

**NEW YORK STATE
BAR ASSOCIATION**

**REPORT AND
RECOMMENDATIONS
OF THE
LAW, YOUTH, AND CITIZENSHIP
COMMITTEE
ON
CIVIC EDUCATION**

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Executive Summary

*Liberty lies in the hearts of men and women;
when it dies there, no constitution, no law, no court can save it;
no constitution, no law, no court can even do much to help it.*¹

A constitutional democracy flourishes only if the constitution reflects democratic values alive in the citizenry. In the past decade, nearly every measure of Americans' knowledge, understanding and appreciation of democratic values and fundamental constitutional principles has reflected a shocking level of decline. Despite New York's adoption of the "Participation in Government" requirement for graduating high school seniors over a decade ago², a sense of political disengagement has worsened in our state due to a lack of civic knowledge and the skills necessary to be an effective citizen.³

Preserving the fundamental civic mission of schools is vital to the continued success of American constitutional democracy. In fact, the New York State Court of Appeals has held that the "sound basic education" guaranteed under the State Constitution must "convey not merely skills, but skills fashioned to meet a practical goal: meaningful civic participation in contemporary society."⁴

It is imperative that the New York State Bar Association ("NYSBA") continues to assume a leadership role in efforts to promote civic education for all of New York's students. This must be done not only through a call to action to the state's lawyers, but also through policy actions directed to policymakers, particularly at the state level of government.

Recognizing a critical state need and building on existing NYSBA initiatives as well as American Bar Association ("ABA") civic education policy, the NYSBA's Law, Youth and Citizenship ("LYC") Committee recommends that the NYSBA adopt a Policy on Civic Education. This policy would be to encourage policymakers at all levels of government, including but not limited to the Governor, the New York State Legislature, the New York State Board of Regents, the Commissioner of Education and the New York State Department of Education, to ensure that all students experience high quality civic learning; that students' civic learning is regularly and appropriately assessed; and civic learning is accorded state

¹ Justice Learned Hand, "The Spirit of Liberty" - speech at "I Am an American Day" ceremony, Central Park, New York City (May 21, 1944).

² Participation in Government, The University of the State of New York, The State Education Department, 2002, www.p12.nysed.gov/ciai/socst/pub/partgov.pdf (NYSBA Executive Director Patricia K. Bucklin served on the State Education Department's Advisory Committee, see page iv)

³ A Report Card On New York's Civic Literacy, Brennan Center for Justice, 2011, www.brennancenter.org/content/resource/a_report_card_on_new_yorks_civic_literacy/#report

⁴ *Campaign for Fiscal Equity v. State of New York*, 100 N.Y.2d 893, 905 801 N.E.2d 326, 330,769 N.Y.S.2d 106, 110 (2003)

educational priority on a par with reading and mathematics. The LYC Committee recommends that this be accomplished by enactment of statutes and regulations to require civic education in all grades for all elementary, middle and secondary students in the schools of the nation and this State, in addition to providing appropriate funding for such programs as may be necessary to fulfill these policy goals.

Calling the Legal Community to Action for Civic Education

On August 1, 2009, retired Supreme Court Associate Justice David Souter delivered the keynote speech at the Opening Assembly of the ABA's annual meeting. Focusing on civic education, he declared "civic education reform is, literally, essential to the continued vitality of American Constitutional government as we know it."⁵ Justice Souter's message came with a call to action: "I will ask the American Bar Association as an organization and each one of you as individuals to take on the job...Civic education has to be raised to a new power and [that is] why every one of us in this room has to see to it that civic understanding becomes a birthright of every American."⁶ A little more than four years later, in October 2013, the NYSBA co-sponsored a presentation by Justice Souter in Albany where he delivered a similar message.

In response to Justice Souter, ABA President Stephen N. Zack said, "I'm pledging my support, and that of our professional association, to answer [Justice Souter's] call to action. Moreover, I encourage all lawyers and judges to be personally and actively engaged in civic education in their communities and schools."⁷

*We must rededicate ourselves to learning about our constitutional system—not just the words on parchment, but the fundamental principles and values those words represent. Principles and values such as the separation of powers, checks and balances, judicial review, the rule of law, and constitutional democracy—majority rule that protects minority rights. Such a rededication requires a shared commitment to civic education. This will take a concerted effort. We must begin where the need is most urgent and the impact can be the greatest—in our nation's schools.*⁸

⁵ Keynote Speech by David Souter, Associate Justice, U.S. Supreme Court, at Opening Assembly, American Bar Association Annual Meeting, Chicago, August 1, 2009, <http://www.abanet.org/publiced/JusticeSouterChallengesABA.pdf>.

⁶ *Id.*

⁷ ABA Report of Commission on Civic Education in the Nation's Schools, February 2011 http://www.americanbar.org/content/dam/aba/images/public_education/2011_februaryabapolicyresolutionandreportonrequiringciviceducationinnationspublicschools.pdf

⁸ "Future Depends on Civics," Tallahassee.com, Stephen N. Zack, December 9, 2009.

In its reaffirmation of its policies on civic education the ABA emphasized

The pressing need to improve civic learning among our nation's youth has been well documented by leading experts. A landmark 2003 report on *The Civic Mission of Schools* warned, "School-based civic education is in decline." Commissioned by the Carnegie Corporation and the Center for Information & Research on Civic Learning & Engagement (CIRCLE), the report has had a galvanizing effect, ushering in an ongoing period of concerted national advocacy for civic learning. It reflected a broad consensus among scholars and practitioners that educational institutions need to play a major role to improve the civic understanding of American students. The Campaign for the Civic Mission of Schools, a nonpartisan, nonprofit coalition of more than 60 organizational partners, including the American Bar Association, seeks to implement the report's recommendations.⁹

The ABA's 2011 Resolution on its "Policy on Civic Education" was adopted with the support of the NYSBA delegation.

NYSBA's Longstanding Support for Civic Education and the NYSBA's Recent Call to Action

Closer to home, the NYSBA has long been a leader in fostering and promoting civic education. In 1988, in recognition of the bicentennial of New York's ratification of the Constitution, the NYSBA and the New York Bar Foundation collaborated to produce "An Empire of Reason," a mock television news special featuring Walter Cronkite, chronicling the debate surrounding the ratification of the Constitution from a modern (and New York) perspective. "An Empire of Reason" was lauded nationally as "a great way to teach history".¹⁰

Moreover, the NYSBA established the Law, Youth and Citizenship (LYC) Program in 1974 to promote citizenship and law-related education in schools throughout New York State, by assisting educators in creating opportunities for students to become effective citizens able to participate fully in our democratic society.¹¹ The LYC program has, to date, successfully been able to carry out its mission by directly reaching over 5,000 teachers and tens of thousands of students each year through *We The People*¹², *Project Citizen*¹³, its statewide Mock Trial

⁹ ABA Resolution and Report of Commission on Civic Education in the Nation's Schools, adopted February 14, 2011, http://www.americanbar.org/content/dam/aba/migrated/2011_build/house_of_delegates/300_2011_my.athcheckdam.pdf

¹⁰ See, e.g., "Television Reviews : Cronkite Anchors Lively Visit to 'An Empire of Reason'", Los Angeles Times, July 13, 1988. http://articles.latimes.com/1988-07-13/entertainment/ca-5643_1_walter-cronkite)

¹¹ **Law, Youth and Citizenship Program: A Statewide Law-Related and Civic Education Program**, www.nysba.org/lyc/

¹² *Id.*; The *We the People: The Citizen and the Constitution Program* promotes civic competence and responsibility among the nation's upper elementary and secondary students. The *We the People* printed

Competition¹⁴ and Mock Trial Summer Institute¹⁵, as well as thousands more indirectly through its training of hundreds of teachers each year.

However, by 2011, the dramatic decline in the state of civic education and civic knowledge in elementary and secondary school students in both New York State and throughout the nation had then-NYSBA President Vincent E. Doyle III “sound[ing] the alarm” about the diminishment of civics education in New York and “what appears to be a trend toward the weakening of New York’s commitment to educating all students about civics.” Accordingly, the NYSBA publicly announced “civics education is a top legislative priority for the NYSBA” because “a vibrant democracy needs engaged citizens who understand the rights and responsibilities of being an American.”¹⁶

Our democracy can only be a self-sustaining model if our citizenry is engaged and informed, and that requires civic education. In order to preserve democracy and its ideals, youth first need to have an appreciation of it. They need to understand that democracy and civic engagement require far more than reading a headline on a smartphone and clicking “LIKE” on a Facebook page. And in order to achieve this, people need to let elected and education officials know that we want civic education strengthened, not dismantled.¹⁷

textbook's and Enhanced Ebook's interactive strategies, relevant content and the simulated congressional hearing make teaching and learning exciting for both students and teachers. The program enjoys active support from state bar associations and foundations, and other educational, professional, business, and community organizations across the nation. Since the inception of the We the People program in 1987, more than 28 million students and 75,000 educators have participated in this course of study. <http://new.civiced.org/wtp-the-program>

¹³ *Id.*; ***We the People: Project Citizen*** is a curricular program at the middle school through adult levels promoting competent and responsible participation with government at all levels. The program helps participants learn how to monitor and influence public policy while developing support for democratic values and principles, tolerance, and feelings of political efficacy. <http://new.civiced.org/pc-program>

¹⁴ Co-sponsored by The New York Bar Foundation, thousands of high school students participate in the Statewide Mock Trial Competition each year where they have the opportunity to gain firsthand knowledge of civil/criminal law and courtroom procedures. www.nysba.org/lychome/

¹⁵ The Mock Trial Summer Institute (MTSI) was established in 2005 to strengthen students’ and teams’ understanding of Mock Trial and its applications. Forty-eight students are selected from New York State schools to attend this week-long, intensive camp-like experience. Under the direction of counselors, who are Mock Trial teacher-coaches, and experienced attorneys, the students study all aspects of Mock Trial and apply their studies to the presentation of a Mock Trial case on the final day of MTSI. www.nysba.org/lychome/

¹⁶ NYSBA June 15, 2011 Press Release

¹⁷ “State Bar calls civics education key to democracy, will continue its advocacy,” NYSBA State Bar News, September-October 2011, at 12.

To meet this end, the NYSBA should formally adopt a policy on civic education.

Need to Enhance Civic Education in the Nation's and New York State's Schools

The Nation

The magnitude and breadth of people's lack of civic knowledge and understanding is staggering. Here are just a few statistics taken from recent studies:

- Americans know more about the Simpsons and the judges on American Idol than they do about the U.S. Constitution¹⁸.
- Out of 1,001 U.S. adults who recently took a multiple choice test on basic U.S. civics and history, 89 percent expressed confidence they could pass it; 83 percent went on to fail. More Americans could identify Michael Jackson as the composer of "Beat It" and "Billie Jean" than could identify the Bill of Rights as a body of amendments to the Constitution. And more than half misidentified the system of government established in the Constitution as a direct democracy, rather than a republic---a question that must be answered correctly by immigrants qualifying for U.S. citizenship.¹⁹
- Nearly half (45%) of Americans were unable to correctly identify the three branches of government as "legislative, executive, and judicial."²⁰
- More than half of Americans asked (57%) couldn't name a single current justice on the U.S. Supreme Court.²¹

¹⁸ "Simpsons 'trump' First Amendment: Americans know more about The Simpsons TV show than the US Constitution's First Amendment" BBC News, March 1, 2006, <http://news.bbc.co.uk/2/hi/americas/4761294.stm>

¹⁹ "Most Americans can't name one Supreme Court justice" Yahoo News, June 2, 2010, http://web.archive.org/web/20100605001650/http://news.yahoo.com/s/ynews/20100602/ts_ynews/ynews_ts2356

²⁰ ABA Report of Commission on Civic Education in the Nation's Schools, adopted August 2011, at 3 (citing "Civics Education" national public opinion poll conducted by Harris Interactive on behalf of the American Bar Association, July 2005), http://www.americanbar.org/content/dam/aba/migrated/2011_build/house_of_delegates/300_2011_my.athcheckdam.pdf

²¹ *Id.*, at 4 (citing Findlaw, December 2005 national survey).

- Only 27% of Americans know the Bill of Rights expressly prohibits establishing an official religion in the United States.²²
- Out of 14,000 college students, 71% of those Americans failed a basic civics test.²³

Young people in particular do not understand the ideals of citizenship; they are disengaged from the political process; they lack the knowledge necessary for effective self-government, and their appreciation of democracy is limited.

- Fewer than half of American eighth graders knew the purpose of the Bill of Rights on the most recent national civics examination, and only one in 10 demonstrated acceptable knowledge of the checks and balances among the legislative, executive and judicial branches.²⁴
- Seventy-five percent (75%) of high school seniors were unable to name one power granted to Congress.²⁵

²² ABA Report of Commission on Civic Education in the Nation's Schools, adopted August 2011, at 4 (citing American Civic Literacy Report, 2008).

http://www.americanbar.org/content/dam/aba/migrated/2011_build/house_of_delegates/300_2011_my.athcheckdam.pdf

²³ "Report Finds College Students Fail Basic Civics Test", The New American, February 26, 2010 <http://www.thenewamerican.com/culture/education/item/176-report-finds-college-students-fail-basic-civics-test>

In 2007, ISI administered a 60-question test to 14,000 students at 50 colleges nationwide. The questions were designed to measure the students' aptitude in four areas: basic American history, government, foreign affairs, and economics. In a companion study, in 2008 ISI administered a shorter exam (33 questions) to a random sample of 2,508 Americans without a college degree in order to have a standard level against which the impact of a college education on a threshold level of familiarity with basic American institutions could be determined. Some of the study's other findings include:

- The average score for college seniors on the civics knowledge test was 54.2% (an "F" by any standard);
- 79% of elected officials that took the civics knowledge quiz did not know the Bill of Rights expressly prohibits the government from establishing a religion.
- 30% of office holders did not know that "life, liberty, and the pursuit of happiness" are the inalienable rights referred to in the Declaration of Independence.
- 27% of politicians could not name even one right or freedom guaranteed by the First Amendment.
- 43% did not know the purpose of the Electoral College.
- 39% of lawmakers believe the power of declaring war belongs to the president.
- The average score for college professors who took the civics knowledge quiz was 55%.

²⁴ "Failing Grades on Civics Exam Called a 'Crisis'" New York Times, May 4, 2011 <http://www.nytimes.com/2011/05/05/education/05civics.html>; see [The Nation's Report Card: Civics 2010](http://nces.ed.gov/nationsreportcard/pdf/main2010/2011466.pdf), U.S. Department of Education- National Center for Education Statistics, <http://nces.ed.gov/nationsreportcard/pdf/main2010/2011466.pdf>

²⁵ *Id.*

- In 2011, only twelve percent (12%) of 12th-graders tested are proficient in American history. According to the same report by the National Center for Education Statistics- a federal government agency- only twenty percent (20%) of fourth-graders and only seventeen percent (17%) of eighth-graders are proficient in American history.²⁶
- Only nine percent (9%) of fourth-graders shown a picture of President Abraham Lincoln could provide two reasons why he was important.²⁷

The trouble, according to Charles Quigley, executive director of the Center for Civic Education, is that the country is “focused more and more upon developing the worker at the expense of developing the citizen.”²⁸ The result, Mr. Quigley stated, is a group of “vulnerable, less-empowered” Americans.²⁹

Possibly nowhere is this disempowerment and disengagement more evident than at the voting booth. In the last three elections before 2012, New York ranked 47th among the states in average voter turnout. Only 35.5% of the voting eligible population (i.e., citizens over 18 who are not incarcerated for a felony or on felony parole) voted for the highest office on the ballot in the 2010 general election, putting New York in 48th place among the states, approximately 13% below the national average.³⁰

In particular, young voters, aged 18-25, are the least likely to turn out and vote. And this same segment is the fastest growing part of the electorate. This is the target audience civic education needs to reach and we need to reach them when they are still in school and not overwhelmed by other pressures and demands in life.

In fact, just this year the NYSBA Special Committee on Voter Participation recommended that “a program for the voluntary pre-registration of 16 and 17 year-olds be developed. Citizens aged 18 to 24 have the lowest rate of registration in New York, and experience in other states

²⁶ “State Bar calls civics education key to democracy, will continue its advocacy,” NYSBA State Bar News, September-October 2011, at 1.; see, The Nation’s Report Card: History 2010, U.S. Department of Education- National Center for Education Statistics, <http://nces.ed.gov/nationsreportcard/pdf/main2010/2011468.pdf>

²⁷ *Id.*

²⁸ “Failing Grades on Civics Exam Called a ‘Crisis’” New York Times, May 4, 2011. <http://www.nytimes.com/2011/05/05/education/05civics.html>

²⁹ “A Needed Lesson In Citizenship,” Boston Globe, May 14, 2011. http://www.boston.com/bostonglobe/editorial_opinion/oped/articles/2011/05/14/a_needed_lesson_in_citizenship/

³⁰ “NYSBA Special Committee on Voter Participation Final Report”, January 25, 2013, at 1.

and countries indicates that pre-registration of students before they reach 18 will significantly increase voter participation in that younger age group.”³¹ The NYSBA Special Committee concluded that:

*such an effort could profitably be joined with civic education for high school students that would, among other things, encourage them to exercise their right to vote when they become eligible.*³²

New York

In New York, the lack of civic knowledge and understanding is no better.

- Fifty-eight percent (58%) of New Yorkers cannot name either of their two current U.S. Senators.³³
- Nearly eight out of ten New York voters believe in the central importance of the Constitution, but fewer than two in ten consider themselves very familiar with the document.³⁵
- Fewer than one-third of New Yorkers surveyed could identify strengthening the federal government as a goal of the Constitution.³⁶
- Just over a third of New Yorkers surveyed were sure that one of the Constitution’s goals was to increase the power of the 13 original states.³⁷
- Nearly a third of New Yorkers surveyed incorrectly believe the Founders were seeking to create a Christian nation in the Constitution.³⁸
- Fewer than two out of ten knew that dealing with the demands of special interest groups in a rational way was a goal of the Founders.³⁹

³¹ “NYSBA Special Committee on Voter Participation Final Report”, January 25, 2013, at 5.

³² *Id.*, at 26 (emphasis added)

³³ A Report Card On New York’s Civic Literacy, Brennan Center for Justice, 2011, at 4.
http://www.brennancenter.org/content/resource/a_report_card_on_new_yorks_civic_literacy/#report

³⁵ *Id.*, at 6.

³⁶ *Id.*, at 7.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*, at 7.

- Only five percent of New Yorkers surveyed knew that the Constitution was designed to prevent both tyranny of the majority and of a small, influential minority.⁴⁰
- Only 42 percent of New Yorkers surveyed could correctly answer all three questions about the different roles of each of the three branches of government.⁴¹
- Only two-thirds of respondents correctly stated that the President is in charge of the executive branch.⁴²
- Two out of five New Yorkers did not know that the legislative branch makes laws or gave an incorrect answer.⁴³
- Only 55 percent of respondents said that the Supreme Court has the power to declare laws unconstitutional.⁴⁴

New York State’s civics education curriculum and standards were the envy of states and nations for decades. Up until recently, New York tested fifth and eighth grade students on the New York and U.S. Constitutions. New York eleventh grade students are still tested in history and twelfth grade students are required to take a half-year “Participation in Government” course before they graduate high school, further exposing them to the ideas and practices involved in being an engaged, active and informed citizen.

However, in affirming that the State has failed to meet its constitutional guarantee of “a sound basic education,” the New York State Court of Appeals invoked voting and jury service as just two measures of productive citizenship.⁴⁵ As the Court of Appeals recognized:

⁴⁰ A Report Card On New York’s Civic Literacy, Brennan Center for Justice, 2011, at 11.

http://www.brennancenter.org/content/resource/a_report_card_on_new_yorks_civic_literacy/#report

⁴¹ *Id.*, at 9.

⁴² *Id.*, at 13.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ See *Campaign for Fiscal Equity v. State of New York*, 86 NY2d 307, 316 (1995) (sound basic education should consist of skills necessary to enable children "to eventually function productively as civic participants capable of voting and serving on a jury").

Productive citizenship means more than just being *qualified* to vote or serve as a juror, but to do so capably and knowledgeably. It connotes civic engagement. An engaged, capable voter needs the intellectual tools to evaluate complex issues, such as campaign finance reform, tax policy, and global warming, to name only a few. Ballot propositions in New York City, such as the charter reform proposal that was on the ballot in November 1999, can require a close reading and a familiarity with the structure of local government.

Similarly, a capable and productive citizen doesn't simply show up for jury service. Rather she is capable of serving impartially on trials that may require learning unfamiliar facts and concepts and new ways to communicate and reach decisions with her fellow jurors. To be sure, the jury is in some respects an anti-elitist institution where life experience and practical intelligence can be more important than formal education. Nonetheless, jurors may be called on to decide complex matters that require the verbal, reasoning, math, science, and socialization skills that should be imparted in public schools. Jurors today must determine questions of fact concerning DNA evidence, statistical analyses, and convoluted financial fraud, to name only three topics.⁴⁶

It wasn't too long ago that New York's model for history and civics education, in 1999, was acknowledged as high ranking in a study by the Thomas B. Fordham Institute which noted that New York's "overall package could serve as a model for many other states."⁴⁷

But that model is being abandoned by New York's adoption of the 'Race to the Top' program. Under the new "Common Core" standards model, the implementation of which was a condition of funding for "Race to the Top", Social Studies is now a secondary curriculum placed under English Language Arts, resulting in history and civics being taught through literature. The problems inherent with this model have been the subject of much criticism.⁴⁸ While the Common Core does not dissuade the teaching of civics, the reward system set by the state does.

⁴⁶ *Campaign for Fiscal Equity v. State of New York*, 187 Misc2d 1, 719 NYS2d 475, 485 (2001).

⁴⁷http://www.edexcellencemedia.net/publications/2011/20110216_SOSHS/SOSS_USHistory_NewYork.pdf

⁴⁸ See, e.g., "Campaign to Add Citizenship to the Common Core Standards," Huff Post, November 11, 2013, http://www.huffingtonpost.com/alan-singer/campaign-to-add-citizensh_b_4256357.html (discussing impact of the loss of instructional time in elementary schools and the narrowing of instruction in response to multiple-choice high-stakes testing, as well as the constant test prep-test cycle undermining the natural curiosity that children and adolescent have about the world around them. Also identified is the issue that "economically strapped states" were actually using the Common Core Standards as a way of saving money by cutting back on social studies and other non-mandated subjects)

Testing of civics and history is already disappearing. In 2010, the fifth and eighth grade state Social Studies tests were eliminated.⁴⁹ And the plain truth is: ‘if it isn’t tested, it isn’t taught.’ Under plans being considered by the Regents, students will need fewer social studies credits to graduate and will be allowed to skip Regents exams in Global Studies and History.⁵⁰ Can the elimination of government classes be far behind?

A recent study by the Brennan Center gives New Yorkers failing grades for civic literacy. The Brennan Center study emphasizes that:

In graduating from New York schools, the students are intended to be able to “use a variety of intellectual skills to demonstrate their understanding of the necessity for establishing governments; the governmental system of the U.S. and other nations; the U.S. Constitution; the basic civic values of American constitutional democracy; and the roles, rights, and responsibilities of citizenship, including avenues of participation.”

Whatever resources were once available for civic education are now being grossly reduced by the spread of No Child Left Behind and its emphasis on math and language arts, as is clearly the case in New York.

But our New York poll and numerous national polls make it clear schools are not fulfilling their civic literacy obligation.⁵¹

With extensive findings like those cited above, the study concludes that civic education in New York's public schools needs urgent change and improvement to address the threat the lack of civic literacy poses to our system of government.⁵²

Requirement for Civic Education

The ABA has studied and deliberated on these issues extensively. In addressing the question of how to best enhance civic education in our schools, the ABA has concluded that “obviously, crucial to this effort is the extent to which young people have the opportunity to take school courses and engage in curricular and co-curricular activities to further their civic education.”⁵³

⁴⁹ “State Bar calls civics education key to democracy, will continue its advocacy,” NYSBA State Bar News, September-October 2011, at 1.

⁵⁰ “Social Studies Get the Short End of the Stick, Again,” Huffington Post, April 1, 2011 http://www.huffingtonpost.com/alan-singer/social-studies-get-the-sh_b_843552.html

⁵¹ A Report Card On New York’s Civic Literacy, Brennan Center for Justice, 2011, at 18. http://www.brennancenter.org/content/resource/a_report_card_on_new_yorks_civic_literacy/#report

⁵² *Id.*, at 24.

⁵³ ABA Report of Commission on Civic Education in the Nation’s Schools, adopted February 14, 2011, at 3.

Like the Policy on Civic Education adopted by the ABA, it is recommended that the NYSBA urge government at all levels, and particularly the state level, to require more civic education for all levels of students.

Research conducted in 2007 by Meira Levinson for the Center for Information & Research on Civic Learning & Engagement (CIRCLE) warns of a growing “civic achievement gap” separating Americans from one another. Ms. Levinson marshals evidence that such a gap exists between “non-white, poor, and/or immigrant youth, on the one hand, and white, wealthier, and/or native-born youth, on the other.” Those in the first group “demonstrate consistently lower levels of civic and political knowledge, skills, positive attitudes, and participation, as compared to their wealthier and white counterparts.” The consequence is that “they face serious political disadvantages.”⁵⁴

A robust civic education is vital for promoting a culture of engagement in the democratic process and ensuring that all Americans, regardless of socio-economic status, race, and national origin, are informed, thoughtful, and active citizens.⁵⁵ The LYC Committee recommends that existing curriculums should be designed to emphasize civic education and prepare more effective engaged citizens through components such as: (1) a public policy, project-based assessment (a public policy engagement project, like that currently done in the *Project Citizen* program), (2) Media Literacy, (3) Public Policy/Community-Service components, and (4) ethics education. These enhanced curricular initiatives will convey substantive information essential to understanding our participatory democracy and will also provide students with hands-on learning about the complexity of issues in American society.

Why Civic Education Matters to the Legal Profession and to the State

“Meaningful democracy requires civic literacy.”⁵⁶ Civics education is essential to perpetuating an active, informed and engaged citizenry. This benefits the public immensely. Our legal institutions and justice system depend upon the effectiveness of our educational institutions to

http://www.americanbar.org/content/dam/aba/migrated/2011_build/house_of_delegates/300_2011_my.athcheckdam.pdf

⁵⁴ ABA Report of Commission on Civic Education in the Nation’s Schools, adopted August 2011, at 3 (citing “The Civic Achievement Gap, CIRCLE Working Paper 51, January 2007).

http://www.americanbar.org/content/dam/aba/migrated/2011_build/house_of_delegates/300_2011_my.athcheckdam.pdf.

⁵⁵ See, e.g., “Immigration and America’s Broken Civics Education System,” *The American*, July 24, 2013, www.american.com/archive/2013/july/immigration-and-americas-broken-civics-education-system

⁵⁶ A Report Card On New York’s Civic Literacy, Brennan Center for Justice, 2011, at 2.

http://www.brennancenter.org/content/resource/a_report_card_on_new_yorks_civic_literacy/#report

make sure Americans are educated and acculturated to maintain their commitment to the rule of law and sustain their trust and confidence in the institutions of constitutional democracy, including trial by jury and other components of our system of law and justice. No other institution in American society can accomplish this civic mission as well as our schools, especially as we welcome new Americans to our land, during an era of historic immigration levels.

At a key moment in American education—and hence, in American law and society—the legal community must answer the call to action to participate, as appropriate, in the education of American youth. As stated eloquently by the authors of the 2010 report, “Creating a National Culture of Learning”:

From Thomas Jefferson’s first proposals for public education to the current debates over school quality, we have always looked to our schools as a tool for making democracy possible through educating the next generation of citizens. How we conduct those schools, and how equitable and excellent we make all of our schools, says as much about us as a nation as anything else we do.⁵⁷

Moreover, the NYSBA and the legal profession at large is benefited by a citizenry that appreciates and respects the critical role the legal profession plays in fostering American democracy. Civics education teaches the general public (through the process of political socialization) this appreciation and respect more effectively and less expensively than all the public relations campaigns can ever undertake. Civics education gives students an understanding of fundamental constitutional principles including judicial review and due process, and consequently, an appreciation of the role of attorneys in preserving our constitutional values and rights that the Founders deemed vital by guaranteeing them that role through the Sixth Amendment. A proper civics education--- the kind that is no longer required by New York State--- has students study the Federalist Papers and Alexis de Tocqueville’s *Democracy in America*; the latter emphasizes that lawyers are the aristocracy that America lacks, not because of their power or wealth, but because of the essential nature of their skill and knowledge to “counterpoise” the democracy. Tocqueville would likely characterize the legal profession’s support and nurturing of civic education as the kind of “enlightened self-interest” – the realization that one can fulfill private ambitions only if one contributes to the common good- which he highlighted in *Democracy in America* as being a critical factor to the success of American democracy.⁵⁸

⁵⁷ “Creating a National Culture of Learning: The Forum for Education & Democracy’s Recommendations for the Reauthorization of ESEA,” April 2010.
http://www.forumforeducation.org/sites/default/files/u48/FED_Short_Paper_on_ESEA.pdf

⁵⁸ *We The People: The Citizen & The Constitution*, Center for Civic Education, Calabasas, CA, 2009, at 246.

For the reasons cited in this report, the LYC Committee urges the House of Delegates to adopt the following Policy on Civic Education:

Proposed NYSBA Policy on Civic Education

WHEREAS, the New York State Bar Association (“NYSBA”) established the Law, Youth and Citizenship (LYC) Program in 1974 to promote citizenship and law-related education in schools throughout New York State, by assisting educators in creating opportunities for students to become effective citizens able to participate fully in our democratic society.

WHEREAS, the LYC program has, to date, successfully been able to carry out its mission by directly reaching over 5,000 students a year through *We The People*, *Project Citizen*, its statewide Mock Trial Competition and Mock Trial Summer Institute, as well as thousands more indirectly through its training of hundreds of teachers each year.

WHEREAS, the state of civic education and civic knowledge in elementary and secondary school students in both New York State and throughout the nation has so dramatically declined that NYSBA then-President Vincent E. Doyle III “sounded the alarm” about the diminishment of civics education in New York, and the NYSBA publicly announced that “civics education is a top legislative priority for the New York State Bar Association.”
(NYSBA June 15, 2011 Press Release)

WHEREAS, the NYSBA has stated that “The State Bar Association is concerned about what appears to be a trend toward the weakening of New York’s commitment to educating all students about civics.”
(NYSBA June 15, 2011 Press Release)

WHEREAS, in 2011 NYSBA then-President Vincent E. Doyle III cogently stated that: “A vibrant democracy needs engaged citizens who understand the rights and responsibilities of being an American.”
(NYSBA June 15, 2011 Press Release)

"WHEREAS, the NYSBA firmly believes that an educated citizenry, and understanding of basic civic principles adopted by the Founders of this nation is fundamental to the preservation of democracy and good government,

WHEREAS, NYSBA further concludes that civic education in elementary, middle and secondary schools is fundamental to the continued success of our form of self-government and to the preservation of the Rule of Law, and

WHEREAS, in 2011, with the support of the NYSBA, the ABA adopted its Policy on Civic Education incorporating several of the following resolutions, NOW THEREFORE IT IS

RESOLVED, that the NYSBA shall encourage lawyers and judges to be personally and actively engaged in civic education in their communities and schools and to consider it part of their fundamental responsibility to ensure that all students experience high quality civic learning, including the study of law, government, and history in New York State; and it is

FURTHER RESOLVED, That the NYSBA shall urge lawyers and judges to work to increase Americans' understanding of the role of fundamental principles..... in our constitutional democracy; and it is

FURTHER RESOLVED, That the NYSBA urges policymakers at all levels of government, including but not limited to the Governor, the New York State Legislature, the New York State Board of Regents, the Commissioner of Education and the New York State Department of Education, to ensure that all students experience high quality civic learning— including study of law, government, and history--- and that students' civic learning is regularly and appropriately assessed; and that civic learning is accorded state educational priority on a par with reading and mathematics, by enacting statutes and regulations to require civic education in all grades for all elementary, middle and secondary students in the public schools of the nation and this State, and to provide appropriate funding for such programs as may be necessary to fulfill such requirements; and it is

FURTHER RESOLVED, that the NYSBA urges the legal profession to seek support of policymakers, educators, the media, and the general public to ensure that subject matter to advance the civic mission of schools, including study of law, is included in the core K-12 curriculum and reflected in all standards, instruction, professional development, school funding decisions, and evaluation.

Respectfully submitted,

Law, Youth, and Citizenship Committee

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