



Legal Practitioners:

A Statement of Principles
for Civil Legal Services



People who have low income do not receive any or enough help with 92 percent of their civil legal problems. Those who must navigate legal systems alone have quantifiably worse outcomes, often in cases affecting their most important human needs. In order to narrow this justice gap,¹ a number of jurisdictions have considered or implemented rule changes to expand the ability of people who are not attorneys (practitioners)² to provide help to people with their civil legal problems. Some of these measures have demonstrated positive results, and this type of assistance is already effective in some administrative contexts and in many tribal courts. NLADA recognizes the need to expand access to justice and supports innovative solutions to do so, although NLADA is opposed to any particular reform that would cause harm to low-income communities. Therefore, NLADA shares the following principles to help inform consideration of these types of reforms:

1. Legal aid organizations and client communities should have the opportunity to be legitimately engaged in decision-making throughout the design, implementation and evaluation of reforms.

Reforms will only be effective at expanding access to justice³ if they are designed intentionally for that purpose. Legal aid organizations have expertise and experience in poverty law that can help shape the development of effective reforms. Client communities have lived experience and the ability to explain their needs and preferences directly. These groups have extensive knowledge about the problems experienced by people with low income and their communities, and about the gaps in the delivery of legal services to people with limited resources.⁴ Failing to incorporate these perspectives in the development of reforms, or not addressing potential problems they identify, should raise serious questions about the true objectives of reform and concern about its likely outcomes.

¹ NLADA's interest is limited to reforms that affect access to justice for people with limited financial resources. This includes both the provision of free legal help, and paid legal help in the types of matters with which legal aid organizations would provide assistance but for their limited resources or client eligibility prioritizations. NLADA does not take a position on other types of legal regulatory reforms, except to the extent that their target consumers overlap with the legal aid client population. Licensed paraprofessionals, for example, may provide legal services to people with moderate income levels and to people with limited resources.

² This document uses "practitioner" to describe any individual who is not a licensed attorney and who is engaged in activity that a state would consider the practice of law absent a rule change. Existing examples of these individuals include community justice workers and licensed paraprofessionals.

³ NLADA believes expanding access to justice means not only that people have access to legal services, but that the quality of these services are not dependent upon ability to pay.

⁴ There is also likely to be value in involving other community-based organizations that have experience providing services to low-income people.



While market-based approaches could potentially play a role in expanding access to justice, simply deregulating the practice of law and expecting consumer preferences to drive the development of adequate products and services, without carefully designed client-centered structures and practices, will not adequately meet the needs of those with limited or no ability to pay.

2. Scope of practice should be tailored to each community and clearly outlined to practitioners, clients and the public.

Local stakeholders with experience and knowledge of their jurisdiction's systems and laws should guide decisions on the types of matters and cases it would be appropriate for practitioners to handle, and the clients it would be appropriate for practitioners to serve. Practitioners must understand the parameters of their specialization, practice within that defined scope, and be given clear guidance about when a referral to an attorney is necessary. Limitations on scope of practice should also be communicated clearly to clients in a way that is accessible and understandable to them. Jurisdictions that utilize practitioners should engage other stakeholders to promote the legitimacy of the model and professionalism of the practitioner, and they should also pursue a robust public education campaign on the availability and limits of these services.

3. Training and experience requirements should be designed to provide required skills and knowledge, without creating arbitrary barriers to entry.

The specific training and work experience required of practitioners depend on the types of tasks and matters they handle. Training program design and delivery should involve substantive law experts, people who have lived experience of legal problems, and where practicable, experts in adult learning. Training content should include any relevant law and procedure, ethics including client confidentiality and conflicts of interest, skills related to client-centered communication and practice, and holistic and trauma-informed service delivery. Jurisdictions should ensure that practitioners become adequately specialized in the particular roles for which they are training, receive sufficient continuing education, and have access to ongoing support and resources. Jurisdictions should also recognize and credit practitioners for nontraditional experience. Jurisdictions should make the cost of training affordable to participants, utilize evidence-based training resources, and ensure that any requirement is a genuine necessity, in order to minimize barriers to entry that can limit the diversity of the practitioner workforce or undermine the viability of the program.



4. Supervision, oversight and discipline structures should promote quality services and accountability.

Supervision or oversight is necessary to ensure practitioners provide high-quality, competent services. In some practitioner models, legal aid organizations or law firms are the entity responsible for practitioner oversight, including determining the scope of work, hiring and recruiting and training practitioners, providing supervising attorneys, and covering the practitioners under the entity's malpractice insurance. In this model, practitioners might be employees or volunteers with the legal entity, or a community-based organization with attorney supervision. Jurisdictions that operate this model should consider its effect on a nonprofit organization's already limited resources, such as by developing new funding sources for this work.

Alternative models include practitioners operating independently or within community-based organizations not affiliated with legal aid programs or law firms. These practitioners may not have attorney supervision, in which case more robust oversight and accountability, similar to that which is required of attorneys, is necessary to prevent harm and ensure competence. Options include organizational supervision, oversight by a licensing entity, reporting and monitoring of case outcomes and client satisfaction, coverage by malpractice insurance, and/or mechanisms for clients to report harm or misconduct. It is important that practitioners inform prospective clients of the relevant complaint process, and that this process is straightforward to navigate. Entities responsible for enforcing unauthorized practice of law (UPL) rules should provide clear distinctions between practitioners providing allowable services and people who are engaged in UPL.

5. Practitioners should be committed to cultural competency and to the communities they serve.

The delivery of high-quality, competent legal services requires knowledge about and commitment to the clients served. Jurisdictions should formally and measurably prioritize creating and promoting opportunities to become practitioners for individuals within the communities they would serve, and compensate the people in those positions appropriately. Practitioners with genuine personal and professional connections to a community are likely to be more trusted by clients from that community. These individuals are more likely to have sufficient cultural competence and an understanding of the distinct needs that people within the community have. Practitioners connected to communities may also have valuable knowledge about formal and informal community resources, such as social-service providers, to which they can refer their clients. Training and education for practitioners should include a focus on client-centered, community-based practices.



6. Data collection and reporting should be transparent, include clients served, and involve rigorous evaluation and iteration.

Jurisdictions that utilize practitioners should collect, report transparently, and analyze data about their effectiveness to determine whether they are equitably expanding access to justice and if not, whether adjustments or discontinuation of their use might be necessary. Determinations about which data to collect and approaches to evaluating that data should be made in consultation with experts in program evaluation and with client communities. Some data that may be part of a robust evaluation framework, at least in the early stages of a program during which the effectiveness of the concept is proven, include: legal, financial, and social outcomes for clients relative to existing services, survey data on satisfaction collected from clients, independent analysis of legal work done by practitioners, and complaints made by clients against practitioners.

Data should also be collected regarding training and supervision of practitioners, the settings in which they work, and the extent to which they are representative of the communities they serve. Data collection, evaluation and reporting should be used to inform improvements that further expand access to justice. Jurisdictions should utilize data already being collected by entities involved, and avoid burdening legal services organizations with the responsibility for additional data collection, or alternatively make available additional resources to those organizations for data-gathering purposes.



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