

Report of the Working Group on the Proposed Preadmission Pro Bono Requirement



April 30, 2013

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I. INTRODUCTION

In October 2012, Chief Justice Stuart Rabner, on behalf of the Supreme Court, formed a Working Group charged with the task of determining if New Jersey should establish a preadmission pro bono requirement for applicants to the New Jersey Bar and, if so, the parameters of such a program. The Working Group, comprised of a cross-section of New Jersey organizations including legal service providers, the three law schools in the State, and representatives from several bar associations, began meeting in November 2012 to review and evaluate the idea of establishing such a program in New Jersey.

One of the factors involved in the creation of the Working Group was the establishment of a program by New York's Chief Judge to require aspiring lawyers to perform 50 hours of broadly defined pro bono service before admission to the Bar. Recognizing the significant number of law students who take both the New York and New Jersey bars and the on-going effort to increase pro bono participation, the Chief Justice established this Working Group to explore the question of whether New Jersey should implement a similar type of program.

The New Jersey Supreme Court has long recognized the important role of pro bono service to our legal system and the invaluable assistance that this service provides to unrepresented and lower-income residents of this State. See, e.g., State v. Rush, 46 N.J. 399 (1966); State v. Horton, 34 N.J. 518, 525-27 (1961). Several of the Court's policies impose obligations on members of the bar to provide both financial and direct legal assistance to the poor and legal services programs conducting activities on behalf of the poor. See, for example, R.1:28A, Income on Non-Interest Bearing Lawyers Trust Accounts (IOLTA) Fund, and Madden v. Delran, 126 N.J. 591 (1992). In 2012 former Chief Justice and current Chairperson of the Board of Trustees of Legal Services of New Jersey (LSNJ) Deborah T. Poritz appeared before a legislative committee to testify on the need for increased funding to LSNJ:

Right now, every day in New Jersey Legal Services must decline representation in **meritorious** cases involving defending foreclosures and evictions, securing basic entitlements like food and cash assurance, protecting victims of domestic violence, obtaining essential child support, winning custody of children, and securing legally required benefits for people with disabilities. Every day, we are forced to ration justice in New Jersey.

Statement of Deborah T. Poritz, Chairperson of Legal Services of New Jersey, before the Senate Budget and Appropriations Committee (March 21, 2012).

The American Bar Association has also identified the significant increase of self-represented litigants in our country's courts as a problem of national implications. It is

without question that increased numbers of the State's lower-income residents are unable to afford an attorney and are being forced to represent themselves.

For more than 40 years, the Court has allowed third-year law students to appear before a trial court or agency provided such students are under the supervision of a licensed attorney of any law school, legal aid society, legal service project or an agency of the municipal, county, or state government. R. 1:21-3 (b). A significant percentage of these law students are afforded the opportunity to get more "hands-on" experience through the clinical programs available in the three law schools within the State. Law students, as well as lawyers, can make a significant contribution through increased pro bono service to filling the gap in legal assistance for lower-income residents. The foundation for this policy recommendation is twofold: to encourage opportunities for law students to assist in providing legal assistance to the poor and unrepresented and to enhance law students' and recent law graduates' education by developing their legal skills through the actual practice of law.

At the annual swearing-in ceremony for newly-admitted attorneys, information and advice is provided on the representation gap faced by low-income individuals. These newly-admitted attorneys are encouraged to participate in pro bono service either directly or through financial support. The effort is focused on educating new members of the bar on the privilege of becoming an attorney and their responsibility to public service as a member of the bar.

The Working Group met on several occasions to consider all aspects of this proposed policy. Special thanks goes to committee member, former Associate Justice Virginia Long and her law firm, for hosting several of our meetings. After much careful consideration, the Working Group determined that New Jersey should require applicants to perform preadmission pro bono work in order to:

- help serve the growing population of New Jersey residents who are in need of legal services but are unable to afford them,
- provide law students legal experience assisting underserved populations in a wide variety of legal contexts,
- provide positive pro bono experiences for law students and prospective attorneys in order to instill a career-long habit of pro bono service, and
- assist our legal system and democracy by ensuring that the court's adversarial system is able to operate as intended.

These goals are worthy of the highest traditions of the legal profession. New Jersey's legal system is made stronger whenever it can increase legal assistance to the poor and those in need. Our analysis finds that there is an extraordinary need for a program of this type and the State's law schools, as well as other legal entities, have the capacity to provide the oversight and supervision to these aspiring attorneys. Those who seek to be part of this noble profession have a duty to give back and serve their

communities. Pro bono assistance can make a real difference in the lives of individuals and families of this State. We recommend to the Supreme Court that it implement the program and monitor and assess its ability to enhance pro bono assistance in New Jersey.

Glenn A. Grant, JAD
Acting Administrative Director
Chair of the Working Group

II. WORKING GROUP MEMBERS

CHAIR

Hon. Glenn A. **Grant**, Acting Administrative Director

MEMBERS

David A. **Avedissian**, Esq., President, Salem County Bar Association

Domenick **Carmagnola**, Esq. (Carmagnola & Ritardi, LLC), designee of the New Jersey State Bar Association

Nancy C. **Eberhardt**, Esq., New Jersey Program Director, Pro Bono Partnership

John J. **Farmer**, Jr., Former Dean, Rutgers School of Law – Newark

Dean Patrick E. **Hobbs**, Seton Hall University School of Law
and Associate Dean Claudette St. Romain, who attended some meetings on behalf of Dean Hobbs

Jonathan H. **Lomurro**, Esq., Chair, Young Lawyers Division (NJSBA)

Hon. Virginia A. **Long**, Retired Supreme Court Justice

Melville D. **Miller**, Jr., Esq., President, Legal Services of New Jersey

Fruqan **Mouzon**, Esq., President, Garden State Bar Association

Jonathan **Sacks**, third-year law student, Rutgers Law School – Camden

Karen **Sacks**, Esq., Executive Director, Volunteer Lawyers for Justice

Dean Rayman L. **Solomon**, Esq., Rutgers School of Law – Camden
and Assistant Dean Eve Biskind Klothen, who attended some meetings on behalf of Dean Solomon

Albertina **Webb**, Esq. (Wilentz, Goldman & Spitzer) – designee of the Hispanic Bar Association of New Jersey

Elizabeth **Weiler**, Esq., Vice-Chair, New Jersey Board of Bar Examiners

Catherine **Weiss**, Esq., Chair, Lowenstein Center for the Public Interest (at Lowenstein Sandler, LLP)

Staff

Susanne **Johnson**, Board of Bar Examiners

Carol A. **Welsch**, Esq., Municipal Court Services, Administrative Office of the Courts

III. RECOMMENDATIONS

The Working Group proposes adopting a preadmission pro bono requirement for applicants for a plenary license to the New Jersey Bar. The primary goals of this program are to increase the number of pro bono hours available to underserved populations, give law students real-world work experience, and instill in future attorneys a desire to continue pro bono work throughout their legal careers--the habit of doing good.

The Working Group recommends:

Bar applicants be required to perform 50 hours of qualifying pro bono service prior to admission.

A. Definition: Qualifying pro bono service should include only law-related work that: (1) assists in the provision of legal services without charge for: a) persons of limited means; b) nonprofit organizations; or c) individuals, groups, or organizations seeking to promote justice; or (2) assists a government entity, such as the judicial, legislative, or executive branches of government.

Qualifying pro bono service should encompass the following examples, among others:

- a. legal assistance provided at law school clinics or supervised pro bono programs
- b. paid and unpaid legal clerkships and judicial externships
- c. community legal education projects

B. Supervision: (1) Except as provided in subpart (2) of this paragraph, qualifying pro bono service must be supervised by an attorney in good standing in any United States jurisdiction, law school faculty at an ABA-accredited law school, including adjunct faculty, or a judge or attorney in government service, who must certify as to the applicant's pro bono hours; (2) Applicants to the New Jersey bar who performed qualifying pro bono service as licensed attorneys in other United States jurisdictions at any time prior to application to the New Jersey bar may self-certify their pro bono hours and need not submit a certification from a supervising attorney.

C. The qualifying pro bono service must be performed in the United States (including its territories).

D. The qualifying pro bono service must be completed prior to admission.

E. The requirement will become effective as of the February 2015 bar examination.

F. The program will be administered by the New Jersey Board of Bar Examiners.

- G. The program will be evaluated after two years of operation to determine if the goal of increasing pro bono hours to underserved populations has been achieved.

IV. DISCUSSION

The initial question posed to the Working Group was whether or not New Jersey should pursue a preadmission pro bono requirement. A majority of the Working Group agreed that this initiative was worth researching.

A. Qualifying Pro Bono Service

Perhaps the most significant task facing the Working Group was to define the types of pro bono service that should qualify under the proposed requirement. In crafting the definition of qualifying pro bono service, the Working Group was mindful of the following:

- The capacity of law schools and New Jersey legal services organizations to handle the influx of students attempting to meet the preadmission requirement;
- Law students' opportunities to meet the requirement;
- Law students must not practice law before admission except under the supervision of an admitted attorney under R. 1:21-3;
- The desire to significantly increase the quantity of legal services available to underserved populations;
- The difficulty created if New Jersey defined qualifying pro bono service substantially differently from New York State, given the significant percentage of applicants to the New Jersey bar who also seek admission in New York.

The Working Group concluded that New Jersey should adopt a broad definition of qualifying pro bono service similar to the one adopted by the New York program. This broad definition ensures law schools and legal services organizations will be able to provide law students and other applicants with sufficient pro bono opportunities to meet the preadmission requirement.

Nonetheless, the Working Group was aware that using this broad definition might not result in a large increase in the number of pro bono hours available to those most in need. Therefore, the Working Group strongly recommends that the program be evaluated after two years to determine if the goal of increasing pro bono hours to underserved populations has been achieved and what modifications, if any, are necessary to achieve that goal.

Capacity and Opportunity

The Working Group determined that there are sufficient pro bono opportunities for applicants seeking to fulfill the proposed 50-hour requirement. The representatives from New Jersey law schools on the Working Group estimated that a large majority, approximately 75% to 90%, of their students already perform 50 hours or more of pro

bono service through the law schools' clinical programs and summer externships. All the law school representatives indicated that their schools would be able to increase the pro bono opportunities so that all students would meet the proposed requirement. The Working Group members indicated that there are a number of clinics and other programs that operate at night and on weekends that would give nontraditional students the opportunity to satisfy the requirement.

Outside of the law schools, Melville D. Miller, President, Legal Services of New Jersey, stated that his organization has the ability to train and supervise students and other volunteers to provide as many as 20,000 more volunteer hours per year. Many of these volunteers could use their skills manning the Legal Services hotline.

Qualifying Work Must Be Legal in Nature

The Working Group recommends that in order to qualify as pro bono service, the work the applicant performs must be legal in nature. Though it is admirable to support an organization through volunteer work, one of the primary goals of this program is to expose students to actual legal work. While we recognize that law students for the most part cannot practice law¹, law students and other bar applicants can make a significant contribution using the considerable legal skills they have acquired in school. In order to qualify, the pro bono work of those not yet admitted to practice in any jurisdiction must be supervised by an experienced attorney, law professor, or judge. The Working Group agreed that attorneys who performed qualifying pro bono service while admitted in another jurisdiction will not be required to submit a certification from a supervising attorney.

Concern regarding providing malpractice insurance for these students was raised. It was agreed that the organizations currently providing pro bono opportunities for students, such as law schools, will continue to provide the majority of such opportunities and have already addressed the malpractice insurance issue, either through current insurance or by virtue of being exempt due to the nature of the organization. Some nonprofit legal organizations also stated that they carry malpractice insurance that might cover volunteer pro bono attorneys who agreed to supervise the pro bono work of law students and others not yet admitted to the New Jersey bar.

Qualifying Pro Bono Opportunities

The Working Group anticipates that most of the qualifying pro bono work will be through law school clinics and supervised pro bono programs established to provide representation to low-income and underserved populations. As discussed earlier, New Jersey law schools have already established vigorous clinical and pro bono programs in which a large percentage of current law students participate. These clinics and pro bono programs do laudable work and already have much experience in the training and

¹ R. 1:21-3 permits law school graduates and third-year law students to appear in court under limited circumstances.

supervision of law students to do useful legal work in the service of the underrepresented.

Out-of-state law students should also have sufficient opportunity to perform qualifying work through law school clinics and supervised pro bono programs. Clinical law education is not unique to New Jersey. Law schools around the country have developed clinics and pro bono programs that provide invaluable experience to law students, and, at the same time, provide valuable service to the communities in which they are located. Indeed, the American Bar Association now requires all accredited law schools to provide: “live-client or other real-life practice experience, appropriately supervised and designed to encourage reflection by students on their experiences and on the values and responsibilities of the legal profession. . .” 2012-2013 ABA Standards and Rules of Procedure for Approval of Law Schools, Standard 302(b)(1). The ABA standards also require law schools to offer substantial opportunities for “student participation in pro bono activities.” 2012-2013 ABA Standards and Rules of Procedure for Approval of Law Schools, Standard 302(b)(2).

Attorneys admitted in other jurisdictions should also have ample opportunities to offer pro bono service to underrepresented populations in the states where they practice.

Government Service

A majority of the Working Group recommends that, as in the New York program, the New Jersey definition of qualifying pro bono service encompass work done for government entities, including the judicial, legislative, and executive branches of government. Government service, an important and time-honored tradition in the legal profession, is work that benefits society as a whole. Law students and other applicants who work for the government are contributing to their communities in a meaningful way. Moreover, experience in the public sector may give law students and applicants valuable experience that may lead to future careers in government.

Paid Work

The majority of the Working Group recommends that paid work may count towards fulfilling the 50-hour requirement, as long as it otherwise meets the definition of qualifying pro bono service. While there was some dissent among members of the Working Group, the majority believes that paid work, like unpaid work, can meet the major goals of the program by giving law students and applicants valuable experience, while at the same time helping target populations. If this work makes a valuable contribution to the community when performed on a volunteer-basis, the work is no less valuable because an entity may be willing to pay for the service.

The Working Group is well aware that many law students have assumed large amounts of debt in pursuing their undergraduate and law degrees. The Working Group

notes that paid qualifying work may ease applicants' fulfillment of the pro bono preadmission requirement.

Judicial Clerkships

For the reasons discussed above in the sections on government service and paid work, the majority of the Working Group recommends that judicial clerkships and externships, both paid and unpaid, should qualify as pro bono service.

Nonprofit Organizations

The Working Group recommends that legal work for certain nonprofit organizations be considered qualifying pro bono service under the program. However, it urges that such service be defined narrowly to include legal assistance to tax-exempt nonprofit organizations that are primarily dedicated to addressing the needs of low-income persons; or legal assistance to any tax-exempt nonprofit organization in a matter designed primarily to assist the needs of low-income clients.

The Working Group decided to adopt this definition for several reasons. First, the Working Group recognizes that some nonprofit groups are wealthy organizations that can well afford private legal counsel. Certainly, the provision of legal services to such organizations would not advance the goal of providing legal assistance to low-income people. At the same time, the Working Group recognizes the vital importance of certain nonprofit organizations in meeting the needs of low-income people and communities and believes that legal services and advice to entities engaged in this mission should count toward the requirement. Likewise, the Working Group recommends that qualifying pro bono service include legal assistance to a nonprofit with a broader mission, but which seeks help with a matter designed to meet the needs of low-income people or communities.

Community Legal Education

The Working Group recommends that qualifying work include law school community legal education projects, such as the Street Law Project in which all New Jersey law schools participate. This Project serves to educate underprivileged or other at-risk youth about the positive benefits of law to the society. Although there was some dissent in the Working Group about whether to include educational projects within the definition, a majority agreed that such programs provide a valuable service to a community and participation provides a valuable experience for law students. The Working Group agreed that working in such a program should qualify as pro bono service.

Exclusion of Partisan Political Activities

The Working Group strongly recommends that partisan political activities should not qualify for the preadmission pro bono requirement.

Parity with New York Rule

The Supreme Court's charge to the Working Group was for "an evaluation of the details of the New York rule and a recommendation to the Court on the subject." The Court did not ask this Group to blindly follow New York's lead or to adopt the New York program as a whole. Nonetheless, once the Group decided that it should recommend a 50-hour preadmission requirement, it would be naïve to ignore the details of the New York program.

Dean Patrick Hobbs of Seton Hall Law School estimated that approximately 90% of Seton Hall's law students sit for the New York bar examination. If the New Jersey Supreme Court adopted a preadmission pro bono requirement that was vastly different from and more stringent than the New York rule, students who sat for both bars would need to satisfy two different requirements. It is for this reason that the Group strongly urges the Court to adopt this proposed definition of pro bono service, which is in most respects the same as the New York definition.

B. Qualifying Work Must Be Supervised Unless Performed by a Licensed Attorney in Another Jurisdiction

The Working Group recommends that applicants not yet admitted in any jurisdiction be supervised in order for their pro bono service to qualify. An attorney in good standing in any United States jurisdiction, licensed and active for a minimum of three years; law school faculty, including adjunct faculty; or a judge or attorney in government service may provide such supervision. The Working Group believes that the success of the preadmission pro bono program depends on adequate supervision. The tutelage of law school faculty, a judge or an experienced lawyer can provide law students and other applicants with a valuable learning experience. Further, the supervising lawyer will ensure that those in need of pro bono legal assistance, in matters often critical to their survival and well-being, receive competent legal aid.

As to attorneys who perform their pro bono service in another jurisdiction where they are licensed to practice, the Working Group recommends that they be permitted to self-certify their pro bono hours without also submitting certifications from supervising attorneys. So long as an attorney's pro bono service meets the professional obligations and standards that apply in the jurisdiction where the attorney is licensed, such that the attorney is in good standing in that jurisdiction, New Jersey should accept the attorney's own certification of his or her pro bono hours in fulfillment of the preadmission pro bono requirement.

C. Qualifying Work Must Be Performed in the United States

The Working Group recommends that all qualifying pro bono work be completed in the United States or its territories. Per R. 1:24, applicants to the New Jersey bar must receive a Juris Doctor degree from an American Bar Association accredited law

school. Though some New Jersey bar applicants may be citizens of other countries, all have resided in the United States for their law school educations and therefore this should not place an undue burden on those applicants.

The Working Group also is concerned that it will be difficult to verify whether pro bono work done outside the United States meets the definition of qualifying pro bono service.

D. Qualifying Work Must Be Completed Prior to Admission

The Working Group recommends that applicants be required to complete the 50 hours of pro bono service before admission to the Bar. In New Jersey, applicants simultaneously apply to sit for the examination and to have their character reviewed, unlike the process in New York. By allowing the pro bono work to be completed prior to admission, rather than prior to character application as in New York, applicants could choose to study and sit for the bar examination and perform their preadmission pro bono service after the exam, giving them several additional months to fulfill the New Jersey requirement.

This will also allow out-of-state applicants who may not have the same access to pro bono opportunities time to fulfill the requirement in New Jersey if necessary. Finally, applicants apply to take the bar examination several months before the exam and as many as nine months prior to the release of results and possible admission to the bar. Allowing completion of the work prior to admission will allow applicants more time to complete this requirement if necessary.

E. Applicants Must Perform 50 Hours of Qualifying Work

In the Working Group's opinion, applicants should have sufficient time to complete 50 hours of qualifying work, which is slightly more than a week of full-time work. The obligation may be completed during or after law school but before being admitted. For evening law students who work full or part-time, law schools have evening and weekend clinics and pro bono projects that would allow these students to participate without causing an undue burden. Moreover, attorneys who seek admission in New Jersey after practicing in other United States jurisdictions may count, and self-certify, qualifying pro bono service performed at any time prior to their admission in New Jersey.

F. Each Applicant Must Submit an Affidavit of Compliance

The Working Group recommends that each applicant be required to submit an Affidavit of Compliance form as shown in Appendix A. The applicant will be responsible for obtaining the supervising attorney's signature (when required), signing the affidavit, having it notarized, and submitting the form to the Board of Bar Examiners in the manner designated.

Prior pro bono work in another jurisdiction in which the applicant has already been admitted may count toward fulfilling the requirement, provided it meets the New Jersey definition. The form in Appendix A includes a section for applicants for whom this applies.

G. Applicable Only to Plenary Licenses

The Working Group recommends that the preadmission pro bono requirement apply only to applicants for plenary licenses. Applicants for limited licenses or for pro hac vice admission would not be subject to the requirement.

H. Effective Date

The Working Group recommends that this requirement become effective for the February 2015 bar examination, regardless of when the applicant completed law school. This will alleviate any tracking of graduation dates and will give repeat applicants sufficient time to comply with the requirement. This timeframe will also give law schools sufficient time to increase the pro bono opportunities available to their students.

Students will be able to start accumulating hours to satisfy their pro bono obligation as soon as they start their law school education. Qualifying work may continue after taking the bar but before admission, a window of roughly three or four months. Current first-year law students will be able to count pro bono hours acquired during the 2012-13 school year towards their admission in 2015.

I. Organization

The Working Group recommends that the pro bono program be administered by the Board of Bar Examiners.

J. Review of Program after Two Years

In order to address one of the primary concerns about this program, whether it will truly increase support for those in need, the Working Group recommends an evaluation of the program two years after the implementation. Statistics on current levels of need will be evaluated against the levels of service in 2015 and 2016. Law schools will make an effort to guide students into work that helps to meet the legal needs of low-income people and communities and the nonprofits that serve them.

Should the program fail to meet the stated goals, the Working Group recommends narrowing the definition of qualifying pro bono service. It is anticipated that law schools, legal organizations, and admitted attorneys will encourage and support applicants in fulfilling the pro bono requirement to the greatest extent possible, furthering the goals of this initiative.

V. DISSENTING and MINORITY VIEWS

Throughout the process, the Working Group debated many issues. The representative from the New Jersey State Bar Association indicated that the State Bar is opposed to the program in general. The NJSBA submitted a resolution objecting to the preadmission requirement, attached as Appendix C.

Other dissenting and minority views are set forth below:

50 Hours of Qualifying Work

The group was mindful of concerns raised by both the Young Lawyers Division of the NJSBA and nonprofit legal services organizations. These concerns included:

- The capacity of the legal services organizations to train and supervise inexperienced pro bono volunteers who are not yet admitted to practice in any jurisdiction,
- The financial burden already placed on students, with this only adding to their responsibilities, and
- The time requirement placed on students who work and go to school.

Although the Working Group carefully considered the minority view, it decided that the preadmission requirement will not negatively impact either applicants or the nonprofit organizations for the following reasons:

- The law schools will provide most of the pro bono opportunities through their already established clinics and other approved programs.
- Legal Services of New Jersey is capable of increasing pro bono hours significantly through its phone hotline program, which already has a training module in place.
- Students can begin performing the hours as soon as they commence their legal education. The qualifying work may be performed after taking the bar examination but before admission, a window of roughly three to four months. Fifty hours can be completed in six or seven days spread out over this time period or in just over a week all at once.
- The benefits gained by the students far outweigh the time they will spend. Students will gain knowledge and skills which will make them more valuable to potential employers.

Supervision of Law Students and Other Applicants

Concern was expressed among some members of the Group that this requirement could place an undue burden on law firms and the attorneys who are expected to supervise students and other applicants. It was even suggested that the burden would be sufficient that firms would be reluctant to hire law students and applicants before admission.

There are a number of responses to this concern.

- First, as discussed above, most of the qualifying pro bono work will take place outside the context of private law firms. Law school clinics and other law school programs will provide the bulk of the pro bono hours and will be supervised by clinical faculty and law professors. Many more hours will be provided by clerkships, either traditional paid clerkships or unpaid clerkships, and by pro bono work in the public sector. The Working Group believes that only a very small proportion of the pro bono hours will be served in private law firms.
- Second, law firms have always undertaken to train and supervise new attorneys. Training and mentoring are an integral part of a private law firm's hiring of new attorneys. Whether students gain this experience prior to admission or in their first job, they all need to be trained at some point. Law students under the supervision of an admitted attorney are not subject to malpractice and as such would not require malpractice insurance. Each attorney should review his or her insurance prior to supervising a law school student.
- Third, the relatively small number of pro bono hours required under this program will not significantly increase a firm's training burden.

Effective Date

Certain members were concerned that the proposed effective date would put current first-year law students at a disadvantage because they will not have a full three years to complete the pro bono requirement after adoption of the rule. The majority of the Group, however, noted that any qualifying pro bono hours the students completed after they began law school would be counted towards satisfying the requirement. See Section H.

VI. PRE-APPROVED LIST

We anticipate that before undertaking a pro bono assignment, applicants will want to confirm that it will qualify towards the 50-hour requirement. Accordingly, for those seeking qualifying work in New Jersey, the Board of Examiners will post a list of organizations that have indicated they can supervise students looking to fulfill their pro bono requirement for purposes of this rule. Pro bono work referred and supervised by these organizations will be deemed to qualify for the preadmission pro bono requirement. Other organizations not on the list may also offer and supervise qualifying pro bono projects. Applicants, particularly those from out of state, who are concerned as to whether the pro bono work they perform will qualify may inquire of the Board regarding specific programs not on the pre-approved list.

VII. SUMMARY

In summary, a majority of the Working Group recommends that the Supreme Court adopt the preadmission pro bono requirement and the proposed rule changes in Appendix B. The Working Group understands and acknowledges the concerns regarding such a program and therefore includes the following dissenting resolution from the New Jersey State Bar Association in Appendix C.

Submitted by:

Hon. Glenn A. Grant, J.A.D., Chair
David A. Avedissian, Esq.,
Domenick Carmagnola, Esq.
Nancy C. Eberhardt, Esq.
Dean John J. Farmer, Jr.
Dean Patrick E. Hobbs
Assistant Dean Eve Biskind Klothen
Jonathan H. Lomurro, Esq.
Justice Virginia A. Long (ret.)
Melville D. Miller, Jr., Esq.
Fruqan Mouzon, Esq.
Jonathan Sacks
Karen Sacks, Esq.
Associate Dean Claudette St. Romain
Dean Rayman L. Solomon, Esq.
Albertina Webb, Esq.
Elizabeth Weiler, Esq.
Catherine Weiss, Esq.
Susanne Johnson, Staff
Carol A. Welsch, Esq., Staff

APPENDIX A

Proposed Affidavit and Certification Form

**STATE OF)
COUNTY OF)**

I (print name of applicant), _____ of full age, being duly sworn, on my oath, depose and say, that I am the applicant in the foregoing application and that the contents thereof are true.

SIGNATURE: _____

Sworn to and subscribed before me this _____ day of _____, 20____

NOTARY PUBLIC OR ATTORNEY AT LAW
(Affix seal or stamp below)

To be completed by supervising attorney*

I hereby certify that I have read the foregoing Affidavit of Compliance and that the applicant has accurately described the pre-admission pro bono work performed under my supervision:

Attorney signature: _____

Print name: _____

Jurisdiction admitted to practice law: _____

Phone number: _____ Email address: _____

Date: ____ / ____ / ____

* I am admitted in another jurisdiction and performed my pro bono service without a supervising attorney (signature):

APPENDIX B

Proposed Revisions to R. 1:27

RULE 1:27. Admission To Practice

1:27-1. Plenary Admission

(a) Qualification for Licensure. No person shall be admitted to the bar of this State unless the following shall first have successfully occurred in a manner prescribed by the rules of the Board of Bar Examiners:

(1) Passage of the bar examination;

(2) Certification of good character by the Committee on Character pursuant to R. 1:25 and the regulations of that body; and

(3) Attainment of a qualifying score on the Multi-State Professional Responsibility Examination or passage of an approved course on professional ethics given by an American Bar Association-accredited law school.

(4) Satisfactory evidence that the preadmission pro bono requirement has been completed.

(i) Fifty-hour pro bono requirement. Every applicant seeking plenary admission to the New Jersey bar who sat for the examination after January 1, 2015 shall complete at least 50 hours of qualifying pro bono service prior to admission.

(ii) Pro bono service defined. For purposes of this section, pro bono service is preadmission law-related work that:

(A) assists in the provision of legal services without charge for

(i) persons of limited means;

(ii) tax-exempt nonprofit organizations that are primarily dedicated to addressing the needs of persons of limited means or in matters primarily designed for this purpose; or

(iii) individuals, groups or organizations seeking to secure or promote access to justice, including, but not limited to, the protection of civil rights, civil liberties or public rights; or

B) assists in the provision of legal assistance in public service for a judicial, legislative, executive or other governmental entity, including paid or unpaid legal clerkships or judicial externships.

(iii) Supervision required. Except as provided in subsection (iv), all qualifying preadmission pro bono work must be performed under the supervision of:

(A) a member of a law school faculty, including adjunct faculty, or an instructor employed by a law school;

(B) an attorney admitted to practice, in good standing in the jurisdiction where the work is performed, and active for at least three years; or

(C) a judge or attorney in government service.

(iv) Applicants licensed in other United States jurisdictions. Applicants who perform their qualifying pro bono service as licensed members of the bar in other United States jurisdictions are not required to submit the additional certification of a supervising attorney.

(v) Location of pro bono service. The 50 hours of pro bono service, or any portion thereof, may be completed in any state or territory of the United States, or the District of Columbia.

(vi) Timing of pro bono service. The 50 hours of pro bono service may be performed at any time after the commencement of the applicant's legal studies and prior to admission to the New Jersey State bar.

(vii) Proof required. Every applicant for admission shall file with the Board of Bar Examiners an Affidavit of Compliance with the Pro Bono Requirement, describing the nature and dates of pro bono service and the number of hours completed. Except for applicants described in subsection (iv), the Affidavit of Compliance shall include a certification by the supervising attorney or judge confirming the applicant's pro bono activities. For applicants described in subsection (iv), the Affidavit of Compliance shall include the applicant's certification confirming the pro bono activities. For each position used to satisfy the 50-hour requirement, the applicant shall file a separate Affidavit of Compliance.

(viii) Prohibition on political activities. An applicant may not satisfy any part of the 50-hour requirement by participating in partisan political activities.

(b) Report to Supreme Court. The Board of Bar Examiners shall report to the Supreme Court the names of those applicants whose qualifications accord with these Rules. The Supreme Court may then authorize the administration of the oaths prescribed by Rule 1:27-4 in such manner as the Court shall deem appropriate.

(c) Roll of Attorneys; Oath Card. Within thirty days of taking the attorney's oath, attorneys must file the completed Roll of Attorneys oath card with the Clerk of the Supreme Court. If the oath card is not properly filed within that period, the attorney's admission shall not be effective. Subject to paragraph (d) of this Rule, an attorney who has not timely filed an oath card must re-take the oath of admission and complete a new card. Except by leave of the Supreme Court, the

date of admission to the bar of such an attorney shall not relate back to the original administration of the oaths.

(d) Time Limit on Admission. Admission to practice must occur no more than ninety days after the date the candidate has become eligible the administration of the attorney's oaths.

(e) Registration Statement. Failure to file the registration statement required by Rule 1:20-1(c) within thirty days of its receipt shall cause the name of the delinquent attorney to be included in an Order of the Supreme Court declaring him or her ineligible to practice law until such statement is filed.

Note: Source-R.R. 1:22-1(a) (b); paragraph (b) amended July 29, 1977 to be effective September 6, 1977; paragraph (a) amended and paragraph (d) adopted July 24, 1978 to be effective September 11, 1978; caption amended and paragraph (d) deleted September 21, 1981 to be effective immediately; caption amended and new paragraph (a) adopted, former paragraph (a) amended and redesignated (b) and former paragraphs (b) and (c) deleted September 21, 1981 to be effective February 1, 1982; paragraph (b) amended January 31, 1984 to be effective February 15, 1984; paragraph (b) amended July 26, 1984 to be effective September 10, 1984; paragraph (a)(4) deleted November 5, 1986 to be effective January 1, 1987; paragraph (b) caption and text amended and last sentence redesignated paragraph (c) and caption adopted November 7, 1988 to be effective January 2, 1989; paragraph (b) amended and redesignated as paragraphs (b) and (d), former paragraph (c) amended and redesignated as paragraph (e), and new paragraph (c) adopted July 10, 1998 to be effective September 1, 1998; paragraph (d) amended July 5, 2000 to be effective September 5, 2000; paragraph (b) amended November 8, 2004 to be effective immediately; subparagraph (a)(4) adopted _____ to be effective _____.

APPENDIX C

New Jersey State Bar Association Dissenting Resolution



RESOLUTION

WHEREAS, a committee of the New Jersey Supreme Court is considering recommending to the Court that all candidates for admission to the Bar of the State complete a minimum of fifty (50) hours of *pro bono* legal services or other public service as a prerequisite to the practice of law in this State; and

WHEREAS, the New Jersey State Bar Association is the largest organization of attorneys in New Jersey, and its mission is, in part, to *promote access to the justice system and fairness in its administration and encourage participation in voluntary pro-bono activities and to provide educational opportunities to New Jersey attorneys to enhance the quality of legal services and the practice of law*; and

WHEREAS, the New Jersey State Bar Association produces programs and opportunities for the lawyers of this State to provide *pro bono* services to citizens, such as the Hurricane Sandy Response Program, Wills for Heroes, and the Military Legal Assistance Program; and

WHEREAS, the New Jersey Supreme Court has imposed a requirement of mandatory *pro bono* upon all members of the Bar, a requirement that does not exist in any other state, including New York; and

WHEREAS, all citizens to whom *pro bono* services are provided deserve representation by knowledgeable, experienced and educated attorneys; and

WHEREAS, the existing New Jersey requirement for *pro bono* service (the “Madden” requirement) ensures that *pro bono* services are provided by only licensed, practicing attorneys; and

WHEREAS, the recipient of legal services provided by an inexperienced bar candidate poses potential irreparable harm to the recipient and the public in general;

WHEREAS, law school education is rigorous, costly, and time consuming. Further, law students who have not yet completed their education do not have the skills and experience of the licensed attorneys of this State;

WHEREAS, the three New Jersey law schools currently provide many clinical and public service programs as do law schools throughout the county, which programs satisfy the purported goals to the committee proposal to give “real life” experience to students and to instill a sense of duty to provide *pro bono* service during their careers;

WHEREAS, a significant number of law school graduates choose a career of public service as Assistant Attorneys General, Assistant County Prosecutors, Public Defenders, and Legal Service Attorneys, and there is no distinction in the committee proposal between such graduates and those who choose private practice;

WHEREAS, the imposition of this additional time commitment will disproportionately affect low income, older and/or "second career" individuals because fulfilling the pro bono requirement will likely involve time away from work and/ or conflict with otherwise gainful employment;

WHEREAS, there has been no evidence or data produced to demonstrate that mandatory pre-admission *pro bono* service would assist in the delivery of legal services to the citizens of this State; and

NOW THEREFORE BE IT RESOLVED, the New Jersey State Bar Association finds the proposal for mandatory *pro bono* service by individuals who have not yet been admitted to the Bar be unnecessary, unworkable and an affront to consumers who expect experienced practitioners to provide legal services. The New Jersey State Bar association, therefore, urges the New Jersey Supreme Court that the Court reject the proposal and recognize and appreciate the extraordinary *pro bono* service provided by the Bar and to work in conjunction with the New Jersey State Bar Association to identify any need for additional programs or services to assure the prompt and effective delivery of legal services to all citizens of the State.

IT IS FURTHER RESOLVED, that a true copy of this Resolution be served upon the Working Committee, the New Jersey Supreme Court, the Administrative Office of the Courts, all County Bar Associations, and all Specialty Bar Associations, this 15th day of February, 2013

