

News: National Evaluation And Classification Framework For Non-Lawyer Projects Released (Public Welfare Foundation 2015)



As those of us in the access to justice movement know too well, across the country thousands of people arrive at court every day both unrepresented and unsure of where to go. Many believe that solving this access crisis will require non-lawyer involvement but until now there hasn't been a universal framework for evaluating these programs. Now a new report funded by the Public Welfare Foundation and published by The American Bar Foundation and the National Center for State Courts, [Increasing Access To Justice Through Expanded "Roles Beyond Lawyers": Preliminary Evaluation And Classification Frameworks \(pdf\)](#), offers just that.

The report's authors, Tom Clarke and [Rebecca Sandefur \(americanbarfoundation.org\)](#), examine two programs where non-lawyers are authorized to provide certain specific services traditionally supplied by lawyers. The first is the [New York City Navigators Program \(courts.state.ny.us\)](#) and the second is [Washington Bar Association's Limited License Legal Technician program \(wsba.org\)](#) (set to sunset July 31, 2021 - [see announcement here \(wsba.org\)](#)). While very different in credentialing and application, both programs are groundbreaking in that they increase the public access to legal help by persons other than traditionally trained lawyers. This first stage of the research offers a classification framework for evaluating the functioning and impacts of these non-lawyer roles or "Roles Beyond Lawyers" (or RBLs) with a particular focus on their potential to contribute to solving the justice gap. Given the significance of these developments, combined with the increasing interest in these types of programs in other jurisdictions, the Public Welfare Foundation specifically designed the project to offer this preliminary report that would make an evaluation and classification framework available to the broader community at the earliest time possible. The study's framework proves useful for both those looking to engage non-lawyers and those using non-lawyers looking to better evaluate their RBL program.

Sandefur and Clarke note that "achieving the dual goals of access and protection" requires RBL programs to respond to three challenges: "appropriateness, efficacy, and sustainability." All three are the criteria on which they suggest evaluation of RBLs. In describing "appropriateness," the authors explain: "Program designers must identify a discrete bundle of services that can both make a material difference in the conduct of justiciable events and be competently performed by staff who are not fully trained attorneys." Efficacy means that, "the discrete bundle of services provided must be both competently performed and positively impactful on the work of participants in the legal matters served." They add that, "if appropriateness is meeting the challenge of designing an RBL that could work, efficacy is about implementing it so that it does work in attaining its specific goals for service delivery." Sustainability connotes that, "services must be produced by personnel managed through durable models of training, supervision, and regulation that ensure the consistent delivery of services of adequate quality." It "requires not only maintaining material efficacy, but also legitimacy."

In order to do an evaluation Sandefur and Clarke write that Stage 1 includes identifying specific goals of a RBL project, describing the RBL role as assigned, and mapping the contexts of service delivery and production. Stage 2 requires evaluating appropriateness and efficacy while Stage 3 measures sustainability.

The authors continue that RBL programs can be classified based on the following key program design characteristics: Role Definition (Restricted Legal Services vs. New Legal Roles), Training, Service Scope (Giving Facts vs. Giving Advice), Practice Location Scope (In Court vs. Out of Court), Regulation Strategy (Regulated vs. Unregulated), Role Payment (Market vs. Volunteer), Role Formality (Formal vs. Ad Hoc), Host, Quality Control, Marketing Mode, Role Permanency (Career vs. Temporary), Funding Strategy (Subsidy vs. Market). In an evaluation, they note that these characteristics can then be mapped onto appropriateness, efficacy, and sustainability to measure a program's contribution to closing the access gap.

Clarke and Sandefur present these frameworks as “both a resource to those who may be envisioning their own RBL projects and as an opportunity for this research project to receive feedback and comment.” They plan to refine the frameworks and offer a [final report and evaluation](#) of the two programs in summer 2016.

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