



In-School and Afterschool Programs Are Underway with Helpful Legal Guidance

NOW THAT SCHOOL is back in session, nonprofit in-school and afterschool programs in New York City are providing academic support along with educational, recreational, and cultural activities for school-aged children. To maintain high-quality programming, they must comply with applicable federal, state, and local laws, which also include regulations from the New York State Education Department (SED) and Office of Children and Family Services (OCFS) and New York City Department of Education (DOE). Specifically, school programs must focus on corporate governance, licensing requirements, employee and volunteer background checks, staff development requirements, and various employment law issues. Lawyers Alliance has long been committed to providing quality legal representation to nonprofit school programs in these areas to enable in-school and afterschool programs to operate effectively.

Afterschool Programs

Afterschool programs that provide child care for an enrolled group of seven or more children under the age of 13, outside normal school hours and consistent with the school calendar at a permanent site, are considered school-age child care (SACC) programs. SACC programs must register with OCFS. Afterschool programs that operate solely for the single purpose of religious education, sports, classes, lessons, or recreation are exempt from this registration requirement.

OCFS' SACC regulations address program management and administration, staff qualifications and training, child safety, health and nutrition, building and equipment, and licensing. Specific requirements include (i) criminal history record checks and fingerprinting for all employees and volunteers



Photo: E.M.B.A.S.S.Y. Initiative

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that come in contact with children, (ii) a minimum of 30 hours of training every two years for program directors and all employees working 20 hours or more a week, (iii) staff reporting for any suspected incidents of child abuse or maltreatment (iv) facility requirements, and (v) procedures for the administration of medication.

Case Example:

Starting a Nonprofit Afterschool Program

E.M.B.A.S.S.Y. Initiative seeks to provide homework assistance, health, fitness and nutrition workshops, and other types of enrichment such as music, art, and drama classes to underserved youth in Brooklyn, the Bronx, and Queens. With the pro bono legal assistance of Robert Guazzo and Russell Sharp of **Stroock & Stroock & Lavan LLP**, E.M.B.A.S.S.Y. Initiative is incorporating as a not-for-profit corporation and preparing tax exemption applications. In addition, E.M.B.A.S.S.Y. Initiative has received guidance from Lawyers Alliance with respect to registration as a SACC program and compliance with OCFS regulations.

SACC regulations are available online at www.ocfs.state.ny.us.

In-school Programs

Although in-school programs are not required to be licensed, they are subject to SED and DOE requirements relating to criminal history background checks and fingerprinting for all employees and volunteers that come in contact with children. In-school programs that contract with DOE may be required to submit fiscal or programmatic reports, satisfy insurance requirements, comply with policies for recordkeeping

E.M.B.A.S.S.Y. Initiative provides afterschool programs to underserved youth



Photo: E.M.B.A.S.S.Y. Initiative

and handling confidential information, and other requirements specific to the programming.

Case Example:

In-School Program Contracts with Local School

Border Crossers is a nonprofit organization that brings together young students from de facto segregated neighborhoods in New York City to explore issues of discrimination, inequality, and social justice and to develop student leaders. Border Crossers works with 2nd through 6th graders in public and private schools in Harlem, the Upper West Side, Carroll Gardens, and Chinatown. Border Crossers' programs have a social justice-based curriculum that focuses on establishing community, understanding the concept of crossing borders, student leadership, and social action. Pro bono counsel Eileen Nugent of **Skadden, Arps, Slate, Meagher & Flom LLP** is representing Border Crossers in connection with drafting and negotiating a contract with a school pursuant to which Border Crossers will provide professional development to the school's staff on techniques and strategies related to promoting multiculturalism and diversity and empowering students to address racism and injustice in their own lives.

Lawyers Alliance assists afterschool and in-school programs with legal issues related to employees and volunteers. Many school programs need legal assistance drafting an employee manual or volunteer handbook or properly classifying their workforce as independent contractors or employees.

Case Example:

Drafting Policies for an In-School Program

Wellness in the Schools (WITS) is a nonprofit organization that promotes children's environmental health, nutrition, and fitness within the New York City public schools. WITS student programs include a bio-based green cleaning program, a school lunch program to provide local and organic food to public school students, nutritional education and healthy cooking classes, strength and conditioning programs, and yoga classes. Pro bono attorneys Jane Wilson and Alison King of **Kaye Scholer LLP** are assisting WITS with drafting a whistleblower policy and document retention policies.

For more information on Lawyers Alliance's work with in-school programs and afterschool programs, please contact **Nicole Cuttino**, Staff Attorney for Children and Youth Services, at ncuttino@lawyersalliance.org or (212) 219-1800 ext. 228.

Understanding Managed Long Term Care

Managed Long Term Care (“MLTC”) aims to help people with disabilities or chronic health issues to live in their homes and communities for as long as possible. The MLTC provider arranges and pays for multiple health and social services with the goal of minimizing the need for hospitalization or nursing home care.

Beginning November 1, 2012 on a rolling basis, New York State is requiring certain New York City residents on Medicaid who are currently receiving community-based long term care services to enroll with an MLTC provider. Previously, enrollment with an MLTC provider was optional. Under the new rules, those who do not select an MLTC provider will be automatically enrolled with a randomly selected MLTC provider. MLTC enrollees will receive long term care services such as social adult day care, home care, and medical transportation. In order to build capacity for such services, MLTC providers are contracting with elder service organizations and other nonprofit and community organizations (“Service Providers”) to deliver these services. While entering into a relationship with an MLTC provider may offer exciting revenue opportunities for Service Providers, these relationships are complicated and will require Service Providers to comply with many regulatory issues.

Service Providers who do not currently receive Medicaid funds will have additional legal considerations if they enter into MLTC Service Provider contracts because these contracts incorporate state and federal laws that tie to the Medicaid funding stream. Among other issues, Service Providers

should be aware of confidentiality requirements, including HIPAA (the Health Insurance Portability and Accountability Act) compliance, insurance law provisions that relate to billing time frames, and audit provisions, which will provide audit rights to city, state, and federal overseers in addition to MLTC providers, and which may extend far beyond the length of the contract.

Service Providers that do not currently offer monitored adult day care and plan to expand their offerings due to these contracts should be cautious as MLTC contracts for social adult day care services do not guarantee any additional clients.

Case example:

Reviewing Services Contracts

Riverdale Senior Services (Riverdale) offers an adult social day care program for seniors who are suffering from memory loss due to Alzheimer’s disease or related dementias and has worked with MLTC providers in the past. Several MLTC providers have approached Riverdale as they seek service providers in connection with the roll out of mandatory enrollment. Lawyers Alliance for New York assisted Riverdale with its review of the terms and conditions of a proposed contract from an MLTC provider. The organization is now better positioned to serve any clients who arrive via these new contracts.

Due to the complexities of MLTC contracts, Lawyers Alliance for New York encourages any group considering entering into such contracts to contact us for assistance. Our staff and pro bono attorneys can discuss with nonprofit organizations the substance of the contracts and what changes in business practices may be needed to comply with the regulatory framework. For more information, contact Legal Director **Linda S. Manley** at lmanley@lawyersalliance.org or (212) 219-1800 ext. 239.

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Alum Profile: Barbara A. Schatz

Barbara A. Schatz served as Executive Director of the Council of New York Law Associates (Lawyers Alliance for New York's original name) from 1977 to 1984, a period of growth and change for the young organization. After Lawyers Alliance, she joined the faculty of Columbia University Law School, where she is currently a Clinical Professor of Law teaching the Community Enterprise Clinic and the Community Development Law Externship. In 2005 Lawyers Alliance honored Ms. Schatz and the Clinic at Columbia Law School with a Cornerstone Award for providing pro bono legal assistance to nonprofit organizations unable to pay market rates.

Q – What was Lawyers Alliance's focus when you were Executive Director?

When I became Executive Director in 1977, the Council of New York Law Associates had an annual budget of about \$80,000 and a staff of three, including me. The focus was on pro bono services for a wide array of clients, some nonprofits seeking representation with corporate and tax matters, but also individuals and groups with civil rights, civil liberties, environmental, and other issues.

During my tenure, we raised the funds to hire our first staff lawyers and focused the organization's work on nonprofits, particularly those concerned with community development. We also collaborated with other organizations to form two wonderful organizations: Human Rights First (then called the Lawyers Committee for International Human Rights) and Court Appointed Special Advocates, advocating on behalf of children in foster care.

Q – How have you seen Lawyers Alliance grow over the years?

Lawyers Alliance has grown tremendously in size, influence, and expertise, serving as a model for other jurisdictions in the U.S. and abroad that want to connect pro bono lawyers with nonprofits.

Q – How is your current work affected by your past Lawyers Alliance experience?

When I left to teach in the clinical program at Columbia Law School, I took with me the enthusiasm for and knowledge about nonprofits that I developed at Lawyers Alliance. Although I have taught many different clinics, most have involved nonprofits in one way or another. I currently teach the Community Enterprise Clinic, through which I supervise students in representing nonprofits as well as small businesses. We continue to rely on Lawyers Alliance to identify many of the clients we represent and find the staff lawyers to be a consistently helpful source of information and expertise. Many of my students go on to do work in the nonprofit sector, either on a pro bono or full-time basis – a continuing legacy of my happy seven years as Lawyers Alliance's Executive Director.

Q – As a law professor, what skills and experiences do you suggest law students and lawyers pursue if they seek to assist nonprofits through pro bono legal work?

Law students who want to do pro bono work for nonprofits can gain valuable skills and knowledge through law school clinics focused on nonprofits or community development. Lawyers will benefit from the programs and publications on nonprofits offered by Lawyers Alliance and others and especially from collaborating with colleagues who know and love the work.

Help us build our archive and alumni database. Send your experiences with the Council of New York Law Associates or Lawyers Alliance for New York to Marketing and Communications Manager Emily Crossan at ecrossan@lawyersalliance.org.



Barbara Schatz

About Barbara

Employment includes:

- › Clinical Professor of Law, Columbia Law School
- › Executive Director, Council of New York Law Associates

Current activities include:

- › Chair of the Board, PILnet: The Global Network for Public Interest Law
- › Board Member, Human Rights First and Trickle Up

Graduate of:

- › Harvard Law School
- › University of Pennsylvania

New Officers and Members of the Board of Directors

Lawyers Alliance is pleased to announce six new members of its Board of Directors and the appointment of three new officers. **John D. Lobrano** of **Simpson Thacher & Bartlett LLP** is now Chair of the Board after serving as Vice Chair. Board member **Clare O'Brien** of **Shearman & Sterling LLP** is Vice Chair and Board member **Neil Radey** of **Credit Suisse** is Treasurer.

Lawyers Alliance welcomes the following new Board members:

Craig F. Arcella is a Partner in the Corporate Department at **Cravath, Swaine & Moore LLP**. Mr. Arcella represents financial institutions and corporate clients in a wide variety of matters, including capital markets transactions, mergers and acquisitions, and syndicated loan transactions.

Mark A. Cohen, Deputy General Counsel at **Deloitte LLP**, heads the Office of General Counsel's engagement group. The group is responsible for client engagement matters, intellectual property

issues, licensing agreements, counseling regarding advertising, marketing materials and client proposals, nondisclosure agreements, bankruptcy matters, privacy law, alliance agreements, and vendor contracts.

Brian S. Cousin is a Partner with the international law firm **SNR Denton**. Mr. Cousin is the leader of SNR Denton's Global Labor and Employment Practice and is also a member of the firm's Commercial Litigation Group, specializing in employment litigation and counseling, ERISA and benefits litigation, commercial and financial litigation, executive contract negotiations, and international arbitration.

Andrew G. Dietderich, Partner at **Sullivan & Cromwell LLP**, is founder and head of the firm's Restructuring & Bankruptcy Group. Mr. Dietderich's multi-disciplinary practice focuses on assignments that combine traditional restructuring advice with major transactional and litigation work.

Heidi L. Naunton, Vice President, Senior Counsel and Assistant Secretary of **Viacom Inc.**, is an attorney in Viacom's Law Department. Ms. Naunton manages legal support for the Viacom Board of Directors, as well as SEC compliance and reporting, among other matters. She previously was a Weil, Gotshal & Manges extern at Lawyers Alliance.

Matthew B. Zisk is a Partner in the Intellectual Property and Technology Group at **Skadden, Arps, Slate, Meagher & Flom LLP**. Dr. Zisk is a transactional patent attorney representing clients on a full range of intellectual property matters, with a focus on technology intensive transactions. In 2011, he was recognized with Lawyers Alliance's Cornerstone Award.

Among new Board members at Lawyers Alliance are, (L to R) Brian S. Cousin, Heidi L. Naunton, Mark A. Cohen, and Craig F. Arcella



SAVE THE DATE

CORNERSTONE
A W A R D S
2 0 1 2

Tuesday, November 13, 2012

6:00 p.m. - 8:00 p.m.

Hosted by Credit Suisse

Law firm honorees:

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
HERRICK, FEINSTEIN LLP

Law Firm Appeal Sets New Record

The 2011-2012 law firm appeal raised \$790,100, a record high. Lawyers Alliance thanks our two outstanding appeal co-chairs **C. Allen Parker** and **John W. White** of **Cravath, Swaine & Moore LLP** for their leadership. Each year, funds raised in this appeal enable Lawyers Alliance to serve hundreds of organizations with business and transactional law needs. We thank the following 63 law firms for their generous support:

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Becker, Glynn, Muffly, Chassin & Hosinski LLP	Fulbright & Jaworski L.L.P.	Patterson, Belknap, Webb & Tyler LLP
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Debevoise & Plimpton LLP	McKool Smith	Winston & Strawn LLP
	Milbank, Tweed, Hadley & McCloy LLP	Wollmuth Maher & Deutsch LLP
	Morgan, Lewis & Bockius LLP	

We welcome **David A. Gordon** and **Miles N. Ruthberg** of **Latham & Watkins LLP** as co-chairs of the 2012-2013 appeal.

