LAW REFORM AS PROFESSIONAL RESPONSIBILITY

by

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Introduction

This article is dedicated to Professor Juliet Moringiello, who passed away much too soon on February 27, 2025. She spent much of her professional life working toward law reform, and she accomplished this in myriad ways. Juliet practiced law with the law firm of Emmet, Marvin, & Martin before becoming a law professor at Widener University Commonwealth Law School. She taught at Widener for 32 years and during that time she worked with numerous law students, practitioners, judges, other professors, and legislators. She was a leader in law reform, and her expertise was recognized by U.S. Supreme Court Chief Justice John Roberts, who appointed Juliet to the Federal Judicial Center's Bankruptcy Judge Education Advisory Committee in 2024.[1]

Juliet was a Pennsylvania Commissioner for the Uniform Law Commission for ten years and an elected member of the American Law Institute. During that time, she served as a division chair and as chair of both the study and drafting committees for the Tenants in Common Transactions Act. Additionally, Juliet was an appointed member of the UCC Permanent Editorial Board and the vice chair for the UCC Committee and for both the study and drafting committees for UCC and Emerging Technologies.[2] Juliet co-chaired

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[1] It is a testament to Professor Moringiello's legacy that so many beautiful tributes have been written, honoring her memory. *See, e.g.*, Richard G. Paszkiet, *In Remembrance of Juliet M. Moringiello, A BLS Member Who Left a Radiant Legacy to the Section*, BUS. L. TODAY, Oct. 17, 2025, https://www.americanbar.org/groups/business_law/resources/business-law-today/2025-october/in-remembrance-of-juliet-m-moringiello/?login; *Juliet M. Moringiello | IN MEMORIAM*, WIDENER UNIV. COMMONWEALTH L. SCH., https://commonwealthlaw.widener.ed/academics/faculty/detail/22/; Jeremy Telman, *In Memoriam: Juliet Moringiello, by Chris Odinet*, CONTRACTSPROF BLOG, (Mar. 4, 2025), https://www.contractsprofblog.com/2025/03/in-memoriam-juliet-moringiello-by-chris-odinet/.

[2] For general background information, see Celebration of Life for Juliet M. Moringiello and her curriculum vitae posted at https://commonwealthlaw.widener.edu/academics/faculty/detail/22/.

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the Article 9 Filing System, Remedies, and Other Miscellaneous Issues Subcommittee, and the Use of Tokens or Other Similar Products in Real Property Transactions Study Committee. She was serving on the current drafting committees for the Assignment for Benefit of Creditors Act and the Commercial Financing Disclosure Act until her passing. Through her work with the Pennsylvania Bar Association Business Law Section, Juliet played a key role in the enactment in Pennsylvania of Revised Articles of the UCC. She served as Chair of the Pennsylvania Bar Association Business Law Section from 2017–2018 and in 2021, the Pennsylvania Bar Association recognized Juliet's law reform work by honoring her with the W. Edward Sell Business Lawyer Award. Juliet knew the importance of law reform work, and she encouraged others to get involved in this important work. Juliet's own example as a professor who was deeply engaged in law reform, together with her collaboration with practitioners, judges, other professors, and legislators, shows how lawyers, regardless of their specific role, can engage meaningfully in law reform. Accordingly, our hope is that people who read this article will be inspired to find time for the important work of reforming the law and making it better.

Unfortunately, law reform is sometimes treated as a discretionary add-on to the "real" work of a lawyer, regardless of whether that lawyer is in private practice, a professor, a judge, or a legislator.[3] This article posits that it should be considered as more than this. In fact, the legal profession's regulatory framework makes it clear that improving the law is a core component of what it means to be a lawyer. Attorneys' engagement in law reform strengthens the legal system, enriches the body of legal literature, and makes attorneys more effective in our daily work, regardless of whether that daily work takes place in the office, the classroom, the courthouse, or the state house. Taking the argument a step further, this article will position law reform as one of the best ways for attorneys to meet their responsibilities to the profession as set forth in the ABA Model Rules of Professional Conduct. Juliet's career vividly illustrates this broader professional responsibility: her participation in law reform enriched her work as a professor, and her law reform work strengthened the legal institutions she served.

In the sections that follow, this article will present the lawyer's basic obligations with respect to public service as provided in the ABA Model Rules of Professional Conduct, then address some of the challenges attorneys face

[3] *See* Douglas L. Colbert, *Law Reform as Essential Role of Attorney*, 52 J. LEGAL EDUC. 540, 540 (2002) (noting that law reform work is often just considered an add-on to the "real" work of attorneys whether they are in private practice, academics, judges, or legislators).

that may discourage them from law reform work, as well as some of the policies from some organizations, such as the American Law Institute[4] and the Uniform Law Commission,[5] that support attorneys working to implement law reform. In the final sections, the article will show how every kind of lawyer, regardless of whether they are working as practitioners, as professors, as judges, or as legislators, has a role to play in the important work of reforming the law. As part of our research, we interviewed attorneys who are active in law reform, representing each of these areas of practice, and we have shared some of their insights below.

I. The Lawyer as a Public Citizen and Steward

The ABA Model Rules of Professional Conduct guide lawyers throughout our professional careers. As the Model Rules show, lawyers have obligations oriented towards the quality, accessibility, and legitimacy of legal institutions that go beyond their obligations to their clients and employers. The Preamble to the ABA Model Rules describes three roles for a lawyer: (1) as a client representative, (2) as an officer for the legal system, and (3) as a public citizen with a special responsibility to work for quality in our justice system.[6] The Preamble further explains the lawyer's duties as a public citizen. This role includes seeking improvements in the law, access to justice, just outcomes, and the quality of lawyers' services.[7] As a member of a learned profession, lawyers should expand their knowledge of the law beyond their clients and use that knowledge to help reform the law and strengthen legal education.[8] The rules also describe lawyers as playing a vital role in societal preservation.[9]

Read together, these statements serve to frame the Model Rules and provide context and system-facing (rather than merely client-facing) duties for the rules of loyalty and competence that are discussed below. This context is especially significant for law reform because many legal harms are structural:

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[4] The American Law Institute describes itself as "the leading independent organization in the United States producing scholarly work to clarify, modernize, and otherwise improve the law." *About ALI*, A.L.I., https://www.ali.org/about.

[5] The Uniform Law Commission (or ULC) describes itself as follows: "The Uniform Law Commission . . . provides states with non-partisan, well-conceived, and well-drafted legislation that brings clarity and stability to critical areas of state statutory law." *About Us*, UNIF. L. COMM'N, https://www.uniformlaws.org/aboutulc/overview.

[6] MODEL RULES OF PRO. CONDUCT Preamble (A.B.A. 1983).

[7] *Id.* at subpart 6.

[8] *Id.*

[9] *Id.* at subpart 13.

they arise from recurring doctrinal gaps, procedural complexity, or administrative undercapacity that no single case can fully remediate. When lawyers engage in law reform by drafting statutes, proposing rule amendments, improving court processes, building access-to-justice infrastructure, or advising on regulatory design, they serve to fulfill the Model Rules' vision of lawyers as stewards for the legal system.

Professor Ellen Podgor describes law reform engagement as falling within the core ethical framework of the legal profession, rather than being an expectation that is specific to just some lawyers (such as professors).[10] She points to ABA Model Rule 6.1, discussed below,[11] which calls on *all* lawyers to participate in activities aimed at improving the law, the legal system, or the legal profession. While professors, being tasked with examining not only what the law is, but also what it should be, may be especially well positioned to undertake this work, the underlying obligation is not limited to the academy. Even so, as Professor Podgor notes, law professors have "the luxury of the longer view" as compared with practitioners, who are of necessity focused primarily on client issues. As such, law reform becomes a natural outgrowth of what professors do each day.[12]

It is worth noting that many lawyers participate in law reform work without ever thinking about the Model Rules. Commissioner Ed Smith, one of the attorneys we interviewed for this article, said, "It just never occurred to me that this was a professional obligation on my part—to seek to improve the law. I didn't get into this area [law reform] necessarily because I was focusing on the Model Rules. It was that I just found it to be incredibly interesting and helpful to me in my day-to-day practice."[13] He noted that by participating in Uniform Law Commission drafting committee meetings he learns "an awful lot."[14] He found that participating in these meetings increased the breadth and depth of his knowledge and that in turn was useful to his firm and his clients.[15]

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[10] Correspondence from Professor Ellen S. Podgor (Apr. 5, 2026, and July 5, 2026) (on file with authors). Professor Podgor is the Gary R. Trombley Family White-Collar Crime Research Professor of Law at Stetson University College of Law and an elected member of the American Law Institute.

[11] *See infra* note 23 and accompanying text.

[12] *See* Podgor, *supra* note 10.

[13] Interview with Edwin E. Smith (Apr. 1, 2026) (transcript on file with authors). Mr. Smith is a senior consultant with Morgan Lewis & Bockius LLP, Commissioner for the Uniform Law Commission representing the State of Massachusetts, and an elected member of the American Law Institute.

[14] *Id*.

[15] *Id*.

Hopefully this will help encourage other attorneys to become involved in law reform.

Stephanie Heller, who was formerly Executive Vice President and General Counsel of The Clearing House, articulated a similar practical motivation for law-reform work, grounded in the value of legal clarity. In her experience, reform efforts that clarify rules and allocate risk can benefit institutions even when the resulting rule is not the one the institution would have preferred. As she explained, knowing the governing rules is often better than operating amid uncertainty, because uncertainty can obscure risk and make compliance and planning more difficult. This perspective helps illustrate why many lawyers and institutions engage in reform efforts even when they are not consciously motivated by the Model Rules.[16]

Teresa Wilton Harmon, co-managing partner of the Chicago office of a global law firm and an officer of the American Law Institute, frames the Model Rules' call to "seek improvement of the law" as a defining feature of law as a profession rather than merely a job or industry. In her view, the obligation requires more than diligent attention to clients' daily needs; it calls on lawyers to help improve the law as officers of the justice system and public citizens responsible for the quality of justice. For Harmon, that responsibility takes concrete form through participation in organized law reform efforts, which for her has included ALI and ABA work addressing emerging technologies.[17]

As Professor Podgor has noted, "it is important to keep in mind that law reform work depends on the people who are a part of the legal profession, and perpetuating the importance of law reform work can be accomplished in many ways. The American Inns of Court, for example, with its focus on mentoring newer attorneys provides a place for assuring that law reform work will continue to flourish."[18] Over thirty thousand judges, law professors, practicing lawyers, and law students are part of the American Inns of Court and are thus held to the Inns' Professional Creed in addition to the Model Rules of

[16] Correspondence with Stephanie Heller (April 9, 2026) (on file with authors). Ms. Heller is also an elected member of the American Law Institute and an appointed member of the Permanent Editorial Board for the Uniform Commercial Code. The Permanent Editorial Board is a joint committee of the American Law Institute and the Uniform Law Commission.

[17] Correspondence with Teresa Wilton Harmon (Apr. 13, 2026) (on file with authors). Among other leadership roles, Ms. Harmon is co-managing partner of Sidley Austin LLP's Chicago Office, a member of its Executive Committee, Vice President of the American Law Institute, and an adjunct faculty member at the University of Illinois College of Law, where she teaches Secured Transactions.

[18] *See* Podgor, *supra* note 10. Professor Podgor has actively participated in two Inns of Court.

Professional Conduct.[19] The American Inns of Court are voluntary organizations that exist to promote the goals of legal excellence, civility, professionalism and ethics on a national level.[20] The organization's stated mission is to advance and support the rule of law.[21] In supporting this mission, members are held to a Professional Creed, which includes a pledge to "work to make the legal system more accessible, responsive, and effective."[22] This article attempts to show that these goals are well served—perhaps even ideally served—by meaningful participation in law reform. The section that follows explores how law reform can be a meaningful form of pro bono service.

II. Law Reform as Meaningful Pro Bono Publico Service

The Model Rules set forth a lawyer's professional responsibility with respect to pro bono service, setting a goal of at least fifty hours of such service every year for every lawyer.[23] Although the rule directs that the primary focus of pro bono service should be legal service directed toward persons who have limited financial means, the rule specifies "participation in activities for improving the law, the legal system, or the legal profession" as a means of providing additional service.[24] This statement clearly supports the notion that law reform work is a meaningful form of pro bono service. Participation in these efforts may even have a multiplier effect, in that a single attorney's contribution may shape reforms that affect the law and countless future litigants.

In responding to interview questions posed by one of the authors, Dean Susan Demers offers a practical illustration of how law reform can function as "pro bono publico" service even outside traditional litigation and even before students become lawyers or other legal professionals (such as paralegals).[25] As

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[19] *American Inns of Court Frequently Asked Questions . . . and Answers!*, AM. INNS OF CT., https://www.innsofcourt.org/AIC/FAQ/AIC/FAQ.aspx?hkey=f5c1666d-f0f8-4440-a070-bb8516420858.

[20] *Our Vision, Mission, and Strategic Goals*, AM. INNS OF CT., https://www.innsofcourt.org/AIC/About_Us/Our_Vision_and_Mission/AIC/AIC_About_Us/Vision_Mission_and_Goals.aspx?hkey=27d5bcde-8492-45da-aebd-0514af4154ce.

[21] *Id.*

[22] *The American Inns of Court Professional Creed*, AM. INNS OF CT., https://www.innsofcourt.org/AIC/About_Us/Professional_Creed/AIC/AIC_About_Us/American_Inns_of_Court_Professional_Creed.aspx?hkey=8e28445f-0ae0-452c-8d47-9d96ee1255e1.

[23] MODEL RULES OF PRO. CONDUCT r. 6.1 (A.B.A. 1983).

[24] *Id.* at 6.1(b)(3).

[25] Correspondence from Susan Demers, Ph.D. (Mar. 29, 2026) (on file with authors). Dean Demers is the Dean of the College of Public Safety Administration and Policy, Ethics, and

a higher-education administrator overseeing career-focused programs in public policy, ethics, public safety, and legal studies, she describes capstone work that requires students to identify a current public problem, research it, and propose solutions. In her account, students might combine service and civic involvement, including tracking bills, visiting local civic institutions, and volunteering regularly, so that by the time they complete the capstone project they are prepared to make concrete recommendations.[26]

Despite the professional expectations that lawyers engage in law reform work and the many good reasons to do so, there are a number of challenges that may arise, limiting attorneys' participation in law reform. The following section explores some of those challenges.

III. Obstacles to Law Reform Work

Among the obstacles to law reform work an attorney may face are billable-hour pressure, a lack of institutional support, uncertainty about having sufficient expertise, and fear of harming client interests or alienating clients. This section will address each of these but will focus most heavily on client-related concerns.

First, with respect to billable-hour pressure, although the industry standard has, for many years, fallen between 1,800 and 2,200 billable hours per year, some firms have recently moved to an expectation of 2,400 "productive" hours each year.[27] The term "productive" hours is intended to include mostly work that can be billed directly to a client, but also work in business development, recruitment, professional development, the training and mentoring of other lawyers, or other administrative tasks.[28] At forty-eight hours per week, fifty weeks per year, such expectations can make it difficult for an attorney to undertake law reform work voluntarily if it is not counted toward this goal.[29]

Legal Studies at St. Petersburg College. She is also a long-time member of the adjunct faculty at Stetson University College of Law and has coached trial teams at Stetson Law for many years.

[26] *Id.* Dean Demers provides examples such as improving access to medical care for unhoused residents, making veterans aware of the resources available to them, and supporting families who have autistic children.

[27] Daniel S. Wittenberg, *The High Cost of High Expectations*, 51 LITIG. NEWS, Oct. 22, 2025, https://www.americanbar.org/groups/litigation/resources/litigation-news/2025/fall/high-cost-high-expectations/?login.

[28] *Id.*

[29] *Id.*

Even with respect to professors, who are not tasked with tracking billable hours, time itself can be a challenge. Professor Ellen Podgor notes that, even though her academic role enhances her ability to participate meaningfully in reform efforts, there are simply "only 24 hours in a day." Teaching, scholarship, and service obligations all compete for attention, and law-reform opportunities frequently arise on timelines that demand sustained, concentrated effort. Podgor's observation underscores that participation in reform work is often constrained, not by lack of commitment or institutional permission, but by finite professional capacity. This constraint affects all lawyers regardless of their role, albeit in different ways.[30]

Harmon notes that lack of access, in addition to time constraints, commonly limits participation in law reform efforts. She suggests that institutions can lower time barriers by using technology to reduce travel burdens, offering remote participation in deliberations, and scaling projects to shorter and more manageable timelines. She also emphasizes that meaningful engagement can look different in different seasons of a lawyer's life and career, and that reform bodies can widen access through outreach, local events, and modern communication channels that make reform work more visible and approachable.[31]

Second, institutional support for law reform work can also be a challenge. In a 2025 article, Professor Emily S. Taylor Poppe compares the fields of law and medicine over time, showing how law, when compared to medicine, has been very slow to divide labor across a range of service providers, instead heavily concentrating the work to be done in a relatively small number of occupational classifications.[32] Such a labor structure, by its nature, limits attorney capacity for professional contributions outside the place of employment, such as law reform. Commissioner Tim Berg, Past President of the Uniform Law Commission, mentioned that he thought that many law firms do not support law reform or service to the profession like they used to, although his firm has been very supportive of his law reform work.[33] Institutional support may vary depending on the firm or how long an attorney has been with a firm. Commissioner Berg said that he was a partner for several years before he became involved with law reform. He stated that it may be

[30] *See* Podgor, *supra* note 10.

[31] *See* Harmon, *supra* note 17.

[32] Emily S. Taylor Poppe, *Law Jobs: Professional Regulation, the Division of Legal Labor, and Institutional Change*, 93 FORDHAM L. REV. 1217, 1220–22 (2025).

[33] Interview with Tim Berg (Apr. 1, 2026) (transcript on file with authors). Commissioner Berg is Director, Fennemore, in Phoenix, Arizona, and Commissioner for the Uniform Law Commission representing Arizona.

difficult for associates and lawyers trying to build a practice to work in law reform.

Heller's experience highlights additional structural constraints that are especially salient in institutional and corporate settings. She observed that practical barriers such as budget, staffing, workload, and the difficulty of quantifying the benefits of reform work can limit participation even when lawyers view reform as professionally valuable. In a private company, particularly one that is heavily regulated, the reform efforts easiest to justify internally are often tied directly to regulatory developments, because the connection to operational needs is readily apparent. Broader forms of law reform can be harder to prioritize when leadership evaluates projects through the lens of immediate corporate objectives and tangible return on investment.[34]

The experiences of law professors underscore that these obstacles can manifest differently in academic settings. In comments provided to the authors, Professor Michael Dimino emphasizes that, although academic freedom allows professors to undertake projects that do not serve client interests or enhance revenue, this freedom is not synonymous with insulation from professional pressure.[35] Contrary to the common assumption that professors enjoy wide latitude to pursue controversial reform positions, Dimino observes that the ideological tendencies of the contemporary legal academy can sometimes *discourage* professors from advancing reform proposals perceived as politically unpopular.[36] In this respect, academic freedom expands opportunity, but the professional culture within which professors operate can create its own constraints.

Professor Podgor echoes the traditional understanding of academic freedom as enabling professors to speak publicly about systemic problems that practitioners and judges may be able to address only privately. She notes that practitioners risk alienating clients and judges must preserve neutrality, leaving law professors uniquely positioned to advance reform proposals openly. At the same time, Podgor cautions that this historical account may be under increasing strain. She expresses concern that academic freedom itself is being chilled in some contexts, a development she worries could curtail future law-reform work to the detriment of both the profession and the public.[37]

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[34] *See* Heller, *supra* note 16.

[35] Correspondence from Professor Michael R. Dimino, Sr. (Mar. 25, 2026) (on file with authors). Professor Dimino is a Professor of Law at Widener University Commonwealth Law School, where Professor Moringiello also taught, and an elected member of the American Law Institute.

[36] *Id.*

[37] *See* Podgor, *supra* note 10.

Institutional constraints can be especially visible in public higher-education settings. Dean Demers notes that public education in Florida is currently subject to heightened scrutiny, including close review of textbooks and assignments and formal channels for students to report classroom discussions they find objectionable.[38] These dynamics can affect how educators approach policy topics, even when the work is framed in broadly nonpartisan terms such as civic literacy, self-advocacy, and access to justice. At the same time, Demers argues that these constraints do not eliminate reform opportunities; rather, they shift emphasis toward forms of engagement that are not only pedagogical, but also practical, helping students to understand institutions, identify legal needs in their communities, and participate in problem solving through service.[39] Thus, "law reform" need not be narrowly limited to lobbying or drafting, but can also include civic understanding and direct service activities.

Heller also suggests some ways in which early-career lawyers who care about law reform can look for concrete signals that an employer values law reform work rather than merely tolerating it. The clearest signals are institutional investments: whether the employer pays for participation in bar association work (which often includes reform projects), and whether lawyers are given time to think critically and publish articles addressing problems in the law.[40] Just as important, she notes, is how lawyers are treated after doing that work; for example, whether they continue to receive strong assignments and promotions, indicating that law reform engagement is viewed as part of professional development rather than a diversion from it.[41]

Concerns about experiential expertise can present a third challenge. A 2025 report written by the Committee on Legal Education Admissions Reform (CLEAR) suggested that contemporary law students are not generally graduating with the skills they need to address the shared goal of access to justice and suggests comprehensive reform, including increased focus on experiential learning, with an eye toward practice-readiness.[42] Thus, law students may not be graduating feeling that they have the skill set to get involved with practical efforts such as law reform. Professor Rachel López provides a perspective that may also be useful in addressing this concern, in her

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[38] *See* Dean Demers, *supra* note 25.

[39] *Id.*

[40] Interview with Stephanie Heller (Apr. 10, 2026) (transcript on file with authors).

[41] *Id.*

[42] *Report and Recommendations*, NAT. CENT. FOR STATE COURTS: COMM. ON LEGAL EDUC. AND ADMISSIONS REFORM 15, https://www.ncsc.org/libraries/mozilla-pdfjs/web/viewer.html?file=https://www.ncsc.org/sites/default/files/media/document/CLEAR_Report.pdf.

2025 article on the topic of "experiential expertise."[43] An "experiential expert," as Professor López uses the term, is a person who has lived experience with the form of legal injustice being addressed.[44] In her article, Professor López advocates for institutions, both academic and legal, playing a strong and active role in making it possible for experiential experts to be meaningfully involved in legal discourse.[45] In Professor López's perspective, an experiential expert can "frame[ ] the questions that should be asked of the law," rather than "using lived experience [merely] to fill in the gaps of preexisting legal frameworks."[46] Bringing an experiential expert into the discussion could be one way to supply necessary expertise for effective law reform work, even when junior lawyers are involved.

The fourth concern, which is most frequently raised, relates to client interests and is addressed in the section below. In addition to these obstacles, some lawyers face role-based constraints: for example, as Judge David A. Demers noted, judges may be limited, not by billable hours or client pressures, but by ethical duties of impartiality and by the need to preserve public confidence in judicial neutrality.[47]

IV. Law Reform and Client Interests

Law reform work may raise the specter of what is sometimes called "positional conflict" and sometimes called "issue conflict" when an attorney takes a different position in the law reform context than the attorney has taken on behalf of a client.[48] The Model Rules address when a positional conflict

[43] Rachel López, *Experiential Expertise in Law: What Lived Experience Can Teach*, 105 B.U. L. REV. 1189 (2025).

[44] *Id.* at 1199.

[45] *Id.* at 1202.

[46] *Id.* at 1199.

[47] Correspondence from Judge David A. Demers (Mar. 31, 2026) (on file with authors). Judge Demers is a Senior Circuit Judge for the Sixth Judicial Circuit Court in Florida and an elected member of the American Law Institute. He is also a long-time member of the adjunct faculty at Stetson University College of Law and has coached numerous trial teams at Stetson Law over the years.

[48] *See generally* Esther F. Lardent, *Positional Conflicts in the Pro Bono Context: Ethical Considerations and Market Forces*, 67 FORDHAM L. REV. 2279 (1999) (providing an overview of the concept of positional conflict and urging that more attention be paid to the issue, given its importance in making pro bono assistance more widely available). At the time the article was written, Ms. Lardent, as President of the Pro Bono Institute, asserted that most of the major law firms lacked written policies and procedures for addressing the issue. *Id.* at 2279; *see also* Jeffrey W. Stempel, *Legal Ethics and Law Reform Advocacy,* 10 ST. MARY'S J. LEGAL MAL. & ETHICS 244 (2020) (stating that law reform activism by practitioners may create positional

does—and does not—arise in the context of litigation. As the Model Rules indicate, a lawyer is generally permitted to take different, even conflicting, legal positions in separate forums at different times when representing different clients. [49] Simply arguing a position for one client that might lead to precedent unfavorable to another client in a matter that is not related does not, by itself, create a conflict of interest.[50] Instead, a conflict of interest arises only when there is a substantial likelihood that the lawyer's work for one client will meaningfully compromise the lawyer's ability to represent another client in a separate case.[51] An example of this scenario would be when a ruling in favor of one client would set a precedent that significantly undermines the position the lawyer is advocating for the other client.[52]

Similarly, Model Rule 6.4 makes it possible for an attorney to engage in law reform activities even though the reform in which the lawyer is engaged may affect the interests of one or more clients the attorney represents. In such a case, if the client's interests will be "materially benefitted by a decision in which the lawyer participates,"[53] the Rule provides that the lawyer must disclose that fact but does not have to identify the client.[54] The Commentary states that disclosure is necessary for the integrity of law reform matters.[55]

On the other hand, Commissioner Berg said that if he were working on a uniform law committee that he knew would be adverse to specific interests of a specific client, he probably would recuse himself from the committee. Additionally, he would not take part in the final vote by the states on whether to approve that uniform law. To explain this, he gave the hypothetical example of a situation where a uniform law would shut down a type of business, and he represented clients in that business. That is the type of situation where he would recuse himself.[56]

Heller's comments underscore that the client-interest problem in law reform can look different for lawyers who serve as in-house counsel. She explained that early in her career she worked for leaders who treated law-reform

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conflicts of interest either for the attorney working on law reform or, possibly, for other lawyers in the firm which may be a disservice to clients).

[49] MODEL RULES OF PRO. CONDUCT r. 1.7 cmt. subpart 24 (A.B.A. 1983).

[50] *Id.*

[51] *Id.*

[52] *Id.*

[53] MODEL RULES OF PRO. CONDUCT r. 6.4 (A.B.A. 1983).

[54] *Id.*

[55] *Id.* at cmt. subpart 1.

[56] *See* Berg, *supra* note 33.

participation as part of the job rather than "on top of" the job, making engagement institutionally feasible.[57] That approach was easier to sustain in a public-sector environment and more complicated once she became a general counsel in the private sector, where management and ownership perspectives sometimes constrained the positions the legal department could take. In her account, the structural expectation that corporate counsel act as zealous advocates for the institution can make it difficult to participate in reform efforts in which participants are expected to step away from client interests and evaluate proposals on system-level merits.[58]

The American Law Institute complements the Model Rules by stating that members should leave their client interests at the door to maintain the Institute's reputation for thoughtful and disinterested analysis.[59] This expectation is necessary to maintain the ALI's reputation and to continue thoughtful and disinterested analysis of legal issues presented to the Institute.[60] To expand upon this rule, ALI members are expected to speak, write, and vote based on their personal and professional convictions and not their clients' interests or their own self-interest.[61] The ALI does not permit a member to represent a client when participating in Institute proceedings.[62] Further, if an attorney violates this rule, it may be good cause to have their membership suspended or terminated.[63] However, if it is necessary to disclose the client's interests to properly assess a member's statements, the rules permit members to make an appropriate disclosure, although they do not need to identify their clients.[64]

The Uniform Law Commission provides similar language in its Conflict-of-Interest Policy. To maintain the ULC's reputation for drafting legislation that is thoughtful, disinterested, and based on sound public policy, Commissioners are expected to leave personal and client interests at the door.[65] In communications made and actions undertaken within the framework of ULC proceedings, Commissioners should exercise their judgment without regard for

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[57] *See* Heller, *supra* note 16.

[58] *Id.*

[59] *Rules of the Council: 4.03*, A.L.I. 3 (Jan. 24, 2025), https://www.ali.org/sites/default/files/2025-01/council-rules-2025.pdf.

[60] *Id.*

[61] *Id.*

[62] *Id.*

[63] *Id.* at 5.04(C).

[64] *Id.* at 4.03.

[65] *Conflict of Interest Policy*, UNIF. L. COMM'N, https://www.uniformlaws.org/aboutulc/policies/conflictofinterestpolicy.

their own interest or a client's interests.[66] The ULC provides that a Member or Reporter on a study committee or drafting committee has a "conflict of interest" when it is reasonably predictable that the committee's potential decision could result in the Member or Reporter receiving a direct financial gain or direct financial loss.[67] Professor Amy Boss points out that the ULC and the ALI are motivated towards achieving justice in the system and addressing problems that exist in the system in a reasoned and balanced way, and that is why they require members to leave their clients at the door. However, she also noted that the ULC is focused on enactability and the ALI is not because they are not working toward passing legislation in the states. She states that because of this the ALI can have a heavier hand on justice and a lighter hand on enactability.[68]

Harmon offers a perspective (as a practitioner and a leader in law practice and law reform alike) that both affirms and adds nuance to the "leave your clients at the door" norm. She emphasizes that compartmentalizing client needs from one's personal views is central to the ALI process and is a commitment she takes seriously. At the same time, she notes that close work with clients inevitably informs (without dictating) a lawyer's understanding of how rules operate in the real world. In her experience, thoughtful client perspectives can help lawyers contribute to collaborative solutions that support sound policy across a broad range of stakeholders while preserving the integrity and trust that law reform bodies require.[69]

Commissioner Berg pointed out that the ULC's mandate to "leave your client at the door" works best by telling commissioners that their job is not to come in and advocate for the interest of a specific client or group of clients. However, he noted that, "we are all a product of our experience, so I think you can leave your individual clients at the door; whether you can leave your whole practice and background at the door is another question."[70]

Building on Berg's observations, Heller questions whether "leaving clients at the door" is either a fair expectation—especially for in-house counsel, whose professional role is defined by service to an institutional client—or a desirable one. In her view, robust disclosure and balanced participation may matter more than attempting to remove client interests from the discussion,

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[66] *Id*.

[67] *Id.*

[68] Interview with Professor Amy Boss (April 13, 2026) (transcript on file with authors). Professor Boss is the Trustee Professor of Law Emerita, Drexel University Thomas R. Kline School of Law, an elected member and Emeritus Council Member of the ALI, and former Chair of the Business Law Section of the ABA.

[69] *See* Harmon, *supra* note 17.

[70] *See* Berg, *supra* note 33.

because stakeholders' perspectives are often what makes reform proposals realistic and enactable. If all relevant stakeholders are present and heard, competing interests can surface and be negotiated transparently.[71]

Heller's reflections also show why reform work can be personally and professionally meaningful: for her, early participation in the revision of UCC Article 8 was formative because it illustrated what "good" commercial-law reform requires: grounding rules in how markets and institutions actually operate and avoiding overly ambitious attempts to predict the future in ways that can prove mistaken. She emphasizes the satisfaction of seeing reform "start to finish," including the less-visible but crucial coordination needed to align state commercial law with federal regulatory implementation and then to pursue state-level enactment. At the same time, she stresses that meaningful reform is not limited to clear successes; her experience with efforts that ultimately failed underscored how difficult attempts at sweeping change can be when transition costs are high and stakeholders are invested in the status quo. Those lessons, she suggests, are precisely why enactable reform often depends on transparent stakeholder engagement and negotiated compromise, work that can deepen a lawyer's understanding of the system and make day-to-day practice more interesting and meaningful.[72]

Harmon also underscores the satisfactions that make reform work sustaining over a career: she describes each round of UCC amendments as meaningful in different ways, combining the importance of the work itself with sustained collaboration among colleagues and friends, a close connection to day-to-day practice, and the distinctive gratification of seeing reform efforts enacted by state legislatures. In that account, law reform is not an abstract professional ideal, but a recurring form of engaged practice that links technical expertise, institutional cooperation, and visible legal change.[73]

Sometimes, rather than taking a position in law reform that favors a client's interests, an attorney may take a position adverse to their client's interests. Although the Model Rules do not specifically address the situation in which a client's interests may be affected *negatively* by an attorney's law reform work, the Rules' treatment of positional conflict would seem to accept implicitly the idea that an attorney may ethically support a position contrary to a client's interest.[74] In this respect, the Model Code of Professional Responsibility, which preceded the Model Rules, was clearer: It expressly

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[71] *See* Heller, *supra* note 40.
[72] *Id.*
[73] *See* Heller, *supra* note 16.
[74] *See* MODEL RULES OF PRO. CONDUCT r. 1.7 cmt. subpart 24, *supra* note 49.

provided permission for attorneys to take positions on law reform and public issues without taking into account the positions of any client.[75]

This permission is important because it makes it possible for subject-matter experts to engage in law reform within their area of expertise. The Commentary to the Model Rules provides that without Rule 6.4, "a lawyer specializing in antitrust litigation might be regarded as disqualified from participating in drafting revisions of rules governing that subject."[76] The Rules supply the crucial conflict-of-interest bridge between client-facing practice and participation in law reform.

Commissioner Smith said that he was very fortunate that his involvement in law reform came after he had built a practice and had credibility with his clients. However, attorneys who have to build a practice may have more pressure not to offend clients and to really be on the client's side. Still, even with his practice experience, he describes two examples where a conflict might have existed. First, he recalled being on the UCC Article 2 Revision Committee. The committee had many observers from industry. One of those observers came up to him and said that his company did a lot of business with Commissioner Smith's firm and the observer wanted him to know that he was watching him. Commissioner Smith said he thanked the observer and then called the partner who had a relationship with this company to relay what happened. The partner told him "to do what he thought was right."[77]

The second example relates to the rule that attorneys should leave their clients' interests at the door. Commissioner Smith was on the Committee to revise UCC Article 9, so he was explaining some of the issues to bankers he worked with in his practice. Some of the bankers stated that they knew he was on the committee and they knew he was looking out for their interests. Commissioner Smith told them that when he was on the committee, he was a commissioner and he was not representing them, so he needed to do what he thought was right for the law. Luckily, the bankers not only accepted that, but they also respected his position.[78]

The ULC's Conflict of Interest Policy carefully distinguishes between background that provides key expertise and an actual conflict of interest. [79] According to the ULC's policy, a Member's or Reporter's paid work in the

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[75] MODEL CODE OF PRO. RESP. EC 7-17 (A.B.A. 1969), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/model-code-of-profresponsibility1969.pdf.

[76] MODEL RULES OF PRO. CONDUCT r. 6.4 cmt. subpart 1 (A.B.A. 1983).

[77] *See* Smith, *supra* note 13.

[78] *Id.*

[79] *Conflict of Interest Policy*, *supra* note 65.

subject area relevant to a committee's work does not disqualify them from being involved in that work; in fact, it usually reflects valuable expertise that can assist the committee's efforts.[80] Members or Reporters may earn compensation through law practice, consulting, expert testimony, or other activities connected to their knowledge.[81] A conflict of interest, however, is different and presents a significant concern. It arises when a person has a stake in a specific outcome that the committee might reasonably reach, rather than in the subject matter as a whole.[82] When conflicts like this arise, the ULC's policies provide for the steps that are to be taken.[83] These rules help to support the crucial role of attorney experts in law reform work.

The Restatement (Third) of the Law Governing Lawyers reinforces these priorities when addressing the issue of what happens when an attorney openly expresses public policy views that are inconsistent with a client's position.[84] It states that "[r]esolution of many public questions is benefited when independent legal minds are brought to bear on them. For example, if tax lawyers advocating positions about tax reform were obliged to advocate only positions that would serve the positions of their present clients, the public would lose the objective contributions to policy making of some persons most able to help."[85] Thus, in the viewpoint of the Restatement (and the authors), law reform is enhanced when attorneys who are experts in the field lend their voices and expertise.

Two other reasons that attorneys may desire to become involved with law reform were given by Commissioner Smith. He said that, although he was knowledgeable about commercial law, he still found instances where he learned an enormous amount about the UCC by being a member of the Article 9 revision committee in 1999. In fact, he stated, "I thought I knew a lot about the UCC and then it turned out, I did not."[86] He was able to expand his knowledge of commercial law beyond his practice experience. He said it was an incredibly broadening experience, and it helped make him comfortable handling cases that were "a little off the grid" to what he usually did. The second reason Commissioner Smith mentioned was that his work in law reform has helped attract clients to his firm. He chaired the drafting committee for the 2022

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[80] *Id.* at cmt. 1.
[81] *Id.*
[82] *Id.* at cmt. 2.
[83] *Id.* at cmts. 3–4.
[84] RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWS. § 125 cmt. e (A.L.I. 1998).
[85] *Id.*
[86] *See* Smith, *supra* note 13.

Amendments to the UCC and that has brought some significant business to the firm.[87]

Commissioner Berg, who is primarily an appellate lawyer, mentioned that two additional ways for an attorney to get involved in law reform outside of the ULC or the ALI are either by working with their state bar or by doing certain types of appellate work. Work with a state bar may include reviewing uniform acts, drafting new rules, or lobbying on behalf of the state bar. He gave an example of how appellate work can support law reform. He represented the governor of Arizona, Jan Brewer, on a matter concerning Medicaid in the state. When some Arizona legislators challenged a statute that expanded Medicaid eligibility to certain groups, Commissioner Berg represented the governor and they won the case that expanded Medicaid eligibility in the state.[88] In addition to appellate work, Professor Amy Boss pointed out that there is other legal work where an attorney may be paid to reform the law and that is attorneys who work as lobbyists. Although not all lobbyists are lawyers, those that are lawyers are paid by their clients to achieve law reform.[89]

On the question of entry points, and building on Berg's point about state bar associations as a good way to get involved, Harmon highlights bar associations as an accessible starting place for practicing lawyers: committee work is generally open, comparatively easy to join, and consistently in need of volunteers to lead projects and convene dialogue. She resists a single way of measuring "impact," emphasizing instead that lawyers are often most effective when they identify a need that resonates with them and choose a role that fits their skills and their level of seniority, an approach that reinforces this article's broader claim that there is no single template for meaningful law reform participation.[90]

The foregoing discussion focused on the involvement of practitioners in law reform work. The following discussion explores the roles of law professors, judges, and attorney-legislators, all of whom have meaningful roles in law reform.

V. The Role of Law Professors

Law professors occupy a unique position within the legal profession. Unlike practicing lawyers, they are structurally insulated from client pressures,

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[87] *Id.*
[88] *See* Berg, *supra* note 33.
[89] *See* Boss, *supra* note 68.
[90] *Id*.

and unlike judges, they have historically faced no structural restrictions on public commentary or policy advocacy. Indeed, one normative account frames professors' participation in public service work (including law reform) as not just a right, but a duty.[91] This view is not, however, universal: a counterargument can be made that lawyers' public service (including that of law professors) may be commendable and encouraged, but it's more defensibly understood as a right and an aspirational choice, but not a categorical duty.[92]

This independence allows professors to engage in long-term, forward-looking projects such as drafting model statutes, leading multi-year studies that support legislative reform, or serving as a Reporter for the American Law Institute or Uniform Law Commission. Faculty members also educate the next generation of lawyers, and incorporating law reform work into their teaching helps students to understand that improving the law is part of an attorney's professional identity from the outset. In this way, professors may contribute to law reform both directly (through their own work) and indirectly by cultivating future attorneys who will do the same.

Although there is no single code of conduct that governs all law professors, the American Association of Law Schools has issued a Statement of Good Practices by Law Professors in the Discharge of their Ethical and Professional Responsibilities.[93] The Statement, while considered aspirational, is useful insofar as it addresses professors' duties to the legal profession and the larger society. This Statement, which was adopted by the Executive Committee in November 1989 and amended in May 2024, addresses a professor's duty to the larger community. The Statement acknowledges that one longstanding expectation of attorneys is that they contribute to the public good by providing unpaid service or pro bono legal work.[94] This expectation is consistent with the standards articulated above for practicing attorneys. The Statement goes on to express the view that law professors share this duty as members of the bar and in fact bear a special responsibility to seek justice and to instill in students the responsibility to do the same.[95] The Statement provides

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[91] *See generally* Robert R. Kuehn, *A Normative Analysis of the Rights and Duties of Law Professors to Speak Out*, 55 S.C. L. REV. 253 (2003).

[92] *See generally* Timothy P. Terrell & James H. Wildman, *Rethinking "Professionalism,"* 41 EMORY L.J. 403 (1992); *see also* Jennifer Gordon, *The Lawyer Is Not the Protagonist: Community Campaigns, Law, and Social Change*, 95 CAL. L. REV. 2133 (2007) (advocating an aspirational model of law in service of community organizing, without suggesting that such engagement constitutes a universal or mandatory professional role).

[93] *2025 Handbook*, ASS'N OF AM. L. SCHS. 113 (2025), https://www.aals.org/wp-content/uploads/2025/07/2025-AALS-Handbook.pdf.

[94] *Id.* at 118.

[95] *Id.* at 113.

that professors may fulfill their responsibility in many ways, one of which is to engage in legal reform.[96] Even without this statement, some professors do this work because they want to improve the law.[97] Professor Amy Boss said that she works toward law reform, "not because the standard says she should do it but because she believes it should be done. We should try to do our best to help make things better."[98]

This idea of a special responsibility can be interpreted in more than one way. As Professor Michael Dimino notes, he does not believe that professors hold an "enhanced obligation" in a moral or ethical sense, but rather that the structure of the academic role affords them a *greater opportunity* to contribute to the improvement of the law.[99] Because professors are not limited by billable-hour constraints, represent no clients, and often enjoy a degree of professional visibility, their reform-related contributions may carry different weight than those made by practitioners. In Dimino's view, this makes professors especially well-positioned to fulfill the Model Rules' broader vision of lawyers as public citizens working to strengthen the legal system.[100] Professor Boss supported that by noting that professors have a lot more freedom because we are professors and that freedom gives professors the time to work towards law reform as opposed to attorneys who are paid to represent clients. Professors are not limited by the confines of their jobs as much as lawyers in private practice are limited.[101]

Dean Demers's perspective complements Professor Dimino's by emphasizing institutional mission and student professional identity formation, especially in programs that educate future legal professionals and public-service leaders outside the JD setting.[102] As Dean of a college that includes public policy, ethics, and legal studies programs, she describes curricula designed around practical problem-solving and community engagement, culminating in capstone experiences that require students to research public problems and propose solutions to the civic institutions that are best positioned to address them.[103] In Demers's description, students learn to treat law as a set of tools and processes.[104] This orientation fosters a form of

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[96] *Id.* at 118.
[97] *See* Boss, *supra* note 68.
[98] *Id.*
[99] *See* Dimino, *supra* note 35.
[100] *Id.*
[101] *See* Boss, *supra* note 68.
[102] *See* Dean Demers, *supra* note 25.
[103] *Id.*
[104] *Id.*

what might be considered "everyday law reform": students learn to recognize systemic problems, frame their research questions around community needs, and translate their analysis of that research into feasible recommendations.[105]

The AALS Statement of Good Practices also acknowledges that law professors, as educators, serve as examples for their students.[106] In fact, Professor Moringiello served as an inspiration for former student involvement in law reform. A former student, now herself involved in law reform work, remembers fondly her conversations with Professor Moringiello around UCC Article 12.[107] Professor Moringiello, likewise, benefited from having her own professors involved in law reform. Professor Boss mentioned that she and Professor Bill Woodward taught Professor Moringiello when she was in the Temple LL.M program and helped introduce her to law reform by taking her to ABA meetings in the 1990s, where attorneys were constantly discussing amendments to the UCC.[108] Similarly, Professor Dimino describes a reciprocal relationship between teaching, scholarship, and reform.[109] Sometimes classroom discussions or scholarly inquiries reveal gaps in existing doctrine that call for reform; at other times, participation in a law-reform project generates insights that enrich classroom conversations or spark new scholarly questions. He emphasizes that one of the most effective ways professors can integrate reform into their pedagogy is by introducing students to live, evolving debates in the field, helping students see law not as static rules, but as a system continually shaped by lawyers' and policymakers' choices.[110]

Professor Boss stated that she wants to emphasize to her students that there are ways to achieve justice through the legal system. For example, in bankruptcy she teaches her students that they need to understand the technical portions of bankruptcy and commercial laws but also to understand the impact those laws have on people and our society. She uses the law reforms she has

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[105] *Id.*

[106] *2025 Handbook*, ASS'N OF AM. L. SCHS. 113, 114 (2025), https://www.aals.org/wp-content/uploads/2025/07/2025-AALS-Handbook.pdf.

[107] Correspondence from Tara J. Schellhorn (Apr. 8, 2026) (on file with authors). Ms. Schellhorn, who had the opportunity to interview Professor Moringiello regarding work on Article 12, worked on substantial revisions to the chapter 11 bankruptcy rules.

[108] *See* Boss, supra note 68.

[109] *See* Dimino, *supra* note 35.

[110] *Id.* By way of example, Professor Dimino described how, in courses on Constitutional Law and Federal Courts, he discusses the states' varying approaches to judicial selection (such as elections versus appointments) and how those varying approaches can reflect the states' weighing of which is the greater risk—a judiciary that is perceived as unaccountable to the people as a whole, or one that, due to political accountability, is hesitant to make decisions that may be unpopular.

been involved with and law reform she has not been involved with to illustrate some of these impacts on citizens and society.[111]

Professor Podgor provides concrete examples of how law reform work can be directly integrated into both teaching and scholarship. She explains that reform questions give students issues that are genuinely unsettled, requiring them to analyze not only what the law is, but what it should be. In her courses, she has incorporated draft language from active reform projects into legislative drafting exercises.[112] These exercises can prompt robust classroom debate and reveal how generational differences in language and meaning can materially affect statutory design.[113]

From a scholarly perspective, Professor Podgor notes that much of her work is explicitly reform-oriented, addressing issues such as overcriminalization, artificial intelligence statutes, discrimination in jury selection, and sentencing standards in white-collar cases. Even her doctrinal writing, she explains, allows her to identify deficiencies in existing law and develop reform proposals aimed at correcting them.[114]

Professor Podgor also emphasizes the pedagogical value of engaging students with reform efforts that are actively underway. She describes submitting comments to the Federal Rules Committee on whether depositions should be permitted in federal criminal cases, subject to protections for victims. She plans to incorporate that issue into her criminal-procedure course. Students are able to examine competing comments, assess policy rationales, and understand how procedural rules evolve through institutional processes. She similarly plans to use her comments on proposed revisions to the federal fraud sentencing guidelines as a teaching tool in her white-collar crime course, enabling students to see that sentencing guidelines are dynamic and contested rather than static and settled.[115]

Dean Demers similarly links pedagogy to reform. She explains that her faculty intentionally encourage students to build a co-curricular record of community involvement and service over the course of earning their degree so their education in law and policy is not merely theoretical.[116] Demers also notes that service environments can create meaningful opportunities for "reform talk" in real time: she describes, for example, how a Habitat for Humanity build

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[111] *See* Boss, *supra* note 68.

[112] *See* Podgor, *supra* note 10. By way of example, Professor Podgor mentions the ALI's work on sexual assault definitions and consent.

[113] *Id.*

[114] *Id.*

[115] *Id.*

[116] *See* Dean Demers, *supra* note 25.

prompted conversation about local housing needs as participants worked together, illustrating that reform-oriented learning can occur not only in classrooms, but also in the settings where legal and policy problems are most visible.[117]

In addition, in Dean Demers' work as an adjunct law school instructor and long-time law school trial advocacy coach, she notes that nearly any fact pattern can open discussion about access to representation and concerns about a systemic lack of transparency, particularly for causes that lack the financial backing needed to generate public attention.[118] She frames these conversations as part of professional formation: students learn not only how to advocate effectively, but also how procedural tools and settlement structures shape what the public can know.[119]

The ABA Standards and Rules of Procedure for Approval of Law Schools also contemplate law professors' role in service including law reform. Standard 402 states that full-time faculty should have the opportunity to provide service to the legal profession and public.[120] Standard 404 addresses the responsibilities of full-time faculty. It provides that the "core responsibilities" of full-time faculty include, among other tasks, service to the profession. This responsibility involves law professors working with judges and other lawyers to improve the profession.[121] Additionally, full-time faculty are expected to serve the public. This includes participating in pro bono activities.[122] Professor Dimino notes that service obligations often encourage professors to contribute to law reform bodies, provided they do not neglect their core responsibilities of teaching and scholarship.[123] Compared to many practitioners whose employment structures disincentivize non-billable work, professors may find greater institutional support for engaging in projects that strengthen the legal system. In addition, one attorney we interviewed made an argument that scholarly work can itself sometimes qualify as law reform work, as well.[124]

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[117] *Id.*

[118] *Id.* By way of example, Dean Demers references class discussions about non-disclosure agreements and their broader effects in weakening public accountability.

[119] *Id.*

[120] *Standards and Rules of Procedure for Approval of Law Schools 2025–2026*, A.B.A. 34 (2025), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2025-2026/2025-2026-standards-chapter-4.pdf.

[121] *Id.* at Standard 404(a)(5).

[122] *Id.* at Standard 404(a)(6).

[123] *See* Dimino, *supra* note 35.

[124] *See* Heller, *supra* note 40. Heller noted that sustained writing about an overlooked problem can help spur later institutional reform. She points to the Uniform Law Commission's Special Deposits Act and the work of attorney Joseph H. Sommers as an example of how

As a final example of members of the academy engaged in public service, Dean Demers describes how professors may pique students' interest in law reform through an immersive experience that operates at the intersection of institutional leadership, community partnership, and rapid access-to-justice response. After a 2024 hurricane displaced hundreds of residents from a Clearwater apartment complex during a major water-rescue event, she helped coordinate a community "open house" in partnership with local organizations so affected residents could obtain legal guidance within weeks of the storm.[125] She presents this as a model of real-time problem solving: by mobilizing community partners and engaging students in service-oriented legal assistance, the response addressed urgent legal needs while simultaneously teaching students how access-to-justice infrastructures are built.[126] Some of these students may become motivated to get involved in legal reform work, based on this exposure.

Professor Podgor's experience with death-penalty reform underscores why professors occupy a position that may be unavailable to judges, who are addressed in the next section. She describes filing a motion at the American Law Institute, together with Professor Roger Clark, seeking removal of the death-penalty provisions from the Model Penal Code. Drawing on her own experience representing a client in an appellate death-penalty case, she viewed the effort as among the most meaningful reform work of her career. Professor Podgor emphasized that this was "not a motion that judges could have made," because of the neutrality concerns inherent in the judicial role.[127] While the ALI did not issue a statement abolishing the death penalty, the removal of death-penalty provisions from the MPC represented a significant reform achievement with domestic and international implications.

VI. The Role of Judges

Judges are sometimes reluctant to undertake law reform activity out of concern that doing so will violate their obligations as judges. Thus, when judges engage in law reform activities, it is important that the organizations in which they participate provide channels that allow them to maintain judicial neutrality even while contributing their institutional expertise. For example, the law reform activities might relate to the administration of justice rather than to

scholarly attention to a legal gap can eventually generate a formal drafting effort and enactment.

[125] *See* Dean Demers, *supra* note 25.

[126] *Id.*

[127] *See* Podgor, *supra* note 10.

outcomes in particular cases. Some states require that a law-trained judge be appointed to the Uniform Law Commission.[128]

Judge David A. Demers explains that these boundaries are shaped not only by the ABA Model Code of Judicial Conduct, but also by jurisdiction-specific codes that can be more detailed while reflecting the same basic principles.[129] From his perspective, the governing framework clearly shapes what kinds of reform activities are appropriate for judges: judges must avoid impropriety and even the appearance of impropriety; avoid activities that interfere with the timely completion of judicial responsibilities; and refrain from conduct that could undermine public trust and confidence in the judiciary's neutrality and independence.[130] At the same time, he emphasizes that judges are not expected to be disengaged from institutional improvement.[131] Properly understood, the ethical framework also encourages judges to participate in efforts that improve the law, the legal system, and the administration of justice, so long as such participation stays within the boundaries required by impartiality and public confidence.

As Michigan's former Chief Justice Bridget McCormack has argued, judicial ethics do not merely permit judicial engagement in system reform; instead, in her view, effective reform depends on judicial involvement.[132] Because judges witness structural failures across the cases over which they preside, they occupy a vantage point no other legal actor shares.[133] In addition, McCormack notes, judges interact directly with individuals in the legal system; that is, not all of their interaction is mediated through an attorney.[134] Thus, although ethical restraint limits *how* judges participate in law reform, McCormack makes the case that judges have an ethical *obligation* to participate.[135] McCormack cites problem-solving courts as an example of an area in which judges have taken the lead on reform initiatives.[136]

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[128] *See* N.D. CENT. CODE ANN. § 54-55-01(1)(c) (2025) (requiring that a law-trained judge must be appointed to the North Dakota Commission on Uniform Laws).

[129] *See* Judge Demers, *supra* note 47.

[130] *Id.*

[131] *Id.*

[132] *See generally* Bridget Mary McCormack, *Staying Off the Sidelines: Judges as Agents for Justice System Reform*, 131 YALE. L.J. FORUM 175 (2021). McCormack is now President and CEO of the American Arbitration Association.

[133] *Id.* at 176.

[134] *Id.* at 179.

[135] *Id.* at 178.

[136] *Id.* at 188.

In considering what kinds of law reform are appropriate for a judge, the judge will be guided by the ABA Model Code of Judicial Conduct. The ABA Model Code of Judicial Conduct notes that the judiciary is tasked with interpreting and applying the law.[137] One concern for judges may be that law reform could, under some circumstances, be construed as an exercise in making the law. Additionally, the Code describes the office of the judiciary as "a public trust," emphasizing the importance of the judge's role in "maintain[ing] and enhanc[ing] confidence in the legal system."[138]

The Judicial Conduct Code emphasizes a judge's duty of impartiality.[139] In this context, impartiality is defined to mean "absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge."[140] Judges may be concerned that participating in legal reform could be viewed as an act of partiality.

On its face, the Code might seem to discourage a judge's participation in law reform, especially because it provides that a judge's duties must take precedence over all personal and extrajudicial activities.[141] However, the Comments to the Judicial Conduct Code provide additional context. They encourage judges to participate in activities that will help promote public understanding and confidence in the legal system.[142] Law reform can qualify as such an activity when it is approached in a manner that preserves neutrality and avoids political entanglement.

There is additional support in the Code for judges to participate in law reform work. Judges may participate in extrajudicial activities as long as those activities do not interfere with properly performing their judicial duties, cause frequent disqualification, or impair their independence, integrity, or impartiality.[143] Additionally, they need to avoid coercive conduct and using the resources of their office unless the law permits such use.[144] The rules go farther in supporting law reform by allowing judges to participate in activities relating to the law, the legal system, and the administration of justice.[145]

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[137] MODEL CODE OF JUD. CONDUCT, Preamble subsection 1 (A.B.A. 2011).
[138] *Id.*
[139] *Id.* at Canon 1.
[140] MODEL CODE OF JUD. CONDUCT Preamble: Terminology (A.B.A. 2011).
[141] MODEL CODE OF JUD. CONDUCT Canon 2: Rule 2.1 (A.B.A. 2011).
[142] *Id.* at cmt.
[143] MODEL CODE OF JUD. CONDUCT Canon 3: Rule 3.1 (A.B.A. 2011).
[144] *Id*.
[145] MODEL CODE OF JUD. CONDUCT Canon 3: Rule 3.7 (A.B.A. 2011).

Indeed, Rule 3.1's commentary acknowledges that judges are uniquely qualified to do so.[146]

Judge Demers offers a practical way to describe the boundary between acceptable participation and impermissible advocacy: the line depends largely on (1) the subject matter of the reform effort and (2) the method of participation. As to subject, he describes the clearest restriction as this: judges should not engage in reform efforts unrelated to the functioning of the legal and judicial systems.[147] As to method, he underscores that judges must avoid partisan or political activity in the guise of reform.[148] He notes that the line can become more difficult to see in large-scale policy debates, where questions of institutional design can overlap with contested political outcomes.[149] In those contexts, he suggests that any permissible judicial participation must remain carefully framed as scholarly or educational, grounded in judicial experience regarding process, administration, and the likely procedural consequences of proposed changes rather than advocacy for a desired result.[150]

Judge Demers's examples help clarify what judges can appropriately do under these principles. He points to efforts focused on procedure, court administration, and the operation of the justice system, including rule revisions and other institutional initiatives.[151] He also notes that judicial leadership sometimes requires engagement with public bodies to explain operational needs and consequences (for example, seeking resources necessary to keep court functions working effectively or explaining the system-wide impact of proposals affecting the judiciary).[152] In his view, these activities share a common feature: they relate to the administration and functioning of the justice system, and therefore fall within the domain where judges may contribute institutional expertise without compromising neutrality.[153]

These same principles also help explain why judges may decline law reform involvement they might otherwise support. Judge Demers emphasizes that judges can hold strong personal views about public policy and institutional design, but that judicial office requires restraint and silence in many contexts. As he puts it, "the Lord generously gave me a robe and a gavel not a seat in the

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[146] MODEL CODE OF JUD. CONDUCT Canon 3: Rule 3.1 cmt. (A.B.A. 2011).
[147] *See* Judge Demers, *supra* note 47.
[148] *Id.*
[149] *Id.* Judge Demers cites, by way of example, tort reform and death penalty issues.
[150] *Id.*
[151] *Id.*
[152] *Id.*
[153] *Id.*

legislature."[154] This constraint, rooted in impartiality and public confidence, operates not as a mere professional inconvenience, but as a central feature of the judicial role.

At the same time, when reform participation is appropriate, judges can bring distinct insights that other professionals may not. Demers explains that judges observe the legal system from a different vantage point than advocates and therefore may be able to evaluate rules and processes across many cases over time. In his teaching, he captures this contrast memorably: "At the end of the day it is easier for the judge to see the forest while the practitioner tends to focus on the trees."[155] This systemic perspective can be particularly valuable in reform work focused on procedure, court administration, access, and the downstream effects of institutional design.

At its best, judicial involvement in reform work should help to strengthen public understanding and confidence in the justice system. Judge Demers identifies several institutional developments that he hopes have had this effect. He points to problem-solving courts (including drug courts), mediation and other alternatives to litigation, unified family courts, and collaborative approaches to divorce as examples of reforms that may promote legitimacy by making court processes more accessible, responsive, and oriented toward problem solving.[156]

VII. The Role of Legislators

Legislators do not have any of the potential issues that judges need to be wary of. Simply stated, involvement in law reform is inherent in the work of a legislator and an essential part of the job. Members regularly introduce bills, sponsor reform proposals, participate in hearings on legal changes, and advocate policy revisions. Their job is law reform. Some states even mandate that legislators be appointed to the Uniform Law Commission.[157] Additionally, the Uniform Law Commission has a Standing Committee on Legislative Attorneys.[158]

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[154] *Id.*

[155] *Id.*

[156] *Id.*

[157] N.D. CENT. CODE ANN. §54-55-01(1)(d–e) (2025); *see also* WIS. STAT. ANN. § 13.55(1)(d) (2018) (requiring that two Senators and two Representatives be appointed to the commission on uniform state laws).

[158] NAT'L CONF. COMM'NS ON UNIF. STATE L., UNIFORM LAW COMMISSION 2025–2026 REFERENCE BOOK 70 (2025).

One of the attorneys we interviewed for this article is Commissioner Vince DeLiberato. He is a life member of the Uniform Law Commission and worked for the Pennsylvania Legislative Reference Bureau for 50 years before retiring in 2025. During his time with the Legislative Reference Bureau he worked as a staff attorney, drafting attorney, senior drafting attorney, and acting director before being elected as Director in 2014 by the Pennsylvania General Assembly.[159]

Commissioner DeLiberato noted that legal training is essential when drafting statutes, especially in terminology that is essential to the proper drafting of legislation. He gave the example of drafting criminal statutes, pointing out the importance of identifying the criminal state of mind and the prohibited act, pertinent exemptions, exceptions, defenses, and penalties. Additionally, legal training in Federal and State constitutional law is critical because they guide the legislative process. And, because statutes interact with each other, with regulations, and with the common law, knowledge of how they work together is important to proper drafting of legislation.[160] Interestingly, Commissioner DeLiberato said that legal training is less important in legislative evaluation. Training in history, economics, science and philosophy are particularly useful because those disciplines help focus debate on "intended and unintended consequences of legislative reforms."[161]

The authors asked Commissioner DeLiberato whether he saw his legislative work as fulfilling the Model Rules' vision of lawyers as "public citizens" responsible for improving the quality of justice. He stated that "there is a limited, but important, role in improving the quality of justice."[162] That role is limited to making sure that the State Constitution is followed and assuring the separation of powers under the State Constitution.[163]

When asked about structural or political barriers to meaningful law reform efforts, Commissioner DeLiberato mentioned that there may be significant social, economic, and religious arguments raised by lobbyists on different sides. And when those are raised, it takes time to address and resolve those disagreements. Additionally, he pointed out that partisan polarization is not helpful when trying to resolve these issues.[164]

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[159] Correspondence from Vincent DeLiberato (Apr. 7, 2026) (on file with authors). Commissioner DeLiberato is a Life Member and Commissioner on the Uniform Law Commission from Pennsylvania.

[160] *Id.*

[161] *Id.*

[162] *Id.*

[163] *Id.*

[164] *Id.*

He described a law reform initiative that he had worked on that helps to illustrate the value of having attorneys in the legislature. It was Pennsylvania's Uniform Electronic Legal Material Act. Attorneys understand that legislative and regulatory provisions are subject to change whereas a lay person usually does not have a good understanding of the need to improve regulations and statutes that have been enacted.[165]

In addition to the important role of legislators who are lawyers, lawyers can assist legislators. As Judge Robert A. Katzmann observed in his analysis of the unmet needs of immigrants, lawyers can (and, in his view, should) have a role in crafting systemic solutions and advising the legislative branch in doing the same.[166] Lawyers can be especially helpful in assisting legislators in areas where confusion often arises during legislative debate. Commissioner DeLiberato mentioned, by way of example, changes in judicial procedure and legislative regulation of damages.[167]

Conclusion

We hope this article has shown that there is a place in law reform for all lawyers, regardless of their role, and that law reform means different things to different lawyers. Some lawyers we interviewed had a fairly traditional concept of law reform, while others were much more expansive, including appellate work, lobbying, scholarship, and community-based volunteer work in their definition of law reform. Professor Moringiello was involved in numerous aspects of law reform. As a scholar, she advocated for changes in the law. As a Commissioner, she was part of proposing those changes. As a teacher, she educated not only her law students, but also the federal judiciary. In partnership with the legislature and as an active member in the Pennsylvania bar, she was instrumental in the enactment of Revised Articles of the Uniform Commercial Code.

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[165] *Id.*

[166] Robert A. Katzmann, *The Legal Profession and the Unmet Needs of the Immigrant Poor,* 21 GEO. J. LEGAL ETHICS 3, 28 (2008) (adding that "[l]awyers also can play a role in educating the public and the media about the immigration problem and possible reforms."); *see also* Daniel M. Kowalski, *Things to Do While Waiting for the Revolution*, 21 GEO. J. LEGAL ETHICS 37 (2008) (examining the ethical obligation, if any, for attorneys to participate in promoting reform through changes in statutory law).

[167] *See* Deliberato, *supra* note 159.