



August 25, 2020

The Honorable Andrew M. Cuomo
Governor of New York State
The Capitol Albany, NY 12224

The Honorable Letitia James
Attorney General of New York State
The Capitol Albany, NY 12224

The Honorable Andrea Stewart-Cousins
Majority Leader and Temporary President of the New York State Senate
188 State Street, LOB 907
Albany, NY 12247

The Honorable Carl E. Heastie
Speaker of the New York State Assembly
188 State Street, LOB Room 932
Albany, NY 12248

The Honorable Janet DiFiore
Chief Judge of the New York State Court of Appeals
20 Eagle Street
Albany, NY 12207

Re: Diploma Privilege as a Necessary Temporary Option for Admission to the New York Bar

Dear Governor Cuomo, Attorney General James, Majority Leader Stewart-Cousins, Speaker Heastie, and Chief Judge DiFiore:

We, the undersigned deans of law schools in Washington, DC, join the deans of New York law schools, other laws school deans, many bar applicants and members of the legal profession, in support of offering diploma privilege as a temporary option for admission to the New York Bar at this extraordinary time of a global pandemic.

We thank Chief Judge DiFiore for the extraordinary time that she and the Court of Appeals have devoted over the past several months to the issue of New York Bar licensing during pandemic conditions, for avoiding the potential for COVID illness that could arise from an in-person bar exam, and by adopting instead an online bar exam in October 2020. We are also quite appreciative of the August 17, 2020, announcement regarding negotiated reciprocity for the October online exam, including the District of Columbia, with the potential for additional reciprocal agreements. We encourage the online option to remain viable for those who need access to licensing through the October exam in other jurisdictions using the same online exam.

In addition to the online exam, we submit that temporary or emergency diploma privilege for those with the intent to practice in New York is a necessary and workable option for the following reasons:

- a) Our 2020 graduates have been hit particularly hard with constant changes in the traditional routine that most licensed attorneys have followed over many years; the most recent graduates had no choice but to adapt to an abrupt switch to online classes this past spring in order to complete their Juris Doctor degree, and they had to regroup after cancelled in-person exams scheduled initially for July and later for September. The downside is the loss of sustained focus and intensity on bar exam preparation, and that is now coupled with concern about the reliability of the online platform for the October exam.
- b) Our 2020 graduates are prepared for practice having completed a full course of study designed to enable them to practice law responsibly, particularly under the supervision of employers that is traditional for entry level attorneys.
- c) Ultimate fairness would result in the bar admissions process during this historic pandemic where racial, economic, and health equity issues are in stark focus and disproportionately affect bar applicants who are low-income, diverse, and first-generation college and law school students.
- d) Adequate protection for New York consumers of legal services would result based on the respectably high pass rate on the New York bar exam in recent years; earning more credits of experiential learning toward the Juris Doctor than in prior years; mandatory continuing legal education credits; and an attorney discipline and ethics enforcement system to manage any potential complaints.
- e) Greater certainty would result for legal employers that their 2020 hires will be duly licensed to practice law in a reasonable time frame, particularly if there were to be a major glitch in an October online exam administration, and just cause to bypass a February bar exam.

Regarding the Emergency Diploma Privilege Bill pending in both houses of the New York State Assembly (S8827A/A10846), we endorse the proposed limitations and requirements on emergency diploma privilege in an effort to protect legal consumers, and to ensure that bar membership through such an emergency option would conform to and enhance the licensing requirements in the normal course of the rules of the New York Court of Appeals and the New York Board of Law Examiners. In particular, we support the requirements for 100 hours of supervised practice certified via affidavit, and the need to provide proof of intent to practice in New York.

We thank all involved in this effort, including the graduates who have acquitted themselves well in thorough and fact-based advocacy, and in whom we have enormous pride and hope for excellent and effective work in support of their clients throughout their careers. We advocated for temporary diploma privilege in the District of Columbia, and we urge New York to do the same on an emergency basis.

Respectfully submitted,

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Professor of Law and Acting Dean
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Dayna Bowen Matthew
Dean and Harold H. Greene Professor of Law
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William M. Treanor
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Knights of Columbus Professor of Law
The Catholic University of America

Danielle Holley-Walker
Dean & Professor of Law
Howard University School of Law

cc: Hon. Brad Hoylman, Chair, NY Senate Judiciary Committee
Hon. Jo Anne Simon, NY State Assembly Member