

ADVANCING DIVERSITY, EQUITY, AND INCLUSION IN LEGAL  
EDUCATION AND THE LEGAL PROFESSION:  
INTRODUCTION

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We cannot learn the lessons of Ferguson if we bury our heads in the sand. But we must learn from Ferguson. If we do not, the fissures that divide this country by race, color, and class will only widen. And this means that they will not just *go away* with time. Exposure is the first step to consciousness. Consciousness is the first step to correction. Correction is the first step to justice. And justice is the first step toward healing.<sup>1</sup>

This is a unique and crucial moment in time for evaluating and re-envisioning legal education and legal practice. “America’s foundational principles, and the mechanisms we rely on to defend them, are under profound and sustained attack.”<sup>2</sup> Ferguson created a seismic shaking of our country, followed by a wave of divisive concepts, anti-critical race theory, anti-gay, and anti-trans legislation, all heightened by the COVID-19 pandemic which “laid bare not only the social and racial inequities in society, but also the pedagogical and access to justice inequities embedded in the traditional legal curriculum.”<sup>3</sup> Today’s world portends significantly new and different roles for lawyers, judges, legislators, dispute resolution advocates, and those teaching about law and lawyering.

Acknowledging the crucial role that legal education plays in shaping attitudes, beliefs, professional identities, and actions of future lawyers, law

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1. Ferguson’s Fault Lines: The Race Quake That Rocked the Nation (ed. Kimberly Jade Norwood), AM. BAR ASS’N xxii (2016).

2. Deborah N. Archer, *Introduction to the Symposium, Promoting Justice: Advancing Racial Equity Through Student Practice in Legal Clinics*, 30 CLIN. L. REV. 1, 1 (2023).

3. Christian Sundquist, *The Future of Law Schools: Covid-19, Technology, and Social Justice*, 53 CONN. L. REV. 1 (2020).

school deans from across the country in June 2020 petitioned the American Bar Association ("ABA") House of Delegates for new accreditation standards requiring law schools to provide training on bias, cultural competency, and racism for law students, explaining that such skills are essential to professional competence, legal practice, and being a lawyer.<sup>4</sup> The House of Delegates responded to this initiative in spring 2022 with the adoption of a package of revisions to the ABA law school accreditation standards, requiring that law schools "shall provide substantial opportunities for... the development of a professional identity"<sup>5</sup> and "shall provide education to law students on bias, cross-cultural competency, and racism: at the start of the program of legal education, and at least once again before graduation."<sup>6</sup> Law schools were required to have plans to comply with the revised standards for incoming first-year students by fall of 2023.

The legal profession also has been taking steps. State bar associations in recent years have begun requiring continuing legal education focused on implicit bias and diversity,<sup>7</sup> and the ABA created a Diversity, Equity, and Inclusion Center "to promote the full and equal participation in the Association, the profession, and the justice system by all persons and to eliminate bias in the profession and the justice system."<sup>8</sup> Set to debut in July 2026, the NextGen bar exam will test a broad range of foundational lawyering concepts and skills, incorporating new focuses on client counseling and advising, negotiation and dispute resolution theory and practice, and client relationship and management.<sup>9</sup>

Advancing equity, inclusion, and diversity in legal education and the legal profession demands attention and perseverance from law school faculty and members of the bench and bar to address these issues with vision, fearlessness, and fortitude. The authors in this volume document and

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4. Letter from Alicia Ouellette, President & Dean Albany L. Sch., et al., to members of the Council of the ABA Section of Legal Educ. & Admissions to the Bar, AM. BAR ASS'N (2020).

5. ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022-2023 Standard 303(b) (AM. BAR ASS'N 2022).

6. ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022-2023 Standard 303(c) (AM. BAR ASS'N 2022) (numbering in original omitted).

7. *Bias, Diversity and Inclusion: MCLE State Survey and Dispute Resolution*, (Aug. 21, 2020), <https://713mediator.com/bias-diversity-and-inclusion-ten-mcle-requirement-approaches-that-may-help-in-dispute-resolution/> [<https://perma.cc/3QKA-UYYLV>], (Last visited Dec. 4, 2023).

8. *Diversity, Equity & Inclusion Center*, AM. BAR ASS'N, <https://www.americanbar.org/groups/diversity/>, (Last visited Dec. 4, 2023).

9. NextGen Bar Exam of the Future, NAT'L BAR EXAMINERS, [nextgenbarexam.ncbex.org](https://nextgenbarexam.ncbex.org)

explore past successes and failures, as well as recent innovative developments and potential transformations in legal education and legal practice for the future. These authors are at the forefront of innovative teaching, practice, and scholarship on diversity, equity, and inclusion.

Not surprisingly, as you can see from the articles in this volume, growing awareness of racism and lack of diversity and inclusion in recent years has prompted a revisioning of both theoretical and experiential pedagogy and curriculum; development of courses focused on diversity, equity, and inclusion; and an increase in interdisciplinary courses and clinics in which faculty and students collaborate regularly with other professionals from other disciplines and partner holistically with client communities.<sup>10</sup> New ABA Standard 303(c) has helped accelerate that needed growth. An increasing number of law schools in the United States and elsewhere now offer multiple courses in cross cultural diversity, comparative dispute resolution, racial awareness, and social change. Law schools are making changes to the intractable first year curriculum, such as the required first year Introduction to Negotiation and Dispute Resolution course at Washington University;<sup>11</sup> adding to the upper class curriculum, such as the required clinic and externship seminar at the University of Buffalo;<sup>12</sup> and developing joint law school and legal profession initiatives, such as the Academy for Inclusive Leadership at Case Western Reserve University.<sup>13</sup> And, lawyers, clinicians, dispute resolution practitioners, and other advocates now rely upon a growing array of progressive lawyering

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10. See, e.g., Jennifer Li, *Teamwork Makes the Dream Work: Improving Community Lawyering Through a Policy and Transactional Law Clinic Partnership*, 30 CLIN. L. REV. 187 (2023); Karen Tokarz, *Introduction: Revisioning Community Lawyering*, 68 WASH U.J.L POL'Y 1, (2022); Michael Diamond, *Community Lawyering: Introductory Thoughts on Theory and Practice*, 22 GEO. J. ON POVERTY L. & POL'Y 398 (2015); Karen Tokarz, Antoinette Sedillo-Lopez, Peggy Maisel, Robert Seibel, *Legal Education at a Crossroads*, 43 WASH U. J.L POL'Y 11 (2014); Karen Tokarz, Nancy L. Cook, Susan Brooks & Brenda Bratton Blom, *Conversations on "Community Lawyering": The Newest (Oldest) Wave in Clinical Legal Education*, 28 WASH U. J.L POL'Y 359 (2008).

11. *JD Requirements*, WASH. UNIV. SCH. OF L., <https://law.wustl.edu/academics/jd-requirements/#first-year-courses> [<https://perma.cc/Y6BS-XKH8>], (Last visited Dec. 4, 2023).

12. Kimberly Diana Connolly & Elisa Lackey, *The Buffalo Model: An Approach to ABA Standard 303(c)'s Exploration of Bias, Cross-Cultural Competency, and Antiracism in Clinical & Experiential Law*, 70 WASH. U. J.L. & POL'Y 71 (2023), [https://digitalcommons.law.buffalo.edu/journal\\_articles/1146](https://digitalcommons.law.buffalo.edu/journal_articles/1146).

13. *Academy for Inclusive Leadership Development*, CASE W. RSRV. SCH. OF L., <https://case.edu/law/our-school/diversity-inclusion/academy-inclusive-leadership-development>. (last visited Dec. 4, 2023).

processes, such as dialogue facilitation, conflict management, multi-party dispute resolution, and consensus building in governmental, non-governmental, and private organizations to better acknowledge racism and bias, and better advance diversity and inclusion.

Many legal educators, lawyers, and judges believe dramatic reforms in legal education and in the legal profession are essential if we are to prepare graduates to practice in a legal world in which lawyers are equipped to practice more competently and ethically, to resolve disputes more fairly and efficiently, to influence law and public policy inside and outside the courtroom, and to cope with social justice crises like those we currently face. Both new and experienced law faculty and practitioners, including those whose work is featured in this volume, are committed to a better understanding of diversity, equity, and inclusion; the teaching and practice of social change, dispute resolution, and public policy development; and the preparation of creative, competent, ethical lawyers, all of which requires rethinking what is and is not, what can and cannot be, and what should or should not be taught and practiced to advance law, justice, and public policy.

Faculty, public interest lawyers, judges, and dispute resolution advocates, like those featured in this volume, are increasingly engaged in progressive approaches to legal education and practice, in large part through new and creative views of professionalism, ethics, advocacy, and dispute resolution that bolster and sometimes replace traditional legal education and lawyering. The authors in this volume highlight the challenges and the opportunities for improvement and change in legal education and the legal profession. Each piece draws upon the authors' experiences with individuals, communities, the bench and bar, and the public at large in advocating for increased social justice reforms. Although coming from different backgrounds and perspectives, the authors concur that new professional identities and responsibilities for lawyers require enhanced attention to and understanding of diversity, equity, and inclusion.

This volume, *Advancing Diversity, Equity, and Inclusion in Legal Education and the Legal Profession*, continues a growing tradition of cutting-edge scholarship in the fields of progressive legal education and legal practice, published by the *Journal* over the past 25 years. This volume is the tenth in a series focusing on new directions in legal education and

legal practice, including *New Directions in Clinical Education*;<sup>14</sup> *New Directions in Dispute Resolution and Clinical Education*;<sup>15</sup> *New Directions in Restorative Justice*;<sup>16</sup> *New Directions in Negotiation and Dispute Resolution*;<sup>17</sup> *New Directions in Global Dispute Resolution*;<sup>18</sup> *New Directions in Community Lawyering, Social Entrepreneurship, and Dispute Resolution*;<sup>19</sup> *New Directions in Public Policy, Clinical Education, and Dispute Resolution*;<sup>20</sup> *New Directions in Domestic and International Dispute Resolution*;<sup>21</sup> and *New Directions in Dispute Resolution and Clinical Education in Response to the COVID-19 Pandemic*.<sup>22</sup> The *Journal* also has published a series of volumes entitled *Access to Justice*, several of which address new directions in legal education and the legal profession.<sup>23</sup>

We extend thanks to all the authors in this groundbreaking volume, *Advancing Diversity, Equity, and Inclusion in Legal Education and the Legal Profession*, and all the earlier volumes of the *Journal*.

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14. Symposium, *New Directions in Clinical Education*, 28 WASH. U. J.L. & POL'Y 1 (2008).
  15. Symposium, *New Directions in Dispute Resolution and Clinical Education*, 34 WASH. U. J.L. & POL'Y 1 (2010).
  16. Symposium, *New Directions in Restorative Justice*, 36 WASH. U. J.L. & POL'Y 1 (2011).
  17. Symposium, *New Directions in Negotiation and Dispute Resolution*, 39 WASH. U. J.L. & POL'Y 1 (2012).
  18. Symposium, *New Directions in Global Dispute Resolution*, 45 WASH. U. J.L. & POL'Y 1 (2014).
  19. Symposium, *New Directions in Community Lawyering, Social Entrepreneurship, and Dispute Resolution*, 48 WASH. U. J.L. & POL'Y 1 (2015).
  20. Symposium, *New Directions in Public Policy, Clinical Education, and Dispute Resolution*, 51 WASH. U. J.L. & POL'Y 1 (2016).
  21. Symposium, *New Directions in Domestic and International Dispute Resolution*, 63 WASH. U. J.L. & POL'Y 1 (2020).
  22. Symposium, *New Directions in Dispute Resolution and Clinical Education in Response to the COVID-19 Pandemic*, 63 WASH. U. J.L. & POL'Y 1 (2022).
  23. See generally 1, 4, 7, 10, 11, 12, 14, 16, 19, 20, 22, 25, 31, 37, 38 WASH. U. J.L. & POL'Y 1 (1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2011, 2012). All of these volumes can be accessed at <https://journals.library.wustl.edu/lawpolicy/>.