

New York State Bar Association Civics Convocation Task Force

Informational Report

“To Safeguard our Democracy: Making the Case for Civics Education”

Convocation on Civics Education
NYSBA Bar Center May 9, 2024

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January 19, 2024

I. Introduction Why is NYSBA holding a Convocation on Civics Education “To Safeguard our Democracy: Making the Case for Civics Education”?

“We have come to take democracy for granted, and civic education has fallen by the wayside ... In our age, when social media can instantly spread rumor and false information on a grand scale, the public’s need to understand our government, and the protections it provides, is ever more vital.

“Civic education, like all education, is a continuing enterprise and conversation...“Each generation has an obligation to pass on to the next, not only a fully functioning government responsive to the needs of the people, but the tools to understand and improve it.”

Chief Justice John Roberts 12/31/19¹

Chief Justice Roberts’ words were a call to action. Civics education is crucial to the survival of rule of law. The lack of a civically educated and involved citizenry is a threat to judicial independence, separation of powers and constitutional principles. Civility in public discourse is a value we must teach and model for our children and one another. NYSBA has a long history of involvement in civics education programming in New York state. For example, the Law, Youth and Citizenship Committee’s Mock Trial program is in its 41st year, and reaches thousands of students in hundreds of schools around the state, helping to teach high school students all aspects of courtroom procedure and decorum. We presume that the students in that program are educated in the fundamentals of civics. However, many students, and adults, do not know the basics of how our government is meant to work. We find ourselves facing a crisis in which the lack of fundamentals of civic knowledge is threatening dire consequences for our nation. As the largest voluntary state bar association in the nation, NYSBA has an obligation to face this crisis and offer solutions.

II Creation of the Civics Convocation Task Force

A few months prior to the start of the Covid 19 Pandemic then Chief Justice of the Court of Appeals, Janet DiFiore and then NYSBA President Hank Greenberg agreed to hold a

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<https://www.uscourts.gov/news/2019/12/31/chief-justice-roberts-issues-2019-year-end-report>

joint convocation on civics focusing on the roles of the bar and the bench.

Consequently, under the leadership of then President-elect Scott Karson, we began planning jointly with Judge DiFiore's staff. However, shortly thereafter, the pandemic put an abrupt end to our efforts.

As we know, large public gatherings gave way to Zoom meetings, which became the standard way to convene. But over time, as restrictions began to ease, we could once again consider holding an event such as the one that was conceived in 2019. Like his predecessors, President Dick Lewis had civics on his mind, and specifically the problem of incivility in public discourse - when he approached Gail Ehrlich, chair of the Law, Youth & Citizenship Committee, at the 2022 annual meeting. A discussion of what NYSBA could do to address this crisis was underway. The idea of holding a civics convocation was re-ignited.

III Mission of the Civics Convocation Task Force In January 2023, then President -elect Lewis began work on establishing a task force of NYSBA members, many of whom are members of the Law, Youth & Citizenship committee, to create this convocation. We were tasked with identifying the specific issues to be discussed, the speakers to address them, and the composition of the panels. Our aim is to address pressing issues in civics from national, as well as New York state perspectives. We have marshaled our resources and contacts. As a result, on May 9, 2024, we will gather at the Bar Center in Albany with expert speakers and panelists who are leading lights from the worlds of education, government and law to discuss and debate problems and solutions in civics education.

Our Audience We aim to reach a wide group of lawyers, judges, teaching professionals, students and parents. This will be a live in-person gathering. Student voices in particular will be highlighted. For all who are not in attendance, a recorded version of the proceedings will be made widely available.

IV Questions to be posed at the Convocation

- What is the national landscape for civics education?
- How did we get to this crisis point?
- What specific initiatives is New York state working on?
- What steps are we taking to improve civics education for students of every background?
- What does "civic readiness" mean?
- In an endless sea of misinformation, how are we preparing not only children, but ourselves, to think critically about what we see and hear from online sources - to become "media literate"?
- How can young people, and moreover adults, learn to engage in productive civil discourse?

- How do students feel about the current state of civics?
- What are the roles of the bar and the bench?
- and how can the New York State Bar Association help lead the effort?

Final Report: To Feature Results of the Civics Convocation The task force will create and publish a report of findings from the Convocation with recommendations for moving forward.

V Background: Objectives of Civics Education; a Refresher

Democracy has to be born anew every generation, and education is its midwife.—John Dewey²

- **Why is a foundational education in civics essential for every citizen?** The foundation of a thriving constitutional democracy lies not only in its legal and institutional frameworks but also in the informed and active participation of its citizens. Civics education serves as the bedrock for cultivating an understanding of democratic principles, fostering civic engagement, and ensuring the preservation of our constitutional democracy. It is indispensable in shaping responsible and informed citizens who are essential for the continued success of our democratic system. A civics mindset must continue through college, career and one's adult life.
- **To Understand Democratic Principles:** One of the primary objectives of civics education is impart a comprehensive understanding of democratic principles to students. Through a structured curriculum, students should learn about the key tenets of democracy, such as the philosophical and historical foundations of American political thought, the rule of law, separation of powers, checks and balances, and the protection of individual rights and liberties. Study of the Declaration of Independence and the US Constitution, our nation's founding documents is a necessary part of every education. This foundational knowledge equips students with the tools to critically analyze current events, make informed decisions, and actively participate in the democratic process.

Matthew Levendusky, Professor of Political Science at the Annenberg Public Policy Center puts it plainly "...if you don't know the three branches of government and their roles, then you won't know why President Biden and Congress are sparring about spending, immigration, green energy, etc. If you don't know what rights are protected by the First Amendment or what they mean, then you won't understand why the government can't censor the New York Times, but Facebook can make you take down a post that violates its community standards policy. If you don't know which branch has

²Self-Realization as the Moral Ideal, "The Philosophical Review (1893)

the responsibility of determining whether a law is constitutional, you won't understand why the Supreme Court and its rulings are so important and influential. In short, without some basic civic knowledge, you can't even follow the news of the day to be an informed citizen.³

- **To Promote Critical Thinking and Media Literacy** In an era of information overload, the ability for critical evaluation of information on social media is crucial for a functioning democracy. It is more important than ever to teach students and adults to discern between reliable and unreliable sources, and navigate misinformation and disinformation by fostering media literacy and critical thinking skills. This skill set is essential for citizens to navigate the complexities of the modern information landscape, make informed decisions, and resist media manipulation. By developing these skills early on, students are better equipped to participate meaningfully in civic discourse, choose their leaders with informed intention, and hold those in power accountable.
- **To Cultivate Respect for Diversity.** Democracy thrives on the principles of diversity. Civics education plays a vital role in cultivating an appreciation for the diverse perspectives that enrich our democratic society. Students should learn to respect differing opinions, understand and embrace cultural diversity. Civics education should foster a sense of unity among citizens, reinforcing the idea that democracy is a collective effort that thrives on the contributions of individuals from all walks of life.

In a recent WSJ article "*A Free-Speech Fix For Our Divided Campuses*" Suzanne Nossel describes the problems of schisms between campus groups, where speakers are banned based on political views. She suggests there is an opportunity here for improvement in civil discourse. "It requires a comprehensive rethinking of how American universities can fulfill their role as a free market of ideas and a factory of pluralism, teaching students the values and skills they need to resist polarization and ensure the survival of our teetering democracy" And further..."A crucial element in this effort has to be educating students, faculty and staff in the principles of free speech and academic freedom. These precepts are enshrined in the First Amendment of the Constitution, and they have been adopted as policies by virtually every major private university. But on campus they largely receive lip service, not sustained instruction. A survey this fall revealed that two-thirds of college students believe it is sometimes acceptable to shout down a controversial campus speaker and that a quarter think it is sometimes OK to use violence to stop someone from speaking on campus." (emphasis added)⁴

- **To Foster Civic Engagement** Civics education is not merely an academic pursuit; it is a catalyst for civic engagement. By instilling the importance of civic responsibility

³<https://www.salon.com/2023/09/26/how-you-lose-your-democracy-shocking-new-research-shows-americans-lack-basic-civic-knowledge/>

⁴<https://www.wsj.com/us-news/education/a-free-speech-fix-for-our-divided-campuses-b9919e9c>

and active participation, civics education encourages students to become informed and involved citizens. Learning about the mechanisms of government, the electoral process, and the role of citizens in shaping public policy empowers students to take an active interest in the issues that affect their communities and the nation at large. In turn, this engagement strengthens the democratic fabric by ensuring a well-informed and active citizenry.

VI The Sorry State of Civic Knowledge: How We are Failing; Some Stunning Statistics

Here are some excerpts from a Constitution Day study by the Annenberg Public Policy Center at the University of Pennsylvania:⁵

- * ***Only one in four (26%) can name all three branches of the government. (In 2011, 38% could name all three branches.)**** ***One in three (33%) can't name any branch of government.***
- * ***More than one in three people (37%) could not name a single right protected by the First Amendment.***
- * ***When respondents are asked to name the rights guaranteed by the First Amendment, the only right with widespread recognition is freedom of speech:***
 - ***Three-quarters (77%) name freedom of speech.***
 - ***Less than half (40%) name freedom of religion.***
 - ***A third (33%) name the right to assembly.***
 - ***Just over a quarter (28%) name freedom of the press.***
 - ***And less than 1 in 10 (9%) know the right to petition the government.***
- ***A large number of respondents, over 1 in 5 (22%), listed the right to bear arms, which is a right under the Second Amendment, as part of the First Amendment .***
- ***A majority (53%) believe the Constitution affords undocumented immigrants no rights***

⁵https://www.annenbergpublicpolicycenter.org/americans-are-poorly-informed-about-basic-constitutional-provisions/?utm_source=news-release&utm_medium=email&utm_campaign=2017_civics_survey&utm_term=survey&utm_source=Media&utm_campaign=e5f213892a-Civics_survey_2017_2017_09_12&utm_medium=email&utm_term=0_9e3d9bcd8a-e5f213892a-425997897

- **Half of U.S. adults (50%, up from 35% in 2019) feel that Supreme Court justices “are just like any other politicians ”and “we cannot trust them to decide court cases in a way that is in the best interest of our country.”**
- From a Pew Research study in 2010 **only 28% of respondents were able to identify John Roberts as chief justice of the U.S. Supreme Court.**⁶
- Also from the Pew study-**Must we live in a democracy? 51% of Americans think not - because they say it doesn’t work. Almost the same number would accept a government ruled by a single individual.**
- **In the most recent National Assessment of Educational Progress (NAEP) only 22% of 8th graders scored “proficient in civics ”**⁷
- **VII Causes for the Dearth of Civic Knowledge**

*“... civic education must give each student the sense that they belong to this country and that the country belongs to them. **Dr. Tamara Mann**
Tweel Program Director of Civic Initiatives at the **Teagle Foundation**⁸*

- **Why has Civics Education Fallen by the Wayside?** The lack of emphasis on civics education in the United States in recent decades can be traced back to various factors. It's important to note that these reasons are interconnected, and their impact on civics education is complex.
- **Focus on STEM (Science, Technology, Engineering, and Mathematics) Education:** As the world has become more interconnected and the job market evolved to favor the tech sector, educational priorities shifted. The increasing emphasis on STEM fields in response to the demand for a technologically skilled workforce has resulted in a de-emphasis on humanities, including civics education. For decades, and for millennial students in particular, education has been steeped in subjects like STEM (Science, Technology, Engineering, Math) which received over \$50 in federal dollars per student per year, compared to civics education, which received less than 50 cents per student. Lots of science and math. Little to no civics education. This STEM-centric focus may lead to a neglect of the importance of a well-rounded education that includes civic knowledge. The reduced emphasis on the importance of civics has resulted in students unprepared for responsible citizenship.
- **Emphasis on Standardized Testing:** The No Child Left Behind Act (NCLB) and subsequent education policies prioritized standardized testing in subjects like math and reading. This led to a narrowing of the curriculum, with schools focusing more on

⁶<https://www.pewresearch.org/politics/2010/07/15/well-known-twitter-little-known-john-roberts/>

⁷<https://www.nationsreportcard.gov/highlights/civics/2022/>

⁸<https://www.chalkbeat.org/2020/10/21/21526202/teaching-civics-belong-america/>

subjects that are directly tested. As a result, subjects like civics and social studies were put on the back burner.

- **Budget Cuts in Education** Financial constraints have forced many schools to make difficult choices regarding which subjects to prioritize. In some cases, non-tested subjects such as civics have been among the first to face budget cuts. Schools may allocate resources to subjects perceived as more critical for standardized testing success.
- **Insufficient National Standards** The absence of consistent national standards for civics education contributes to disparities in what is taught across different states and school districts. Without clear guidelines, civics education may be overlooked or taught inconsistently.
- **Lack of Teacher Training and Resources** Teachers may not receive sufficient training in civics education, and there may be a lack of resources available for teaching the subject effectively. Inadequate professional development opportunities and a shortage of qualified teachers in this field can contribute to a diminished focus on civics.
- **Political Polarization and Controversial Topics** Civics education involves discussions of government, politics, and societal issues. In an increasingly polarized political climate, there is increasing reluctance by educators to take on controversial topics, leading to a more cautious approach in teaching civics. This can result in a watered-down curriculum that avoids critical discussions.

VIII The Imperative Role of Lawyers in Advancing Civics Education

[Civics education is about] “engaging people in being active participants in change, with knowledge and with passion, without hatred. And I say that because too much of that conversation in our nation is centered on the negative and too little on the positive of what we share in common.”

Hon. Sonya Sotomayor, Associate Justice US Supreme Court⁹

Lawyers, as guardians of justice, champions of the rule of law, and stewards of the legal system, hold a unique position to contribute significantly to the promotion of civics education. Lawyers have a unique responsibility to ensure that civics education serves as a powerful instrument in shaping individuals who understand, appreciate, and actively participate in the democratic principles that underpin our society. Lawyers should work alongside educators and legislators at every level to instill an understanding and respect for our democratic principles and our understanding of what constitutes civic knowledge.

- **Lawyers as Role Models of Civil Behavior** Role models for inappropriate civil behavior abound in our society. 85% of respondents to an ABA civic literacy survey thought that civility was worse compared to 10 years ago, and blamed it mostly on social media (29%), media (24%), public officials (19%), and the educational system (8%).¹⁰ Lawyers can play a pivotal role in shaping the moral and ethical fabric of society. But beyond their legal responsibilities, lawyers hold a unique position as role models for students, representing ideals of civil behavior, respect, and integrity. Lawyers must actively model such behavior emphasizing the far-reaching impact such role modeling can have on the development of responsible and ethical citizens. By volunteering their time to speak at schools, mentor students, coach mock trial, moot court, and speech and debate, lawyers can model reasoned debate and argument.
- **Lawyers Promoting Effective Communication** Civil behavior is closely linked to effective communication, a skill at the heart of successful legal practice. Lawyers, by modeling clear, respectful, and persuasive communication, provide students with a template for navigating conversations and debates. These communication skills are not only crucial in legal settings but also in everyday interactions, helping students build strong interpersonal connections and resolve conflicts peacefully.
- **Lawyers Shaping Professionalism and Respect** The legal profession places a premium on professionalism, respect, and decorum. Lawyers, through their interactions with colleagues, clients, and the public, serve as exemplars of these principles. Modeling civil behavior fosters an environment of mutual respect and constructive dialogue, demonstrating to students that professionalism is not only a requirement within the legal field but a cornerstone of successful interpersonal relationships

⁹<https://www.edweek.org/teaching-learning/supreme-court-justices-call-for-more-civics-education-amid-risk-from-domestic-enemies/2021/04>

¹⁰ <https://www.americanbar.org/content/dam/aba/administrative/news/2023/2023-civic-literacy-survey.pdf>

- **Lawyers Instilling Respect for the Rule of Law** The active involvement of lawyers in civics education is paramount to the cultivation of an informed, engaged, and justice-oriented citizenry. Lawyers, by virtue of the profession, are champions of the rule of law. Actively engaging in civics education allows lawyers to instill in students a profound respect for the rule of law as a foundational element of a just society. Understanding the legal framework of democracy empowers citizens to navigate the complexities of the legal system, fostering a sense of accountability and responsibility in the broader community.
- **Lawyers Promoting Legal Literacy and Critical Thinking** Lawyers are trained to understand complex legal documents, analyze arguments, and apply critical thinking skills. These skills are essential components of legal literacy, which is vital for an informed citizenry. By actively participating in civics education, lawyers can contribute to the development of educational programming that emphasize legal reasoning, critical analysis, and the ability to assess the validity of legal and political information.
- **Lawyers Inspiring Future Advocates for Justice** Lawyers serve as inspirations for the next generation of legal professionals and advocates for justice. Modeling civil behavior not only reinforces the values essential for a successful legal career but also motivates students to pursue paths of service and social responsibility. The impact of positive role modeling can be profound, influencing students to aspire to make positive contributions to society.
- **Lawyers' Influence on Ethical Standards** Lawyers are perceived as arbiters of ethical conduct, entrusted with upholding the highest standards of professional and moral integrity. By modeling civil behavior, lawyers not only reinforce ethical standards within the legal profession but also set an example for students to emulate. This influence extends beyond the courtroom, contributing to the cultivation of ethical decision-making and responsible behavior in all aspects of life.
- **Lawyers Fostering a Culture of Inclusivity** Lawyers, in their pursuit of justice, often encounter diverse perspectives and individuals from various backgrounds. Modeling civil behavior involves embracing and respecting this diversity, fostering a culture of acceptance. By doing so, lawyers contribute to creating an environment where students learn to appreciate differences, value diverse opinions, and understand the importance of engaging with others respectfully in a pluralistic society.
- **Lawyers Building Trust in the Legal System** Trust in the legal system is contingent on the perception that those within the profession embody principles of fairness, impartiality, and ethical conduct. Lawyers, as representatives of the legal system, have a responsibility to model civil behavior to build and maintain public trust. By doing so, they contribute to the creation of a society where individuals have confidence in the fairness and integrity of the legal institutions.

IX. What does the Future Hold for Civics? Efforts are underway across the country, as well as in our own state of New York, to improve civics education for all. Our speakers and panelists are working on the front lines of programs and initiatives to reach not only students, but adults. The late Sandra Day O'Connor, the first woman appointed to the U.S. Supreme Court, was the founder of a movement to revitalize civic education - *iCivics* - which provides online interactive programming for students from K-12. This excellent organization will be represented on our National Perspectives Panel by Executive Director Louise Dubé, New York State Education Commissioner Dr. Betty Rosa will be our guest on the New York panel, to educate us all about a recent initiative to bring a "Seal of Civic Readiness" diploma program to schools throughout the state. These are just a few of the of the many educational leaders belonging to organizations of similar stature who will join us, as you can see from the program below.

Conclusion We have discussed in this informational report why civics education is of utmost importance, why it has been neglected, some of the consequences of that neglect leading to a crisis in civic affairs, and finally, what our role as lawyers should be to address the crisis. By undertaking this convocation, we hope NYSBA can make a difference to our state, and to our nation.

X Civics Convocation Program Agenda

Here is the anticipated agenda (in progress) for our Convocation.

“To Safeguard our Democracy: Making the Case for Civics Education”

NYSBA Bar Center, Albany, New York
May 9, 2024 8:00 - 4:00pm

Panels and Speakers

Introductory Keynote Speaker NYSBA President Richard Lewis

Keynote Speaker Hon Mae D’Agostino, US District Court Northern District New York

Panel 1- The National Landscape for Civics Education

How is the federal government addressing issues in civics education for K-12? What progress has been made at the national level to invest in this critical work, and what needs to happen going forward to keep building on that momentum? What non-profit resources are available nationally? How is the national field of civic education building momentum around the diversity of approaches represented here, and how does that mold into the future of the field? How does the legal profession have a role to play in this critical work?

Moderator Christopher Riano - CEO, Center for Civic Education

Panelists:

David Bobb (CEO) - Bill of Rights Institute

Louise Dubé (CEO) /Julie Silverbrook (Dir of Civic Partnerships)- iCivics

Liz Clay Roy (CEO) Generation Citizen

Vernee Green (CEO) Mikvah Challenge

Panel 2 -Civics Education in New York State

How are we educating our youth to be civics ready? media literate? What steps is New York State taking to improve civics education? What does “civics readiness” mean, and how can we achieve it? How are current and future teachers being prepared to teach civics at all grade levels? How is New York state leading the nation in our efforts?

Moderator: Susan Arbetter, TV anchor “Capitol Tonight ”Spectrum News

Panelists:

Dr. Betty Rosa Commissioner of Education NYS

Dr. Lester Young Chancellor, NYS Board of Regents

Hon Shelly Mayer Chair, NYS Senate Education Committee

Dr. Jonathan E. Collins, Associate Director, Center for Educational Equity, Teachers College, Columbia University

TBD additional invitees, not yet confirmed

Keynote Speakers

Hon Rowan D. Wilson Chief Judge of the Court of Appeals, New York State

Justin T. Hubbard, Social Studies Teacher Salamanca High School and Winner of American Civics Education Teacher Award 2022

Special Guest Jurist whose name will be released closer to the date of the event

Panel 3 - Students This panel will be *primarily* students along with a few representatives from the ranks of teachers, administrators, school board members and the bar to pose questions to our special guest

Panel 4 Moderator Jay Worona Wrap-Up Reactions to the Day and Next Steps- Panelists **TBD**: Students, Teachers, Administrators, legislators, morning panelists - Feedback/wrap-up to today's panels and speakers-where do we go from here? are the initiatives discussed effective? sufficient? what are goals for the future?