B.A., [https://www.americanbar.org/groups/center-pro-bono/resources/directory\\_of\\_law\\_school\\_public\\_interest\\_pro\\_bono\\_programs/schools\\_by\\_state](https://www.americanbar.org/groups/center-pro-bono/resources/directory_of_law_school_public_interest_pro_bono_programs/schools_by_state) [<https://perma.cc/4BNA-6QEZ>].

<sup>57</sup> See *Public Law Schools*, A.B.A., [https://www.americanbar.org/groups/legal\\_education/resources/aba\\_approved\\_law\\_schools/public\\_law\\_schools](https://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools/public_law_schools) [<https://perma.cc/NRQ9-FHYY>].

and thirteen states only have one.<sup>58</sup> Our home states of Colorado and Illinois demonstrate this lopsided intrastate distribution of law schools. Colorado has two and Illinois has nine Council-approved law schools.<sup>59</sup> Except for the University of Illinois Urbana-Champaign College of Law, Northern Illinois University College of Law, and Southern Illinois University Simmons Law School, all Illinois law schools are in the city of Chicago. The University of Denver Sturm College of Law is in Denver; the University of Colorado Law School is in Boulder, only about thirty miles from Denver.

Why does this matter? It creates an inherent limitation to the population of candidates for admission to law school; if you have deep ties to a community that make it impossible for you to leave for several years, you won't apply to law school unless your community happens to be in the "right" location. This unequal distribution of schools also limits the connections that career services offices, clinics, and other services at a law school will have with lawyers and potential clients outside of those densely connected regions.

This uneven geographic distribution of law schools has left some states looking for solutions to meet needs in communities beyond the current narrow geographic bands. Two recent examples come to mind—the first is a more traditional approach of creating a new brick-and-mortar law school in an underserved area and the second is allowing graduates of a non-Council-approved, fully online law school to take the state's bar exam.

In an example of the first strategy, the Texas legislature considered a bill in May 2025 to create a public law school in El Paso, as it was "the largest major metro in Texas without a law school," and it had "fewer lawyers per capita than other big cities."<sup>60</sup> The bill passed in the Texas

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<sup>58</sup> See *List of ABA-Approved Law School in Alphabetical Order*, A.B.A., [https://www.americanbar.org/groups/legal\\_education/resources/aba\\_approved\\_law\\_schools/in\\_alphabetical\\_order](https://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools/in_alphabetical_order) [<https://perma.cc/L7ZR-LTB3>]; *Schools by State*, *supra* note 56. The thirteen states with only one Council-approved law school are Hawaii, Idaho, Maine, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Vermont, West Virginia, and Wyoming.

<sup>59</sup> See *Schools by State*, *supra* note 56. Colorado's two law schools are the University of Colorado Law School and the University of Denver Sturm College of Law. Illinois's nine law schools are the University of Chicago Law School, Northwestern University Pritzker School of Law, University of Illinois Urbana-Champaign College of Law, Loyola University Chicago School of Law, Chicago-Kent College of Law, University of Illinois Chicago School of Law, DePaul University College of Law, Northern Illinois University College of Law, and Southern Illinois University Simmons Law School.

<sup>60</sup> See *UTEP Law School Proposal Advances as Texas House Passes Pivotal Bill*, KFOX14 (May 15, 2025, 9:32 PM), <https://kfoxtv.com/news/local/utep-law-school-proposal-advances-as-texas-house-passes-pivotal-bill-university-el-paso-texas-tx-vince-perez-state-representative-senate-president-heather-wilson> [<https://perma.cc/G92C-9G8J>].

House of Representatives,<sup>61</sup> but it did not get a vote in the Senate.<sup>62</sup> The bill's author, State Representative Vince Perez, nevertheless continued to explain the need for a public law school in El Paso, explaining that local prospective law students' closest law school options were upwards of 250 miles away and that El Paso was the biggest U.S. city without a law school.<sup>63</sup> Of course, building a new brick-and-mortar law school and establishing its reputation is expensive and demands a long-term commitment from numerous stakeholders.

Purdue University Global Law School presents an example of the second approach—the fully online law school. Purdue Global (formerly known as Concord Law School) was the first fully online law school in the United States, and its J.D. program has also been accredited by the Committee of Bar Examiners of the State Bar of California since 2020.<sup>64</sup> In May 2025, the Indiana Supreme Court admitted five graduates of Purdue Global to practice in the state.<sup>65</sup> This was about a year after the Court expanded who could sit for its bar exam to include “graduates of non-American Bar Association accredited, Indiana-based online law schools.”<sup>66</sup> Indiana explicitly chose to make this expansion to ameliorate the state's lawyer shortage and try to address access to justice issues in underserved parts of the state, including its rural areas.<sup>67</sup> The Connecticut Bar Examining Committee voted in 2024 to permit Purdue Global graduates to take the Connecticut bar exam from February 2025 to February 2028,<sup>68</sup> but only if they graduated in 2024 or beyond.<sup>69</sup>

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<sup>61</sup> See *id.*; H.R. 3475, 2025 Leg., 89th Sess. (Tex. 2025).

<sup>62</sup> See *UTEP Law School Proposal Fails to Make It Out of the Senate*, KFOX14 (May 30, 2025, 6:22 PM), <https://kfoxtv.com/news/local/el-paso-law-school-proposal-fails-to-make-it-out-of-the-senate-representative-vince-perez> [https://perma.cc/V36C-FTVK]; S. 3006, 2025 Leg., 89th Sess. (Tex. 2025).

<sup>63</sup> See *UTEP Law School Proposal Fails to Make It Out of the Senate*, *supra* note 62.

<sup>64</sup> *The History of Purdue Global Law School*, PURDUE GLOB. L. SCH., <https://www.purduegloballawschool.edu/about/history> [https://perma.cc/T7NR-AKBU].

<sup>65</sup> Madelyn Hanes, ‘Expanding Access to Justice’: First Five Purdue Global Law School Students Admitted to Indiana Bar, IND. CAP. CHRON. (May 21, 2025, 7:00 AM), <https://indianacapitalchronicle.com/2025/05/21/expanding-access-to-justice-first-five-purdue-global-law-school-students-admitted-to-indiana-bar> [https://perma.cc/B8VS-C8CC].

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> Julianne Hill, *Connecticut Allows Fully Online Law School Grads of Purdue Global to Take Bar Exam*, A.B.A. J. (Oct. 8, 2024, 3:24 PM), <https://www.abajournal.com/web/article/connecticut-allows-purdue-global-fully-online-law-school-grads-to-sit-the-bar-exam> [https://perma.cc/P5HY-SJ8Z].

<sup>69</sup> *Frequently Asked Questions (FAQs)*, STATE CONN. JUD. BRANCH, <https://ctbaradmissions.jud.ct.gov/faq.action#top> [https://perma.cc/CZ6A-B8PV].

Currently, the Council only allows its fully approved, brick-and-mortar law schools to offer a fully online J.D. program.<sup>70</sup> The Council has currently acquiesced in fully online J.D. degree programs at seven law schools: Arizona State University Sandra Day O'Connor College of Law, Case Western Reserve University School of Law, University of Detroit Mercy School of Law, University of Hawai'i William S. Richardson School of Law, Ohio Northern University Claude W. Pettit College of Law, St. Mary's University School of Law, and Southwestern Law School.<sup>71</sup> Only Southwestern Law School offers a fully online, full-time J.D. program.<sup>72</sup> The Council has also acquiesced in hybrid J.D. programs at twelve law schools.<sup>73</sup>

The Council has given some preliminary consideration on whether to allow a fully online law school with no brick-and-mortar location to seek approval. In January 2024, the Council distributed a notice-and-comment memorandum containing proposed revisions to two standards necessary for a fully online law school to seek Council approval.<sup>74</sup> This memorandum also asked for public comments on these revisions and other standards revisions that might be necessary to permit a fully online law school to seek Council approval.<sup>75</sup> A group of twenty-six law school deans opposed allowing a fully online law school with no

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<sup>70</sup> Currently, a Council-approved law school must apply for and receive Council acquiescence under standard 105(a)(12)(i)–(ii) to start a fully online J.D. program. See Memorandum from Bridget Mary McCormack, Council Chair, Am. Bar Ass'n Section of Legal Educ. & Admissions to the Bar, & William Adams, Managing Dir. of Accreditation and Legal Educ., Am. Bar Ass'n Section of Legal Educ. & Admissions to the Bar, to Interested Parties and Entities 2 (Jan. 23, 2024), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/council\\_reports\\_and\\_resolutions/comments/2024/24-jan-notice-and-comment-memo-fully-online-law-school-102-306.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/comments/2024/24-jan-notice-and-comment-memo-fully-online-law-school-102-306.pdf) [<https://perma.cc/W4PH-XPCR>] [hereinafter Council Memo from McCormack & Adams] (describing the Council's proposed changes to Standards that would permit a fully online law school to seek ABA-approval without "wait[ing] until it receives full ABA-approval and then apply[ing] for and receiv[ing] Council acquiescence in a substantive change under Standard 105(a)(12)(i)–(ii)").

<sup>71</sup> *ABA-Approved Law Schools with Acquiescence for Distance Education J.D. Programs*, A.B.A. SECTION LEGAL EDUC. & ADMISSIONS TO BAR, [https://www.americanbar.org/groups/legal\\_education/resources/distance\\_education/approved-distance-ed-jd-programs](https://www.americanbar.org/groups/legal_education/resources/distance_education/approved-distance-ed-jd-programs) [<https://perma.cc/22X3-EZ3S>]. There are technically eight law schools with fully online J.D. programs listed on the website, but enrollment in Mitchell Hamline's "Prison to Law Pipeline" program is extremely limited. See *First Student To Attend Law School from Prison Will Attend Mitchell Hamline*, MITCHELL HAMLINE SCH. L. (June 13, 2022), <https://mitchellhamline.edu/news/2022/06/13/first-student-to-attend-law-school-from-prison-will-attend-mitchell-hamline> [<https://perma.cc/9WR4-YW3W>].

<sup>72</sup> *ABA-Approved Law Schools with Acquiescence for Distance Education J.D. Programs*, *supra* note 71.

<sup>73</sup> *Id.*

<sup>74</sup> Council Memo from McCormack & Adams, *supra* note 70, at 1.

<sup>75</sup> *Id.*



brick-and-mortar location.<sup>76</sup> The Council has not publicly moved forward with any of its proposed revisions nor any suggested in the public comments. However, the Council's Standards Committee has signaled plans to take up the topic of fully online law schools and the possibility of their seeking Council approval in the near future.<sup>77</sup>

The possibility of allowing fully online law schools to apply for Council approval brings up many important considerations. It could be difficult to know where the fully online law school is actually based—is it within the United States or outside the United States? Since Council approval is limited to law schools in the United States (due to its U.S. Department of Education scope of recognition<sup>78</sup>) and these law schools teach U.S. law, fully online law schools may need to be incorporated in the United States and have a majority of faculty members who received J.D. degrees from U.S. law schools. Where are the law school's servers and how are they maintained? Is there a physical location where servers and records are stored, mail is received, and staff can manage or monitor these things? If the law school's servers go offline or fail temporarily, library materials, learning management platforms, email systems, shared documents, and important law school records (e.g., student records, faculty records, human resources records) may be inaccessible for short or long periods of time. Does the school offer support to students in obtaining and maintaining reliable broadband internet access, especially if the law school's mission focuses on affordability and access to law school? Law students at fully online law schools have no way to participate in legal education without appropriate internet access and their learning quality decreases if they are unable to maintain sufficient internet access.

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<sup>76</sup> See Julianne Hill, *Journey Toward Fully Online Law Schools Inches Forward After ABA Legal Ed Council Vote*, A.B.A. J. (May 20, 2024), <https://www.abajournal.com/web/article/journey-toward-fully-online-law-schools-inches-forward-after-aba-council-vote> [<https://perma.cc/2XMV-8F48>]; Letter from Mark C. Alexander, Dean & Professor of L., Villanova Univ. Charles Widger Sch. of L., et al. to Bridget Mary McCormack, Council Chair, Am. Bar Ass'n Section of Legal Educ. & Admissions to the Bar (Mar. 25, 2024), *reprinted in Comments Received Regarding Standards 102 and 306*, A.B.A. SECTION LEGAL EDUC. & ADMISSIONS TO BAR 64–68, [https://www.americanbar.org/groups/legal\\_education/resources/notice\\_and\\_comment](https://www.americanbar.org/groups/legal_education/resources/notice_and_comment) (navigate to “January 2024”; then click “Comments on Standards 102 and 306”) [<https://perma.cc/7JX5-BBQN>].

<sup>77</sup> See Council of the Am. Bar Ass'n Section of Legal Educ. & Admission to the Bar, Open Session Meeting Minutes (May 9, 2025), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/2025/council-meeting/25-may-council-open-session-minutes.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/2025/council-meeting/25-may-council-open-session-minutes.pdf) [<https://perma.cc/3KAL-TUDL>]; Council of the Am. Bar Ass'n Section of Legal Educ. & Admission to the Bar, Open Session Meeting Minutes (Feb. 21, 2025), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/council-reports\\_and\\_resolutions/may25/25-feb-council-open-session-minutes.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council-reports_and_resolutions/may25/25-feb-council-open-session-minutes.pdf) [<https://perma.cc/CH9D-VXQX>].

<sup>78</sup> *Institutional Accrediting Agencies*, *supra* note 37.



These considerations are just a few that are unique to fully online law schools; clearly there are many others. Moreover, as with most legal institutions, the Council moves very deliberately. While the Council considers whether to move forward with standards revisions that would permit a fully online law school to apply for approval, states can choose for themselves (as California, Indiana, and Connecticut have done) whether they want to open their bar admissions process to graduates of non-Council approved, fully online law schools.<sup>79</sup>

In addition to the ongoing discussions about fully online law school programs, some schools have tried to innovate in their in-person programs, for example by changing the length of law school or allowing students to begin focusing on rural law practice during law school.

Several schools have created two-year J.D. programs so that law students can start working and earning income as a lawyer earlier, thus lowering the opportunity cost of law school. Currently, there are at least three Council-approved law schools offering students a two-year J.D. program: Suffolk University Law School, Drexel University Thomas R. Kline School of Law, and Southwestern Law School. Suffolk Law has an accelerated J.D. degree program; students attend classes during the academic year and certain summers so they can complete the three-year J.D. curriculum and credit hours in an expedited timeframe.<sup>80</sup> Drexel Law and Southwestern Law School have programs that operate in basically the same manner.<sup>81</sup> These programs graduate students into the legal workforce a year early, avoiding a third year of lost income. However, since the curriculum and credits are the same or similar to those for the three-year J.D. degree program, two-year J.D. programs

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<sup>79</sup> Indeed, while the Council is currently the only accreditor recognized in all fifty states, the District of Columbia, and the U.S. Territories, some jurisdictions are reconsidering their educational requirements for admissions to the Bar. Florida and Texas are considering whether a degree from a Council-approved law school should be a requirement for admission to their respective state bars or whether they should recognize other accreditors. Karen Sloan, *Dropping ABA Requirement for Lawyers is Bad Idea*, *Law School Association Says*, REUTERS (Apr. 10, 2025), <https://www.reuters.com/legal/government/dropping-aba-requirement-lawyers-is-bad-idea-law-school-association-says-2025-04-09> [https://perma.cc/4C3C-D8JY]. More recently, Ohio has begun similar deliberations. Eric Heisig, *Ohio to Examine ABA Law School Accreditation amid GOP Criticism*, BLOOMBERG L. (June 11, 2025, 11:45 AM), <https://news.bloomberglaw.com/litigation/ohio-to-examine-aba-law-school-accreditation-amid-gop-criticism> [https://perma.cc/2YJM-ZABJ].

<sup>80</sup> *Accelerated JD*, SUFFOLK UNIV. L. SCH., <https://www.suffolk.edu/law/academics-clinics/juris-doctor/accelerated-jd> [https://perma.cc/EN9U-KL7H].

<sup>81</sup> *Accelerated 2-Year JD Program*, DREXEL UNIV. THOMAS R. KLINE SCH. L., <https://drexel.edu/law/academics/jd-programs/2-year-accelerated-jd> [https://perma.cc/H5JZ-9TW6]; *Two-Year Accelerated J.D. – SCALE*, SW. L. SCH., <https://www.swlaw.edu/jd-llm-programs/scale-two-year-jd> [https://perma.cc/5ZHG-ZWUF].

still typically cost the same as three-year programs.<sup>82</sup> The cost savings for participants in the accelerated program is simply that they can start earning a full-time salary earlier than their counterparts.

Several law schools offer curricular pathways or legal clinics for students who are interested in legal careers in rural areas. The crisis of rural legal deserts has been so widely acknowledged that it is almost impossible to catalog all of the law school efforts to contribute to solutions, but we mention some recent innovations here. Washburn University School of Law's Rural Law program has courses in areas relevant to practice in rural areas such as "Agricultural Law, Water Law, Environmental Law, Estate and Family Law, among others."<sup>83</sup> The Rural Law program includes the Rural Externship Program run by a foundation, which allows students to do field placements in particular Kansas counties while receiving six experiential learning credits and a living expenses stipend.<sup>84</sup> The University of Maine School of Law has offered a Rural Practice Clinic since 2023; the clinic is unique in that students move for the semester to the rural area where the clinic is located, so they can also become a part of the local community.<sup>85</sup> The University of Nebraska gives prospective students who know they want to practice rural law before entering college a pathway to a J.D. degree. Called the Rural Law Opportunities Program, students from particular areas of Nebraska attend one of three in-state, public institutions for undergraduate studies, attend events at the University of Nebraska College of Law as undergraduates, and are only required to meet minimal law school application requirements so long as the students meet the requirements of the Rural Law Opportunities Program.<sup>86</sup> The program was designed to help alleviate the shortage of lawyers in rural Nebraska, especially since twelve of the ninety-three counties in Nebraska have no lawyers.<sup>87</sup>

These are three very different ways to provide pathways to rural law practice; some of these may work better at some law schools than others. To get the most benefit from Washburn Law's Rural Law program

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<sup>82</sup> See Gaurav Sen, *Beyond the JD: How Eliminating the Legal Profession's Monopoly on Legal Services Can Address the Access-to-Justice Crisis*, 22 U. PA. J.L. & SOC. CHANGE 121, 133 (2019) ("Even those law schools that offer two-year JD programs still typically charge students the same fees and tuition as a three-year program").

<sup>83</sup> *Rural Law*, WASHBURN UNIV. SCH. L., <https://www.washburnlaw.edu/academics/rural.html> [<https://perma.cc/M796-YJCC>].

<sup>84</sup> *Id.*

<sup>85</sup> *Rural Practice Clinic*, UNIV. OF ME. SCH. L., <https://mainelaw.maine.edu/academics/clinics-and-centers/rural-practice-clinic> [<https://perma.cc/DZ4F-M7M7>].

<sup>86</sup> *Rural Law Opportunities Program*, UNIV. OF NEB.-LINCOLN COLL. L., <https://law.unl.edu/RLOP> [<https://perma.cc/LTC4-3MEC>].

<sup>87</sup> *Id.*

and Nebraska's Rural Law Opportunities Program, prospective law students must be committed to rural legal practice early—at the start of law school or as an undergraduate student.<sup>88</sup> In order for students to make these career decisions, they must know about rural practice as a specific practice area and viable legal career. Law schools and bar associations serving rural areas should highlight information about law careers in rural areas as much as they do other types of legal careers, such as working in city law firms.<sup>89</sup> Maine's Rural Practice Clinic likely appeals to students who already have an interest in rural practice; however, perhaps the necessity of moving and integrating into a rural area to participate in the clinic could open additional students' minds to rural practice after experiencing it first-hand.

There are other radical ideas for changing legal education—particularly ideas that have focused on how to get students more direct training so that they can enter the workforce more prepared to practice law. However, some of these significant changes would be difficult because of the deeply vested financial and structural interests of law schools and their faculty. For example, if a law school were to offer a true two-year J.D. degree program—not an accelerated program, but one that required only two years of credit hours—that law school would immediately lose one-third of its tuition base. This kind of change would also require the Council to completely revamp its accreditation standards, as the standards in place right now would not permit this model. On the other hand, if a law school were to retain a three-year J.D. degree program and require that the third year of law school be an apprenticeship (basically, a two-semester field placement), prospective law students would likely balk at paying that much law school tuition to work outside of the school in an apprenticeship.

Some law schools have taken a middle road by maintaining the three-year J.D. program while permitting semester-long field placements near the law school or in geographical locations where students gain focused practical experience or find work they might continue after graduation. Highly structured forms of this idea are found at Northeastern University School of Law and Elon University School of Law. Northeastern Law has a three-year J.D. degree program that incorporates its Cooperative Legal Education Program.<sup>90</sup> The co-op program alternates the six upper-level law school semesters

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<sup>88</sup> *Rural Law*, *supra* note 83; *Rural Law Opportunities Program*, *supra* note 86.

<sup>89</sup> See Ashli R. Tomisich, *Learning the Rural Practice of Law*, 24 Wyo. L. REV. 113, 115 (2024).

<sup>90</sup> *The Incomparable Co-op: Full-Time Work Experiences. Countless Opportunities*, NE. UNIV. SCH. L., <https://law.northeastern.edu/experience/co-op> [<https://perma.cc/S3BH-9H7E>].

(including summer semesters after the first and second years) among three full-time, semester-long field placements and three semesters of coursework, meaning co-op students complete one more full-time experience than they would under a traditional two-summer-internship model.<sup>91</sup> Students benefit from extensive practical legal experience integrated into their legal education curriculum as well as network-building and more solidified plans for their post-graduation careers.<sup>92</sup> Elon University School of Law has a Residency-in-Practice Program, which requires each student to take a nearly full-time, trimester-long field placement (called a “residency”) in their second year of law school.<sup>93</sup> Students can focus on a particular type of law, increase their practical skills, and learn about the judgment and professionalism required to succeed in practice from their supervisor.<sup>94</sup> Students at Elon Law complete their J.D. degree program in two-and-a-half years due to the law school’s seven-trimester model, which allows Elon Law graduates to take the bar exam one administration earlier and start working earlier than their peers at other law schools.<sup>95</sup>

Other law schools may allow students to do a combination of online courses and a field placement in the geographic area in which they want to work post-graduation. Washburn University School of Law offers a structured example of this model, called the Third Year Anywhere® program.<sup>96</sup> Students work part-time for a year at a field placement in the location where they plan to work post-graduation, and the law school emphasizes the ability to do this program in a rural area.<sup>97</sup> Students can build skills and network in their desired post-graduation practice location, with the added benefit of starting these tasks a year before they graduate and start practicing,<sup>98</sup> giving them a potential advantage over non-local, recent law graduate job candidates.

Change is hard. Legal education has not changed dramatically in 150 years, which suggests it is either slow to change, resistant to change, or (most likely) both.<sup>99</sup> Real change in legal education is most likely to be driven by law schools themselves—creating online or accelerated J.D.

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<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Our Residency-in-Practice Program*, ELON L., <https://www.elon.edu/u/law/academics/experiential/residency-program> [<https://perma.cc/8C62-AQWK>].

<sup>94</sup> *Id.*

<sup>95</sup> *A Groundbreaking Model of Legal Education*, ELON L., <https://www.elon.edu/u/law/academics/progression-of-learning> [<https://perma.cc/AR8K-T9HX>].

<sup>96</sup> *Third Year Anywhere®*, WASHBURN UNIV. SCH. L., <https://www.washburnlaw.edu/academics/experience/third-year-anywhere.html> [<https://perma.cc/TE38-9QNX>].

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> See *supra* notes 20–29 and accompanying text.

degree programs, integrating substantial amounts of practical training in legal work settings within the curriculum, or providing opportunities to students who desire a career in rural law practice. The impetus for a law school's changes could be based on any number of factors, which likely vary depending on the particular law school: addressing an access to justice gap in the state; seeking to expand access to legal education by creating additional ways to earn a J.D., which likely appeal to different types of prospective law students; expanding its tuition base with the new students drawn in by the J.D. degree program options in a time of budget cuts and dwindling enrollment; or responding to marketplace demands for additional practical or experiential education, either from employers, current students, or prospective students.

Real change can also be advanced by state supreme courts. Courts can use their authority to dictate what bar admission looks like in their states, either in terms of the bar exam or through alternative pathways to legal practice. They can also require additional work as a condition of admission, as New York does by requiring fifty hours of pro bono service prior to admission to the bar.<sup>100</sup>

Law schools will closely follow any changes or additions made to the bar admission process and are likely to modify their curricula to comply with the courts' updated requirements. For example, some options for bar admissions discussed in the next Section may push law schools to offer particular curricular pathways or revamp their current curricula to ensure their students are prepared for the requirements of bar admission and minimum competence to practice law.

## II

### HOW SHOULD STATES ASSESS MINIMUM COMPETENCE TO PRACTICE LAW?

The second big question CLEAR is exploring is how best to ensure that the gatekeeping practices that control admission to the bar measure minimum competence to practice law. With only a few exceptions, state supreme courts in the United States, the District of Columbia, and U.S. Territories require—in addition to graduation from an accredited law school—completion of a bar exam to become a licensed attorney.<sup>101</sup> The requirement of bar exam passage is generally justified as an important

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<sup>100</sup> *Bar Admissions Requirements*, N.Y. STATE UNIFIED CT. SYS.: THE LEGAL PROF. – PRO BONO, <https://ww2.nycourts.gov/attorneys/probono/baradmissionreqs.shtml> [https://perma.cc/73ZE-M6EK].

<sup>101</sup> See *Jurisdictions*, NAT'L CONF. BAR EXAM'RS, <https://www.ncbex.org/jurisdictions> [https://perma.cc/U5LN-BCMV].

gatekeeping measure “for the benefit and protection of the public.”<sup>102</sup> State supreme courts do this for a fundamentally laudable reason—consumer protection.<sup>103</sup> Attorneys have so much power, simply by virtue of their greater knowledge and understanding of legal rules and of the working of the system, that it is important to ensure that they meet some minimum standards of competence and professional ethics. But is the assessment of minimum competence that most states use—the Uniform Bar Exam—actually testing minimum competence? And if not, what do we do about that?

There are some fascinating options already operating as alternatives to the bar exam. One that has received much public attention is the very bespoke Daniel Webster program at the University of New Hampshire Franklin Pierce School of Law, a program that, in many ways, is much like a residency during the second and third years of law school.<sup>104</sup> Daniel Webster Scholars spend their final two years of law school in a curriculum that includes multiple mandatory demonstrations of their ability to practice law in front of faculty members, judges, lawyers, and New Hampshire bar examiners.<sup>105</sup> They are required to demonstrate a range of skills including counseling clients, negotiating, and drafting business and court documents.<sup>106</sup> Through the program, they create portfolios of work that are evaluated over that two-year period by bar examiners, and they are admitted to the bar the day before they graduate from law school.<sup>107</sup> This program seems in many ways to be the gold standard for the assessment of competence to practice law—offering a high level of confidence that students who have gone through it are in fact ready to provide competent, ethical, and service-focused legal work to the public. But it suffers from being hard to scale. It also requires long-term commitment from the law school and other stakeholders—bar examiners, the practicing bar, and the bench—since part of its success is a strong reputation built over time.

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<sup>102</sup> *Mission, Vision, Values, What We Do*, NAT’L CONF. BAR EXAM’RS, <https://www.ncbex.org/about/mission-vision-values-what-we-do> [https://perma.cc/TR5Q-VVXR].

<sup>103</sup> See, e.g., *Welcome to the Office of Attorney Regulation Counsel*, OFF. ATT’Y REGUL. COUNS., <https://www.coloradolegalregulation.com> [https://perma.cc/H8MB-6AY4] (noting that the mission of Colorado’s Attorney Regulation system, which includes Bar Admissions, is “Promoting Professionalism. Protecting the Public”); *Lawyer Regulation*, WIS. CT. SYS., <https://www.wicourts.gov/services/public/lawyerreg/about.htm> [https://perma.cc/86GC-HTCM] (noting that Wisconsin’s regulatory system “protect[s] the public from misconduct by lawyers”).

<sup>104</sup> *Daniel Webster Scholar Honors Program*, UNIV. N.H. FRANKLIN PIERCE SCH. L., <https://law.unh.edu/academics/daniel-webster-scholar-honors-program> [https://perma.cc/AWY4-VRBG].

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*



Perhaps at the other end of the spectrum is diploma privilege (automatic bar admission upon law school graduation from a program meeting certain criteria), which Wisconsin grants to any graduate of the University of Wisconsin Law School or Marquette University Law School on completion of a degree.<sup>108</sup> Although some states temporarily granted diploma privilege to accommodate COVID-19 restrictions in 2020,<sup>109</sup> its permanent use has not been implemented in other states. Diploma privilege has most likely not caught fire among other jurisdictions because of concerns that what law students are learning in law school is not enough to assure that they meet the standards for consumer protection necessary for licensure. But states are increasingly exploring other pathways, some of which involve pre-graduation curricular requirements and others that involve work done entirely after graduation.

In 2024, the Oregon State Bar (OSB) began the first modern apprenticeship admissions process as an alternative to the state's bar exam.<sup>110</sup> Through this process, graduates of any of the three Oregon law schools can apply to participate in the Supervised Practice Portfolio Examination (SPPE) process if they have obtained employment and have found a supervising attorney also willing to participate.<sup>111</sup> The graduate and the supervising attorney apply together to the OSB for participation and, if they are accepted, the Bar certifies their participation and grants a provisional license.<sup>112</sup> The provisional licensee must then complete 675 hours of supervised work, lead at least two client interviews or counselling sessions, oversee at least two negotiations, and produce at least eight written work products within a three-year period.<sup>113</sup> The provisional licensee ultimately submits a completed portfolio for review by a bar examiner and, on approval, is

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<sup>108</sup> *Admission to the Practice of Law in Wisconsin*, WIS. CT. SYS., <https://www.wicourts.gov/services/attorney/bar.htm> [<https://perma.cc/6Y2F-H369>]; WIS. SUP. CT. RULES r. 40.03 (setting out the classes that a student must have taken during law school or must have selected sixty elective credits from during that time in order to qualify for diploma privilege).

<sup>109</sup> Stephanie Francis Ward, *Jurisdictions with COVID-19-Related Diploma Privilege Are Going Back to Bar Exam Admissions*, A.B.A. J. (Dec. 10, 2020, 3:16 PM), <https://www.abajournal.com/web/article/jurisdictions-with-covid-related-diploma-privilege-going-back-to-bar-exam-admissions> [<https://perma.cc/UNN3-3E7L>].

<sup>110</sup> Maddie Hosack, *Oregon's Groundbreaking Approach to Legal Licensure Paves Way for Other States*, INST. FOR ADVANCEMENT AM. LEGAL SYS. (Apr. 18, 2024), <https://iaals.du.edu/blog/oregons-groundbreaking-approach-legal-licensure-paves-way-other-states> [<https://perma.cc/FAE4-JLFE>].

<sup>111</sup> *Supervised Practice Portfolio Examination*, OR. STATE BAR, <https://www.osbar.org/sppe> [<https://perma.cc/Y79W-8AZ4>].

<sup>112</sup> *Id.*

<sup>113</sup> OR. STATE BAR, RULES FOR THE OREGON SUPERVISED PRACTICE PORTFOLIO EXAMINATION 10 (2025), [https://www.osbar.org/\\_docs/rulesregs/SPPERules.pdf](https://www.osbar.org/_docs/rulesregs/SPPERules.pdf) [<https://perma.cc/D4TJ-AP3N>].



admitted to the Bar.<sup>114</sup> The SPPE was first made available to applicants in May 2024, and, as of June 2025, there were over 100 provisional licensees going through the process.<sup>115</sup>

The group that recommended the SPPE, the Alternatives to the Bar Exam Task Force to the Oregon Supreme Court, drew explicitly from findings published by the Institute of the Advancement of the American Legal System (IAALS) in *Building a Better Bar: The Twelve Building Blocks of Minimum Competence*.<sup>116</sup> That report was the result of fifty focus groups, conducted in twelve states during 2019 and 2020, and was designed to elicit an evidence-based understanding of minimum competence to practice law.<sup>117</sup> The report concluded that the building blocks of minimum competence were:

- The ability to act professionally and in accordance with the rules of professional conduct
- An understanding of legal processes and sources of law
- An understanding of threshold concepts in many subjects
- The ability to interpret legal materials
- The ability to interact effectively with clients
- The ability to identify legal issues
- The ability to conduct research
- The ability to communicate as a lawyer
- The ability to see the “big picture” of client matters
- The ability to manage a law-related workload responsibly
- The ability to cope with the stresses of legal practice
- The ability to pursue self-directed learning<sup>118</sup>

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<sup>114</sup> *Supervised Practice Portfolio Examination*, *supra* note 111.

<sup>115</sup> *SPPE Licensee List*, OR. STATE BAR, <https://hello.osbar.org/admission/sppe> [<https://perma.cc/HAX9-FZQ4>].

<sup>116</sup> See Letter from Joanna Perini-Abbott, Chair, Alternatives to the Exam Task Force, Or. State Bd. of Bar Exam'rs, to Or. State Board of Bar Exam'rs 4, 25 (June 18, 2021) (citing DEBORAH JONES MERRITT & LOGAN CORNET, BUILDING A BETTER BAR: THE TWELVE BUILDING BLOCKS OF MINIMUM COMPETENCE (Inst. for the Advancement of the Am. Legal Sys. ed., 2020), [https://iaals.du.edu/sites/default/files/documents/publications/building\\_a\\_better\\_bar.pdf](https://iaals.du.edu/sites/default/files/documents/publications/building_a_better_bar.pdf) [<https://perma.cc/4V29-PCNJ>]), <https://taskforces.osbar.org/files/Bar-Exam-Alternatives-TFReport.pdf> [<https://perma.cc/M9SP-7MYK>].

<sup>117</sup> MERRITT & CORNET, *supra* note 116, at 3, 13.

<sup>118</sup> *Id.* at 3.

A growing number of other states are following Oregon's lead in exploring bar admissions models that recognize these building blocks of minimum competencies. On March 15, 2024, the Washington Supreme Court issued an order adopting recommendations of the Washington Bar Licensure Task Force that would create both a post-graduate apprenticeship program and one for law students.<sup>119</sup> The law student path would require students to complete twelve qualifying skills credits and work for 500 hours as a licensed legal intern, developing a portfolio of work for review by bar examiners.<sup>120</sup>

On March 12, 2024, the Minnesota Supreme Court ordered the creation of an Implementation Committee to explore and develop a curricular-based pathway for assessment and admission to the bar.<sup>121</sup> The court directed that the Committee "will have as its charge: 1) developing of assessment criteria; 2) identifying and creating pilot program(s); and 3) drafting a proposal for rule amendments to the Minnesota Rules for Admission to the Bar that could be adopted on a pilot basis."<sup>122</sup> The court specifically referenced New Hampshire's Daniel Webster program as the model that they hoped the Committee would look to in developing the curricular alternative.<sup>123</sup>

At least three other states—Utah,<sup>124</sup> Nevada,<sup>125</sup> and South Dakota<sup>126</sup>—are currently exploring apprenticeship or curricular pathways to admission to the bar. Utah is developing a curriculum-based program that would allow candidates to qualify for licensure by completing specific law school classes, a set number of hours of

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<sup>119</sup> See *In re The Adoption of the Recommendations of the Wash. Bar Licensure Task Force*, Nos. 25700-B-710 & 25700-B-711 (Wash. 2024), <https://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20Orders/Orders%2025700B710%20and%2025700B711.pdf> [<https://perma.cc/V94C-8CEV>].

<sup>120</sup> *Id.*

<sup>121</sup> Order Regarding Minn. Bd. of L. Exam'rs' Comprehensive Competency Study Rep. & Recommendations, No. ADM10-8008, at 1 (Minn. 2024), <https://ble.mn.gov/wp-content/uploads/2024/03/Order-adopting-Next-Gen-and-Forming-Implementation-Committee.pdf> [<https://perma.cc/D4BY-UWG9>].

<sup>122</sup> *Id.* at 11–12.

<sup>123</sup> *Id.*

<sup>124</sup> *Proposed Rule Change for Alternate Path to Licensure in Utah*, UTAH STATE BAR (Dec. 5, 2024), <https://www.utahbar.org/proposed-rule-change-for-alternate-path-to-licensure-in-utah> [<https://perma.cc/7KG3-NP4R>].

<sup>125</sup> Karen Sloan, *Nevada Sets Unique Alternative for Lawyer Licensing, Rejects New National Bar Exam*, REUTERS (Sept. 11, 2024, 1:22 PM), <https://www.reuters.com/legal/government/nevada-sets-unique-alternative-lawyer-licensing-rejects-new-national-bar-exam-2024-09-11> [<https://perma.cc/JBZ6-X8LX>].

<sup>126</sup> Julianne Hill, *South Dakota Approves Public Service Pathway to Bar*, A.B.A. J. (Feb. 27, 2025, 11:10 AM), <https://www.abajournal.com/web/article/south-dakota-approves-public-service-pathway-to-bar> [<https://perma.cc/V9DA-QWFW>].

supervised practice, and a performance evaluation.<sup>127</sup> South Dakota recently approved the Public Service Pathway Program, a curriculum-based program that requires participants to complete 500 hours of work as a legal intern in a public service job during law school, to develop a portfolio for review during that work, and to commit to two years of public service work following admission to the bar.<sup>128</sup>

To be clear, most states currently exploring apprenticeship and curricular models are also planning to offer the NextGen Bar Exam, which is being rolled out by the NCBE beginning in the summer of 2026.<sup>129</sup> NextGen has also been developed in response to concerns about whether the current bar exam actually measures minimum competence—particularly by assessing both knowledge and skills, “reflect[ing] many of the key changes occurring in legal education, including those in clinical legal education programs, alternative dispute resolution programs, and legal writing and analysis programs.”<sup>130</sup> And while CLEAR is asking questions about whether other pathways to admission should be considered—and supreme courts around the country are being pushed very hard by law students to look at other pathways—there are realities that will make change here just as challenging as change on the legal education front. We have all become very accustomed to the portability of a law license. As individual states start to look at new bar admissions pathways, licenses will necessarily become more localized. States may have to discuss whether they would accept licenses granted on a non-bar exam pathway from other states and under what circumstances. Students who prefer these new pathways may have to accept that their licenses are not portable—at least not immediately so. Can we overcome this? Of course we can. But it is a challenge stakeholders need to acknowledge will make change complicated.

And the rollout of the NextGen Bar revealed what many believe is a fundamental divide in conversations about minimum competency to practice law. Initially, the NCBE described what it calls “Foundational Concepts and Principles” as including only the following: business associations, civil procedure, constitutional law, contracts, criminal law, evidence, real property, and torts.<sup>131</sup> It excluded, among other topics,

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<sup>127</sup> *Proposed Rule Change for Alternate Path to Licensure in Utah*, *supra* note 124.

<sup>128</sup> S.D. CODIFIED LAWS §§ 16-16A-3 to -4 (2025).

<sup>129</sup> *NextGen UBE (July 2026)*, NAT’L CONF. BAR EXAM’RS, <https://www.ncbex.org/exams/nextgen> [<https://perma.cc/MRC7-9ZBA>].

<sup>130</sup> *Id.*

<sup>131</sup> *About the NextGen UBE*, NAT’L CONF. BAR EXAM’RS, <https://www.ncbex.org/exams/nextgen/about-nextgen> [<https://perma.cc/A3UD-BMVL>].

both family law and trusts and estates.<sup>132</sup> State supreme court justices from many states responded with surprise. Ninety-five percent of total cases filed in the United States are filed in state courts<sup>133</sup>—more than 100 million cases a year.<sup>134</sup> For most people, if they ever interact with the court system, it will be with a state court. And a huge number of those cases are either domestic relations or probate and estate cases.<sup>135</sup> So, for many state supreme court justices who oversee that reality, the notion that the bar exam would focus on federal civil procedure, federal evidence, contracts, criminal law, torts, business associations, constitutional law, and real property seemed removed from what the citizens in their states were facing in court—and thus the areas of law where lawyers were most needed. The courts pushed back and the NCBE will be adding family law back to the list of foundational concepts and principles on the NextGen exam.<sup>136</sup> Trusts and estates will be included in some capacity, though it will still not be considered a foundational concept.<sup>137</sup> What has been most interesting about this process is to see the active conversations occurring between the state regulators—the courts—and the bar administrators about how best to determine what minimum competence looks like. Ideally these conversations will continue with regard to trusts and estates—one of the areas of law focused on people, not corporations, that can touch both the very wealthy and those of modest means and that makes up a significant portion of state court dockets.

The initial exclusion of both family law and trusts and estates from the NextGen Bar Exam presents one example of how CLEAR's three questions come together: If national bar standards test primarily corporate-oriented topics, law schools will not be incentivized to teach people-oriented topics. And without increasing both education and some admissions testing on people-oriented legal work, we will continue

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<sup>132</sup> *Some Subjects To Be Removed from MEE in 2026*, NAT'L CONF. BAR EXAM'RS (July 17, 2023), <https://www.ncbex.org/news-resources/some-subjects-be-removed-mee-2026> [<https://perma.cc/7Y5M-NQSU>].

<sup>133</sup> *State Courts Hub*, ALL. FOR JUST., <https://afj.org/statecourts> [<https://perma.cc/WQ46-GG6J>].

<sup>134</sup> *Id.*

<sup>135</sup> See Michelle Russell & Ruth Rosenthal, *State Courts Play a Key Role in American Life*, PEW (Oct. 17, 2024), <https://www.pew.org/en/research-and-analysis/issue-briefs/2024/10/state-courts-play-a-key-role-in-american-life> [<https://perma.cc/4XMP-7KGP>] (finding that community and business disputes, like landlord-tenant disputes, made up one-fifth of the matters on state court dockets nationally, the second-largest share only after traffic violations, which comprised 57% of state court matters).

<sup>136</sup> Julianne Hill, *NCBE Extends Current Bar Exam Until 2028, NextGen Test Will Include Family Law*, A.B.A. J. (Oct. 26, 2023, 1:31 PM), <https://www.abajournal.com/web/article/nextgen-exam-will-include-family-law-reversing-earlier-ncbe-decision> [<https://perma.cc/9D7A-3JGJ>].

<sup>137</sup> *Id.*

the trend of failing to meet the legal needs of the large majority of American people. There is no one solution that will address the justice gap, but thinking carefully about—and changing—the way that we are training lawyers and assessing their competence to enter the profession should be part of it.

### III THE ACCESS TO JUSTICE GAP

We have long been facing a crisis in the provision of legal services in this country. The crisis is widely acknowledged and has been written about extensively.<sup>138</sup> This Article could not possibly survey the range of challenges that contribute to the justice gap or the range of solutions that have been proposed. Instead, since this Article grew out of an interest in the work of CLEAR, we focus on the areas that group has identified and provide some preliminary thoughts and information about efforts being implemented in states around the country.

CLEAR explains that “[t]he causes and the solutions to the justice gap are multifaceted, as are the strategies that will bridge it. Across the country, one root cause is clear: Far too few attorneys are in place to assist clients with serious legal challenges.”<sup>139</sup> When they have shortened that statement, members of CLEAR have tended to say that we have a shortage of public interest or public service lawyers. Many would challenge that statement; a great number of law students want to do “public interest” law. The problem is that what is missing is not applicants to the American Civil Liberties Union, the Environmental Defense Fund, or the Brennan Center.

The lawyer shortage is in public defender and district attorney offices in more rural areas around the country and in legal aid organizations providing services to the very poor.<sup>140</sup> For this group of attorneys, we are facing a challenge that is not at all unique to the legal field and that is getting worse year over year—the emptying out of rural communities more generally.

The lawyer shortage is also among private attorneys willing and able to charge rates that people can afford to pay to help them with their basic legal needs—family, probate, housing, consumer debts,

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<sup>138</sup> There has been so much written about the justice gap that it would be impossible to cite even a representative sample. However, two excellent compilations of material are *Access to Justice*, 148 DAEDALUS 1 (Lincoln Caplan, Lance Liebman & Rebecca L. Sandefur eds., 2019), and *BEYOND ELITE LAW: ACCESS TO CIVIL JUSTICE IN AMERICA* (Samuel Estreicher & Joy Radice eds., 2016).

<sup>139</sup> CLEAR Landscape Brief, *supra* note 15, at 3.

<sup>140</sup> *See id.* at 4–5.

public benefits, and criminal law. It is not only fair but very important to start calling the work that these lawyers do public service or public interest work. But it will require a change in mindset—after all, these attorneys are set up to generate a private profit. But the public service they provide when they meet real people’s legal needs by charging affordable rates cannot be understated and should be recognized as the public service that it is.

There are few solutions to address these shortages and none of them are likely to be easily scalable. Let’s start with filling public offices—district attorneys and public defender positions in rural communities. A few states have looked at providing financial incentives—either tax incentives or loan repayment assistance—to encourage new graduates to move into rural communities. Those programs are small. In Maine, for example, the rural tax incentive has focused on incentivizing up to five lawyers to live in and serve rural communities.<sup>141</sup> In order to receive the credit, an attorney must agree to accept court appointments as a public defender and to provide pro bono legal services in an underserved community in the state.<sup>142</sup> South Dakota pays lawyers who commit to five years serving in rural parts of the state: For example, a student who graduated from the University of South Dakota Knudson School of Law could have ninety percent of one year’s tuition for each year of service.<sup>143</sup> These attorneys do not have to serve in government roles, but they certainly could.

States also have programs that do not involve financial incentives but are designed to encourage students to consider rural practice or to commit to some number of years in public service. South Dakota, for example, has launched a new pilot program that will permit up to ten graduates of the Knudson School of Law to forego the bar exam if they commit to serving in public service for two years after law school.<sup>144</sup> New Mexico has established a two-year program that places law school graduates in clerkship positions in rural parts of the state.<sup>145</sup> Arizona has established an alternative to the traditional bar admissions process for students willing to commit to rural practice or to practice in

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<sup>141</sup> ME. REV. STAT. ANN. tit. 36, § 5219-ZZ (2025).

<sup>142</sup> *Id.*

<sup>143</sup> *Rural Attorney Recruitment Program*, S.D. UNIFIED JUD. SYS., <https://uj.s.sd.gov/for-attorneys/rural-attorney-recruitment-program> [<https://perma.cc/RR9G-RK4V>].

<sup>144</sup> Press Release, South Dakota Unified Jud. Sys., Nine USD Law School Students Selected for Public Service Pathway Bar Admission Pilot Program (Apr. 29, 2025), <https://uj.s.sd.gov/uj.s-news/nine-usd-law-school-students-selected-for-public-service-pathway-bar-admission-pilot-program> [<https://perma.cc/V4W7-UJA5>].

<sup>145</sup> *Rural Justice Initiative*, N.M. CTS., <https://supremecourt.nmcourts.gov/rural-justice-initiative> [<https://perma.cc/PS62-P75H>].

a government law office.<sup>146</sup> To take advantage of the Arizona Lawyer Apprentice Program, a graduate must have received a score of 260–269 on the Uniform Bar Exam (this is lower than the state’s generally required score of 270) and find a job practicing under the supervision of a qualified attorney in rural Arizona or in a public law practice for at least two years.<sup>147</sup>

Two other examples can be seen in Arkansas and Colorado. Arkansas’s William H. Bowen School of Law has established an eighteen-month legal incubator specifically designed to support alumni who want to launch small or solo practices in rural, underserved Arkansas communities.<sup>148</sup> The program supports incubator attorneys with training, resources, mentoring, and guidance to assist them in building their professional careers as rural attorneys.<sup>149</sup> Colorado offers a summer experiential incentive during law school through what is called the Greater Colorado Law Student Experience.<sup>150</sup> The program, run by the Colorado Access to Justice Commission, places students in different rural communities around the state working with courts and lawyers and learning about the community they are placed in.<sup>151</sup>

There are no doubt other programs being developed around the country because the problem of rural legal deserts is one that touches every state in the nation, and different solutions will likely fit different states depending on budgets, the willingness of law schools, legislatures, and other stakeholders to participate in innovation, among other factors. State supreme courts are actively experimenting with ways to address this challenge.

The next access to justice gap is the failure of our profession to serve the basic legal needs of people—regardless of where they live—who cannot afford the high and unpredictable prices that lawyers charge. This problem has been a topic of discussion among academics and advocates for years now.<sup>152</sup> Attorneys for corporations are widely

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<sup>146</sup> *Arizona Lawyer Apprentice Program*, ARIZ. JUD. BRANCH, <https://www.azcourts.gov/cld/Arizona-Lawyer-Apprentice-Program> [<https://perma.cc/S52F-QU5C>].

<sup>147</sup> *Id.*

<sup>148</sup> *Rural Practice Incubator Project*, UNIV. ARK. AT LITTLE ROCK, <https://ualr.edu/law/clinical-programs/rural-practice-incubator-project> [<https://perma.cc/WJ4E-27Q9>].

<sup>149</sup> *Id.*

<sup>150</sup> *Greater Colorado Law Student Experience*, COLO. ACCESS TO JUST. COMM’N, <https://www.coloradoaccesstojustice.org/rural-colorado-law-student-experience> [<https://perma.cc/E8SF-8LLR>].

<sup>151</sup> *Id.*

<sup>152</sup> See, e.g., Luz Herrera, *Starting a “Low Bono” Practice*, in BEYOND ELITE LAW: ACCESS TO CIVIL JUSTICE IN AMERICA, *supra* note 138, at 367 (discussing how lawyers can realistically offer clients of limited means significantly lower hourly rates, as well as how law schools, bar associations, legal aid organizations, and courts can help promote these “low bono” models).



available.<sup>153</sup> The very wealthy are also able to find representation because they can pay what we call “market” rates.<sup>154</sup> The very poor are somewhat able to find representation because of legal services organizations that provide free legal services to those living below or very close to the poverty line. However, fifty percent of clients seeking representation from legal services organizations are turned away because of conflicts, lack of resources, or restrictions on what legal services organizations are able to offer clients.<sup>155</sup> The very deep gap, though, lies between the poorest among us and the small number of people able to pay for attorneys at current market rates.<sup>156</sup> This is the majority of the American people, and their legal needs go frequently unmet and often forgotten.

Is there anything that lawyers can be doing to address this access to justice challenge? A traditional solution has been “do more pro bono.” That was the motivation behind New York’s requirement that candidates for the bar complete fifty hours of pro bono work before becoming licensed in the state.<sup>157</sup> And a number of state supreme courts have required attorneys to report their pro bono hours, many in the hopes that the reporting requirement will encourage attorneys to actually do more pro bono work.<sup>158</sup> Others have offered Continuing Legal Education credit for qualifying pro bono work.<sup>159</sup> At the end of the day, however, there is a growing recognition that “[p]ro bono legal assistance from private law firms or practitioners only goes so far,

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<sup>153</sup> See, e.g., William D. Henderson, *The Market for Recent Law Graduates*, in BEYOND ELITE LAW: ACCESS TO CIVIL JUSTICE IN AMERICA, *supra* note 138, at 184, 184–85 (noting a surge in the total supply of graduating lawyers and observing that, in a representative study, the number of lawyers serving organizational clients (i.e., corporations) grew much faster than the number of lawyers serving primarily individuals).

<sup>154</sup> See Michael Zuckerman, *Is There Such a Thing as an Affordable Lawyer?*, THE ATLANTIC (May 30, 2014), <https://www.theatlantic.com/business/archive/2014/05/is-there-such-a-thing-as-an-affordable-lawyer/371746> [<https://perma.cc/JK4E-P5CR>] (“One of the most perplexing facts about our perplexing legal market is its failure to provide affordable services for just about anyone but rich people and corporations.”).

<sup>155</sup> MARY C. SLOSAR, SLOSAR RESEARCH, LLC, THE JUSTICE GAP: THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 9 (2022).

<sup>156</sup> See *Above the Line Network*, INST. FOR ADVANCEMENT AM. LEGAL SYS., <https://iaals.du.edu/projects/above-the-line-network> [<https://perma.cc/B7HW-S5Z8>] (highlighting the challenges faced by middle-class Americans who “are ‘above the line’ of income eligibility for the free legal aid reserved for the poorest Americans, but . . . also struggle to find quality and affordable legal services in the current legal market”).

<sup>157</sup> *Bar Admissions Requirements*, *supra* note 100.

<sup>158</sup> Ten states currently require attorneys to report their pro bono hours each year. *Pro Bono Reporting*, A.B.A., [https://www.americanbar.org/groups/probono\\_public\\_service/policy/arguments](https://www.americanbar.org/groups/probono_public_service/policy/arguments) [<https://perma.cc/4FKW-F94U>].

<sup>159</sup> Twenty-four states offer CLE credit for pro bono work. *CLE Credit for Pro Bono*, A.B.A., [https://www.americanbar.org/groups/probono\\_public\\_service/policy/cle\\_rules](https://www.americanbar.org/groups/probono_public_service/policy/cle_rules) [<https://perma.cc/Y7Z5-JL54>].

while challenges to its expansion remain.”<sup>160</sup> Moreover, many of these pro bono incentives are only available when attorneys are providing assistance to those eligible for legal services assistance.

Another possibility might be to offer more support to attorneys interested in developing successful practices meeting the legal needs of the people who fall into this gap. For this population, we are failing to help law students or new lawyers see how they might make a good living providing what is fundamentally a public service—offering legal representation in areas where people need representation for prices that those people can afford to pay. Is there any way to change that?

One possibility might be to change law school graduation requirements—say by requiring a class in law practice management—or at least to offer additional courses and advising beyond what most law schools currently make available. At the moment, very little in the traditional law school curriculum focuses on the skills that an attorney would need to successfully develop a law practice representing this unrepresented population.

Any additional law school requirement would, for the time being, come from the Council as the primary accreditor of law schools. Although accreditation curricular requirements are very limited, they are the only source of uniform requirement. The likelihood of the Council imposing any additional requirements beyond the experiential credits currently under consideration seems low—particularly given the negative response even the proposed experiential learning credit expansion has generated.<sup>161</sup> And requiring courses specifically geared to one particular type of practice is inconsistent with the accreditor’s role of determining minimum standards that all law students need for successful practice in whatever field they pursue.

Of course, requirements are not the only possible approach. Anecdotally, very few students at many law schools are informed of the possibility of developing or joining a practice representing people at affordable rates as a career path—or even informed that a large number of graduates in their classes are going to come out of law school and go directly into solo or small-firm (of two to ten lawyers) practice. For the graduating law classes of 2022–2024, between 35 and 39 law schools out of all Council-accredited law schools (which ranged between 194–196 law schools during that time) sent more than twenty-five percent or

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<sup>160</sup> Rebecca M. Donaldson, *Law by Non-Lawyers: The Limit to Limited Licensed Legal Technicians Increasing Access to Justice*, 42 SEATTLE U. L. REV. 1, 4–5 (2018).

<sup>161</sup> See *supra* notes 45–49 and accompanying text.

more of their graduates directly to firms of one to ten lawyers.<sup>162</sup> And in 2024, among the top fifty-one schools, as rated by U.S. News & World Report, about 5.7% of graduating students go directly into firms with one to ten attorneys.<sup>163</sup> Further, for the graduating law school classes of 2022–2024, starting a career at a law firm with one to ten lawyers was the second most common first job, trailing only behind starting at a law firm of more than five hundred lawyers.<sup>164</sup> And during these years, the split between these two paths was not huge—between two and five percent fewer graduates went to small firms than “big law.”<sup>165</sup> Yet the number of students going to small firms is not talked about nearly as much as the numbers of students going into “big law” or those pursuing judicial clerkships. Given that these students represent a significant portion of the graduating student population, it is worth considering whether law school curricula are preparing students for the jobs they will pursue right out of the gate. As previously noted, many students and many employers report that new lawyers do not graduate ready to practice.<sup>166</sup>

One solution to that challenge that has developed—in fits and starts—over about the past two decades is the affordable law practice incubator. The first incubator was started at the City University of New York (CUNY) Law School in 2007.<sup>167</sup> A study of then-current and former incubator participants conducted in 2018 found that the most important things the incubators provided participants were: hands-on training, mentorship from experienced lawyers, peer support, and subsidized business costs as they worked to establish their law practices.<sup>168</sup> The skills the participants learned in the incubators, in addition to the substantive area of law in which they were developing their practice,

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<sup>162</sup> See *Employment Summary Report*, A.B.A., <https://www.abarequireddisclosures.org/employmentOutcomes> [<https://perma.cc/RR3L-GPEJ>] (generate employment summary reports from 2022, 2023, and 2024 by selecting, one by one, each respective year in the dropdown menu under “COMPILATION – ALL SCHOOLS DATA” and then clicking “Generate Report”; in each excel report, the total numbers of students from each law school employed by a firm of one to ten lawyers can be found in the column titled “1-10”).

<sup>163</sup> *Id.* For the 2024–2025 U.S. News & World Report rankings, see Staci Zaretsky, *The 2024-2025 U.S. News Law School Rankings Are Here*, ABOVE THE L. (Apr. 9, 2024, 12:01 AM), <https://abovethelaw.com/2024/04/the-2024-2025-u-s-news-law-school-rankings-are-here> [<https://perma.cc/8E4X-UYF7>].

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> Memorandum from Brennen, Thies & Perea, *supra* note 41, at 5.

<sup>167</sup> Fred Rooney & Justin Steele, *Exporting the Legal Incubator: A Conversation with Fred Rooney*, 9 U. MASS. L. REV. 108, 111–12 (2014).

<sup>168</sup> AM. BAR ASS’N STANDING COMM. ON THE DELIVERY OF LEGAL SERVS., RESULTS OF THE LEGAL INCUBATOR LAWYERS’ SURVEY 25 (2021).

included billing and money management, client development and communication, and time management.<sup>169</sup>

There was a surge in incubator development between 2012 and 2019, but many did not survive COVID-19.<sup>170</sup> Several do exist today that provide models for future development. These incubators offer participants what they didn't get in law school—the training and support they need to start their own law practices. And they generally require participants to commit to establishing practices that charge their clients affordable rates.

The Justice Entrepreneurs Project (JEP) in Chicago, whose tagline is “Independent Lawyers, Committed to Providing Quality Legal Services to Everyday People,” is the prototype that several other incubators have modelled in their development.<sup>171</sup> Lawyers who participate commit to an eighteen-month program that provides “business development training, substantive legal training with pro bono partners, business coaching, mentorship, and heavily discounted resources including office space.”<sup>172</sup>

Legal Entrepreneurs for Justice (LEJ), Colorado's affordable law practice incubator,<sup>173</sup> was modelled on JEP and has received strong support from the Colorado Supreme Court. LEJ is currently based out of the Colorado Attorney Mentoring Program (CAMP), a program of the court.<sup>174</sup> This home base gives the program a strong mentorship focus, which is one of its benefits. Like JEP, the Colorado incubator brings together lawyers who are committed to running

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<sup>169</sup> *Id.* at 27.

<sup>170</sup> *See id.* at 51 (acknowledging that several legal incubator programs shuttered or went on hiatus as a result of the pandemic). The ABA maintains a webpage listing incubators around the country at *Lawyer Incubator Directory*, A.B.A., [https://www.americanbar.org/groups/delivery\\_legal\\_services/initiatives\\_awards/program\\_main/program\\_directory](https://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/program_directory) [<https://perma.cc/9GRK-L72F>]. The webpage lists whether each incubator is operational, but almost none of those operational statuses have been updated since 2019. *Id.* The authors' review of the incubators listed on the site shows that quite a number of them are no longer operating.

<sup>171</sup> JUST. ENTREPRENEURS PROJECT, <https://jepchicago.org> [<https://perma.cc/52BV-AESL>].

<sup>172</sup> *Apply to the Justice Entrepreneurs Project*, CHI. BAR FOUND., <https://chicagobarfoundation.org/apply-to-the-jep-program> [<https://perma.cc/K87P-NWBA>]; INCUBATOR STARTUP CHECKLIST, CHI. BAR FOUND. 9 (2025), <https://chicagobarfoundation.org/wp-content/uploads/2025/05/Incubator-Startup-Checklist.pdf> [<https://perma.cc/ER7H-LKEQ>] (“Many legal tech vendors are willing to provide free or discounted products or services to incubator participants.”).

<sup>173</sup> LEGAL ENTREPRENEURS FOR JUST., <https://www.lejco.org> [<https://perma.cc/P6NX-BA95>] (“LEJ provides the training, mentoring, resources, and support for lawyers and LLPs to establish, maintain and grow firms addressing the needs of low and middle-income legal consumers.”).

<sup>174</sup> *Id.*; COLO. ATT'Y MENTORING PROGRAM, <https://coloradomentoring.org> [<https://perma.cc/8N6T-EU4M>].

practices representing human beings or small companies and charging affordable rates. The incubator provides a safe space for the lawyers to figure out how they want to run their businesses. Instead of being solo practitioners, and facing all of the challenges that come with it, they benefit from the support of the community; each attorney participating in the incubator decides for themselves what their practice area will be. In Colorado, cohorts have had attorneys in the same year doing criminal, family, immigration, labor, and small business law.<sup>175</sup>

There are several other similar models, and we highlight only a few here. The Texas Opportunity and Justice Incubator runs a virtual program in order to serve lawyers committed to offering affordable services in communities all over the state.<sup>176</sup> The Justice Bridge Legal Center, which is affiliated with the University of Massachusetts Law School, has offices in both Boston and New Bedford, and accepts applicants for an eighteen- to twenty-four-month incubator program if they are committed to providing “affordable legal services to those willing and able to pay at least modest rates.”<sup>177</sup> And the Rural Practice Incubator, run through the University of Arkansas Bowen School of Law encourages participants “to implement innovative legal service delivery models to increase access to justice for low- and moderate-income rural Arkansans.”<sup>178</sup>

Like pro bono, affordable law practice incubators are not going to provide a full solution to the justice gap. Some of the solutions being actively explored and implemented by state supreme courts don’t involve lawyers at all. Perhaps the most notable is the growing acceptance of the idea that the needs of this population, at least in certain legal areas, could be met by a class of legal paraprofessionals. Analogous to the nurse practitioner or other non-doctor professionals in the medical field, a licensed legal paraprofessional would be able to provide legal advice in contexts where representation by an attorney is not necessary to address the particular problem.<sup>179</sup> The first state to license paraprofessionals was Washington State, which established its

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<sup>175</sup> See *LEJ Lawyers*, LEGAL ENTREPRENEURS FOR JUST., <https://www.lejco.org/our-lawyers> [<https://perma.cc/3R67-QB9Y>].

<sup>176</sup> TEX. OPPORTUNITY & JUST. INCUBATOR, <https://txoji.com> [<https://perma.cc/PP8U-46JB>].

<sup>177</sup> *Services*, JUST. BRIDGE LEGAL CTR., <https://justice-bridge.org/services> [<https://perma.cc/7UHH-VN84>].

<sup>178</sup> *Rural Practice Incubator Project*, *supra* note 148.

<sup>179</sup> Tara Hughes & Joyce Reichard, *How States Are Using Limited Licensed Legal Paraprofessionals to Address the Access to Justice Gap*, A.B.A. (Sept. 2, 2022), <https://www.americanbar.org/groups/paralegals/blog/how-states-are-using-non-lawyers-to-address-the-access-to-justice-gap> [<https://perma.cc/65CH-J5SK>] (observing that licensed legal paraprofessionals could assist clients with uncomplicated but significant legal needs, particularly within the areas of family law and landlord-tenant law).

Limited License Legal Technician (LLLT) program in 2012<sup>180</sup> and issued its first LLLT license in 2015.<sup>181</sup> That program was structured in a number of ways that made it hard to sustain, and in 2020 the Washington Supreme Court sunsetted the program.<sup>182</sup> In the meantime, numerous other states have adopted licensed paraprofessional programs. Utah,<sup>183</sup> Arizona,<sup>184</sup> Colorado,<sup>185</sup> and Minnesota<sup>186</sup> have all implemented their own programs for licensed paraprofessionals. Several other states are working on development.<sup>187</sup>

Another non-lawyer solution being actively explored around the country is the community justice worker program.<sup>188</sup> In 2019, Alaska launched the first community justice worker program, permitting non-lawyers, supervised by Alaska Legal Services, to assist Alaskans who would otherwise lack access to civil legal help.<sup>189</sup> A year later, Arizona was the first state to authorize community justice workers through the explicit relaxation of its unauthorized practice of law rules, with its program tied to domestic violence advocacy centers and again limited in the scope of legal advice that could be provided.<sup>190</sup> Other states are

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<sup>180</sup> JASON SOLOMON & NOELLE SMITH, THE SURPRISING SUCCESS OF WASHINGTON STATE'S LIMITED LICENSE LEGAL TECHNICIAN PROGRAM 4 (2021), <https://law.stanford.edu/wp-content/uploads/2021/04/LLLT-White-Paper-Final-5-4-21.pdf> [<https://perma.cc/BQE9-F63D>].

<sup>181</sup> *Id.* at 6.

<sup>182</sup> *Decision to Sunset LLLT Program*, WASH. ST. BAR ASS'N (Mar. 31, 2023), <https://wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/limited-license-legal-technicians/decision-to-sunset-lllt-program> [<https://perma.cc/B98S-MWTH>].

<sup>183</sup> *Licensed Paralegal Practitioner Program*, UTAH ST. BAR, <https://www.utahbar.org/licensed-paralegal-practitioner> [<https://perma.cc/CJ97-LBFG>].

<sup>184</sup> *Legal Paraprofessional Program*, ARIZ. JUD. BRANCH, <https://www.azcourts.gov/cld/Legal-Paraprofessional> [<https://perma.cc/HH9L-MCKF>].

<sup>185</sup> *Colorado Licensed Legal Paraprofessional Examination*, COLO. SUP. CT. OFFICE ATT'Y REGUL. COUNS., <https://www.coloradolegalregulation.com/future-lawyers/llpexamination> [<https://perma.cc/R79P-Q36E>]; *Frequently Asked Questions About Licensed Legal Paraprofessionals*, COLO. SUP. CT. OFFICE ATT'Y REGUL. COUNS., [https://www.coloradolegalregulation.com/future-lawyers/faq\\_llp](https://www.coloradolegalregulation.com/future-lawyers/faq_llp) [<https://perma.cc/23FR-ZBXQ>]; *Licensed Legal Paraprofessionals: Program Plans and Updates*, COLO. SUP. CT. OFFICE ATT'Y REGUL. COUNS., <https://www.coloradolegalregulation.com/aboutus/pals> [<https://perma.cc/AAL2-T4T9>].

<sup>186</sup> *Legal Paraprofessional Program*, MINN. JUD. BRANCH, <https://mncourts.gov/help-topics/Legal-Paraprofessional-Program> [<https://perma.cc/5A5R-K9SZ>].

<sup>187</sup> MICHAEL HOULBERG & JANET DROBINSKE, THE LANDSCAPE OF ALLIED LEGAL PROFESSIONAL PROGRAMS IN THE UNITED STATES 12–17 (2022), [https://iaals.du.edu/sites/default/files/documents/publications/landscape\\_allied\\_legal\\_professionals.pdf](https://iaals.du.edu/sites/default/files/documents/publications/landscape_allied_legal_professionals.pdf) [<https://perma.cc/WHZ8-PZNN>].

<sup>188</sup> FRONTLINE JUST., <https://www.frontlinejustice.org> [<https://perma.cc/GBH9-KACM>].

<sup>189</sup> See ALASKA BAR RULES r. 43.5 (2025) (permitting persons not admitted to practice law in the state of Alaska to provide legal assistance in a limited capacity in certain civil matters exclusively for and under the supervision of Alaska Legal Services Corporation).

<sup>190</sup> *In re Authorizing a Licensed Legal Advocate Pilot Program for Domestic Violence Cases and Related Matters*, Admin. Order No. 2020-88 (Ariz. 2020), <https://orders.azcourts>.



exploring different models for community justice worker programs.<sup>191</sup> Unlike licensed paraprofessionals, community justice workers are not licensed by their states. Their “regulation” comes from supervision by their affiliate organization. And the benefits they bring come, at least in part, from their connections within the communities they serve. To leverage those benefits, states have recognized that looking for alternatives to licensing requirements may be necessary to include community justice workers as part of a broader solution.

These solutions—whether lawyer-based or not—require active engagement and perhaps some risk-taking by the state supreme courts. But this engagement, and a little willingness to take risks, is going to be necessary to address the crisis of unmet legal needs. And when the solutions are lawyer-based, it seems unlikely that state supreme courts can do it alone. Some changes in legal education, whether across the board or in some number of school programs, are likely necessary to graduate students ready to serve and open to serving currently unserved populations.

CLEAR has spent the past year hearing from stakeholders all over the country—legal services providers, law school deans and faculty members, and state regulators—exploring the connections among the focus and purposes of legal education, the effectiveness of the bar exam at measuring minimum competence and the possibility of establishing new pathways to admission that might do better, and what kinds of programs state supreme courts can implement or encourage to address the legal needs of underserved populations. The Committee’s report will be released at the end of July 2025. What happens next will depend in part on the willingness of legal institutions to cooperate, perhaps compromise, and change.

#### POSTSCRIPT

This Article was written before the publication of the CLEAR Report on July 27, 2025. The Report has now been released. It includes nine recommendations which have been adopted by the CCJ and COSCA and which include suggestions for state supreme courts, law

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gov/Portals/22/admorder/Orders20/2020-88PDF.pdf?ver=2020-06-10-153424-307 [https://perma.cc/JAG6-USAJ].

<sup>191</sup> Cayley Balser & Stacy Rupprecht Jane, *The Diverse Landscape of Community-Based Justice Workers*, INST. FOR ADVANCEMENT AM. LEGAL SYS. (Feb. 22, 2024), <https://iaals.du.edu/blog/diverse-landscape-community-based-justice-workers> [https://perma.cc/4XDB-WNMV].



schools, and the Council (or any other law school accreditors).<sup>192</sup> The Report was written after twelve listening sessions held around the country with different stakeholders and surveys of over 4,000 judges, 4,400 attorneys and 600 law students.<sup>193</sup>

The CLEAR recommendations emphasize the need for state supreme courts to engage actively in the details of bar admissions and law school accreditation in a way that they have not recently been doing.<sup>194</sup> Most indicative of this focus is the first recommendation: that state supreme courts should “lead collaborative efforts to realign legal education, bar admissions, and new lawyers’ readiness to practice with public needs.”<sup>195</sup>

The remaining recommendations continue the themes of legal education focused on practice-readiness, accreditation standards that encourage innovation and cost-effective education, and encouraging students to explore people-focused legal careers and careers in legal deserts.<sup>196</sup> And the final recommendation is that CCJ and COSCA should institutionalize CLEAR so that the Committee can continue to press efforts on these fronts.<sup>197</sup>

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<sup>192</sup> See generally COMM. ON LEGAL EDUC. & ADMISSIONS REFORM (CLEAR), REPORT AND RECOMMENDATIONS (2025), [https://www.ncsc.org/sites/default/files/media/document/CLEAR\\_Report.pdf](https://www.ncsc.org/sites/default/files/media/document/CLEAR_Report.pdf) [https://perma.cc/SLH2-8P9L].

<sup>193</sup> *Id.* at 6.

<sup>194</sup> *Id.* at 8, 13.

<sup>195</sup> *Id.* at 14.

<sup>196</sup> *Id.* at 14–17.

<sup>197</sup> *Id.* at 17.