

**PROMOTING PUBLIC PROTECTION --
EDUCATION INITIATIVES, TRENDS IN DISCIPLINE AND
PREVENTION-ORIENTED STRATEGIES**

**JOINT REGULATION AND DISCIPLINE AND ADMISSIONS AND EDUCATION
MEETING
MARCH 10, 2016**

ADDITIONAL READING (to supplement the earlier list):

Mental health crises plague attorneys along with alcohol abuse, study says, California Bar Journal (March, 2016)

<http://calbarjournal.com/March2016/TopHeadlines/TH1.aspx>

Drinking is a Problem for 1 in 3 Lawyers, Study Finds, National Law Journal (February 3, 2016)

<http://www.nationallawjournal.com/id=1202748754010/Drinking-is-a-Problem-for-1-in-3-Lawyers-Study-Finds>

The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys, Journal of Addiction Medicine (2016)

http://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8.aspx#

Texas's

Grievance Referral Program, Texas Bar Journal (June 2013)

<http://mydigimag.rrd.com/article/Grievance+Referral+Program/1417692/0/article.html>

Civil Justice Strategies Task Force Report, California State Bar (2015) excerpt

Attached pp. 61- 77, "Law School Debt Report" discussion of student debt issues and recommendations

LAW SCHOOL DEBT REPORT

The “Law School Debt Group” examined the intersection of law school debt and access to justice.

STUDENT DEBT CHAPTER

A. INTRODUCTION

1. The Disturbing Facts and Figures

In California today, the average student debt for law school graduates as they enter the profession is in excess of \$134,000²⁹ and the amount of money borrowed by law students has more than doubled over the past ten years.³⁰ These figures have been driven in no small part by the escalating cost of law schools at levels that have far outpaced inflation. The rise in the cost of a law degree is particularly concerning in a state such as ours, which has numerous public institutions of higher learning; the cost of public law school tuition have increased by a *factor of eight* over the past two decades.³¹ Law students who matriculate from private law schools fare no better. Nationally, private law schools have increased tuition by a factor of four in real (inflation-adjusted) dollars over the last 40 years.³²

While law school debt has been on the rise, we have not seen a commensurate increase in starting salaries for young lawyers. Over the past 15 years, median starting salaries for lawyers in solo and small firm practices, legal services, and the public sector have increased by fewer than 50%.³³ And as recent studies have made clear, even in the wake of an improving economy, far too many of our law school graduates face the prospect of no employment in the legal sector for months (or even years) after graduation.³⁴

This troubling scenario is not simply a concern faced by a few – 87% of our state’s law

²⁹ See *Which law school graduates have the most debt?*, U.S. NEWS & WORLD REPORT: 2015 BEST LAW SCHOOLS, <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/grad-debt-rankings> (last visited Oct. 9, 2014) (averaging debts of California law schools).

³⁰ Linda Bisesi, Assistant Dean for Financial Aid at UC Hastings College of the Law, Law School Student Debt California Picture ((PowerPoint presentation at the State Bar’s Civil Justice Strategies Task Force Meeting, San Francisco, California (Aug. 26, 2014)).

³¹ Heather Jarvis, Student Loan Expert, Civil Justice Strategies Task Force August 26th Meeting (PowerPoint presentation at the State Bar’s Civil Justice Strategies Task Force Meeting, San Francisco, California (Aug. 26, 2014)).

³² See American Bar Association Young Lawyers Division, *Recommendation and Report to the Assembly of the Young Lawyers Division*, n.4 & accompanying text, http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/march2014councilmeeting/2014_march_yld_report.authcheckdam.pdf [hereinafter *ABA YLD Report*].

³³ California Young Lawyers Association (CYLA), *The Impact of Debt on New Lawyers* ((PowerPoint presentation at the State Bar’s Civil Justice Strategies Task Force Meeting, San Francisco, California (Aug. 26, 2014)).

³⁴ Joshua Sebold, *Money Matters: Debt Drags Down Law Grads*, DAILY JOURNAL, June 16, 2014; Special Committee on the Impact of Law School Debt on the Delivery of Legal Services, Illinois State Bar Association, Final Report, Findings & Recommendations on the Impact of Law School Debt on the Delivery of Legal Services, n.3 (June 22, 2013), <http://www.isba.org/sites/default/files/committees/Law%20School%20Debt%20Report%20-%203-8-13.pdf> [hereinafter *Illinois Report*].

school graduates leave their years of schooling facing significant student debt.³⁵ For lawyers who entered the profession in past decades, these figures are almost unimaginable. For our newest lawyers, this debt can factor into the professional choices they make and the career path they take. Some may opt to forego a career in lower paid positions that might allow them to serve low or modest means clients; others may feel pressure to minimize pro bono and “nonpaying” work; and still others may elect to leave the legal profession entirely in an effort to secure any employment that can enable them to cover their student debt.³⁶ Indeed, a recent ABA study found that nearly one-third of 2013 law school graduates had no full time bar-required or JD-preferred work and 11% of that graduating class was unemployed as of a year after graduation.³⁷

This state of affairs may be driving prospective talent away from even considering law school. A recent Wisconsin Task Force study determined that a disheartening 40% of law school graduates surveyed would not choose to attend law school, given what they now know, if they had the choice to make over again.³⁸ As these sentiments take hold, it is not surprising that law school enrollment figures have dropped over the past few years.³⁹

2. Broader Implications for Our Community

As troubling as the law school debt picture may be for our newest generation of lawyers, these concerns are not ones that should be viewed as a self-interested “young lawyer only” problem. Although hard data on the full impact of escalating student debt has yet to be compiled, there are sound reasons to view this issue as one that impacts our *entire community*. Those concerns have been well documented in a number of recent reports by esteemed groups that have studied these issues in other parts of the nation and were also thematically presented by individuals who shared their perspectives with our Task Force (as discussed more fully below). In particular, the impact of student debt on our broader community arises in three contexts: access to justice, public protection, and enhancing the diversity of the legal profession. Each of these issues is integral to the State Bar’s core mission and fundamentally impacts the public, whose interests our organization is committed to protect.

a. Access to Justice and Justice Gap Concerns

³⁵ See U.S. NEWS & WORLD REPORT, *supra* note 1.

³⁶ These sentiments were seen in the survey presented to the Task Force by the CYLA on Aug. 26, 2014 (on file with Civil Justice Strategies Task Force). These same concerns were memorialized in Task Force reports and hearings held in Illinois, Wisconsin and New York. See Challenges Facing New Lawyers Task Force, State Bar of Wisconsin, *Challenges Facing New Lawyers Task Force Report and Recommendations* 7 (November 2013), <http://taxprof.typepad.com/files/challenges-facing-new-lawYERS-task-force-report.pdf> [hereinafter *Wisconsin Report*]; Committee on Legal Education and Admission to the Bar, Association of the Bar of the City of New York, *Law School Debt and the Practice of Law* n.23, <http://www.nycbar.org/pdf/report/lawSchoolDebt.pdf> [hereinafter *New York Report*]; See *Illinois Report*, *supra* note 6, at 1-2., as described herein.

³⁷ See Sebold, *supra* note 6.

³⁸ See *Wisconsin Report*, *supra* note 8.

³⁹ See *Illinois Report*, *supra* note 6, at 39.

Student debt restricts the ability of lawyers to pursue career options that would enable them to serve the needs of low and modest means clients and, as such, exacerbates access to justice and justice gap concerns. A recent Illinois Task Force report observed that the “law school debt crisis is having a serious and negative impact on the quality and availability of legal services that the legal profession provides.”⁴⁰ Moreover, the report observed that “significant student debt makes it difficult to obtain a loan” – financing that new attorneys seeking to open a solo practice may require.⁴¹ Another recent report similarly concluded:

[T]he burden of law school debt can distort the employment choices of young attorneys. Small firms, particularly those in rural areas face greater difficulty hiring and retaining competent attorneys. Fewer lawyers are able to sustain a career working in low-paying public interest jobs.⁴²

While recent changes in federal law have created law school debt relief programs that base loan repayment amounts on income levels and also seek to alleviate the loan repayment burden for lawyers who work in the legal services or public interest arena, some of these programs are not available to lawyers who opt to work as community lawyers and focus their practice on low or modest means clients. Nor is there equally advantageous debt forgiveness or support for lawyers who seek to practice as solo practitioners or as part of an incubator model. One relief program discharges student loan debt made or guaranteed against default by the U.S. government after 20 years, but the program only provides relief for certain types of loans—not private student loans.

b. Public Protection Concerns

The burden of law school debt can also trigger public protection concerns, an issue at the heart of the Bar’s mission.

Lawyers have the dubious distinction of having the highest student loan default rates among graduate students – with a lifetime cumulative default rate estimated at between 15 and 20 percent.⁴³ Some have expressed concerns that these defaults, and the fiscal pressures facing young lawyers, can create pressure to engage in risky professional behavior, especially for young lawyers.

As a recent ABA Young Lawyers Division Report (the “ABA YLD Report”) observed, “[l]awyers burdened by debt face greater pressures and temptations to violate ethics

⁴⁰ See *Illinois Report*, *supra* note 6.

⁴¹ See *Illinois Report*, *supra* note 6, at 21.

⁴² See *ABA YLD Report*, *supra* note 3, at 3.

⁴³ See *New York Report*, *supra* note 8, at 8.

rules.”⁴⁴ Similar concerns regarding the impact of law school debt on the quality of legal services were articulated by the Illinois State Bar Task Force Report: “attorneys with heavy debt loads may be more likely to commit ethics violations. The greatest pressures are on solo practitioners, who may take work beyond their competency, face financial pressures to prolong litigation, or terminate a representation inappropriately if a client has difficulty paying.”⁴⁵

c. Diversity of the Legal Profession

Finally, the issue of student debt necessarily impacts our community through the adverse impact these financial concerns can have on the diversity of our law schools, and in turn the diversity within our profession. As aptly noted in the ABA YLD Report:

[T]he high cost of a legal education creates additional barriers to entry for Blacks and Hispanics, who generally receive less support from their families to attend law school. The rapid rise in law school tuition is therefore one of the factors holding the legal profession back from embodying the full spectrum of diverse backgrounds in America.⁴⁶

For all of these reasons, the time is ripe to bring attention to the ever-increasing law school debt, examine the role that the State Bar can play in addressing these concerns, and look for ways to enhance information gathering and engagement by the Bar moving forward. Indeed, by putting a spotlight on this issue and seeking solutions that can alleviate existing concerns, our State Bar will be joining a mounting focus on this issue at a national level, as well as in other states. Our voice can help guide the thinking and solutions that are being crafted across the nation and ensure that the valuable perspectives -- and concerns -- of our state are part of this important dialogue. Undoubtedly, these actions will benefit not simply our newest generation of lawyers, but our entire community.

B. TESTIMONY PRESENTED TO, AND INFORMATION ACQUIRED BY, THE TASK FORCE

1. The Task Force’s Information Gathering

a. Witnesses Interviewed and Materials Reviewed

The Task Force interviewed a diverse group of state and national experts, and reviewed and analyzed numerous reports, articles, statutes, and proposed legislation related to law school debt and access to justice.

⁴⁴ See ABA YLD Report, *supra* note 3, at 3.

⁴⁵ See Illinois Report, *supra* note 6, at 2.

⁴⁶ See ABA YLD Report, *supra* note 3, at 3.

In addition to the witnesses who testified over the course of two Task Force hearings,⁴⁷ the individuals interviewed included: Barry Currier, ABA Managing Director of Accreditation & Legal Education; Justice Ann Jorgensen, Co-Chair Illinois State Bar Association Special Committee on the Impact of Law School Debt on the Delivery of Legal Services; Kathleen Smith, Senior Vice President of Access Group; Neil Thapar and Janelle Orsi, Sustainable Economies Law Center; and Daniel Thies, ABA Young Lawyers Division. (A list of the materials reviewed and analyzed by the Task Force is attached hereto as Appendix ___, Law School Debt Background & Research Materials.)

b. CYLA Information Gathering

The California Young Lawyers Association (CYLA) is the nation's largest association of young lawyers, comprised of over 40,000 members who have either been in practice for five years or less or are 36 years old or younger. The Civil Justice Strategies Task Force invited CYLA to present testimony and information gathered from its members about the effects of crippling law school debt on California's newest generation of lawyers. CYLA testified that the issue of law school debt, including whether young lawyers are being prevented from entering public service or performing pro bono work as a result of their indebtedness burden, is of great concern to its members.

CYLA performed a student debt survey, collecting a myriad of information from its 20 member Board, which is comprised of young lawyers from all over the State. The survey contained questions regarding whether the attorney graduated with law school debt and whether the individual presently had debt; the amount of that debt; whether the attorney received governmental assistance, or credit/loan forgiveness from his or her employer; whether debt prevented the attorney from a career in public interest law; whether the attorney actively engages in pro bono work; and any suggestions as to how the State Bar could assist future law school graduates. The results of this survey were telling. Among those surveyed, the average student loan debt was \$100,000. Only one attorney received governmental assistance (through the GI bill) and none of those surveyed had received credit/loan forgiveness from an employer. A staggering 42% of those surveyed confirmed that their law school debt prevented them from embarking on a career in public interest law.

At the Task Force's August hearing, CYLA representatives testified and recounted the perspectives of young lawyers they had heard from as part of their research. These statements underscore the impact debt has on career choices.

I wanted to be a public defender when I went to law school and completed several externships in government legal offices. I also did a lot of course work in juvenile law issues during law school, and would've considered the right legal aid job in that area of law. It's simply impractical for me to work in the public interest/service sector with the amount of debt I have.

⁴⁷ See Appendix B: Panelists & Witnesses at the Hearings on Civil Justice Strategies: June 18, 2014 hearing and August 26, 2014 hearing.

I can barely afford my loan payments working at a medium sized firm that pays well. I would love to consider doing something in the public interest sector but my loans have prevented me from even considering this as an option.

c. State Bar Informal Survey

The State Bar similarly engaged in a process of polling its members. An informal multiple-choice poll on the topic of student debt was circulated as part of the California Bar Journal electronic newsletter on August 1, 2014. The poll asked readers: “What level of debt did you have when you finished law school?” Of the 702 responses recorded online by August 11th, 16.95% chose the category “Less than \$25,000”; 9.26% chose the category “\$25,000 to \$50,000”; 19.37% chose the category “\$50,000 to \$100,000”; 38.60% chose the category “More than \$100,000”; and 15.81% chose the category “None.” (Poll percentages changed slightly as more audience members weighed in during subsequent days.) Admittedly this poll, with self-selecting participation, was unscientific; it nonetheless provided another item of information that the Task Force was able to consider.

2. Common themes from our August Hearing

Certain themes emerged during testimony the Task Force heard at its hearing on August 26, 2014. While some of these accounts were anecdotal, the voices we gathered together included leading experts from around the nation. Moreover, the messages we heard from these individuals were consistent with findings made by other Task Forces that have studied this issue in different parts of the country (as discussed herein). The themes that arose during the testimony are summarized below.

a. Law school cost and the student debt problem have escalated in recent years and are a serious concern

Dean Linda Bisesi, Assistant Dean for Financial Aid at UC Hastings:

“We’re kind of typical for a state school. . . . The average amount that a law student will pay in one year is over \$70,000 and if they were to borrow all of that, the cost is \$213,000 over a three-year period. So this does have a burdensome effect on students and it does cause them to give thought as to whether or not they want to incur the cost that is required in order to join the profession.”

8/26/14 hearing transcript, p. 36-38.

Travis Thompson, President of the Business Law Association at Golden Gate University School of Law:

“I wouldn't be telling the truth if I didn't say I'm pretty scared right now.”

8/26/14 hearing transcript, p. 89.

Nathaniel Lucey, CYLA Special Advisor and former Board Member:

“[A]s you have this increase in debt over ten years, over a 50 percent increase in debt, wages for first-year attorneys have basically stagnated.”

8/26/14 hearing transcript, p. 75.

b. These issues have the potential to impact career choices

Nathaniel Lucey, CYLA Special Advisor and former Board Member:

“[T]he increased cost of law school is making public sector and public interest work not feasible for the average graduate.”

8/26/14 hearing transcript, p. 76.

Travis Thompson, President of the Business Law Association at Golden Gate University School of Law:

“I'm not looking seriously into the public interest sector or any type [of] government employment, simply just running the numbers, if you will; I wouldn't be able to afford it. I've centered my search on any type of corporate tax position that may be available in the local area.”

8/26/14 hearing transcript, p. 89-90.

Shavonte Keaton, President of the Black Law Students Association at Golden Gate University School of Law:

“[M]y dilemma throughout law school is balancing whether or not I wanted to go into public interest after law school, knowing that I'm going to come out of law school with \$200,000 in debt. . . . My whole dilemma through law school has been whether I'm going to still pursue a public interest career.”

8/26/14 hearing transcript, p. 92.

c. Navigating and managing student debt is intensely complicated

Heather Jarvis, Student Loan Expert:

“[T]he programs are so complicated, so convoluted, the system is difficult

to navigate that I think the programs are far less useful and effective than they might be, but they do exist.”
8/26/14 hearing transcript, p. 12.

Dean Linda Bisesi, Assistant Dean for Financial Aid at UC Hastings:

“The portfolio can be quite complex and students often are not equipped to really understand the complexity of it.”
8/26/14 hearing transcript, p. 41.

“So I think you're beginning to see the complexity of the loan repayment – of the loan portfolio and you might be able to imagine then, a student as they get ready to go into repayment how confusing this could be.”
8/26/14 hearing transcript, p. 45.

Emily Aldrich, CYLA Chair:

“We're a savvy population. We're going into a very savvy career and yet this – they are very complicated, these programs, and it's very hard to kind of understand what you're getting into and then it goes to a loan provider and you're getting information from – mine is Great Lakes – and you don't know what's going on. I think education is key for new and young lawyers.”
8/26/14 hearing transcript, p. 84.

d. Information and assistance to law school students or young lawyers isn't always readily available

Heather Jarvis, Student Loan Expert:

“In my view, the objective assistance and information for student loan borrowers is completely inadequate. . . . I think schools are less focused on providing support for their graduates when it comes to selecting repayment options than they are in providing the financial aid to begin with. . . . It needs to be simplified considerably. . . . I think that schools can and should invest more in providing the resources that would be necessary to give more personalized advice to their graduates.”
8/26/14 hearing transcript, p. 18-19.

Dean Linda Bisesi, Assistant Dean for Financial Aid at UC Hastings:

“I think you're beginning to see the complexity of the loan repayment -- of the loan portfolio and you might be able to imagine then, a student as they get ready to go into repayment how confusing this could be. Where do they even find the information that they need to determine what their interest rate is and what it has been over time and if they have

undergraduate debt and graduate debt, it is very complex. . . . You know, we want to help them. This is our passion. We've all been students. We want to help students and we want them to understand this and we are in a unique position as administrators to understand the mechanics of all this and how it works and be able to explain it to students, but it adds a burden on us to do this, so therein lies the catch for us.”

8/26/14 hearing transcript, p. 45.

“So my point in saying all of this is that there are nuances that can work against a student if you don't know that they're there....

This goes back to the counseling and you've asked about how important the counseling is.”

8/26/14 hearing transcript, p. 49.

Professor Eleanor Lumsden, Associate Professor of Law at Golden Gate University:

“There is mandatory entrance and exit counseling, but I will echo what everyone else has said, there is not enough counseling. There's not enough counseling, but, again, we're strapped.”

8/26/14 hearing transcript, p. 61-62.

e. We need to do more to develop the narrative, put a spotlight on this issue, and gather key data

Chris Chapman, President and Chief Executive Officer of Access Group:

“I think the first thing that needs to be done is you need to develop a narrative, a narrative that states the case for the activities that you wish to achieve. Nobody argues about access to justice. . . . You have to have the narrative. I believe the narrative is there. You just have to make it, both from a qualitative standpoint and a quantitative standpoint.”

8/26/14 hearing transcript, p. 34.

f. Existing loan forgiveness and repayment programs aren't fully adequate

Heather Jarvis, Student Loan Expert:

“[S]tudent loan borrowers [who have their loans forgiven] have the possibility of significant tax bills at the end of their repayment period.”

8/26/14 hearing transcript, p. 11.

“Public service loan forgiveness is available for those who work full time for pay in government positions at all levels of government, state, local, federal, tribal governments and it's available for people who work in 501(c)

(3) nonprofit organizations, plus a few narrowly defined organizations, but all of them being nonprofit, so there is no for profit structure in which someone would qualify for public service loan forgiveness.”
8/26/14 hearing transcript, p. 16.

Dean Linda Bisesi, Assistant Dean for Financial Aid at UC Hastings:

“[S]mall solo practitioners, family law, people that are not a 501(c) (3) or a government agency, but have low income are not provided any relief in the Public Service Loan Forgiveness Program. . . . Somebody like this does not reap any benefits from the federal repayment assistance. And then there are some states that have the Public Interest Loan Forgiveness Programs, but California does not.”
8/26/14 hearing transcript, p. 51.

Professor Eleanor Lumsden, Associate Professor of Law at Golden Gate University:

“[V]ery few loan repayment assistance programs extend beyond work that consists of legal services work, public interest or government service.”
8/26/14 hearing transcript, p. 60.

C. RECOMMENDATIONS

One of the biggest challenges for the Task Force was to identify how the State Bar can impact what is an admittedly complex and far reaching problem. The recommendations below provide our best thinking in regard to proposed recommendations, but we also believe that further consideration as to the Bar’s most effective role in this area is appropriate. To that end, we encourage the Bar to view this work as the *start* rather than the *end* of a process. We hope that the Bar’s leadership will create a vehicle for implementation of these recommendations as well as ongoing consideration of ways to address the multitude of concerns associated with the crisis of overwhelming student loan debt.

1. The Bar should serve as a clearinghouse of information on student debt management and repayment programs

The Task Force heard in no uncertain terms about the complexities of student debt management as well as the knowledge gaps among law school students and young lawyers in regard to this issue. While some law schools are proactive in their efforts to educate students about student debt, there is no uniform set of standards in regard to either law school counseling or law school loan repayment programs.

The Bar can help fill this void by working with state and national experts and organizations (including Access Group) to improve the level of understanding among law students and new lawyers in regard to these complex issues. The Bar can also

serve as a clearinghouse of available information. While the Bar's website has some useful information for "future lawyers" (see <http://admissions.calbar.ca.gov/>) – including a list of California law schools and requirements for admission to practice law – there is no information on key questions to ask in regard to student debt, financial literacy, and repayment programs. Nor are there links to other resources on these topics, or information on Bar Foundation grants and resources that can help law students or struggling graduates pay for or help defray the costs of tuition and/or bar review courses.

We recommend that the Bar reach out to others developing useful resources (including Access Group), provide a centralized place on the Bar website to enable lawyers to find and access key information and statistics (including material gathered during the Task Force's tenure), offer a vehicle for prospective law students to assess differences among California law schools in regard to loan forgiveness programs, and create a platform for information sharing on an ongoing basis. This enhanced compilation of information could also include financial literacy worksheets for prospective or current law school students that can assist them in assessing the extent of debt they might reasonably consider taking on.

2. Working through CYLA, the Bar should develop mechanisms and new approaches to assist young lawyers to better understand and proactively address the implications of their student debt obligations

CYLA was an enthusiastic contributor to the work of the Task Force and has expressed its interest in remaining engaged in next steps. There is an invaluable ongoing contribution that CYLA can make by prioritizing this issue and developing a plan over the next two years to create educational programming, fact sheets, counseling and peer advisors, and other mechanisms for enhancing the understanding of new lawyers in regard to management of their student debt. CYLA should also consider ways to reach out to and work with undergraduate pre-law advisors, law schools and local bar associations to promote collaborative efforts that would advance enhanced information for, and education of, prospective and current law students about the importance of appropriate, informed and responsible borrowing

3. The Bar should continue to put a spotlight on the issue of law school debt, promote an enhanced understanding of the link between student debt and the broader community's access to justice and public safety concerns, and assist others working to study, quantify and better define the implications of student loan indebtedness

The work of this Task Force, and the hearing on law student debt held in August 2014, marked the first visible engagement by the State Bar in educating the community about the broader public concerns that are implicated when lawyers enter the legal profession burdened with over \$100,000 in student debt. It is our

hope that this hearing will not be the only opportunity for this issue to receive public attention and discourse. In particular, there are a host of ways that Bar leadership and staff can continue to promote a deeper understanding of this issue and its import – through articles and speaking opportunities, development of educational materials, adding pertinent information to the Bar website, and other Bar outreach techniques. Simply helping to promote and define a narrative that underscores the broader public concerns triggered by mounting law school debt are valuable efforts in an area that for too long has been viewed as a self-interested “lawyer only” concern.

There is also an effort afoot nationally by groups including the ABA and Access Group to study and gather data in regard to the broader implications of law student debt. The State Bar should consider ways to assist these organizations and bring California’s voice into the forefront as this fact finding process continues. The Bar, in turn, can benefit from the perspectives and new ideas generated during the ongoing national consideration of these issues.

4. The Bar should work through its discipline arm and endeavor to assess whether student debt is precipitating or contributing to lawyer misconduct

The potential for crushing student debt to result in defaults, financial problems, and/or ethical violations is an appropriate concern for the Bar and the public we are charged with protecting. Yet not enough is known in regard to the actual impact of student debt on discipline violations and attorney misconduct. Having a deeper understanding of this information, and establishing preventative measures and other responses that might address these concerns, would further the Bar’s core mission of public protection and enable the Bar to put in place efforts that might help avoid attorney misconduct before it occurs.

With these objectives in mind, the Bar should encourage its discipline arms – the Regulation and Discipline Committee as well as the Office of Chief Trial Counsel – to explore ways to assess whether discipline actions related to these concerns are arising and, if so, what preventative strategies might be in order.⁴⁸

5. The Bar should use both its law school regulatory power as well as its established relationships with law school leaders to encourage enhanced counseling, strategies and disclosures regarding student debt

The Bar has a strong relationship with the many law schools in our state – both through its regulatory role and as a result of its ongoing work with law schools on a host of issues and reforms. While some law schools have instituted impressive individualized loan debt counseling for students, there is no established set of

⁴⁸ Possible preventative strategies might include financial literacy support and training for those lawyers who are facing financial and economic stresses. Similar strategies that seek to address the root cause of disciplinary problems and thereby prevent future misconduct have been employed by the Lawyer Referral Assistance Program in the context of lawyers who find themselves in the disciplinary system due to substance abuse issues or other external pressures.

standards or best practices.

Working with key law school leaders, the Bar should endeavor to create and encourage schools to implement a set of best practices that would include:

- a. Individualized counseling for students, prospective students and recent graduates at all stages – including before, during, as they near completion of, and immediately upon graduation from, their law school tenure – on topics such as calculating total law school costs, loan consolidation and refinancing strategies, true (and hidden) loan costs, and other nuances of managing their debt;
- b. Financial literacy counseling and guidance as part of law school admissions and orientation processes;
- c. The creation of a loan “ombudsman” to serve as a point of contact for law students as well as alumni on this issue;
- d. Expansion of LRAP programs beyond public interest and public service attorneys to include attorneys in small or solo practices focused on addressing the needs of low and modest means clients; and
- e. Public disclosure and tracking requirements that help ensure complete and accurate information regarding (i) law school costs, (ii) student debt statistics and alumni default rates, and (iii) accurate post-graduation law-related employment figures and prospects.

6. The State Bar should consider ways to add its voice to the national dialogue seeking to develop new and enhanced loan forgiveness and repayment approaches

There are a host of national efforts to protect existing favorable student loan and income based repayment programs and also to promote new approaches in this arena. At the same time, the ABA is studying how to best address the increased cost of law school as well as mounting student debt. The Bar’s voice and perspectives can be an invaluable part of this national dialogue.

Issues where the Bar may wish to consider engagement include:

- Expanding favorable public service loan forgiveness and repayment programs beyond public interest and legal services attorneys to include community and solo practitioners who are focused on representation of low and modest means clients;
- Eliminating the higher interest rates associated with graduate student loans (the so-called graduate student loan “penalty”);
- Allowing for the repayment of loans with before tax monies;
- Addressing “hidden” loan costs;
- Eliminating the accrual of interest during law school;

- Creating an interest free loan deferral period after graduation so lawyer have a longer period to get on their feet, pass the bar and embark on their careers; and
- Basing federal loan availability on the law school's employment track record or other benchmarks that reflect the employability of the school's graduates.⁴⁹

In addition to these national policy discussions, the Bar should explore with the ABA possible ways to help provide financial literacy and student debt information to prospective law school students as part of the law school admissions process. The Bar should also encourage the CYLA to work with the national YLD to create a “future lawyers” clearinghouse with key student debt information and links to state bar websites that contain useful student debt, financial literacy and debt planning information.

7. The State Bar should help encourage new and innovative models that seek to address law school cost concerns

Rising law school costs are a significant concern in our state as well as nationally. The Task Force does not profess to have the answers to resolve these concerns. We did, however, hear about models that seek to consolidate the total number of years required to achieve a law school degree. Innovative models such as the 3+3 program – whereby colleges and law schools partner to allow undergraduates to receive credit toward law school graduation and thereby achieve both a Bachelors and Law degree in 6 (rather than the usual 7) years – are an intriguing vehicle for reducing law school costs. Also of interest to the Task Force is the New York “Legal Scholars” program whereby students are able to take the Bar at the end of their first semester of their 3L year and spend their final half year getting practical legal services job experience. We believe that these are models that should be closely studied by the Bar and its law school regulatory arm. The Bar should help encourage innovative thinking in this area and do what it can to highlight, encourage and, when appropriate, consider vehicles that might eliminate barriers to the development of new models.

8. The Board of Trustees should create a group to implement these recommendations

As noted above, there is a need for ongoing strategic thinking in regard to how the Bar – through its staff and leaders – can best impact change in regard to the concerning issue of student debt. With national discussions ensuing, the Bar can also be instrumental in tapping national experts and helping guide national perspectives on this vitally important topic. These national efforts may also identify new thinking and innovative approaches that would suggest additional strategies that the Bar might want to explore. The recommendations set forth above would benefit from the direction and oversight of a committed group of individuals who

⁴⁹ See ABA YLD Report, *supra* note 3, at 1.

could work with Bar staff, CYLA and law schools in charting and implementing next steps.

This issue is one of concern not simply to our profession, but more broadly to our community as a whole. While the Task Force was able to make great strides in its short tenure and identified some concrete areas for effective engagement by the Bar, more work remains to be done to have a meaningful and lasting impact on this landscape.

