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AMERICAN BAR ASSOCIATION  
COMMISSION ON CIVIC EDUCATION IN THE NATION’S SCHOOLS

RESOLUTION

RESOLVED That the American Bar Association urges federal, state, territorial, and local governments to require civic education for elementary, middle, and secondary students in the nation’s public schools and to provide competitive grant funding for programs to meet this requirement.

## **REPORT**

### **Overview**

Preserving the fundamental civic mission of schools is vital to the continued success of American constitutional democracy. It is imperative that the American Bar Association continue to assume a leadership role in the national effort to promote civic education for all of the nation's students. This must be done not only through a call to action to the nation's lawyers, but also through policy actions directed to lawmakers at all levels of government.

Recognizing a critical national need and building on existing ABA policy, longstanding programmatic efforts by the Division for Public Education and other Association entities, and the current initiative on civic education established by President Stephen N. Zack, the Commission on Civic Education in the Nation's Schools recommends that the American Bar Association urge federal, state, territorial, and local governments to require civic education for elementary, middle, and secondary students in the nation's public schools and to provide competitive grant funding for programs to meet this requirement.

### **Calling the Legal Community to Action for Civic Education**

On August 1, 2009, retired Supreme Court Associate Justice David Souter delivered the keynote speech at the Opening Assembly of the American Bar Association annual meeting in Chicago. His focus was civic education in the United States. He declared, "I believe civic educational reform is, literally, essential to the continued vitality of American constitutional government as we know it." Justice Souter's message came with a call to action: "I will ask the American Bar Association as an organization and each one of you as individuals to take on the job. ...Civic education has to be raised to a new power and [that is] why every one of us in this room has to see to it that civic understanding becomes a birthright of every American."<sup>1</sup>

In response to Justice Souter, ABA President Stephen N. Zack has said, "I'm pledging my support, and that of our professional association, to answer [Justice Souter's] call to action. Moreover, I encourage all lawyers and judges to be personally and actively engaged in civic education in their communities and schools."

President Zack calls for a "rededication" on the part of all Americans:

*We must rededicate ourselves to learning about our constitutional system—not just the words on parchment, but the fundamental principles and values those words represent. Principles and values such as the separation of powers, checks and balances, judicial review, the rule of law, and constitutional democracy—majority rule that protects minority rights. Such a rededication requires a shared commitment to civic education. This will take a concerted effort. We must begin where the need is most urgent and the impact can be the greatest—in our nation's schools.*<sup>2</sup>

### **Need to Enhance Civic Education in the Nation's Schools**

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<sup>1</sup> Keynote Speech by David Souter, Associate Justice, U.S. Supreme Court, at Opening Assembly, American Bar Association Annual Meeting, Chicago, August 1, 2009, <http://www.abanet.org/publiced/JusticeSouterChallengesABA.pdf>.

<sup>2</sup> "Future Depends on Civics," Tallahassee.com, Stephen N. Zack, December 9, 2009.

This is a propitious moment for advancing civic education in the nation's public schools. The pressing need to improve civic learning among our nation's youth has been well documented by leading experts. A landmark 2003 report on *The Civic Mission of Schools* warned, "School-based civic education is in decline."<sup>3</sup> Commissioned by the Carnegie Corporation and the Center for Information & Research on Civic Learning & Engagement (CIRCLE), the report has had a galvanizing effect, ushering in an ongoing period of concerted national advocacy for civic learning. It reflected a broad consensus among scholars and practitioners that educational institutions need to play a major role to improve the civic understanding of American students. The Campaign for the Civic Mission of Schools, a nonpartisan, nonprofit coalition of more than 60 organizational partners, including the American Bar Association, seeks to implement the report's recommendations.

The need for improvement and reform of civic education in the states and at the local level has been further documented by well recognized studies and tests. The National Center for Learning and Citizenship, based at the Education Commission of the States (ECS), maintains an updated report on state statutes and administrative codes. It indicates that 47 states have both state statutes and administrative codes that address "civics, citizenship, citizenship education, or social studies," two states (Alaska and the District of Columbia) have administrative codes, and 2 states (Missouri and Montana) have neither. A 2004 ECS study noted, however, that only 23 states have testing or assessment systems that include knowledge of civics or government.<sup>4</sup>

Administered by the National Center for Education Statistics, the National Assessment of Educational Progress (NAEP), known as the Nation's Report Card, "is the only nationally representative and continuing assessment of what America's students know and can do in various subject areas. Assessments are conducted periodically in mathematics, reading, science, writing, the arts, civics, economics, geography, and U.S. history." The most recent NAEP Civics Assessment was conducted in 2006. Among its findings: Only 27% of 12<sup>th</sup> graders are *proficient* in civics and government. Only 5% attained an *advanced* achievement level, although 66% scored at least at a *basic* level. The comparable figures for eighth graders are: 22% proficient, 2% advanced, and 70% basic; For fourth graders, they are: 24% proficient, 1% advanced, and 73% basic.<sup>5</sup>

In addition to measures of student achievement, there are also measures of the general American public's knowledge, which point to inadequate understanding of subject matter, including law, government, and history, essential to civic learning. To cite one example, a Harris Interactive Survey conducted for the American Bar Association in July 2005 showed that nearly half (45%) of Americans were unable to correctly identify the three branches of government as "legislative,

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3 "The Civic Mission of Schools: A Report from Carnegie Corporation of New York and CIRCLE: Center for Information & Research on Civic Learning & Engagement, 2003, [http://civicmissionofschools.org/site/campaign/cms\\_report.html](http://civicmissionofschools.org/site/campaign/cms_report.html)

4 "State Citizenship Education Policies," ECS State Notes, Education Commission of the States National Center for Learning and Citizenship, April 2004. Updated information on the State Policies for Citizenship Education Database at [http://www.ecs.org/ecsmain.asp?page=/html/ProjectsPartners/nclc/nclc\\_main.htm](http://www.ecs.org/ecsmain.asp?page=/html/ProjectsPartners/nclc/nclc_main.htm).

5 The NAEP website, administered by the National Center for Education Statistics, is at [nces.ed.gov/nationsreportcard](http://nces.ed.gov/nationsreportcard). 2006 National Assessment of Educational Progress (NAEP) for Civics: The Nation's Report Card. Definitions of achievement levels: basic = "partial mastery," proficient = "competency over challenging subject matter," and advanced = "superior performance." To attain the "proficient" level, 8<sup>th</sup> grade-students, for instance, are able to "explain the importance of the rule of law and the separation of the legislative, executive, and judicial powers."

executive and judicial.”<sup>6</sup> Moreover, 57% of Americans could not name even a single current justice on the U.S. Supreme Court.<sup>7</sup> and only 27% of Americans know the Bill of Rights expressly prohibits establishing an official religion in the United States.<sup>8</sup>

Retired Supreme Court Justice Sandra Day O’Connor, who has taken on the mission to advance the cause of civic education in recent years, has cautioned, “I don’t know how long we can survive as a nation if we don’t teach every generation how our government is structured and works. I regard that as a very important thing for our public schools to teach. It’s critical for every generation to learn it. You don’t inherit that knowledge through the gene pool.”<sup>9</sup>

Utah Supreme Court Chief Justice Christine Durham has also stated, “By teaching civics to every student, our future citizens will acquire the knowledge and dispositions that self-government demands....Civic education helps students engage with others of differing views. Debates in the classroom demand that students consider the arguments on both sides of an issue. The process of civil deliberation that leads to reasoned conclusions is not only a vital skill for students’ own development, but is at the heart of the process of self-government.”<sup>10</sup>

Finally, research conducted in 2007 by Meira Levinson for the Center for Information & Research on Civic Learning & Engagement (CIRCLE) warns of a growing “civic achievement gap” separating Americans from one another. She marshals evidence that such a gap exists between “non-white, poor, and/or immigrant youth, on the one hand, and white, wealthier, and/or native-born youth, on the other.” Those in the first group “demonstrate consistently lower levels of civic and political knowledge, skills, positive attitudes, and participation, as compared to their wealthier and white counterparts.” The consequence is that “they face serious political disadvantages.”<sup>11</sup>

### **Requirement for Civic Education**

How can we best enhance civic education in the nation’s schools? Obviously, crucial to this effort is the extent to which young people have the opportunity to take school courses and engage in curricular and co-curricular activities that further their civic education.

ABA President Stephen N. Zack has commented: “Today, in many states and in many communities civics is no longer mandatory. It is taught as an elective, if even offered. Students are the next generation of citizens who will be called on (as every generation has been) to defend values set forth in our Constitution and protect our fundamental liberty. They must not graduate without thoroughly understanding our Constitution and the obligations it imposes on all citizens.”<sup>12</sup>

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6 “Civics Education” national public opinion poll conducted by Harris Interactive on behalf of the American Bar Association, July 2005, [http://www.justiceteaching.org/resource\\_material/ABASurvey.pdf](http://www.justiceteaching.org/resource_material/ABASurvey.pdf).

7 “U.S. Supreme Court Awareness Survey,” Conducted for FindLaw.com by Ipsos Public Affairs, December 2005, <http://public.findlaw.com/ussc/122005survey.html>

8 “Our Fading Heritage: Americans Fail a Basic Test on Their Heritage and Institutions,” Intercollegiate Studies Institute American Civic Literacy Report 2008, [http://www.americancivilliteracy.org/2008/summary\\_summary.html](http://www.americancivilliteracy.org/2008/summary_summary.html)

9 “Retired Justice Stumps for Civics,” Education Week, April 26, 2006.

10 “Stronger civics education work aid American citizens and democracy,” Christine Durham, Chief Justice, Utah Supreme Court, The Salt Lake Tribune, September 15, 2008.

11 “The Civic Achievement Gap,” CIRCLE Working Paper 51, January 2007.

12 Stephen N. Zack, “Remarks at ABA Midyear Meeting,” Boston, February 2009.

Accordingly, the proposed recommendation urges government at all levels to require civic education for elementary, middle, and secondary students in the nation's schools. It recognizes that effective civic education programs, which include study of law, government, and history, should be comprehensive and systematic K-12 school programs. To meet this need, this means they should be integrated throughout all K-12 grade levels: elementary, middle, and secondary. At the same time, we understand that states and local school boards should have the discretion to determine how best to establish their own mandates for civic education, recognizing that local control of education, including curriculum, has long been a hallmark of our nation's approach to schooling.

Although many states and local school districts have already instituted civic education requirements at certain grade levels, all could benefit from expanded and enhanced civic education programs. Indeed, some are taking steps to enhance civic education through new requirements. In President Zack's home state of Florida, for instance, the "Justice Sandra Day O'Connor Civics Education Act" was enacted into law in 2010. The Florida Bar was crucial to the law's passage. The Act requires 7<sup>th</sup> grade students to take semester-long civics course and 8<sup>th</sup> graders to pass a statewide standardized civics test.<sup>13</sup>

To adequately meet civic education requirements, we further urge that governments at all levels provide competitive grant funding for programs that advance civic education, including the study of law, government, and history, as well as developing the skills, dispositions, and values that support informed civic participation. Existing ABA policy, approved by the House of Delegates in 2009, urges the federal government (specifically, the U.S. Department of Education) to offer competitive grant programs at local, state and national levels to enhance students' civic learning. In support of this policy, President Zack "met with U.S. Secretary of Education Arne Duncan to urge that civic education be seen as a national educational priority, and inform him of our plans to mobilize lawyers and judges across our nation to educate young people on the rights and responsibilities of American citizenship."<sup>14</sup>

### **Commission on Civic Education in the Nation's Schools**

President Zack has stated: "As lawyers, we have a duty to address...the nation's lagging civics competency. Recognizing this, I am pleased that the ABA Board of Governors has established a 21-member Commission on Civic Education in the Nation's Schools."<sup>15</sup>

The 21-member Commission's charge is to serve as an advocate for civic education in American schools and to promote the implementation of effective and high-quality educational programs. Members, who have each answered the call to serve, are a diverse and distinguished group of jurists, lawyers, public servants, educators, advocates, and organizational leaders.

Leading the Commission's work are co-chairs Paulette Brown and Marna Tucker, long-time bar and civic leaders. Retired Supreme Court Justice Sandra Day O'Connor, who has been an

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<sup>13</sup> "The Florida Bar News," June 15, 2010, <http://www.floridabar.org/DIVCOM/JN/jnnews01.nsf/8c9f13012b96736985256aa900624829/a757cf54fe78cca28525773b0047fe2f!OpenDocument>

<sup>14</sup> "President's Message: Better Civic Education Will Inform Our Children and Inspire Them to Participate," Stephen N. Zack, ABA Journal, December 2010, [http://www.abajournal.com/magazine/article/invest\\_now\\_for\\_future\\_dividends\\_better\\_civic\\_education\\_will\\_inform\\_inspire/](http://www.abajournal.com/magazine/article/invest_now_for_future_dividends_better_civic_education_will_inform_inspire/).

<sup>15</sup> Ibid.

inspiring champion of civic education for many years, is a special advisor to the Commission. Among the members are Academy Award-winning actor and advocate for civic education Richard Dreyfuss; high school history teacher Steve Goldberg, president of the National Council for the Social Studies; Kathleen Hall Jamieson, director of the Annenberg Public Policy Center at the University of Pennsylvania; Charisse Ranielle Lillie, Vice President, Community Investment, Comcast Corporation; Karen Mathis, President and CEO, Big Brothers Big Sisters of America and former ABA president; Elisabeth McNamara, president of the League of Women Voters of the United States; and former U.S. Secretary of Education Richard Riley. Jurists include Marjorie O. Rendell, Judge, U.S. Court of Appeals for the Third Circuit and the First Lady of Pennsylvania; and Margaret Marshall, Chief Justice, Supreme Judicial Court of Massachusetts. These and the other distinguished and dedicated Commission members have been active leaders in civic education programs at the local, state, and national levels.

The Commission is organizing Civics and Law Academies for young people of middle and high school age. To help conduct these academies, the ABA has produced a Resource Guide and a companion website featuring curricular resources, including lessons and activities and suggested academy format designs. The ABA is asking bar associations, law schools, courts, young lawyers division affiliates, and others to collaborate with us as sponsors of the academies in their communities and schools. The academies can be integrated into existing programs or serve as catalysts for new educational efforts.

To ensure that the ABA has up-to-date and comprehensive information and to identify those “best practices,” the Commission has conducted a “Survey of Civic Education in the Schools.”<sup>16</sup> The survey is a means to identify the civic education activities, assets and advocacy efforts already underway by bar associations and other organizations. The Commission is serving as a national information clearinghouse for these programs.

### **ABA’s Longstanding Support for Civic Education**

The Commission’s current efforts build on longstanding ABA involvement in civic education. The American Bar Association has a long history of such support, in policy and direct programs, for law-related civic education. Early efforts date back to the 1920s and have been ongoing since the early 1970s. In 1971, then-ABA President Leon Jaworski established the Special Committee on Youth Education for Citizenship, the genesis for what became, in 1983, the Division for Public Education. Today, the ABA Division for Public Education<sup>17</sup> provides national leadership for law-related and civic education efforts in the United States, conducts educational programs, develops resources, provides technical assistance and information clearinghouse services, presents awards, and fosters partnerships among bar associations, educational institutions, civic organizations and others. Civic education programs and resources of the Division currently include Law Day, Constitution Day, summer institute for teachers on federal trials in U.S. history, the National Law-Related Education Leadership Conference, National Online Youth Summit, Dialogue program series, *Insights on Law & Society* magazine for teachers, “Looking at the Law” features in *Social Education* magazine, a curriculum developed in association with the Anti-Trust Law Section, and a National Endowment for the Humanities-grant funded project, “Civility and Free Expression in a Constitutional Democracy.”

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<sup>16</sup> Available at [www.americanbar.org/publiced/civics](http://www.americanbar.org/publiced/civics)

<sup>17</sup> The mission of the ABA Division for Public Education is to promote public understanding of law and its role in society. Its extensive website is at [www.abanet.org/publiced](http://www.abanet.org/publiced).

At the policy level, the House of Delegates urged support for law-related citizenship education and including understanding of the U.S. Constitution as a secondary school graduation requirement in the 1970s and 1980s. In the 1990s, ABA policy positions urged Association support for citizenship education, including constitutional studies, in elementary and secondary schools; called on judges and courts to support and actively participate in public education programs about the law and justice system; urged bar support for public education about the Constitution and the rights and responsibilities of citizenship through implementation of the national education goals and standards for civics education; and called on the Association to take the lead in developing long-term educational programs to improve public understanding of our system of justice.

### **ABA Policy on Civic Education**

Moreover, since 2004, the House of Delegates has passed a series of resolutions specifically related to civic education. They include the following:

RESOLVED, that the American Bar Association encourages all lawyers to consider it part of their fundamental responsibility to ensure that all students experience high quality civic learning, including the study of law, government, and history.

*Approved August 2010 (10A-110, Standing Committee on Public Education)*

RESOLVED, That the American Bar Association urges policymakers to establish a Coordinating Office of Civic Education in the U.S. Department of Education to enhance students' civic learning by offering competitive grant programs at the local, state, and national levels; facilitating professional development for educators; supporting research; and developing innovative curricula. FURTHER RESOLVED, That the American Bar Association urges policymakers to require that the National Assessment of Educational Progress (NAEP) for civics and U.S. history be conducted every four years and that the results be reported at both the national and state levels.

*Approved August 2009 (09A-122, Standing Committee on Public Education)*

RESOLVED, That the American Bar Association urges the amendment of the No Child Left Behind Act if reauthorized, or the adoption of other legislation, to ensure that all students experience high quality civic learning, including the study of law, government, and history; students' civic learning is regularly and appropriately assessed; and civic learning is accorded national educational priority on a par with reading and mathematics.

*Approved August 2007 (07A-114, Standing Committee on Public Education and Commission on Civic Education and the Separation of Powers)*

RESOLVED, That the American Bar Association encourages all lawyers and judges to be personally and actively engaged in civic education in their communities and schools.

RESOLVED, That the American Bar Association urges all lawyers and judges to work to increase Americans' understanding of the role of separation of powers in our constitutional democracy. FURTHER RESOLVED, That the American Bar Association urges policymakers at all levels of government to ensure that: all students experience high quality civic learning—including study of law, government, and history; students' civic learning is regularly and appropriately assessed; and civic learning is accorded national educational priority on a par with reading and mathematics.

*Approved by the ABA House of Delegates, August 2006 (06A-102, Commission on Civic Education and the Separation of Powers)*

RESOLVED, that the American Bar Association urges the legal profession to seek support of policymakers, educators, the media, and the general public to ensure that subject matter to advance the civic mission of schools, including study of law, is included in the core K-12 curriculum and reflected in all standards, instruction, professional development, school funding decisions, and evaluation.

*Approved August 2004 (Standing Committee on Public Education)*

### **Honoring Sen. Byrd's Legacy in Educating Americans about the U.S. Constitution**

U.S. Senator Robert Byrd of West Virginia died June 28, 2010. An autodidact, Sen. Byrd did not have the opportunity for higher education until much later in life. Without even receiving an undergraduate degree, in 1963 he earned a law degree at age 45 from American University. President John F. Kennedy presented him with his diploma.<sup>18</sup> Among Sen. Byrd's many accomplishments during his long career in Congress, he made a special cause of encouraging Americans to gain a deeper understanding of the U.S. Constitution, our nation's history, and the institutions of government. In particular, he sought to encourage educational programs on the U.S. Constitution during the annual commemoration of Constitution Day on September 17. As the nation prepares to mark the 225<sup>th</sup> anniversary of the U.S. Constitution in 2012, we believe it is appropriate to recognize Sen. Byrd's legacy in promoting study of the Constitution and the constructive role this has played in advancing civic education.

### **Why Civic Education Matters to the Legal Profession and to the Nation**

The proposed policy resolution builds upon prior policies approved by the House of Delegates to further urge government at all levels in the United States to require, as appropriate, civic education in the nation's schools. Our legal institutions and justice system depend upon the effectiveness of our educational institutions to make sure Americans are educated and acculturated to maintain their commitment to the rule of law and sustain their trust and confidence in the institutions of constitutional democracy, including the jury and other components of our system of law and justice. No other institution in American society can accomplish this civic mission as well as our public schools, especially as we welcome new Americans to our land, during an era of historic immigration levels.

As a matter of both professional responsibility and public service, the legal profession has a special interest in advancing the civic learning of our nation's young people. Civic learning necessarily includes study of law and appreciation of why and how the rule of law undergirds our constitutional democracy. The Preamble to the Model Rules of Professional Conduct states that a lawyer, "should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority."<sup>19</sup> To sustain public legal understanding requires an active program of civic education.

At this key moment in American education—and hence, in American law and society—the legal community must answer the call to action to participate in the civic education of American

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<sup>18</sup> "Robert C. Byrd, A Pillar of the Senate, Dies at 92," New York Times, June 28, 2010,

<http://www.nytimes.com/2010/06/29/us/politics/29byrd.html>

<sup>19</sup> ABA Model Rules of Professional Conduct: Preamble and Scope, [www.abanet.org/cpr/mrpc/preamble.html](http://www.abanet.org/cpr/mrpc/preamble.html).

youth. As stated eloquently by the authors of the 2010 report, “Creating a National Culture of Learning”:

*From Thomas Jefferson’s first proposals for public education to the current debates over school quality, we have always looked to our schools as a tool for making democracy possible through educating the next generation of citizens. How we conduct those schools, and how equitable and excellent we make all of our schools, says as much about us as a nation as anything else we do.*<sup>20</sup>

For the reasons cited in this report, the Commission on Civic Education in the Nation’s Schools urges the House of Delegates to approve the proposed resolution urging governments at all levels to require civic education for elementary, middle and secondary school students in the nation’s public schools and to provide competitive grant funding for programs to meet this requirement.

As President Zack has emphasized: “Our country’s future as a democracy depends on the integrity of our legal institutions, our commitment to justice, and our understanding of the values of constitutional self-government. Our children must learn those values. . . . For these reasons, I have made enhancing civic education throughout our country one of my highest priorities.”<sup>21</sup>

Respectfully submitted,

Paulette Brown and Marna Tucker, Co-Chairs  
Commission on Civic Education in the Nation’s Schools

February 2011

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<sup>20</sup> “Creating a National Culture of Learning: The Forum for Education & Democracy’s Recommendations for the Reauthorization of ESEA,” April 2010.

<sup>21</sup> “President’s Message: Better Civic Education Will Inform Our Children and Inspire Them to Participate,” Stephen N. Zack, ABA Journal, December 2010.