



Memo to the California State Bar Civil Justice Strategies Task Force Regarding the Potential for the Law Office Study Program to Narrow the Justice Gap

The Sustainable Economies Law Center (SELC) is grateful for the opportunity to submit the following comments on the potential for legal apprenticeships to narrow the “justice gap” in California. The California Law Office Study Program (LOSP), administered by the State Bar, offers a promising, yet under-utilized tool to increase the number of lawyers trained and positioned to provide legal services to low and moderate income Californians. In a nutshell, the LOSP enables people to become lawyers after studying law in the office of an attorney or judge for four years and passing required bar exams.¹

SELC is a nonprofit legal service organization that provides low and moderate income community members with legal support and tools to develop new enterprises and projects that create sustainable sources of jobs, food, land, housing, and energy. Four staff members at our organization take part in the LOSP, and we have recognized many benefits of legal apprenticeships:

- **Practice-Based Training:** Legal apprentices, or “law readers,” have the opportunity to work in real law offices where they can apply the law they are studying on a daily basis, preparing them to be effective practitioners by the time they are admitted to practice. Law school curricula tend to focus on theoretical aspects of the law, which provide a valuable foundational understanding of the legal system, but do not adequately prepare lawyers in the practical aspects of starting a legal career. While law schools are increasing their practical course offerings, many law students go through law school without client interaction experience or business training.
- **Diversifying the Profession:** Legal apprenticeships afford many people the opportunity to become a lawyer, even when those people could not otherwise afford high law school tuitions, move away from their communities, or pause their lives for three years to attend law school as full-time students.
- **Lawyers without Debt Burdens:** Legal apprentices generally will not begin their careers with the burden of significant debt, and will therefore have much greater flexibility to offer affordable rates, offer pro bono services, explore innovative forms of practice, and serve the vast number of people in society who currently have little or no access to appropriate or affordable legal services.

¹ Rules of the State Bar, Rule 4.25.

- **Increasing Rural Legal Services:** Apprenticing can increase the number of attorneys in rural areas and underserved communities, since the apprentices will not be forced to leave their communities in order to study the law.
- **Harnessing Potential of Non-Lawyer Staff:** Non-lawyer staff members of legal service organizations who take part in the LOSP have the opportunity to grow their skills and contribute in more ways to the organization without needing to leave and pursue an advanced degree. This can greatly amplify the capacity of such organizations to serve clients.

In spite of hosting and training more than a hundred law student volunteers during the past five years, SELC has observed that very few of our volunteers have gone on to pursue careers serving low and moderate income community members. Many cite debt as a significant factor driving their career choices. In addition, many former volunteers are currently unemployed, and although we often encourage them to establish new law practices serving low and moderate income communities, many new lawyers feel that law school has not adequately prepared them with the practical training needed to establish new practices. SELC began to prioritize training apprentices for these reasons. Our four apprentices are learning transactional legal skills on the job, providing invaluable support to our organization, and becoming well prepared to serve the types of clients SELC prioritizes. Legal apprenticeships also help our organization with staff retention, as each apprentice will likely stay for four years and potentially far beyond.

In sum, because of their lack of educational debt and their empowerment with practical skills, lawyers trained via apprenticeship are well positioned to either establish law practices to serve clients of modest means or to work for a modest salary at legal aid organizations. In addition, because of the lower barriers to entry and the fact that aspiring lawyers can receive training within their own communities, we expect that lawyers trained via apprenticeship will be more diverse – socioeconomically, racially, and geographically – likely resulting in enhanced legal services to similarly diverse communities.

Prioritizing Apprenticeships as a Civil Justice Strategy

As the American Bar Association has noted, two aspects of the legal system that are unlikely to change in the near future are the cost and culture of legal education.² To achieve its goal of eliminating the justice gap, the State Bar should harness the potential of legal apprenticeships as a tool for engaging and empowering a diverse new group of attorneys with extensive practical training, dedication to the values of social and economic justice, and the ability to offer affordable services. Importantly, the Law Office Study Program is already an existing program within the State Bar and, in that sense, represents low-hanging fruit to addressing the justice gap in California since no legislative or executive action is required.

² See ABA Task Force on the Future of Legal Education, *Reports and Recommendations*, January 24, 2014, at 4.

We have identified at least five strategies to grow the LOSP and realize this potential:

1) Promote awareness of the LOSP.

The biggest challenge to growing the apprenticeship program in California is its relative invisibility. As an organization that promotes the LOSP, SELC has noted that members of the general public and of the legal profession, more often than not, have never heard of the potential to become a lawyer via apprenticeship. Indeed, the historically low participation rates in the LOSP provide evidence that this is the case. SELC encourages the State Bar to add more visible information about the LOSP to its website, to provide information about the LOSP to career offices at colleges, to provide outreach materials to paralegals and other legal workers in legal service organizations, and to offer presentations and other informational materials to lawyers.

2) Grow a community of mentor attorneys and judges.

Due in large part to a lack of awareness about the LOSP within the legal profession, there is an unmet demand among would-be legal apprentices for attorneys and judges willing to mentor them. SELC is regularly contacted by people across the state who are eager to begin an apprenticeship but do not know where to begin searching for a mentor. SELC sees a great opportunity here for the State Bar to connect interested apprentices with attorneys and judges who are willing to serve as mentors. One way the State Bar can do this is by creating a directory of potential mentors that aspiring legal apprentices can access on its website.

3) Advocate for a minor rule change.

The Business and Professions Code disqualifies attorneys from mentoring apprentices if the attorney has not been in continuous active practice in California for the past five years. Given the high unemployment rate among attorneys, it is quite possible that many attorneys in California have not been in continuous active practice for the past five years. In addition, it is not uncommon for attorneys to temporarily move out of state, do non-legal work, or take family or medical leave. This disqualifies many attorneys who would be willing to host apprentices and who have the requisite skills to serve as effective mentors. We believe that it is important to change this rule to allow attorneys to mentor apprentices if they have an aggregate of five years of active practice in California, regardless of when that practice took place.

4) Offer resources and curricula to LOSP participants.

Given low bar passage rates among LOSP participants, we believe that crafting curricula suited to the unique apprenticeship format would aid many apprentices in acquiring the requisite knowledge and skills to pass the bar exam. The State Bar could facilitate the sharing of curricula among mentors and apprentices and even create sample curricula for each bar exam subject and post them on the LOSP webpage.

5) Actively work to create legal apprenticeship programs within legal service organizations.

We believe that a particularly effective strategy could be for the State Bar to offer direct support to legal aid organizations throughout California as they develop apprenticeship programs within their organizations. SELC would be happy to offer additional suggestions for this, given that we have integrated LOSP participants into our work for nearly three years. The United Farm Workers and the Homeless Action Center also have apprenticeship programs within their organizations. Overall, we believe that legal service organizations will benefit in many ways from the creation of apprenticeship programs, and we have summarized other benefits in the attached handout in Appendix 2, “Legal Service Organizations Meet the Legal Apprenticeship Movement.”

We also believe that there may eventually be funding for this available from the federal government, emerging from President Obama’s commitment to growing and supporting the apprenticeship movement nationally.³ President Obama has set a target of doubling the number of apprentices by 2020 and has allocated \$100 million for grants to meet that goal, aiming to dedicate a total of \$1.5 billion to new training programs and apprenticeships, generally. SELC is currently working with the U.S. Department of Labor Office of Apprenticeship to designate “lawyer” as an “apprenticeable” trade and create a Registered Apprenticeship Program for lawyers at the national level, starting with California. We believe that a partnership between the State Bar and the Department of Labor could raise the profile of legal apprenticeships, generate funding for organizations that create apprenticeship programs, and attract mentors to participate in the Law Office Study Program in California.

Recommendation:

The Sustainable Economies Law Center encourages this Task Force to thoroughly study the opportunity the Law Office Study Program provides to address the justice gap. We hope that the Task Force will include a recommendation in its report to increase support for the LOSP in the five ways that we described above.

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³ Secretary Tom Perez and Jeff Zients, *The First Ever White House Summit on Apprenticeships*, The White House Blog, <http://www.whitehouse.gov/blog/2014/07/14/hosting-first-ever-white-house-summit-american-apprenticeship-help-american-workers-> (last accessed August 21, 2014).

Appendix 1

What is the Law Office Study Program?

The Law Office Study Program, administered by the State Bar of California, provides a pathway to becoming a lawyer without going to law school. A program participant, commonly known as a legal apprentice, studies the law under the supervision of an attorney or judge who has been in practice for at least the last five consecutive years. In this way, apprentices are exposed to the theoretical underpinnings of the legal system and to real-life applications of the laws they study. Technical requirements of the legal apprenticeship include the following:

- 4 years of study,
- 18 hours per week of work in the office of a lawyer or judge (including 5 hours of direct supervision),
- Monthly tests, administered by the supervising lawyer or judge,
- Completing the Multistate Professional Responsibility Examination, and
- Completing the First Year Law Student's Examination.

Upon completing these requirements, apprentices are eligible to take the Bar Exam and become a licensed attorney.⁴ The State Bar estimates about 85 people are active in the LOSP as of May, 2014.⁵

⁴ For specific requirements in other states, see www.likelincoln.org/state-by-state-guide-to-apprenticeships/.

⁵ Don J. DeBenedictis, *More would-be lawyers opt to skip law school*, THE DAILY JOURNAL, May 20, 2014, at 4.

Appendix 2

(excerpt from SELC website for legal apprenticeships, www.LikeLincoln.org)

Legal Service Organizations Meet the Legal Apprenticeship Movement

Throughout the United States, legal service organizations are struggling to raise funds and meet demand for client services. Meanwhile, aspiring lawyers are discouraged — by the rising cost of law school and poor job market — from pursuing their dreams. Sometimes, two problems can conspire with each other to find a solution. Legal service organizations, meet the legal apprenticeship movement.

Legal service organizations can simultaneously facilitate the legal apprenticeship movement and benefit greatly from it. Here is a list of 10 ways that legal service organizations will benefit from hosting apprentices.

- 1. Tripling the supply of legal aid attorneys and serving more low-income clients:** The supply of lawyers in the U.S. is currently not meeting demand for legal services. There is “only one legal aid attorney available for every 6,415 low-income people.” If every legal aid attorney hosts two apprentices, the supply of lawyers competent to serve low income communities would soon triple.
- 2. Lawyers without law school debt are in a better position to serve low income clients in the long term:** Today, most lawyers begin their careers with nearly \$100,000 in school debt, which makes it difficult to commit to annual salaries of \$42,000, the average entry-level salary for a legal aid attorney. However, those who become lawyers via apprenticeships may even earn and save money while en route to becoming a lawyer, which makes it easier to commit to a humble to moderate income in the long term.
- 3. Diversifying organizational staffing:** Approximately 88% of lawyers in the U.S. are White and 70% of lawyers are men, which hardly represents the demographics of clients served by most legal service organizations. Apprenticeships will enable a much more diverse group of people to become lawyers. Low-income individuals will not be blocked from become attorneys by the high cost of law school. People will be able to become lawyers even if they do not have the resources and privilege to put their lives on hold, move to a new city, and attend law school for three years.
- 4. Training attorneys in the communities where they live and plan to work:** Many people leave their communities to attend law schools in affluent urban centers, and often do not return to their communities after law school. Rather than attempting to recruit recent law graduates from urban centers, legal service organizations can train attorneys in the same communities where the attorney will eventually work.
- 5. Creating opportunities for non-lawyer staff, building staff skills, and improving staff retention:** Current paralegals and other non-lawyer staff members of legal organizations are perhaps in the best positions to begin apprenticeships. Many learn a

great deal about the law through their daily work, and the learning process can become more active and intentional when a staff member commits to the apprenticeship route. Staff members who apprentice may also have a greater incentive to keep their jobs with the organization in the long term, as they will recognize the potential for perpetual learning and growth.

6. Diversifying skills within the organization: Apprentices may bring new skills and/or cultural and linguistic competencies to legal organizations. Particularly since apprentices may be older and have more career experience than the average law student, apprentices may bring other helpful skills, such as writing, community organizing, social work, and computer skills.

7. Improving teaching and counseling skills of supervising attorneys: Teaching the law to apprentices will improve an attorney's skills in explaining complex legal topics, which will improve client counseling skills and an attorney's own understanding of the law. In addition, apprentices will be able to closely observe the work of the attorney, and the attorney will likely grow and mature in response to feedback and input offered by apprentices.

8. Supervising attorneys will revisit basic law topics with eyes of seasoned practitioners: Assisting an apprentice with the study of bar exam topics and other legal areas will help an attorney to revisit legal questions and topics that the attorney may have forgotten or begun to take for granted. As an added benefit, the attorney will revisit the material with the eyes of an experienced practitioner, which gives new context to the material.

9. Creating a culture of learning at the organization and participating in the discourse on improving legal education: An organization that takes on apprentices will quickly infuse a culture of learning throughout the organization. Every client case becomes a learning opportunity for apprentices within the organization. The learning opportunities and materials developed by the organization could contribute significantly to the growing discourse on ways to diversify techniques of legal education. For example, the ABA Task Force on the Future of Legal Education and groups making similar inquiries will learn a great deal from the experiences of apprentices and their supervising attorneys.

10. It's a bit like having a summer law clerk that stays for four years: Most legal nonprofits host student law clerks during the summer and during semesters. However, the very short-term nature of such internships can add to the burden of the organization, requiring attorneys to pour many resources into training students, the majority of whom do not return to practice in such areas of law after law school. The long-term nature of an apprenticeship will enable deeper learning and will enable the apprentice to make significant contributions to the organization and its clients during the term of the apprenticeship.