

PUSHING PRO BONO: Benefits of Pro Bono Engagement for Students, CSOs, & Law Firms

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Overview

-  **I. Benefits of Pro Bono**
-  **II. Strategies to Increase Engagement**
-  **III. Project Examples**
-  **IV. Small Group Breakout Sessions**

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Benefits of Pro Bono

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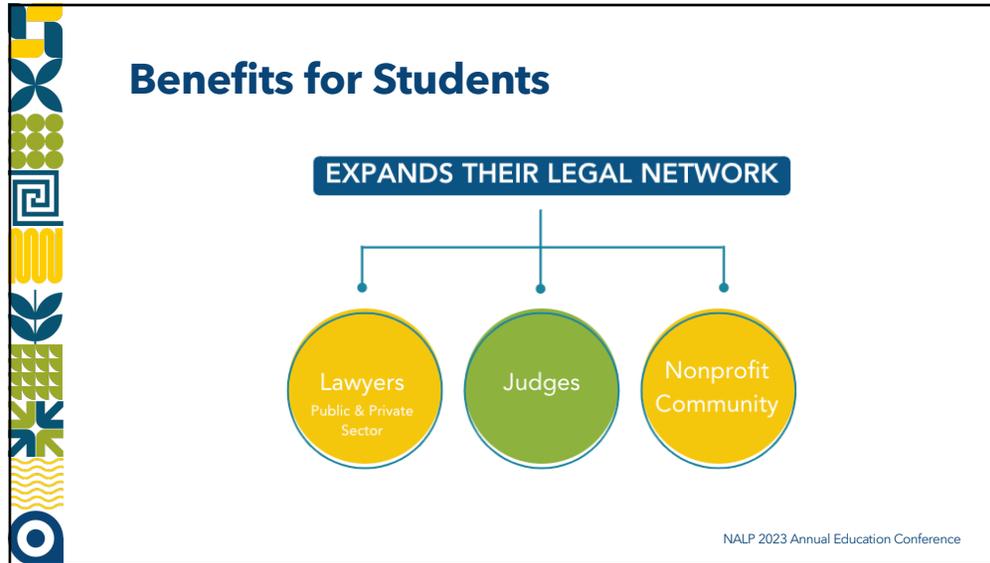
Benefits for Students



- 01 PRACTICAL APPLICATION OF THEORETICAL LEARNING
- 02 CLIENT CONTACT/INTERPERSONAL SKILLS
- 03 LEGAL RESEARCH & WRITING
- 04 CASE MANAGEMENT/ORGANIZATION
- 05 BALANCING MULTIPLE PROFESSIONAL OBLIGATIONS

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Benefits for Students



IMPROVES STUDENT WELL-BEING

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Benefits for Students (& CSOs!)

INCREASES MARKETABILITY



EXPERIENCE

REFERENCES

WRITING SAMPLES

COMMITMENT TO PUBLIC SERVICE

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Benefits for Law Firms

- Motivation**
 - Motivate summer and junior associates and ensure they continue to be excited about their future careers with the firm
- Skills & Experience**
 - Opportunity for associates to gain significant experience without the pressure of billable hours
- Community**
 - Foster a law firm community that promotes and cares about the public interest and understands their ethical obligations as members of the bar
- Recruiting**
 - Pro bono opportunities can be used as a recruiting tool and way to connect with current students
- Good for Business**
 - Law firm corporate clients are interested in evidence of their lawyers' corporate social responsibility

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Strategies to Increase Engagement

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What are the biggest barriers to pro bono engagement at your organization?

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What kind of requirements or recognition do you have for pro bono at your institution?

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Requirements, Pledges, & Awards

- Graduation/Law Firm/Bar Requirements**
 - At least 39 law schools require students to engage in pro bono or public service as a condition of graduation (per November 2021 ABA report)
 - May require specific number of hours of pro bono legal service or a combination of pro bono legal service, clinical work, and community-based volunteer work
 - New York Bar admission requires applicants to complete 50 hours of law-related pro bono
- Voluntary Pledges**
 - Mostly symbolic, but doesn't mean students won't take the obligation seriously
 - Could be used to create database for targeted outreach when opportunities arise
- Rewards-Based Incentives**
 - Recognition ceremonies
 - Transcript notations
 - Allowing service hours to count toward billable hour requirements
- Additional Related Programming**

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Overcoming Barriers to Pro Bono Engagement

What motivates volunteerism?

 Time & competence to help	 Feeling that efforts will be effective	 Personal involvement with the people whom they are assisting
 Specific request	 Seeing that others (particularly those one looks up to) are volunteering	 Benefits such as learning new skill, making professional contact, or enhancing their reputation

Source: Margaret M. Cordray, *Expanding Pro Bono's Role in Legal Education*, 48 Idaho L. Rev. 29 (2011)

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Overcoming Barriers to Engagement



Time & Competence

- Consider student capacity and schedule
- “Bite-sized” opportunities (e.g., discrete research projects, one-off legal clinics)
- Comfort zone vs. stretch zone
- Provide information sessions and training



Confidence Efforts will be Effective

- Share success stories from others who have done the work or perhaps even impacted clients (with permission and confidentiality)



Personal Connection

- Ask students & attorneys to identify areas of interest for targeted outreach/project creation
- May only take one experience to create a connection

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Overcoming Barriers to Engagement



Specific Request

- Establish database of pledgees or listserv of interested students to facilitate direct outreach
- Create sense of urgency/high demand (i.e. projects assigned on a first-come first-served basis)



Seeing that Others are Volunteering

- Publicize stories and accomplishments of peers
- Incorporate discussion of firm’s pro bono program/involvement into summer events



Personal Benefit

- Educate them on benefits identified in Part I
- Invite other students and attorneys to share how and why they engage in pro bono

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Project Examples

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Project Examples

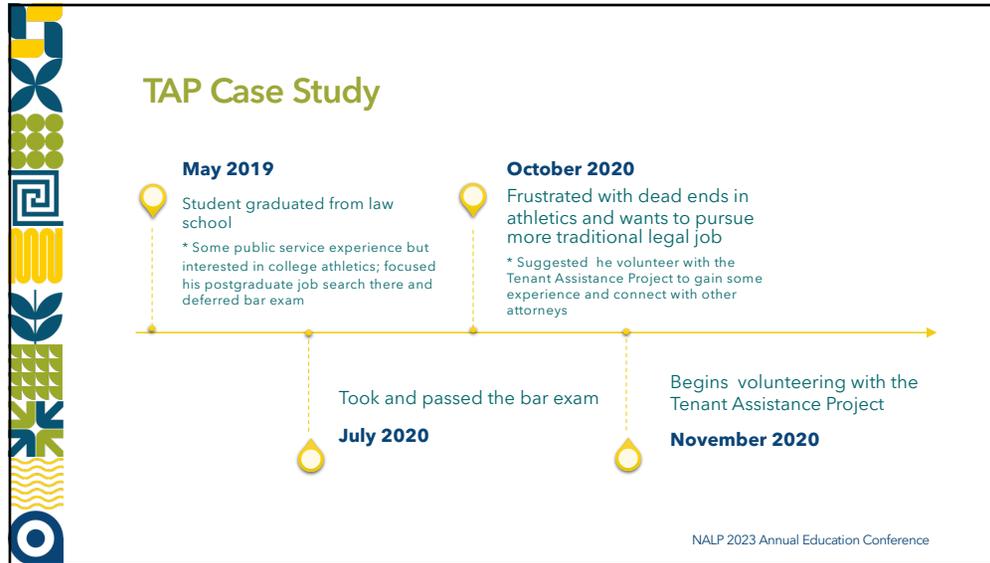
Tenant Assistance Project (TAP)



- Grassroots effort that came together during the pandemic to assist renters facing eviction
- Law students can serve as community volunteers at the courthouse, engage in tenant outreach, or prepare eviction defense packets for pro bono attorneys
- Students can volunteer in 1-2-hour blocks of time as frequently as their schedule permits

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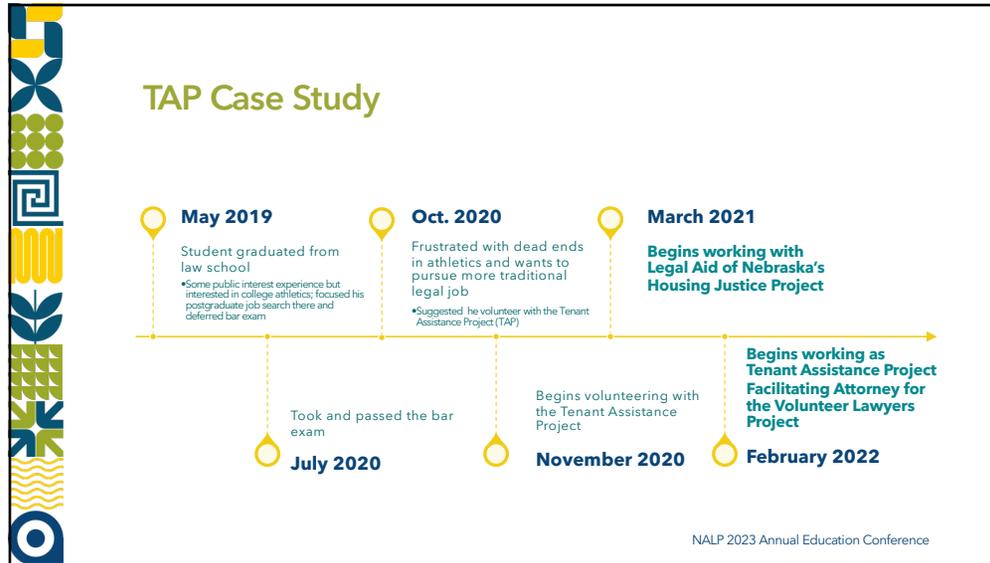
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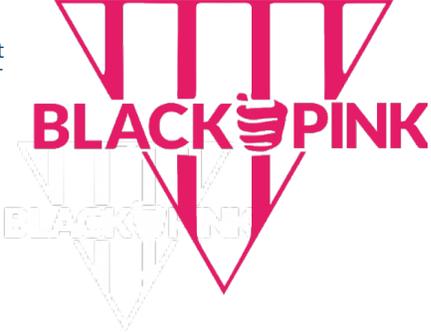
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Project Examples
Black and Pink Prison Letter Writing Project

- Student National Lawyers Guild chapter partners with abolitionist network of incarcerated LGBTQ+ individuals and allies
- Black and Pink receives letters from incarcerated individuals containing legal queries
- Law students respond to these letters under supervision
- Time commitment is 2-5 hours per letter



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There is power in partnerships.



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Project Examples

ABA Free Legal Answers

Summer Associate Challenge

- Law firms summer associates answer civil legal questions from low-income individuals in their state
- Summer associates appreciate the collaborative nature of working with attorneys to research and answer these questions

Virtual Legal Assistance Clinic

- Law faculty and local members of the bar work with small groups of students to answer legal questions over a lunch hour

AMERICAN BAR ASSOCIATION
FREE LEGAL ANSWERS™

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Project Examples

ABA Free Legal Answers

Summer Associate Challenge

“Participating in an FLA session as a summer associate showed me the dedication to service the firm has incorporated into its culture. Under the guidance of an attorney, answering questions from FLA gave me the opportunity to practice my legal skills and participate in the firm’s commitment to giving back and providing access to the judicial system for each individual.”

----Brett E. Bunnell-Battani, Summer Associate, Koley Jessen and Class of 2022, Drake University Law School

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Small Group Breakout Sessions

Topic I

- Share law school and law firm pro bono projects that have worked well, lessons learned, and professional development or other benefits you've observed.

Topic II

- Are you seeing an uptick in your students' or firm's interest in/commitment to pro bono? Is a law firm's involvement in pro bono or community service an important consideration for students?

Topic III

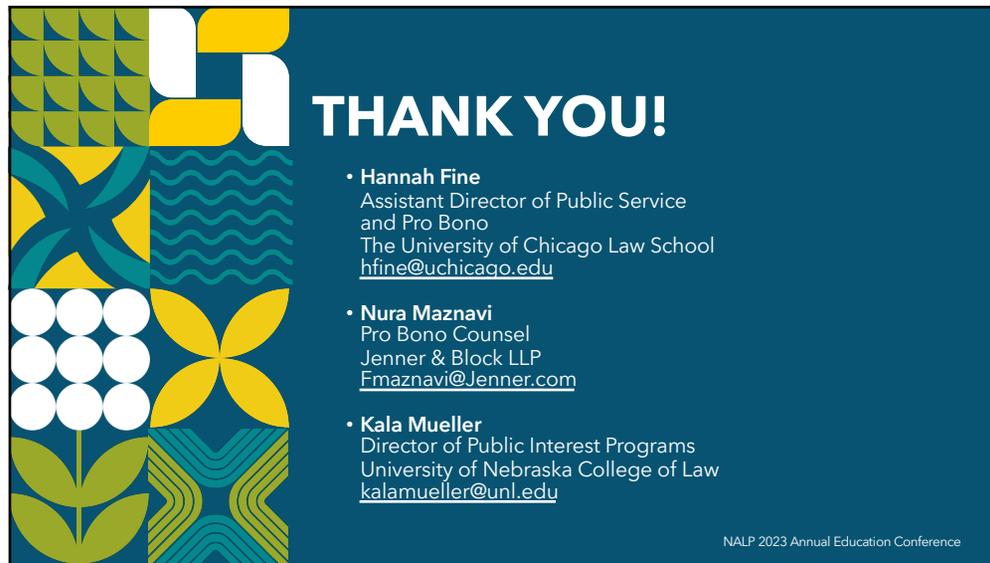
- Discuss requirements and "credit" for pro bono
 - What requirements/policies/awards does your school or firm utilize? For schools with a graduation requirement, have there been challenges or pushback?
 - How many pro bono hours can/should be counted towards billable requirements? Does this help incentivize attorney engagement?

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EXPANDING PRO BONO'S ROLE IN LEGAL EDUCATION

MARGARET MERIWETHER CORDRAY*

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I. INTRODUCTION

As the number of low and moderate income individuals who cannot afford an attorney to help them with significant legal problems continues to rise, the need for lawyers to provide pro bono services has become even more urgent. The legal profession is under increasing pressure to meet this challenge, but too few lawyers are engaged in pro bono work, making the legal system virtually inaccessible for millions of Americans.

At the same time, pressure is also building on legal educators to integrate professionalism and skills training into a curriculum that has primarily emphasized doctrine and reasoning, so that law schools graduate students who have the complete set of skills—analytical, practical, and ethical—necessary to be effective lawyers. Recognizing that law school leaves many students disillusioned and disengaged, educators are also seeking new ways to help students maintain the sense of purpose and social commitment that originally inspired them to go to law school,

* Professor of Law, Capital University Law School. B.A. 1983, University of the Pacific; J.D. 1986, Boalt Hall School of Law; B.C.L. 1988, Oxford University. I am grateful to all of the students who participated in the Foreclosure Mediation Preparation Project at Capital University Law School, and especially to the three students—Katherine Brewer, David Goulet, and Heather Worthington—who generously gave their time and talents to help administer the project in its pilot year. Capital University Law School supported the preparation of this article with a generous research stipend.

so that it continues to motivate them as students and becomes integrated into their professional identities as lawyers.

Engaging students in pro bono work during law school offers an important way for law schools, and ultimately the legal profession, to address these needs. Law students' participation in pro bono work can help not only in filling the void in legal services, but more importantly, it can acquaint students with the scope and seriousness of America's unmet legal needs, and encourage them to continue pro bono work throughout their careers. It also enables students to start using their legal training to assist people in need, which can help students maintain their passion for justice, learning the law, and helping others. In addition, pro bono activities allow students to work with actual clients, giving students real experience and enabling them to practice essential skills.

Although there is widespread recognition of the importance and benefits of pro bono work in legal education, finding practical ways to involve a broad array of students has been a significant hurdle. A number of schools have opted for mandatory programs and have administered them with success. But most schools have been unwilling or unable to take this step and instead face the challenge of breaking through the multiple barriers that prevent students from volunteering. Many students have overcrowded schedules, are uncertain of how to become involved, or lack confidence in their abilities. At some schools, the opportunities to engage in pro bono work are limited, and the quality of the projects or the supervision that students receive is uneven. As a result, although law schools have stepped-up their pro bono programming, many—perhaps most—students still are not participating.

One part of the solution is to bring pro bono work directly to the students, offering them an accessible, structured opportunity to do meaningful work right at the law school. There are limitations to this approach, which offers fewer opportunities for students to interact with private and public interest lawyers, and a narrow range of legal work. But the benefits of a school-based option are considerable, especially as educators seek ways to engage those students who are eager to serve but hesitant to take the initiative.

This article begins with a discussion of the benefits of including pro bono work in legal education, not only to the clients helped, but also to the students involved and the law schools they attend. The article then looks at the obstacles that deter many students from participating, and suggests that law schools can help to minimize these obstacles by offering students a structured, meaningful opportunity to engage in pro bono work at the law school itself. Finally, the article offers an approach to creating a school-based pro bono program through which students help pro se litigants better understand the court processes that they are preparing to navigate on their own. This type of informational counseling gives students the opportunity to meet with real clients, provide valuable assistance, and practice essential lawyering skills. The article con-

cludes with a description of the Foreclosure Mediation Preparation Project at Capital University Law School, which was built on the model suggested.

II. PRO BONO'S ROLE IN LEGAL EDUCATION

A. The Value of Pro Bono in Law School

1. Encouraging Long-Term Commitment to Pro Bono

Despite its sophistication and good intentions, America's civil legal system is virtually inaccessible for the great majority of low-income individuals. And the problem is expanding outward, significantly affecting those with moderate incomes as well.¹

Our justice system is built on the expectation that litigants will have lawyers.² Court procedures, like the legal rules they support, are complex and intimidating, beyond the ken of most nonlawyers.³ Yet a startling number of Americans simply cannot afford a lawyer to help them with urgent legal problems, and publicly funded legal services are scarce.⁴

Indeed, studies show that over eighty percent of the civil legal needs of low-income people are going unmet,⁵ and perhaps two-thirds of

1. See Deborah Rhode, *Access to Justice: Connecting Principles to Practice*, 17 GEO. J. LEGAL ETHICS 369, 371 (2004) [hereinafter Rhode, *Access to Justice*] (noting that 80 percent of civil legal needs are not met for the poor, and 40–60 percent of civil legal needs are not met for the middle class).

2. See Jessica Davis, *Social Justice and Legal Education: Mandatory Pro Bono Legal Services*, 1 CHARLESTON L. REV. 85, 86 (2006) ("Equal justice is not possible without equal access to the justice system, and access to the justice system is dependent on the ability to obtain legal representation."); Rhode, *Access to Justice*, *supra* note 1, at 372 ("[T]he system has been designed by and for lawyers."); Richard F. Storrow & Patti Gearhart Turner, *Where Equal Justice Begins: Mandatory Pro Bono in American Legal Education*, 72 UMKC L. REV. 493, 494 (2003) (arguing that access to the justice system "depends upon the ability to secure competent legal representation").

3. See Rhode, *Access to Justice*, *supra* note 1, at 402–05 (detailing ways in which the court system is cumbersome and difficult to negotiate for litigants representing themselves).

4. See LEGAL SERVS. CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA 19–22 (2009), http://www.lsc.gov/pdfs/documenting_the_justice_gap_in_america_2009.pdf [hereinafter LSC, JUSTICE GAP 2009] (finding that the ratio of private attorneys to people in the general population is 1:429, whereas the ratio of legal aid attorneys to people in the poverty population is 1:6,415); Reed Elizabeth Loder, *Tending the Generous Heart: Mandatory Pro Bono and Moral Development*, 14 GEO. J. LEGAL ETHICS 459, 462 & n.9 (2001) (citing studies and noting that "by every credible estimate" many people go without legal representation); Storrow & Turner, *supra* note 2, at 494 (noting that in Texas, only 200 attorneys work full-time representing the poor—one for every 15,000 Texans in poverty).

5. In 2009, the Legal Services Corporation (LSC) assessed the extent to which the justice system is meeting the needs of people unable to afford a lawyer. LSC, JUSTICE GAP 2009, *supra* note 4. It found that legal aid programs had to turn away half of the people who sought their help—almost one million cases each year. *Id.* at 9–12. LSC also examined seven different state studies on the legal problems of low-income individuals which were conducted between 2006 and 2009. These studies, which were broadly consistent, found that low-

the needs of those with moderate incomes are unmet as well.⁶ And in the wake of the recession, with unemployment high and state funding for social services shrinking, the number of litigants appearing in court without representation is rising.⁷

As a result, most families in foreclosure have no one to help them save their homes, or at least reduce the pain of leaving them.⁸ Consumers scammed by financial predators are largely on their own. People coping with domestic violence, divorce, child support problems, and other family law issues are almost always left to their own devices.⁹ Literally millions of people who need legal help simply cannot afford it, and must either forgo possible legal remedies or try to navigate their way through a “labyrinthine, inaccessible, and unusable” court system.¹⁰

A problem of this magnitude requires multi-layered solutions, and a variety have been suggested. These proposals range from making the court system more user-friendly for pro se litigants, to enhancing government funding for legal services, to expanding the right of representation into certain civil cases.¹¹ But it is widely agreed that an essential

income households have, on average, 1.3 to 3 legal needs each year, and that only a small percentage—usually less than 20 percent—are handled with the help of a legal aid or private lawyer. The details of the studies and their methodologies are described in the LSC report, *id.* at 13–18, and are highly similar to the findings of nine state studies conducted between 2000 and 2005. *Id.* at 17; LEGAL SERVS. CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA 9–14 (2007), <http://www.lsc.gov/justicegap.pdf>.

6. See Rhode, *Access to Justice*, *supra* note 1, at 397–98 (estimating that middle-income individuals do not take about two-thirds of their civil legal needs to lawyers or the legal system); ABA CONSORTIUM ON LEGAL SERVICES AND THE PUBLIC, LEGAL NEEDS AND CIVIL JUSTICE: A SURVEY OF AMERICANS 17 (1994), <http://www.americanbar.org/content/dam/aba/migrated/legalservices/downloads/sclaid/legalneedstudy.authcheckdam.pdf>.

7. See LSC, JUSTICE GAP 2009, *supra* note 4, at 23–26 (citing and describing studies showing a recent rise in the number of pro se litigants); Rhode, *Access to Justice*, *supra* note 1, at 379–80, 387 (discussing the extent and reasons for the decline in funding to legal aid programs).

8. See Andrea Kupfer Schneider & Natalie C. Fleury, *There’s No Place Like Home: Applying Dispute Resolution Design Theory to Create a Foreclosure Mediation System*, 11 NEV. L.J. 368, 385 (2011) (noting estimates indicate that 90–97 percent of homeowners in Milwaukee County represent themselves in foreclosure cases, and most cases result in default judgments).

9. See Russell Engler, *Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel Is Most Needed*, 37 FORDHAM URB. L.J. 37, 40–41 (2010) [hereinafter Engler, *Self-Representation*] (discussing the high and rising number of pro se litigants in housing, family, and administrative cases, and examining the impact of representation in those areas); LSC, JUSTICE GAP 2009, *supra* note 4, at 25–26 (analyzing data from state studies on unrepresented litigants).

10. Channing Turner, *Tribe: Gap in Justice a Dramatically Understated Crisis*, MAIN JUSTICE (June 18, 2010), <http://www.mainjustice.com/2010/06/18/tribe-gap-in-justice-a-%E2%80%98dramatically-understated%E2%80%99-crisis-2/> (quoting Laurence Tribe who, in a 2010 speech, argued that the “entire legal system is largely structured to be labyrinthine, inaccessible, [and] unusable”).

11. See Rhode, *Access to Justice*, *supra* note 1, at 404–05 (discussing potential reforms to court procedures to make courts more responsive to pro se litigants); *id.* at 415–21 (proposing strategies to make legal services more accessible to moderate income individuals); LSC, JUSTICE GAP 2009, *supra* note 4, at 27–28 (contending that a multifaceted approach is necessary, but increased government funding for legal aid services is key); Engler, *Self-*

piece of any solution is a significant increase in the pro bono work done by the practicing bar.

Motivating the practicing bar to engage in pro bono service, however, is challenging. The American Bar Association's Model Rule of Professional Responsibility 6.1 articulates the broadly held view that "[e]very lawyer has a professional responsibility to provide legal services to those unable to pay," and it sets an annual goal of at least fifty hours.¹² Yet only a small percentage of attorneys engage in substantial pro bono work. Studies indicate that, in most states, less than 30 percent of attorneys do pro bono work, and overall, attorneys average less than one-half hour of pro bono work per week.¹³

Efforts to compel the practicing bar's pro bono contributions through mandatory service requirements have proved politically infeasible, and even proposals for mandatory reporting requirements have met stiff resistance.¹⁴ Public interest advocates are thus working to find new

Representation, *supra* note 9, at 43–44 (discussing the uptick in calls for a civil right to counsel).

12. MODEL RULES OF PROF'L CONDUCT R. 6.1 (2007). The full rule provides: Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:
- (a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:
 - (1) persons of limited means; or
 - (2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and
 - (b) provide any additional services through:
 - (1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;
 - (2) delivery of legal services at a substantially reduced fee to persons of limited means; or
 - (3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

13. Deborah Rhode, *Pro Bono in Principle and Practice*, 53 J. LEGAL EDUC. 413, 429 n.32 (2003) [hereinafter Rhode, *Principle and Practice*] (noting that the "best available research finds that the American bar averages less than half an hour of work per week and under half a dollar per day in support of pro bono legal services"); Larry R. Spain, *The Unfinished Agenda for Law Schools in Nurturing a Commitment to Pro Bono Legal Services by Law Students*, 72 UMKC L. REV. 477, 479 (2003) (reporting that most states have less than 30 percent attorney participation in pro bono, and the percentage is waning).

14. No state has a mandatory service requirement, and only seven states have a mandatory reporting requirement. See *Overview of State Pro Bono Reporting Policies*, AMERICAN BAR ASSOCIATION, http://www.americanbar.org/groups/probono_public_service/policy/reporting_of_pro_bono_service.html (last updated Sept. 12, 2011). For a review of the arguments for and against mandatory reporting of pro bono service, see *id.*; Leslie Boyle,

and innovative ways to encourage attorneys to volunteer for pro bono work.¹⁵ But because delivery of pro bono services hinges on the willingness of lawyers and law firms to provide it, increasing lawyers' understanding of and commitment to the importance of pro bono work is critical to the success of any program.

Law schools are perfectly positioned to start building this commitment.¹⁶ Although more research is needed, preliminary indications and common sense suggest that introducing law students to the value of pro bono will pay dividends down the line.¹⁷ Law school is a highly formative time for students; most law students arrive at law school eager not only to begin their legal training, but also to start using it to help people.¹⁸ Tapping into this eagerness with opportunities to do meaningful pro

Meeting the Demands of the Indigent Population: The Choice Between Mandatory and Voluntary Pro Bono Requirements, 20 GEO. J. LEGAL ETHICS 415, 423–26 (2007). And for a review of the arguments for and against mandatory pro bono service, see Quintin Johnstone, *Law and Policy Issues Concerning the Provision of Adequate Legal Services for the Poor*, 20 CORNELL J.L. & PUB. POL'Y 571, 605–07 (2011); Loder, *supra* note 4, at 462–65.

15. See, e.g., Laurie Barron et al., *Don't Do It Alone: A Community-Based, Collaborative Approach to Pro Bono*, 23 GEO. J. LEGAL ETHICS 323, 324–47 (2010) (describing a collaborative model of delivering pro bono services that involves community-based organizations, law students, and law firms); Jolie L. Justus, *Using Business Strategies and Innovative Practices to Institutionalize Pro Bono in Private Law Firms*, 72 UMKC L. REV. 365, 366–75 (2003) (discussing strategies for encouraging law firms to enhance their pro bono contributions); Jan A. May, *Mapping a Labyrinth to Justice: Lessons and Insights from Innovative Legal Services Delivery Methodologies Implemented in the District of Columbia*, 5 UDC/DCSL L. REV. 79, 83–100 (2000) (outlining a variety of strategies used in the District of Columbia to expand coverage of pro bono cases); Deborah L. Rhode, *Rethinking the Public in Lawyers' Public Service: Pro Bono, Strategic Philanthropy, and the Bottom Line*, 77 FORDHAM L. REV. 1435, 1446–52 (2009) [hereinafter Rhode, *Strategic Philanthropy*] (proposing a more strategic approach to pro bono service by law firms).

16. Storrow & Turner, *supra* note 2, at 498 (noting that law schools have “an extremely important role to play”).

17. See Davis, *supra* note 2, at 86 (“There is a direct correlation between a lawyer’s experiences with pro bono legal services in law school and later decisions to provide pro bono services throughout the lawyer’s career.”); Loder, *supra* note 4, at 490–91 (noting that although there is limited empirical information, surveys of students who participated in mandatory pro bono programs suggest that pro bono experiences in law school may motivate students to continue such work as lawyers); Spain, *supra* note 13, at 480 (“If law students are involved in pro bono activities early in their professional development, it is more likely that they will come to appreciate the rewards offered by public service and continue to render legal services pro bono throughout their careers.”). *But see* Rhode, *Principle and Practice*, *supra* note 13, at 439, 457 (reporting findings from survey of practicing lawyers which found no significant correlation between pro bono requirements in law school and future involvement in pro bono).

18. WILLIAM M. SULLIVAN ET AL., CARNEGIE FOUND. FOR ADVANCEMENT OF TEACHING, EDUCATING LAWYERS 135, 139 (2007) (discussing the pivotal role that law schools play in shaping students’ professional identities and their understanding of their responsibilities as lawyers) [hereinafter CARNEGIE REPORT]; Daisy Hurst Floyd, *Lost Opportunity: Legal Education and the Development of Professional Identity*, 30 HAMLINE L. REV. 555, 556 (2007) (describing law school as “a powerful time of transformation for students”) [hereinafter Floyd, *Lost Opportunity*]; Esther F. Lardent, *Introduction: Symposium on Innovations in Pro Bono Practice*, 72 UMKC L. REV. 295, 298 (2003) (describing law schools as “powerfully transformative institutions”); Spain, *supra* note 13, at 483 (noting that lawyers’ values are “most profoundly shaped during their legal education”).

bono work enables law schools to connect students to the legal needs of Americans who are struggling financially and to the essential role of pro bono work in meeting those needs. It also provides a natural pathway for addressing issues of professionalism, ethical obligations, and the importance of access to justice in a real-world setting.¹⁹

2. Providing Training, Experience, and Inspiration to Students

In addition to encouraging students to make a long-term personal and professional commitment, pro bono activities in law school can also provide valuable training, experience, and inspiration for students. Two recent studies—the *Carnegie Report* and *Best Practices for Legal Education*—have renewed the call for law schools to provide students with a more integrated education, which includes not only legal doctrine but also professionalism and practical skills.²⁰

As law schools work to add more experiential learning to the curriculum, however, it is a significant challenge to supply the clients and cases that enable law students to practice essential skills, such as interviewing, counseling, drafting, and problem solving. Law school clinics and, increasingly, externship programs have successfully used pro bono cases to fill this gap.²¹ But participating in a clinic or externship is a substantial commitment, and opportunities are limited at many schools.²² Providing pro bono options outside of the standard curriculum gives a broader swath of students the chance to work on these critical lawyering skills.²³

19. CARNEGIE REPORT, *supra* note 18, at 128–29, 138–42 (emphasizing the need for law schools to teach the ethical values of the profession and noting that pro bono work can strengthen students' development); ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 26 (2007) [hereinafter BEST PRACTICES] (exhorting law schools to “give more attention to educating students about the importance of providing access to justice”); Deborah L. Rhode, *The Professional Responsibilities of Professional Schools*, 49 J. LEGAL EDUC. 24, 26–30 (1999) (advocating the need for integrating discussion of ethics and professionalism in classes throughout the curriculum).

20. CARNEGIE REPORT, *supra* note 18, at 12–14, 87–125; BEST PRACTICES, *supra* note 19, at 141–57, 165–205.

21. See Davis, *supra* note 2, at 89–90 (recounting the history of pro bono in law school clinics and noting that they fulfill both a skills training and social justice mission); Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997, 997–1011 (2004) (discussing the role of clinical legal education in serving the needs of the poor and teaching students).

22. See Johnstone, *supra* note 14, at 612–13 (discussing how the high cost of clinical courses deters law schools from expanding such offerings).

23. See Loder, *supra* note 4, at 490 (noting that pro bono work offers students “invaluable on-the-job training”); Rhode, *Principle and Practice*, *supra* note 13, at 439 (discussing the need to encourage pro bono work by all students in part because it “helps bridge the gap between theory and practice”); Storrow & Turner, *supra* note 2, at 501–02 (noting that “mastery of lawyering skills cannot take place solely in the classroom” and pro bono introduces students “to the techniques of client interviewing, counseling, and advocacy in a real-world setting”).

Moreover, involving students in pro bono work can keep alive the sense of purpose that originally inspired them to go to law school. “Students come to [law school] wanting to be lawyers. They want work that is meaningful, connects them to others, involves problem-solving and helping people through difficult times, and uses their talents in creative and challenging ways.”²⁴ A growing body of research finds that the traditional law school curriculum, which emphasizes rules and analysis, erodes this sense of purpose, leaving many students disillusioned and disengaged.²⁵ Involving students in pro bono work, where they can begin using their legal training in meaningful ways, can help students maintain their passion for justice, helping others, and law school itself.²⁶

B. Barriers to Student Participation

Recognizing the benefits of pro bono activities in legal education, both the American Bar Association (ABA) and the American Association of Law Schools (AALS) have called on law schools to provide pro bono programming and encourage students to engage in pro bono work.²⁷ The great majority of schools now have programs which facilitate voluntary participation, and just over 20 percent require students to perform some type of pro bono work before they graduate.²⁸

24. Daisy Hurst Floyd, *We Can Do More*, 60 J. LEGAL EDUC. 129, 129 (2010). See also Floyd, *Lost Opportunity*, *supra* note 18, at 564 (elaborating on the importance of nurturing students’ passion for the law); Deborah Maranville, *Infusing Passion and Context into the Traditional Law Curriculum Through Experiential Learning*, 51 J. LEGAL EDUC. 51, 51–56 (2001) (arguing that the traditional law curriculum causes students to lose “much of the passion for justice and enthusiasm for helping other people that were their strongest initial motivations for wanting to become lawyers”).

25. See, e.g., SUSAN SWAIM DAICOFF, *LAWYER KNOW THYSELF* 76–77 (2004) (discussing how law students become less interested in community, intimacy, and personal and intellectual growth, but more rights-oriented and cynical); BEST PRACTICES, *supra* note 19, at 29–36 (reviewing the “clear and growing data that legal education is harmful to the emotional and psychological well-being of many law students”).

26. Floyd, *Lost Opportunity*, *supra* note 18, at 564 (arguing that legal education must include the relational aspects of lawyering, which requires students to have interactions with clients); Rhode, *Principle and Practice*, *supra* note 13, at 439 (noting that pro bono can “help students sustain the commitments to social justice that led them to a legal career in the first instance”). For discussions of how volunteering benefits the volunteer as a student in the classroom and as an individual, see Maranville, *supra* note 24, at 51–57; Rhode, *Principle and Practice*, *supra* note 13, at 416; John Wilson & Marc Musick, *The Effects of Volunteering on the Volunteer*, 62 LAW & CONTEMP. PROBS. 141, 141–68 (1999).

27. STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHS. 302(b)(2) (2011), available at http://www.americanbar.org/content/dam/aba/migrated/legaled/standards/20072008StandardsWebContent/Chapter_3.authcheckdam.pdf (“A law school shall offer substantial opportunities for student participation in pro bono activities.”); ASS’N OF AM. LAW SCHS., *LEARNING TO SERVE: THE FINDINGS AND PROPOSALS OF THE AALS COMMISSION ON PRO BONO AND PUBLIC SERVICE OPPORTUNITIES* 7 (1999), available at <http://www.aals.org/probono/report2.html#findings> (recommending that “law schools make available to all law students at least once during their law school careers a well-supervised law-related pro bono opportunity and either require the students’ participation or find ways to attract the great majority of students to volunteer”).

28. See ABA Standing Comm. on Pro Bono and Pub. Service, *Chart of Law School Pro Bono Programs* (June 24, 2011), <http://apps.americanbar.org/legalservices/probono/law>

The key measure, though, is not the number of programs, but rather the quantity and quality of student participation, which remain disappointingly low. Estimates indicate that, despite increased focus on pro bono programming, many—perhaps most—students do not engage in pro bono work during law school.²⁹

Given all of the benefits, why are so few students getting involved? The obstacles to participation are familiar, and they deter not only law students but, in slightly different iterations, practicing lawyers and faculty as well. Students are busy. Their academic course load is demanding and time consuming. Family responsibilities, outside work obligations, and other extracurricular activities leave even less time for additional commitments. In addition, students are often uncertain, both of themselves and the work. They are unsure whether they have the skills to help, what will be expected, and whether it will be worth their time. Some are even unsure of how to get involved. Although the addition of pro bono programs and coordinators at law schools has helped in this regard, opportunities remain limited at many schools, and the quality of placements, projects, and on-site supervision is often mixed.³⁰

These factors make it easy for students to intend to participate but never quite manage to, especially when there is little or no expectation that they do so.³¹ Yet students are genuinely eager to do pro bono

schools/pb_programs_chart.html. Of the 176 law schools, 39 require students to engage in some level of pro bono, public service, or community service in order to graduate; 118 have formal voluntary programs; and, 19 rely on independent student group pro bono projects. *Id.* See also Rhode, *Principle and Practice*, *supra* note 13, at 436–37 (describing the different types of law school pro bono programs).

29. See CARNEGIE REPORT, *supra* note 18, at 138 (noting that, although most law schools “offer their law students some organized opportunity to take part in pro bono work,” there is considerable variation in the importance accorded pro bono efforts); Rhode, *Principle and Practice*, *supra* note 13, at 438 (noting that, in 1999, the AALS commission concluded that the majority of students finished law school without doing any pro bono work, and although some schools have strengthened their programs, as of 2003 “no evidence suggests that voluntary student involvement rates have changed dramatically”).

30. See CARNEGIE REPORT, *supra* note 18, at 39 (finding that a good pro bono experience can significantly influence a student’s long term commitment to public service, but about one-fifth of the students surveyed had negative experiences with pro bono, and recent graduates ranked pro bono at the bottom of law experiences they found useful in preparing for practice); Rhode, *Principle and Practice*, *supra* note 13, at 437–38 (noting that despite the “growth in institutional support, many law schools’ programs have left much to be desired” and that the “vast majority of schools remain a considerable distance from meeting the [AALS] recommendation that every institution ‘make available to all students at least [one] well-supervised law-related pro bono opportunity’”). *Cf.* Rhode, *Strategic Philanthropy*, *supra* note 15, at 1442–44 (discussing problems with existing pro bono programs in law firms, where junior associates frequently have limited choices, lack of experience in the relevant areas, and inadequate supervision).

31. See generally CARNEGIE REPORT, *supra* note 18, at 139 (“[T]he curricular emphasis on analysis and technical competence at the expense of human connection, social context, and social consequences is reinforced by the broader culture in most law schools.”); Barron et al., *supra* note 15, at 331 (noting that integration of pro bono into the mission of the law school is critical); Spain, *supra* note 13, at 480–84 (discussing the need for law schools to do more to create a culture of commitment to pro bono service); Deborah L. Rhode,

work—whether to help people, gain experience, or both—and if law schools were to minimize the obstacles, more students would become involved.

The next section discusses how schools can create a pro bono opportunity at the law school itself that offers students meaningful work, which can be done in manageable blocks of time with training, supervision, and feedback. The approach suggested—having students provide informational counseling to pro se litigants on what to expect at their upcoming court appearances—helps fill a need both for the litigants and the students who meet with them. Moreover, providing this type of opportunity in addition to the more traditional off-campus placements can be done with modest resources, and it can open the door to pro bono for students who otherwise would not participate.

III. BRINGING PRO BONO TO LAW STUDENTS

In designing a pro bono program strategically to accommodate the needs and interests of law students, the goal is not to make the work itself easy or to lower expectations about quality or professionalism. Rather, it is to make it easy for students to get involved in the first place so that they experience the value of doing pro bono work, realize the importance of their own contribution, and learn that they can and should incorporate pro bono into their busy schedules, both as students and eventually as lawyers.

Research on volunteerism suggests that individuals are more likely to contribute if they feel that they have the time and the competence to help, their efforts will be effective, and they have personal involvement with the people whom they are assisting.³² Other factors can influence potential volunteers' willingness as well, including whether they receive a specific request to help, whether they see that others (particularly those they look up to) are volunteering, and whether the work offers them other benefits, such as learning new skills, making professional contacts, or enhancing their reputation.³³

Building a pro bono opportunity around these factors can make it easier and more attractive for students to participate. In the sections below, the article suggests a general model that fits the profile, and then describes in greater detail a specific program through which law students have been helping homeowners prepare to represent themselves in foreclosure mediation.

Essay: The Pro Bono Responsibilities of Lawyers and Law Students, 27 WM. MITCHELL L. REV. 1201, 1214–15 (2000) [hereinafter Rhode, *Pro Bono Responsibilities*] (contending that legal ethics and professional responsibility are not well integrated into the law school curriculum, which is divorced from broader concerns of social justice and responsibility).

32. See Deborah L. Rhode, *Cultures of Commitment: Pro Bono for Lawyers and Law Students*, 67 FORDHAM L. REV. 2415, 2430–31 (1999) [hereinafter Rhode, *Cultures of Commitment*] (providing an excellent review of the factors that affect individuals' likelihood of volunteering).

33. See *id.*

A. Setting Up a Pro Bono “Clinic” at the Law School to Help Pro Se Litigants

The key to creating a pro bono opportunity that will attract a wide range of students is, of course, to find the right niche, something that offers students meaningful work that draws on their legal education, is convenient and manageable in scope, delivers training in practical skills, and offers real experience working directly with clients. Finding this niche is complicated by the fact that the work cannot involve students in the “practice of law,” but needs to give them the opportunity to work with clients on law-related matters in ways that employ the skills of a lawyer.³⁴

Helping to fill the knowledge gap for pro se litigants attempting to traverse the legal system on their own is a role that nicely fits these parameters. With millions of average Americans unable to afford an attorney to help with pressing legal needs, the number of litigants representing themselves has increased dramatically.³⁵ Indeed, the problem now pervades the civil justice system; for example, studies indicate that at least one of the litigants is unrepresented in upwards of 75 percent of family law cases and 90 percent of domestic violence and eviction cases.³⁶ Yet court procedures—notoriously arcane and intimidating—are unfamiliar to most pro se litigants, and court personnel are generally ill-equipped to assist them.³⁷

Providing basic information to pro se litigants on how a court process works, however, is a role ideally suited to law students. With a few hours of training on, and observation of, the local procedures in an area, law students can be ready to provide individual litigants with helpful information ranging from how the process works, to what litigants need to prepare in advance, to logistics for the day of the hearing,

34. See Derek A. Denckla, *Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters*, 67 *FORDHAM L. REV.* 2581, 2581, 2585–93 (1999) (noting that every state prohibits nonlawyers from practicing law, and providing an overview of unauthorized practice rules, their interpretation, and enforcement).

35. See *supra* notes 1–10 and accompanying text (discussing the increasing number of people unable to afford legal help and instead representing themselves).

36. LSC, *JUSTICE GAP 2009*, *supra* note 4, at 25–26 (providing data from multiple state studies on unrepresented litigants). Although the data on unrepresented litigants is most striking in the family law and housing cases, the problem goes well beyond those areas. For example, a New Hampshire study of its courts found that in 85 percent of all civil cases in the district court, and 48 percent of all civil cases in the superior court, one litigant was pro se. *Id.*

37. See Russell Engler, *And Justice For All—Including the Unrepresented Poor: Revisiting the Roles of the Judges, Mediators, and Clerks*, 67 *FORDHAM L. REV.* 1987, 1987–94 (1999) (discussing the restrictions that prevent court personnel from assisting unrepresented litigants); Johnstone, *supra* note 14, at 635–38 (describing the limits on the assistance that court personnel can provide to pro se litigants); Rhode, *Access to Justice*, *supra* note 1, at 372 (“[T]he system has been designed by and for lawyers, and too little effort has been made to ensure that it is fair or even comprehensible to the average claimant.”); *id.* at 399 (describing the lack of services available at courts to help unrepresented litigants).

such as where they should park, what they should bring, and how much time they should allocate.

This information-delivering role does not require students to give legal advice, so does not run afoul of unauthorized practice rules.³⁸ But it does give students the opportunity to meet with real clients, learn about their problems, and counsel them about legal matters. Through these meetings, law students will gain experience in essential lawyering skills as they talk with clients, answer questions, and conduct themselves as professionals. And if the meetings—which typically would last for about an hour—are held at the law school, then students will find them convenient and manageable, and will be able to participate at varying levels depending on their schedules. Providing this flexibility should eliminate, or at least minimize, the greatest barrier to participation—being too busy—which should in turn encourage a wider array of students to participate.³⁹ The flexibility should also encourage faculty involvement, which would help not only with the critical tasks of supervising and providing feedback to students, but also in recruiting students and signaling institutional commitment.⁴⁰

Moreover, this type of pro bono assistance is meaningful for litigants and rewarding for students.⁴¹ Unrepresented litigants are extremely appreciative, and although informational counseling does not provide pro se litigants with what they need most—legal representation—it is nonetheless valuable in helping to reduce their uncertainty

38. See, e.g., WASHINGTON STATE COURT RULES OF GEN. APPLICATION R. 24, http://www.courts.wa.gov/court_rules/?fa=court_rules.rulesPDF&groupName=ga&pdf=1 (specifying that Washington's prohibition against unauthorized practice of law shall not "affect the ability of a person or entity to provide information of a general nature about the law and legal procedures to members of the public").

39. See *supra* Part II.B and notes 16–19 (discussing barriers to participation and the value of exposing more students to the personal and professional benefits of engaging in pro bono activities).

40. See Rhode, *Principle and Practice*, *supra* note 13, at 423 (suggesting that "[e]nlisting well-respected practitioners and faculty as mentors and role-models" can help to attract students to pro bono activities); *id.* at 420 (emphasizing the importance of "social networks" and "moral reference groups" in "encouraging or discouraging individuals to act on altruistic impulses"). For a discussion of how faculty involvement in recruiting, training, and supervision of students can increase the attractiveness of pro bono opportunities, see Rhode, *Cultures of Commitment*, *supra* note 32, at 2431 (noting that individuals "who receive a specific request for aid have much higher rates of participation than those who do not"); *id.* at 2430–31 (noting that "[i]ndividuals are more likely to contribute if they feel competent to help" and "[a]dequate training can help ensure that individuals feel competent to offer services"); cf. CARNEGIE REPORT, *supra* note 18, at 139 (reporting that students who had negative experiences with pro bono work frequently attributed it to lack of faculty supervision or interest).

41. See Engler, *Self-Representation*, *supra* note 9, at 67–73 (describing studies of several pro se clinics, self-help centers, and hotlines, all of which found very high levels of customer appreciation and satisfaction); Rhode, *Cultures of Commitment*, *supra* note 32, at 2430–31 (discussing the importance of feeling effective to a person's willingness to volunteer).

and anxiety about what lies ahead.⁴² It may also boost their confidence, so they are more likely to carry through with their court appearance rather than simply staying away.

A school-based pro bono “clinic” that provides informational counseling thus aligns neatly with the factors that facilitate volunteering. It offers students the opportunity to perform a valuable service that draws on their legal education and allows them to work directly with people in need. Students can feel competent to provide the service with a reasonable amount of training, and they can fit the work into their busy schedules with relative ease. Meeting with clients will enable students to practice important lawyering skills with supervision and feedback, and will also help them bridge the divide between classroom theory and real-world practice.

In addition, this form of pro bono service seems especially well-targeted to familiarizing law students with the value and importance of pro bono work. Not only will they interact personally with people who cannot afford a lawyer, students will also see firsthand the significance of the legal problems and the inadequacy of sending pro se litigants into the legal system alone. In other words, the very process of assisting people prepare to represent themselves should help bring home to students the need for lawyers to step up and provide that representation.

This model could be employed in a variety of subject areas or a variety of courts including, for example, foreclosure mediation, small claims, family law, and housing.⁴³ In any area, however, collaboration with the courts and the other legal and community organizations working in the process is essential⁴⁴ so that the program both complements services already available and helps to ease the pressure on the courts.⁴⁵ Working in concert with the courts and other participants can also provide a valuable pipeline for clients who otherwise can be frustratingly difficult to reach.

Collaboration offers other extrinsic benefits to the law school as well. It engages the law school in the community in a visible and appeal-

42. See Engler, *Self-Representation*, *supra* note 9, at 72–73 (discussing the limitations of such programs, which early assessments suggest help reduce confusion and fear, but may only marginally improve outcomes).

43. The Volunteer Income Tax Assistance (VITA) program, through which students at law schools across the country help disadvantaged individuals prepare their income tax returns, follows a similar model. See IRS, VOLUNTEER SITE COORDINATOR'S HANDBOOK (2006), available at <http://www.irs.gov/pub/irs-pdf/p1084.pdf>.

44. See Barron et al., *supra* note 15, at 325 (echoing the growing calls for collaborative partnerships among law schools, community organizations, and private law firms); Rhode, *Cultures of Commitment*, *supra* note 32, at 2444–45 (same); Spain, *supra* note 13, at 491 (same). For examples of successful collaborations, see Barron et al., *supra* note 15, at 335–47 (describing the community-based, collaborative approach to pro bono instituted at Roger Williams University Law School); Rhode, *Access to Justice*, *supra* note 1, at 395–96 (providing several examples of collaborative efforts among law students, lawyers, community organizations, and health professionals).

45. See Engler, *Self-Representation*, *supra* note 9, at 73 (citing a study showing that self-help programs help courts to be more efficient).

ing way. It creates good will among community leaders, alumni, and prospective students. And it enables the law school to build partnerships with courts, public interest organizations, and lawyers, which in turn offer students opportunities to make professional connections.⁴⁶

Three categories of resources are needed to establish a program of this nature: administrative assistance for scheduling appointments and keeping records, supervisory help for training and supervision of students, and physical space for client meetings. The cost will vary depending on the size and scope of the program, but many of the administrative and supervisory tasks can potentially be done on a volunteer basis.⁴⁷

The next section provides a more detailed description of Capital University Law School's informational counseling program for pro se litigants who are preparing for foreclosure mediation. As discussed below, in addition to helping homeowners, the program has attracted considerable student interest, produced a successful and ongoing collaboration with multiple community partners, and created significant goodwill for the law school.

B. The Foreclosure Mediation Preparation Project at Capital University Law School

During the 2010–2011 academic term, Capital University Law School started a pro bono program that offers students the opportunity to help homeowners prepare for their foreclosure mediations. The student response has been overwhelmingly positive, with almost fifty students participating in the first year.

Through the program, students meet with homeowners who are representing themselves in foreclosure mediation. As in many states, the foreclosure crisis hit Ohio hard. In 2008, the Ohio courts began a foreclosure mediation program to help the parties in foreclosure cases resolve their disputes through mutual agreement.⁴⁸ In a foreclosure mediation, the parties—typically the homeowner and the lender or servicer on the mortgage—meet with a court mediator to engage in a supervised negotiation.⁴⁹ Franklin County, where Capital's law school is

46. See Rhode, *Pro Bono Responsibilities*, *supra* note 31, at 1213 (noting that pro bono programs offer opportunities for cooperation with bar organizations, for outreach to alumni, and for fundraising, recruitment, and goodwill).

47. See *id.* at 1214 (arguing that law school administrations “need to provide adequate resources, recognition, and rewards for public service”).

48. *Foreclosure Mediation Program Model Overview*, THE SUP. CT. OF OHIO & THE OHIO JUD. SYS., <http://www.supremecourt.ohio.gov/JCS/disputeResolution/foreclosure/overview.asp> (last visited Sept. 29, 2011) (describing the Ohio foreclosure mediation model, which allows individual counties flexibility to tailor their programs to fit their specific needs).

49. See Sharon Press, *Mortgage Foreclosure Mediation in Florida—Implementation Challenges for an Institutionalized Program*, 11 NEV. L.J. 306, 308–42 (2011) (discussing Florida's foreclosure mediation program); Schneider & Fleury, *supra* note 8, at 372–75 (describing Milwaukee's foreclosure mediation process and how a foreclosure mediation session typically functions).

located, has a highly structured program that conducts mediations in approximately 1,000 foreclosure cases each year.⁵⁰

Not surprisingly, in the great majority of these cases homeowners do not have attorneys to represent them.⁵¹ One of the key challenges has thus been how to help pro se homeowners prepare for their mediations. In most cases, housing counseling agencies are available to assist the homeowners in putting together their financial information.⁵² But most homeowners have little or no familiarity with the legal process itself; they do not know what mediation is or how it works and, indeed, many incorrectly assume that they will be appearing at a formal court proceeding in which the judge might order them to vacate their home that day.⁵³ Moreover, effective foreclosure mediation requires homeowners to supply their current financial information to the lender (or its attorney) in advance of the mediation, so that the lender can assess whether the homeowner qualifies for a loan modification or other assistance. Yet homeowners are often uncertain about, or not focused on, sending the information beforehand, which frequently causes their mediations to be unproductive or rescheduled.⁵⁴ This results in frustration and wasted resources not only for the parties, but for the court as well. And some homeowners might not be given a second chance, or might not be willing to pursue it even if a follow-up mediation is offered.⁵⁵

Working closely with the courts and the other organizations involved in the process, Capital set up a pro bono program to help pro se homeowners better understand what mediation is, and what they need

50. See Elizabeth Gibson, *Foreclosure Mediation Can Help*, COLUMBUS DISPATCH, May 15, 2011, http://www.dispatch.com/live/content/local_news/stories/2011/05/15/foreclosure-mediation-can-help.html (providing statistics on the Franklin County Foreclosure Mediation Project's work for 2009–2010).

51. See Schneider & Fleury, *supra* note 8, at 375, 386 (noting that, despite the efforts of various legal assistance and community-based organizations, the vast majority of homeowners go through the foreclosure mediation process without legal counsel); cf. Shana H. Khader, *Mediating Mediations: Protecting the Homeowner's Right to Self-Determination in Foreclosure Mediation Programs*, 44 COLUM. J.L. & SOC. PROBS. 109, 134–43 (2010) (discussing homeowners' need for legal guidance prior to foreclosure mediation).

52. Housing counseling agencies, which are approved and funded by the Department of Housing and Urban Development (HUD), provide free assistance in organizing financial materials and seeking financial help to homeowners threatened with foreclosure. See Schneider & Fleury, *supra* note 8, at 370, 383 (discussing the important role of housing counselors in the foreclosure mediation process); Stephanie Armour, *Housing Counselors Take Front Line of Crisis*, USA TODAY, Jan. 11, 2011, http://www.usatoday.com/printedition/money/20091015/counseling15_st.art.htm (discussing the work of housing counseling agencies in the foreclosure crisis).

53. Party self-determination is one of the defining characteristics of mediation which, unlike a standard court proceeding, “is a process in which an impartial third party facilitates communication and negotiation and promotes voluntary decision making by the parties to the dispute.” MODEL STANDARDS OF CONDUCT FOR MEDIATORS Preamble (2005), available at http://www.americanbar.org/content/dam/aba/migrated/dispute/documents/model_standards_conduct_april2007.authcheckdam.pdf.

54. See Schneider & Fleury, *supra* note 8, at 373 (discussing the need for lenders to receive homeowners' financial information prior to mediation).

55. See *id.* (discussing differences in lenders' willingness to reschedule mediations).

to do to prepare for it.⁵⁶ Through the program, students meet individually with homeowners shortly before their mediations. At each meeting, the student explains how mediation works, and what the homeowner can expect to happen on the day of his or her mediation. The student also inquires about the steps that the homeowner has already taken to prepare for the mediation and identifies what the homeowner still needs to do in advance of the mediation. In addition, the student provides logistical information—when to arrive, where to park, what to bring, who else can participate—and describes the types of questions that homeowners typically ask during foreclosure mediation.⁵⁷ During the meeting, the student also answers any questions that the homeowner has (or refers the homeowner to other resources) and provides the homeowner with follow-up materials in writing.

In designing the program, Capital sought to facilitate students' ability and willingness to volunteer by making participation manageable and convenient; providing training, supervision, and feedback; and, offering students the opportunity to interact directly with clients. To make the work convenient for students, the meetings are held inside the Law School's Public Interest Center, which is located right in the law building. Students sign up in advance for appointment times through an online scheduling system. Appointments are set for one hour (most meetings take about forty-five minutes), and the times are designed to accommodate the students' class and work schedules (most appointments are around the lunch hour, before evening classes, and on Saturday mornings).⁵⁸ To make the meetings convenient and manageable for the homeowners as well, they are invited to do the meetings by telephone. Most choose this option, although some prefer to meet in person at the Law School.

To ensure that the students are (and feel) competent to do the work, they receive approximately seven hours of training. Most of the training is done at the Law School, and it includes three components: a classroom session which covers substantive material on mediation, foreclosure, the unauthorized practice of law, and professionalism; a simulated counseling session, which is done with a professor in small groups of one to four; and a trip to the courthouse to observe a foreclosure med-

56. In setting up and administering the program, Capital has worked closely with the Franklin County Foreclosure Mediation Project at the Court of Common Pleas, the Ohio Supreme Court, the Ohio Attorney General's Office, the Franklin County Treasurer's Office, the Ohio Poverty Law Center, the Equal Justice Foundation, the Legal Aid Society of Columbus, and the five HUD-approved housing counseling agencies in Franklin County. For a discussion of the importance of collaboration among all participants in the foreclosure mediation process, see Schneider & Fleury, *supra* note 8, at 377–79.

57. In conducting the meetings, students work from a script, which helps ensure both that the student will cover the critical information, and that he or she will not stray into providing legal advice. The script was written with input from the many state and community agencies that are involved in the foreclosure mediation effort in Franklin County. See *supra* note 56 (listing the agencies).

58. See Rhode, *Cultures of Commitment*, *supra* note 32, at 2430–31 (“Individuals are more likely to contribute if . . . they have sufficient time and resources.”).

iation. Students must complete all aspects of the training before meeting with a homeowner.⁵⁹

To enhance the educational value for students, a supervisor (generally a professor) is present at all meetings. During each meeting, the supervisor is available to answer the student's questions, and afterward, the supervisor provides feedback to the student and discusses any concerns or problems the student may have.⁶⁰ These meetings present the first opportunity that many of the students have to work directly with a client, and their performance improves dramatically as they gain experience and confidence.⁶¹

Moreover, for many students, these meetings are their first encounter with people who are struggling with profound financial and legal problems, and who are confused and frustrated by a legal system that they must traverse but do not understand. During the meetings, homeowners usually want to talk about the circumstances that led to the foreclosure. That conversation provides students a window into personal tragedies—often involving job loss, health crises, divorce, or death of a spouse—which themselves present a host of legal problems that the homeowners, who either never could or no longer can afford an attorney, must somehow solve on their own. Homeowners are also extremely appreciative of the students' help, giving students a tangible sense that their time was valuably spent and that they used their legal training to help someone.⁶²

Administration of the program primarily requires scheduling appointments and record keeping, much of which can be done with student workers and volunteers. The single biggest challenge at Capital has been scheduling homeowners, most of whom are reluctant to answer the telephone or open the mail because they have been overwhelmed and alienated by debt collectors and scammers.⁶³ The court and community-based organizations have provided essential help in funneling homeowners to the program, and the Law School reaches out to them as well.

59. See *id.* at 2430–31 (“Individuals are more likely to contribute if they feel competent to help . . . Adequate training can help ensure that individuals feel competent to offer services.”).

60. During Capital's first year, a professor supervised the great majority of appointments, and every student's initial appointment. Supervision could also be shared among other volunteers, both on staff at the law school and in the legal community.

61. See Rhode, *Cultures of Commitment*, *supra* note 32, at 2430 (noting that individuals are more likely to volunteer when the “work presents opportunities to gain knowledge, skills, and personal contacts”).

62. See *id.* at 2431 (noting that the “chances of involvement similarly increase when individuals are asked to focus on others' needs and their own ethical obligations, or when they are given some direct personal exposure to the misery of others”).

63. See, e.g., Jim Weiker & Mark Williams, *Counseling Offers Often Unheeded, Banks Say*, COLUMBUS DISPATCH, June 26, 2011, http://www.dispatch.com/live/content/local_news/stories/2011/06/26/counseling-offers-often-unheeded-banks-say.html (discussing reasons why it is difficult for lenders to reach homeowners who have defaulted on their loan).

The students' enthusiasm and dedication, on the other hand, has made administration of all student-related aspects of the program easy.⁶⁴

A program of this nature could easily be replicated,⁶⁵ not only for pro se litigants preparing for foreclosure mediation, but in other areas, such as small claims, family, and housing matters. Creating such a program offers many benefits to a law school. The foreclosure mediation project, for example, enabled Capital to draw more students to pro bono work, and also to provide a new opportunity for students to acquire training and experience in meeting with clients. In the first five months of the program, students met with over 230 homeowners, with each student handling, on average, about five appointments. The program also engaged Capital in significant community service, helped it develop valuable partnerships,⁶⁶ and brought it considerable positive publicity, both regionally and nationally.⁶⁷

IV. CONCLUSION

With millions of Americans unable to afford an attorney to help with pressing legal problems, the number of unrepresented litigants attempting to negotiate a complicated and confusing legal system on their own is rising sharply. As resources dwindle for legal aid programs, and the courts themselves remain tightly limited in their ability to help pro se litigants, the legal profession must find more effective ways to motivate attorneys to provide pro bono help.

Law schools are uniquely situated to introduce rising lawyers to the importance of pro bono work, and to foster a sense of commitment and professional obligation to it. Engaging students in pro bono work also helps law schools make headway on enhancing skills training and helping students maintain the sense of purpose that originally inspired them to pursue a legal career. Yet for a host of reasons—overstuffed schedules, economic constraints, uncertainty, limited opportunities—too few students are engaged in pro bono service during law school.

Specifically designing a program to offer students meaningful pro bono work that is educationally valuable, convenient, and manageable

64. In the first year of Capital's program, participating students volunteered their time pro bono. Although they did not earn class credit, their hours counted towards Pro Bono Recognition Honors at graduation, which are awarded to students who have done at least fifty hours of pro bono work during law school. In its second year, the program was incorporated into an Interviewing & Counseling class, for which students earned credit.

65. A more detailed program model and materials for the Capital project are available from the author.

66. See *supra* note 56 (listing the organizations with which Capital has collaborated).

67. The program was featured on the front page of the area's leading newspaper, see Jim Weiker, *Law Students Help Ease Foreclosure Worries*, COLUMBUS DISPATCH, Mar. 14, 2011, http://www.dispatch.com/live/content/local_news/stories/2011/03/14/law-students-help-ease-foreclosure-worries.html, and it received broad attention through a widely distributed Associated Press story, see, e.g., *Law Students Help Foreclosed Home Owners*, INTERNATIONAL BUSINESS TIMES, May 22, 2011, <http://www.ibtimes.com/articles/125568/20110322/law-students-help-foreclosed-home-owners.htm>.

can help law schools attract more students to pro bono. This article suggested an approach to creating such a program, through which students meet with pro se litigants to help them better understand and prepare for their upcoming encounters with the legal system. At Capital University Law School, a program built on this model for unrepresented homeowners facing foreclosure mediation has enabled a broad array of students to participate, introducing them to the personal and professional value of pro bono work, and providing them with practical training in essential lawyering skills.

