ISSUES COMMITTEE
SUBCOMMITTEE TO STUDY REGULATORY CHANGE
North Carolina State Bar
Zoom Conference Call
June 23, 2021
2:00pm to 4:00pm

Ethics Act Statement

It is the duty of Committee members to avoid conflicts of interest and appearances of conflicts of interest in performing the duties as a member of the Committee to Study Regulatory Change and the North Carolina State Bar. Any member of the Committee who is aware of any personal conflicts or appearances thereof with respect to the matters before this Committee should disclose those at the meeting.

Agenda

I. Welcome

II. Approval of May 26, 2021 Minutes

III. Discussion and Development of Recommendation(s)
   a. Pursue Creation of Limited License for Paralegals
      i. Unauthorized Practice of Law Considerations
      ii. Program Administration – State Bar, Board of Law Examiners, etc.
      iii. Areas of Practice
      iv. Scope of License
      v. Pilot vs. Permanent
   b. Court Navigators, Document Preparers, and Other Self-Help Initiatives

IV. Adjourn
Minutes of the Meeting of the Subcommittee to Study Regulatory Change
May 26, 2021

The Issues Committee’s Subcommittee to Study Regulatory Change met by Zoom videoconference on May 26, 2021. Mark Henriques, the chair of the subcommittee, presided. The following members of the subcommittee were present: Heidi Bloom; A. Todd Brown; Ashley Campbell; Lakisha Chichester; Warren Hodges; Jeff Kelly; S.M. Kernodle-Hodges; Joshua Malcolm; Dewitt F. “Mac” McCarley; Alicia Mitchell-Mercer; Stephen Robertson; Camille Stell; Jeff Summerlin-Long. The following State Bar officers were also present: State Bar President Barbara Christy; State Bar Past President Colon Willoughby; State Bar President-Elect Darrin Jordan; and State Bar Vice President Marci Armstrong. The following guests were also present: Jennifer Lechner, Executive Director of the North Carolina Equal Access to Justice Commission; and Mary Irvine, Executive Director of NC IOLTA. The following members of the staff were in attendance: Alice Neece Mine, executive director; and Brian Oten, ethics counsel and director of special programs. Mr. Oten prepared these minutes.

At approximately 2:30pm, Mr. Henriques called the meeting to order. He advised the members of the subcommittee of their responsibilities under the State Government Ethics Act. No conflicts or potential conflicts of interest were noted.

Mr. Henriques then introduced new members of the subcommittee – Lakisha Chichester, S.M. Kernodle-Hodges, and Alicia Mitchell-Mercer. Mr. Henriques then had the rest of the subcommittee proceed through introductions.

The first order of business was the review and approval of the minutes from the subcommittee’s prior meeting on March 23, 2021. Upon motion duly made and seconded, those minutes were approved.

Mr. Henriques then discussed the survey recently sent to the subcommittee members gauging the interest of the members on the various topics/ideas discussed by the subcommittee over the past 11 months. Mr. Henriques turned to Mr. Oten for a summary of the survey results. Mr. Oten pointed out that three topics received strong support: Creation of a limited license for nonlawyers; pursuit of a court navigators program; and liberalization of the rules concerning the unauthorized practice of law. Two other topics identified on the survey received mixed support (alternative business structures and the regulatory sandbox), and the following topics received the least support: Fee sharing with nonlawyers; alternative admission to the bar, and nonlawyer ownership of law firms. Mr. Henriques asked the subcommittee to hold off on discussing the survey results until after today’s presentation.

Mr. Henriques then introduced Ms. Lechner and Ms. Irvine for a presentation on the North Carolina Civil Legal Needs Assessment, published in April 2021. The slides accompanying the presentation are attached to these minutes. Ms. Lechner explained the process behind the assessment as well as the results of the assessment. In sum, the assessment solicited feedback from individuals across the state on the types of civil legal needs experienced by the public, whether those needs were being met, and what barriers existed to the public obtaining the desired/necessary services. The assessment demonstrated low-income North Carolinians “face a
severe shortfall in affordable legal services.” The assessment found that there was 1 legal aid attorney for every 8,000 North Carolinians eligible for services, compared to 1 private lawyer for every 367 North Carolinians. As a result, legal service providers were forced to turn away many eligible potential clients with meritorious cases due to lack of resources, and income limitations imposed by legal service providers exclude middle-income clients from obtaining legal assistance despite the fact that they could not privately afford an attorney. The assessment determined that the highest areas of need were housing, family law (particularly custody proceedings) and immigration law. Respondents to the survey (91.2%) identified costs as the most significant barrier to obtaining necessary legal services. Length of the legal process, missed workdays, and lack of trust in the profession/justice system were also identified as barriers.

The subcommittee members inquired as to what could be done to address the identified needs. Ms. Lechner and Ms. Irvine offered their personal thoughts on the issue, noting that the assessment had only recently been published and recommendations regarding next steps had not yet been formed. Ms. Lechner suggested efforts to simplify court processes (e.g. online dispute resolution, guide and file processes, etc.), increasing pro bono opportunities and incentives, and regulatory reform ideas including creation of a limited license for paralegals, a court navigators program, and embracing/permitting technology solutions could be effective in addressing legal needs.

With the presentation concluding, the subcommittee thanked Ms. Lechner and Ms. Irvine for sharing their information and perspectives. The subcommittee then discussed next steps, noting that the aforementioned survey clearly demonstrated support for further exploring, if not issuing a recommendation in favor of a limited license for nonlawyers, a court navigators program, and liberalization of the rules concerning the unauthorized practice of law. Mr. Kelly expressed interest in the regulatory sandbox and suggested the subcommittee continue to explore the logistics of implementing the idea in North Carolina. The subcommittee discussed the potential creation of working groups to more fully vet the topics/ideas that received mixed support prior to moving on, as well as the eventual creation of a report summarizing the different topics/ideas explored and recommending next steps to the State Bar Council on particular ideas.

There being no further business to come before the subcommittee, the meeting was adjourned at approximately 4:10pm.

_______________________________________
Brian Oten, Subcommittee Staff Counsel
Report to the State Bar Subcommittee to Study Regulatory Change

IN PURSUIT of JUSTICE

An Assessment of the Civil Legal Needs of North Carolina

MAY 2021

Mary L. Irvine
NC IOLTA

Jennifer M. Lechner
NC Equal Access to Justice Commission
The Hon. Anita Earls, Chair
North Carolina Supreme Court, Raleigh, NC

Shelby Duffy Benton
Benton Family Law, Goldsboro, NC

The Hon. Ashleigh Parker Dunston
Wake County District Court, Raleigh, NC

Rick Glazier
NC Justice Center, Raleigh, NC

George R. Hausen, Jr.
Legal Aid of North Carolina (LANC), Raleigh, NC

Jan Hensley
NC Bar Association, Raleigh, NC (Liaison)

Darrin D. Jordan
NC State Bar, Salisbury, NC (Liaison)

Robin Merrell
Pisgah Legal Services, Asheville, NC

TeAndra Miller
Domestic Violence Prevention Initiative, LANC, Raleigh, NC

Suzanne Reynolds
Wake Forest University School of Law, Winston-Salem, NC

Darwin Rice
Mecklenburg County Court, Charlotte, NC

Sorien Schmidt
Z. Smith Reynolds Foundation, Winston-Salem, NC

Kenneth Schorr
Charlotte Center for Legal Advocacy, Charlotte, NC

Audrey Snyder
Ward Black Law, Greensboro, NC (Liaison, NC Advocates for Justice)
INTRODUCTION

Whereas the Sixth Amendment guarantees the right to legal counsel to most criminal defendants, there is almost no civil right to counsel in the United States.

A large percentage of the population in North Carolina cannot afford the services of a private attorney.

Each year, thousands navigate complex civil legal issues such as foreclosure and child custody without the benefit of representation.

As a result, basic human needs like food, safety, shelter, and healthcare go unmet.
In 2020, in partnership with UNC Greensboro’s Center for Housing and Community Studies, the NC Equal Access to Justice Commission and the Equal Justice Alliance completed the first comprehensive civil legal needs assessment of our state in nearly 20 years.

**Primary goals**

Documenting the current resources and services available to meet civil legal needs.

Understanding gaps in services and what resources are needed to address unmet legal needs.
More than 2 million low-income North Carolinians were eligible for the services of legal aid providers in 2018.

71% of low-income families will experience at least one civil legal problem in a given year.

86% of these legal needs go unmet because of limited resources for civil legal aid providers.

There is 1 legal aid attorney for every 8,000 North Carolinians eligible for legal services, compared to 1 private lawyer for every 367 North Carolina residents.
Methodology

UNCG researchers compiled data for 2015–2019 by county from the NC Administrative Office of the Courts (NCAOC) for 26 civil issue case types.

They collected and analyzed data from 28 in-depth interviews with leaders in the legal services field; focus groups with 57 total participants (including professionals, clients, and potential clients); and statewide surveys (1,176 stakeholders and 708 past, current, or potential clients).

Eight civil legal aid providers in North Carolina provided a snapshot of caseloads in 2019.
Legal aid and social services providers were unanimous: Low-income North Carolinians face a severe shortfall in affordable legal resources. Over the past 20 years, some of the resources available to serve people in poverty have expanded while some have contracted—but the needs have far outpaced the resources.

Some populations like veterans are underserved even relative to the larger population of low-income people in need.

The income limits imposed by LSC exclude middle-income clients from eligibility for legal aid assistance, despite the fact that they often cannot afford a private attorney.
Legal aid providers are forced to turn away many eligible people with meritorious cases due to lack of resources.

Family law (particularly custody proceedings) was by far the most often mentioned area of underserved practice. The second was immigration.

Funnelling additional resources into more routine practice areas like expunctions and traffic law has the potential for tremendous impact on many individuals’ ability to be economically self-sufficient.
Primary Findings

Significant barriers make it difficult for low-income people to gain access to legal services. 91.2% of clients named costs as a barrier.

A lack of internet access can significantly hamper the ability of rural and low-income communities to access legal services.

The need for legal services for low-income families is growing, and poverty drives a large percentage of this need.
ECONOMIC CONDITIONS IN NC

1,467,591 North Carolinians LIVE IN POVERTY

15% of the state’s POPULATION

POVERTY IS DISPROPORTIONATE BY RACE:

23.5% of BLACK HOUSEHOLDS

12.1% of WHITE HOUSEHOLDS

20.7% of HOMEOWNERS
44.1% of RENTERS

SPEND > 30% of income on housing
In some geographic and issue areas, the gap between service need and availability has reached a crisis stage. Large variations exist in both the rate and volume of civil cases in different counties across the state, and extensive county-level data is available.

The three most prevalent civil legal case types statewide are summary ejectment, divorce, and collection on account.
2019 data provided by 8 civil legal aid agencies indicate they:

Closed > 33,805 cases.

Served > 93,692 individuals, including 2,111 veterans.

Prevented > 1,897 evictions and 284 foreclosures.

Assisted clients in obtaining 3,186 domestic violence protection orders.

Assisted 628 individuals in expunging records.

Domestic abuse and private landlord/tenant issues accounted for 38% of the cases closed by these 8 providers in 2019.
<table>
<thead>
<tr>
<th>Services Provided vs. Cases Filed</th>
<th>Legal Services Providers: (2019 data)</th>
<th>Civil Court Filings: (annualized data, 2015-2019)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,897 Evictions prevented (1.1%)</td>
<td>170,046 Summary ejectment actions</td>
<td></td>
</tr>
<tr>
<td>284 Foreclosures prevented (1.2%)</td>
<td>23,778 Foreclosures</td>
<td></td>
</tr>
<tr>
<td>2,910 Domestic Violence Protective Orders Obtained (8.9%)</td>
<td>32,651 Domestic violence actions</td>
<td></td>
</tr>
</tbody>
</table>
Costs Are Largest Barrier to Receiving Services

The top 4 most frequently mentioned barriers, according to client survey respondents:

Costs: 91.2%

Lengthy legal processes: 25.5%

Perception that case would be unimportant to a lawyer: 16.3%

Missed workdays: 13.4%

Residents of rural areas were more likely to face additional barriers such as lack of public transport and living further from a legal aid office.
“That middle-income group of 200% to 400% of the federal poverty level, folks who don’t qualify for legal aid but also can’t pay a $10,000 retainer ... they’re out of luck.”

“We have a referral list. A lot of times I feel bad using it. It’s like pointing to another overwhelmed nonprofit or direct services group that may not have a whole lot more bandwidth than we do.”
Lack of Trust

An additional barrier that came to light in interviews/focus groups is that low-income communities may generally have a low level of trust in lawyers, the court system, and the legal system in general.

Client survey respondents rated their level of trust in lawyers on a scale from 0 (no trust) to 100 (total trust). The average (mean) was 63.6.

The highest trust level was seen among those with very high incomes (81.33).

Veterans had the lowest level of trust in lawyers (57.59) of the groups surveyed.
### Categories of Legal Services with High Need

UNCG researchers identified 14 categories of civil legal cases with high need for legal services:

<table>
<thead>
<tr>
<th>Housing Issues for Owners</th>
<th>Consumer Rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing Issues for Renters</td>
<td>Employment Legal Services</td>
</tr>
<tr>
<td>Family Legal Services</td>
<td>Civil Rights/Discrimination</td>
</tr>
<tr>
<td>Immigration and Naturalization</td>
<td>Veteran/Military Benefits</td>
</tr>
<tr>
<td>Senior Law Issues</td>
<td>Education Legal Services</td>
</tr>
<tr>
<td>Healthcare</td>
<td>Disability Benefits</td>
</tr>
<tr>
<td>Income Maintenance</td>
<td>Wills and Estates</td>
</tr>
</tbody>
</table>
ACKNOWLEDGMENTS

Funding:
North Carolina IOLTA & the North Carolina Bar Foundation

Research:
Center for Housing and Community Studies at the University of North Carolina at Greensboro (UNCG)

We also deeply appreciate the hundreds of professionals and members of the legal aid client community who shared their experiences.
Opportunities for Bridging the Justice Gap

- Simplify Court Processes
- Pro Bono
- Systemic Change
- Regulatory Reform
  - Paraprofessional Models
  - Court Navigators
  - Tech Solutions
Opportunities

Highest Areas of Needs

Housing for Owners and Renters
Family Legal Services
Immigration and Naturalization

Simplify Court Processes

Online Dispute Resolution
Guide and File
Less Adversarial Processes
Online Dispute Resolution

Trust in the system is an ongoing issue for those surveyed in the legal needs assessment.

**National Coalition for Civil Right to Counsel finds that 3% of tenants have counsel, compared to 81% of landlords.**

Some Arizona courts, for example, are experiencing a notable increase in participation in hearings related to evictions since they started holding hearings online.

In one court last year, 90% of defendants did not show up for an eviction hearing. Since going virtual, the participation rate skyrocketed to 80%.
Less Adversarial Process

- Collaborative Family Law
- Housing Specialists
- Mandatory Mediation
In 2020, 1,648 North Carolina attorneys reported their pro bono activities.

Of these, 589 attorneys provided more than 50 hours of more of pro bono.

More than 67,750 hours of pro bono completed in 2020.
Barriers to Access

- Childcare
- Taking Time Off Work
- Transportation Issues
- Language and Literacy
- Internet Access
- Health Issues
- Lack of Trust
- Lack of Awareness
Study participants what changes they would like to see at the local, state, or federal level.

They suggested:

Greater access to food and child care.

Increasing the minimum wage.

Increasing affordable housing.

Greater resources for legal aid providers.

Funding flexibility for legal aid providers.

Medicaid expansion.

Reinstating the earned income tax credit.
“Most of these folks would not qualify for [legal aid], but still cannot afford a lawyer at regular market rates. We hope to give them another choice. They should not have to choose between a lawyer and no lawyer. They should be able to choose between representing themselves and getting help from a [licensed paraprofessional].”

_Preliminary report of Colorado Supreme Court’s Paraprofessionals and Legal Services Subcommittee_

- Framework: continuum of care
- Areas of high need: housing, family, immigration
- Types of services:
  - Document preparation, filing, and service
  - Inform clients of procedures
  - Inform clients of rights and responsibilities
  - Explain documents, help to obtain documents
  - Presence at certain proceedings
Court Navigators

Usually, non-lawyers, not court staff, operate physically within court
Provide direct person to person assistance to SRLS
23 programs in 15 states and District of Columbia

They:
• enhance the effectiveness of, and build public trust in, the courts;
• facilitate access to justice for SRLs by helping them understand and navigate their cases;
• provide an additional way for justice advocates to supplement their own client services and allow lawyers to operate “at the top of their licenses”; and
• enable an array of community actors to better understand the plight of SRLs and help them manage the often unfamiliar and daunting court process.
“Digital legal technologies hold promise to empower individuals and communities to identify, understand, and take action on their justice problems and to use the rights that are theirs under law.”


- Legal Needs Assessment identified community education as among the top three needed services;
- Topics: substantive law, rights and responsibilities, procedure/process, available resources;
- How do clients go about getting legal advice when they need it?
  Most common answer – call a legal aid organization
  **Second – look online for a legal self-help resource**
Online Dispute Resolution

Trust in the system is an ongoing issue for those surveyed in the legal needs assessment. Many tenants National Coalition for Civil Right to Counsel finds that 3% of tenants have counsel, compared to 81% of landlords.

Some Arizona courts, for example, are experiencing a notable increase in participation in hearings related to evictions since they started holding hearings online.

In one court last year, 90% of defendants did not show up for an eviction hearing. Since going virtual, the participation rate skyrocketed to 80%.

PREPARE YOUR COURT DOCUMENTS ONLINE TO FILE CASES IN THREE STEPS

CERTAIN CASE TYPES AVAILABLE

NCCOURTS.GOV/SERVICES
“Digital technologies that assist with justice problems...whether individual members of the public working on their own justice problems or non-lawyers such as social workers or community organizers working directly with the public.”


What might tools do?
- Assist the user in taking some action on a justice problem
- Tech solutions that move beyond form generation and legal information:
  - Advice: what to say, what documents to bring, identifies defenses and counterclaims
  - Referral: links to other resources, send to other forms
Summary of Regulatory Change Topics

1. Limited License for Nonlawyers.

2. Court Navigators, Document Preparers, and Other Self-Help Programs – initiatives authorized (and funded?) by statute or by court order that assist pro se parties in navigating the judicial process. Could include:
   a. Court Navigators – training nonlawyers to operate in courthouse and assist pro se parties in understanding courtroom procedure, locating pertinent offices/division, etc. Excludes legal advice. May include allowing a navigator to respond – on behalf of a pro se party – to requests for factual information by a judge or attorney in a proceeding.
   b. Document Preparers – certification program permitting nonlawyers to assist members of the public in preparing certain documents.

3. Alternative Business Structures – any business model through which legal services are delivered that is different from the traditional sole proprietorship or partnership model.
   a. Examples:
      i. Law firm/legal service entity with either
         1. Nonlawyer minority ownership interest; or
         2. No restriction on nonlawyer ownership interest.
      ii. Business entity providing legal and non-legal services with either
         1. Nonlawyer minority ownership interest; or
         2. No restriction on nonlawyer ownership interest.
      iii. Publicly-traded law firm.

4. Fee Sharing with Nonlawyers – granting authority to lawyers/law firms to share fees with nonlawyers, included staff and other third parties. (Slight difference from ABS, in that this type of fee sharing does not reflect an ownership interest.)

5. Regulatory Sandbox – a temporary pilot project whereby legal service entities and other business arrangements/partnerships associated with legal service providers that have been ordinarily prohibited are permitted to exist and operate. The “sandbox” exists for a set period of time and is heavily regulated to ensure public protection. Those participating in the project are required to report extensive data to the regulatory body overseeing the project.

6. Liberalization of UPL Statutes/Rules – redefining what constitutes the practice of law; excludes required amendments to enable creation of a limited license for nonlawyers (see #1) or other self-help opportunities (see #2). Examples:
   a. Redefining the practice of law by:
      i. Permitting nonlawyer assistance in drafting certain documents;
ii. Permitting nonlawyer activity in certain matters (e.g. municipal or tax issues);

iii. Permitting pro bono nonlawyer activity in certain matters;

iv. Permitting nonlawyer partners/managers/employees of business entities to represent the entity;

v. Limiting scope of UPL laws to:
   1. Acting in a representative capacity; or
   2. Acting for financial or personal gain.

b. Permitting nonlawyers at local indigent service organizations to advise individuals on legal needs and opportunities (e.g. social workers at non-profit offering legal advice, etc.).

7. Alternative Admission to the Bar – permitting additional pathways to obtaining a law license. Examples:
   a. Qualifying for the bar exam without obtaining a J.D. (e.g. substituting law school with extended apprenticeship in law office); or
   b. Diploma privilege – law license granted based upon successful completion of law school.
      i. Alternative: law school graduates may practice law under the supervision of an attorney between graduation and successful completion of the bar exam.
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Title</th>
<th>Temporary or Permanent</th>
<th>Areas of Practice</th>
<th>Scope of License</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>Legal Paraprofessionals</td>
<td>Permanent</td>
<td>Family law; limited civil (municipal or &quot;justice court&quot;); limited criminal (misdemeanors before municipal or justice court, incarceration not at issue); administrative law</td>
<td>May appear in court; drafting, signing, filing legal documents; legal advice; negotiations</td>
</tr>
<tr>
<td>Minnesota</td>
<td>Legal Paraprofessionals</td>
<td>Temporary (2021-2023)</td>
<td>Housing disputes; family law; creditor-debtor disputes</td>
<td>Under supervision of lawyer, may advise, appear in court, prepare and file documents</td>
</tr>
<tr>
<td>Oregon(?)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utah</td>
<td>Licensed Paralegal Practitioner</td>
<td>Permanent</td>
<td>Limited family law (temporary situation, divorce, parentage, cohabitant abuse, civil stalks, custody and support, name change); forcible entry and detainer; debt collection matters less than small claims limitations</td>
<td>May not appear in court; may not charge contingency fees; required to have trust accounts</td>
</tr>
</tbody>
</table>
Chapter 84.
Attorneys-at-Law.

Article 1.

Qualifications of Attorney; Unauthorized Practice of Law.

§ 84-1. Oaths taken in open court.

Attorneys before they shall be admitted to practice law shall, in open court before a justice or judge of the General Court of Justice, personally appear and take the oath prescribed for attorneys by G.S. 11-11, and also the oaths of allegiance to the State, and to support the Constitution of the United States, prescribed for all public officers by Article VI, Sec. 7 of the North Carolina Constitution and G.S. 11-7, and the same shall be entered on the records of the court; and, upon such qualification had, and oath taken may act as attorneys during their good behavior. (1777, c. 115, s. 8; R.C., c. 9, s. 3; Code, s. 19; Rev., s. 209; C.S., s. 197; 1969, c. 44, s. 58; 1973, c. 108, s. 35; 1995, c. 431, s. 1.)

§ 84-2. Persons disqualified.

No justice, judge, magistrate, full-time district attorney, full-time assistant district attorney, full-time public defender, full-time assistant public defender, clerk, deputy or assistant clerk of the General Court of Justice, register of deeds, deputy or assistant register of deeds, sheriff or deputy sheriff shall engage in the private practice of law. As used in this section, the private practice of law shall not include the performance of pro bono legal services by a lawyer, other than a justice or judge of the general court of justice, who is otherwise disqualified by this section if the pro bono services are sponsored or organized by a professional association of lawyers or a nonprofit corporation rendering legal services pursuant to G.S. 84-5.1. Persons violating this provision shall be guilty of a Class 3 misdemeanor and only fined not less than two hundred dollars ($200.00). (C.C.P., s. 424; 1870-1, c. 90; 1871-2, c. 120; 1880, c. 43; 1883, c. 406; Code, ss. 27, 28, 110; Rev., ss. 210, 3641; 1919, c. 205; C.S., s. 198; 1933, c. 15; 1941, c. 177; 1943, c. 543; 1965, c. 418, s. 1; 1969, c. 44, s. 59; 1973, c. 47, s. 2; c. 108, s. 36; 1981, c. 788, s. 1; 1993, c. 539, s. 596; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 431, s. 2; 2007-484, s. 28(a); 2017-158, s. 26.)

§ 84-2.1. "Practice law" defined.

(a) The phrase "practice law" as used in this Chapter is defined to be performing any legal service for any other person, firm or corporation, with or without compensation, specifically including the preparation or aiding in the preparation of deeds, mortgages, wills, trust instruments, inventories, accounts or reports of guardians, trustees, administrators or executors, or preparing or aiding in the preparation of any petitions or orders in any probate or court proceeding; abstracting or passing upon titles, the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation:
Provided, that the above reference to particular acts which are specifically included within the definition of the phrase "practice law" shall not be construed to limit the foregoing general definition of the term, but shall be construed to include the foregoing particular acts, as well as all other acts within the general definition.

(b) The phrase "practice law" does not encompass:

(1) The drafting or writing of memoranda of understanding or other mediation summaries by mediators at community mediation centers authorized by G.S. 7A-38.5 or by mediators of employment-related matters for The University of North Carolina or a constituent institution, or for an agency, commission, or board of the State of North Carolina.

(2) The selection or completion of a preprinted form by a real estate broker licensed under Chapter 93A of the General Statutes, when the broker is acting as an agent in a real estate transaction and in accordance with rules adopted by the North Carolina Real Estate Commission, or the selection or completion of a preprinted residential lease agreement by any person or Web site provider. Nothing in this subdivision or in G.S. 84-2.2 shall be construed to permit any person or Web site provider who is not licensed to practice law in accordance with this Chapter to prepare for any third person any contract or deed conveying any interest in real property, or to abstract or pass upon title to any real property, which is located in this State.

(3) The completion of or assisting a consumer in the completion of various agreements, contracts, forms, and other documents related to the sale or lease of a motor vehicle as defined in G.S. 20-286(10), or of products or services ancillary or related to the sale or lease of a motor vehicle, by a motor vehicle dealer licensed under Article 12 of Chapter 20 of the General Statutes. (C.C.P., s. 424; 1870-1, c. 90; 1871-2, c. 120; 1880, c. 43; 1883, c. 406; Code, ss. 27, 28, 110; Rev., ss. 210, 3641; 1919, c. 205; C.S., s. 198; 1933, c. 15; 1941, c. 177; 1943, c. 543; 1945, c. 468; 1995, c. 431, s. 3; 1999-354, s. 2; 2004-154, s. 2; 2013-410, s. 32; 2016-60, s. 1.)

§ 84-2.2. Exemption and additional requirements for Web site providers.

(a) The practice of law, including the giving of legal advice, as defined by G.S. 84-2.1 does not include the operation of a Web site by a provider that offers consumers access to interactive software that generates a legal document based on the consumer's answers to questions presented by the software, provided that all of the following are satisfied:

(1) The consumer is provided a means to see the blank template or the final, completed document before finalizing a purchase of that document.

(2) An attorney licensed to practice law in the State of North Carolina has reviewed each blank template offered to North Carolina consumers, including each and every potential part thereof that may appear in the completed document. The name and address of each reviewing attorney must be kept on file by the provider and provided to the consumer upon written request.
(3) The provider must communicate to the consumer that the forms or templates are not a substitute for the advice or services of an attorney.

(4) The provider discloses its legal name and physical location and address to the consumer.

(5) The provider does not disclaim any warranties or liability and does not limit the recovery of damages or other remedies by the consumer.

(6) The provider does not require the consumer to agree to jurisdiction or venue in any state other than North Carolina for the resolution of disputes between the provider and the consumer.

(7) The provider must have a consumer satisfaction process. All consumer concerns involving the unauthorized practice of law made to the provider shall be referred to the North Carolina State Bar. The consumer satisfaction process must be conspicuously displayed on the provider's Web site.

(b) A Web site provider subject to this section shall register with the North Carolina State Bar prior to commencing operation in the State and shall renew its registration with the State Bar annually. The State Bar may not refuse registration.

(c) Each Web site provider subject to this section shall pay an initial registration fee in an amount not to exceed one hundred dollars ($100.00) and an annual renewal fee in an amount not to exceed fifty dollars ($50.00). (2016-60, s. 2.)


§ 84-4. Persons other than members of State Bar prohibited from practicing law.

Except as otherwise permitted by law, it shall be unlawful for any person or association of persons, except active members of the Bar of the State of North Carolina admitted and licensed to practice as attorneys-at-law, to appear as attorney or counselor at law in any action or proceeding before any judicial body, including the North Carolina Industrial Commission, or the Utilities Commission; to maintain, conduct, or defend the same, except in his own behalf as a party thereto; or, by word, sign, letter, or advertisement, to hold out himself, or themselves, as competent or qualified to give legal advice or counsel, or to prepare legal documents, or as being engaged in advising or counseling in law or acting as attorney or counselor-at-law, or in furnishing the services of a lawyer or lawyers; and it shall be unlawful for any person or association of persons except active members of the Bar, for or without a fee or consideration, to give legal advice or counsel, perform for or furnish to another legal services, or to prepare directly or through another for another person, firm or corporation, any will or testamentary disposition, or instrument of trust, or to organize corporations or prepare for another person, firm or corporation, any other legal document. Provided, that nothing herein shall prohibit any person from drawing a will for another in an emergency wherein the imminence of death leaves insufficient time to have the same drawn and its execution supervised by a licensed attorney-at-law. The provisions of this section shall be in addition to and not in lieu of any other provisions of this Chapter. Provided, however, this section shall not apply to corporations authorized to practice law under the provisions of Chapter 55B of the General Statutes of North Carolina. (1931, c. 157, s. 1; 1937, c. 155, s. 1; 1955, c. 526, s. 1; 1969, c. 718, s. 19; 1981, c. 762, s. 3; 1995, c. 431, s. 4.)
§ 84-4.1. Limited practice of out-of-state attorneys.

Any attorney domiciled in another state, and regularly admitted to practice in the courts of record of and in good standing in that state, having been retained as attorney for a party to any civil or criminal legal proceeding pending in the General Court of Justice of North Carolina, the North Carolina Utilities Commission, the North Carolina Industrial Commission, the Office of Administrative Hearings of North Carolina, or any administrative agency, may, on motion, be admitted to practice in that forum for the sole purpose of appearing for a client in the proceeding. The motion required under this section shall be signed by the attorney and shall contain or be accompanied by:

1. The attorney's full name, post-office address, bar membership number, and status as a practicing attorney in another state.
2. A statement, signed by the client, setting forth the client's address and declaring that the client has retained the attorney to represent the client in the proceeding.
3. A statement that unless permitted to withdraw sooner by order of the court, the attorney will continue to represent the client in the proceeding until its final determination, and that with reference to all matters incident to the proceeding, the attorney agrees to be subject to the orders and amenable to the disciplinary action and the civil jurisdiction of the General Court of Justice and the North Carolina State Bar in all respects as if the attorney were a regularly admitted and licensed member of the Bar of North Carolina in good standing.
4. A statement that the state in which the attorney is regularly admitted to practice grants like privileges to members of the Bar of North Carolina in good standing.
5. A statement to the effect that the attorney has associated and is personally appearing in the proceeding, with an attorney who is a resident of this State, has agreed to be responsible for filing a registration statement with the North Carolina State Bar, and is duly and legally admitted to practice in the General Court of Justice of North Carolina, upon whom service may be had in all matters connected with the legal proceedings, or any disciplinary matter, with the same effect as if personally made on the foreign attorney within this State.
6. A statement accurately disclosing a record of all that attorney's disciplinary history. Discipline shall include (i) public discipline by any court or lawyer regulatory organization, and (ii) revocation of any pro hac vice admission.
7. A fee in the amount of two hundred twenty-five dollars ($225.00), of which two hundred dollars ($200.00) shall be remitted to the State Treasurer for support of the General Court of Justice and twenty-five dollars ($25.00) shall be transmitted to the North Carolina State Bar to regulate the practice of out-of-state attorneys as provided in this section.

Compliance with the foregoing requirements does not deprive the court of the discretionary power to allow or reject the application. (1967, c. 1199, s. 1; 1971, c. 550, s. 1; 1975, c. 582, ss. 1, 2; 1977, c. 430; 1985 (Reg. Sess., 1986), c. 1022, s. 8; 1991, c. 210, s. 2; 1995, c. 431, s. 5; 2003-116, s. 1; 2004-186, s. 4.2; 2005-396, s. 1; 2007-200, s. 4; 2007-323, s. 30.8(k).)

§ 84-4.2. Summary revocation of permission granted out-of-state attorneys to practice.

Permission granted under G.S. 84-4.1 may be summarily revoked by the General Court of Justice or any agency, including the North Carolina Utilities Commission, on its own motion and in its discretion. (1967, c. 1199, s. 2; 1971, c. 550, s. 2; 1995, c. 431, s. 6.)
§ 84-5. Prohibition as to practice of law by corporation.

(a) It shall be unlawful for any corporation to practice law or appear as an attorney for any person in any court in this State, or before any judicial body or the North Carolina Industrial Commission, Utilities Commission, or the Department of Commerce, Division of Employment Security, or hold itself out to the public or advertise as being entitled to practice law; and no corporation shall organize corporations, or draw agreements, or other legal documents, or draw wills, or practice law, or give legal advice, or hold itself out in any manner as being entitled to do any of the foregoing acts, by or through any person orally or by advertisement, letter or circular. The provisions of this section shall be in addition to and not in lieu of any other provisions of Chapter 84. Provided, that nothing in this section shall be construed to prohibit a banking corporation authorized and licensed to act in a fiduciary capacity from performing any clerical, accounting, financial or business acts required of it in the performance of its duties as a fiduciary or from performing ministerial and clerical acts in the preparation and filing of such tax returns as are so required, or from discussing the business and financial aspects of fiduciary relationships. Provided, however, this section shall not apply to corporations authorized to practice law under the provisions of Chapter 55B of the General Statutes of North Carolina.

To further clarify the foregoing provisions of this section as they apply to corporations which are authorized and licensed to act in a fiduciary capacity:

(1) A corporation authorized and licensed to act in a fiduciary capacity shall not:
   a. Draw wills or trust instruments; provided that this shall not be construed to prohibit an employee of such corporation from conferring and cooperating with an attorney who is not a salaried employee of the corporation, at the request of such attorney, in connection with the attorney's performance of services for a client who desires to appoint the corporation executor or trustee or otherwise to utilize the fiduciary services of the corporation.
   b. Give legal advice or legal counsel, orally or written, to any customer or prospective customer or to any person who is considering renunciation of the right to qualify as executor or administrator or who proposes to resign as guardian or trustee, or to any other person, firm or corporation.
   c. Advertise to perform any of the acts prohibited herein; solicit to perform any of the acts prohibited herein; or offer to perform any of the acts prohibited herein.

(2) Except as provided in subsection (b) of this section, when any of the following acts are to be performed in connection with the fiduciary activities of such a corporation, said acts shall be performed for the corporation by a duly licensed attorney, not a salaried employee of the corporation, retained to perform legal services required in connection with the particular estate, trust or other fiduciary matter:
   a. Offering wills for probate.
   b. Preparing and publishing notice of administration to creditors.
   c. Handling formal court proceedings.
d. Drafting legal papers or giving legal advice to spouses concerning rights to an elective share under Article 1A of Chapter 30 of the General Statutes.

e. Resolving questions of domicile and residence of a decedent.

f. Handling proceedings involving year's allowances of widows and children.

g. Drafting deeds, notes, deeds of trust, leases, options and other contracts.

h. Drafting instruments releasing deeds of trust.

i. Drafting assignments of rent.

j. Drafting any formal legal document to be used in the discharge of the corporate fiduciary's duty.

k. In matters involving estate and inheritance taxes, gift taxes, and federal and State income taxes:
   1. Preparing and filing protests or claims for refund, except requests for a refund based on mathematical or clerical errors in tax returns filed by it as a fiduciary.
   2. Conferring with tax authorities regarding protests or claims for refund, except those based on mathematical or clerical errors in tax returns filed by it as a fiduciary.
   3. Handling petitions to the tax court.

l. Performing legal services in insolvency proceedings or before a referee in bankruptcy or in court.

m. In connection with the administration of an estate or trust:
   1. Making application for letters testamentary or letters of administration.
   2. Abstracting or passing upon title to property.
   3. Handling litigation relating to claims by or against the estate or trust.
   4. Handling foreclosure proceedings of deeds of trust or other security instruments which are in default.

   (3) When any of the following acts are to be performed in connection with the fiduciary activities of such a corporation, the corporation shall comply with the following:

   a. The initial opening and inventorying of safe deposit boxes in connection with the administration of an estate for which the corporation is executor or administrator shall be handled by, or with the advice of, an attorney, not a salaried employee of the corporation, retained by the corporation to perform legal services required in connection with that particular estate.

   b. The furnishing of a beneficiary with applicable portions of a testator's will relating to such beneficiary shall, if accompanied by any legal advice or opinion, be handled by, or with the advice of, an attorney, not a salaried employee of the corporation, retained by the corporation to perform legal services required in connection with that particular estate or matter.
c. In matters involving estate and inheritance taxes and federal and State income taxes, the corporation shall not execute waivers of statutes of limitations without the advice of an attorney, not a salaried employee of the corporation, retained by the corporation to perform legal services in connection with that particular estate or matter.

d. An attorney, not a salaried employee of the corporation, retained by the corporation to perform legal services required in connection with an estate or trust shall be furnished copies of inventories and accounts proposed for filing with any court and proposed federal estate and North Carolina inheritance tax returns and, on request, copies of proposed income and intangibles tax returns, and shall be afforded an opportunity to advise and counsel the corporate fiduciary concerning them prior to filing.

(b) Nothing in this section shall prohibit an attorney retained by a corporation, whether or not the attorney is also a salaried employee of the corporation, from representing the corporation or an affiliate, or from representing an officer, director, or employee of the corporation or an affiliate in any matter arising in connection with the course and scope of the employment of the officer, director, or employee. Notwithstanding the provisions of this subsection, the attorney providing such representation shall be governed by and subject to all of the Rules of Professional Conduct of the North Carolina State Bar to the same extent as all other attorneys licensed by this State. (1931, c. 157, s. 2; 1937, c. 155, s. 2; 1955, c. 526, s. 2; 1969, c. 718, s. 20; 1971, c. 747; 1997-203, s. 1; 2000-178, s. 8; 2011-401, s. 3.5.)

§ 84-5.1. Rendering of legal services by certain nonprofit corporations.

(a) Subject to the rules and regulations of the North Carolina State Bar, as approved by the Supreme Court of North Carolina, a nonprofit corporation, tax exempt under 26 U.S.C. § 501(c)(3), organized or authorized under Chapter 55A of the General Statutes of North Carolina and operating as a public interest law firm as defined by the applicable Internal Revenue Service guidelines or for the primary purpose of rendering indigent legal services, may render such services provided by attorneys duly licensed to practice law in North Carolina, for the purposes for which the nonprofit corporation was organized. The nonprofit corporation must have a governing structure that does not permit an individual or group of individuals other than an attorney duly licensed to practice law in North Carolina to control the manner or course of the legal services rendered and must continually satisfy the criteria established by the Internal Revenue Service for 26 U.S.C. § 501(c)(3) status, whether or not any action has been taken to revoke that status.

(b) In no instance may legal services rendered by a nonprofit corporation under subsection (a) of this section be conditioned upon the purchase or payment for any product, good, or service other than the legal service rendered. (1977, c. 841, s. 1; 2009-231, s. 1.)

§ 84-6. Exacting fee for conducting foreclosures prohibited to all except licensed attorneys.

It shall be unlawful to exact, charge, or receive any attorney's fee for the foreclosure of any mortgage under power of sale, unless the foreclosure is conducted by licensed attorney-at-law of North Carolina, and unless the full amount charged as attorney's fee is actually paid to and received
and retained by such attorney, without being directly or indirectly shared with or rebated to anyone else, and it shall be unlawful for any such attorney to make any showing that he has received such a fee unless he has received the same, or to share with or rebate to any other person, firm, or corporation such fee or any part thereof received by him; but such attorney may divide such fee with another licensed attorney-at-law maintaining his own place of business and not an officer or employee of the foreclosing party, if such attorney has assisted in performing the services for which the fee is paid, or resides in a place other than that where the foreclosure proceedings are conducted, and has forwarded the case to the attorney conducting such foreclosure. (1931, c. 157, s. 3.)

§ 84-7. District attorneys, upon application, to bring injunction or criminal proceedings.

The district attorney of any of the superior courts shall, upon the application of any member of the Bar, or of any bar association, of the State of North Carolina, bring such action in the name of the State as may be proper to enjoin any such person, corporation, or association of persons who it is alleged are violating the provisions of G.S. 84-4 to 84-8, and it shall be the duty of the district attorneys of this State to indict any person, corporation, or association of persons upon the receipt of information of the violation of the provisions of G.S. 84-4 to 84-8. (1931, c. 157, s. 4; 1973, c. 47, s. 2.)

§ 84-7.1. Legal clinics of law schools and certain law students and lawyers excepted.

The provisions of G.S. 84-4 through G.S. 84-6 shall not apply to any of the following:

1. Any law school conducting a legal clinic and receiving as its clientage only those persons unable financially to compensate for legal advice or services rendered and any law student permitted by the North Carolina State Bar to act as a legal intern in such a legal clinic.

2. Any law student permitted by the North Carolina State Bar to act as a legal intern for a federal, State, or local government agency.

3. Any lawyer licensed by another state and permitted by the North Carolina State Bar to represent indigent clients on a pro bono basis under the supervision of active members employed by nonprofit corporations qualified to render legal services pursuant to G.S. 84-5.1. This provision does not apply to a lawyer whose license has been suspended or revoked in any state. (2011-336, s. 5.)

§ 84-8. Punishment for violations.

(a) Any person, corporation, or association of persons violating any of the provisions of G.S. 84-4 through G.S. 84-6 or G.S. 84-9 shall be guilty of a Class 1 misdemeanor.

(b) No person shall be entitled to collect any fee for services performed in violation of G.S. 84-4 through G.S. 84-6, G.S. 84-9, or G.S. 84-10.1. (1931, c. 157, s. 5; c. 347; 1993, c. 539, s. 597; 1994, Ex. Sess., c. 24, s. 14(c); 2007-200, s. 3; 2011-336, s. 4.)

§ 84-9. Unlawful for anyone except attorney to appear for creditor in insolvency and certain other proceedings.
It shall be unlawful for any corporation, or any firm or other association of persons other than a law firm, or for any individual other than an attorney duly licensed to practice law, to appear for another in any bankruptcy or insolvency proceeding, or in any action or proceeding for or growing out of the appointment of a receiver, or in any matter involving an assignment for the benefit of creditors, or to present or vote any claim of another, whether under an assignment or transfer of such claim or in any other manner, in any of the actions, proceedings or matters hereinabove set out. (1931, c. 208, s. 2.)

§ 84-10: Repealed by Session Laws 2011-336, s. 6, effective December 1, 2011, and applicable to offenses committed on or after December 1, 2011.

§ 84-10.1. Private cause of action for the unauthorized practice of law.
If any person knowingly violates any of the provisions of G.S. 84-4 through G.S. 84-6 or G.S. 84-9, fraudulently holds himself or herself out as a North Carolina certified paralegal by use of the designations set forth in G.S. 84-37(a), or knowingly aids and abets another person to commit the unauthorized practice of law, in addition to any other liability imposed pursuant to this Chapter or any other applicable law, any person who is damaged by the unlawful acts set out in this section shall be entitled to maintain a private cause of action to recover damages and reasonable attorneys' fees and other injunctive relief as ordered by court. No order or judgment under this section shall have any effect upon the ability of the North Carolina State Bar to take any action authorized by this Chapter. (2011-336, s. 7; 2016-60, s. 3.)

Article 2.
Relation to Client.

§ 84-11. Authority filed or produced if requested.
Every attorney who claims to enter an appearance for any person shall, upon being required so to do, produce and file in the clerk's office of the court in which he claims to enter an appearance, a power or authority to that effect signed by the persons or some one of them for whom he is about to enter an appearance, or by some person duly authorized in that behalf, otherwise he shall not be allowed so to do: Provided, that when any attorney claims to enter an appearance by virtue of a letter to him directed (whether such letter purport a general or particular employment), and it is necessary for him to retain the letter in his own possession, he shall, on the production of said letter setting forth such employment, be allowed to enter his appearance, and the clerk shall make a note to that effect upon the docket. (R.C., c. 31, s. 57; Code, s. 29; Rev., s. 213; C.S., s. 200.)

§ 84-12. Failure to file complaint, attorney liable for costs.
When a plaintiff is compelled to pay the costs of his suit in consequence of a failure on the part of his attorney to file his complaint in proper time, he may sue such attorney for all the costs by

If any attorney commits any fraudulent practice, he shall be liable in an action to the party injured, and on the verdict passing against him, judgment shall be given for the plaintiff to recover double damages. (1743, c. 37; R.C., c. 9, s. 6; Code, s. 23; Rev., s. 215; C. S., s. 202.)

§ 84-14: Recodified as § 7A-97 by Session Laws 1995, c. 431, s. 7.

§ 84-15. Creation of North Carolina State Bar as an agency of the State.

There is hereby created as an agency of the State of North Carolina, for the purposes and with the powers hereinafter set forth, the North Carolina State Bar. (1933, c. 210, s. 1.)

§ 84-16. Membership and privileges.

The membership of the North Carolina State Bar shall consist of two classes, active and inactive.

The active members shall be all persons who have obtained a license or certificate, entitling them to practice law in the State of North Carolina, who have paid the membership dues specified, and who have satisfied all other obligations of membership. No person other than a member of the North Carolina State Bar shall practice in any court of the State except foreign attorneys as provided by statute and natural persons representing themselves.

Inactive members shall be:

1. All persons who have obtained a license to practice law in the State but who have been found by the Council to be not engaged in the practice of law and not holding themselves out as practicing attorneys and not occupying any public or private positions in which they may be called upon to give legal advice or counsel or to examine the law or to pass upon, adjudicate, or offer an opinion concerning the legal effect of any act, document, or law.

2. Persons allowed by the Council solely to represent indigent clients on a pro bono basis under the supervision of an active member employed by a nonprofit corporation qualified to render legal services pursuant to G.S. 84-5.1.

All active members shall be required to pay annual membership fees, and shall have the right to vote in elections held by the district bar in the judicial district in which the member resides. If a member desires to vote with the bar of some district in which the member practices, other than that
in which the member resides, the member may do so by filing with the Secretary of the North Carolina State Bar a statement in writing that the member desires to vote in the other district; provided, however, that in no case shall the member be entitled to vote in more than one district.

(1933, c. 210, s. 2; 1939, c. 21, s. 1; 1941, c. 344, ss. 1, 2, 3; 1969, c. 44, s. 60; c. 1190, s. 52; 1973, c. 1152, s. 1; 1981, c. 788, s. 2; 1983, c. 589, s. 1; 1985, c. 621; 1995, c. 431, s. 8; 2007-200, s. 1.)

§ 84-17. Government.

The government of the North Carolina State Bar is vested in a council of the North Carolina State Bar referred to in this Chapter as the "Council." The Council shall be composed of a variable number of councilors equal to the number of judicial districts plus 16, the officers of the North Carolina State Bar, who shall be councilors during their respective terms of office, and each retiring president of the North Carolina State Bar who shall be a councilor for one year from the date of expiration of his term as president. Notwithstanding any other provisions of the law, the North Carolina State Bar may borrow money and may acquire, hold, rent, encumber, alienate, lease, and otherwise deal with real or personal property in the same manner as any private person or corporation, subject only to the approval of the Governor and the Council of State as to the borrowing of money and the acquisition, rental, encumbering, leasing and sale of real property. The Council shall be competent to exercise the entire powers of the North Carolina State Bar in respect of the interpretation and administration of this Article, the borrowing of money, the acquisition, lease, sale, or mortgage of property, real or personal, the seeking of amendments to this Chapter, and all other matters. There shall be one councilor from each judicial district and 16 additional councilors. The additional councilors shall be allocated and reallocated by the North Carolina State Bar every six years based on the number of active members of each judicial district bar according to the records of the North Carolina State Bar and in accordance with a formula to be adopted by the North Carolina State Bar, to insure an allocation based on lawyer population of each judicial district bar as it relates to the total number of active members of the State Bar.

A councilor whose seat has been eliminated due to a reallocation shall continue to serve on the Council until expiration of the remainder of the current term. A councilor whose judicial district is altered by the General Assembly during the councilor's term shall continue to serve on the Council until the expiration of the term and shall represent the district wherein the councilor resides or with which the councilor has elected to be affiliated. If before the alteration of the judicial district of the councilor the judicial district included both the place of residence and the place of practice of the councilor, and if after the alteration of the judicial district the councilor's place of residence and place of practice are located in different districts, the councilor must, not later than 10 days from the effective date of the alteration of the district, notify the Secretary of the North Carolina State Bar of an election to affiliate with and represent either the councilor's district of residence or district of practice.

In addition to the councilors, there shall be three public members not licensed to practice law in this or any other state who shall be appointed by the Governor. The public members may vote and participate in all matters before the Council to the same extent as councilors elected or appointed from the various judicial districts. (1933, c. 210, s. 3; 1937, c. 51, s. 1; 1955, c. 651, s. 1; 1961, c. 641; 1973, c. 1152, s. 2; 1977, c. 841, s. 2; 1979, c. 570, ss. 1, 2; 1981, c. 788, s. 3; 1985, c. 60, s. 1; 1987, c. 316, s. 1; 1995, c. 431, s. 9; 2007-200, s. 2; 2009-82, s. 1.)

§ 84-18. Terms, election and appointment of councilors.
(a) Except as set out in this section, the terms of councilors are fixed at three years commencing on the first day of January in the year following their election. A year shall be the calendar year. No councilor may serve more than three successive three-year terms but a councilor may serve an unlimited number of three successive three-year terms provided a three-year period of nonservice intervenes in each instance. Any councilor serving a partial term of 18 months or more is considered to have served a full term and shall be eligible to be elected to only two successive three-year terms in addition to the partial term. Any councilor serving a partial term of less than 18 months is eligible to be elected to three successive three-year terms in addition to the partial term. This paragraph shall not apply to officers of the State Bar.

The secretary of a judicial district bar shall notify the secretary-treasurer of the State Bar in writing of any additions to or deletions from the delegation of councilors representing the district within 90 days of the effective date of the change. No new councilor shall assume a seat until official notice of the election has been given to the secretary-treasurer of the State Bar.

Any active member of the North Carolina State Bar is eligible to serve as a councilor from the judicial district in which the member is eligible to vote.

(b) The Council may promulgate rules to govern the election and appointment of councilors. The election and appointment of councilors shall be as follows:

Each judicial district bar shall elect one eligible North Carolina State Bar member for each Council vacancy in the district. Any vacancy occurring after the election, whether caused by resignation, death, reconfiguration of the district by the General Assembly, or otherwise shall be filled by the judicial district bar in which the vacancy occurs. The appointment shall be for the unexpired portion of the term and shall be certified to the Council by the judicial district bar. Any appointed councilor shall be subject to the terms set forth in subsection (a) of G.S. 84-18.

(c) Public members shall serve three-year terms. No public member shall serve more than two complete consecutive terms. The Secretary of the North Carolina State Bar shall promptly inform the Governor when any seat occupied by a public member becomes vacant. The successor shall serve the remainder of the term. Any public member serving a partial term of 18 months or more is considered to have served a full term and is eligible to be elected to only one additional three-year term in addition to the partial term. Any public member serving a partial term of less than 18 months is eligible to be elected to two successive three-year terms in addition to the partial term. (1933, c. 210, s. 4; 1953, c. 1310, s. 1; 1979, c. 570, s. 3; 1981, c. 788, s. 4; 1985, c. 60, ss. 2, 3; 1987, c. 316, s. 2; 1995, c. 431, s. 10.)

§ 84-18.1. Membership and fees of district bars.

(a) The district bar shall be a subdivision of the North Carolina State Bar subject to the general supervisory authority of the Council and may adopt rules, regulations and bylaws that are not inconsistent with this Article. A copy of any rules, regulations and bylaws that are adopted, along with any subsequent amendments, shall be transmitted to the Secretary-Treasurer of the North Carolina State Bar.

(b) Any district bar may from time to time by a majority vote of the members present at a duly called meeting prescribe an annual membership fee to be paid by its active members as a service charge to promote and maintain its administration, activities and programs. The fee shall be in addition to, but shall not exceed, the amount of the membership fee prescribed by G.S. 84-34 for active members of the North Carolina State Bar. The district bar may also charge a late fee, which shall not exceed fifteen dollars ($15.00), for the failure to pay judicial district bar dues on time. The district bar shall mail a written notice to every active member of the district bar at least
30 days before any meeting at which an election is held to impose or increase mandatory district bar dues. Every active member of a district bar which has prescribed an annual membership fee shall keep its secretary-treasurer notified of his correct mailing address and shall pay the prescribed fee at the time and place set forth in the demand for payment mailed to him by its secretary-treasurer. The name of each active member of a district bar who is more than 12 full calendar months in arrears in the payment of any fee shall be furnished by the secretary-treasurer of the district bar to the Council. In the exercise of its powers as set forth in G.S. 84-23, the Council shall thereupon take disciplinary or other action with reference to the delinquent as it considers necessary and proper. (1969, c. 241; 1983, c. 390, s. 1; 1995, c. 431, s. 11; 2005-396, s. 2.)

For purposes of this Article, the term "judicial district" refers to prosecutorial districts established by the General Assembly and includes the High Point Superior Court District as described under G.S. 7A-41(b)(13). The term "district bar" means the bar of a judicial district as defined by this section. (1933, c. 210, s. 5; 1955, c. 651, s. 2; 1979, c. 570, s. 4; 1987, c. 316, s. 3; 1995, c. 431, s. 12; 2011-28, s. 1.)

§ 84-20. Compensation of councilors.
The members of the Council and members of committees when actually engaged in the performance of their duties, including committees sitting upon disbarment proceedings, shall receive as compensation for the time spent in attending meetings an amount to be determined by the Council, subject to approval of the North Carolina Supreme Court, and shall receive actual expenses of travel and subsistence while engaged in their duties provided that for transportation by use of private automobile the expense of travel shall not exceed the business standard mileage rate set by the Internal Revenue Service per mile of travel. The Council shall determine per diem and mileage to be paid. The allowance fixed by the Council shall be paid by the secretary-treasurer of the North Carolina State Bar upon presentation of appropriate documentation by each member. (1933, c. 210, s. 6; 1935, c. 34; 1953, c. 1310, s. 2; 1971, c. 13, s. 1; 1995, c. 431, s. 13; 2006-66, s. 22.23; 2006-221, s. 24.)

§ 84-21. Organization of Council; publication of rules, regulations and bylaws.
(a) The Council shall adopt the rules pursuant to G.S. 45A-9.
(b) The rules and regulations adopted by the Council under this Article may be amended by the Council from time to time in any manner not inconsistent with this Article. Copies of all rules and regulations and of all amendments adopted by the Council shall be certified to the Chief Justice of the Supreme Court of North Carolina, entered by the North Carolina Supreme Court upon its minutes, and published in the next ensuing number of the North Carolina Reports and in the North Carolina Administrative Code: Provided, that the court may decline to have so entered upon its minutes any rules, regulations and amendments which in the opinion of the Chief Justice are inconsistent with this Article. (1933, c. 210, s. 7; 1991, c. 418, s. 7; 1995, c. 431, s. 14; 2011-336, s. 8.)

§ 84-22. Officers and committees of the North Carolina State Bar.
The officers of the North Carolina State Bar and the Council shall consist of a president, president-elect, vice-president and an immediate past president, who shall be deemed members of the Council in all respects. The president, president-elect and vice-president need not be members of the Council at the time of their election. There shall be a secretary-treasurer who shall also have the title of executive director, but who shall not be a member of the Council. All officers shall be elected annually by the Council at an election to take place at the annual meeting of the North Carolina State Bar. The regular term of all officers is one year. The Council is the judge of the election and qualifications of its members.

In addition to the committees and commissions as may be specifically established or authorized by law, the North Carolina State Bar may have committees, standing or special, as from time to time the Council deems appropriate for the proper discharge of the duties and functions of the North Carolina State Bar. The Council shall determine the number of members, composition, method of appointment or election, functions, powers and duties, structure, authority to act, and other matters relating to each committee. Any committee may, at the discretion of the appointing or electing authority, be composed of Council members or members of the North Carolina State Bar who are not members of the Council, or of lay persons, or of any combination. (1933, c. 210, s. 8; 1941, c. 344, ss. 4, 5; 1973, c. 1152, s. 3; 1979, c. 570, s. 5; 1995, c. 431, s. 15.)


(a) The Council is vested, as an agency of the State, with the authority to regulate the professional conduct of licensed lawyers and State Bar certified paralegals. Among other powers, the Council shall administer this Article; take actions that are necessary to ensure the competence of lawyers and State Bar certified paralegals; formulate and adopt rules of professional ethics and conduct; investigate and prosecute matters of professional misconduct; grant or deny petitions for reinstatement; resolve questions pertaining to membership status; arbitrate disputes concerning legal fees; certify legal specialists and paralegals and charge fees to applicants and participants necessary to administer these certification programs; determine whether a member is disabled; maintain an annual registry of interstate and international law firms doing business in this State; and formulate and adopt procedures for accomplishing these purposes. The Council may do all things necessary in the furtherance of the purposes of this Article that are not otherwise prohibited by law.

(b) The Council or any committee of the Council, including the Client Security Fund and the Disciplinary Hearing Commission or any committee of the Commission, may subpoena financial records of any licensed lawyers, lawyers whose licenses have been suspended, or disbarred lawyers, relating to any account into which client or fiduciary funds have been deposited.

(c) The Council may publish an official journal concerning matters of interest to the legal profession.

(d) The Council may acquire, hold, rent, encumber, alienate, lease, and otherwise deal with real or personal property in the same manner as any private person or corporation, subject only to the approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing and sale of real property. The Council may borrow money upon its bonds, notes, debentures, or other evidences of indebtedness sold through public
or private sale pursuant to a loan agreement or a trust agreement or indenture with a trustee, with such borrowing either unsecured or secured by a mortgage on the Council's interest in real or personal property, and engage and contract with attorneys, underwriters, financial advisors, and other parties as necessary for such borrowing, with such borrowing and security subject to the approval of the Governor and the Council of State. The Council may utilize the services of the Purchase and Contract Division of the Department of Administration to procure personal property, in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes. However, the Council shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Council under this subsection a standard clause which provides that the State Auditor and internal auditors of the Council may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Council shall not award a cost plus percentage of cost agreement or contract for any purpose. (1933, c. 210, s. 9; 1935, c. 74, s. 1; 1937, c. 51, s. 2; 1975, c. 582, s. 3; 1977, c. 841, s. 2; 1995, c. 431, s. 16; 2003-116, s. 2; 2004-174, s. 1; 2005-396, s. 4; 2009-82, s. 2; 2010-194, s. 12; 2011-326, s. 15(l).)

§ 84-23.1. Prepaid legal services.

(a) This section is in addition to and not a limitation of the powers and responsibilities of the council set out in G.S. 84-23. To the extent that this section deals with the same powers and responsibilities it shall be taken to be in amplification of those powers and not in derogation thereof.

(b) Repealed by Session Laws 1991, c. 210, s. 1.

(b1) All organizations offering prepaid legal services plans shall register those plans with the North Carolina State Bar Council on forms provided by the Council. Each plan shall be registered prior to its implementation or operation in this State and shall renew its registration with the State Bar annually.

(b2) Every plan shall pay an administrative fee to the Council for the initial registration and an annual renewal fee in amounts determined by the Council.

(c) Repealed by Session Laws 1991, c. 210, s. 1.

(d) Notwithstanding registration of the plan with the North Carolina State Bar Council pursuant to subsection (b1), any plan for prepaid legal services is subject to regulation under Chapter 58 of the General Statutes if offered by a company engaged in the insurance business or if the plan itself constitutes the offering of insurance.

(e) Repealed by Session Laws 1991, c. 210, s. 1. (1975, c. 707, s. 1; 1991, c. 210, s. 1; 2005-396, ss. 5, 6.)


For the purpose of examining applicants and providing rules and regulations for admission to the Bar including the issuance of license therefor, there is hereby created the Board of Law Examiners, which shall consist of 11 members of the Bar, elected by the
Council, who need not be members of the Council. No teacher in any law school, however, shall be eligible. The members of the Board of Law Examiners elected from the Bar shall each hold office for a term of three years.

The Board of Law Examiners shall elect a member of the Board as chair thereof, and the Board may employ an executive secretary and provide such assistance as may be required to enable the Board to perform its duties promptly and properly. The chair and any employees shall serve for a period of time determined by the Board.

The examination shall be held in the manner and at the times as the Board of Law Examiners may determine.

The Board of Law Examiners shall have full power and authority to make or cause to be made such examinations and investigations as may be deemed necessary to satisfy it that the applicants for admission to the Bar possess the qualifications of character and general fitness requisite for an attorney and counselor-at-law and to this end the Board of Law Examiners shall have the power of subpoena and to summons and examine witnesses under oath and to compel their attendance and the production of books, papers and other documents and writings deemed by it to be necessary or material to the inquiry and shall also have authority to employ and provide assistance as may be required to enable it to perform its duties promptly and properly. Records, papers, and other documents containing information collected and compiled by the Board or its members or employees as a result of investigations, inquiries, or interviews conducted in connection with examinations or licensing matters, are not public records within the meaning of Chapter 132 of the General Statutes.

All applicants for admission to the Bar shall be fingerprinted to determine whether the applicant has a record of criminal conviction in this State or in any other state or jurisdiction. The information obtained as a result of the fingerprinting of an applicant shall be limited to the official use of the Board of Law Examiners in determining the character and general fitness of the applicant.

The Department of Public Safety may provide a criminal record check to the Board of Law Examiners for a person who has applied for a license through the Board. The Board shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this section.
The Board of Law Examiners, subject to the approval of the Council, shall by majority vote, from time to time, make, alter, and amend such rules and regulations for admission to the Bar as in their judgment shall promote the welfare of the State and the profession: Provided, that no change in the educational requirements for admission to the Bar that establishes an additional or greater requirement shall become effective until two years after the date of the adoption of the change.

All rules and regulations, and modifications, alterations and amendments thereof, shall be recorded and promulgated as provided in G.S. 84-21 in relation to the certificate of organization and the rules and regulations of the Council.

Whenever the Council shall order the restoration of license to any person as authorized by G.S. 84-32, it shall be the duty of the Board of Law Examiners to issue a written license to the person, noting thereon that the license is issued in compliance with an order of the Council, whether the license to practice law was issued by the Board of Law Examiners or the Supreme Court in the first instance.

Appeals from the Board shall be had in accordance with rules or procedures as may be approved by the Supreme Court as may be submitted under G.S. 84-21 or as may be promulgated by the Supreme Court. (1933, c. 210, s. 10; 1935, cc. 33, 61; 1941, c. 344, s. 6; 1947, c. 77; 1951, c. 991, s. 1; 1953, c. 1012; 1965, cc. 65, 725; 1973, c. 13; 1977, c. 841, s. 2; 1983, c. 177; 1991, c. 210, s. 4; 1995, c. 431, s. 17; 2002-147, s. 5; 2014-100, s. 17.1(o); 2015-264, s. 47.)

§ 84-25. Fees of applicants.
All applicants before the Board of Law Examiners shall pay such fees as prescribed under the rules of said Board as may be promulgated under G.S. 84-21 and 84-24. (1935, c. 33, s. 1; 1955, c. 651, s. 3.)

§ 84-26. Expenses of Board of Law Examiners.
Notwithstanding G.S. 93B-5(b), each member of the Board of Law Examiners shall receive the member's actual expenses of travel and subsistence while engaged in duties assigned to the member; provided, however, that for transportation by the use of private automobile the expense of that transportation shall be the same as paid other boards and commissions by the State. (1935, c. 33, s. 2; 1937, c. 35; 1953, c. 1310, s. 3; 1971, c. 13, s. 2; 1973, c. 1368; 2013-9, s. 1.)

§ 84-27. Repealed by Session Laws 1945, c. 782.

(a) Any attorney admitted to practice law in this State is subject to the disciplinary jurisdiction of the Council under such rules and procedures as the Council shall adopt as provided in G.S. 84-23.

(b) The following acts or omissions by a member of the North Carolina State Bar or any attorney admitted for limited practice under G.S. 84-4.1, individually or in concert with any other
person or persons, shall constitute misconduct and shall be grounds for discipline whether the act or omission occurred in the course of an attorney-client relationship or otherwise:

(1) Conviction of, or a tender and acceptance of a plea of guilty or no contest to, a criminal offense showing professional unfitness;

(2) The violation of the Rules of Professional Conduct adopted and promulgated by the Council in effect at the time of the act;

(3) Knowing misrepresentation of any facts or circumstances surrounding any complaint, allegation or charge of misconduct; failure to answer any formal inquiry or complaint issued by or in the name of the North Carolina State Bar in any disciplinary matter; or contempt of the Council or any committee of the North Carolina State Bar.

(c) Misconduct by any attorney shall be grounds for:

(1) Disbarment;

(2) Suspension for a period up to but not exceeding five years, any portion of which may be stayed upon reasonable conditions to which the offending attorney consents;

(3) Censure – A censure is a written form of discipline more serious than a reprimand issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or members of the public, but the protection of the public does not require suspension of the attorney's license;

(4) Reprimand – A reprimand is a written form of discipline more serious than an admonition issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct, but the protection of the public does not require a censure. A reprimand is generally reserved for cases in which the attorney's conduct has caused harm or potential harm to a client, the administration of justice, the profession, or members of the public; or

(5) Admonition – An admonition is a written form of discipline imposed in cases in which an attorney has committed a minor violation of the Rules of Professional Conduct.

Any order disbarring or suspending an attorney may impose reasonable conditions precedent to reinstatement. No attorney who has been disbarred by the Disciplinary Hearing Commission, the Council, or by order of any court of this State may seek reinstatement to the practice of law prior to five years from the effective date of the order of disbarment. Any order of the Disciplinary Hearing Commission or the Grievance Committee imposing an admonition, reprimand, censure, or stayed suspension may also require the attorney to complete a reasonable amount of continuing legal education in addition to the minimum amount required by the North Carolina Supreme Court.

(d) Any attorney admitted to practice law in this State, who is convicted of or has tendered and has had accepted, a plea of guilty or no contest to, a criminal offense showing professional unfitness, may be disciplined based upon the conviction, without awaiting the outcome of any appeals of the conviction. An order of discipline based solely upon a conviction of a criminal offense showing professional unfitness shall be vacated immediately upon receipt by the Secretary of the North Carolina State Bar of a certified copy of a judgment or order reversing the conviction. The fact that the attorney's criminal conviction has been overturned on appeal shall not prevent the
North Carolina State Bar from conducting a disciplinary proceeding against the attorney based upon the same underlying facts or events that were the subject of the criminal proceeding.

(d1) An attorney who is disciplined as provided in subsection (d) of this section may petition the court in the trial division in the judicial district where the conviction occurred for an order staying the disciplinary action pending the outcome of any appeals of the conviction. The court may grant or deny the stay in its discretion upon such terms as it deems proper. A stay of the disciplinary action by the court shall not prevent the North Carolina State Bar from going forward with a disciplinary proceeding against the attorney based upon the same underlying facts or events that were the subject of the criminal proceeding.

(e) Any attorney admitted to practice law in this State who is disciplined in another jurisdiction shall be subject to the same discipline in this State: Provided, that the discipline imposed in the other jurisdiction does not exceed that provided for in subsection (c) above and that the attorney was not deprived of due process in the other jurisdiction.

(f) Upon application by the North Carolina State Bar, misconduct by an attorney admitted to practice in this State may be restrained or enjoined where the necessity for prompt action exists regardless of whether a disciplinary proceeding in the matter of the conduct is pending. The application shall be filed in the Superior Court of Wake County and shall be governed by the procedure set forth in G.S. 1A-1, Rule 65.

(g) Any member of the North Carolina State Bar may be transferred to disability inactive status for mental incompetence, physical disability, or substance abuse interfering with the attorney's ability to competently engage in the practice of law under the rules and procedures the Council adopts pursuant to G.S. 84-23.

(h) There shall be an appeal of right by either party from any final order of the Disciplinary Hearing Commission to the North Carolina Court of Appeals. Review by the appellate division shall be upon matters of law or legal inference. The procedures governing any appeal shall be as provided by statute or court rule for appeals in civil cases. A final order which imposes disbarment or suspension for 18 months or more shall not be stayed except upon application, under the rules of the Court of Appeals, for a writ of supersedeas. A final order imposing suspension for less than 18 months or any other discipline except disbarment shall be stayed pending determination of any appeal of right.

(i) The North Carolina State Bar may invoke the process of the General Court of Justice to enforce the powers of the Council or any committee to which the Council delegates its authority.

(j) The North Carolina State Bar may apply to appropriate courts for orders necessary to protect the interests of clients of missing, suspended, disbarred, disabled, or deceased attorneys.

The senior regular resident judge of the superior court of any district wherein a member of the North Carolina State Bar resides or maintains an office shall have the authority and power to enter orders necessary to protect the interests of the clients, including the authority to order the payment of compensation by the member or the estate of a deceased or disabled member to any attorney appointed to administer or conserve the law practice of the member. Compensation awarded to a member serving under this section awarded from the estate of a deceased member shall be considered an administrative expense of the estate for purposes of determining priority of payment.

(a) There shall be a disciplinary hearing commission of the North Carolina State Bar which shall consist of 20 members. Twelve of these members shall be members of the North Carolina State Bar, and shall be appointed by the Council. The other eight shall be citizens of North Carolina not licensed to practice law in this or any other state, four of whom shall be appointed by the Governor, two by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, and two by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. The Council shall designate one of its appointees as chair and another as vice-chair. The chair shall have actively practiced law in the courts of the State for at least 10 years. Except as set out herein, the terms of members of the commission are set at three years commencing on the first day of July of the year of their appointment. The Council, the Governor, and the General Assembly respectively, shall appoint members to fill unexpired terms when vacancies are created by resignation, disqualification, disability or death, except that vacancies in appointments made by the General Assembly may also be filled as provided by G.S. 120-122. No member may serve more than a total of seven years or a one-year term and two consecutive three-year terms: Provided, that any member or former member who is designated chair may serve one additional three-year term in that capacity. No member of the Council may be appointed to the commission.

(b) The disciplinary hearing commission of the North Carolina State Bar, or any committee of the disciplinary hearing commission, may hold hearings in discipline, incapacity and disability matters, make findings of fact and conclusions of law after these hearings, enter orders necessary to carry out the duties delegated to it by the Council, and tax the costs to an attorney who is disciplined or is found to be incapacitated or disabled.

(b1) The disciplinary hearing commission of the North Carolina State Bar, or any committee thereof, acting through its chairman, shall have the power to hold persons, firms or corporations in contempt as provided in Chapter 5A.

(c) Members of the disciplinary hearing commission shall receive the same per diem and travel expenses as are authorized for members of State commissions under G.S. 138-5. (1975, c. 582, s. 6; 1979, c. 570, s. 8; 1983, c. 390, s. 4; 1995, c. 431, s. 19; c. 490, s. 51; 2003-116, s. 3; 2005-396, s. 3.)


Persons shall be immune from suit for all statements made without malice, and intended for transmittal to the North Carolina State Bar or any board, committee, officer, agent or employee thereof, or given in any investigation or proceedings, pertaining to alleged misconduct or disability or to reinstatement of an attorney. The protection of this immunity does not exist, however, as to statements made to others not intended for this use. (1975, c. 582, s. 4; 1995, c. 431, s. 20.)

§ 84-29. Evidence and witnesses.

In any investigation of charges of professional misconduct or disability or in petitions for reinstatement, the Council and any committee thereof, and the disciplinary hearing commission, and any committee thereof, may administer oaths and affirmations and shall have the power to subpoena and examine witnesses under oath, and to compel their attendance, and the production of books, papers and other documents or writings deemed by it necessary or material to the inquiry. Each subpoena shall be issued under the hand of the secretary-treasurer or the president of the Council or the chair of the committee appointed to hear the charges, and shall have the force and
effect of a summons or subpoena issued by a court of record, and any witness or other person who shall refuse or neglect to appear in obedience thereto, or to testify or produce the books, papers, or other documents or writings required, shall be liable to punishment for contempt either by the Council or its committee or a hearing committee of the disciplinary hearing commission through its chair pursuant to the procedures set out in Chapter 5A of the General Statutes, but with the right to appeal therefrom. Depositions may be taken in any investigations of professional misconduct as in civil proceedings, but the Council or the committee hearing the case may, in its discretion, whenever it believes that the ends of substantial justice so require, direct that any witness within the State be brought before it. Witnesses giving testimony under a subpoena before the Council or any committee thereof, or the disciplinary hearing commission or any committee thereof, or by deposition, shall be entitled to the same fees as in civil actions.

In cases heard before the Council or any committee thereof or the disciplinary hearing commission or any committee thereof, if the party shall be convicted of the charges, the party shall be taxed with the cost of the hearings: Provided, however, that the bill of costs shall not include any compensation to the members of the Council or committee before whom the hearings are conducted. (1933, c. 210, s. 12; 1959, c. 1282, s. 2; 1975, c. 582, s. 7; 1983, c. 390, s. 6; 1995, c. 431, s. 21.)

§ 84-30. Rights of accused person.

Any person who shall stand charged with an offense cognizable by the council or any committee thereof or the disciplinary hearing commission or any committee thereof shall have the right to invoke and have exercised in his favor the powers of the council or any committee, in respect of compulsory process for witnesses and for the production of books, papers, and other writings and documents, and shall also have the right to be represented by counsel. (1933, c. 210, s. 13; 1959, c. 1282, s. 2; 1975, c. 582, s. 8.)

§ 84-31. Counsel; investigators; powers; compensation.

The Council may appoint a member of the North Carolina State Bar to represent the North Carolina State Bar in any proceedings in which it has an interest including reinstatement and the prosecution of charges of misconduct or disability in the hearings that are held, including appeals, and may authorize counsel to employ assistant counsel, investigators, and administrative assistants in such numbers as it deems necessary. Counsel and investigators engaged in discipline, reinstatement, and disability matters shall have the authority throughout the State to serve subpoenas or other process issued by the Council or any committee thereof or the disciplinary hearing commission or any committee thereof, in the same manner and with the same effect as an officer authorized to serve process of the General Court of Justice. The Council may allow counsel, assistant counsel, investigators and administrative assistants such compensation as it deems proper. (1933, c. 210, s. 14; 1969, c. 44, s. 62; 1975, c. 582, s. 9; 1995, c. 431, s. 22.)

§ 84-32. Records and judgments and their effect; restoration of licenses.

(a) In cases heard by the disciplinary hearing commission or any committee thereof, the proceedings shall be recorded by a certified court reporter and an official copy of all exhibits introduced into evidence shall be made and preserved in the office of the secretary-treasurer. Final judgments of censure, whether issued by the State Bar Grievance
Committee or the disciplinary hearing commission, and final orders of suspension or disbarment issued by the disciplinary hearing commission shall be entered upon the judgment docket of the superior court in the district wherein the respondent resides or practices law, and also upon the minutes of the Supreme Court of North Carolina; and the judgment shall be effective throughout the State. Final determinations of incapacity or disability, whether issued by the State Bar Grievance Committee or the disciplinary hearing commission, shall be entered upon the judgment docket of the superior court in the same manner as final judgments of censure, suspension, or disbarment, and the determination shall be effective throughout the State.

(b) Whenever any attorney desires to voluntarily surrender his license, the attorney must tender the license and a written resignation to the Council. The Council, in its discretion, may accept or reject the tender. If the tender is accepted, the Council shall enter an order of disbarment. A copy of any order of disbarment shall be filed with the clerk of the superior court of the county where the respondent resides, maintains an office, or practices law and also upon the minutes of the Supreme Court of North Carolina. The judgment shall be effective throughout the State.

(c) Whenever any attorney has been deprived of the attorney's license by suspension or disbarment, the Council or the disciplinary hearing commission or the secretary-treasurer may, in accordance with rules and regulations prescribed by the Council, restore the license upon due notice being given and satisfactory evidence produced of proper reformation of the suspended or disbarred attorney and of satisfaction of any conditions precedent to restoration.

(d) The Council has jurisdiction to determine any petition seeking the reinstatement of the license of any attorney disbarred or suspended by any court in its inherent power when requested by the court. The proceeding shall be governed by the rules and regulations adopted by the Council. The disbarred or suspended attorney shall satisfy all conditions precedent to reinstatement generally imposed upon attorneys disbarred or suspended by the disciplinary hearing commission or the Council, as well as any conditions imposed by the court. Under no circumstances shall an attorney disbarred by a court or by the North Carolina State Bar be reinstated prior to five years from the effective date of the order of disbarment. (1933, c. 210, s. 15; 1935, c. 74, s. 2; 1953, c. 1310, s. 4; 1959, c. 1282, s. 2; 1975, c. 582, s. 10; 1983, c. 390, s. 5; 1995, c. 431, s. 23; 2019-243, s. 9.)

§ 84-32.1. Confidentiality of records.

(a) All documents, papers, letters, recordings, electronic records, or other documentary materials, regardless of physical form or characteristic, in the possession of the State Bar or its staff, employees, legal counsel, councilors, and Grievance Committee advisory members concerning any investigation, inquiry, complaint, disability, or disciplinary matter in connection with the State Bar Grievance Committee, the State Bar's Trust AccountingSupervisory Program, or any audit of an attorney trust account shall not be considered public records within the meaning of Chapter 132 of the General Statutes.
(b) All documents, papers, letters, recordings, electronic records, or other documentary materials containing or reflecting the deliberations of the Disciplinary Hearing Commission in disciplinary or disability matters shall not be considered public records within the meaning of Chapter 132 of the General Statutes.

(c) Notwithstanding any other provision of this section, any record, paper, or other document containing information collected and compiled by or on behalf of the State Bar that is admitted as evidence in any hearing before the Disciplinary Hearing Commission, or any court or tribunal, shall be a public record within the meaning of Chapter 132 of the General Statutes unless it is admitted into evidence under seal by order of the Disciplinary Hearing Commission, or the court or tribunal in which the proceeding is held.

(d) All documents, papers, letters, recordings, electronic records, or other documentary materials in the possession of the State Bar or its staff, employees, legal counsel, and Lawyer Assistance Program volunteers, relating in any way to a member's participation or prospective participation in the Lawyer Assistance Program, including, but not limited to, any medical, counseling, substance abuse, or mental health records, shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Neither the State Bar nor any person acting under the authority of the State Bar or of the Lawyer Assistance Program shall be required to produce or testify regarding the contents or existence of such documents. (2011-267, s. 5.)

§ 84-33. Annual and special meetings.

The Council shall hold an annual meeting and other meetings necessary to conduct the business of the North Carolina State Bar. (1933, c. 210, s. 16; 1969, c. 104; 1995, c. 431, s. 24.)

§ 84-34. Membership fees and list of members.

Every active member of the North Carolina State Bar shall, prior to the first day of July of each year, pay to the secretary-treasurer an annual membership fee in an amount determined by the Council but not to exceed three hundred dollars ($300.00), and every member shall notify the secretary-treasurer of the member's correct mailing address. Any member who fails to pay the required dues by the last day of June of each year shall be subject to a late fee in an amount determined by the Council but not to exceed thirty dollars ($30.00). All dues for prior years shall be as were set forth in the General Statutes then in effect. The membership fee shall be regarded as a service charge for the maintenance of the several services authorized by this Article, and shall be in addition to all fees required in connection with admissions to practice, and in addition to all license taxes required by law. The fee shall not be prorated: Provided, that no fee shall be required of an attorney licensed after this Article shall have gone into effect until the first day of January of the calendar year following that in which the attorney was licensed; but this proviso shall not apply to attorneys from other states admitted on certificate. The fees shall be disbursed by the secretary-treasurer on the order of the Council. The secretary-treasurer shall annually, at a time and in a law magazine or daily newspaper to be prescribed by the Council, publish an account of the financial transactions of the Council in a form to be prescribed by it. The
secretary-treasurer shall compile and keep currently correct from the names and mailing addresses forwarded to the secretary-treasurer and from any other available sources of information a list of members of the North Carolina State Bar and furnish to the clerk of the superior court in each county, not later than the first day of October in each year, a list showing the name and address of each attorney for that county who has not complied with the provisions of this Article. The name of each of the active members who are in arrears in the payment of membership fees shall be furnished to the presiding judge at the next term of the superior court after the first day of October of each year, by the clerk of the superior court of each county wherein the member or members reside, and the court shall thereupon take action that is necessary and proper. The names and addresses of attorneys so certified shall be kept available to the public. The Secretary of Revenue is hereby directed to supply the secretary-treasurer, from records of license tax payments, with any information for which the secretary-treasurer may call in order to enable the secretary-treasurer to comply with this requirement.

The list submitted to several clerks of the superior court shall also be submitted to the Council at its October meeting of each year and it shall take the action thereon that is necessary and proper. (1933, c. 210, s. 17; 1939, c. 21, ss. 2, 3; 1953, c. 1310, s. 5; 1955, c. 651, s. 4; 1961, c. 760; 1971, c. 18; 1973, c. 476, s. 193; c. 1152, s. 4; 1977, c. 841, s. 2; 1981, c. 788, s. 5; 1989, c. 172, s. 1; 1995, c. 431, s. 25; 2005-237, s. 2; 2005-276, s. 23A.1(a); 2013-360, s. 21.1(b); 2013-381, s. 38.1(d).)

§ 84-34.1. Deposits of the North Carolina State Bar.

Deposits of the North Carolina State Bar, its boards, agencies, and committees shall be secured as provided in G.S. 159-31(b). (1991, c. 210, s. 3.)

§ 84-34.2. Specific statutory authority for certain fees.

In addition to fees the Council is elsewhere authorized to charge and collect, the Council may charge and collect the following fees in amounts determined by the Council:

1. A reinstatement fee for any attorney seeking reinstatement from inactive status, administrative suspension, or suspension for failure to comply with the annual continuing legal education requirements.

2. A registration fee and annual renewal fee for an interstate or international law firm.

3. An attendance fee for continuing legal education programs that may include a fee to support the Chief Justice's Commission on Professionalism.

4. A late fee for failing to file timely the annual continuing legal education annual report form, for failure to pay attendance fees, or failure to complete the annual continuing legal education requirements.

5. An administrative fee for any attorney against whom discipline has been imposed. (2005-396, s. 7.)

§ 84-35. Saving as to North Carolina Bar Association.
Nothing in this Article contained shall be construed as affecting in any way the North Carolina Bar Association, or any local bar association. (1933, c. 210, s. 18.)

§ 84-36. Inherent powers of courts unaffected.
Nothing contained in this Article shall be construed as disabling or abridging the inherent powers of the court to deal with its attorneys. (1937, c. 51, s. 4.)

§ 84-36.1. Clerks of court to certify orders.
The clerk of any court of this State in which a member of the North Carolina State Bar is convicted of any criminal offense, disciplined, found to be in contempt of the court or adjudged incompetent shall transmit a certified copy of the order or judgment to the secretary-treasurer of the North Carolina State Bar within 10 days of the entry of such judgment or order. (1975, c. 582, s. 11.)

§ 84-37. State Bar may investigate and enjoin unauthorized activities.
(a) The Council or any committee appointed by it for that purpose may inquire into and investigate any charges or complaints of (i) unauthorized or unlawful practice of law or (ii) the use of the designations, "North Carolina Certified Paralegal," "North Carolina State Bar Certified Paralegal," or "Paralegal Certified by the North Carolina State Bar Board of Paralegal Certification," by individuals who have not been certified in accordance with the rules adopted by the North Carolina State Bar. The Council may bring or cause to be brought and maintained in the name of the North Carolina State Bar an action or actions, upon information or upon the complaint of any person or entity against any person or entity that engages in rendering any legal service, holds himself or herself out as a North Carolina certified paralegal by use of the designations set forth in this subsection, or makes it a practice or business to render legal services that are unauthorized or prohibited by law. No bond for cost shall be required in the proceeding.
(b) In an action brought under this section, the final judgment if in favor of the plaintiff shall perpetually restrain the defendant or defendants from the commission or continuance of the unauthorized or unlawful act or acts. A temporary injunction to restrain the commission or continuance of the act or acts may be granted upon proof or by affidavit, that the defendant or defendants have violated any of the laws applicable to unauthorized or unlawful practice of law or the unauthorized use of the designations set forth in subsection (a) of this section or any other designation implying certification by the State Bar. The provisions of law relating generally to injunctions as provisional remedies in actions shall apply to a temporary injunction and the proceedings for temporary injunctions.
(c) The venue for actions brought under this section shall be the superior court of any county in which the relevant acts are alleged to have been committed or in which there appear reasonable grounds that they will be committed in the county where the defendants in the action reside, or in Wake County.
(d) The plaintiff in the action shall be entitled to examine the adverse party and witnesses before filing complaint and before trial in the same manner as provided by law for examining parties.
(e) This section shall not repeal or limit any remedy now provided in cases of unauthorized or unlawful practice of law. Nothing contained in this section shall be construed as disabling or abridging the inherent powers of the court in these matters.
(f) The Council or its duly appointed committee may issue advisory opinions in response to inquiries from members or the public regarding whether contemplated conduct would constitute the unauthorized practice of law. (1939, c. 281; 1979, c. 570, s. 9; 1995, c. 431, s. 26; 2004-174, s. 2.)

§ 84-38. Solicitation of retainer or contract for legal services prohibited; division of fees.

It shall be unlawful for any person, firm, corporation, or association or his or their agent, agents, or employees, acting on his or their behalf, to solicit or procure through solicitation either directly or indirectly, any legal business, whether to be performed in this State or elsewhere, or to solicit or procure through solicitation either directly or indirectly, a retainer or contract, written or oral, or any agreement authorizing an attorney or any other person, firm, corporation, or association to perform or render any legal services, whether to be performed in this State or elsewhere.

It shall be unlawful for any person, firm, corporation, or association to divide with or receive from any attorney-at-law, or group of attorneys-at-law, whether practicing in this State or elsewhere, either before or after action is brought, any portion of any fee or compensation charged or received by such attorney-at-law, or any valuable consideration or reward, as an inducement for placing or in consideration of being placed in the hands of such attorney or attorneys-at-law, or in the hands of another person, firm, corporation or association, a claim or demand of any kind, for the purpose of collecting such claim or instituting an action thereon or of representing claimant in the pursuit of any civil remedy for the recovery thereof, or for the settlement or compromise thereof, whether such compromise, settlement, recovery, suit, claim, collection or demand shall be in this State or elsewhere. This paragraph shall not apply to agreements between attorneys to divide compensation received in cases or matters legitimately, lawfully and properly received by them.

Any person, firm, corporation or association of persons violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

The council of the North Carolina State Bar is hereby authorized and empowered to investigate and bring action against persons charged with violations of this section and the provisions as set forth in G.S. 84-37 shall apply. Nothing contained herein shall be construed to supersede the authority of district attorneys to seek injunctive relief or institute criminal proceedings in the same manner as provided for in G.S. 84-7. Nothing herein shall be construed as abridging the inherent powers of the courts to deal with such matters. (1947, c. 573; 1973, c. 47, s. 2; 1993, c. 539, s. 599; 1994, Ex. Sess., c. 24, s. 14(c).)
ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, and upon consultation with and approval by the Chief Judge and the Presiding Justices of the Appellate Division, First and Second Judicial Departments, I hereby adopt, effective February 11, 2014, the following rules relating to a pilot program for provision of pro bono non-legal services to unrepresented litigants in consumer credit, housing, and other matters where such services are urgently needed.

1. The Court Navigators Program

There is hereby established a pilot “Court Navigators Program” of the Unified Court System, in the New York City Civil Court and in such other courts and parts as shall be designated by the Chief Administrator of the Courts, for the purpose of providing essential non-legal services, without cost, to unrepresented litigants by qualified non-lawyers (“Navigators”). The program initially shall be established in the following locations:

1. Civil Court, Bronx County (consumer credit matters); and
2. Civil Court, Kings County (Housing Part).

2. Standards, Qualifications, and Assignment of Court Navigators

A. The Chief Administrator of the Courts shall establish minimum qualifications, education, and training standards for Court Navigators. These shall include an educational and field training course, pursuant to a curriculum approved by the Chief Administrator or her designee. The Chief Administrator shall maintain a list of qualified Navigators eligible for appointment pursuant to this program.

B. Court Navigators shall be assigned by, and act under the supervision of, not-for-profit service providers approved for this purpose by the Chief Administrator. For purposes of this pilot program, approved providers include the following:

1. The New York State Access to Justice Program (A2J)
2. University Settlement
3. Housing Court Answers

3. Duties and Limitations of Court Navigators

A. Upon the assignment of a Court Navigator, the Navigator may, in conformance with standards and guidelines approved by the Chief Administrator of the Courts or her designee:

1) inform the unrepresented party about, and assist in, the completion of court-designed and court-approved “do-it-yourself” form documents, and the use of Law Help to obtain legal information or to locate an attorney;
(2) assist the unrepresented party in the gathering and organization of documents relating to the case;

(3) inform the unrepresented party about, and assist in, the scheduling of court proceedings;

(4) accompany the unrepresented party to court appearances and, if directed by the court, answer factual questions posed by the court;

(5) inform the unrepresented party about, and assist in, obtaining available court services (such as interpreter services); and

(6) provide such other non-legal information and perform such other non-legal services as the court may direct.

B. In the performance of these services, Court Navigators may not:

(1) provide legal advice, legal counseling, or (unless in a manner approved by the Chief Administrator or her designee) legal information to the unrepresented litigant;

(2) draft, execute, serve, or file with the court any documents on behalf of the unrepresented litigant (other than the provision of assistance in completing court-approved “do-it-yourself” documents as described above);

(3) hold themselves out as representing, speaking for, or advocating on behalf of a litigant, or act in any manner as to convey the impression that they are legal practitioners or are associated with a law office;

(4) address, or conduct negotiations with, opposing counsel, unless at the court’s direction;

(5) address the court on behalf of the unrepresented litigant, unless to provide factual information at the court’s direction; or

(6) perform any service that constitutes the practice of law.

C. Court Navigators shall receive neither direct nor indirect compensation from the unrepresented parties to whom they provide services.

D. Court Navigators shall follow the court’s directives at all times.

[Signature]

Chief Administrative Judge of the Courts

Dated: February 10, 2014

AO/42/14
Court Navigator Program

Prospective Court Navigators

In General
What do Court Navigators do?
Training
Volunteer Commitment
Testimonials
Register To Volunteer

In General
The Court Navigator Program trains college students and other persons deemed appropriate by the Program to assist unrepresented litigants, who are appearing in Nonpayment proceedings in the Resolution Part of Housing Court or the Consumer Debt Part of the Civil Court.

Nonpayment proceedings are cases where landlords sue tenants to collect rent. In these disputes, tenants and owners/landlords face the possibility of losing their homes through eviction or foreclosure.

Consumer debt proceedings involve credit card companies, hospitals, banks or any other person or company that a litigant may owe money to. Despite the high stakes, most litigants appear in court without an attorney to advocate on their behalf.

The Program operates in partnership with LawHelp, and in Kings County Housing Court with the non profit organizations University Settlement, and Housing Court Answers.

The goal of the Court Navigator Program is to help litigants who do not have an attorney have a productive court experience through offering non-legal support. Participating volunteers work in the courtroom under the supervision of a Court Navigator Program Coordinator. They have the opportunity to interact with judges, lawyers and litigants, and to gain real-world experience. Whatever a student's goal is in volunteering - helping people in need, making new contacts, learning more about assisting a person in court or developing professional skills - the Court Navigator Program sets the stage!

For more information contact:  courtnavigator@nycourts.gov

What do Court Navigators do?

Court Navigators:

- Help in using computers located in the courthouse to obtain information and fill out court forms using the Do It Yourself (DIY) computer programs.

- Help find information about the law and how to find a lawyer on a website called Law Help

- Help persons find resources in the courthouse and outside the court to assist in resolving their cases.
- Help persons collect and organize documents needed for their cases.
- Accompany persons during hallway negotiations with opposing attorneys.
- Accompany persons in conferences with the judge or the judge's court attorney.
- Respond to a judge's or court attorney's questions asking for factual information on the case.

Court Navigators do not give legal advice or get involved in negotiations or settlement conferences. Generally, court navigators also do not give out legal information except with the approval of the Chief Administrative Judge of the Courts.

---

**Training**

A three hour seminar and a training manual will provide information on what a navigator can do to help.

Training topics include:

- Civil and Housing Court Overview
- Basics of Consumer Debt Cases and Nonpayment Proceedings
- Interviewing and Communication Skills
- Using the DIY Computers and Law Help

Prospective volunteers are trained at their school or at one of the Civil Court of the City of New York courthouses.

---

**Volunteer Commitment**

Court Navigators volunteer a minimum of 50 hours within three months of the training. Volunteers will have flexibility with their schedule. Participants will receive a Certificate of Recognition upon completing fifty (50) hours of service.

College students may use this opportunity to fulfill an internship requirement, a community service requirement or receive academic credit. Students have the flexibility to schedule their hours over a period of days or months.

---

**Register to Volunteer**

If you are interested in becoming a Court Navigator, please send an email to: courtnavigator@nycourts.gov
New York City Housing Court

Court Navigator Program

Participating Court Navigators

In General
Resources
Schedule Volunteer Service
Submit a Testimonial

In General

Thank you for your volunteer service and for your commitment to serving the many unrepresented litigants in need of assistance. If you wish to schedule your volunteer service, prepare for your volunteer experience or submit a testimonial, you may do so from this page.

If you need additional information, feel free to send an email to courtnavigator@nycourts.gov

Resources

To prepare for your volunteer service and learn what to expect in the Civil Court or the Housing Court, you are encouraged to learn more about the Housing Court's Resolution Part and watch a video about what happens there. Visit the Civil Court's General Information webpage for further information.

You can also visit the links on the website’s Representing Yourself page to learn about the resources available to unrepresented litigants.

Remember, as a Court Navigator, you are not permitted to give legal advice or become involved in any negotiations or settlement conferences.

Schedule Volunteer Service

Court Navigators commit to volunteer a minimum of thirty hours within three months of completion of the training. Volunteers serve for a block of time from 9:15 a.m. to 1:00 p.m Monday - Friday. To schedule volunteer service, contact courtnavigator@nycourts.gov and provide your courthouse preference, and the dates and hours that you are available to volunteer in the Program.

Submit a Testimonial

If you would like to post a testimonial about your experience as a Court Navigator please send an email to courtnavigator@nycourts.gov
Volunteer Opportunities

Court Navigator Program

Prospective Court Navigator | Participating Court Navigator

Administrative Order of the Chief Administrative Judge of the Courts relating to the Court Navigator Program (February 10, 2014)

The Court Navigator Program was launched in February 2014 to support and assist unrepresented litigants - people who do not have an attorney - during their court appearances in landlord-tenant and consumer debt cases. Specially trained and supervised non-lawyers, called Court Navigators, provide general information, written materials, and one-on-one assistance to eligible unrepresented litigants. In addition, Court Navigators provide moral support to litigants, help them access and complete court forms, assist them with keeping paperwork in order, in accessing interpreters and other services, explain what to expect and what the roles of each person is in the courtroom. Court Navigators are also permitted to accompany unrepresented litigants into the courtroom in the Bronx, New York, Kings, and Queens County Housing Court and Bronx Civil Court. While these Court Navigators cannot address the court on their own, they are able to respond to factual questions asked by the judge.

In addition to this court-based program, the courts will also be utilizing non-lawyers to provide legal information and access to homebound individuals.

According to a recent evaluation of the Court Navigator Program, “people without formal legal training can provide meaningful assistance and services to litigants who are not represented by a lawyer.” Roles Beyond Lawyers: Evaluation of the New York City Court Navigator Programs.

For information about how to become a Court Navigator.

For information if you are already a Court Navigator.
ROLES BEYOND LAWYERS

Summary and Recommendations
of an Evaluation of the
New York City Court
Navigators Program and its
Three Pilot Projects

December 2016

Prepared by Rebecca L. Sandefur, American Bar Foundation,
and Thomas M. Clarke, National Center for State Courts,
with support from the
Public Welfare Foundation
Research Summary and Recommendations

Introduction

There is now a major movement in the United States to expand the use of appropriately trained and supervised individuals without full formal legal training to provide help to people who would otherwise be without legal assistance of any kind. The general approach has been endorsed by The Commission on the Future of Legal Services of the American Bar Association,\(^1\) and by the Guidance issued by the National Center for State Courts in support of the Justice for All Strategic Planning Initiative developed in response to a recent resolution of the Conferences of Chief Justices and State Court Administrators.\(^2\)

The need for such innovations is clear. At the time this evaluation was conducted, approximately 90 percent of tenants facing eviction in New York City did not have a lawyer, while the vast majority of landlords did.\(^3\) Research from the National Center for State Courts shows that in 70 percent of non-domestic civil cases in urban counties, one party is unrepresented while the other has lawyer representation.\(^4\)

*The first comprehensive evaluation of programs providing assistance through staff or volunteers without full formal legal training provides important evidence that these initiatives can influence the experiences of unrepresented litigants in positive ways and can also shape the outcomes of court cases, including legal and real-life outcomes.*

The umbrella program, New York City Court Navigators, makes use of trained and supervised individuals with no prior formal legal training to provide one-on-one assistance to unrepresented litigants in the City’s Housing and Civil Courts. Navigators provide information, assist litigants in accessing and completing court-required simplified forms, attend settlement negotiations and accompany unrepresented litigants into the courtroom. If judges address direct factual questions to a Navigator, the Navigator is authorized to respond.

In February 2014, three distinct Navigator pilot projects began operation in New York City Courts as part of the larger Navigator program. Two of these pilot projects involve volunteer Navigators. A third pilot project involves experienced caseworkers on the staff of a non-profit organization; these caseworkers had previously performed more limited roles.

The evaluation of the New York City Court Navigators program was conducted by researchers from the American Bar Foundation and the National Center for State Courts, under a research project supported by the Public Welfare Foundation. The research assessed the appropriateness, efficacy, and sustainability of each of the three Navigator pilot projects. The program design and evaluation frameworks, published

---


\(^3\)SELF-REPRESENTED LITIGANTS: CHARACTERISTICS, NEEDS, SERVICES: THE RESULTS OF TWO SURVEYS, SELF-REPRESENTED LITIGANTS IN THE NEW YORK CITY FAMILY COURT AND NEW YORK CITY HOUSING COURT, Office of the Deputy Chief Administrative Judge for Justice Initiatives. New York, NY: Office of the Deputy Chief Administrative Judge for Justice Initiatives, 2005. At time of the release of this report (October 2016), increased funding for lawyer representation in eviction cases has reduced the percentage of unrepresented tenants to around 83 percent.

elsewhere, were newly developed for the evaluation as models for general use in access to justice evaluation research.

The positive results of the three Navigator pilot projects were produced in a context that is both adverse and supportive. The New York City Courts are among the most chaotic and overloaded in the United States. That the pilot projects showed evidence of positive contributions in such environments suggests that such programs could be effective in a wide range of jurisdictions. At the same time, the New York City Courts are leaders in developing innovations to provide fairness for unrepresented litigants. The fact that the courtrooms in which Navigators worked were those in which other significant efforts had already been made to improve the experiences of unrepresented parties may have been an important support to the pilot projects, making some results easier to achieve here than might be the case elsewhere. Alternatively, Navigators working in courts that have not made efforts to improve the experiences of unrepresented litigants could be found to have comparatively larger influence on litigant experience and case outcomes.

The three Navigator pilot projects differ in important respects, but all involve the same core capacities: providing to unrepresented litigants the services of information, moral support, and accompaniment to negotiations with the other side’s attorneys and into courtrooms. Navigators are authorized to respond to questions from court attorneys and judges and to prompt litigants to provide additional information. Complete descriptions of each pilot project are available in the full Report.

The evaluation uncovered evidence that assistance from appropriately trained and supervised individuals without formal legal training is associated with changes in a range of outcomes, including both legal and real-life outcomes. Principal findings of the evaluation include:

- The Access to Justice Navigators Pilot Project is built around trained volunteer Navigators “for-the-day.” These Navigators assist unrepresented litigants in understanding and moving through nonpayment or debt collection proceedings. Access to Justice Navigators currently operate in a variety of housing courts and in consumer debt cases in civil court in New York City. Surveys of litigants revealed that litigants who received the help of any kind of Navigator were 56 percent more likely than unassisted litigants to say they were able to tell their side of the story.

- The Housing Court Answers Navigators Pilot Project involves trained volunteer Navigators “for-the-day,” operating in the Brooklyn Housing Court. These Navigators provide individualized assistance with tenants’ preparation of a legal document, the “answer” to the landlord’s petition for nonpayment of rent, in which the tenant responds to the petition by asserting defenses. Litigants assisted by Housing Court Answers Navigators asserted more than twice as many defenses as litigants who received no assistance. A review of case files reveals that tenants assisted by a Housing Court Answers Navigator were 87 percent more likely than unassisted tenants to have their defenses recognized and addressed by the court. For instance, judges ordered landlords to make needed repairs about 50 percent more often in Navigator-assisted cases.

---

5 INCREASING ACCESS TO JUSTICE THROUGH EXPANDED ‘ROLES BEYOND LAWYERS’: PRELIMINARY EVALUATION AND CLASSIFICATION FRAMEWORKS, Rebecia L. Sandefur and Thomas M. Clarke, American Bar Foundation and National Center for State Courts, Chicago, IL and Williamsburg, VA, 2015. Available at americanbarfoundation.org/research/A2J.

6 The full report may be found here: americanbarfoundation.org/research/A2J/RolesBeyondLawyers.
The University Settlement Navigators Pilot Project employs trained caseworkers who are employees of a nonprofit organization. These Navigators, operating in the Brooklyn Housing Court, are Navigators “for-the-duration,” working the case from initial appearance through resolution and beyond. This pilot project’s aim is to prevent evictions by providing both the in-court services that all Navigators are able to provide as well as an ongoing relationship with litigants in which the Navigator both accompanies the unrepresented litigant to all of the court activities related to her case and assists the tenant outside of court in connecting with benefits and services for which she may be eligible. In cases assisted by these University Settlement Navigators, zero percent of tenants experienced eviction from their homes by a marshal. By contrast, in recent years, one formal eviction occurs for about every 9 nonpayment cases filed citywide.

The programs were found to be appropriate uses of trained personnel without full formal legal training and to have potential for sustainability. Navigator programs, through their impact on both legal and life outcomes, thus can result in financial savings to society as well as a reduction in the hardships experienced by unrepresented litigants in civil cases.7

Description of the Program, Evaluation, and Pilot Projects

On February 11, 2014, then New York State Chief Judge Jonathan Lippman announced in his State of the Judiciary speech what he described as:

[A] series of court-sponsored incubator projects to expand the role of non-lawyers in assisting unrepresented litigants. This idea of finding ways for non-lawyers to help pro se litigants is one that has only just begun to emerge in the United States. But it has taken hold elsewhere in the common-law world, including the United Kingdom, to great positive effect. With the new projects that we announce today, it is my hope that we can graphically illustrate the tremendous difference non-lawyers can make in closing the justice gap.

The three pilot projects commenced operation in 2014 under the general guidance of a special task force, the Committee on Non-Lawyers and the Justice Gap,8 appointed by the Chief Judge. The pilot projects operated within the New York Civil Court, under the Supervision of Deputy Chief Administrative Judge Fern Fisher and with close participation of community groups and regular input from legal aid agencies and bar associations.

All of the pilot projects shared a general approach, as described by Chief Judge Lippman in the 2014 State of the Judiciary speech:

...This kind of one-on-one assistance will include providing informational resources to litigants and helping them access and complete court do-it-yourself forms and assemble documents, as well as assisting in settlement negotiations outside the courtroom.

Most significantly, for the first time, the trained non-lawyers, called Navigators, will be permitted to accompany unrepresented litigants into the courtroom in specific locations in Brooklyn Housing Court and Bronx Civil Court. They will not be permitted to address the court on their own, but if the judge directs factual questions to them, they will be able to respond. They will also provide moral support and information to litigants, help them keep paperwork in order, assist

---

7 For estimates of the costs and benefits of providing lawyer assistance in eviction cases, see Stout Risius Ross, Inc., The Financial Costs and Benefits of Establishing a Right to Counsel in Eviction Proceedings Under Intro 214-A, (2016).
them in accessing interpreters and other services, and, before they even enter the courtroom, explain what to expect and what the roles are of each person in the courtroom.

Clear guidelines govern what a non-lawyer can and cannot do to ensure that they do not cross the line into the practice of law. They will receive training and develop expertise in defined subject areas. When these non-lawyers confront situations where the help of a lawyer is crucial, they will have access to legal service providers for help and referrals.

An Order issued by the Chief Administrative Judge of the Courts codified these protections and authorizations.9 The courthouses in which the Navigators projects were piloted are chaotic, loud, confusing and overwhelming, perhaps even to new lawyers as well as to the approximately 90 percent of tenants who, at the time of this research, were there without legal representation.10

In 2014, the Public Welfare Foundation made a grant to the National Center for State Courts and the American Bar Foundation to fund the development of frameworks for the design and evaluation of such programs and the use of that evaluation framework to assess two distinct initiatives, i) the New York Court Navigators program, reported on here, and, ii) the Washington State Limited License Legal Technicians program, which authorizes trained, licensed and regulated legal technicians to provide a range of services in a provider-client relationship without attorney supervision.11

The evaluation of the New York Court Navigators program included review of court files, surveys of litigants and Navigators, and interviews with stakeholders such as lawyers, judges, court staff, staff in nonprofit organizations that work in these areas, and current and potential funders as well as Navigators themselves. The majority of the data were collected in the Brooklyn Housing Court, as this was the only site of two of the three pilot projects. Following the evaluation framework, the data collected were reviewed for evidence of 1) appropriateness: whether the services as designed could potentially produce the kinds of outcomes desired; 2) efficacy: whether the services showed evidence of producing those outcomes; and 3) sustainability: whether it was reasonable to anticipate that the project could be maintained, expanded and replicated in other jurisdictions.

Recommendations for Enhancements of the New York Navigators Program

The New York City Court Navigators Program shows evidence of achieving the goals of the program as a whole and of its individual pilot projects. One broadly shared benefit from the launch and evaluation of pilot innovations is the opportunity to learn about both what works and what could work better. Some improvements to the existing projects can be achieved at minimal cost. Expanding the projects’ size to have greater impact on legal and life outcomes would be more expensive, but also likely accompanied by substantial savings to society as well as reductions in hardship.

---


10 SELF-REPRESENTED LITIGANTS: CHARACTERISTICS, NEEDS, SERVICES: THE RESULTS OF TWO SURVEYS. SELF-REPRESENTED LITIGANTS IN THE NEW YORK CITY FAMILY COURT AND NEW YORK CITY HOUSING COURT, Office of the Deputy Chief Administrative Judge for Justice Initiatives. New York, NY: Office of the Deputy Chief Administrative Judge for Justice Initiatives, 2005. At time of the release of this report (October 2016), increased funding for lawyer representation in eviction cases has reduced the percentage of unrepresented tenants to around 83 percent.

Lower-cost changes to achieve improvements include:

- Providing dedicated, on-going supervision for Access to Justice Navigators in all the courthouses where they work. Volunteer Navigators should be supervised by trained and experienced staff who are on-site and available for questions, consultation, and support during all the hours Navigators are providing services. This supervision should include additional “on-the-job” training for Navigators about working with unrepresented litigants and court staff within the bounds of the Navigator role.
- Educating both the judges and the court attorneys who assist the judges about Navigators’ role and capacities, so that both groups are able to use Navigators as a resource in acquiring information they need to make decisions and in using courtroom time as efficiently as possible.
- Educating court staff about Navigators’ role, and working with court staff to develop means to better integrate Navigators into the case flow, so that Navigators’ work is a consistently helpful supplement to the work of clerks and other courthouse workers.
- Increasing availability of the DIY (“do-it-yourself”) computer kiosks for the preparation of answers and other legal documents.
- Developing a triage referral system that integrates the various services currently available in the courthouse, so that those cases that would benefit most from the enhanced services provided by some types of Navigators are more likely to receive them.
- Providing more information about all types of Navigators to the public, with the goal of increasing the use of all types of Navigators.

Cost projections for expansion of the projects appear in the full Report.

**General Conclusions About “Roles Beyond Lawyers” Programs**

This is the first comprehensive evaluation of a “Roles Beyond Lawyers” program, in which appropriately trained and supervised individuals without full formal legal training provide help to litigants who would otherwise be without assistance. As in all empirical social science, questions remain to be answered by future research. Nonetheless, actionable conclusions about the range of Roles Beyond Lawyers initiatives can be drawn from this evaluation.

1. People without formal legal training can provide meaningful assistance and services to litigants who are not represented by a lawyer.

2. These services can impact several kinds of outcomes, ranging from litigants’ understanding of court processes and empowerment to present their side of the case, to providing more relevant information to the decision-maker, to formal legal outcomes and the real-life outcomes experienced by assisted litigants and their families.

3. The tasks Navigators are actually able to perform, and thus their impact, are influenced by the philosophy and attitude of the court in which the services are provided, including the attitudes of case processing staff and judges.

4. Contributions of Navigators’ work to legal outcomes and real-life outcomes such as eviction prevention are likely similarly influenced by court environment and by the range of services and
benefit programs available in the jurisdiction. The availability of such services and benefits to which Navigators can connect litigants is a major mechanism of Navigator impact. Some jurisdictions, such as New York City, have significantly more such resources than most.

5. The impact of Roles Beyond Lawyers programs on legal outcomes can be greatly assisted by the availability and use of plain language, standardized legal forms, such as the Answer form, and of software programs (what in New York are called “DIY” programs) that help litigants prepare legal documents such as answers. Such programs have been developed for many jurisdictions, facilitating the replication of Roles Beyond Lawyers programs.

General Recommendations

1. **Sustaining the Current Program**
The Navigators projects produce goods valued by a range of stakeholders. Sustaining funding for the program is recommended, with sufficient increases to follow the Navigator supervision recommendations in the Report.

2. **Replication in New York City and State**
Replication is recommended, but with careful attention to changes of the kind described above to enhance efficacy and total cost effectiveness.

3. **Replication Beyond New York State**
The Navigators program shows potential to contribute to the national goal of providing meaningful access to justice for all, as urged for adoption by the states by the Conference of Chief Justices. The findings of the Report suggest that these approaches can be an important tool in helping achieve this goal, and that they should be integrated with other initiatives developed to meet the goal.

4. **The Overall Evaluation Framework**
The framework is recommended for evaluations of all types of “Roles Beyond Lawyers” programs. It is offered as useful for evaluations of other access to justice innovations. Potential downsides of a standardized approach are likely to be outweighed by the benefits of being able to compare different innovations on their appropriateness, efficacy and sustainability.

---


http://www.ncsc.org/~media/microsites/files/access/5%20meaningful%20access%20to%20justice%20for%20all_final.ashx