

# FREQUENTLY ASKED QUESTIONS FOR NEW YORK'S SKILLS COMPETENCY AND PROFESSIONAL VALUES BAR ADMISSION REQUIREMENT (RULE 520.18)

December 2019

The following frequently asked questions (FAQs) address common inquiries about the skills competency and professional values requirement for admission to practice in New York. These FAQs are intended to provide general guidance. In the event of any conflict between the information contained in these FAQs and the text of Rule 520.18 of the Rules of the Court of Appeals, the latter controls.

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## **General Questions**

- 1. What is the purpose of the skills competency and professional values requirement?**

In November 2015, the Task Force on Experiential Learning and Admission to the Bar recommended to the Court of Appeals that New York adopt a skills competency and professional values requirement for admission to practice. According to the Task Force, this separate admission requirement is necessary to ensure that prospective attorneys possessed the requisite skills and are familiar with the professional values required for effective, ethical, and responsible practice in New York. In December 2015, the Court of Appeals adopted the Task Force's recommendations, thereby making New York the first state to require applicants to the bar to separately demonstrate that they have had essential practical skills training and gained sufficient understanding of professional values.

- 2. What are the skills competency and professional values that are encompassed under Rule 520.18?**

A useful starting point for identifying the skills and values with which prospective attorneys should be familiar is the MacCrate Report of 1992 (see American Bar Association Section of Legal Education and Admissions to the Bar, Legal Education and Professional Development – An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, 1992). The report's Statement of Skills and Values (SSV) formulated a detailed inventory of fundamental lawyering skills and professional values (see *id.* at 135-221). While the SSV does not serve as an exact list of the skills and values that must be taught in law school, it is a helpful guide in understanding what prospective attorneys ought to know. Since the MacCrate Report was issued in 1992, others skills and values necessary for practice have emerged, including cross-cultural competency, collaboration in practice, use of technology to aid practice, knowledge and direct experience with improving access to justice for underrepresented individuals and groups, public administrative skills, professional self-development, developing and sustaining professional relationships, learning from experience through self-reflection and evaluation, and law practice management.

The Court of Appeals, in adopting the skills competency and professional values requirement, did not provide an exhaustive list of those skills and values necessary for practice, as they are ever-evolving and should further each law school's educational mission for its students, including what is appropriate for their likely career trajectories. The Court therefore permits law schools to determine those skills and values with which its prospective attorneys should be familiar.

**3. How do I satisfy the skills competency and professional values requirement for admission?**

An applicant for admission may satisfy the skills competency requirement by completing one of five pathways contained in Rule 520.18.

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 (1) 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 competency and ethical participation in the legal profession, and has made this plan publicly available on the law school's website; and (2) the applicant has acquired sufficient competency in those skills and sufficient familiarity with those values.

Pathway 2 permits an applicant to satisfy the skills competency and professional values requirement by submitting proof that the applicant completed 15 credits of practice-based experiential coursework designed to foster professional competency training. Up to 6 of these 15 credits can be earned in law school certified non-credit-bearing summer employment programs, provided those employment opportunities are certified by the law school and satisfy certain other criteria.

Pathway 3 provides that any applicant who has successfully completed the Pro Bono Scholars Program, pursuant to Rule 520.17 of the Court's Rules for the Admission of Attorneys and Counselors at Law (see 22 NYCRR 520.17), will be deemed to have satisfied the skills competency and professional values requirement.

Pathway 4 allows an applicant to satisfy the skills competency and professional values requirement upon completion of a post-graduate, six-month apprenticeship in a law office in the United States, in a commonwealth or territory of the United States, or in a foreign country, under the supervision of an attorney authorized to practice in the jurisdiction where the work is performed. The apprenticeship can be paid or unpaid. The supervising attorney is responsible for certifying that the apprenticeship satisfied certain criteria.

Pathway 5 provides that an applicant who has been authorized to practice law in another state, or in a U.S. territory or commonwealth or a country outside the United States, and has practiced in that jurisdiction full-time for one year, or part-time for two years, will meet the skills competency and professional values requirement.

**4. When does the skills competency and professional values requirement take effect?**

For applicants completing a J.D. at an ABA-approved law school, the skills competency and professional values requirement first applies to applicants for admission to the bar who commenced their J.D. programs after August 1, 2016. This same implementation date applies to applicants who qualify for the bar exam under Rule 520.6 based solely on their foreign legal education (i.e., those applicants who are not required to complete an LL.M. program under Rule 520.6 of the Court's Rules for the Admission of Attorneys and Counselors at Law [see 22 NYCRR 520.6]).

For foreign applicants who qualify for the bar exam only after completing an LL.M. program at an ABA-approved law school, the skills competency and professional values requirement first applies to those who commenced their LL.M. programs after August 1, 2018.

**5. Must I satisfy the skills competency and professional values requirement before I sit for the bar exam in New York?**

No. The skills competency and professional values requirement is an admission requirement, not a requirement to sit for the bar exam in New York. Pathways 1, 2, and 3 relate to an applicant's law study, and thus will be completed before an applicant sits for the bar exam. Applicants using pathway 4 or 5 need not complete those pathways before taking the bar exam, but must satisfy the requirements of the pathway before applying for admission in New York.

**6. How will a bar applicant prove compliance with the skills competency and professional values requirement?**

As part of the admission application, an applicant must submit the "Form Affidavit as to Applicant's Compliance with the Skills Competency and Professional Values Requirement" establishing that the applicant satisfied all requirements of one of the pathways contained in Rule 520.18. The form is available on the New York State Board of Law Examiners' website (see [https://www.nybarexam.org/Admission/19\\_Bar\\_Admission-Skills\\_Form.pdf](https://www.nybarexam.org/Admission/19_Bar_Admission-Skills_Form.pdf)).

It is important to note that, under Rule 520.12, applicants who qualify for admission based on having passed the Uniform Bar Examination, whether taken in New York or another jurisdiction, must file a complete application for admission within three years from the date the applicant sits for the second day of the Uniform Bar Examination. If the applicant does not complete the skills competency and professional values requirement before the expiration of the three-year period, or the applicant is unable to submit the Affidavit of Compliance within that time frame, the application will be deemed incomplete and will not satisfy Rule 520.12.

**7. Does the skills competency and professional values requirement apply to all applicants for admission in New York?**

The requirement applies to all applicants for admission in New York except those qualifying for admission on motion pursuant to Rule 520.10 and those qualifying for the bar exam pursuant to Rule 520.4 (law office study program) and Rule 520.5 (graduation from an unapproved law school and five years of practice). For applicants seeking admission on motion, and for graduates of unapproved law schools who qualify for the bar exam after five years of practice, the practice requirement warrants an exemption from the skills competency and professional values requirement. Applicants who qualify for the bar exam based on completion of the law office study program are exempt from the skills competency and professional values requirement because they gain practical skills training and familiarity with the values of the profession during their clerkships in a New York law office.

**8. Are there any other requirements of which I should be aware in addition to the skills competency and professional values requirement?**

J.D. students should confirm that their law school study satisfies all other requirements of Rule 520.3, including the requirement of at least 64 credit hours in classroom courses and two credits in professional responsibility. LL.M. students must complete the specific LL.M. program requirements of Rule 520.6(b)(3)(vi).

Additionally, all applicants for New York admission must complete at least 50 hours of pro bono service as required under Rule 520.16. The 50 hours of pro bono service are independent of any hours credited towards the skills competency and professional values requirement. By way of example, if a student is working in a law school clinic, the student's first 50 hours of work in the clinic may be counted toward the pro bono requirement for admission. Any subsequent hours may be counted toward the skills competency and professional values requirement. Put another way, the same hours cannot be used to satisfy two separate requirements.



**9. I am unable to satisfy the specific requirements of a certain pathway. May I seek a waiver of Rule 520.18's requirements?**

Rule 520.14 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law provides that the Court, "upon application, may in its discretion vary the application of or waive any provision of these rules where strict compliance will cause undue hardship to the applicant." The application "shall be in the form of a verified petition setting forth the applicant's name, age and residence address, the facts relied upon and a prayer for relief." Instructions for petitioning the Court are available on the Court's website (see <http://www.courts.state.ny.us/ctapps/admatrnyfaq.htm#Section2>).

Applicants seeking a waiver of any requirement under Rule 520.18 should demonstrate exceptional, unique, or compelling circumstances. Part-time law studies, full-time employment, status as an LL.M. student, family or other responsibilities, out-of-state or foreign residence, and other commonly experienced situations generally will be insufficient to warrant a waiver of any rule requirement.

The skills competency and professional values bar admission requirement was designed to account for the varying backgrounds and circumstances of bar applicants. Most applicants will have several pathways from which to choose to satisfy this requirement, so it is anticipated that waivers will be granted only rarely.

**Questions About Specific Pathways**

**Pathway 1 – Rule 520.18(a)(1)**

**10. Under pathway 1, is it sufficient that the applicant completes six credits in courses that constitute "experiential courses" under American Bar Association Standard 303(a)(3)?**

No. Pathway 1 requires more than current ABA Standard 303(a)(3). Specifically, the law school must (1) "develop[ ] 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 (2) "[make] this plan publicly available on the law school's website" (22 NYCRR 520.18[a][1][i][a]). The school also must certify that the particular applicant has "acquired sufficient competency in those skills and sufficient familiarity with those values" (22 NYCRR 520.18[a][1][i][b]). Thus, law schools must individually assess each applicant to determine if the applicant has acquired the requisite skills and is sufficiently familiar with the values of the profession. This individualized assessment is not required by ABA Standards.

Compliance with ABA Standard 303 therefore is not a “safe harbor” under Rule 520.18.

**11. Is there a specific number of credits an applicant must complete under pathway 1 to be certified under this subdivision?**

No. Rule 520.18(a)(1) does not specify the number of credits necessary to establish compliance with pathway 1. The law school must determine whether the applicant has acquired sufficient competency in the identified skills and professional values to meet the requirements of this pathway.

Law schools generally do not specify a credit requirement for compliance with pathway 1, but they all require graded, credit-bearing coursework as at least one component of their pathway 1 programs, and it is expected that a pathway 1 program will be comparable in overall quantity of coursework to the 15-credit hours of coursework required to satisfy pathway 2.

**12. Are there certain core courses that a school must include in its plan to satisfy pathway 1?**

No. Pathway 1 vests law schools with the discretion to determine the manner in which the curriculum educates students on the professional skills and values necessary for the competent and ethical practice of law.

ABA Standard 303 specifies curricular requirements for credit-bearing courses in professional responsibility, 1L and upper level writing courses, and experiential coursework (either simulations, clinics, or externships). These ABA-required courses are incorporated into the law school’s curriculum and are designed to achieve some of the skills and values outcomes identified by the law school. Successful completion of these courses is one partial way in which the law schools may assess and certify that their students, upon graduation, possess the foundational lawyering competencies required by Rule 520.18.

Some law schools have created pathway 1 programs that simultaneously satisfy ABA accreditation rules and Rule 520.18(a)(1). By way of example, a pathway 1 program might consist of:

- (1) 1L legal research and writing or lawyering skills credit-bearing courses;
- (2) Upper level writing requirements;
- (3) Newly-developed legal practice courses that focus not only on legal research and writing, but on the development of a broad range of professional skills and values;

(4) A 2-3 credit course in professional responsibility;

(5) An opportunity to learn and apply lawyering skills in actual or simulated practice settings, through credit-bearing simulation, clinical, or field placement courses.

In developing a plan to conform to the requirements of Rule 520.18, law schools should take into account the school's mission, the typical career paths of the school's graduates, and the configuration of its curriculum.

For J.D. programs, the law schools should consider how to allocate the requisite learning across the three years of law school. For example, a school might incorporate lessons on skills and values into the first year of law school – thereby ensuring that the entire J.D. student body receives this instruction in a uniform way – and then build on this foundation with upper-level experiential courses. Uniformity of instruction could also be achieved in the upper levels with a specific course or set of courses that students are required or encouraged to take. But approaches of this sort are not required. Schools should select whatever approach they view as most effective for providing the requisite instruction in the lawyering skills and professional values needed for effective, ethical, and responsible legal practice. A document containing links to pathway 1 programs developed by New York law schools can be found on the New York Court of Appeals' website.

**13. Must an applicant achieve a certain letter grade in a course for it to count toward completion of pathway 1?**

Not unless an individual law school determines that a certain grade is required to demonstrate competence. Rule 520.18(a)(1)(ii) provides that “a school may certify that an applicant has attained the required skill level if the graduate received a grade that the school considers sufficient to demonstrate competence in courses the school has designated as teaching the skills and professional values needed for basic competence and ethical participation in the legal profession.” The rule further provides that the school may “adopt such other means of assessing its students' achievement of the required skills . . . provided the school receives the prior approval of the Court of Appeals” (22 NYCRR 520.18[a][1][iii]).

**14. How can schools implement pathway 1?**

The school has to formulate, adopt, and administer a system for certifying that students have received “grade[s] . . . sufficient to demonstrate competence in courses the school has designated as teaching the skills and professional values needed for basic competence and ethical participation in the legal profession” (22

NYCRR 520.18[a][1][ii]), or have adequately demonstrated the requisite level of “achievement of the required skills” and the required familiarity with professional values through some mechanism other than grading (22 NYCRR 520.18[a][1][iii]). Ordinarily, this will require that the school (1) develop and adopt an inventory of the skills and professional values that the school views as essential for “basic competence and ethical participation in the legal profession”; (2) identify specific courses that students can take to acquire each of those requisite skills and professional values; and (3) for each student who seeks to be certified for admission to practice in New York, determine whether that student has taken the requisite courses and has received a “grade that the school [deems to be] sufficient to demonstrate competence in [those] courses” or, for schools that have obtained prior approval of the Court of Appeals to proceed under 520.18(a)(1)(iii), has adequately demonstrated the requisite level of “achievement of the required skills” through some means other than grading.

- 15. I am foreign-educated and qualify for the bar exam based solely on my foreign legal education. Can my foreign law school certify my compliance with pathway 1 based on courses I took during my foreign law study?**

No. Pathway 1 only applies to study done at an ABA-approved law school.

- 16. Can a foreign-educated student who is completing an LL.M. program at an ABA-approved law school use courses taken during the LL.M. program to satisfy pathway 1?**

It is possible that a law school could develop a program that would permit an LL.M. student to satisfy pathway 1. However, a law school must ensure its pathway 1 program for LL.M. students is of equivalent rigor to its pathway 1 plan for J.D. students. While no special or relaxed standards apply to LL.M. students under pathway 1, a law school can design an LL.M.-specific pathway 1 that best exposes its LL.M. students to the array of skills and values necessary to provide effective, ethical, and responsible legal services in New York.

- 17. May moot court or other competitions apply toward pathway 1?**

Rule 520.18(a)(1) refers only to “courses the school has designated as teaching the skills and professional values needed for basic competence and ethical participation in the legal profession.” If a moot court experience is part of a non-student run, faculty-supervised, credit-bearing course, it may count toward pathway 1. If the moot court experience does not meet these criteria, it cannot count toward pathway 1.

**18. Does a school’s plan need to be pre-approved by the New York State Court of Appeals?**

No, but the Court will review plans, as appropriate, to ensure compliance. Accordingly, law schools should ensure that their websites provide an accurate and up-to-date version of the school’s plan.

Note that if a school is using a means of assessing its students’ achievement under this pathway other than through the use of grades, the school must obtain prior approval from the Court of Appeals (see 22 NYCRR 520.18[a][1][iii]).

**Pathway 2 – Rule 520.18(a)(2)**

**19. How can a school implement pathway 2?**

Pathway 2 requires applicants to “complete[ ] 15 credit hours, as defined by American Bar Association Standards for the Approval of Law Schools, of practice-based experiential coursework designed to foster the development of professional competencies” (22 NYCRR 520.18[a][2]). The rule further states that “[p]ractice-based, experiential coursework includes, but is not limited to, those courses designated by a school as ‘experiential courses’ under American Bar Association Standards for the Approval of Law Schools” (22 NYCRR 520.18[a][2][ii]). In addition to the description of practice-based experiential coursework in the Rule and the additional information in FAQs 20 through 25, it is important to follow the guidance of the American Bar Association in determining whether a course can be deemed experiential in nature.

The pertinent ABA standards are Standards 303 and 304. Standard 303(a)(3) states that “[a]n experiential course must be a simulation course, a law clinic, or a field placement, as defined in Standard 304.” Standard 304 provides detail about requirements for a course to be considered experiential, including that such courses must be “primarily experiential in nature” (ABA Standard 304[a]). The ABA Managing Director’s Guidance Memo, promulgated in March 2015, describes what “primarily experiential in nature” means. It states that:

“‘Primarily’ means essentially, mostly, chiefly. It suggests more than simply inserting an experiential component into an existing class, without regard to whether that component makes up a majority (51%) of the class minutes. ‘Primarily’ is used to indicate the main purpose of something. The experiential nature of the course should, in this sense, be the organizing principle of the course, and the substantive law or doctrinal material that is part of the course should be incidental

to it, not the other way around. Taken as a whole, the language used in the Standard suggests that to qualify as an experiential or simulation course, the course must be easily identifiable as such. . . .”

“By meeting the requirement that a course be primarily experiential in nature, the requirement that the course provide ‘substantial experience’ likely is also met, as long as the course also includes ‘direct supervision of the student’s performance by the faculty member’ and ‘opportunities for performance, feedback from a faculty member, and self-evaluation’ as further required by the Standard.”

([https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/governancedocuments/2015\\_standards\\_303\\_304\\_experiential\\_course\\_requirement\\_.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2015_standards_303_304_experiential_course_requirement_.pdf)).

Law schools determine whether courses are practice-based and experiential (with a few delineated exceptions in FAQ 23). The requirements in Rule 520.18(a)(2), the guidance provided by the FAQs, and the guidance offered by the ABA for experiential coursework provide the foundations for these curricular judgments. An existing course can be deemed experiential if it meets these requirements, and new courses can be developed in accordance with the requirements.

**20. Under pathway 2, what types of courses qualify as “practice-based experiential coursework”?**

Examples of offerings that constitute practice-based experiential courses satisfying the skills competency and professional values requirement include, but are not limited to: Oral Presentation and Advocacy; Interviewing; Counseling; Client Service and Business Development; Negotiation, Mediation, Arbitration, and other alternate dispute resolution methods; Advanced Legal Research and Writing (excluding purely academic papers); Applied Legal Writing (e.g., drafting of contracts, pleadings, or other legal instruments); Law Practice Management; Use of Technology in Law Practice; Cultural Competency; Collaboration or Project Management; Financial Analysis (e.g., accounting, budgeting, project management, and valuation); Cost Benefit Analysis in Administrative Agencies; Use of Technology, Data Analyses, or Predictive Coding; Business Strategy and Behavior; Pre-trial Preparation; Fact Investigation (e.g., discovery, e-discovery, motion practice, assessing evidence, and utilizing experts); Trial Practice; Professional Civility and Applied Ethics; externships including classroom

components; Appellate Practice; Applied Policy Advocacy; and Applied Legal Strategy and Problem Solving.

**21. If my law school deems a course an “experiential course” under ABA Standard 303, will that course also count as “practice-based experiential coursework” under pathway 2?**

Yes. Courses that are deemed “experiential courses” under ABA Standard 303 will also count as “practice-based experiential coursework” under pathway 2.

**22. Does a typical doctrinal *Professional Responsibility* course count as practice-based experiential coursework under pathway 2?**

If the course is devoted solely to doctrinal instruction and does not include any practical skills training, it does not count as “practice-based experiential coursework” under pathway 2. However, if professional values are taught through experiential coursework, the credits earned in that experiential coursework may count toward the credits required under pathway 2.

**23. Are there any courses that cannot count toward pathway 2?**

A law school may not count toward the 15-credit requirement the first 4 credits earned in an introductory first-year legal research and writing course, first-year moot court course, or any combination thereof. For example, if a student earns 3 credits in a first-year legal research and writing course, and 2 credits in a moot court course, 1 credit may be applied toward pathway 2.

For all other courses, it is within a law school’s discretion to determine whether the courses constitute “practice-based experiential coursework designed to foster the development of professional competencies” (22 NYCRR 520.18[a][2]).

**24. How are credits measured under pathway 2?**

In awarding credits, law schools should be guided by the ABA Standards for the Approval of Law Schools. For schools on an academic schedule other than a conventional semester system, students shall complete the equivalent of 15 credits in practice-based experiential coursework. Note that Rule 520.18(a)(2) provides that the credits “may be earned in whole or half credits.”

**25. Can upper-level moot court experiences count toward the 15-credit requirement?**

It depends. Moot court experiences that are student-run, non-supervised, and do not result in the conferral of credits cannot count toward pathway 2. However, if the moot court experience is part of a faculty-supervised, credit-bearing course, it

may count toward pathway 2. The moot court experience will count towards pathway 2 if it “(a) develops the concepts underlying the practice competencies being taught; (b) provides opportunities for performance by the student other than traditional classroom discussion; (c) provides for regular individualized student feedback from a faculty member; and (d) provides opportunities for student self-reflection” (22 NYCRR 520.18[a][2][i]). Provided these requirements are met, there is no limit to the amount of credits a school can award for moot court experiences under Rule 520.18(a)(2)(i).

**26. Under pathway 2, what is a “law school certified non-credit bearing summer employment” experience?**

In order to count under pathway 2, the summer employment opportunity must provide meaningful opportunities for the student to develop professional competencies. The law student’s employment must be supervised by an attorney admitted and in good standing in any state, commonwealth, or territory of the United States or the District of Columbia. The supervising attorney must provide a certification to the law school confirming that the various requirements of the rule have been met. Without the certification, your school cannot award credit for summer employment under pathway 2. The summer employment may be paid or unpaid.

**27. Does the “non-credit bearing summer employment” experience under pathway 2 need to include an academic component at the law school?**

Rule 520.18(a)(2) does not require that students seeking credit for summer employment experiences complete an accompanying academic component. However, a school may require that students complete an academic component in order to meet the requirements of pathway 2. For example, a school could require students to complete certain pre-requisites or co-requisites before awarding credit for summer employment under pathway 2. Ultimately, it is within a school’s discretion to determine whether an academic component is required.

It should be noted that if a school chooses not to award credit under pathway 2 for summer employment and the applicant therefore falls short of the 15 credits required under pathway 2, the applicant may submit evidence to the Court of Appeals in support of awarding credit for the summer employment. Upon receipt of such evidence, the Court will make a determination whether the student should be awarded such credit.

**28. Under pathway 2, can the “non-credit bearing summer employment” experience be done in a foreign country?**



Yes. Rule 520.18(a)(2)(iv) allows a student to earn credit for summer employment opportunities that are supervised by an attorney in good standing in any state or territory of the United States or District of Columbia. It does not require the work experience to be in the United States.

**29. Under pathway 2, can the summer employment experience be paid?**

Yes. The summer work experience can be paid or unpaid, so long as it complies with all applicable laws and regulations, including local, state, and federal labor laws.

**30. Under pathway 2, can the student receive a stipend for the summer work experience?**

Yes, as long as the work satisfies all other requirements of Rule 520.18(a)(2).

**31. Can work done during a summer fellowship count toward pathway 2?**

Yes, as long as the work satisfies all other requirements of Rule 520.18(a)(2).

**32. Under pathway 2, does part-time employment during the academic year count? What about employment during spring or winter break?**

No. Only full-time law-related employment during the summer may count toward the 6 credits that may be earned in “certified non-credit bearing” employment under pathway 2. Employment during the academic year, spring break, or between semesters (e.g., winter break) cannot be applied toward the 15 credits of experiential coursework under pathway 2, even if that academic-year employment is a continuation of a summer employment experience.

**33. I am a paralegal who works during the day and attends law school part time at night. Can the work I perform during the academic year count toward pathway 2? What about my work during the summer?**

Under pathway 2, work completed during the academic year cannot count toward the 6 credits that may be earned for “certified non-credit bearing” employment.

Whether summer employment as a paralegal or legal assistant may count toward the 6 credits of “certified non-credit bearing” employment depends on the circumstances of the particular employment relationship. In many cases, the experience of a paralegal or legal assistant is not akin to that of a law student intern. However, summer work as a paralegal or legal assistant may count toward pathway 2 if the student’s work is supervised and the supervisor is able to certify the following: “the beginning and ending dates of the employment, that the student

satisfactorily completed the employment, and that the work experience: provided the student with an initial orientation session; implemented a system for assignments that assured that the student was actually engaged in the performance of legal work, including a diversity of tasks, as part of the ongoing practical work of the law office during normal business hours and throughout the required period; provided the student with experience and guidance in the skills and values required for basic competence and ethical participation in the legal profession; gave the student timely oral and written feedback; and engaged the student in reflection on his/her experiences and learning during the employment” (22 NYCRR 520.18[a][2][iv]). The supervisor also must certify that the applicant worked “[a]t least 50 hours . . . for each substituted credit” (*id.*).

Upon receipt of the supervisor certification, the law school will determine whether and how much credit toward pathway 2 to award for the summer employment.

**34. How do law schools determine the appropriate number of credits to be awarded for summer employment under pathway 2?**

Rule 520.18(a)(2)(iv) provides that “[a]t least 50 hours of full-time employment is required for each substituted credit.” Thus, if a student works for 100 hours at a summer employment experience meeting the requirements of Rule 520.18, the school may award that student 2 credits under pathway 2.

Proportional credit is permissible. For example, if a student works 20 hours per week during the summer for 10 weeks, the school may award that student 4 credits toward pathway 2 (20 hours x 10 weeks = 200 total hours; 50 hours/credit = 4 credits).

Please note that a “student may earn up to six of the fifteen required credits through law school certified non-credit bearing summer employment” (22 NYCRR 520.18[a][2][iv]). Thus, at most, a student may apply only 300 hours of qualifying summer employment toward pathway 2.

**35. How are academic and non-academic credits combined under pathway 2?**

For purposes of calculating total credits under pathway 2, credits earned for a summer employment experience are treated the same as credits earned in practice-based experiential courses. For example, if a student earns 5 credits for hours completed during a summer employment experience and 10 credits for clinical work during the academic year, those credits can be added together to satisfy pathway 2.

**36. Can non-credit bearing summer employment be used both to satisfy the 50-hour pro bono requirement of Rule 520.16 and to earn credit under pathway 2 (Rule 520.18[a][2][iv])?**

Yes. However, the hours of work used to satisfy the pro bono requirement may not also be applied toward pathway 2.

By way of example, Student A works for a total of 50 hours at a legal services provider during the summer. Student A cannot use those 50 hours to satisfy the pro bono requirement and also use those 50 hours to earn 1 credit under pathway 2. Student A must choose whether to apply the 50 hours to the pro bono requirement or to earn 1 credit under pathway 2.

Student B works for a total of 100 hours at a legal services provider during the summer. Student B can use 50 hours to satisfy the pro bono requirement. Student B may use the other 50 hours to earn 1 credit under pathway 2.

Student C works for a total of 200 hours at a legal services provider during the summer. Student C can use 50 hours to satisfy the pro bono requirement. Student C may use the remaining 150 hours to earn 3 credits under pathway 2.

Note that, for purposes of these examples, it is presumed that all other requirements of Rule 520.16 and 520.18 have been satisfied.

**37. Can I use a clinic or externship to satisfy both the 50-hour pro bono requirement and to earn credit under pathway 2?**

Yes. However, the hours of work used to satisfy the pro bono requirement may not also be applied toward pathway 2. For example, if a student uses 50 hours of work done during a clinic to satisfy the pro bono admission requirement, the school cannot use those 50 hours in computing the number of credits awarded toward pathway 2.

**38. My law school will not submit the certification required under Rule 520.18(a)(2). Is there any other way I can prove that I satisfied pathway 2?**

Yes. If the applicant's law school will not submit the required certification, the applicant can submit evidence to the Court of Appeals that the requirements of pathway 2 have been satisfied "by providing a list of the practice-based experiential courses taken by the applicant, the credits awarded, and the course descriptions and/or other information demonstrating that each course meeting the requirements" of pathway 2 (22 NYCRR 520.18[a][2][v]). The submission to the Court must be verified and submitted in duplicate (see <http://www.courts.state.ny.us/ctapps/admattnyfaq.htm#Section2>). Such a

submission to the Court may also be made if the school is not willing to count a student's summer employment experience toward the 15-credit requirement of pathway 2.

### **Pathway 3 – Rule 520.18(a)(3)**

**39. I completed the Pro Bono Scholars Program. Do I have to separately satisfy the skills competency and professional values requirement?**

No. Applicants who complete the Pro Bono Scholars Program are automatically deemed to have met the skills competency and professional values requirement and do not have to complete any other pathway. In addition, these applicants satisfy the 50-hour pro bono admission requirement.

### **Pathway 4 – Rule 520.18(a)(4)**

**40. Under pathway 4, can I do more than one apprenticeship to satisfy the six-month requirement?**

No. Applicants using the apprenticeship option to complete the skills competency and professional values requirement must complete one continuous apprenticeship for six months. If the applicant needs to complete two separate apprenticeships, the applicant must petition the Court of Appeals for a waiver of this rule requirement. The Court will consider the individual circumstances presented in determining whether a waiver of the single apprenticeship requirement is warranted. If an applicant is not able to complete one continuous apprenticeship, the applicant should petition the Court in advance or as soon as possible after the applicant becomes aware of the need for a waiver. Information about the waiver petition process is available on the Court of Appeals' website (<http://www.courts.state.ny.us/ctapps/admattrnyfaq.htm#Section2>).

**41. Can I be paid for the apprenticeship under pathway 4?**

The apprenticeship can be paid or unpaid. Note that the apprenticeship must comply with all applicable laws and regulations, including state and federal labor and anti-discrimination laws.

**42. Can I take a vacation during my apprenticeship?**

While employed in an apprenticeship, you are subject to all applicable laws and regulations relating to vacation, medical leave, and family leave. However, the rule requires that you complete a six-month apprenticeship.

**43. Rule 520.18(a)(4) requires that the apprenticeship be full-time. How many hours per week must I work for my apprenticeship to be considered full-time?**

The number of hours per week required for a position to be considered “full-time” may depend on the custom of the area and the nature of the position. In most cases, in order to constitute a full-time apprenticeship, the applicant should work at least 35 hours per week.

**44. I am completing my J.D. at an ABA-approved law school. Can I complete the apprenticeship before I graduate?**

No. Rule 520.18(a)(4)(i) provides that the apprenticeship must commence after you complete your law study.

**45. I am a foreign-educated bar applicant who is required to complete an LL.M. program under Rule 520.6. May I complete my six-month apprenticeship before I commence my LL.M. program?**

Yes, as long the apprenticeship commenced after you completed your foreign law degree.

**46. Do I have to complete the apprenticeship within a certain time period after completing my law degree?**

You may complete your apprenticeship any time after graduation. However, it is important to note that the apprenticeship must be completed in its totality within the three-year deadline for filing an admission application (see 22 NYCRR 520.12[d]). This three-year deadline begins to run from the date when you sit for the second day of the Uniform Bar Examination. If you do not finish your apprenticeship before the three-year deadline, you will be unable to file your Affidavit of Compliance with the Skills Competency and Professional Values Requirement, which will render your application incomplete and therefore untimely.

**47. Can a judicial clerkship qualify as an apprenticeship for pathway 4?**

It depends. Traditional judicial clerkships that require only research and writing of memoranda or drafting of judicial decisions lack sufficient exposure to the array of skills and values necessary to provide effective, ethical, and responsible legal services in this State. Such judicial clerkships would not satisfy the requirement. However, judicial clerkships in which, in addition to researching and drafting memoranda and/or judicial opinions, the apprentice has opportunities to engage in a fuller range of activities and tasks, such as dealing with counsel on matters before the court; assisting the court in its conduct of mediation sessions with

parties; observing court proceedings (including pre-trial conferences, trials, and oral arguments); advising or consulting with the judge on matters before the court, including ethical issues, problem solving and collaboration on the court's work within chambers, managing time and workload properly (and other professionalism skills), and assisting in the training/supervision of new law clerks and legal interns; and participating in professional self-development, such as attending court-based continuing legal education programs, could satisfy the requirement.

Each judge makes considered decisions about the appropriate tasks for clerks, based on the nature of cases before the court, suitable tasks for recent law school graduates, and the needs within chambers. The preceding list does not serve as a directive to judges in making those determinations, but rather as guidance for what judicial clerkships may satisfy pathway 4. The judge would need to provide details about the apprenticeship to enable the relevant Character and Fitness Committee to ascertain that the apprentice was exposed to an array of skills and values beyond researching and writing.

**48. My supervisor will not certify certain requirements contained in Rule 520.18(a)(4)(ii). What can I do?**

You will not be permitted to rely on your apprenticeship to satisfy the skills competency and professional values requirement unless your supervisor certifies that the apprenticeship satisfied all requirements of Rule 520.18(a)(4)(ii). If your supervisor will not do so, you either must complete another qualifying apprenticeship, satisfy another pathway, or petition the Court of Appeals for a waiver of Rule 520.18(a)(4)(ii). In the petition, you must explain why the supervisor was unwilling to certify that the apprenticeship satisfied the requirements of the rule. Information about the waiver petition process is available on the Court of Appeals' website (<http://www.courts.state.ny.us/ctapps/admattnyfaq.htm#Section2>). If appropriate, you may include a letter from the supervisor explaining why the supervisor is unable to certify the requirements of the rule.

**Pathway 5 – Rule 520.18(a)(5)**

**49. What type of legal work qualifies as practice under pathway 5?**

Legal work performed in another jurisdiction that will qualify as practice under pathway 5 is one year of full-time legal work or two years of half-time legal work performed (1) after admission to practice law in the jurisdiction; or (2) after obtaining a law degree, provided that a law degree was a requirement for performing that work and that the work complied with the jurisdiction's regulations regarding the practice of law.

**50. I am an attorney in a foreign country, but I am not admitted to the bar. Can I rely on my prior practice to satisfy pathway 5?**

Rule 520.18(a)(5) provides that prior legal practice may satisfy the requirements of the rule “even if it occurred without formal admission to the bar if the applicant engaged in lawful practice in a country, territory or commonwealth that permits legal practice without formal admission to the bar, and if the prior practice was [full-time] for at least one year or half-time for two years, in full compliance with the jurisdiction’s rules.”

By way of example, in some countries, an attorney who practices as in-house counsel is prohibited from being a member of the bar. The attorney’s practice is nevertheless authorized under that jurisdiction’s rules. Such an attorney could use this practice to satisfy pathway 5. The attorney will be required to submit proof to the Appellate Division that the practice complied with the jurisdiction’s regulations regarding the practice of law.

**51. I am an attorney in a foreign country. I practiced for several years, but have not practiced in the last two years. Must the practice used to satisfy pathway 5 have occurred within a certain time period?**

No. Rule 520.18(a)(5) does not require that the practice have occurred within a certain time period (unlike New York’s admission-on-motion rule [see 22 NYCRR 520.10]). However, applicants relying on practice that occurs after they pass the bar exam should be mindful that they must submit a complete application for admission within three years of the date the applicant sat for the second day of the Uniform Bar Examination.

**52. I am a foreign attorney with several years of practice in my home country. I am now completing an LL.M. at an ABA-approved law school. May I rely on practice that occurred before I commenced my LL.M. degree to satisfy the skills competency and professional values requirement?**

Yes. Rule 520.18(a)(5) provides, “[f]or an applicant who qualifies for the bar exam after completion of an LL.M. degree pursuant to section 520.6 of this Part, the applicant’s practice may occur before or after commencement of the LL.M. program.”

**53. I am an attorney in another United States jurisdiction, but I am not admitted to the bar. Can I rely on my practice in a jurisdiction where I am not admitted to satisfy pathway 5?**

In most cases, applicants who rely on prior practice in the United States will have been admitted in the jurisdiction where they practiced. There are a few

scenarios where the practice may occur without formal admission in the jurisdiction where the practice occurs. For example, an attorney who is licensed as in-house counsel in a jurisdiction but not formally admitted in that jurisdiction may rely on in-house counsel practice in that jurisdiction because the practice was authorized under that jurisdiction's licensing rule. Additionally, an applicant who is admitted in one United States jurisdiction but engaged in federal military or civilian legal service in another jurisdiction may use that practice to satisfy pathway 5. For instance, a person working for the federal government in a position that requires bar admission may rely on practice that does not occur in a jurisdiction where admitted, so long as the practice was authorized. However, an attorney who is admitted in one state, yet practiced in other without any authorization cannot count that practice toward pathway 5.

**54. Must practice under pathway 5 be continuous/uninterrupted?**

No. An applicant may have breaks in the applicant's practice history. For example, if an attorney practiced full time at one law firm for six months and then practiced at another law firm for six months, the attorney may add those two positions together to satisfy the one year of practice requirement of pathway 5. Please note that the applicant will be required to submit an affidavit proving each period of practice.

**55. Can an apprenticeship experience under pathway 4 be aggregated with an applicant's practice under pathway 5 to satisfy the skills competency requirement?**

No. An applicant must satisfy pathway 4 or pathway 5 in full. Experiences from both pathways cannot be combined to satisfy Rule 520.18.