State of New York
Court of Appeals

Clerk of the Court

Clerk's Office
Albany, New York 12207-1095

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.