

**WE ARE NEW YORK'S LAW SCHOOL**

## Rule 520.18 – Skills Competency Requirement

### **NYLS Plan to Certify Students Pursuant Pathway 1**

*(Adopted at regular meeting of the faculty on March 13, 2017)*

#### **BACKGROUND**

The ABA now mandates that law schools require each student to have at least 6 credits of experiential learning course work, in any of three categories: clinics, simulation courses, and field placement. The New York State Court of Appeals has a separate “skills and values” requirement for law graduates applying for admission to the New York bar.<sup>1</sup> In order to comply with these requirements, the faculty approved the following, which is described in greater detail below:

1. Added a 6-credit experiential learning requirement to NYLS graduation requirements, which incorporates the ABA definitions of experiential courses. This requirement would apply beginning with students who entered NYLS in the fall semester, 2016.
2. Revised the learning competencies to coordinate with our curricular requirements
3. Adopted the elements of a plan (referred to as Pathway 1 below) to certify our graduates’ skills and professional values competence, in accordance with admissions standards for the New York bar.

#### **The ABA Standards**

In general, ABA Standard 303 (see attached) requires all law schools to create a curriculum through which all students will complete, by graduation, 6 credit hours of “experiential coursework”, which can include clinics, field placement courses (externships) and simulations. The ABA Standard 304 defines the characteristics of qualifying “experiential” courses, and for each category, articulate criteria for a course to qualify.

Our current curriculum includes approximately 30 courses that meet the ABA definitions, and therefore provides multiple opportunities for students to complete 6 credit hours of “experiential coursework” by graduation. For example, taking a single credit-intensive clinic or two upper-level simulation courses would satisfy the ABA standard.

Using the ABA definitions, the Committee developed a survey to determine whether a course would satisfy the standard. We sent the survey to faculty teaching the courses we expected would fit. Survey responses showed that the vast majority do in fact satisfy the standards. A list of courses that is provided in student registration materials as satisfying the requirement, was distributed at a spring 2017 faculty meeting. The list will be revised and updated accordingly.

<sup>1</sup> Note: This is a separate and additional programming requirement from the 50-hour Pro Bono rule mandated by the New York State Court for admission.

## The New York State Court of Appeals Skills and Values Requirement

Section 520.18 of the Rules of the Court of Appeals for Admission to the Bar (attached) provides several pathways through which law graduates may satisfy the skills and values competency requirement for admission. In summary, they are:

**Pathway 1: Law school certification of competence in skills and professional values.** Pathway 1 allows an applicant to satisfy the skills competency and professional values requirement by submitting a certification from the applicant's law school confirming that:

- the law school has developed a plan identifying and incorporating into its curriculum the skills and professional values that, in the school's judgment, are required for its graduates' basic competence and ethical participation in the legal profession, and
- the individual student has achieved basic competence in those skills and values.

**Pathway 2: Law school certification of credit acquisition.** Pathway 2 is satisfied by law graduates showing that they had completed 15 credits of experiential course work, as defined under the rule. The Court of Appeals definitions are somewhat broader than the ABA definitions and could include some first-year work as well as full-time summer employment certified by the law school. However, Pathway 1 best suits the curricular goals we have established for our students.

**Pathway 3: Pro Bono Scholars Program.** An applicant who has successfully completed the Pro Bono Scholars Program is deemed to have met the skills competency requirement. The Pro Bono Scholars program allows students selected by their law school and approved by the Court to take the February bar exam during their third year of law school, and then receive a semester's worth of credit for a full-time placement with a qualifying legal services provider and an accompanying seminar. Regardless of our adoption of Pathway 1, our Pro Bono Scholars qualify for admission under Pathway 3.

**Pathway 4: Apprenticeship.** An applicant may complete a six-month full-time paid or unpaid apprenticeship in a law office in the United States, under the supervision of one or more attorneys who have, for at least two years, been admitted to practice and are in good standing in the jurisdiction where the apprenticeship occurs. By adopting Pathway 1, our graduates do not need this pathway to qualify for admission.

**Pathway 5: Practice in another jurisdiction.** Pathway 5 permits foreign lawyers, with some restrictions, to satisfy the skills competency requirement by showing that they have been in good standing and practiced law for the equivalent of one year, full-time. To the extent that NYLS has J.D. students who are foreign lawyers, they would satisfy Pathway 1, as proposed. This might apply for LL.M. graduates, which is not addressed here.

## Harmonizing ABA 6-Credit Experiential Learning Rule with NYS Court of Appeals Pathway 1 Certification

### NYLS Pathway 1 Plan

With respect to skills and professional values, NYLS's Pathway 1 plan includes the following requirements that harmonize with the new ABA 6-credit experiential learning requirement:

**7-credit Legal Practice course:** Passing grade. This course goes beyond any current ABA or Court of Appeals requirement for first-year writing and analysis. Legal Practice offers an experiential lawyering skills curriculum. Through client-centered simulations and assignments, the course introduces students to fundamental lawyering skills in context, including critical reading, legal analysis, predictive and persuasive writing, legal research, client interviewing, counseling, negotiation and oral advocacy.

**3-credit Professional Responsibility course:** Passing grade. Several years ago, NYLS expanded this course from the mandated minimum of 2 credits to 3 credits, in order to allow time to teach professional values as well as the rules applicable to the legal profession.

**Upper Level Writing Requirement:** B- or a P, if the work would qualify for a B- if it were graded. A significant majority of our students fulfill the writing requirement through 2-credit practice-oriented drafting courses, where they draft and receive feedback on legal documents, and build on the legal research skills learned in Legal Practice. Most others fulfill the requirement through drafting case files for Moot Court, or notes for Law Review, and the like. In these circumstances, the students also research and revise their written work in response to faculty feedback.

**6 Credits of Upper-Level Experiential Learning courses,** which must be a clinic, simulation course or field placement course, as defined by ABA Standard 304: B- or a Pass, if the work would qualify for a B- if it were graded.

For purposes of Pathway 1, we are certifying that graduates who fulfill these requirements (in addition to our other graduation requirements) have sufficient competency in the skills, and sufficient familiarity with professional values, required for basic competence and ethical participation in the legal profession.

### NYLS Competencies in Courses

In support of the plan for this certification, we have identified the skills and values that these courses teach, using a subset of the NYLS competencies that reflect skills and professional values. The chart below shows our competencies, and where in the required curriculum we believe they are taught.

Skill (NYLS Competency)	Curricular Requirements Where Skill is Taught
Can critically read, comprehend, analyze, and apply legal authority	All First Year and Upper Level Required Doctrinal Courses Professional Responsibility Upper Level Experiential Learning Courses Upper Level Writing Requirement Legal Practice I and II Advanced Legal Methods Introduction to the American Legal System
Can identify specific legal issues presented by factual scenarios	All First Year and Upper Level Required Doctrinal Courses Professional Responsibility Upper Level Experiential Learning Courses Upper Level Writing Requirement Introduction to the MEE and Introduction to the MBE Legal Practice I and II Advanced Legal Methods Introduction to the American Legal System
Can design and carry out legal research projects	Upper Level Writing Requirement Legal Practice I and II

Skill (NYLS Competency)	Curricular Requirements Where Skill is Taught
Can write with clarity, precision, and effectiveness	All First Year and Upper Level Required Doctrinal Courses Professional Responsibility Upper Level Writing Requirement Legal Practice I and II Advanced Legal Methods
Can speak cogently about legal concepts	Upper Level Experiential Learning Courses Legal Practice I and II
Can use tools of law and policy to engage in problem solving	Upper Level Experiential Learning Courses Legal Practice I and II
Can work as part of team, which may include engaging in collaboration, being a team leader, making effective use of supervision	Upper Level Experiential Learning Courses Legal Practice I and II
Understands the fundamentals of basic lawyering skills, which may include interviewing, fact development and analysis, client counseling, negotiation, advocacy, document drafting, cross-cultural competency, organization and management of legal work, the use of technology to aid practice	Upper Level Experiential Learning Courses Upper Level Writing Requirement Legal Practice I and II
Understands the way law is practiced in a variety of contexts, such as transactional practice and litigation	All First Year and Upper Level Required Doctrinal Courses Professional Responsibility Upper Level Experiential Learning Courses Upper Level Writing Requirement Legal Practice I and II Advanced Legal Methods
Understands how to develop professional expertise and appreciates the importance of maintaining competence in client representation	Upper Level Experiential Learning Courses
Exhibits professionalism and honors the ethical obligation of lawyers	Upper Level Experiential Learning Courses Professional Responsibility Upper Level Writing Requirement Legal Practice I and II
Understands the special responsibilities of lawyers to promote justice and improve the legal profession	Professional Responsibility