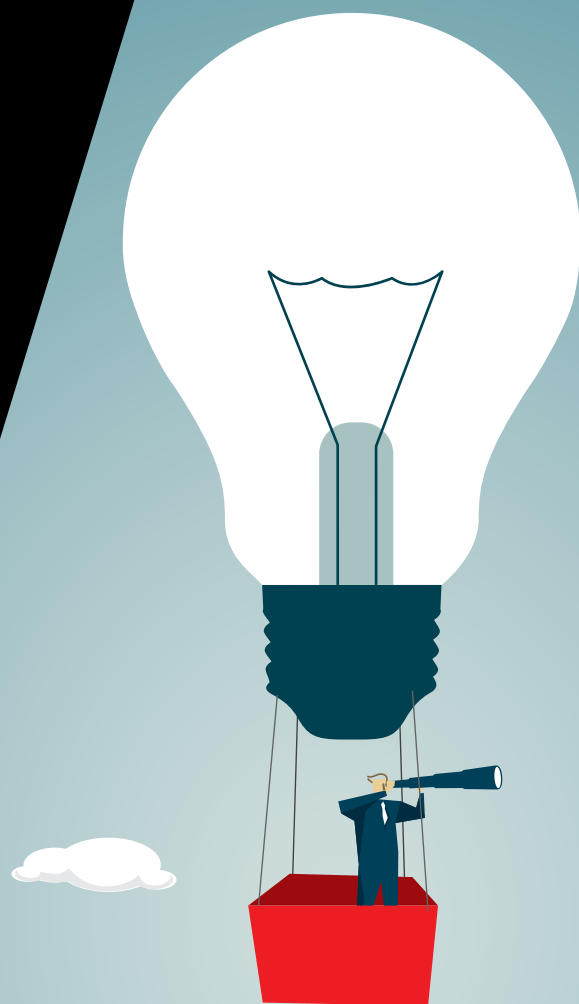


NEW YORK STATE BAR ASSOCIATION

2015–2016 REPORT TO MEMBERSHIP

Influencing the Future



President's Message

The Year in Review

NEW YORK STATE GOVERNMENT

In 2017, the people of New York will vote on whether to hold a convention to look at and possibly amend the State Constitution. The State Constitution profoundly affects the lives of all New Yorkers and we have urged the Governor to appoint a preparatory commission to study and to educate the public on the issue. Our own Committee on the New York State Constitution released two reports and recommendations: The first on establishment of such a preparatory commission and the second on Constitutional Home Rule. Our State Bar is a leading voice in providing a non-partisan, balanced view of our state Constitution and its import to all New Yorkers.

STATEWIDE FUNDING FOR INDIGENT CRIMINAL LEGAL DEFENSE

It's been more than a decade since former Chief Judge Judith Kaye's Commission issued its report urging state funding for indigent criminal defense, and progress has been made. Two years ago, a class-action lawsuit was brought on behalf of 19 plaintiffs from five counties, to compel the state to provide counsel for indigent criminal defendants. The *Hurrell-Harring* case settled, and New York now has a statewide public defense commission, caseload limits in New York City and has taken responsibility for the 18-B program in the five counties named in the lawsuit.

Yet despite the Kaye Commission and the lawsuit, our indigent criminal defense system still relies on overworked and underfunded defense attorneys, and we have joined in the call for legislation for full and fair statewide funding of indigent criminal defense.

WRONGFUL CONVICTION PROPOSAL

In our state and nation we see the devastating impact of wrongful convictions. We have continued the work of Past President Glenn Lau-Kee, and built on that of Chief Judge Janet DiFiore and the Commission on Wrongful Conviction she co-chaired, bringing together District Attorneys, the Innocence Project and defenders to advocate that state government institute steps to avoid wrongful convictions through formalized use of videotaped interrogations and photo arrays. We have also urged that assigned counsel be present at arraignment.

BRIGHT LIGHT

The U.S. Supreme Court's 2015 decision in *Obergefell v. Hodges* legalized same-sex marriage under the Equal Protection and Due Process Clauses of the U.S. Constitution. The decision made clear that freedom exists only when it is enjoyed by all, through equal application of the law. I am proud that our State Bar joined an amicus brief on this fundamental issue and was an early and strong advocate for marriage equality in New York and our nation.

FOR OUR MEMBERS

This year, we have been studying how we can better serve our members' professional practice needs. Solo and small firm practitioners and non-residents make up two of our fastest growing membership segments.

We have improved ease of communication through Section and specialty communities. Community members become part of a virtual group of colleagues to bounce around ideas, ask questions, brainstorm and share information. Our re-



cently added non-resident member community has more than 12,800 members.

To enhance member value and remain relevant to our members' practice, we developed the LawHUBSM, a customizable dashboard that curates and assembles content from NYSBA, and practice and research tools all on one screen, helping members become more efficient.

Under Pathway to the Profession, we've partnered with law schools across the state, offering free membership to all students attending ABA-accredited law schools in New York, doubling law student memberships this year. Students enjoy free Section memberships, and online communities and programs designed specifically for them, such as Dinner with a Lawyer. Free NYSBA and Section membership continues for first-year attorneys to help them seamlessly transition into practice.

ACCESS TO JUSTICE

The issue of equal access to justice for all New Yorkers is a continuing concern of the State Bar. We have long encouraged pro bono service among our members, and we are working to make it easier for busy attorneys to connect with the poor and underserved. NYSBA is collaborating with civil legal service providers across the state to address the justice gap by working to provide more efficient and personalized ways for solo and small firm attorneys to connect with pro bono opportunities.

For instance, the New York State Bar Association is hosting New York's participation in Free Legal Answers, the American Bar Association's national pro bono website project. In August 2016, we will launch NY.freelegalanswers.org, a website that will allow low-income people to ask simple legal questions and volunteer attorneys to answer their questions online. This service will allow low income New Yorkers, upon passing the necessary screening process and agreeing to the service's terms and conditions, to get the basic legal advice they need and give attorneys an accessible way to do meaningful pro bono work.

DOING THE PUBLIC GOOD AND ADVOCATING FOR THE ADVOCATES

Throughout the year, we worked hard to protect the public from being preyed upon by unregulated for-profit non-lawyer legal providers, and to protect our profession from being co-opted by these

venture-capital backed businesses, who are not bound by the rules of professional responsibility.

We have fought for the profession and the public. This year, we stood shoulder-to-shoulder with other voluntary state bars to prevent non-lawyers engaging in the practice of law. We have worked to expose the tactics of non-lawyer so-called legal services companies that sell themselves to an unsuspecting public. In May, we brought together leaders from the organized bar across the nation to discuss our concerns about these business models.

Last April, we saw a renewed push to allow non-lawyer investment in and ownership of law firms. The ABA Commission on the Future of Legal Services released an issues paper regarding Alternative Business Structures (ABS) for law firms that NYSBA opposed. Recently, the ABA decided not to submit a formal proposal on ABS at its meeting this summer.

Our Association has studied the issue of ABS over the years and concluded that the potential damage to our clients and our profession is too great. The financial objectives of non-lawyer management would be in constant tension with lawyers' professional ethics, rules of conduct and independent judgment.

The Rules of Professional Conduct reflect the core values of our profession. They are in place not to protect lawyers but to protect the public. As attorneys we are sworn in as officers of the court, part of a legal system that our society relies on for justice and fairness. In our country, lawyers must complete a rigorous education just to be permitted to sit for a bar exam. Our system tests a candidate's knowledge and competency, determines character and fitness, and demands adherence to a prescribed set of rules of professional conduct. This far surpasses any standards or regulatory rules that govern starting a business.

MOVING FORWARD

We at NYSBA are working to leverage the changes to practice, technology and our world by thoughtfully examining these changes, always in the context of the core values and principles of our profession. It is incumbent on us as attorneys to remain guided by rules of professional responsibility to find ethical and responsible ways to use new technologies to help attorneys better connect with and serve their clients.

IN CONCLUSION

I want to thank the NYSBA staff, my fellow officers and you, the members, for my year as president of this great Association. I am grateful for the help, support and commitment you have given to the causes of our Association and for the opportunity to lead our State Bar over the past year.

Thank you.



Legislative Advocacy

Federal

In a coordinated effort with 17 local and specialty bar associations across the state, the Association advocated to prevent sequestration from again being imposed on our federal courts, whose functioning was seriously impaired by underfunding and the resulting case delays, reduced security, and inadequate personnel to carry out necessary day-to-day operations in 2013.

On December 18, 2015, an omnibus spending package was signed into law, ending the risk that the harsh budget cuts would be re-imposed during 2016 or 2017. Even so, we continue to advocate for adequate funding for the judiciary and to enhance access to justice in the federal courts.

State

FAMILY LAW SECTION SPOUSAL MAINTENANCE

In 2014, the Family Law Section successfully opposed legislation that would have made significant and possibly harmful changes to the law regarding spousal maintenance. After successfully stopping the harmful bill, leaders of the Family Law Section engaged with several other stakeholders to negotiate a spousal maintenance bill, which was introduced this session and is widely supported. This bill was signed into law as Chapter 269 of the Laws of 2015 last September.

TASK FORCE ON HUMAN TRAFFICKING

Legislation to amend various sections of New York State law to improve the recognition of and response to human trafficking was signed into law as Chapter 368 of the Laws of 2015. Of particular interest, this bill would make sex trafficking a Class B violent felony and certain cases of labor trafficking a Class D violent felony. The bill would provide an affirmative defense to those prosecuted for prostitution when the defendant's participation in the offense was a result of having been a victim of compelled prostitution, a victim of a sex trafficking, or a victim of trafficking in person under federal law. In addition, the bill provides a civil remedy for trafficking victims to recover damages and reasonable attorney's fees from the perpetrator or those who knowingly advance or profit from trafficking.

The Association's Task Force on Human Trafficking, whose report was approved by the Association's House of Delegates in November 2013, recommended, among many other proposals, to: reclassify sex trafficking as a Class B violent felony; create an affirmative defense for trafficking victims; and establish a civil private right of action for trafficking victims.

PAY EQUITY

Signed into law as Chapter 362 of the Laws of 2016, the New York State Bar Association supports measures to strengthen laws that improve the lives of women, children and their families in New York State and provide access to justice and the full protection of our laws.

The Association's support for Pay Equity, which seeks to level the playing field for women in order to achieve equal pay for equal work, is based on a 2011 report by its Committee on Women in the Law.



* Chapter 368 of the Laws of 2015 makes sex trafficking a Class B violent felony and certain cases of labor trafficking a Class D violent felony.

* Job-protected family, employee-funded leave was among the Association's 2016 legislative priorities.

E-FILING

Signed into law as Chapter 237 of the Laws of 2015, this bill amended numerous provisions of law relating to electronic commencement of an action or special proceeding and filing of papers. The topic of "e-filing" has been of great interest to the Association since pilot programs were initiated by Chapter 367 of the Laws of 1999.

The State Bar Association's position on electronic filing is clear: the House of Delegates, by resolution dated March 31, 2007, called for the implementation of universal and mandatory electronic filing in all New York State courts without undue delay. In 2012, the Association reviewed the progress toward implementation of e-filing in the courts.

Electronic filing of court documents offers significant advantages over paper filing, including savings of costs and time to clients and attorneys, savings of storage costs to the court system, minimal misfiling of documents, access to documents on file at any time from a remote location, and uniformity of filing procedures, among other advantages.

PAID LEAVE

Signed into law as part of the 2016–2017 State budget, the governor proposed 12 weeks of job-protected family, employee-funded leave.

The New York State Bar Association supported this legislation, which was among the Association's 2016 legislative priorities.

The House of Delegates approved the Report of the Committee on Women and the Law, regarding Paid Family Leave on November 7, 2015.



Serving New York Attorneys

Continuing Legal Education

NYSBA CLE continues to provide award-winning programming with top experts at locations throughout the state, with simultaneous webcast options for those who cannot attend in person. Our frequent lunchtime webcasts focus on breaking legislation and in-depth analysis of current issues. NYSBA CLE has been voted one of the top three CLE providers by *New York Law Journal* readers two years in a row. In addition, we are recognized as a top online CLE provider.

- Every year, NYSBA presents more than 75 live programs in a variety of formats at more than 100 statewide locations. Programs range from practice-based “how tos” introducing new lawyers to various areas of practice to Institutes offering in-depth analysis for experienced attorneys.
- Consistently sold-out, NYSBA CLE’s popular “Bridging the Gap” two-day program for newly admitted attorneys is offered three times a year, live in New York City with simultaneous video-conference links to Albany and Buffalo. This year, we are adding Washington, D.C., to our video-conference links.
- The Law Practice Management Committee focuses on the needs of solo and small firm practitioners. LPM produces CLE programs, publications and maintains a website resource database, providing up-to-date information and practical tips on how to manage and apply technology in day-to-day practice.
- The NYSBA Digital Media Library offers hundreds of recorded topics in online video/audio streaming and DVD/CD formats. As of January 2016, we also offer closed captioning for online programs. Our new topic selection feature allows you to select online programs by topic – so that you get only the information you need.
- Members can bundle their online video/audio purchases and get up to 40% off their recorded product cart total. Visit www.nysba.org/cle for additional information.

* 75 live programs in a variety of formats at more than 100 statewide locations.



Publications

This past year, NYSBA published more than 30 books, supplements, and form products that are finely tuned to the needs of attorneys practicing New York law.

- New titles include *Preparing For and Trying the Civil Lawsuit*, 2nd Ed.; the 2015–2016 Edition of our *Practical Skills Series*, covering 26 areas of practice; *Pathway to the Profession: From Law School to Lawyer*; *The Legal Writer: Drafting New York Civil-Litigation Documents*; and *The Legal Writer: Writing It Right* – all offering practical, real-world suggestions to help New York attorneys succeed.
- We relaunched CasePrepPlus, an e-newsletter that summarizes recent and significant New York appellate cases that is free to all NYSBA members.
- More of our titles are available as ebooks. To see the list, go to www.nysba.org/ebooks.

We continue to publish the *New York State Law Digest*, the *NYSBA Journal*, and 25 Section Publications.

* NYSBA published more than 30 books, supplements, and form products.



Legal and Community Service

In 2016, the Association created a new department, Legal and Community Services, to coordinate the efforts of Pro Bono Services; Law, Youth and Citizenship Program; Lawyer Assistance Program; and Lawyer Referral and Information Service.

Pro Bono

The Association's Pro Bono Services Department partners with legal service providers, the courts, governmental organizations and law schools to provide pro bono service training, recruitment and guidance. The Association advocates for increased civil legal service funding and, also, encourages and recognizes the contributions of members who carry out one of the proudest traditions of our profession.

The Association holds annual awards ceremonies that encourage and highlight the generous pro bono work of its members.

- The Association's **Empire State Counsel®** program highlights members who have done 50 or more hours of pro bono work in the past year.
- On May 2, 2016, the Association celebrated the 26th anniversary of its **President's Pro Bono Service Awards**, which recognize the exemplary pro bono contributions made by attorneys, law firms, law students, law schools and others across the state.

CLOSING THE ACCESS TO JUSTICE GAP

An estimated 80% of low-income New York residents must cope on their own in the face of legal problems related to core needs, such as housing, domestic violence, employment and access to government benefits.

- NYSBA's **Pro Bono Services Department** partnered with local bar associations, legal service providers and courts to recruit pro bono attorneys and to offer free or low-cost pro bono training on a variety of subjects.
- NYSBA regularly advocates for adequate legal services funding at both the state and federal level.

Every two years, NYSBA sponsors and subsidizes a **Legal Assistance Partnership Conference** that provides affordable and high-quality continuing legal education for civil legal services attorneys. The next Partnership Conference will take place September 14–16, 2016, in Albany.



Lawyer Assistance Program

The Association's **Lawyer Assistance Program** provides education and confidential assistance to attorneys, judges, and law school students to help manage stress, depression, alcoholism or other issues affecting their mental health and their law practices. On average, LAP assists more than 300 attorneys a year with personal and mental health concerns that can threaten a professional's ability to practice law and overall quality of life.

LAP helpline: 800.255.0569 / lap@nysba.org



★ LRIS received 11,156 calls for assistance between June 1, 2015 and May 31, 2016.

Law, Youth & Citizenship Committee/Program

The Committee on Law, Youth and Citizenship (LYC) brings to the teachers and classrooms of New York State free and low-cost resources and training in law-related and civic education. Every June and July, we host professional development programs for educators around the state. LYC was the sub-award recipient of the James Madison Legacy Grant to provide professional development for educators in the *We the People: The Citizen and the Constitution* program. By July 1, we will have trained 45 teachers.

In February, LYC hosted six high school teams at the *We the People* State Final Hearings. The New Visions Law & Government Team from the Capital District traveled to the national competition in Maryland and was recognized as the Northeast Regional winner – the best finish ever for a team from New York.

NYSBA's 2016 New York State High School Mock Trial Tournament materials were prepared by the LYC's Mock Trial Subcommittee; this year, the subject was a criminal suppression hearing.



LYC hosted the State finals at the Federal District Courthouse in Albany, and Onondaga Coun-

ty's Fayetteville-Manlius High School emerged the winner. Appellate Division Justice Michael C. Lynch presided over the final round. More than 350 mock trial teams began their local competitions in December and finished their regional tournaments in April.

This year's Mock Trial Summer Institute for high school students is held on Lake George in July. Students return to their schools in September ready to be leaders of their schools' Mock Trial teams.

In response to the large community of LYC-network educators around the New York, LYC continues its practice of moving its annual conference to different parts of the state. The 40th Annual Civics and Law-Related Education Conference will be in Geneva, NY. The theme is "Teach for Justice: Impact of America's Diversity."

For more than 40 years, with the support of the New York State Bar Association, The New York Bar Foundation and the legal community at large, these programs have had a deep and meaningful impact on the education community of New York.

Stay up to date with LYC via social network sites such as Facebook, Twitter, YouTube and blogs. Find us at www.lycny.org.

Lawyer Referral and Information Service

In 2016, the State Bar's Lawyer Referral and Information Service celebrated 35 years of assisting the public. LRIS received 11,156 calls for assistance between June 1, 2015 and May 31, 2016.

Each year, LRIS presents the Angelo T. Cometa Award to an individual or group that demonstrates outstanding and long-term commitment to assisting the public and providing referrals for legal help, as needed. 2016's award winner was The Adirondack Women's Bar Association Legal Clinic to Aid Domestic Violence Survivors.



LAWYER REFERRAL AND INFORMATION SERVICE

Sections and Committees

NYSBA's 25 Sections offer online communities, resources, innovative and substantive CLE programs and outreach to students, young lawyers and diverse attorneys. Here are some of their activities of the past year. Visit all our Sections at www.nysba.org/Sections.

A FEW HIGHLIGHTS

- Chaired by Ellen Makofsky, the Working Group on Power of Attorney issued a report, approved by the House of Delegates in January, proposing legislative changes to New York's existing power of attorney law. Members included representatives from Elder Law and Special Needs, Trusts and Estates Law, Business Law, Real Property Law and Health Law Sections. Read the report: www.nysba.org/POAreport.
- Commercial and Federal Litigation Section's Social Media Committee updated its *Social Media Ethics Guidelines* and produced a report on *Social Media Jury Instruction*, examining juror and attorney use of social media and the possible impact on jury trials and the judicial system.
- "Crowdfunding – So Your Client Wants to Use Crowdfunding to Raise Capital . . ." Business Law Section's late-breaking CLE program on the new SEC rules. Free recording for Section members: www.nysba.org/BLSCrowdfundingVideo16.
- "Retirement Planning for Clients and the Senior Lawyer" Senior Lawyers Section. Free recording of the fall meeting for Section members: www.nysba.org/SLSFall2015R.
- General Practice Section's lively blog and active community; GP culls the best for its weekly wEbrieF.
- Tax Section created 21 reports commenting on various tax issues and concerns.



PRO BONO

Many Sections are active in pro bono. Here are a few examples:

- Entertainment, Arts and Sports Law and Intellectual Property Law Sections co-sponsor pro bono clinics.
- Intellectual Property Law Section offered a pro bono clinic on “IP Issues for Start-Ups” in conjunction with NYC Business Solutions, the USPTO and Cardozo Law School.

JOINT EFFORTS

Many Sections are looking at ways to join forces. Here are a few examples:

- Trial Lawyers and Torts, Insurance and Compensation Law Sections offer a joint CLE program during the Annual Meeting and this fall in New Orleans.
- Entertainment, Arts and Sports Law and the Food, Drug and Cosmetics Law Sections offered a joint CLE program titled “Food for Thought: Street Art and Celebrity Chefs.”

DIVERSITY

Many Sections have diversity committees. Here are a few examples of outreach:

- Commercial and Federal Litigation Section celebrated the 10-year anniversary of Smooth Moves, a program focusing on career strategies for diverse attorneys.
- Corporate Counsel Section reaches out to diverse law students with the Kenneth G. Standard Internship Program, which selects students of color to apply for summer internships in corporate law departments in New York State.
- Health Law Section Summer Diversity Fellowships offer law students fellowships to work in a hospital or health law practice.
- Intellectual Property Law Section hosts “Women in IP Law.”

A NEW NAME

Local and State Government Law Section changed its name from Municipal Law Section and expanded its reach to include state attorneys, in-house and outside counsel to municipalities and attorneys who appear before and against governmental entities.

STUDENTS AND YOUNG LAWYERS

Many Sections have law student and young lawyers committees. NYSBA’s Pathway to the Profession focuses on law students and new attorneys.

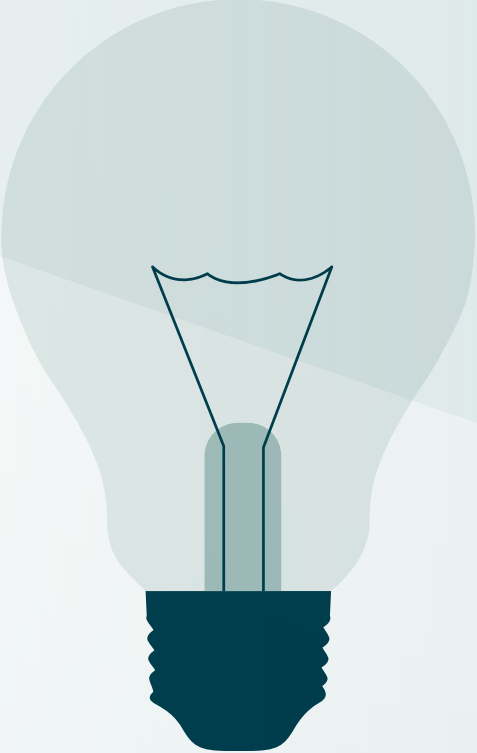
Criminal Justice and other Sections offer scholarships to the Young Lawyers Section Trial Academy. Criminal Justice Section and Young Lawyers Section offer free Section memberships to law students.

Dispute Resolution Section’s inaugural NYSBA/AAA Arbitration Competition drew teams from 13 law schools. Fordham University Law School had the winning team.

Real Property Law Section’s “Guide to Basic Residential Real Estate Closings” was co-sponsored by NYSBA’s Pathway to the Profession. The Section also offers free Section membership to law students.

Torts, Insurance and Compensation Law Section co-sponsored “Prepare to Practice” at SUNY Buffalo Law School, with the Young Lawyers Committee of the Bar Association of Erie County.

Young Lawyers Section hosts an annual Trial Academy and the Supreme Court Admissions ceremonies, and provides free membership to law students and new lawyers.



*** Many Sections are active in pro bono and have diversity, law student and young lawyers committees.**

House of Delegates

JUNE 2015

In a presentation to the House, the Committee on Women in the Law recognized three living “Trailblazers”: Shirley Adelson Siegel, Hon. Judith S. Kaye, and Maryann Saccomando Freedman.

NOVEMBER 2015

At the November meeting, the House approved the following:

- A report from the Committee on Standards of Attorney Conduct on proposed rules to govern temporary practice in New York by out-of-state lawyers and licensing of foreign lawyers as in-house counsel in New York.
- A report from the Committee on the New York State Constitution recommending that the state establish a non-partisan preparatory Constitutional Commission in advance of the November 2017 vote on whether a constitutional convention should be held.
- Comments prepared by the Committee on Professional Discipline with respect to the Chief Judge’s Commission on Statewide Attorney Discipline, which had recommended uniform rules for New York’s grievance committees.
- A report from the Committee on Women in the Law supporting the federal Family and Medical Insurance Leave Act, which would provide paid leave for family care and medical emergencies.
- A report from the New York County Lawyers’ Association to amend the New York Retirement and Social Security Law to permit state-paid judges to elect to have their beneficiaries receive a pension in lieu of regular death benefits if they die while in office.

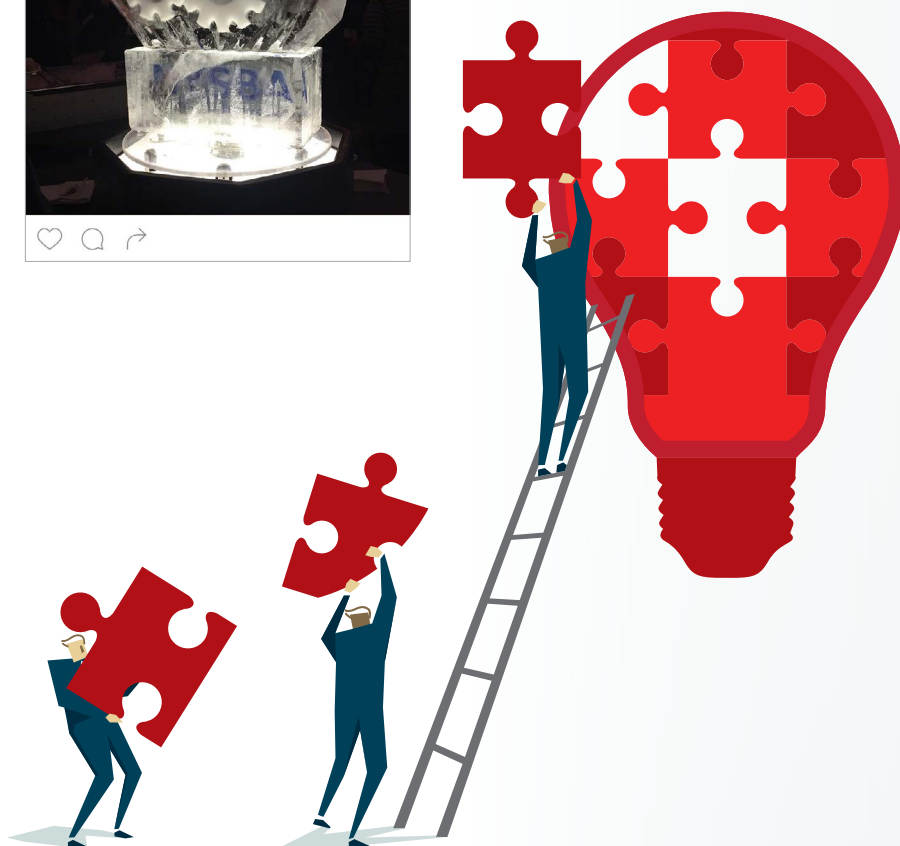
JANUARY 2016

At the November meeting, the House approved the following:

- A report from the Special Committee on Re-Entry relating to steps that can be taken during incarceration and the re-entry process to help bridge the gap between prison and participation in free society.
- A report recommending amendments to the statutes relating to power of attorney, noting that the current power of attorney form is too complex and prone to improper execution.

APRIL 2016

At the April meeting, the House approved a report from the Committee on the New York State Constitution recommending that Home Rule be studied and debated in connection with the decision of whether to hold a constitutional convention.



The New York Bar Foundation

As the philanthropic arm of the Bar Association, The Foundation assists non-profit organizations with law-related projects.

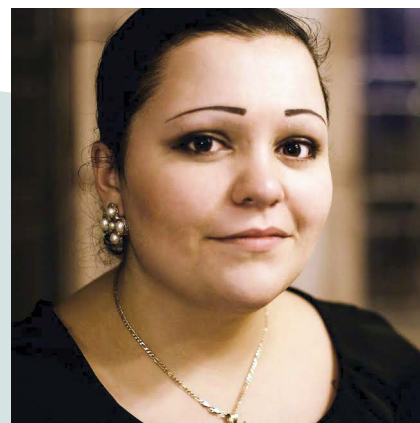
In its 2016 grant cycle, The Foundation allocated more than \$580,000 in funds distributed to programs in each of the 13 judicial districts. The grants addressed some of the most fundamental needs of our society.

When you give to The New York Bar Foundation, your gift creates a ripple effect that extends throughout the state. You help people within our neighborhoods with life-changing legal matters.

In 2015 The Foundation and the Young Lawyers Section partnered to create the Young Lawyer Friends of The Foundation, to engage and inspire young lawyers to help promote the goals of The Foundation. Members will act as ambassadors for The Foundation, promoting its mission, while assisting in raising additional resources to support legal services through The Foundation's grant program. Members pledge an annual financial contribution to The Foundation, and they will be listed on The Foundation's website and annual report.

The Fellows of The New York Bar Foundation are critical to the success of The Foundation. Fellows are nominated by peers and recognized for distinguished achievement and dedication to the legal profession, commitment to the organized bar and service to the public. In 2015 the number of Fellows grew from 1080 to 1114. This number continues to increase.

Fellowships and scholarships are made possible through the generosity of New York State Bar Association Sections and donors. Over \$77,000 was allocated to these initiatives in 2015. As Marcella Jayne, an Antitrust fellowship recipient, notes, "I suspect I learned more relevant knowledge and honed more legal skills in this Fellowship than I did throughout my entire 1L year. . . . Without this Fellowship and the stipend it provided I would have likely had to do low-skilled wage labor to pay my rent this summer. Instead I gained invaluable knowledge and experience. I appreciate the opportunity that the New York State Bar and The Foundation have given me and I hope to pay it forward in the future."



* I suspect I learned more relevant knowledge and honed more legal skills in this Fellowship than I did throughout my entire 1L year.

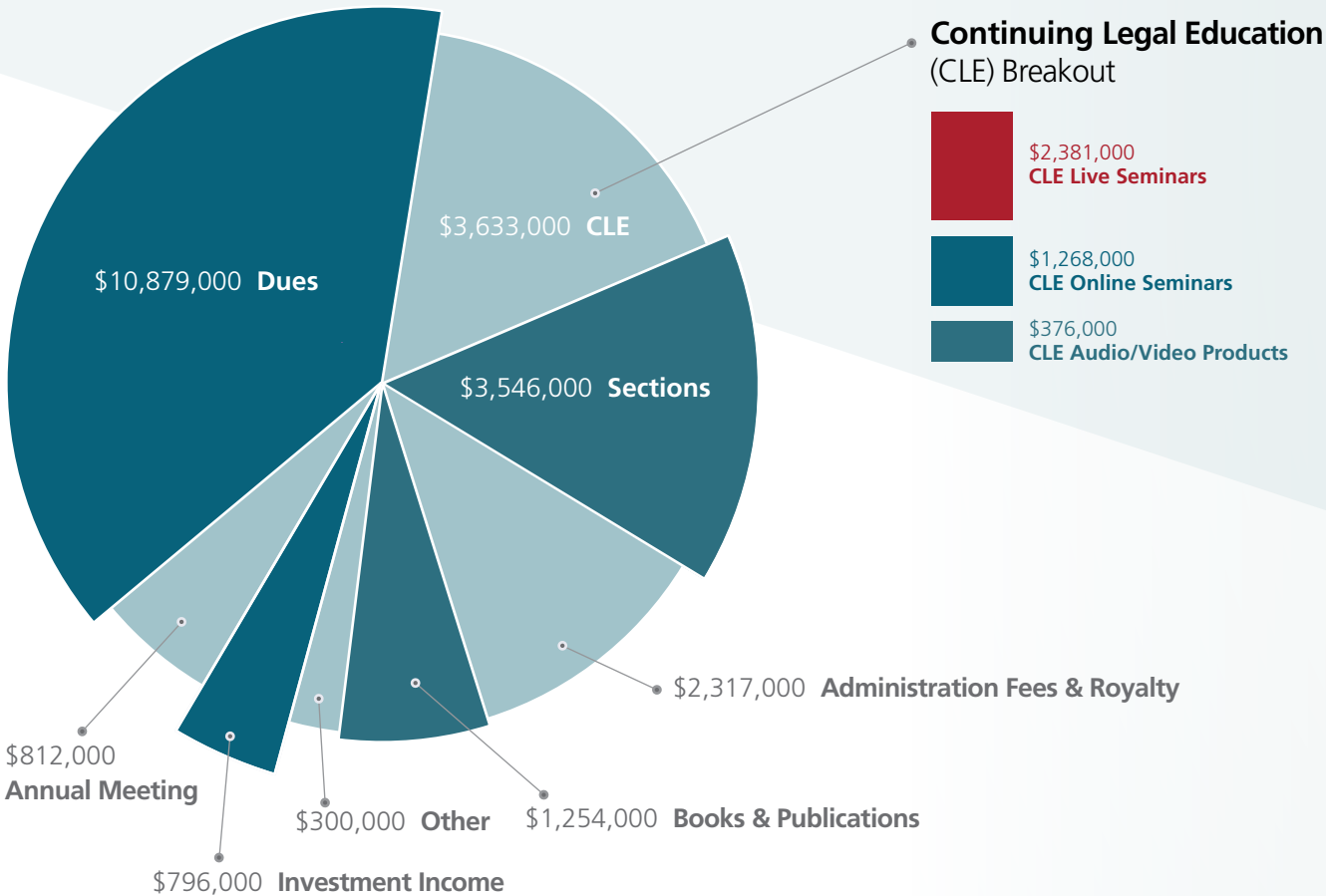


NYSBA Finances

The New York State Bar Association is committed to being accountable to its members and the public for its finances.

The Association works hard to ensure that member dollars are used to create professional, public service, and educational activities and benefits in the diverse and changing legal profession. Copies of the complete audited financial statements for the years ended December 31, 2015 and 2014 are available to members and may be obtained by contacting Kristin M. O'Brien, Senior Director of Finance, kobrien@nysba.org.

Revenue & Support

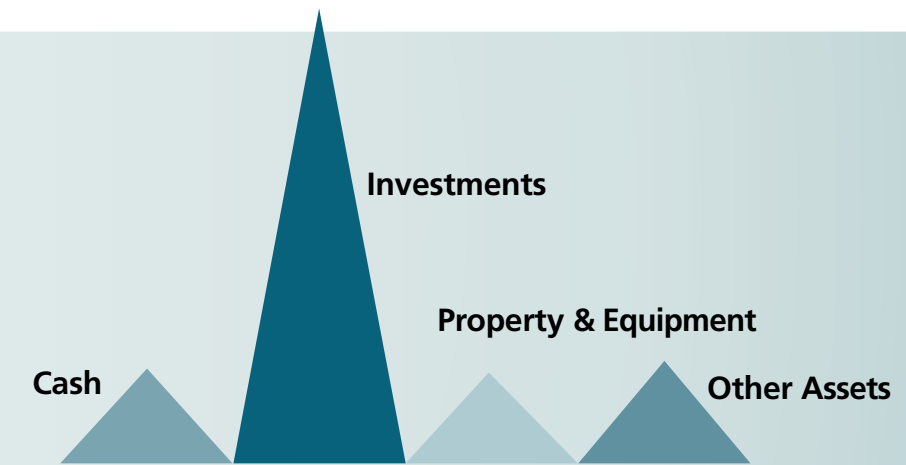


* Complete audited financial statements for 2015 and 2014 are available to members.



Assets

Cash	\$2,141,000
Investments	\$38,900,000
Property & Equipment	\$2,023,000
Other Assets	\$2,301,000



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NEW YORK STATE BAR ASSOCIATION

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