

August 20, 2026

The State Bar of California
180 Howard Street
San Francisco, CA 94105

RE: PUBLIC COMMENT ON PROPOSED CALIFORNIA RULES OF COURT, RULE 9.45.1, TO ESTABLISH A CALIFORNIA COMMUNITY JUSTICE WORKER PROGRAM

Thank you for the opportunity to provide public comment on proposed California Rules of Court, Rule 9.45.1, which would establish a California Community Justice Worker (CJW) Program.¹ We submit these comments as empirical researchers who use the tools of social science to investigate access to justice and the effectiveness of both new and established ways of responding to America's persistent access to justice crisis.² We commend the California Supreme Court and the State Bar of California for their leadership in considering a carefully structured program that would permit trained community justice workers, under the supervision and responsibility of authorized legal services organizations, to provide limited legal assistance to Californians who otherwise may receive no legal help.

The United States' crisis of access to civil justice is so well documented at this point that its facts require little rehearsal. Whichever measure of the lack of access to justice one chooses as a standard, the crisis has only deepened, at the same time that the number of American lawyers has grown, both in absolute terms³ and relative to the size of the population.⁴ More civil justice problems go unserved and unresolved than ever. Americans experience an estimated at least 150 million new civil justice problems annually, at least 120 million of which go unresolved.⁵ The Legal Services Corporation's 2022 study of the legal needs of the low-income population found that 92 percent of the civil legal problems

¹ https://newsroom.courts.ca.gov/sites/default/files/newsroom/2026-06/ADMIN%20ORDER%202026-06-17-01%20S294332%20CRC%209.45.1_FINAL.pdf

² The authors of this public comment are Matthew Burnett, Director of Research and Programs for the Access to Justice Research Initiative at the American Bar Foundation and Adjunct Professor of Law at Georgetown University Law Center and Rebecca Sandefur, Professor in the School of Social and Family Dynamics at Arizona State University and Faculty Fellow at the American Bar Foundation. Together they are co-founders of Frontline Justice and the Justice Worker Lab.

³ The population of U.S. lawyers has grown by 400% since 1970. See Demographics, A.B.A. PROFILE OF THE LEGAL PRO. 2023, <https://www.abalegalprofile.com/demographics.html>.

⁴ To illustrate, the U.S. had one lawyer for every 695 people in 1951 and one lawyer for every 252 people in 2005. See CLARA N. CARSON WITH JEEYOON PARK, AM. BAR FOUND., THE LAWYER STATISTICAL REPORT: THE U.S. LEGAL PROFESSION IN 2005 2 (2012).

⁵ See Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. IRVINE L. REV. 753, 765 (2021). At least 120 million of those go unresolved. See THE HAGUE INST. FOR INNOVATION OF LAW & THE INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA 235 (2021), <https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf>.

experienced by low-income Americans received no or inadequate legal help.⁶ US courts have seen rising numbers of people appearing without representation.⁷ Civil legal aid offices routinely turn away as many eligible people as they serve for lack of resources.⁸

California faces these challenges at an enormous scale, with only .72 civil legal aid attorneys per 10,000 low-income residents.⁹ In its 2024 Justice Gap Study, the State Bar found that 70% of California households experienced at least one civil legal problem in the previous 12 months (with an average of six problems per household) and sought legal help for only 18 percent of those problems.¹⁰ The State Bar's consideration of a Community Justice Worker Program accordingly represents an important opportunity to increase the availability of competent legal assistance while also building evidence about how new service-delivery models can safely, effectively, and sustainably respond to unmet civil legal need.¹¹

Community justice workers are part of a growing national movement to respond to this crisis. Across the country, jurisdictions have authorized or are considering models that permit trained nonlawyers to provide defined forms of legal assistance. Our empirical research for over a decade has focused on community justice worker and other lay advocate models, both established and emerging.¹² That research demonstrates that well-

⁶ The Legal Services Corporation's 2022 study of the legal needs of the low-income population finds an increase in the proportion of the civil justice issues of the poor that receive no or inadequate service, from 86% in 2017 to 92% in 2022. *Justice Gap Research*, LEGAL SERVS. CORP., <https://www.lsc.gov/initiatives/justice-gap-research>.

⁷ See, e.g., Stephan Landsman, *The Growing Challenge of Pro Se Litigation*, 13 LEWIS & CLARK L. REV. 439, 440–41 (2009).

⁸ *Justice Gap Research*, *supra* note 6.

⁹ National Center for Access to Justice, *Justice Index: Attorney Access*, at <https://ncaj.org/state-rankings/justice-index/attorney-access>.

¹⁰ <https://www.calbar.ca.gov/sites/default/files/portals/0/documents/reports/2025/2024-CA-Justice-Gap-Study.pdf>

¹¹ See, e.g. Lageson, S., & Stewart, R. (2024). The problem with criminal records: Discrepancies between state reports and private-sector background checks, *CRIMINOLOGY*, 62, 5–34. <https://doi.org/10.1111/17459125.12359>.

¹² See, e.g. Rebecca L. Sandefur and Matthew Burnett, *Building Successful Justice Worker Programs: Emerging Insights from Research and Practice*, 41 *Alaska Law Review* 23-44 (2024); Matthew Burnett and Rebecca L. Sandefur, *A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States*, 51 *Fordham Urb. L.J.* 1509 (2024). Burnett, Matthew and Rebecca L. Sandefur. 2022. "Designing Just Solutions at Scale: Lawyerless Legal Services and Evidence-Based Regulation." *Public Law*, 19 (102); Rebecca L. Sandefur and Emily Denne. 2022. "Access to justice and legal services regulatory reform." *Annual Review of Law and Social Science* 18: 27-42. Rebecca L. Sandefur, Thomas M. Clarke, and James Teufel. 2021. "Seconds to Impact? Regulatory Reform, New Kinds of Legal Services, and Increased Access to Justice." *Law and Contemporary Problems* 84:69-80; Rebecca L. Sandefur. 2020. "Legal Advice from Nonlawyers: Consumer Demand, Provider Quality and Public Harms," *Stanford Journal of Civil Rights and Civil Liberties* 16: 283-314; and Rebecca L. Sandefur and Thomas M. Clarke. 2016. "Designing the Competition: A Future of Roles Beyond Lawyers? The Case of the USA." *Hastings Law Journal* 67:1467-1492.

designed programs can provide effective assistance while extending the reach of legal services into communities that traditional legal-service delivery models struggle to reach.

With the proposed rules governing CJWs, California is among more than 20 jurisdictions considering regulatory reforms to tackle this crisis.¹³ We applaud these efforts, and make the following recommendations based on empirical evidence and our insights from regulatory reform proposals in other states. While other areas of professional practice, such as medicine, have a robust history of using empirical evidence to inform providers' work and practice, law has been less engaged with empirical evidence about the design and impact of legal services to the public. Systematic empirical evidence goes beyond anecdote or personal experience to offer insight into "what works" and reveal consistent patterns of effectiveness, sustainability, and scalability in models for providing people access to justice, illuminating promising opportunities and showing when traditional approaches are less effective than desired.

Our recent research on the Alaska Community Justice Worker Program, based on in-depth quantitative analysis of more than three years of program data, illustrates this potential.¹⁴ Among other findings, the research found that:

- Community justice workers assisted in the recovery of more than \$23.6 million for Alaskan families, children, and older adults, including disproportionate service to people with disabilities, veterans, domestic violence survivors, and Alaska Natives;
- These supports generated an additional estimated \$14.5 million in economic benefit for the communities where people received them;
- During the study period, the number of Alaska Legal Services Corporation cases served by community justice workers increased by 1,575 percent;
- Community justice work reached more than half of Alaska's zip codes, including communities without attorneys and communities off the road system; and
- One federal grant supporting disaster-related community justice work produced an estimated \$25 in public benefit for every \$1 invested.

This and other evidence suggests that the central regulatory challenge is not simply whether trained nonlawyers can provide competent and effective assistance. It is how to

¹³ See Frontline Justice, Progress to Date, at <https://www.frontlinejustice.org/about#progress>.

¹⁴ Burnett, Matthew, Rebecca L. Sandefur, and James Teufel. 2025. "Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program (2021-2025)." American Bar Foundation Access to Justice Research Initiative. Chicago, IL: American Bar Foundation.

design programs that simultaneously protect the public and are capable of becoming sufficiently effective, sustainable, and scalable to meaningfully address unmet legal need.

We therefore support adoption of Rule 9.45.1 and offer the following recommendations regarding its design and implementation.

RECOMMENDATIONS

1. Impose Only the Minimum Constraints Necessary to Ensure Safe and Effective Service

If California wants the Community Justice Worker Program to succeed, the regulatory framework should impose only those constraints necessary to ensure that CJWs provide competent, safe, and effective services to the public.

This principle should guide both the adoption of Rule 9.45.1 and its subsequent implementation by the Authorizing Body. Every restriction—on who may become a justice worker, which organizations may operate programs, what training programs must provide, which services CJWs may perform, and how they must be supervised—has the potential to reduce the number of organizations and workers able to participate and the number of Californians the program can ultimately serve. Restrictions therefore should not be imposed simply because they resemble requirements traditionally applied to lawyers or other licensed legal professionals. They should be imposed when there is evidence or a clearly identified risk demonstrating that the restriction is necessary to protect the public.

This distinction is important because a Community Justice Worker program is not intended to reproduce the lawyer-licensing system with somewhat lower entry requirements. It is a different model of legal service delivery. CJWs work within defined scopes of practice, receive training directed to the services they actually provide, operate through authorized organizations, bring critical skills, including cultural and linguistic expertise, and work under systems of supervision and accountability. Regulation should be calibrated to that model and to the actual risks presented by the particular services being provided.

Experience with earlier regulatory reforms demonstrates the danger of overregulation. Washington State's now-sunset Limited License Legal Technician program¹⁵ required extensive formal education, examinations, thousands of hours of supervised experience,

¹⁵ <https://www.wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/limited-license-legal-technicians/decision-to-sunset-lllt-program>

and other substantial investments before a person could practice.¹⁶ Whatever consumer-protection rationale might be offered for each requirement considered individually, their cumulative effect created a model that was difficult and costly to enter and consequently difficult to scale.¹⁷

Community justice worker programs offer an opportunity to take a different approach: regulate demonstrated risks rather than hypothetical ones, and require demonstrated competence rather than traditional credentials.

This does not mean abandoning consumer protection. To the contrary, the proposed California model contains significant safeguards. CJWs operate within defined scopes of practice; authorized organizations are responsible for training and supervision; attorneys provide professional oversight; organizations assume responsibility for the services provided; and the program includes complaint, reporting, and evaluation mechanisms. These aspects of the program's design permit California to focus additional regulation on risks that emerge in practice rather than attempting to anticipate every possible risk through restrictions imposed at the outset.

An evidence-based regulatory approach should therefore begin with a presumption in favor of allowing an activity or program design element unless there is a concrete consumer-protection reason to restrict it. Where a safeguard is necessary, regulators should select the least restrictive mechanism reasonably capable of addressing the identified risk.

This principle has several practical implications, which we outline below. California should avoid unnecessary educational or experience requirements for CJWs; permit a broad range of qualified organizations to operate or participate in programs; allow organizations flexibility to design training appropriate to particular scopes of practice; avoid unnecessarily narrow subject-matter restrictions; and create pathways for appropriately trained and supervised CJWs to undertake more consequential forms of assistance, including representation in court where an organization can demonstrate that its model provides appropriate safeguards.

The Rule's proposed reporting and evaluation structure makes this approach particularly appropriate for California. Rather than relying primarily on predictions about what might go wrong, the Authorizing Body can collect evidence about what actually happens. It can examine client outcomes, complaints, service quality, geographic reach, costs, and other measures of program performance. Regulation can be a response to actual risks: it can

¹⁶ Thomas M. Clarke and Rebecca L. Sandefur. 2017. "Preliminary Evaluation of the Washington State Limited License Legal Technician Program." American Bar Foundation and National Center for State Courts.

¹⁷ *Id.* See also Jason Solomon and Noelle Smith. 2021. "The Surprising Success of Washington's Limited License Legal Technician Program." Stanford Center on the Legal Profession.

become more restrictive where evidence identifies a genuine risk and less restrictive where experience demonstrates that a requirement provides little or no consumer-protection benefit.

This approach also recognizes an important but sometimes overlooked dimension of consumer protection in legal services: *the harms created when people receive no legal help at all*. Regulation should not assess the risks of CJW assistance against an imaginary world in which every person who needs legal assistance has access to a competent attorney with experience working in the legal areas and fora in which their justice issues arise. For many Californians, the realistic alternative to assistance from a trained and supervised community justice worker is navigating a consequential legal problem entirely on their own.

Accordingly, the relevant regulatory question is not whether CJWs can provide every service as a lawyer would. It is whether trained and supervised CJWs can provide particular services competently and safely, and whether proposed restrictions produce consumer-protection benefits sufficient to justify the resulting reduction in access to assistance.

We encourage California to make this principle explicit in the design and administration of the Community Justice Worker Program: begin with the minimum regulatory constraints necessary to protect consumers, evaluate actual outcomes, and add or modify restrictions in line with what evidence demonstrates.

Such an approach will give the California Community Justice Worker Program the greatest opportunity to become not merely a promising pilot, but an effective, sustainable, and scalable component of the state's response to its access to justice crisis.

2. Preserve the Rule's Entity-Based Model of Authorization and Responsibility

We commend the proposed rule for placing primary regulatory responsibility on authorized legal services organizations rather than creating an individually licensed paraprofessional profession.

Under the proposed framework, an Authorizing Body would approve legal services organizations to operate CJW programs. Authorized organizations would train and supervise CJWs, certify their scope of practice and completion of required training, maintain supervision capacity, and assume professional responsibility for CJWs' work. This approach is well aligned with emerging evidence about designing justice worker programs for scale.

Individual occupational licensing can impose substantial administrative burdens on both practitioners and regulators. Past limited-license practitioner programs illustrate the risk.

Washington State’s now-sunset Limited License Legal Technician program, for example, imposed extensive educational, examination, supervised-practice, and other admission requirements. These structural features contributed to challenges in bringing the model to meaningful scale.

Entity-based regulation offers a different approach. Rather than attempting to transform each justice worker into a new category of independently regulated legal professional, it permits qualified organizations to recruit, train, supervise, and support workers appropriate to the particular services they provide and populations they serve.

There are established examples of this approach. In the federal immigration context, recognized organizations collectively host thousands of accredited nonlawyer representatives.¹⁸ Utah’s legal regulatory reforms have likewise demonstrated the potential of entity-based authorization coupled with active collection of evidence about services and consumer outcomes.¹⁹

California should preserve this organizational model as Rule 9.45.1 is implemented and resist imposing duplicative individual licensing structures that would increase costs and barriers without demonstrated impacts on competence and consumer protection.

3. Remove the High School Diploma or Equivalent Requirement for Community Justice Workers

The proposed rule requires that a CJW be at least 18 years old and have a high school diploma or its equivalent. We recommend removing the educational credential requirement.

We are not aware of empirical evidence demonstrating that possession of a high school diploma predicts whether a person can competently perform the specific, limited legal activities contemplated by a CJW program after appropriate training and under organizational and attorney supervision.

A central advantage of community justice worker models is that they can draw on people whose qualifications arise from many different sources: specialized training, lived experience, language skills, community knowledge, professional experience, and relationships of trust with the populations they serve. Formal educational credentials can

¹⁸ Rebecca L. Sandefur and Matthew Burnett. “Justice Futures: Access to Justice and the Future of Justice Work.” In *Rethinking the Lawyer’s Monopoly: Access to Justice and the Future of Legal Services*, edited by David Engstrom and Nora Freeman Engstrom. Cambridge University Press.

¹⁹ Rebecca L. Sandefur and Lucy Ricca. “Increasing Access to Justice through Evidence-Based Regulation of the Practice of Law: New State Approaches.” *Judicature*

operate as crude proxies for competence while excluding individuals who possess precisely the knowledge and community connections that make this model valuable.

Alaska's Community Justice Worker Program, for example, does not depend upon degree or professional-experience requirements. Instead, the program has relied on competence-based training developed with adult-education expertise and reinforced through ongoing resources, templates, legal guides, collaboration, and organizational support.²⁰

The structure of California's proposed justice worker provides an especially strong reason not to impose an across-the-board educational credential. CJWs would perform only the activities for which their authorized legal services organization has trained and certified them, within an approved scope of practice, and under the organization's supervision. The organization would assume professional responsibility for their work.

The relevant regulatory question should therefore be whether a particular CJW has demonstrated competence to perform the authorized work—not whether that person possesses an educational credential unrelated to the actual tasks they will perform.

We recommend amending the eligibility provisions accordingly.

4. Preserve Flexibility in Training, Scope of Practice, and Program Design

We commend the proposed rule's basic approach of permitting authorized organizations to develop defined scopes of practice and to train and supervise CJWs for those activities.

California should preserve meaningful flexibility in this process during implementation.

Legal needs do not occur in isolation. Research on civil justice problems consistently demonstrates that people experience clusters of interconnected problems involving housing, consumer debt, family stability, public benefits, health, employment, and other aspects of everyday life.²¹ Community-based service providers frequently encounter these problems before a lawyer or court ever becomes involved.

An authorization framework that is sufficiently flexible to respond to these realities permits organizations to develop services around demonstrated community needs. Alaska's experience illustrates the benefits of this flexibility: community justice workers have been trained to assist with matters involving public benefits, consumer debt, housing, wills, domestic violence, and other issues.²²

²⁰ See Joy Anderson and Sarah Carver. 2024. "Community Justice Workers – Alaska's Response to the Access to Justice Crisis." *MIE JOURNAL* 38(1):33-36.

²¹ See Sandefur and Teufel, *IAALS and Hiil*, *supra* note 5.

²² See Anderson and Carver, *supra* note 18.

We are not aware of empirical evidence demonstrating that rigid statewide restrictions on subject matter, standing alone, improve service quality or reduce consumer harm. Evidence concerning nonlawyer advocacy instead suggests that specialization, relevant experience, effective training, and appropriate support are important predictors of effective service.²³

Accordingly, the Authorizing Body should evaluate proposed scopes of practice based on evidence about the activity involved, the training provided, the supervision and support available, and actual program performance. It should avoid imposing unnecessarily uniform training requirements or subject-matter restrictions where an applicant organization can demonstrate a credible model for competent service.

This approach would permit California to learn which combinations of training, supervision, scope, and organizational support produce effective services rather than attempting to resolve what are actually empirical questions in advance through unnecessarily restrictive regulation.

5. Ensure That Community-Based Organizations Can Participate Meaningfully in the California Model

One of the most promising features of community justice work is its ability to bring legal help to places where people already seek assistance.

Community-based organizations—including organizations addressing housing, health, domestic violence, food insecurity, disability, aging, and other social needs—often employ or work with trusted people who already help community members navigate complex institutions. Justice worker programs can enable some of these existing frontline workers to provide additional, appropriately limited legal assistance rather than requiring clients to find their way into a separate legal-services system.

Our research suggests that this feature can be particularly important for scale. Community organizations are much more widely distributed than legal aid offices and law firms and often have established relationships in communities that have limited access to lawyers. As we reported above for Alaska, which permits many types of organizations to host justice workers, in a short time justice workers extended the reach of legal aid into over half the state's zip codes.²⁴

²³ See, e.g., Sandefur, Rebecca L. "Legal advice from nonlawyers: consumer demand, provider quality, and public harms." *Stan. JCR & CL* 16 (2020): 283; Kritzer, Herbert M. *Legal advocacy: Lawyers and nonlawyers at work*. University of Michigan Press, 1998.

²⁴ Burnett, Sandefur, and Teufel, *supra* note 12.

We recognize and support the proposed rule's decision to place supervision and professional responsibility with authorized legal services organizations. At the same time, implementation should ensure that this structure permits meaningful partnerships between authorized legal services organizations and other community-based organizations.

The Authorizing Body should therefore permit program structures in which CJWs are embedded in, employed by, or volunteer with community-based partner organizations, provided that the authorized legal services organization maintains the supervision, training, quality assurance, and professional responsibility required by the rule.

Such partnerships could enable California to combine the legal expertise and professional infrastructure of legal services organizations with the reach, trust, language capacity, and local knowledge of community organizations.

6. Avoid Adding Eligibility and Screening Requirements That Are Not Supported by Evidence

As California develops implementing standards, we encourage the State Bar and Authorizing Body not to add barriers to CJW participation unless evidence demonstrates that those barriers are reasonably connected to competence or consumer protection.

In particular, we recommend against imposing generalized degree requirements, professional-experience requirements, character and fitness evaluations, or categorical criminal-background restrictions beyond those contained in the proposed rule without evidence demonstrating their effectiveness.

Research on attorney character and fitness screening raises substantial questions about its predictive value. One study examining admission and disciplinary records of more than 1,300 Connecticut lawyers found that information collected through the character and fitness process performed poorly in predicting which lawyers would later be disciplined.²⁵

Similarly, empirical research does not establish that prior justice-system involvement, by itself, predicts whether someone can safely and effectively provide limited civil legal assistance. Indeed, people with lived experience navigating legal institutions may bring

²⁵ Levin, Leslie C., Christine Zozula, and Peter Siegelman. "The questionable character of the bar's character and fitness inquiry." *Law & Social Inquiry* 40, no. 1 (2015) at 69.

valuable knowledge to justice work.²⁶ Research also documents significant accuracy problems in criminal-record databases and commercial background checks.²⁷

California should focus regulation on demonstrated competence and actual service quality. Training, supervision, monitoring of outcomes, accessible complaint processes, and organizational accountability provide more direct tools for assessing whether consumers are receiving safe and effective services.

7. Do Not Limit Eligible Authorized Entities to IOLTA-Funded Legal Services Organizations

We recommend that eligibility to operate a Community Justice Worker program not be limited to organizations that currently receive funding through California’s Interest on Lawyers’ Trust Accounts (IOLTA) program.

Such a limitation would unnecessarily constrain the potential reach of the CJW model. Eligibility for a particular source of legal-services funding and organizational capacity to operate a safe and effective justice worker program are different questions. An organization may have deep expertise in a particular area of civil justice need, strong relationships with underserved communities, appropriate attorney supervision, and the institutional capacity to recruit, train, support, and monitor justice workers without currently receiving IOLTA funding.

Justice worker programs are more likely to achieve meaningful scale when regulatory frameworks permit a broad range of qualified organizations to participate. This is particularly important because organizations that are deeply embedded in communities—including organizations serving rural communities, immigrants, survivors of domestic violence, people with disabilities, older adults, veterans, tenants, and other populations experiencing substantial unmet civil legal need—may be well positioned to identify and respond to those needs even when they are not part of the traditional IOLTA-funded legal services infrastructure.

Limiting authorization to IOLTA-funded organizations could also constrain innovation. One of the important advantages of an emerging service-delivery model is the opportunity to learn which organizational arrangements are effective. An authorization structure that permits different qualified organizations to develop models, subject to appropriate

²⁶ See, e.g., Carrie Johnson (2024), “‘Cheat code to life’: Jailhouse lawyers help incarcerated people and themselves, too,” National Public Radio, October 16. https://www.npr.org/2024/10/14/nx-s15075170/jailhouse-lawyers-initiative-prisonlegal_

²⁷ See, e.g. Lageson, S., & Stewart, R. (2024). The problem with criminal records: Discrepancies between state reports and private-sector background checks, *CRIMINOLOGY*, 62, 5–34. <https://doi.org/10.1111/17459125.12359>.

supervision, accountability, and evidence-based oversight, creates opportunities to identify approaches that are effective, sustainable, and scalable. Restricting participation at the outset to organizations selected through a separate funding regime would unnecessarily narrow that opportunity.

Other justice worker models demonstrate that authorization need not be tied to receipt of a particular legal-services funding stream. Alaska's Community Justice Worker Program has demonstrated the value of extending justice work into communities and organizations beyond traditional legal-services delivery settings.²⁸ Arizona permits Community Legal Advocates to be sponsored by approved community-based organizations.²⁹ Federal immigration regulation similarly permits qualifying nonprofit organizations to become recognized organizations and host accredited nonlawyer representatives.³⁰

California can protect consumers more directly by attending to the characteristics that actually matter to service quality: whether an applicant organization has an appropriate proposed scope of practice; adequate training and supervision; appropriate attorney expertise and support; systems for monitoring services and addressing complaints; and the institutional capacity to comply with the program's reporting and accountability requirements.

We therefore recommend that Rule 9.45.1 establish a pathway for qualified nonprofit and community-serving organizations that do not receive IOLTA funding to seek authorization to operate CJW programs, provided that they satisfy the substantive requirements established by the rule and the Authorizing Body.

At minimum, the rule should direct the Authorizing Body to develop a clear authorization pathway for such organizations rather than making IOLTA funding a permanent prerequisite for participation. California can then use the program's reporting and evaluation infrastructure to assess the performance of participating organizations based on evidence about the quality and impact of the services they actually provide.

²⁸ Burnett, Sandefur, and Teufel, *supra* note 12.

²⁹ Arizona Code of Judicial Administration, Section 7-211: Community-Based Justice Work Service Delivery Models, p. 4.

³⁰ *ee* US Department of Justice Executive Office for Immigration Review, Recognition and Accreditation Program at <https://www.justice.gov/eoir/recognition-and-accreditation-program>.

8. Create a Meaningful Pathway for Community Justice Workers to Provide In-Court Representation

We recommend that Rule 9.45.1 create a meaningful pathway through which appropriately trained and supervised Community Justice Workers may be authorized to represent clients in court in defined matters.

The ability to provide legal information, advice, and document assistance is valuable, but for many civil justice problems a critical point at which assistance matters is when a person must appear before a court. A regulatory framework that permits a justice worker to help a client understand a problem, advise the client about available options, and prepare the documents necessary to pursue a remedy—but categorically prevents that worker from standing beside the client when the matter reaches court—risks creating an artificial break in the continuum of assistance.

Such a categorical restriction is also not compelled by the emerging approaches in other jurisdictions. Alaska's Community Justice Worker framework contains no general prohibition on in-court representation and provides a regulatory mechanism through which appropriate forms of representation may be authorized.³¹ In Delaware, Licensed Tenant Advocates (LTAs) are permitted to engage in settlement negotiations, file pleadings or other documents with the Justice of the Peace Court, and appear before the court (with written consent, signed by a supervising attorney).³² Texas has proposed a model permitting appropriately authorized nonlawyer practitioners to represent clients in specified proceedings in Justice Courts.³³ Montana's emerging justice worker framework likewise recognizes pathways for authorized assistance that can extend into court proceedings.³⁴ And the District of Columbia's proposed Community Justice Worker framework contemplates some forms of in-court representation.³⁵

These developments are consistent with a much longer history of advocates who are not attorneys providing representation in the United States. Such advocates already represent people in a variety of adjudicative settings, including immigration proceedings, tribal

³¹ <https://admissions.alaskabar.org/rule-43-5>

³² Rules of the Supreme Court of the State of Delaware, Rule 57.1. Representation of Residential Tenant by Qualified Tenant Advocate in the Justice of the Peace Court, at <https://courts.delaware.gov/forms/download.aspx?id=174928>.

³³ chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.txcourts.gov/media/1458990/249050.pdf

³⁴ chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://assets.frontlinejustice.org/msc-order-authorizing-cjw-program.pdf

³⁵ <https://newsroom.dccourts.gov/press-releases/releases-20260205>

courts, certain state tax proceedings, federal benefits matters, and other administrative tribunals.³⁶

Available empirical research does not support a categorical assumption that nonlawyer representatives necessarily provide lower-quality advocacy or create greater risks of consumer harm simply because representation occurs in an adjudicative setting. Research comparing lawyers and nonlawyers in unemployment compensation appeals, state tax appeals, Social Security disability appeals, labor grievance arbitration, and tribunals outside the United States has repeatedly found that specialized knowledge and experience can be more important to effective representation than possession of a law degree. Studies have found that specialized and experienced nonlawyer advocates can perform as well as, and in some settings better than, lawyers.³⁷

The appropriate question is not whether all CJWs should be permitted to appear in all courts or proceedings. The question is whether California should create a regulatory pathway through which an authorized organization can demonstrate that particular CJWs, after appropriate training and under appropriate supervision, are competent to provide representation in specific proceedings.

We recommend that it should.

Importantly, the rule need not resolve today every proceeding in which CJW representation will ultimately prove appropriate. It should instead create the regulatory authority and process necessary to permit carefully designed models to be proposed, tested, evaluated, and expanded when supported by evidence.

The program's proposed data-reporting and evaluation requirements make California particularly well positioned to take this approach. Rather than prohibiting court representation based on assumptions about hypothetical risks, California can authorize models, measure their actual performance, examine client outcomes and complaints, and adjust regulation in response to evidence.

We therefore recommend that Rule 9.45.1 expressly authorize the Authorizing Body to approve scopes of practice that include representation before California courts and other adjudicative bodies when an applicant organization demonstrates appropriate training, competence, and supervision. A categorical exclusion of court representation would

³⁶ Burnett, Matthew and Sandefur, Rebecca L., A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States (September 03, 2024). Fordham Urban Law Journal, Vol. LI, 2024, Available at SSRN: <https://ssrn.com/abstract=4946163> or <http://dx.doi.org/10.2139/ssrn.4946163>; Herbert M. Kritzer. 1998. Legal advocacy: Lawyers and nonlawyers at work. University of Michigan Press.

³⁷ *Id.*

unnecessarily constrain the model before California has had an opportunity to learn, through evidence, where and how CJWs can provide such assistance safely and effectively. It would also be at odds with existing justice worker regulation in other states, which nearly universally authorize some form of in-court representation.

9. Use the Proposed Reporting and Evaluation Requirements to Build an Evidence-Based Regulatory System

We commend the proposed rule's inclusion of ongoing data reporting and program evaluation. The proposal would require authorized legal services organizations to report twice annually on measures including clients served, hours of CJW service, case resolutions, complaints, and program costs. It also contemplates evaluation of the California CJW Program within two years after the first organization is authorized.

These provisions should be treated not simply as administrative reporting requirements but as the foundation for evidence-based regulation.

Data collected through the routine operation of Alaska's program made it possible to assess geographic reach, populations served, economic benefits, and return on investment. Without such data, policymakers would have been left primarily with anecdotes about whether the program was succeeding.

California has an opportunity to build evaluation into the program from its inception. We encourage the Authorizing Body and State Bar to ensure that reporting measures are designed with meaningful empirical evaluation in mind and that adequate resources and expertise are devoted to analysis.

At a minimum, evaluation should permit assessment of:

- who receives CJW services and where they live;
- the types of justice problems for which assistance is provided;
- the types and intensity of services provided;
- case and client outcomes;
- complaints and evidence of consumer harm;
- the accessibility and timeliness of services;
- program and service-delivery costs;
- CJW recruitment and retention;
- differences in performance among training and supervision models; and

- the geographic and demographic reach of participating programs.

Where consistent with applicable privacy protections, aggregated program data and evaluation findings should be made public. Transparency would allow the Court, State Bar, legal services organizations, community partners, legislators, researchers, and Californians themselves to understand what the program is accomplishing and how it can be improved.

Just as importantly, evidence should be used iteratively. If specific restrictions prove unnecessary, they should be reconsidered. If particular training or supervision practices produce stronger outcomes, they can be replicated. If evidence identifies actual risks, regulation can respond directly to those risks.

This is one of the most important advantages of California's proposed program: it creates an opportunity not merely to authorize a new form of legal service, but to learn systematically about what works.

CONCLUSION

California's access to justice crisis is too large to be addressed through increasing the supply of lawyers alone. Meeting unmet civil legal need at meaningful scale requires developing additional, evidence-based ways for people to receive competent assistance with the legal problems that affect their homes, families, livelihoods, health, and economic security.

The proposed Community Justice Worker Program represents an important step in that direction. Its basic structure—organizational authorization and responsibility, defined scopes of practice, targeted training, attorney supervision, reporting, and evaluation—provides a strong foundation for expanding access while protecting the public.

For the program to fulfill that promise, however, California should resist imposing restrictions that are not necessary to ensure competent and safe service. Community justice work is a distinct model of legal service delivery, not a lesser version of lawyer practice, and it should be regulated accordingly. The appropriate starting point is the minimum set of constraints necessary to address demonstrated risks, combined with meaningful oversight and ongoing evaluation of actual program performance.

We therefore support adoption of proposed Rule 9.45.1 and recommend that California strengthen the proposal by removing the high school diploma or equivalent requirement; preserving flexibility in training, scope of practice, and program design; ensuring meaningful participation by community-based organizations; avoiding eligibility and screening requirements unsupported by evidence; expanding eligibility to operate CJW

programs beyond IOLTA-funded legal services organizations; and creating a meaningful pathway for appropriately trained and supervised CJWs to provide representation in California courts and other adjudicative bodies.

These recommendations share a common purpose: California should regulate CJW programs based on demonstrated competence, actual risks to consumers, and evidence about program performance—not assumptions about what legal services must look like because of how the legal profession has traditionally been regulated. Where safeguards are necessary, California should employ the least restrictive mechanisms capable of addressing the identified risk. Where the evidence demonstrates that CJWs can safely and effectively provide additional services, the regulatory framework should permit the program to evolve accordingly.

The proposed reporting and evaluation requirements are especially important to this approach. They give California the opportunity to learn systematically from experience: to identify which models of recruitment, training, supervision, organizational participation, and service delivery work; to respond when evidence reveals genuine risks; and to remove or modify restrictions when they provide little consumer-protection benefit while limiting access to assistance.

In evaluating those tradeoffs, California should also recognize that the relevant comparison is often not between assistance from a CJW and assistance from a lawyer. For many Californians, the realistic alternative is receiving no legal assistance at all. A regulatory system designed to protect consumers should therefore account for both the potential risks of new forms of assistance and the substantial harms associated with leaving people to navigate consequential legal problems on their own.

California has an opportunity to build a Community Justice Worker Program that is not merely a cautious experiment, but an effective, sustainable, and scalable component of the state's civil justice system. A regulatory framework that begins with the minimum necessary constraints, permits participation by a broad range of capable organizations and justice workers, creates meaningful pathways for CJWs to provide the services people actually need—including representation where appropriate—and then uses evidence to refine regulation over time offers the strongest opportunity to realize that potential.

Kind regards,

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