



EXTERNSHIPS

AND

JUDICIAL EXTERNSHIPS

BRIEF GUIDE FOR SUPERVISING
ATTORNEYS

2018-2019

Externships and judicial externships are great opportunities for law students to learn by working with practicing attorneys in our community. The School of Law is very grateful for the wonderful array of opportunities and experience that our externship and judicial externship hosts provide. In return, our hosts benefit from the students' energy and assistance.

Because law students receive three or more credits for working in not-for-profit and governmental offices, there are curricular, substantive and administrative requirements for the Law School, placement supervising attorneys (the "Supervisor") and students. Each externship or judicial externship is an ongoing class that is established in conjunction with the Externship Program Director and the Supervisor.

The American Bar Association accreditation rules for law schools and the faculty of the Law School requires, among other things, that the externship program have a method for selecting, training, evaluating, and communicating with placement Supervisors; conduct periodic site visits or their equivalent; and offer students opportunities for reflection on their field placement experiences, through seminars, tutorials, or other means. (The ABA Standard for Approval of Law Schools 304: Simulation Courses, Law Clinics and Field Placements is attached as Appendix A for your reference.)

Development and Placement

Law school externships and judicial externships are available only at pre-approved non-profit legal offices and governmental law offices.

Externships and judicial externships are not assigned on an *ad hoc* basis. Rather, placement offices are pre-screened and pre-approved and are listed in our course registration materials. Each externship and judicial externship requires faculty supervision and is a class for which all qualified students may apply.

The placement officer and student must strive to:

- Provide students a real-world environment that is educational;
- Provide students hands-on legal assignments that will help them develop legal skills that they need for their future careers;
- Have sufficient space to accommodate a student in the office;
- Have sufficient time to meet with students each week and provide instruction and constructive feedback on their performance.

Selection of Students

Because University at Buffalo School of Law is granting credit to student externs and judicial externs, and in order to allow all students a fair chance at admission to externships and judicial externships, the law school will select the students for each placement from among the students who apply for the particular externship or judicial externship. The screening process for the externship and judicial externship program typically includes a review of the student's law school transcript, resume, and a writing sample to ensure that the student is succeeding in legal studies, meets any skills requirements or prerequisites, and to determine if the student has any relevant job experience. If externship or judicial externship Supervisors requested that students have particular skills, experience or have taken specific courses, the Externship Program Director and placement Supervisor will have addressed those requests prior to finalization of the student selection.

Externship Work Requirements

In order to receive credit, students must primarily perform legal work, including conducting traditional legal research; writing memoranda, briefs, and white papers on legal issues; performing legislative research; responding to inquiries on legal issues or that require legal research; and observing or assisting in court or agency-based litigation proceedings and other client interactions. Although some clerical tasks may be part of any legal project, students may not spend a significant amount of time on non-legal work. Students in certain placements may be admitted to the limited supervised practice of law pursuant to New York's Judiciary Law and Court Rules. Specifically, Judiciary Law Sections 478 and 484 allow legal aid organizations and government agencies to petition for student practice authorization pursuant to a program approved by the Appellate Division. (See Appendix B.) **If you would like assistance drafting a petition for a Practice Order for your student please call the Externship Office and we will assist you with preparing the documents. Should you desire to use a Practice Order frequently, we suggest you ask us to begin assisting with the petition prior to the semester starting because it can take several weeks before the Appellate Division grants it.**

In addition, the students must work primarily in the externship or judicial externship host's office, except when research, court or agency proceedings, or other work-related requirements take the student out of the office. This means there must be an appropriate workspace in the placement's facility that the student uses. The student may not work in another organization's offices, even if the other organization contracts with the host office.

Student Responsibilities

A typical three-credit externship or judicial externship requires students to work a regular schedule totaling 135 hours over the course of the twelve-week semester, although the requirements may vary, depending on the academic credits awarded and the particular requirements of an externship or judicial externship. For the six-week summer session, the hours worked per week would double for most placements. The students determine their schedules in conjunction with their Supervisors. The students may not be paid for their work because they are receiving academic credit for the work they do.

Students provide the Externship Program Director with weekly reports concerning their work, without breaching any confidentiality restrictions. Students must comply with any schedules, processes, confidentiality requirements and any other work-related responsibilities of their host offices.

New York State has adopted a Pro Bono Requirement for Bar Admission, applicable to those who apply for admission to the New York Bar on or after January 1, 2015. (See Rule 520.16 of the Rules of the New York Court of Appeals for the Admission of Attorneys and Counselors at Law, Appendix C.) Many current law students will rely on the fieldwork performed in their externship placements to meet this new requirement. Supervisors should be prepared to certify such student work, in compliance with Rule 520.16. (See sample affidavit at Appendix C.)

Students will also ask their Supervisors to complete a "Law-Related Employment" affidavit which they will later submit with their application for admission to the bar. (See sample affidavit at Appendix D.)

Responsibilities of Supervisors

Supervisors are an essential part of the education and professional development of student externs. The Supervisor must be an attorney. Because students receive academic credit for their fieldwork, it is essential that they have opportunities to observe and participate in the legal work of the placement, receive clear and challenging assignments, and are provided with ongoing instruction and feedback. Supervisors, therefore, should have sufficient experience and expertise to enable them to guide and counsel student externs.¹ Attorneys are also ethically responsible to

¹ Subject to CLE Board approval, Supervisors may be entitled to receive CLE credit for actively teaching and supervising students one-on-one in an externship in accordance with NYS CLE requirements.

adequately supervise students as non-lawyers under the Rules of Professional Conduct. (See Rules 5.1 and 5.3 at Appendix E.) The following is offered to assist you in carrying out your duties as a Supervisor.

The Supervisor must be available on-site to provide and explain assignments, teach students the substantive law and skills necessary to complete the assignments, answer questions, and give substantive feedback on student work. If the Supervisor is unavailable when a student is scheduled to be in the office, appropriate assignments and instructions should be left, and alternative supervising attorney coverage should be arranged.

A student may work with one or more attorneys in a particular placement or on a particular assignment, but the office should designate one attorney as the student's Supervisor. This attorney is responsible for keeping track of the student's work assignments and for communicating with every attorney who assigns work to the student as well as the Externship Program Director and Administrator.

A. Assignments Generally

Students should be assigned a variety of meaningful lawyering tasks. Such tasks may include, with appropriate supervision: legal research; drafting of documents, such as affidavits, memoranda or briefs; interviewing and counseling clients; negotiating; and observing, assisting with, or providing advocacy in court proceedings in accordance with jurisdictional requirements,

B. Student Involvement

Students should be included in activities of the office to the greatest extent possible. They should be invited, as appropriate, to attend meetings, attorney conferences, and administrative hearings and trials, either as observers or active participants.

C. Evaluations

Supervisors are expected to meet with each student on a regular basis, and more formally at the mid-point of each semester, to discuss the strengths and weaknesses of the student's performance. The Supervisor at that time will also evaluate each student who worked at the placement in writing. It is critical that you review your evaluation of the student extern with him/her and discuss ways they can further improve their legal skills during the remainder of the semester. (The evaluation form is attached at Appendix F and will be sent to you via email at the appropriate time by the Externship Program Administrator.)

Students are graded on a pass/fail system by the Externship Program Director after receiving the Supervisor's evaluations, confirming their hours are complete, and reviewing the student's reflective assignments throughout the semester.

D. Initial Supervisory Meeting

The Supervisor should schedule an initial meeting with the student at the beginning of the first week in order to orient the student to the nature of the work and the set-up of the office and to set the tone for the Supervisory relationship. In particular, the following issues should be addressed with each student at the start of the fieldwork:

1. Confidentiality and Professional Responsibility

Professional obligations such as maintaining confidentiality and avoiding and managing conflicts of interest must be taught to the students at the outset of the placement. It is important to note that this may be the first time some students experience these professional obligations. If there are particular ethical policies that govern your office, please share them, as well. Students also should be informed of the title they are expected to use on communications, e.g., "law student intern" or "legal clerk."

2. The Function of the Agency, Office, or Organization

Although your office or organization's role within the legal system may seem obvious to you, it may not be so clear to the student. A description of the services provided by your office, the organization's clients (if relevant), and the particular subject matter that the office focuses on, should be provided. This will help orient the student extern to his/her new work environment.

3. The Student's Role in the Office

Students should be informed about the nature of the assignments they might expect during the semester and the particular cases or projects on which they might be expected to work. Students should be advised of the chain of command for assignments, i.e., from whom they should accept work. It is always best if assignments go through the Supervisor, even when a student works with other attorneys in performing a task. Students should be informed about the review process for their work and whether there are any tasks they may carry out without a Supervisor's review or approval.

4. Relevant Office Policies and Chain of Command

Students should be made aware of relevant office policies such as dress code, use of office equipment, and permitted use of resources, including if relevant, the use of technology and electronic research databases. Each student should have his/her

individual workspace. It is important to also advise others in the office where the student is situated.

Please take the time to show your students around your office. A tour should include a brief overview of the office space, including the library and other areas where resources for research are available. Any necessary computer training should be provided. Students need not be trained in Westlaw or Lexis, but should be given an orientation on office-specific programs, servers and data management. If the student is expected to interact with administrative staff they should be introduced to them and made aware of how to obtain administrative support on appropriate tasks.

Student Schedule

The Supervisor should work with the student to create a specific work schedule. Having such a schedule permits the student to develop a sense of commitment and responsibility, and to view his/her work as a regular part of the functioning of the office.

E. Explanation of Assignments

At the conclusion of the initial meeting, you should give your student his/her first assignment. Please take the time to explain the assignment in detail as addressed below.

An assignment can be traditional: research a legal issue and write a formal memo detailing the analysis and results; or more experiential: attend a hearing and take formal notes. Nearly anything a Supervisor does in daily practice can lead to an assignment for a student. Preparing for trial? Assign cross-examination prep packets to the student and use their skills with social media to find background on a witness. Later in the semester, assign the student observation of the actual cross-examination. A mix of long and short term projects can be given to the student.

But for the assignment to be useful to both the Supervisor and the student certain details must be discussed. A thorough discussion of these details is the first step in the student's successful completion of a project. Most importantly, the student must understand how the assignment fits into the overall practice and the specific matter in order for the student to learn legal skills. Below is a useful checklist for Supervisors to refer to when assigning projects:

- Have you explained how the assignment fits into the overall case, project, mission, etc.?
- Have you explained the assignment keeping in mind the relative inexperience of the student?
 - Remember to confirm students understand terms of art and

abbreviations common to your practice.

- Have you provided deadlines for drafts of written product? Final product?
- Have you communicated how much time you expect the student to spend on the project?
 - In doing so, have you confirmed the student has time for the project and can complete it by the deadline along with other pending assignments? Can you help the student prioritize the pending assignments?
- Have you communicated the format you require or prefer?
- Have you provided any examples to assist the student in understanding your expectations?
- Have you provided guidance in terms of starting points or office resources so the student doesn't "reinvent the wheel"?
- Have you given the student an opportunity to ask questions? Have you provided a method for follow-up questions? Have you told the student who to go to for guidance if you are not available?
 - Many students are afraid to ask questions lest they be perceived as inadequate. By communicating your availability, you alleviate the fear that asking a question demonstrates incompetence.

When an assignment consists of observing a court appearance, client interview, deposition, negotiation, mediation, or presentation to other attorneys or clients it is helpful to explain whether any product from the student will be expected. The product may be notes of the event, a task list of next steps, or a summary of the student's reaction to the legal context of the event. After an observation, the Supervisor should meet with the student to discuss any questions the student may have and explain any key decisions made during the event that the student may not have directly perceived.

F. Provision of Feedback

Supervisors are expected to make sufficient time to provide individual specific feedback on student work. It is in the Supervisor's interest to give effective feedback that a student can "hear" without becoming defensive so that the student will provide useful work product to the Supervisor. Giving feedback may take time, but is an investment which will save you time in the future when students are able to improve their work product. In addition, it is from feedback that the students learn and thus is a crucial component of the externship.

Effective feedback consists of providing specific information about the effectiveness of a student's performance and, when necessary, suggesting alternatives to enhance future performance. It should motivate a student to strive to improve their work and educate them as to the skills needed for successful legal practice. Here is a helpful list of requirements for useful feedback:

- *Start with a positive comment.* People tend to be more open to constructive criticism if they hear it after being reassured of their "worth." In every performance, there is something that can be praised.
- *Be specific.* Relate your critique to specific events in the student's performance. (I.e., "To do this well, you need to take accurate, detailed notes during the interview.")
- *Be constructive,* If you offer negative feedback, don't just criticize but suggest alternatives of what the person could have done differently. Focus your critique on an area you think the student will be able to improve.
- *Be honest.* Your job is not to be popular, but to help the student improve. Tell it like it is, but be supportive. Note what was done well, but only if it was done well.
- *Take responsibility for your critique.* Present the critique in the first person ("I think..."; "In my experience..."; "I think the practice is..."). Avoid presenting points of critique as universal principles unless, of course, they are (i.e., "Never address the court as 'Hey, dude!'").
- *Make the student a partner in the critique.* Ask questions: "What were you trying to achieve?"; "What do you think went wrong?"; "What alternative approaches might you have tried?"

University at Buffalo School of Law Contacts

If you have any questions on the information provided in this brief guide, or need any assistance with your externship program please contact:

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APPENDICES

- A. ABA Standard for Approval of Law Schools 304: Simulation Courses, Law Clinics, and Field Placements
- B. New York State Student Practice Rules at N.Y. Jud. L. §§ 478, 484
- C. New York Pro Bono Requirement for Bar Admission (22 NYCRR §520.16)
Affidavit of Compliance, and Frequently Asked Questions publication
- D. Form Affidavit as to Applicant's Law Related Employment, New York Bar Admission Application
- E. New York Professional Rules of Conduct 5.1 and 5.3
- F. Evaluation of Student Extern

APPENDIX A

Standard 304. SIMULATION COURSES, LAW CLINICS, AND FIELD PLACEMENTS

(a) A simulation course provides substantial experience not involving an actual client, that (1) is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a set of facts and circumstances devised or adopted by a faculty member, and (2) includes the following:

- (i) direct supervision of the student's performance by the faculty member;
- (ii) opportunities for performance, feedback from a faculty member, and self-evaluation; and
- (iii) a classroom instructional component.

(b) A law clinic provides substantial lawyering experience that (1) involves advising or representing one or more actual clients or serving as a third-party neutral, and (2) includes the following:

- (i) direct supervision of the student's performance by a faculty member;
- (ii) opportunities for performance, feedback from a faculty member, and self-evaluation; and
- (iii) a classroom instructional component.

(c) A field placement course provides substantial lawyering experience that (1) is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a setting outside a law clinic under the supervision of a licensed attorney or an individual otherwise qualified to supervise, and (2) includes the following:

- (i) direct supervision of the student's performance by a faculty member or site supervisor;
- (ii) opportunities for performance, feedback from either a faculty member or a site supervisor, and self-evaluation;
- (iii) a written understanding among the student, faculty member, and a person in authority at the field placement that describes both (A) the substantial lawyering experience and opportunities for performance,

ABA Standards and Rules of Procedure for Approval of Law Schools 2016-2017

feedback and self-evaluation; and (B) the respective roles of faculty and any site supervisor in supervising the student and in assuring the educational quality of the experience for the student, including a clearly articulated method of evaluating the student's academic performance;

- (iv) a method for selecting, training, evaluating and communicating with site supervisors, including regular contact between the faculty and site supervisors through in-person visits or other methods of communication that will assure the quality of the student educational experience. When appropriate, a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program;
- (v) a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection; and
- (vi) evaluation of each student's educational achievement by a faculty member.; and
- (vii) sufficient control of the student experience to ensure that the requirements of the Standard are met. The law school must maintain records to document the steps taken to ensure compliance with the Standard, which shall include, but is not necessarily limited to, the written understandings described in Standard 304(c)(iii).

(d) Credit granted for such a simulation, law clinic, or field placement course shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.

(e) Each student in such a simulation, law clinic, or field placement course shall have successfully completed sufficient prerequisites or shall receive sufficient contemporaneous training to assure the quality of the student educational experience.

Interpretation 304-1

To qualify as an experiential course under Standard 303, a simulation, law clinic, or field placement must also comply with the requirements set out in Standard 303(a)(3).

http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2016_2017_standards_chapter3.authcheckdam.pdf

APPENDIX B

NYS Judiciary Law §478

§478. Practicing or appearing as attorney-at-law without being admitted and registered.

It shall be unlawful for any natural person to practice or appear as an attorney-at-law or as an attorney and counselor-at-law for a person other than himself or herself in a court of record in this state, or to furnish attorneys or counsel or an attorney and counsel to render legal services, or to hold himself or herself out to the public as being entitled to practice law as aforesaid, or in any other manner, or to assume to be an attorney or counselor-at-law, or to assume, use, or advertise the title of lawyer, or attorney and counselor-at-law, or attorney-at-law or counselor-at-law, or attorney, or counselor, or attorney and counselor, or equivalent terms in any language, in such manner as to convey the impression that he or she is a legal practitioner of law or in any manner to advertise that he or she either alone or together with any other persons or person has, owns, conducts or maintains a law office or law and collection office, or office of any kind for the practice of law, without having first been duly and regularly licensed and admitted to practice law in the courts of record of this state, and without having taken the constitutional oath. Provided, however, that nothing in this section shall be held to apply

(1) to officers of societies for the prevention of cruelty to animals, duly appointed, when exercising the special powers conferred upon such corporations under section fourteen hundred three of the not-for-profit corporation law; or

(2) to law students who have completed at least two semesters of law school or persons who have graduated from a law school, who have taken the examination for admittance to practice law in the courts of record in the state immediately available after graduation from law school, or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, acting under the supervision of a legal aid organization when such students and persons are acting under a program approved by the appellate division of the supreme court of the department in which the principal office of such organization is located and specifying the extent to which such students and persons may engage in activities otherwise prohibited by this statute; or

(3) to law students who have completed at least two semesters of law school, or to persons who have graduated from a law school approved pursuant to the rules of the court of appeals for the admission of attorneys and counselors-at-law and who have taken the examination for admission to practice as an attorney and counselor-at-law immediately available after graduation from law school or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, when such students or persons are acting under the supervision of the state or a subdivision thereof or of any officer or agency of the state or a subdivision thereof, pursuant to a program approved by the appellate division of the supreme court of the

department within which such activities are taking place and specifying the extent to which they may engage in activities otherwise prohibited by this statute and those powers of the supervising governmental entity or officer in connection with which they may engage in such activities; or

(4) an attorney and counselor-at-law or the equivalent who is admitted to the bar in another state, territory, district or foreign country and who has been admitted to practice pro hac vice in the state of New York within the limitations prescribed in the rules of the court of appeals; or (5) an attorney licensed as a legal consultant under rules adopted by the court of appeals pursuant to subdivision six of section fifty-three of this chapter and rendering legal services in the state within limitations prescribed in such rules.

NYS Judiciary Law §484

§484. None but attorneys to practice in the state.

No natural person shall ask or receive, directly or indirectly, compensation for appearing for a person other than himself as attorney in any court or before any magistrate, or for preparing deeds, mortgages, assignments, discharges, leases or any other instruments affecting real estate, wills, codicils, or any other instrument affecting the disposition of property after death, or decedents' estates, or pleadings of any kind in any action brought before any court of record in this state, or make it a business to practice for another as an attorney in any court or before any magistrate unless he has been regularly admitted to practice, as an attorney or counselor, in the courts of record in the state; but nothing in this section shall apply

(1) to officers of societies for the prevention of cruelty to animals, duly appointed, when exercising the special powers conferred upon such corporations under section fourteen hundred three of the not-for-profit corporation law; or

(2) to law students who have completed at least two semesters of law school or persons who have graduated from a law school, who have taken the examination for admittance to practice law in the courts of record in the state immediately available after graduation from law school, or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, acting under the supervision of a legal aid organization, when such students and persons are acting under a program approved by the appellate division of the supreme court of the department in which the principal office of such organization is located and specifying the extent to which such students and persons may engage in activities prohibited by this statute; or

- (3) to persons who have graduated from a law school approved pursuant to the rules of the court of appeals for the admission of attorneys and counselors-at-law and who have taken the examination for admission to practice as an attorney and counselor-at-law immediately available after graduation from law school or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, when such persons are acting under the supervision of the state or a subdivision thereof or of any officer or agency of the state or a subdivision thereof, pursuant to a program approved by the appellate division of the supreme court of the department within which such activities are taking place and specifying the extent to which they may engage in activities otherwise prohibited by this statute and those powers of the supervising governmental entity or officer in connection with which they may engage in such activities; or
- (4) an attorney and counselor-at-law or the equivalent who is admitted to the bar in another state, territory, district or foreign country and who has been admitted to practice pro hac vice in the State of New York within the limitations prescribed in the rules of the court of appeals; or
- (5) an attorney licensed as a legal consultant under rules adopted by the court of appeals pursuant to subdivision six of section fifty-three of this chapter and rendering legal services in the state within limitations prescribed in such rules.

APPENDIX C

Court of Appeal Rules

22 NYCRR §520.16 Pro Bono Requirement for Bar Admission

(a) Fifty-hour pro bono requirement. Every applicant admitted to the New York State bar on or after January 1, 2015, other than applicants for admission without examination pursuant to section 520.10 of this Part, shall complete at least 50 hours of qualifying pro bono service prior to filing an application for admission with the appropriate Appellate Division department of the Supreme Court.

(b) Pro bono service defined. For purposes of this section, pro bono service is supervised pre-admission law-related work that:

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

- (i) persons of limited means;
- (ii) not-for-profit organizations; 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;

(2) assists in the provision of legal assistance in public service for a judicial, legislative, executive or other governmental entity; or

(3) provides legal services pursuant to subdivisions two and three of section 484 of the Judiciary Law, or pursuant to equivalent legal authority in the jurisdiction where the services are performed.

(c) Supervision required. All qualifying pre-admission pro bono work must be performed under the supervision of:

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

(2) an attorney admitted to practice and in good standing in a jurisdiction, provided that the supervisory work does not violate any statute, regulation or code regarding the unauthorized practice of law; or

(3) in the case of a clerkship or externship in a court system, by a judge or attorney employed by the court system.

(d) 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, the District of Columbia, or any foreign country.

(e) Timing of pro bono service. The 50 hours of pro bono service must be performed on or after May 1, 2012 and after the commencement of the applicant's legal studies, and prior to filing an application for admission to the New York State bar. However, if the applicant attended an approved law school as defined in section 520.3(b) of this

Part and will be admitted on or before December 31, 2015, eligible pro bono work may have been performed before May 1, 2012, provided it was performed after the commencement of the applicant's legal studies.

(f) Proof required. Every applicant for admission shall file with the appropriate Appellate Division department an Affidavit of Compliance with the Pro Bono Requirement, describing the nature and dates of pro bono service and the number of hours completed. The Affidavit of Compliance shall include a certification by the supervising attorney or judge confirming the applicant's pro bono activities. For each position used to satisfy the 50-hour requirement, the applicant shall file a separate Affidavit of Compliance.

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

[http://www.courts.state.ny.us/ATTORNEYS/probono/
AppForAdmission_Pro-BonoReq_Fillable.pdf](http://www.courts.state.ny.us/ATTORNEYS/probono/AppForAdmission_Pro-BonoReq_Fillable.pdf)

**NEW YORK STATE BAR ADMISSION: PRO BONO REQUIREMENT
FAQs (September 24, 2015 rev²)**

Purposes and Goals

- 1. What is the Pro Bono Requirement?**
- 2. When does the Pro Bono Requirement take effect for law students attending an American Bar Association-approved law school?**
- 3. When does the Pro Bono Requirement take effect for those who qualify to take the bar examination pursuant to Court of Appeals Rule 520.6 based on a qualifying foreign law degree or a foreign first degree in law together with a qualifying LL.M. degree from an American Bar Association-approved law school in the United States?**
- 4. If I am seeking to obtain an LL.M. degree at an American Bar Association-approved law school in the United States under Court of Appeals Rule 520.6, when can I perform my 50 hours of pro bono service?**
- 5. When does the Pro Bono Requirement take effect for those who qualify to take the bar examination pursuant to Court of Appeals Rule 520.5 based on graduation from a law school not approved by the American Bar Association?**
- 6. When does the Pro Bono Requirement take effect for those who qualify to take the bar examination pursuant to Court of Appeals Rule 520.4 based on successful completion of one year at an American Bar Association-approved law school and a clerkship at a New York law office?**
- 7. Who is required to fulfill the Pro Bono Requirement?**
- 8. When can I begin to fulfill the Requirement?**
- 9. When do my required hours of qualifying pro bono work need to be completed? When and where do I file the Form Affidavit of Compliance?**
- 10. Where can my pro bono work be performed?**

² This revision to the FAQs (previously updated on September 17, 2014 to include a modification in the first paragraph of the "Purposes and Goals" section; amendments to FAQs 1, 2, 4, 7, 11, 12, 13, 19, and 20; insertion of new FAQs 25 and 26; renumbering of former FAQs 25 through 43, which are now 27 through 45; and additional revisions to renumbered FAQs 31 and 35, which were formerly 29 and 33). On March 11, 2015, FAQ 2(a) and 2(b) were amended with respect to the start date for qualifying pro bono work. In September 2015, FAQs 4, 11, and 13 were amended, and FAQs 42 through 44 were renumbered.

11. Since I am a student not yet admitted to the bar, what types of work may I perform in furtherance of the objectives of the Pro Bono Requirement?
12. What types of projects will meet this Requirement?
13. To what extent is supervision necessary?
14. If I perform pro bono work in a country other than the United States, are there additional requirements?
15. Do all the hours that I spend working at a qualifying law school clinic count? If I receive academic credit for my participation in the clinic, does that disqualify my work?
16. If I receive a stipend or grant from my law school or a third party in connection with a law school sponsored internship or externship, does that disqualify my work?
17. Does legal research for a law professor qualify?
18. If I participate in a survey project involving the questioning of litigants, will those hours satisfy the 50-hour Rule?
19. If I participate in a program that provides assistance in completing federal or state tax forms, will those hours qualify?
20. Will participation in a mediation program qualify?
21. If I act as an interpreter or provide translation services involving a person receiving pro bono services, can I count that time toward my 50-hours?
22. Will participation in a student-directed pro bono project count?
23. Will work on a pro bono project that is not sponsored by my law school qualify?
24. Will volunteer work on a political campaign, the collection or review of signatures on petitions, work as a poll inspector for elections or work on election litigation qualify? Will assisting with litigation involving an election or a candidate's qualification for nomination, election or office qualify? Will legal research for a political group qualify?
25. Will volunteer legal work for a labor union qualify?
26. Will volunteer legal work for a religious organization qualify?
27. If I am hired for a summer position or for a part-time position during the academic year at a law firm, a legal services provider or a government agency and I am paid a salary, will my work on pro bono matters qualify?

28. May I count qualifying work performed in a full-time salaried position with a law firm, government agency or legal services provider following law school graduation?
29. Does community service qualify?
30. Does participation as a mentor or organizer in a mock trial program for high school or college students qualify? Does organizing a moot court competition at my law school qualify?
31. May I work on more than one project to achieve my 50 hours?
32. Does time spent on administrative tasks incidental to the work, such as photocopying or transportation, qualify?
33. If my law school has a mandatory pro bono requirement for graduation, can the hours that I work to meet the school's requirement also be used toward the Pro Bono Requirement?
34. How do I demonstrate compliance with the Pro Bono Requirement?
35. What is the process for getting my Form Affidavit of Compliance notarized?
36. When should my supervisor sign my Affidavit of Compliance?
37. If I work at more than one program, do I need to complete more than one form affidavit?
38. If I work on more than one matter at a legal services provider or firm, do I need to supply an Affidavit of Compliance for each case or matter?
39. Can a photocopy or digital, electronic copy of my Affidavit of Compliance be filed with my admission application to the appropriate Appellate Division?
40. May I complete my form at the time I conclude a pro bono project, even if it is before I am applying for admission?
41. Where do I obtain the necessary form(s)?
42. What kind of records should I keep and for how long?
43. Will special hardship waivers be granted relieving persons from having to comply with the Pro Bono Requirement? Do I need to satisfy the Pro Bono Requirement if I'm enrolled in an evening course of law study and I have a full-time day job? Do I need to satisfy the Pro Bono Requirement if I am completing an LL.M. degree in order to qualify to take the New York bar examination?
44. If I have a question not addressed in these FAQs, where can I seek assistance?

Purposes and Goals

On Law Day, May 1, 2012, Chief Judge Jonathan Lippman announced a new initiative aimed at providing additional legal resources to expand access to justice for low-income New Yorkers. After describing his success in securing additional funding for civil legal services providers in the state and acknowledging other efforts to ensure equal access to justice, the Chief Judge explained that more was needed and, in the future, prospective attorneys would be required to spend 50 hours performing pro bono work as a requirement for admission to practice law in New York State.

As emphasized by Chief Judge Lippman, it has become increasingly difficult to provide equal justice for all New York citizens:

"We are facing a crisis in New York and around the country. At a time when we are still adjusting to the realities of shrinking state coffers and reduced budgets, more and more people find themselves turning to the courts. The courts are the emergency rooms of our society -- the most intractable social problems find their way to our doors in great and increasing numbers. And more and more of the people who come into our courts each day are forced to do so without a lawyer."

Millions of litigants each year in New York State are navigating the complexities of the court system unassisted by an attorney:

"The new pro bono service requirement for admission to the New York bar serves to address the state's urgent access to justice gap, at the same time helping prospective attorneys build valuable skills and imbuing in them the ideal of working toward the greater good. It is so important that the next generation of lawyers in New York embraces the core values of our profession that so fundamentally include pro bono legal assistance."

Lawyers have a professional responsibility to promote greater access to justice. "As far back as judges and lawyers have existed, the pursuit of equal justice for all, rich and poor alike, has been the hallmark of our profession," the Chief Judge explained. Each attorney has an obligation to foster the values of justice, equality, and the rule of law, and it is imperative that law students gain a recognition of this obligation as part of their legal training.

The pro bono requirement for bar admission is intended to have several beneficial outcomes. In addition to easing the gap in legal assistance, another goal is to provide instructive and meaningful experiences to law students that will expose them to the pressing needs of the less fortunate. This will instill a deeper understanding of the problems confronted by those segments of society that have little access to legal resources and institutions. These pro bono experiences hopefully will encourage law students to continue with volunteer pro bono services after they are admitted, and help prospective lawyers acquire hands-on skills under the supervision of committed members of the legal profession. Attorneys who engage in pro bono legal services derive considerable personal satisfaction from their volunteer efforts, and this initiative hopes to inculcate those same intrinsic rewards in lawyers-in-training.

The proposed Pro Bono Requirement rule was formulated by the Advisory Committee on Pro Bono Bar Admission Requirements (http://www.nycourts.gov/press/pr2012_03.shtml), which took into account the views and comments of law schools in New York and throughout the country, bar associations, attorneys, law students, providers of legal services to low-income individuals and other interested parties. The Administrative Board of the New York Courts reviewed and approved the Committee's recommendations, and the Court of Appeals adopted section 520.16 to Part 520 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law, which sets forth the 50-hour requirement (see 22 NYCRR 520.16).

* * *

The following frequently asked questions (FAQs) address key inquiries about who must comply with the Pro Bono Requirement for admission to the bar in New York, what types of work qualify, when the qualifying pro bono work is to be performed, what documentation is necessary and when an applicant for admission must file the required documentation. These FAQs are intended to provide general guidance. In the event of any conflict between the information contained in these FAQs and the text of section 520.16, the latter controls.

NEW YORK'S PROBONO REQUIREMENT FOR ADMISSION TO THE BAR

1. What is the Pro Bono Requirement?

Pursuant to Rule 520.16 of the Rules of the Court of Appeals, applicants who successfully pass the bar examination in New York State must demonstrate that they have performed 50 hours of qualifying pro bono service before applying for admission to practice. The full text of Rule 520.16 is available at <http://www.nycourts.gov/ctapps>.

2. When does the Pro Bono Requirement take effect for law students attending an American Bar Association-approved law school?

Whether a law student must perform 50 hours of qualifying pro bono service depends on the student's estimated date of admission to the New York bar, as explained below:

- a. Any applicant seeking to be admitted to practice in New York based on successful passage of the bar examination must satisfy the 50-hour Requirement if the applicant's admission will occur after January 1, 2015. Only eligible pro bono work performed on or after May 1, 2012 will satisfy the Rule. However, if the applicant will be admitted on or before December 31, 2015, eligible pro bono work may be performed before May 1, 2012, provided it is performed after the commencement of the applicant's legal studies. By way of example, any student who commenced legal studies at an ABA approved law school in the Fall of 2012, or any time after that date, will be required to satisfy the Pro Bono Requirement before admission to the New York bar. The Requirement need not be fulfilled before a law student applies to take the New York bar examination; rather, the 50 hours must be completed before filing an application for admission.
 - b. If you were enrolled at an ABA-approved law school in 2011 and you expect to be admitted to practice in New York after January 1, 2015, you will need to complete 50 hours of qualifying pro bono work before you apply for admission to the New York bar. Only eligible pro bono work performed on or after May 1, 2012 will satisfy the Rule. However, if the applicant will be admitted on or before December 31, 2015, eligible pro bono work may be performed before May 1, 2012, provided it is performed after the commencement of the applicant's legal studies. For instance, if you graduated in May 2014 and you took the New York bar examination in July 2014, you will most likely apply for admission sometime this autumn. You will likely be admitted after January 1, 2015. Therefore, you will need to show that you have satisfied the 50-hour rule when you apply for admission.
 - c. Law school graduates who pass the bar examination and are admitted to the New York bar before January 1, 2015 are not subject to the Pro Bono Requirement. If you graduated from law school in the spring of 2013 and you took and passed the July 2013 New York bar examination, you will not need to satisfy the Pro Bono Requirement, provided that you achieve admission to practice in calendar year 2014. If for any reason your admission occurs after January 1, 2015, you will need to comply with the Pro Bono Requirement.
3. **When does the Pro Bono Requirement take effect for those who qualify to take the bar examination pursuant to Court of Appeals Rule 520.6 based on a qualifying foreign law degree or a foreign first degree in law together with a qualifying LL.M. degree from an American Bar Association approved law school in the United States?**

Applicants who qualify for the bar examination under Rule 520.6 are required to satisfy the Pro Bono Requirement if they plan to be admitted to practice law in New York State after January 1, 2015. You may complete your 50 hours of qualifying work in another state or country. However, for those seeking to take the bar examination based on a qualifying

foreign law degree, only eligible pro bono work performed on or after May 1, 2012 (the date the Requirement was announced), will satisfy the rule. For those seeking to take the bar examination based on a foreign first degree in law with a qualifying LL.M. degree from an American Bar Association-approved law school in the United States, please see FAQ 4.

4. If I am seeking to obtain an LL.M. degree at an American Bar Association-approved law school in the United States under Court of Appeals Rule 520.6, when can I perform my 50 hours of pro bono service?

Foreign-educated candidates planning to acquire an LL.M. degree from an American Bar Association-approved law school in the United States for the purpose of qualifying to take the New York bar examination under Court of Appeals Rule 520.6 may engage in their 50 hours of qualifying pro bono service up to one year before the commencement of the LL.M. course of study. Of course, such LL.M. candidates may perform some of all of their 50 hours of qualifying work in the United States, either during or after an LL.M. course of study. You may wish to wait until you have passed the New York bar examination before you engage in qualifying pro bono work, but the 50-hour Requirement must be completed before applying for bar admission.

Even if a foreign-educated applicant is admitted to practice in a foreign jurisdiction, the 50 hours of pro bono work must be law-related, and an attorney admitted to practice in a jurisdiction must complete the supervisor certification on the Affidavit of Compliance that must be filed with the applicant's admission application. Additionally, the supervisory work must not violate any statute, regulation or code regarding the unauthorized practice of law.

5. When does the Pro Bono Requirement take effect for those who qualify to take the bar examination pursuant to Court of Appeals Rule 520.5 based on graduation from a law school not approved by the American Bar Association?

Applicants who qualify for the bar examination under Rule 520.5 are required to satisfy the Pro Bono Requirement if they plan to be admitted to practice law in New York State after January 1, 2015. However, only qualifying pro bono work performed on or after May 1, 2012, will be eligible to satisfy the Rule.

6. When does the Pro Bono Requirement take effect for those who qualify to take the bar examination pursuant to Court of Appeals Rule 520.4 based on successful completion of one year at an American Bar Association-approved law school and a clerkship at a New York law office?

Applicants who qualify for the bar examination under Rule 520.4 are required to satisfy the Pro Bono Requirement if they plan to be admitted to practice law in New York State after January 1, 2015. However, only qualifying pro bono work performed on or after May 1, 2012, will be eligible to satisfy the Rule.

7. Who is required to fulfill the Pro Bono Requirement?

- a. With the exception of persons covered by subsection (b) of this FAQ, all individuals who are admitted to the New York bar after January 1, 2015 must demonstrate that they have completed 50 hours of qualifying pro bono work.
- b. The Pro Bono Requirement does not apply to attorneys who seek admission to the New York bar on motion under Rule 520.10 or those who are admitted pro hac vice under Rule 520.11.

8. When can I begin to fulfill the Requirement?

If you are currently a law student at an American Bar Association-approved law school, eligible pro bono work performed at any time after you commenced your legal education will qualify to meet the Requirement, as long as the work does not violate any of your law school's regulations or policies about student employment or volunteer activities.

9. When do my required hours of qualifying pro bono work need to be completed? When and where do I file the Form Affidavit of Compliance?

Your qualifying pro bono work must be completed before you submit your Application for Admission to the appropriate Appellate Division of the New York Supreme Court. In the First Department, your application may be filed after you have received your bar examination results and your certification of bar passage has been issued. In the Second, Third and Fourth Departments, your application may be filed after you have taken the bar examination, regardless whether your examination results have been announced. Be advised that the application and any further materials required by the Appellate Division and its Committee on Character and Fitness must be filed within three years from the date that you are notified by the New York State Board of Law Examiners that you have passed the bar examination (see 22 NYCRR 520.12). The three-year period will not be extended if an applicant has delayed satisfying the Pro Bono Requirement. After three years your bar examination score will be deemed stale and you must retake the bar examination.

Since compliance must be demonstrated as part of your application for admission, you will file the Form Affidavit of Compliance with your admission packet at the appropriate Appellate Division of the New York Supreme Court. The current Multi-Department Admission Packet can be viewed at the website of the New York State Board of Law Examiners:

<http://www.nybarexam.org/Admission/Admission.htm>

Note that the application and any further materials required by the Appellate Division and its Committee on Character and Fitness must be filed within three years from the date that you are notified by the New York State Board of Law Examiners that you have passed the New York bar examination.

10. Where can my pro bono work be performed?

Your 50 hours of pro bono work may be performed anywhere that is convenient for you, so long as the work complies with all other aspects of the Pro Bono Requirement. You may satisfy all or some of the 50 hours in another state or a foreign country, provided the nature and supervision of your service complies with the Pro Bono Requirement.

11. Since I am a student not yet admitted to the bar, what types of work may I perform in furtherance of the objectives of the Pro Bono Requirement?

a. First, your work tasks must be law-related. In other words, the work must involve the use of legal skills and law-related activities that are appropriate for lawyers-in-training not yet admitted to practice, and you must avoid the unauthorized practice of law. With adequate training and supervision, some examples of eligible activities include: helping a low-income person complete court forms; assisting an attorney with trial preparation; helping litigants prepare for court appearances; engaging in witness interviewing and investigation; drafting court or transactional documents; or engaging in legal research directly related to client representation. You may also perform law-related assignments or make court appearances that are authorized under student practice orders issued by the Appellate Division of the New York Supreme Court for the specific program in which you are performing pro bono work. Keep in mind that the primary purpose of the Pro Bono Requirement is to enhance the provision of legal resources available to persons who would otherwise not be able to access or afford legal assistance. Toward this objective, you should seek pro bono work with programs or entities that aim to improve access to justice, are engaged in the representation of low-income or disadvantaged individuals or provide government services in furtherance of these objectives.

- b. Second, your work must be performed under the supervision of:
- i. an attorney who is a member of the law school faculty, an adjunct faculty member or an instructor employed by a law school; or
 - ii. an attorney admitted to practice and in good standing with the appropriate licensing authority in a jurisdiction, provided that the supervisory work does not violate any statute, regulation or code regarding the unauthorized practice of law; or

- iii. in the case of a clerkship or externship in a court system, by a judge or an attorney employed by the court system. Your supervisor will need to certify the hours that you spent on pro bono work when you complete your Form Affidavit of Compliance with the Pro Bono Requirement as part of your admission application to the Appellate Division of the New York Supreme Court.

12. What types of projects will meet this Requirement?

In general, qualifying pro bono work should be performed in the service of low-income or disadvantaged individuals who cannot afford counsel and whose unmet legal needs prevent their access to justice; involves the use of legal skills for an organization that qualifies as tax-exempt under Internal Revenue Code § 501(c)(3); or involves the use of legal skills for the court system or federal, state or local government agencies or legislative bodies. The following are examples of the type of work that will qualify:

- a. Law school-sponsored clinics that provide legal assistance to those who cannot afford representation, such as clinics that:
 - i. assist individuals or families in matters involving the essentials of life -- housing, access to health care or educational services or the receipt of social services or other government assistance;
 - ii. represent the victims of domestic violence or elder abuse;
 - iii. represent persons with mental illness or disabilities;
 - iv. assist low-income persons with the preparation of tax returns if legal issues are involved;
 - v. represent incarcerated persons or pursue prisoner rights litigation;
 - vi. advocate for victims of alleged human rights violations or the protection of civil liberties;
 - vii. litigate on behalf of classes of individuals who could not otherwise afford representation;
 - viii. represent applicants at public assistance hearings, such as eligibility reviews or hearings for food stamp assistance; or
 - ix. assist individuals with the drafting and completion of their petitions in Family or Housing Courts.
- b. Externships or internship placements with a
 - i. not-for-profit provider of legal services for the poor and low-income individuals;
 - ii. law firm, only if the work is performed for a pro bono matter being handled by that firm

- and the pro bono client is not paying a fee;
- iii. not-for-profit organization described in FAQ 12(d) below, only if the work is related to a legal matter for which no fee is being paid;
 - iv. judge or a court system;
 - v. Legal Aid, a civil or criminal legal services organization that serves low-income clients, a Public Defender, a Conflict Defender, a U.S. Attorney, a District Attorney or a State Attorney General; or
 - vi. federal, state or local government agency or a legislative body.
- c. Law school-sponsored projects or programs that serve the poor or disadvantaged, provided the work is law-related and supervised in compliance with the Pro Bono Requirement.
- d. Law-related work for a not-for-profit organization qualifying as tax exempt under Internal Revenue Code § 501(c)(3) (for religious organizations refer to FAQ 26) or for an organization
- i. providing free civil legal services for low-income individuals;
 - ii. providing criminal legal services for the indigent; or
 - iii. serving the poor or disadvantaged or otherwise promoting access to justice.
- e. Law-related work in connection with a pro bono matter undertaken by a member of a law school faculty, including adjunct faculty, or an instructor employed by a law school.
- f. Legal services provided in accordance with the provisions of a student practice order issued by a judicial department of the Appellate Division.
- g. Law-related work or legal research for an international not-for-profit organization or foreign government in connection with economic development objectives that assist the poor.

13. To what extent is supervision necessary?

As required by the Affidavit of Compliance that must be filed with an applicant's admission packet, the applicant's supervisor must certify that the applicant has accurately described the circumstances, timing and nature of the pro bono work described by the applicant on the form. Therefore, supervision of the applicant's work must be sufficient to supply an adequate basis for the certification.

Constant, physical presence of a supervisor during the performance of pro bono work may not be necessary, but supervision must be reasonable to the extent that adequate training, guidance, instruction and evaluation will be provided to assure that appropriate services are being performed. For instance, if law students are answering a hotline or performing in-take services for a legal services provider, a supervisor should be accessible to answer students' questions that may arise in the course of the performance of their work. Such supervisory assistance may not necessitate the physical presence of the supervisor -- supervision could be available through video or telephone accessibility, so long as the means of supervision is adequate to assure that appropriate information and services are being performed.

In large measure, the means and extent of required supervision are dependent on the nature of the pro bono services. Keep in mind that one goal of the Pro Bono Requirement is to expose law students to meaningful pro bono service, and successful outcomes require adequate training, oversight and evaluation by knowledgeable supervisors admitted to practice in a jurisdiction, provided that the supervisory work does not violate any statute, regulation or code regarding the unauthorized practice of law.

14. If I perform pro bono work in a country other than the United States, are there additional requirements?

Yes. If your pro bono work is performed, in whole or in part, outside the United States, you will be required to explain in detail the nature and circumstances of your work as part of your application for admission.

15. Do all the hours that I spend working at a qualifying law school clinic count? If I receive academic credit for my participation in the clinic, does that disqualify my work?

All hours spent working at the qualifying law school clinic will qualify, but the hours you spent on instructional training should not exceed the time that you actually spend using legal skills. Also, travel or commuting time does not count. Your receipt of academic credit does not disqualify the work.

- 16. If I receive a stipend or grant from my law school or a third party in connection with a law school sponsored internship or externship, does that disqualify my work?**

No. Your receipt of a stipend or grant does not disqualify the work.

- 17. Does legal research for a law professor qualify?**

Only legal research in connection with a professor's pro bono legal services will qualify. Legal research related to scholarship, a law journal article or other publication does not qualify.

- 18. If I participate in a survey project involving the questioning of litigants, will those hours satisfy the 50-hour Rule?**

It depends. The first eligibility factor is whether the project is law-related, meaning that the questions posed must have a purpose involving court proceedings, legal procedures or legal issues. But merely asking questions of litigants is not considered the provision of pro bono services. In order to qualify as pro bono work, a survey project should involve an educational/training component so that student participants acquire useful substantive and procedural knowledge and information. There must also be a pro bono purpose to a survey project, such as the eventual recommendation of reforms pertaining to legal issues affecting the poor or the preparation and issuance of a report with recommendations that will ameliorate particular legal issues confronting the poor or underserved populations. And, adequate supervision must be provided so that the requisite supervisory certification required by the Affidavit of Compliance can be issued.

- 19. If I participate in a program that provides assistance in completing federal or state tax forms, will those hours qualify?**

If the program is designed to assist low-income individuals and there are legal taxation issues to be addressed, then it is probable that such services will qualify, provided that there is adequate supervision, training and evaluation to assure that appropriate tax information is being dispensed. If the tax-related assistance is of the type that can be performed by someone with only tax training and without legal training, it will not qualify.

20. Will participation in a mediation program qualify?

The eligibility of hours spent as a mediator requires consideration of whether the mediation services are being provided to poor or low-income clientele. Since mediation services can be performed by nonlawyers, qualifying mediation services must involve legal training and the issues involved must be law-related -- the mediation of non-legal disputes will not qualify. Qualifying mediation work also requires appropriate legal training in the subject matter of the mediation, adequate attorney supervision to assure that the services are properly performed and evaluation of the work performed.

21. If I act as an interpreter or provide translation services involving a person receiving pro bono services, can I count that time toward my 50-hours?

Providing interpretive or translation services does not fulfill the Pro Bono Requirement even if it is provided in the context of a fact-finding interview of a poor client receiving pro bono legal services. However, if the interpretive or translation services are ancillary to the qualifying pro bono legal work that you are engaged in with the client, then the fact that you are supplying interpretive services or translation will not disqualify the otherwise qualifying work hours. Only the legal services hours will be eligible to satisfy the Requirement.

22. Will participation in a student-directed pro bono project count?

No. Student-directed pro bono projects that are not supervised as discussed in FAQ 13 do not qualify.

23. Will work on a pro bono project that is not sponsored by my law school qualify?

You may work on an otherwise qualifying project that is not sponsored by your law school so long as the other conditions of the Pro Bono Requirement are met.

24. Will volunteer work on a political campaign, the collection or review of signatures on petitions, work as a poll inspector for elections or work on election litigation qualify? Will assisting with litigation involving an election or a candidate's qualification for nomination, election or office qualify? Will legal research for a political group qualify?

No. Campaign work, activities of a political nature or for a political organization, or legal research for a political organization will not qualify.

25. Will volunteer legal work for a labor union qualify?

No, work related to the delivery of services by a labor union does not qualify.

26. Will volunteer legal work for a religious organization qualify?

If the work you engage in is aimed at providing services to the poor or low-income groups, it should qualify.

27. If I am hired for a summer position or for a part-time position during the academic year at a law firm, a legal services provider or a government agency and I am paid a salary, will my work on pro bono matters qualify?

Yes, if such work would otherwise comply with the definition of qualifying pro bono work. However, you cannot receive a bonus, additional compensation or other reward from your employer because you performed pro bono work.

28. May I count qualifying work performed in a full-time salaried position with a law firm, government agency or legal services provider following law school graduation?

Work performed during full-time legal employment prior to admission to the bar will satisfy the 50-hour Requirement if such activities otherwise comply with the definition of qualifying pro bono work. For instance, if you commence employment at a law firm after taking the bar examination and you are assigned to work with an attorney at the firm who is handling a pro bono case, your work on that pro bono litigation will qualify, provided that the client is not paying for the legal services.

29. Does community service qualify?

No, unless your work is law-related and involves the use of legal skills. For example, assisting in the provision of legal services to a homeless shelter would qualify, but assisting at a fund-raising event, serving food or doing repairs at the shelter would not qualify. As a further illustration, if you volunteer to help Habitat for Humanity build a home, that work would not qualify. On the other hand, if under the supervision of an attorney, you assist in preparing the documents necessary to obtain a building permit or zoning variance for the construction of the home, that work would count. Volunteering for community service projects is commendable, but the purpose of the Pro Bono Requirement is to provide law-related assistance so general community service projects will not qualify.

- 30. Does participation as a mentor or organizer in a mock trial program for high school or college students qualify? Does organizing a moot court competition at my law school qualify?**

No. Although such activities are beneficial, they do not serve the intent and purpose of the Pro Bono Requirement.

- 31. May I work on more than one project to achieve my 50 hours?**

Yes, but it is recommended that you complete the 50 hours in one program so that you gain more consistent experience.

- 32. Does time spent on administrative tasks incidental to the work, such as photocopying or transportation, qualify?**

Time spent on administrative duties that are incidental to your pro bono work will qualify, but should be minimal compared to your law-related tasks. Travel or commuting time does not qualify.

- 33. If my law school has a mandatory pro bono requirement for graduation, can the hours that I work to meet the school's requirement also be used toward the Pro Bono Requirement?**

Yes, if the work otherwise complies with the requirements of the pro bono Rule (see 22 NYCRR 520.16).

- 34. How do I demonstrate compliance with the Pro Bono Requirement?**

As part of your Application for Admission, you will be required to complete a Form Affidavit of Compliance with the Pro Bono Requirement wherein you will explain your pro bono work. You will be required to identify when and where the work was performed, provide a description of your work or project and identify your supervisor. You must provide sufficient detail to permit the Character and Fitness Committee to evaluate compliance with all aspects of the Requirement. The form will also contain a certification to be completed by your supervising attorney, judge or legal officer attesting to the hours you worked. You will also be required to attest under penalty of perjury to the truth of the information that you have supplied in the Form Affidavit of Compliance.

35. What is the process for getting my Form Affidavit of Compliance notarized?

Once you have completed all of the information required on the first page of the affidavit, the form should be taken to a notary public for execution. In the presence of the notary, you will affirm that you provided the information that appears on the form and you will place your signature on page 2. The notary will then sign the form and affix a seal or stamp. Do not sign your name on page 2 prior to appearing before the notary. If the affidavit is completed outside of the United States, its commonwealths, territories or possessions, and you are unable to use a notary public, you may have an equivalent attesting officer before whom you can affirm and acknowledge your signature and sign your affidavit. However, you must attach to your affidavit a certificate of the attesting officer's authority. If your country does not have a notary equivalent, you will need to use a notary from the American embassy or consulate. Furthermore, any Affidavit of Compliance that contains information completed in a foreign language must be accompanied by a certified English translation.

36. When should my supervisor sign my Affidavit of Compliance?

After you have completed page 2 and secured the notarization of your signature on page 2, you can request that your supervisor complete the supervisor certification section of the affidavit.

37. If I work at more than one program, do I need to complete more than one form affidavit?

Yes, a separate Form Affidavit of Compliance will be required for each law firm, service provider, clinic, government agency or program where you acquired your pro bono hours.

38. If I work on more than one matter at a legal services provider or firm, do I need to supply an Affidavit of Compliance for each case or matter?

No, so long as all projects were supervised by the same attorney. If your various projects involved more than one supervisor, you may need multiple Affidavits of Compliance since a certification by a supervising attorney familiar with your 50 hours of work will be required. For instance, if you work on housing court cases for six different clients of a Legal Aid Society office, and one supervisor provided oversight of your work, you need not complete six affidavits.

39. Can a photocopy or digital, electronic copy of my Affidavit of Compliance be filed with my admission application to the appropriate Appellate Division?

No, each of the four Appellate Divisions requires that all documents pertaining to an admission application must be filed as original, hard copies. The Appellate Divisions do not currently accept photocopies or electronic filings of admission materials. It is your responsibility to maintain the original(s) of your affidavit(s) until such time as you apply for admission to practice. It may be helpful to keep a copy of your completed affidavit(s) in the event that you lose the original form and must prepare a new one – the copy will be a useful reference for you and your supervisor.

40. May I complete my form at the time I conclude a pro bono project, even if it is before I am applying for admission?

Yes. It is your responsibility to secure and maintain the necessary documentation that you will need for your Form Affidavit of Compliance. You may complete the Form Affidavit prior to your application for admission, but you will need to keep the form(s) until submission of your application packet. Do not rely on your pro bono supervisor or the program where you worked to retain all your necessary information.

41. Where do I obtain the necessary form(s)?

The Affidavit of Compliance is available at:

<http://www.nycourts.gov/attorneys/probono/baradmissionreqs.shtml>

and at the websites of the four Appellate Divisions:

<http://www.nycourts.gov/courts/appellatedivisions.shtml>

42. What kind of records should I keep and for how long?

You should retain a record of the necessary information related to your qualifying pro bono work until you submit your application packet to the Appellate Division. If you and your supervisor completed a Form Affidavit of Compliance at some earlier point, it's your responsibility to retain the form for inclusion in your application of admission packet. Also, be prepared to discuss your pro bono work during your Character and Fitness interview.

- 43. Will special hardship waivers be granted relieving persons from having to comply with the Pro Bono Requirement? Do I need to satisfy the Pro Bono Requirement if I'm enrolled in an evening course of law study and I have a full-time day job? Do I need to satisfy the Pro Bono Requirement if I am completing an LL.M. degree in order to qualify to take the New York bar examination?**

Only applicants with exceptional circumstances will be considered for a hardship waiver under Court of Appeals Rule 520.14. Part-time law studies, full-time employment, status as an LL.M. student, family obligations or other responsibilities, out-of-state or foreign residence and other commonly experienced situations will not qualify for a hardship waiver. You will be expected to complete the 50- hour Requirement either during your course of legal education or after you have taken the bar examination and before admission. Your admission will be delayed if you have not complied with the Requirement so it is strongly recommended that you do not unnecessarily postpone completing the required pro bono hours.

- 44. If I have a question not addressed in these FAQs, where can I seek assistance?**

You may visit <http://www.nycourts.gov/attorneys/probono/baradmissionreqs.shtml> for further information and updates. If you have additional questions, the best way to communicate them is by email to ProBonoRule@nycourts.gov. Include specific information about the pro bono project that is the subject of your inquiry.

Please be aware that the ultimate decision about whether the Pro Bono Requirement is satisfied will be made by the Character and Fitness Committee of the Appellate Division Department to which your application for admission to the New York Bar is submitted. The FAQs and any responses to inquiries sent to the email address ProBonoRule@nycourts.gov represent the interpretations of the Requirement made by Advisory Committee on New York State Pro Bono Bar Admission Requirements appointed by the Chief Judge to assist in implementing the program.

APPENDIX D

[http://www.nybarexam.org/Admission/April2015/
Part%20III_LawRelEmploy_April%202015.pdf](http://www.nybarexam.org/Admission/April2015/Part%20III_LawRelEmploy_April%202015.pdf)

APPENDIX E

22 NYCRR Part 1200 Rules of Professional Conduct

RULE 5.1.

Responsibilities of Law Firms, Partners, Managers and Supervisory Lawyers

(a) A law firm shall make reasonable efforts to ensure that all lawyers in the firm conform to these Rules.

(b) (1) A lawyer with management responsibility in a law firm shall make reasonable efforts to ensure that other lawyers in the law firm conform to these Rules.

(2) A lawyer with direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the supervised lawyer conforms to these Rules.

(c) A law firm shall ensure that the work of partners and associates is adequately supervised, as appropriate. A lawyer with direct supervisory authority over another lawyer shall adequately supervise the work of the other lawyer, as appropriate. In either case, the degree of supervision required is that which is reasonable under the circumstances, taking into account factors such as the experience of the person whose work is being supervised, the amount of work involved in a particular matter, and the likelihood that ethical problems might arise in the course of working on the matter.

(d) A lawyer shall be responsible for a violation of these Rules by another lawyer if:

(1) the lawyer orders or directs the specific conduct or, with knowledge of the specific conduct, ratifies it; or

(2) the lawyer is a partner in a law firm or is a lawyer who individually or together with other lawyers possesses comparable managerial responsibility in a law firm in which the other lawyer practices or is a lawyer who has supervisory authority over the other lawyer; and

(i) knows of such conduct at a time when it could be prevented or its consequences avoided or mitigated but fails to take reasonable remedial action; or

(ii) in the exercise of reasonable management or supervisory authority should have known of the conduct so that reasonable remedial action could have been taken at a time when the consequences of the conduct could have been avoided or mitigated.

RULE 5.3.

Lawyer's Responsibility for Conduct of Nonlawyers

(a) A law firm shall ensure that the work of nonlawyers who work for the firm is adequately supervised, as appropriate. A lawyer with direct supervisory authority over a nonlawyer shall adequately supervise the work of the nonlawyer, as appropriate. In either case, the degree of supervision required is that which is reasonable under the circumstances, taking into account factors such as the experience of the person whose work is being supervised, the amount of work involved in a particular matter and the likelihood that ethical problems might arise in the course of working on the matter.

(b) A lawyer shall be responsible for conduct of a nonlawyer employed or retained by or associated with the lawyer that would be a violation of these Rules if engaged in by a lawyer, if:

(1) the lawyer orders or directs the specific conduct or, with knowledge of the specific conduct, ratifies it; or

(2) the lawyer is a partner in a law firm or is a lawyer who individually or together with other lawyers possesses comparable managerial responsibility in a law firm in which the nonlawyer is employed or is a lawyer who has supervisory authority over the nonlawyer; and

(i) knows of such conduct at a time when it could be prevented or its consequences avoided or mitigated but fails to take reasonable remedial action; or

(ii) in the exercise of reasonable management or supervisory authority should have known of the conduct so that reasonable remedial action could have been taken at a time when the consequences of the conduct could have been avoided or mitigated.

APPENDIX F

**University at Buffalo School of Law
Externship Evaluation of Student**

Student Extern:

Externship Placement Office/Agency:

Supervisor Telephone and Email:

LAWYERING SKILLS	Not Applicable	Poor	Fair	Good	Excellent
Legal Knowledge					
Research					
Writing					
Analysis					
Oral Communication					
Interviewing					
Client Counseling					
Investigation					
Negotiation					
Other Skills _____					
PROFESSIONALISM/ WORK HABITS	Not Applicable	Poor	Fair	Good	Excellent
Client Relations					
Office and Staff Relations					
Professional Ethics					
Initiative					

Judgment					
Thoroughness and Attention to Detail					
Dependability					
Attitude toward Supervision, Criticism					
Productivity and Time Management					

EXTERNSHIP CONTENT: Please describe the type of assignments the extern has been given:

Does the student actively and appropriately seek out work?

SKILLS: Please list the skills you believe the student needs to and can improve upon in the remaining weeks of the externship:

EXTERNSHIP PROGRAM: Are there issues you would like to raise at this time or you would like us to discuss with the student?

Have you shared this evaluation with the student? _____ yes _____ no

If not, may we share this evaluation with the student? _____ yes _____ no

_____ DATE

SIGNATURE OF JUDGE OR ATTORNEY SUPERVISOR

_____ PRINT OR TYPE NAME

_____ TITLE

Thank you for participating in the Externship Program.

Please return the completed form by _____ via email to:

Dawn Skopinski
Administrator, Externship Programs
skopinsk@buffalo.edu
716-645-6261