

# Oregon Alternatives to the Bar Exam Task Force

---

2021 Report

# Organizing Principles

---

- Consumer Protection
  - Ensuring all licensed attorneys are competent to practice law
    - Oregon Essential Eligibility Requirements (<https://taskforces.osbar.org/files/RFA1.20and1.25EssentialEligibilityRequirementsandGuidelinesforAdmission.pdf>)
    - IAALS Report on Building a Better Bar ([https://iaals.du.edu/sites/default/files/documents/publications/building\\_a\\_better\\_bar.pdf](https://iaals.du.edu/sites/default/files/documents/publications/building_a_better_bar.pdf))
  - Continued oversight of competence by the Board of Bar Examiners
- Equity
  - Removing unnecessary barriers
  - Providing alternatives



# Process

---

- What is being done now?
  - Wisconsin model – “Diploma Privilege”
  - New Hampshire Model – Experiential curriculum
  - Canada/Utah/Washington D.C. Model – apprenticeship/supervised practice
- How would these models fit with Oregon
- Report to the Court

# Recommendation

---

- Full report is available here: <https://taskforces.osbar.org/files/Bar-Exam-Alternatives-TFReport.pdf>
- Two Alternative Pathways
  - Oregon Experiential Pathway
  - Supervised Practice Pathway
- BBX to maintain oversight over competence determination for each
- Maintain the UBE as a pathway
- Continue to require MPRE and character and fitness review
- Need for additional administrative resources to successfully implement two alternative pathways

# Oregon Experiential Pathway

---

- Modeled after New Hampshire's Daniel Webster's Honors Program
- 2L and 3L years focused on experiential learning and courses critical for practice
  - Curriculum to be developed between the BBX and Oregon law schools
  - Key components:
    - Mix of guided experiential learning (clinics or experiential courses) and externships
    - Practice-based courses like evidence, ethics, administrative law, statutory interpretation, criminal procedure, etc
- Portfolio work produced throughout 2L and 3L year
  - Feedback from BBX allows for course correction if applicant is not meeting standards
  - Simulated real world work samples allow a true assessment of competence to practice
- Following a ramp up period, open to all students who opt in
- Permit out-of-state schools to apply once program is up and running



# Supervised Practice Pathway

---

- Post-graduation apprenticeship for 1000-1500 hours of legal work under qualified supervising attorneys
- Open to applicants from out-of-state or those that failed the bar exam
- Produce portfolio of real-world work product for review by BBX
- Additional considerations
  - Delaware-style “scavenger hunt”  
(<https://www.courts.delaware.gov/forms/download.aspx?id=28478>)
  - CLE requirements

# Addressing Consumer Protection Concerns

---

- Ensuring competence of applicants
  - Same people who grade the bar exam will be grading portfolios
  - Competence determinations are not outsourced to law schools or supervising attorneys who have a direct mentorship relationship with the applicants
- Breadth of knowledge requirements can be retained
  - Mandatory courses through the OEP; CLE requirements or “scavenger hunt” requirements for the SPP

# Addressing Equity Concerns

---

- Multiple pathways = options and balance
- OEP
  - Program is exclusionary ► following ramp-up period, making it accessible to larger and larger cohorts
  - Non-blind grading of work product may introduce bias ► work with experienced professors and psychometrician to identify a rubric that applies to all students' work to limit possible bias
- SPP
  - Applicant feels “trapped” with bad supervisor ► allow for multiple supervisors
  - First generation students struggle with finding supervisors ► leverage Oregon's first-year mentorship program to assist applicants with finding supervisors



# Next Steps

---

- Public comment
- Implementation committees
  - OEP
    - Curriculum
    - Portfolio requirements
    - Grading rubrics for portfolios
  - SPP
    - Qualifications for supervising attorneys
    - Portfolio requirements
    - Grading rubrics for portfolios
    - What constitutes “legal work” for purposes of hours requirements