

TASK FORCE ON EXPERIENTIAL LEARNING
AND ADMISSION TO THE BAR

REPORT TO
CHIEF JUDGE LIPPMAN AND
THE NEW YORK COURT OF APPEALS

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TASK FORCE ON EXPERIENTIAL LEARNING AND ADMISSION TO THE BAR

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I. Introduction

In Spring 2015, New York’s Advisory Committee on the Uniform Bar Examination recommended to the New York Court of Appeals that the Court “appoint a task force to study . . . and make recommendations . . . as to whether New York’s admission requirements should be amended to include, among other things, an experiential learning component, or whether it is appropriate to include as a licensing requirement an assessment of applicants’ lawyering skills and understanding of the practical aspects of a legal career” (Advisory Committee on the Uniform Bar Examination, *Ensuring Standards and Increasing Opportunity for the Next Generation of New York Attorneys* 70-71 (April 2015)). This recommendation resulted from commentary the Advisory Committee received during its several months-long study of whether the Uniform Bar Exam should be adopted in New York. By way of written submissions to the Committee and testimony at public hearings, some members of the legal academy and the organized bar suggested that New York should allow a certain number of clinical or other skills credits to substitute for the bar exam or a portion thereof. The Advisory Committee ultimately determined that a practical skills experience would not serve as an acceptable alternative to the bar exam, but acknowledged that the issue of experiential learning and admission to the bar was ripe for review. The Court of Appeals agreed, and appointed Associate Judge Jenny Rivera to chair a Task Force to study the issue.

In June 2015, Judge Rivera recruited a diverse and accomplished group of legal educators and practitioners to serve as members of the Task Force. The legal educators, many of whom have developed an expertise in clinical programming and experiential learning after decades of work in the field, come from law schools inside and outside New York State, both large and small, public and private (Appendix A). Their cumulative experience in the legal academy and the profession proved invaluable as the Task Force carefully considered whether New York should adopt a skills competency requirement for admission to the bar.

II. Background

As the American Bar Association Section of Legal Education and Admissions to the Bar recognized in its influential “MacCrate Report” of 1992, the legal academy, the practicing bar, and the judiciary have a shared responsibility to ensure that new members of the legal profession acquire the knowledge, skills, and values necessary for effective, ethical and responsible practice (See AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE

BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT – AN EDUCATIONAL CONTINUUM (Report of the Task Force on Law Schools and the Profession: Narrowing the Gap) 3-8 (1992)). The Report enhanced this process by formulating a detailed inventory of fundamental lawyering skills and professional values (*See id.* at 123-221). In the years since the publication of the Report in 1992, there has been extensive expansion and refinement of the legal profession’s understanding of the knowledge, skills, and values that are needed, as well as an increasing sophistication in the approaches for teaching these subjects. Among other groups, the New York State Bar Association has specifically urged law schools to focus on developing curricula and programs that help future lawyers become practice ready (NEW YORK STATE BAR ASSOCIATION, REPORT OF THE TASK FORCE ON THE FUTURE OF THE LEGAL PROFESSION (April 2011)). Improvements and innovations have come about as a result of other reports concerning the preparation of lawyers for practice (*see, e.g.*, PROFESSIONAL EDUCATION PROJECT, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT IN NEW YORK STATE (June 1996) (report of a task force appointed by then-Chief Justice Judith S. Kaye)), other studies of legal education (*see, e.g.*, WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (Carnegie Foundation for the Advancement of Teaching 2007)), and texts presenting innovative approaches to legal education (*see, e.g.*, SUSAN BRYANT, ELLIOTT S. MILSTEIN & ANN C. SHALLECK, TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY (2014); BUILDING ON BEST PRACTICES: TRANSFORMING LEGAL EDUCATION IN A CHANGING WORLD (Deborah Maranville, Lisa Radtke Bliss, Carolyn Wilkes Kaas & Antoinette Sedillo López, eds., 2015)). The Task Force carefully reviewed these sources and a number of other reports, books, articles and other materials (See sources considered by the Task Force set forth in Appendix B).

III. Recent Developments

More than 20 years after the influential MacCrate report was issued, the call to enhance skills training for prospective lawyers recently gained increased traction. In August 2014, the ABA Section of Legal Education and Admissions to the Bar, the authorized accrediting agency for law schools in the United States, adopted new, expanded requirements for skills education, which take effect in academic year 2016-17. These include a new requirement that all J.D. candidates take at least six credits of “experiential courses” while in law school (ABA Section of

Legal Education and Admissions to the Bar, *Standards for Approval of Law Schools*, Standard 303(a)(3); *see also* Standard 304) and a new set of “outcome measure” standards that require that law schools “establish learning outcomes that shall, at a minimum, include competency” in, *inter alia*, “professional skills needed for competent and ethical participation as a member of the legal profession,” and the “[e]xercise of proper professional and ethical responsibilities to clients and the legal system” (Standard 302; *see also* Standards 314-15).

The following month, California’s Task Force on Admissions Regulation Report issued a Phase II Final Report and Recommendations, which includes an ambitious set of requirements designed to “ensure that new admittees are better prepared for practice” (TFARR, Recommendation A, Summary of Rules, at 1). The report recommends that an applicant for admission to practice in California take 15 units of practice-based, experiential course work that is designed to develop law practice competencies. In lieu of some or all of the 15 units of practice-based, experiential course work, a candidate for admission may opt to participate in a Bar-approved externship, clerkship or apprenticeship at any time during or following completion of law school (*See* <http://www.calbar.ca.gov/AboutUs/BoardofTrustees/TaskForceonAdmissionsRegulationReform.aspx>). The proposed requirement will not apply to foreign-educated applicants for admission or to attorneys who have practiced in another jurisdiction for a specified period. The Trustees of the State Bar adopted the proposed requirements in November 2014, but the Supreme Court of California has not yet taken any action on the proposal.

IV. Issues Considered

The Task Force first considered whether New York should amend its admissions criteria given the ABA’s new standards requiring six credits in experiential learning courses. After extensive discussion, the Task Force ultimately concluded that the goal of ensuring effective, ethical and responsible legal services in New York requires more than what the new ABA Standards provide. Although the ABA Standards set new requirements for the education of future lawyers, they do not establish a system for ensuring that all applicants for admission to the Bar have adequately acquired the requisite level of competency in skills and the requisite familiarity with professional values. Moreover, the new Standards, like most of the ABA Standards, are directed only at J.D. students, not LL.M. students (*See Standards for Approval of Law Schools*, Preface v (2015); *but cf.* Standard 105(a)(15)). Given the large number of foreign-

educated applicants admitted per year in New York, the Task Force determined it could not rely on a standard that did not apply to this applicant pool.

In addition, the Task Force considered whether to adopt a requirement similar to the one proposed in California. While the Task Force appreciated and found instructive the extensive effort invested in the California study and the thorough and well-researched reports that resulted therefrom, the Task Force determined that the California approach was not ideally suited for New York State. Notably, New York admits more attorneys per year than any other jurisdiction, including California (*see* NATIONAL CONFERENCE OF BAR EXAMINERS, 2014 STATISTICS, THE BAR EXAMINER, Mar. 2015, at 28-29). In a typical year, newly-admitted attorneys in New York hail from all 50 states, multiple United States territories, and more than 100 foreign countries. These applicants have diverse educational backgrounds; some foreign-educated applicants are required to complete an LL.M. at an ABA-approved law school, while others may sit for the bar exam in New York without any United States law study (*See* Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law, Section 520.6 (22 NYCRR 520.6)). While the California proposal exempted foreign-educated applicants who earned an LL.M. in the United States from its skills requirement, the Task Force determined that such an exemption was not warranted in New York. In the Task Force's view, all applicants, regardless of where they are educated, should be subject to the same admission requirements.

Ultimately, the Task Force concluded that New York should adopt a new mechanism for ensuring that all applicants for admission to the bar possess the requisite skills and professional values for effective, ethical and responsible practice. In formulating this mechanism and the new rules for its implementation, the Task Force gave due weight to this observation in the MacCrate Report:

All law schools and the legal profession rightly aspire to assist lawyers to practice not merely capably but excellently. Excellence cannot be promoted by the kind of standardization involved in formulating any particular list of prescriptions and prerequisites. It is best supported by encouraging pluralism and innovativeness in legal education and practice.

(MacCrate Report, *supra* at 132). The proposed skills competency requirement is designed to build on and reinforce the approaches that law schools themselves develop to teach skills and professional values in ways that fit the schools' respective goals, curricula, and the career paths of their graduates.

Recognizing that flexibility is required to accommodate New York's diverse applicant pool, the Task Force developed an approach that provides five separate paths by which applicants for admission can demonstrate that they have satisfied the skills competency requirement. Three of these pathways rely in whole, or in part, on the pedagogical judgments and choices of the applicants' law schools, while the fourth and fifth pathway offer a means of demonstrating skills acquisition outside the applicants' legal education.¹ Satisfaction of one of these pathways must be established before gaining admission in New York; depending on the pathway, an applicant may satisfy the requirement either before or after taking the bar exam.

V. Public Outreach

Believing that the input of the legal community on this issue was essential before making any recommendation to the Court of Appeals, the Task Force released a request for public comment on its proposal in October 2015 (Appendix C). During the 30-day comment period, the Task Force received submissions from the Council of the ABA Section of Legal Education and Admissions to the Bar; the Clinical Legal Education Association; the New York State Bar Association's Committee on Legal Education and Admission to the Bar; the New York State Judicial Institute on Professionalism in the Law; the Association of American Law Schools Deans Steering Committee; all 15 New York law school deans; administrators from out-of-state law schools; individual professors, and private practitioners. The majority of the submissions were supportive of the proposal. A few raised concerns that were carefully considered by the Task Force. In some cases, these suggestions resulted in minor adjustments to the proposal. The end result is one that the Task Force believes accommodates the varied backgrounds of bar applicants and supports the ultimate goal of ensuring that new attorneys in New York possess the skills and are familiar with the professional values necessary to practice here.

A discussion of each pathway and the rationale forming the basis for it follows. A proposed rule incorporating these recommendations is set forth in Appendix D.

VI. Skills Competency Proposal

A. Law School Certification

¹ In developing these pathways, the Task Force attempted to avoid imposing any onerous certification duties on the Appellate Division departments, the courts that ensure applicants' compliance with admission criteria. The pathways can be established through the submission of certifications similar to those used for the 50-hour pro bono requirement (*see* 22 NYCRR 520.17). Thus, the impact on the Appellate Divisions' workload should be insubstantial.

Pathway one – law school certification, described in proposed Rule 520.18(a)(1) – exemplifies the Task Force’s commitment to having law schools themselves identify and articulate the skills and professional values that their respective students must acquire, as well as the ways that schools will measure and certify their students’ attainment of these skills and familiarity with these values. Standard 302 of the ABA Accreditation Standards for Law Schools now requires each accredited school to “establish learning outcomes that shall, at a minimum, include competency in” a range of professional skills and values. Some of those competencies are specified by Standard 302 itself. Among them, legal analysis and reasoning, written and oral communication, and the exercise of professional and ethical responsibilities. Interpretation 302-2 also explicitly authorizes each school to “identify any additional learning outcomes pertinent to its program of legal education.”

In exactly the same vein, and as Standard 302 already envisages, proposed Rule 520.18(a)(1) relies on each school to “develop[] a plan identifying the skills and professional values that, in the school’s judgment, are required for its graduates’ basic competence and ethical participation in the legal profession” (Rule 520.18(a)(1)(i)(a)). What Rule 520.18(a)(1) adds is the requirement – for those students seeking to satisfy the competence requirement through this pathway – that the applicant’s school certify “that the applicant has acquired sufficient competency in those skills and sufficient familiarity with those values.” This requirement is important. It requires schools to certify that their students have demonstrated basic competence in, and have thus *achieved*, the outcomes that the schools themselves have identified as essential.

It bears emphasizing that this pathway requires more than the current ABA Standards. Indeed, in a submission to the Task Force, the Council of the ABA Section of Legal Education and Admission to the Bar, the accrediting body for law schools in the United States, recognized that pathway one requires a law school to do three additional things: (1) separately develop “a plan identifying and incorporating into its curriculum the skills and professional values that, in the school’s judgment, are required for its graduates’ basic competence and ethical participation in the legal profession;” (2) publish that plan on the school’s website; and (3) certify that the particular bar applicant has “acquired sufficient competency in those skills and familiarity with those values.” It is this third requirement – the certification requirement – that distinguishes pathway one from the ABA Standards. This individualized assessment of each applicant is a

vital component in ensuring that all applicants to the bar possess the skills and familiarity with the professional values necessary to practice in New York.

Another key feature of this pathway is that it relies on law schools to make the determination of how they will measure competence. Law schools may do so on the basis of their students' grades "in courses the school has designated as teaching the skills needed for basic competence and ethical participation in the legal profession" and, if schools choose to use grades as the measure, then each school has discretion to decide the passing grade that will in fact suffice (Rule 520.18(a)(1)(ii)). However, the Task Force recognizes that schools may find that reliance solely on grades in designated courses will not provide the flexibility they need to deliver the education in skills and values that they have concluded is necessary. If a school reaches that conclusion, then the Rule also provides that the school "may adopt other means of assessing its graduates' achievement of the required skills for purposes of this subdivision, provided the school receives the prior approval of the Court of Appeals" (Rule 520.18(a)(1)(iii)).

During the public comment period, a concern was expressed that students using pathway one will not need to actually complete any experiential learning courses. While proposed Rule 520.18(a)(1) does not explicitly require that students complete a specific number of credits in clinics, externships or other courses designed to expose students to the range of skills necessary for competent practice, the Task Force notes that, under ABA Standard 303(a)(3), all ABA-approved law schools must offer a curriculum requiring students to complete at least six credits in experiential courses. Thus, the Task Force anticipates that most students using pathway one will spend at least some time on experiential learning as required under ABA Standard 303(a)(3).

Some commentators also questioned whether foreign-educated students completing an LL.M. degree can rely on pathway one to satisfy the skills competency requirement. The Task Force presumes that the typical one-year LL.M. program cannot provide sufficient experiential training under pathway one, particularly because LL.M. students seeking to take the New York bar exam must complete 12 credits in specific classroom courses under section 520.6(b)(3)(vi) of the Court's Rules. In addition to those required courses, many LL.M. students seek to take doctrinal courses in a specific area of interest, which does not leave much time for experiential offerings. However, the Task Force does not rule out the possibility that a law school could develop a program for foreign-trained LL.M. students that satisfies the requirements of this pathway. As with J.D. programs, we anticipate that law schools will continue to look for ways to

innovate in this area. In developing such an LL.M. program, a law school should seek to provide comparable experiential opportunities to what a J.D. student would receive under this pathway.

In short, pathway one relies on the work law schools are already undertaking, some of which is above and beyond the ABA Standards, and places confidence in the judgments law schools themselves will make about what skills and values are essential, and about how to measure their students' acquisition of those skills and familiarity with those values. Schools that choose to enable their students to follow this pathway are not losing their freedom to shape the education they believe best suited to their students' needs. Instead, this pathway relies on the schools' exercise of this important role to make the certification of their students' competence possible.

B. Credit Acquisition and Certification

Pathway two, contained in proposed Rule 520.18(a)(2), sets forth a model that focuses on law school practice-based experiential coursework that is designed to foster professional competency training. In developing this pathway, the Task Force took into consideration existing experiential based education programs, reports regarding the need for enhanced and innovative ways to promote professional competence education, ABA requirements, and the teachings of the California proposal.

This pathway requires 15 credits of practice based experiential coursework designed to foster professional competency training. Fifteen credits represents approximately 18% of the minimum number of credits (83) required for J.D. bar applicants in New York. This is a modest requirement in light of the multi-year reports advocating professional competency education for attorneys and the more extensive experiential requirements of other professions.

The academic credits can be earned in whole or half credits. The option to earn a half credit was accepted as a vehicle to allow practicums or simulations to be added to courses as a way to allow innovation in professional competency education in more traditional law school courses. Moreover, recognizing that law-related work experiences can provide extremely worthwhile educational opportunities, pathway two allows a law school to substitute up to six credits through law school certified, non-credit bearing summer employment programs, between academic years, provided those programs meet certain criteria. At least 50 hours of full-time employment is required for each substituted credit.

Some commentators suggested that part-time work experiences during the academic year

should count toward this requirement. After much discussion, however, the Task Force concluded that these experiences, done while the student is also devoting effort to classroom studies, generally cannot provide the same experiential opportunities as a full-time summer position and therefore should not count toward the six-credit provision. Nevertheless, given the concerns on this issue, the Task Force recommends that the exclusion of part-time work from this pathway be scrutinized as part of the long-term evaluation of this licensure requirement.

Whether work done during school breaks should count toward the six-credit provision also presented a difficult question. A majority of the Task Force concluded that work completed during the spring semester break should not count towards the six credits. However, members were evenly split on whether to count work performed between semesters of the academic year (e.g. winter break), and, at this time, cannot make a recommendation on this specific issue.

The definition of “practice based experiential coursework” employed in section 520.18(a)(2) is broader than the ABA’s definition of an “experiential” course, as the ABA requires such courses to be a clinic, simulation course or field placement. However, courses satisfying the narrower ABA definition would meet this definition. The broader definition is similar to the definition considered in the proposal pending in California. The Task Force accepted this broader definition to allow innovation in a variety of course settings. Likewise, the definition of professional competency training is broad and is similar to the definition of competency training in the California proposal. Also, as in the California proposal, first-year practice based experiential coursework beyond four credits of legal writing and moot court-like courses will count toward the 15-credit minimum.

Examples of offerings that constitute practice based experiential courses satisfying the professional competency training requirement include, but are not limited to: Oral Presentation and Advocacy; Interviewing; Counseling; Client Service and Business Development; Negotiation, Mediation, Arbitration and other alternate dispute resolution methods; Advanced Legal Research and Writing (excluding purely academic papers); Applied Legal Writing (e.g. drafting of contracts, pleadings or other legal instruments); Law Practice Management or the Use of Technology in Law Practice; Cultural Competency; Collaboration or Project Management; Financial Analysis (e.g. accounting, budgeting, project management and valuation); Cost Benefit Analysis in Administrative Agencies; Use of Technology, Data Analyses, or Predictive Coding; Business Strategy and Behavior; Pre-trial Preparation, Fact Investigation (e.g. discovery, e-

discovery, motion practice, assessing evidence, utilizing experts); Trial Practice; Professional Civility and Applied Ethics; faculty-supervised law clinics including class room components; externships including class room components; Appellate Practice; Applied Policy Advocacy; and Applied Legal Strategy and Problem Solving.

While this pathway was created with J.D. students in mind, law schools are free to develop LL.M. programs that would allow foreign-trained students to satisfy this pathway. Any such program, which likely would extend beyond the typical one-year LL.M. program, may prove very attractive and useful for foreign applicants who seek to practice in New York.

C. Pro Bono Scholars Program

Pathway three, found in proposed Rule 520.18(a)(3), provides that applicants who successfully complete the New York Pro Bono Scholars Program as described in section 520.16 of the Rules of the Court of Appeals shall be deemed to have satisfied the skills competency requirement. The Task Force chose this pathway based on its conclusion that the Pro Bono Scholars program provides participants with an ideal opportunity to develop the knowledge, skills and values necessary to enter practice in New York. Students in this program complete a semester's worth of pro bono work that is law related, involves the use and development of legal skills, and directly involves client matters. Supervisors agree to provide students with meaningful opportunities to reflect on their work and the ethical obligations implicated. Supervising attorneys also are required to engage the student regularly in discussions that go beyond producing legal work, such as discussions about professional development and ethics. Students are also supervised by a law school faculty member, who oversees the academic components of the program.

In light of the nature and extent of the work done by students in the Pro Bono Scholar Program and the intense level of supervision provided, the Task Force concluded that students who complete the program have gained sufficient training in the skills and values for effective, ethical and responsible practice in New York, and thereby satisfy the goals underlying the skills competency requirement.

D. Apprenticeship

Pathway four, contained in proposed Rule 520.18(a)(4), allows law school graduates who did not satisfy the skills and professional values competency requirement while they were in law school to complete a six-month apprenticeship. The Task Force determined the need for this

pathway given that some students, whether trained in the United States or abroad, may not have had ample opportunities for experiential learning during law school or chose not to take such courses. The purpose of the apprenticeship is to expose these applicants to the practical work of a law office and, in so doing, provide them with opportunities to develop the “skills and values necessary to provide effective, ethical and responsible legal services in this State.”

The requirements of pathway four serve to regulate, but not over-regulate, and are designed to ensure that applicants and supervisors achieve the necessary educational value of their relationship. Unlike the proposal set forth in California, pathway four does not entail establishing a court or bar office to oversee the apprenticeships. Rather, pathway four relies on the certification of compliance with the program elements by both the apprentice and the apprenticeship supervisor. To provide maximum flexibility and to increase opportunities to comply with the new rule for those outside New York State and those working on a diverse range of legal matters, pathway four permits the apprenticeship to be conducted in a law office outside New York and under the supervision of an attorney either admitted to practice or authorized to engage in the relevant practice under the jurisdiction’s rules. The Task Force concluded that the foundational requirements of pathway four provide sufficient safeguards against variations in practices in other jurisdictions, which might otherwise reduce the educational value of apprenticeships.

Pathway four allows both paid and unpaid apprenticeships. As a practical matter, the requirement that the applicants work full time means that most law graduates will only be able to do apprenticeships as part of paid employment. The Task Force concluded it would be unfair to limit this option to those with either other means to support themselves for six months or sufficient stamina and time to work two jobs. Concerns about the power dynamic of the employer-employee relationship are allayed by the proposed rule’s provisions that the supervisor must provide and certify an educational experience that goes beyond that necessary to complete assigned tasks. The Task Force understands that in some jurisdictions, unpaid apprenticeships might be deemed to violate either the federal Fair Labor Standards Act or state wage and hour laws. Therefore, the rule requires apprenticeships to comply with all applicable laws and regulations.

Further to the goal of flexibility, foreign-educated applicants who are required to complete an LL.M. program at an ABA-approved law school under section 520.6 of the Court’s

Rules may complete the apprenticeship either before or after the LL.M. program. This provision recognizes that, in some foreign countries, after completing a first degree in law, students must complete rigorous mandatory apprenticeships before being admitted to practice. To the extent these experiences meet the specific requirements of Rule 520.18(a)(4), they should be permitted to satisfy the skills competency requirement.

E. Practice in Another Jurisdiction

Pathway five, set forth in proposed Rule 520.18(a)(5), provides that an applicant who has been authorized to practice law in another state, territory, country or commonwealth outside the United States and has practiced in that jurisdiction full time for one year, or part time for two years, will meet the skills competency requirement. This pathway recognizes that those who have actually practiced law have been exposed to real-life scenarios that have required them to develop the skills and values sought to be imparted in pathways one through four. Simply put, the best way to learn to practice is to actually practice.

This pathway also acknowledges that many foreign-educated applicants may not be able to satisfy the other pathways. Even if law schools develop programs for LL.M.s designed to satisfy pathway one and two, some applicants may have financial, career or personal circumstances that prevent them from completing these programs. Pathway three is not available to foreign applicants, as it only applies to J.D. students enrolled in the Pro Bono Scholars Program, and pathway four may not be a realistic option for these applicants, who may find it difficult to acquire a qualifying apprenticeship.

While no hard statistics exist, the Task Force received anecdotal evidence from every New York law school suggesting that a significant number of foreign-educated applicants have practice experience in their home countries. Although the Task Force acknowledges that practice in other countries, particularly those that do not follow the common law, may not mirror practice in the United States, the Task Force determined that regardless of the locale, one year of practice in another jurisdiction, including a foreign country, is a valuable means of gaining exposure to the skills and values necessary to provide competent representation, and should be deemed sufficient to satisfy the skills competency requirement.

One concern arising from the public comments and resulting in extended discussion by the Task Force was the varying licensing systems for attorneys across the globe. As noted by several commentators, in many countries, in-house counsel are not permitted to be members of

the bar. In China, a country from which a large number of bar applicants hail, attorneys who work for global (non-Chinese) law firms, including many New York-based firms, are prohibited from maintaining bar licenses. These legal professionals, despite not being formally licensed, have the practical legal experience sought under this pathway. The Task Force believes such attorneys should not be penalized for their lack of formal admission based on the idiosyncratic rules of their country. Accordingly, section 520.18(a)(5) provides that applicants may rely on “prior legal practice . . . without formal admission to the bar,” if the practice occurred “in a country, territory or commonwealth that permits legal practice without formal admission to the bar” and the practice “was in full compliance with the jurisdiction’s rules.”

VII. Other Recommendations

A. Implementation Date

The Task Force acknowledges that any new skills competency requirement may require an adjustment in law schools’ curricula. It also understands the importance of providing sufficient notice of any new admission requirement to bar applicants. This need for sufficient lead time must be balanced against the desire to implement these requirements in a timely manner to ensure that new applicants to the bar are prepared for practice. Keeping these considerations in mind, the Task Force recommends that the skills competency requirement first apply to applicants for admission to the bar who commence their J.D. programs after August 1, 2016. This implementation date aligns with the application of new ABA Standards 303 and 304, which first apply to J.D. students beginning their studies in the fall of 2016. This same implementation date will apply to applicants who qualify for the bar exam under Rule 520.6 based solely on their foreign education (i.e. those who are not required to complete an LL.M. program under section 520.6 of the Court’s Rules).

For foreign applicants who qualify for the bar exam after completing an LL.M. program, the Task Force recommends that the requirement first apply to those commencing their LL.M. programs in fall 2018. This delayed date for foreign LL.M. applicants recognizes that ABA Standards 303 and 304 do not apply to LL.M. programs. Thus, most ABA-approved law schools currently may not have sufficient experiential learning opportunities for LL.M. students. The extended implementation date provides law schools with time to develop new and innovative programs designed to help these applicants satisfy the skills competency requirement.

B. Rule Application

As previously noted, the skills competency requirement is an admission requirement, not a requirement to sit for the bar exam. However, the Task Force determined that some applicant groups, by the very nature of their background, should be exempt from this requirement. It should not apply to applicants for admission on motion (*see* 22 NYCRR 520.10), because these applicants must establish that they have five years of practice in another United States or common-law jurisdiction before being admitted here. As a result, they necessarily will exceed the requirements of pathway five. Similarly, the new skills competency requirement should not apply to applicants who qualify for the bar exam based on graduation from an unapproved law school in the United States, as they must establish five years of practice in a jurisdiction where admitted before being permitted to take the exam (*see* 22 NYCRR 520.5). Nor should the requirement apply to those applicants who sit for the New York bar exam based on completion of one year of study at an approved law school followed by study in a law office in New York (*see* 22 NYCRR 520.4). These applicants, through their years of law office study under the supervision of a New York attorney, are provided meaningful opportunities to develop the skills and values necessary for practice in New York, as certified by both the applicant and supervisor at the conclusion of the law office study period (*id.*).

C. Removal of Clinical Credit Limitations in Court Rules

Section 520.3(c)(4) of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law, which applies to the program of study for applicants who receive a J.D. degree from an ABA-approved law school, provides that “[t]he total number of credit hours granted for law school clinical courses, field placement programs and externships, including classroom components, may not exceed 30 of the 83 credit hours required for graduation.” Section 520.6(b)(3)(vii)(a) of the Rules, which applies to LL.M. students, states that these students may earn “a maximum of four credit hours in clinical courses,” so long as the clinical courses satisfy certain specified requirements.

Pathways one and two seek to provide law schools with flexibility and choice in promoting skills competency education. Schools are given wide latitude in making judgments as to the manner in which they want to teach skills and the criteria to be used in assessing an applicant’s attainment of those skills. This approach allows each law school to develop a system that is well tailored to the school’s curriculum, its overall educational philosophy, and the career

paths of its students. In the Task Force’s view, the credit limitations in sections 520.3 and 520.6 conflict with the goal of allowing schools flexibility to develop new programs and curricula to teach skills.

Accordingly, the Task Force recommends that the Court remove the credit limitations from these rule provisions. Any concern about J.D. students taking a large number of experiential credits and thereby limiting their credits in doctrinal courses is addressed by retaining the requirement in Rule 520.3(c)(1)(ii) that students must earn a “minimum of 64 . . . credit hours . . . in regularly scheduled classroom courses at the law school.”² As for LL.M.s, Rule 520.6 provides that these students must complete a minimum of 12 credits in certain substantive law courses. Moreover, both J.D. and LL.M. students have an incentive to take a substantial number of doctrinal courses in preparation for the bar exam. Thus, even if the Court removes the current limits on clinical credits, it can be assured that students will continue to complete significant credits in classroom-based, faculty-supervised law courses.

D. Consideration of Foreign-Educated Applicants’ Bar Eligibility

During the course of the Task Force’s study, some members voiced concern about the manner in which certain foreign-educated applicants qualify for the bar exam in New York. Under Section 520.6 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law, foreign-educated bar applicants must demonstrate that their legal education is durationally and substantively equivalent to a J.D. degree earned at an ABA-approved law school. An applicant generally establishes substantive equivalence by demonstrating that the degree was earned in a common law country. An applicant demonstrates durational equivalency by submitting proof that the degree was comprised of sufficient hours of legal instruction. Applicants who have either a durational or substantive deficiency, but not both, may cure that deficiency by completing a 24-credit LL.M. at an ABA-approved law school.

In many countries, an applicant earns a law degree at the undergraduate level. For example, in China and Korea, a Bachelor’s in Law (LL.B) is a qualifying law degree. That is,

² A clinical course may count toward this 64-credit minimum provided (1) the course “includes adequate classroom meetings or seminars during the same semester in which the clinical work is completed in order to ensure contemporaneous discussion, review and evaluation of the clinical experience;” (2) “the clinical work is conducted under the direct supervision of a member of the law school faculty;” and (3) “the time and effort required and anticipated educational benefit are commensurate with the credit awarded.” *See* 22 NYCRR 520.3(c)(2). Additionally, credits earned for the classroom component of an externship or field placement may count toward the 64-credit requirement. *See* 22 NYCRR 520.3(c)(3).

this undergraduate degree satisfies the educational requirements for admission to practice in these countries. However, because the jurisprudence of these countries is not based on the English common law, an LL.B. earned there is considered substantively deficient. If the LL.B. is of sufficient duration, the applicant may complete an LL.M. at an ABA-approved law school, and then become eligible for the New York bar exam. Similarly, England offers the LL.B. as a qualifying law degree. An applicant who completes a durationally equivalent LL.B. in a common law jurisdiction is eligible to sit for the bar exam in New York. This applicant need not complete an LL.M. because the degree is considered substantively equivalent.

Some members of the Task Force were troubled that foreign-educated applicants can qualify to sit for the bar exam after only an undergraduate degree and, in some cases, an LL.M., while applicants educated in the United States must complete an undergraduate degree and a graduate law degree in order to be eligible for the exam. In their view, this resulted in a more onerous burden on domestically-educated applicants and raised questions about the foreign-educated applicants' training.

Any concern about the minimum educational qualifications of foreign-educated bar applicants is outside the Task Force's mandate, which is to consider whether New York should adopt an experiential learning requirement for admission to the bar. Nonetheless, a majority of the Task Force agrees that the issue warrants further review, and recommends that the Court, in conjunction with the New York State Board of Law Examiners, undertake a comprehensive review of the qualifications for foreign-educated applicants to sit for the New York bar exam, with a particular emphasis on whether the rule provides sufficient assurance that these applicants are competent to represent clients in New York.

VIII. Further Study

If the Court of Appeals adopts the recommendations contained herein, the Task Force suggests that the Court consider developing a system to measure whether the new requirements are serving their intended purpose. Among other things, the Court may wish to track the rate at which the pathways are used by new admittees. In addition, new attorneys could be asked to provide information on their experience in their chosen pathway and the extent to which they believe it enhanced their readiness to enter practice. It may be beneficial to ask law schools about their experiences with the new requirement, and to survey employers of new attorneys to inquire about their employees' skills competency. Over time, the data collected may reveal

whether certain pathways are not working or whether any pathways should be modified. Such information will be valuable not only to New York as it continues its study of this issue, but to other states that are considering implementing a skills competency requirement.

IX. Conclusion

The Task Force understands that its recommendation represents a fundamental change in the licensing of prospective attorneys in New York, and that the transition to this new requirement may present challenges to the legal academy and profession. Nonetheless, the Task Force strongly believes that this new licensing requirement is an essential step to help ensure that attorneys in New York possess the skills, knowledge and professional values necessary to competently represent clients here. Any potential difficulties that may result from this change, which will dissipate over time as law schools and the profession accommodate to it, are far outweighed by the enhanced readiness of the attorneys who will practice here.

The recommendations in this report should not signal the end of the discussion on new attorneys' readiness to enter practice. We realize that this requirement does not serve as a panacea, but as one necessary component in the overall mission to further the professional development of prospective lawyers. We urge the academy, the practicing bar and the judiciary to continue to work together to develop methods to enhance future lawyers' competency and skills acquisition. With the combined support from all corners of the profession, we can continue toward the ultimate goal of producing attorneys who are ready to enter this esteemed profession.

APPENDIX A

Honorable Jenny Rivera, Chair

Hon. Jenny Rivera has served as an associate judge of the Court of Appeals since 2013. Prior to her appointment, she was a tenured faculty member of the City University of New York School of Law, where she founded and served as Director of the Law School's Center on Latino and Latina Rights and Equality. Before her career in academia, she worked in various capacities in public service, including clerking for Judge Sonia Sotomayor of the Southern District of New York, and in the Second Circuit Court of Appeals Pro Se Law Clerk's Office. She also worked for the Legal Aid Society's Homeless Family Rights Project, the Puerto Rican Legal Defense and Education Fund, and was appointed by the New York State Attorney General as Special Deputy Attorney General for Civil Rights. In addition, she served as an Administrative Law Judge for the New York State Division for Human Rights, and on the New York City Commission on Human Rights.

Susan Bryant

Susan Bryant is a Professor at City University of New York School of Law, where she has helped develop and direct CUNY's nationally-recognized clinical programs, as well as taught in both the Battered Women's Rights and the Immigrant and Refugee Rights Clinics. She has served as a consultant and trainer for the Association of American Law Schools, the Legal Services Corporation, and the United States Department of Education. Professor Bryant has served as Co-President of the Clinical Law Education Association (CLEA), and was awarded the Association of American Law Schools Section on Clinical Legal Education Award for outstanding contributions to clinical legal education. She is a frequent lecturer and panelist on pedagogy, clinical education, and cross-cultural lawyering.

Janet Calvo

Janet Calvo is a Professor of Law at City University of New York School of Law, where she has taught in the clinical and concentration fieldwork programs and in the lawyering seminars for first and second year students. She has also taught Public Health and Health Care Law at CUNY School of Public Health. Before joining the faculty at CUNY, she served as Director of the Urban Law Clinic at New York University School of Law, and as an attorney at the Civil Appeals and Law Reform and the Trial Office of the Legal Aid Society of New York.

Ellen Chapnick

Ellen P. Chapnick is the Dean for Social Justice Initiatives and a Lecturer-in-Law at Columbia Law School. Her responsibilities include development and implementation of projects, including externships and pro bono programs, that will further Columbia's excellence in preparing the public interest, government and human rights lawyers of the future. Prior to joining the faculty at Columbia, she was a federal litigator at Wolf Popper Ross Wolf & Jones, where, among other

matters, she represented class plaintiffs in *In re Exxon Valdez Oil Spill Litigation*, for which she and her co-counsel shared TLPJ's 1995 Trial Lawyer of the Year Award. She also had been a staff attorney at the Puerto Rican Institute for Civil Rights in San Juan and at various labor unions.

Stephen Ellmann

Stephen Ellmann is Martin Professor of Law and Director of the Office of Clinical and Experiential Learning at New York Law School. He is the chair of the Clinical Theory Workshop, a scholarly workshop which is celebrating its 30th anniversary, and the co-chair of the South Africa Reading Group, another scholarly workshop which just celebrated its 20th anniversary. He has taught experientially in the Pro Bono Scholars Program, in a first-year Lawyering course, and in clinics, and created the "Clinical Year," a full-year, 24-credit course based on three full-time placements in government and legal services settings. He has also taught a range of doctrinal courses. As a scholar he has written on legal ethics, lawyering skills, and clinical pedagogy; constitutional law, particularly with respect to terrorism; and South African law, both in the years of apartheid and today.

Randy Hertz

Randy Hertz is a Vice Dean of New York University School of Law and the director of the law school's clinical program. He has been at the law school since 1985, and is the co-editor-in-chief of the *Clinical Law Review*. In the past, he has served as the Chair of the Council of the ABA's Section of Legal Education and Admissions to the Bar; a consultant to the MacCrate Task Force on Law Schools and the Profession: Narrowing the Gap; a reporter for the Wahl Commission on ABA Accreditation of Law Schools; a reporter for the New York Professional Education Project; and the chair of the Association of American Law Schools Standing Committee on Clinical Legal Education.

Lynn M. Kelly

Lynn M. Kelly is the Executive Director of the City Bar Justice Center, a division of the City Bar Fund which is the 501(c) (3) affiliate of the Association of the Bar of the City of New York. The Justice Center's mission is to mobilize the pro bono legal community to help bridge the justice gap. The Justice Center matches over a thousand pro bono cases each year leveraging \$18 million in free legal services to the poor. Ms. Kelly was previously the Executive Director of MFY Legal Services, and a litigator and manager with the Civil Division of The Legal Aid Society. She also served as a clinical law instructor at Fordham University School of Law and the New York University School of Law.

Anjana Malhotra

Anjana Malhotra is an Associate Professor at SUNY Buffalo Law School, where her scholarship focuses on issues in immigration law, constitutional law and international human rights. Prior to joining the faculty at SUNY Buffalo, she taught at the Seattle University School of Law as the inaugural Fred T. Korematsu Clinical Fellow, where she developed and co-taught the Civil

Rights Amicus and Impact Litigation Clinic. Her pre-academia experience includes clerking for the Hon. Harry Pregerson, justice of the U.S. Court of Appeals for the Ninth Circuit, in Los Angeles; complex and labor litigation practice at two New York law firms; serving as the first Aryeh Neir Fellow at the ACLU Immigrants' Rights Project and Human Rights Watch; and directing the International Human Rights/Rule of Law Project at Seton Hall Law School.

Eduardo M. Peñalver

Eduardo M. Peñalver is the Allan R. Tessler Dean and Professor of Law at Cornell Law School. Prior to joining the faculty at Cornell, Dean Peñalver served as the John P. Wilson Professor of Law at the University of Chicago Law School. He has also served on the faculty at Fordham Law School, and has been a visiting professor at Harvard Law School and Yale Law School. His scholarship focuses on property and land use, as well as law and religion. Before law school, Dean Peñalver was a Rhodes Scholar at Oriel College, Oxford. Following law school, he clerked for Judge Guido Calabresi of the United States Court of Appeals for the Second Circuit, and at the Supreme Court for Justice John Paul Stevens.

Michael Pinard

Michael Pinard is the co-director of the Clinical Law Program at the University of Maryland Francis King Carey School of Law. He teaches the Reentry Clinic and the Reentry Legal Theory and Practice Seminar. Professor Pinard has been active nationally in efforts to improve legal education. He is co-editor-in-chief of the *Clinical Law Review*, and serves on the board of directors for the Jobs Opportunities Task Force in Baltimore. He also is a former president of the Clinical Legal Education Association and a former co-chair of the American Association of Law Schools Section on Litigation. In 2011, he was honored as a Champion of Change by the White House for his work on behalf of individuals with criminal records.

APPENDIX B

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APPENDIX C

October 9, 2015

REQUEST FOR PUBLIC COMMENT

In Spring 2015, in response to a recommendation from the Advisory Committee on the Uniform Bar Exam, the Court of Appeals appointed a Task Force on Experiential Learning and Admission to the Bar to consider “whether New York’s admission requirements should be amended to include, among other things, an experiential learning component, or whether it is appropriate to include as a licensing requirement an assessment of applicants’ lawyering skills and understanding of the practical aspects of a legal career.” Advisory Committee on the Uniform Bar Examination, *Ensuring Standards and Increasing Opportunity for the Next Generation of New York Attorneys* 70-71 (April 2015).

Throughout the summer and fall, the Task Force, chaired by Hon. Jenny Rivera, Associate Judge of the Court of Appeals, met on several occasions to discuss whether New York should adopt a skills competency requirement for admission. After extensive deliberation and consideration of the relevant issues, the Task Force proposes that New York adopt a new mechanism for ensuring that all applicants for admission to the bar possess the requisite skills and are familiar with the professional values for effective, ethical and responsible practice. In light of New York’s diverse applicant pool, and in an effort to accommodate the varying educational backgrounds of applicants, the Task Force suggests five separate paths by which applicants for admission can demonstrate that they have satisfied the skills competency requirement.

Pathway 1 would allow an applicant to satisfy the skills competency requirement by submitting a certification from the applicant’s law school confirming that (1) the law school has developed a plan identifying and incorporating into its curriculum the skills and professional values that, in the school’s judgment, are required for its graduates’ basic competence and ethical participation in the legal profession, as required by American Bar Association Standards and Rules of Procedure for the Approval of Law Schools Standard 302(b), (c) and (d), and has made this plan publicly available on the law school’s website; and (2) the applicant has acquired sufficient competency in those skills and sufficient familiarity with those values. This pathway recognizes that law schools should be permitted the freedom to identify and articulate the skills and professional values, as well as the ways in which the schools will measure their students’ attainment of these skills and understanding of these values.

Pathway 2 would permit an applicant to satisfy the skills competency requirement by submitting proof from the law school that the student completed 15 credits of practice-based experiential coursework designed to foster professional competency training. Acknowledging that law-related work experiences can provide extremely worthwhile educational opportunities, pathway two allows a law school to substitute up to 6 of the 15 credits for law school certified non-credit bearing summer employment programs, provided those programs meet certain criteria. At least 50 hours of full-time employment is required for each substituted credit. This pathway is similar to a skills competency requirement proposed in California and pending before

that state's Supreme Court.

Pathway 3 provides that any applicant who has successfully completed the Pro Bono Scholars program will be deemed to have satisfied the skills competency requirement.

Pathways 4 and 5 were designed by the Task Force for applicants who may not have had plentiful opportunities for skills training during their law study. Pathway 4 allows applicants to complete a post-graduation six-month apprenticeship in the United States, commonwealth, territory or a foreign country, under the supervision of an attorney admitted to practice and in good standing in the jurisdiction where the work is performed. The apprenticeship can be paid or unpaid. The supervising attorney is responsible for (1) certifying the beginning and ending dates of the apprenticeship; (2) providing the applicant with an initial orientation session; (3) implementing a system for assignment that assures that the applicant is actually engaged in the performance of legal work, including a diversity of tasks, as part of the ongoing practical work of the law office during normal business hours and throughout the required period; (4) providing the applicant with experience and guidance in the skills and values required for basic competence and ethical participation in the legal profession; (5) giving timely oral and written feedback to the applicant; (6) engaging the applicant in reflection on his/her experiences and learning during the apprenticeship; and (7) certifying that the applicant has satisfactorily completed the apprenticeship.

Pathway 5 provides that an applicant who has been authorized to practice law in another state, territory, country or commonwealth outside the United States and has been in good standing and practiced in that jurisdiction full time for one year, or part time for two years, will meet the skills competency requirement.

The Task Force determined that this proposed skills competency requirement should apply to all new applicants for admission to the bar, whether educated in the United States or abroad. In order to provide applicants and law schools sufficient time to adapt to this new requirement, the Task Force recommends that it first be applied to those who commence their law study—either domestic or foreign—after August 1, 2016. The skills competency requirement would not apply to applicants for admission on motion (22 NYCRR 520.10), applicants who qualify for the bar exam under the law office study program (22 NYCRR 520.4), or applicants who sit for the exam based on graduation from an unapproved law school and five years of practice (22 NYCRR 520.5).

Persons or organizations wishing to comment on this proposal should e-mail their submissions to attorneyadmissions@nycourts.gov or write to: Margaret Wood, Court Attorney for Professional Matters, Court of Appeals Hall, 20 Eagle Street, Albany, NY 12207. Submissions will be accepted until 5 p.m. on November 9, 2015. All public comments will be treated as available for disclosure under the Freedom of Information Law, and are subject to publication by the Office of Court Administration. The issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Court of Appeals.

APPENDIX D

Rule 520.18. Skills Competency Requirement for Admission

(a) General. Every applicant for admission to practice, other than applicants for admission without examination pursuant to section 520.10 of this Part, or applicants who qualify for the bar examination under sections 520.4 or 520.5 of this Part, shall demonstrate that the applicant possesses the skills and values necessary to provide effective, ethical and responsible legal services in this State. An applicant may satisfy this requirement by submitting proof of compliance with one of the following five subdivisions.

(1) Law school certification of competence in skills and professional values.

(i) An applicant may submit from an approved law school a certification confirming that:

(a) the law school has developed a plan identifying and incorporating into its curriculum the skills and professional values that, in the school's judgment, are required for its graduates' basic competence and ethical participation in the legal profession, as required by American Bar Association Standards and Rules of Procedure for the Approval of Law Schools Standard 302(b), (c) and (d), and has made this plan publicly available on the law school's website; and

(b) the applicant has acquired sufficient competency in those skills and sufficient familiarity with those values.

(ii) For purposes of this subdivision, a school may certify that a graduate has attained the required skills level if the graduate received a grade that the school considers sufficient to demonstrate competence in courses the school has designated as teaching the skills and professional values needed for basic competence and ethical participation in the legal profession.

(iii) A law school may adopt other means of assessing its graduates' achievement of the required skills for purposes of this subdivision,

provided the school receives the prior approval of the Court of Appeals.

- (2) Law school certification of credit acquisition. An applicant may submit a certification from the applicant's approved law school confirming that the applicant enrolled in and successfully completed 15 credit hours, as defined by American Bar Association Standards for the Approval of Law Schools, of practice-based experiential coursework designed to foster the development of professional competencies. The 15 credits may be earned in whole or half credits.
- (i) For purposes of this subdivision, practice-based experiential coursework is coursework that:
 - (a) develops the concepts underlying the practice competencies being taught;
 - (b) provides opportunities for performance by each student other than traditional classroom discussion;
 - (c) provides for regular individualized student feedback from a faculty member; and
 - (d) provides opportunities for student self-reflection.
 - (ii) Practice-based, experiential coursework includes, but is not limited to, those courses designated by a school as "experiential courses" under American Bar Association Standards for the Approval of Law Schools.
 - (iii) A law school may not count toward this requirement the first four credits earned in an introductory first-year legal research and writing class, first-year Moot Court class, or any combination thereof.
 - (iv) A law school may, in its discretion, allow a student to earn up to six of the fifteen required credits through law school certified non-credit bearing summer employment supervised by an attorney in good standing in any state or territory of the United States or the District of Columbia. The supervising attorney must certify to the law school the beginning and ending dates of the employment, that the student satisfactorily completed the employment, and that the work

experience: provided the student with an initial orientation session; implemented a system for assignments that assured that the student was actually engaged in the performance of legal work, including a diversity of tasks, as part of the ongoing practical work of the law office during normal business hours and throughout the required period; provided the student with experience and guidance in the skills and values required for basic competence and ethical participation in the legal profession; gave the student timely oral and written feedback; and engaged the student in reflection on his/her experiences and learning during the employment. At least 50 hours of full-time employment is required for each substituted credit under this subdivision.

(v) Certification. When certifying an applicant's compliance with this paragraph, the law school shall list the courses or parts of courses in its curriculum and, if applicable, the work experiences completed by the applicant that meet the 15-credit requirement as set forth herein.

(vi) Alternate method of compliance. If the law school does not submit the certification as required in paragraph (v), the applicant may submit evidence to the Court of Appeals that the requirements of this subdivision have been met by providing a list of the practice-based experiential courses taken by the applicant, the credits awarded, and the course descriptions and/or other information demonstrating that each course meets the requirements of this subdivision. Upon concluding that the applicant has submitted sufficient proof of compliance with this subdivision, the Court shall issue a determination to that effect.

(3) Pro Bono Scholars Program. An applicant who has successfully completed the Pro Bono Scholars Program as prescribed in section 520.16 of this Part shall be deemed to have met the skills competency requirement.

(4) Apprenticeship. An applicant may complete a six-month full-time paid or unpaid apprenticeship in a law office in the United States, under the

supervision of one or more attorneys who have, for at least two years, been admitted to practice and in good standing in the jurisdiction where the apprenticeship occurs. For an applicant who is unable to secure an apprenticeship in the United States, the applicant may complete the apprenticeship in a law office in another country, or territory or commonwealth outside the continental United States, under the supervision of one or more attorneys who have, for at least two years, been in good standing and authorized to practice law in that country, territory or commonwealth. In countries, territories or commonwealths that permit the practice of law without formal admission, supervision by a law graduate who has not been formally admitted to the bar may suffice as long as the supervisor is authorized to engage in the relevant practice under the jurisdiction's rules, is in full compliance with the jurisdiction's rules, and has had at least two years of experience in the relevant practice.

- (i) Timing. The apprenticeship shall be continuous for the six-month period, and shall commence after the conclusion of the applicant's law studies, except that an applicant who is required to complete an LL.M. program at an approved law school pursuant to section 520.6(b) of this Part may complete the apprenticeship before commencing the LL.M. program. The apprenticeship must be completed in its totality within the three-year application filing deadline provided in section 520.12(d) of this Part.
- (ii) Supervisor responsibilities. The apprenticeship supervisors are responsible for (1) certifying the beginning and ending dates of the apprenticeship; (2) providing the applicant with an initial orientation session; (3) implementing a system for assignment that assures that the applicant is actually engaged in the performance of legal work, including a diversity of tasks, as part of the ongoing practical work of the law office during normal business hours and throughout the required period; (4) providing the applicant with experience and guidance in the skills and values required for basic competence and

ethical participation in the legal profession; (5) giving timely oral and written feedback to the applicant; (6) engaging the applicant in reflection on his/her experiences and learning during the apprenticeship; and (7) certifying that the preceding elements have been complied with, and that the applicant has satisfactorily completed the apprenticeship.

(iii) Any apprenticeship completed under this paragraph shall be conducted in compliance with all applicable federal, state and local laws and regulations.

(5) Practice in another jurisdiction. An applicant who has been authorized to practice law in another United States jurisdiction or any other country, or territory or commonwealth outside the continental United States may satisfy the skills competency requirement by establishing and submitting proof that the applicant has been in good standing and practiced law in that jurisdiction full-time for at least one year or half-time for two years following the applicant's authorization to practice. Prior legal practice may qualify even if it occurred without formal admission to the bar if the applicant engaged in lawful practice in a country, territory or commonwealth that permits legal practice without formal admission to the bar, and if the prior practice was for at least one year or half-time for two years, in full compliance with the jurisdiction's rules. For an applicant who qualifies for the bar exam after completion of an LL.M. degree pursuant to section 520.6 of this Part, the applicant's practice may occur before or after commencement of the LL.M. program.

(b) Proof Required. An applicant shall submit to the appropriate Appellate Division department of Supreme Court an Affidavit of Compliance with the Skills Competency Requirement. The Appellate Division may, in its discretion, require the applicant to submit any additional proof it deems necessary to ensure compliance with this section.

(c) Implementation. For applicants who qualify for the bar examination under section 520.3 of this Part, and for applicants who qualify for the bar examination under section 520.6 of this Part on the basis of their foreign legal education alone, the requirements of this

section shall first apply to those commencing their law study after August 1, 2016. For applicants who qualify for the bar examination under section 520.6 of this Part after the completion of a qualifying LL.M. program, the requirements of this section shall first apply to those commencing their LL.M. program after August 1, 2018.