

# SALT EQUALIZER

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Society of American Law Teachers

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## In This Issue

- Co-Presidents' Column*, page 1  
*Executive Director's Column*, page 1  
*SALT Annual Dinner*, page 5  
*SALT Teaching Conference*, page 6  
*"Vulnerable Populations" Book*, page 7  
*Breaking in to the Legal Academy*, page 7  
*SALT Governors Sought*, page 8  
*SALT Membership*, page 8  
*SALT Blog*, page 9  
*Human Rights Committee Report*, page 10  
*Affirmative Action Committee Report*, page 12  
*LGBT Committee Report*, page 13  
*Legal Education Committee Reports*, pages 14-17  
*Amaker Retreat*, page 18  
*Cover Retreat*, page 20  
*Grillo Retreat*, page 21  
*Meet Dorsen-Filler Fellow Kimberly Pray*, page 23  
*Farewell to SALT Assistant Elizabeth Luzzi*, page 23

**Breaking news:** *Equalizer* goes green; all issues now online only. SALT Salary Survey on hiatus; new and improved version returns in 2012. Details in this issue.



Co-Presidents Steve Bender and Raquel Aldana

## Co-Presidents' Column: Progressive and Proud of It

Raquel Aldana, University of the Pacific McGeorge School of Law, and Steven W. Bender, University of Oregon School of Law

These are daunting times for progressives inside and outside law school and academia. Mirroring their dismantling of civil rights and social justice reforms and safety nets in the United States, the same neo-con forces are busily at work attacking academic freedom, collective bargaining, tenure and security of position, and critical legal and race scholars and their social justice scholarship. More visibly in the news, conservative forces have surged within the judiciary, and policymakers seem emboldened to attack labor, affirmative action, reproductive choice, and immigrant workers and their

*Co-Presidents*, continued on page 2

## Executive Director's Column

Hazel Weiser

Since 1974, SALT has been a force for inclusion and change in law schools and consequently, in the legal profession. We call ourselves a community of progressive law teachers working for justice, diversity and academic excellence. SALT is also the only legal academic organization that includes law teachers of all ranks, deans, librarians, career services and admissions officers, and adjunct professors, too. Through our committees, SALT helps young law teachers bring distinctive and diverse voices and perspectives onto faculties and into their scholarship, and through critiquing how law schools function, SALT advances the ideal that the students sitting in law school classrooms and the professors who teach them should reflect the true demographics of our country. Our committees strive



SALT Executive Director Hazel Weiser

*Executive Director*, continued on page 3

## SALT EQUALIZER

The SALT *Equalizer* is a publication of the Society of American Law Teachers.

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## Co-Presidents

▼ *continued from page 1*

families. The Tea Party toasts to decimating budgets for public education and social services for families who are struggling to stay afloat in the globalized economy where workers are fungible and higher education costs spiral out of reach. No doubt these sweeping culture wars leave scholars and activists of conscience on the defensive and fearful of the next assault. But the ideals of progressivism remain vivid. As the neo-cons have ramped up their rhetoric and campaigns against equality, human rights, and basic human dignity, SALT has risen to the challenge inside and outside the law school classroom.

As discussed in its reports in this newsletter, SALT's tremendously talented and productive Issues in Legal Education Committee submitted four extensive reports as part of the ABA Standards Review Committee proceedings in Chicago. Among other things, these reports argued for preservation of tenure and security of position as a means of protecting academic freedom; in favor of alternatives to the LSAT, which continues to exclude diverse entrants from law schools; and in opposition to efforts to heighten the already-damaging gatekeeping function of the bar exam, which adversely affects diverse and talented graduates. At the same time, our Access to Justice Committee reminds law faculties of our obligations to inculcate our students with the values of the lawyer as a public citizen in a world where few in the middle class, and even fewer among the poor, can afford lawyers. Toward the provision of justice for underserved communities, SALT has defended law school clinics from legislative attacks and defended lawyers from similar attacks for their work for justice, civil rights, and civil liberties, both within the United States and abroad in countries such as Guatemala.

In this publication, we are asking you

as readers to embrace your inner progressivism, also known as your soul, and help us maintain SALT's vital work against the forces trying to stave off our goals of equality and quality in legal education. There are simple but important steps to support the good work of SALT. Make sure your membership is current today and renew your membership this fall in our annual membership drive. More than ever, with the retrenchment of money for progressive agendas, we will have to rely almost exclusively on our membership revenues to support our many projects. Attend our events, including the SALT dinner and the Cover Workshop at the AALS annual meeting, the biennial teaching conference, our three annual public interest retreats, and the annual LatCrit/SALT junior faculty development workshop. Purchase, or ask your law library to purchase, the new SALT/Golden Gate book from Carolina Academic Press on transformative teaching on the needs of vulnerable populations, and use it to gain new ideas on introducing social justice values and practices into the way you teach law. Lend help to our SALT committees, which include Issues in Legal Education, Access to Justice, Academic Freedom,

Equal Opportunity, Human Rights, LGBT Issues, and New Teachers' Pipeline. Contact us if you're interested in sharing your time and expertise, and we can connect you to these committees. Also explore their efforts as detailed on our website at <http://www.saltlaw.org/sections/view/saltatwork> and in this newsletter. Contribute to our SALT blog found at <http://www.saltlaw.org/blog/> by contacting the blog editors, Olympia Duhart at [duhart@nsu.law.nova.edu](mailto:duhart@nsu.law.nova.edu), or Kathleen Bergin at [kbergin@stcl.edu](mailto:kbergin@stcl.edu). "Friend us" and comment on our Facebook page and posts. Above all, join us in standing up to the indignity of the attacks being waged in higher education and greater society and declare that you, too, are progressive and proud.



*Dru Ramey and Eric Wright at the Cover Workshop*

## Executive Director

▼ *continued from page 1*

for academic freedom and equal opportunity within law schools, human rights and access to justice in our communities, and equality without categories.

SALT cares about who is admitted to law school, what is taught, and who is teaching it.

A privilege of serving as SALT's executive director is traveling to SALT events and meeting law school students, teachers, deans, and activists who see the law as an instrument for social change that widens inclusiveness, access to justice, and fairness. In December, SALT held a teaching conference in Hawai'i where 230 SALT members and others gathered to explore what we teach, how we teach, and how we might teach in the future. The conference was visionary and brutally honest, all at the same time. We learned from Marjorie Shultz how an admissions test based on the real skills and values that lawyers need to be competent and professional can be devised without the biases of the current LSAT. We listened to John Garvey describe the "client-ready" Daniel Webster Scholars Program at the University of New Hampshire School of Law, teaching students the professional skills and values measured by Marjorie Shultz's test and articulated in the MacCrate Report, and then having these successful graduates waived through the New Hampshire bar exam because their acquisition of skills and knowledge has been fully assessed and evaluated. We listened to the SALT and CLEA liaisons to the ABA Council on Legal Education and Admissions to the Bar and the ABA Standards Review Committee explain how a small group of deans is pushing for deregulation, using the claim that law school tuition costs too much as their justification for ending the requirements of full-time faculties, tenure and security of position, and a defined role for faculty in institutional governance. Then we heard from Phil Schrag that there are ways around

the tuition costs: law schools offering public interest loan forgiveness, along with federal legislation that expands opportunities for loan forgiveness with public or government service.

In Hawai'i and later in San Francisco, at teach-ins to support the boycott of the San Francisco Hilton Hotel, the site of the 2011 AALS Annual Meeting, we spoke with Unite HERE representatives about their struggles with hotel management to keep dignity, livable wages, health care benefits, and stability for their families as they resist cost-cutting that turns too many jobs from permanent into temporary positions. At SALT's April Board of Governors' meeting, SALT adopted a policy that SALT-sponsored events would only be held at union or community-based sites, with particulars as to contract terms to support the right to a living wage and decent, permanent jobs.

I walked a picket line; I attended the annual Robert Cover Workshop at the AALS, featuring the architects of California's Sargent Shriver Civil Counsel Act, funding pilot programs to enlarge access to justice in civil actions; and I greeted guests at the annual SALT dinner at Delancey Street Foundation. In honoring the Prison Law Office and showing the portraits of incarcerated men and women taken by photojournalist Robert Gumpert, we also honored the residents and staff of Delancey Street, a residential community for those who want to change their lives: ex-offenders, substance abusers, homeless.

In the dead of winter I drove up to Camp Sargent with seven law school students to attend the 24th Annual Robert Cover Public Interest Retreat, where Steve Wizner (Yale) and Danny Greenberg (special counsel at Schulte Roth & Zabel) informed this generation of law school students about Robert Cover, an exceptional activist, teacher, scholar, and their friend. Just a few weeks later I was out in San Francisco at the Trina Grillo Social Justice Retreat where Beth



*Morrison & Foerster's Jim Brosnahan at the Cover Workshop*

Coye, retired Navy commander, told her very personal story about how she first fought from the inside for greater opportunities for women within the military, but then had to resign her commission after twenty-one years, because she could not fight discrimination against gays and lesbians as a closeted lesbian Naval officer. Working within a network of activists, Commander Coye helped bring truth to the repeal of DADT. In her talk Friday night, the spirit of Trina Grillo was remembered.

Two days later I was off to Florida, where SALT held another of its "Breaking In: How to Get a Job in Law School" programs, hosted at Nova Southeastern University and coordinated with the Southeast/Southwest/Midwestern Regional People of Color Legal Scholarship Conference. More than twenty recent graduates, practitioners, fellows, and assistant visiting professors gathered in casual, yet informative, conversation with novice and experienced law faculty and administrators about their roles within the academy and how to get there.

Finally I was off to Chicago, to attend the Standards Review Committee's "open forum" on a broad range of issues that might change the structures and relationships

**Executive Director,**  
*continued on page 4*

## Executive Director

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within law schools as tenure and security of position, student assessment, admissions, law school governance, and other Standards were debated.

This winter and spring have been exciting, especially with the publication in March by Carolina Academic Press of “Vulnerable Populations and Transformative Law Teaching: A Critical Reader,” co-edited by Golden Gate University School of Law. We want to inspire all law teachers to question their own perceptions and experiences about who creates and interprets law, and who has access to power and the force of law.

With this issue of the *Equalizer*, we are joining the electronic, green age, with our decision to distribute it from now on solely via email and the [SALTLAW.org](http://SALTLAW.org) website, rather than by print and snail mail. The *Equalizer*, which has been so ably nurtured by Raleigh Levine (William Mitchell), creates an important historical record of SALT and the work of our committees and members. The *Equalizer* will continue to be professionally designed so that those of you who want to print it out will have no

difficulty.

The SALT Salary Survey, another important contribution that SALT makes to the legal academy, will be in hiatus for 2011. We want to publicly acknowledge the work of Dean Avi Soifer (Hawai’i) for his many years at the helm of this monumental process. The Salary Survey will return in 2012, under the leadership of Dean Eric Janus (William Mitchell) and Raleigh Levine. We are reviewing the entire process of how we gather salary information so that what we report to you, and to the incoming members to the legal academy, is as accurate and complete as possible. Be patient, and know that we will be asking SALT members for assistance when the new Salary Survey plan is announced in the fall.

This is the last year of the capacity-building grant from the Open Society Institute that allowed SALT to hire me as its first professional staff in September 2007. We are only sustainable if we get all of you to actually join, pay dues, and tell your colleagues what SALT has been doing to make the legal academy and the profession more inclusive and diverse, and our system of justice more just. SALT’s membership levels will

be changed for the 2011-12 academic year. We are switching from an income-based to a status-based fee structure so that the disclosure of only public information will be required in order to join SALT.

Watch the SALT website for information about the new levels and be sure to join SALT for the 2011-12 academic year. Only paying members count.



*Raquel Aldana and Leticia Saucedo at the Cover Workshop*

## 2011 San Francisco Dinner Is a Great Success; D.C. Is Next in 2012

*Ruben Garcia, California Western School of Law*

The beautiful bay views of Delancey Street San Francisco provided a stunning backdrop for the SALT Annual Dinner in January 2011. Delancey Street, a community nonprofit, was a welcome refuge from the labor dispute that enmeshed the main AALS conference venue, the Hilton Union Square. The staff at Delancey Street was eminently professional and made sure that the setting and service matched the high spirits that dominated the night.

Since Delancey Street is also a place for ex-offenders and addicts to receive second chances, it was particularly fitting that the M. Shanara Gilbert Human Rights Award was bestowed on the Prison Law Office. The nonprofit, based in the San Francisco area, is heavily involved in many of the most important legal cases about the humane treatment of incarcerated persons. The Office has won major victories in trial and appellate courts to improve the conditions in California prisons and recently defended one



*Maryland Dean Phoebe Haddon, 2011 winner of SALT's Great Teacher award*

of those favorable rulings before the United States Supreme Court. The Gilbert Award is one of the unique opportunities that SALT has to recognize a community organization that is outside the legal academy and yet so much a part of SALT's mission.

After the Gilbert award was bestowed, Phoebe Haddon, dean of the University of Maryland School of Law, was feted by her longtime friends and colleagues, Professor Paula Johnson (Syracuse), Dean Joan Howarth (Michigan State) and Professor Stephanie Wildman (Santa Clara), as the 2011 SALT Great Teacher. Dean Haddon exhibited the qualities that make her a great teacher – clarity, concision and humility – in her remarks. As a leader at her school and in the profession, she will continue her work instilling leadership qualities in others in the spirit of SALT's mission – justice, diversity and academic excellence.

We thank again all of the law schools sponsoring the dinner. Platinum sponsors were Maryland; the University of Oregon School of Law; and the University of the Pacific, McGeorge School of Law. Gold sponsors were American University, Washington College of Law; University of Denver, Sturm College of Law; Fordham University School of Law; Golden Gate University School of Law; University of Hawai'i William S. Richardson School of Law; University of Miami School of Law; Michigan State University College of Law; University of Nevada, Las Vegas, William S. Boyd School of Law; Northeastern University School of Law; Penn State University, the Dickinson School of Law; the University of San Francisco School of Law; Santa Clara University School of Law, Center for Social Justice and the Public Interest; Seattle University School of Law; Suffolk University Law School Touro College, Jacob D. Fuchsberg Law Center; Valparaiso University School of Law; Vermont Law School; and



*Prison Law Office Director Donald Specter accepts the M. Shanara Gilbert Human Rights award*

Wayne State University Law School.

Finally, we thank all the schools and individuals who bought tables at and tickets to the dinner and ads in the journal. The dinner remains SALT's largest single fundraiser, and its continued success allows us to maintain our many projects at a level that benefits all law teachers.

Thanks to the members of the San Francisco Dinner Committee for their hard work putting on the event: Steve Bender (Oregon), Patti Falk (Cleveland State), and Susan Rutberg (Golden Gate). The 2012 Dinner Committee, which includes me as chair and Steve Bender (Oregon), Patti Falk (Cleveland Marshall), Peter Joy (Washington University St. Louis), and Margaret Martin Barry (Catholic), looks forward to another great time in Washington, D.C. – hopefully without any labor strife! The dinner will be held on Saturday, January 7, 2012, at the Cafritz Center at George Washington University with a unionized caterer. Please contact me at [rgarcia@cwsj.edu](mailto:rgarcia@cwsj.edu) if you have any questions or suggestions.

## SALT's Teaching Conference a Tremendous Success

*Ngai Pindell, UNLV Boyd School of Law*

SALT held a very successful teaching conference, "Teaching in a Transformative Era: The Law School of the Future," on December 10 and 11, 2010, in Honolulu, Hawai'i. We had over 230 speakers and participants. The setting, the panelists, and the community of teachers combined to create an engaging and thought-provoking conference.

We spent the first day of the conference at the Hawai'i Prince Hotel Waikiki. The opening plenary panel kicked off the conference by exploring themes of law school pedagogy and the rising cost of legal education. The law school pedagogy conversation continued during the lunch plenary panel on "Rebellious Lawyering," comprised of Gerald Lopez, Shauna Marshall, Bill Hing, and Frank Valdes.

The evening ended with a reception at a venerable local institution, the Chart House. The reception featured Hawai'ian appetizers, drinks, and live music, and was generously hosted by Dean Camille Nelson at Suffolk University School of Law and Dean John White at the University of Nevada, Las Vegas Boyd School of Law.



*Hawai'i Dean Avi Soifer with Ngai Pindell*

We moved to the University of Hawai'i School of Law for day two of the conference. Over lunch in the campus student center ballroom, the plenary session focused on evolving trends in the administration of law schools. John Garvey discussed New Hampshire alternatives to taking the bar exam, Marjorie Shultz discussed her research on alternative law school applicant selection methodologies, including the skills and traits lawyers most value, and Philip Schrag talked about programs providing loan forgiveness in connection with public service.

The second day of the conference ended with an outdoor reception hosted by Hawai'i Dean Avi Soifer.

By all accounts, the conference was a terrific success. The beautiful surroundings didn't hurt either! Thanks go to the Conference Planning Committee, our host Dean Avi Soifer, and his wonderfully talented team of technology and planning professionals. The logistics of the conference were flawless, allowing panelists and participants to fully enjoy being together in Hawai'i in December.



*Labor teach-in at Hawai'i*

## Have You Bought Your Copy of *Vulnerable Populations and Transformative Law Teaching: A Critical Reader*?

Hazel Weiser, Executive Director, SALT

This volume of twenty-one essays, published by Carolina Academic Press, is a collaboration between SALT and Golden Gate University School of Law.

**SALT members are eligible for a 30% discount until June 30!** Current members were emailed a special code to order the book. Be sure to ask your librarian to order a copy for your law school, too.

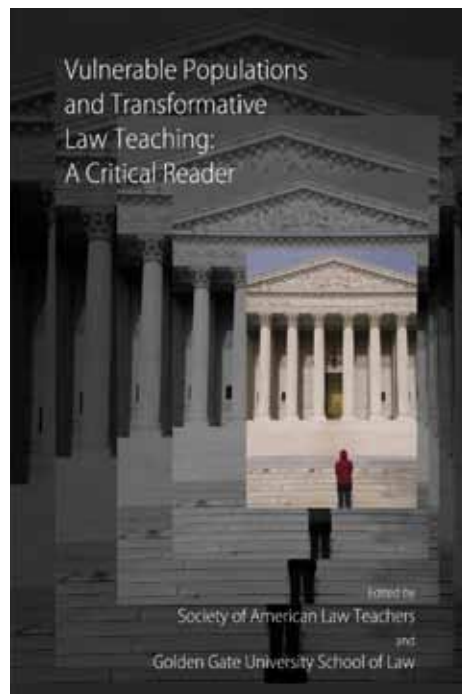
The essays included in this volume began as presentations at the March 19-20, 2010, “Vulnerable Populations, Economic Realities” teaching conference organized and hosted by Golden Gate University School of Law and co-sponsored by SALT. That conference, generously funded by a grant from The Elfenworks Foundation, brought together law faculty, practitioners, and students to reexamine how to infuse issues of race, gender, sexual identity, nationality, disability, and poverty into law school courses.

Conference contributors transformed their presentations into essays, offering a variety of roadmaps for incorporating social issues into classrooms, clinics, externships, study abroad programs, and the law school curriculum in general. The authors’ stories and experiences provide guidance to create “teaching moments,” both deliberate and spontaneous, that will help trigger opportunities for students and faculty to question their own perceptions and preconceptions about who creates and interprets law, and who has access to power and the force of law.

The goal of this book is to expand the parameters of law teaching so that the next generation of attorneys will be dedicated to their roles as public citizens, broadening access to justice and securing democracy through the fair administration of the rule of law for all.

We want to thank our contributors for bringing their expertise and passion to this

project: The Honorable Thelton E. Henderson, United States District Court Judge for the Northern District of California; John Payton, president and director-counsel of the NAACP Legal Defense Fund; Richard Delgado; Doug-



las Colbert; Deirdre Bowen, Daniel Bonilla Maldonado, Kathleen Neal Cleaver, Colin Crawford, and James Forman, Jr.; Gilbert Paul Carrasco; Deborah Post and Deborah Zalesne; Steven W. Bender; Florence Wagman Roisman; Sarah Valentine; Cynthia D. Bond; Robin R. Runge; Anne Marie Harkins and Robin Clark; Doug Simpson; Raquel Aldana and Leticia Saucedo; Marci Seville; Susan Rutberg; Michael L. Perlin and Deborah Dorfman; Libby Adler; MaryBeth Musumeci, Elizabeth Weeks Leonard, and Brutrinia D. Arellano; Paulette J. Williams; Mary B. Culbert and Sara Campos.

The essays were cite-checked and edited with the assistance of Madeline Zuckerman and Brian Elliot, who served as SALT interns during the summer of 2010.

We also want to thank the Editorial Board: Raquel Aldana, Steven Bender, Olympia Duhart, Michele Benedetto Neitz, Angela Onwuachi-Willig, Hari Osofsky, and Hazel Weiser.

## Breaking In: How to Get a Job in the Legal Academy

Hazel Weiser, Executive Director, SALT

Thanks to Olympia Duhart (Nova Southeastern) and Nareissa Smith (Florida Coastal) for organizing an informative workshop in conjunction with the SE/SW & MW People of Color Legal Scholarship Conference for practitioners, fellows, law clerks, and visiting assistant professors who want to learn more about a career in legal academia. Hosted at Nova Southeastern University, the afternoon workshop featured Pamela Edwards (CUNY), Dean Leslie Cooney (Nova Southeastern), Dean Linda Harrison (Nova Southeastern), Phyllis Kotey (FIU), and Charlton Copeland (Miami) in the first panel that provided insight into the various roles available in the academy. The second panel focused on how to break in, how to manage the AALS process, and more, thanks to Ishaq Kundawala (Nova Southeastern), Wendy Greene (Samford), Nareissa Smith (Florida Coastal) and Elena Marty-Nelson (Nova Southeastern).

SALT collaborated with the CUNY School of Law and its Center for Diversity in the Legal Profession on a “Breaking In” program in the New York metropolitan area, held on Friday, May 20. Northeastern University School of Law in Boston will host a “Breaking In” program on June 1. And watch the [SALT.LAW.org](http://SALT.LAW.org) website for further details on upcoming programs in Minneapolis (tentatively scheduled on June 20) and in Chicago.

## Leaders Sought to Serve on SALT's Board of Governors

Holly Maguigan, New York University School of Law, and Olympia Duhart, Nova Southeastern University Shepard Broad Law Center

Election season is underway for the SALT Board of Governors.

Each year, SALT's Board of Governors engages in the process of identifying and electing new leaders from the academy to join the board. The Nominations Committee is currently finalizing a slate to submit to the Board for approval. The candidates are for positions on the Board for three-year terms that would begin January 2012. Elections will be held in the fall.

What makes someone an excellent candidate to serve? An outstanding candidate must demonstrate a commitment to lead the national volunteer effort essential to contributing to SALT's ongoing struggle for justice, diversity and academic excellence. Strong consideration is given to candidates who are already active on various SALT committees and projects. The Nominations Committee is also committed to ensuring

that the candidates reflect the diversity of the legal academy.

The Nominations Committee has already invited SALT members to nominate candidates to help us create a viable slate. Under SALT's bylaws, the current Board solicits names for possible nominations from the membership. We have received several excellent endorsements to build a slate of nominees to fill anticipated vacancies. Some current Board members also plan to run for another term. In total, the committee is expected to submit about ten candidates to the Board for approval.

Next, statements of interest by the Board's slate of nominees and others will be distributed to the membership. SALT members will also have the opportunity to add nominations at this point. In accordance with the bylaws, the Nominations Committee will add to the slate any SALT member

who submits a statement of interest and is backed by written support from at least seven additional current SALT members.

The slate containing all of the candidates' names and statements of interest will be distributed to membership at least 30 days before elections in the fall. Please be sure to monitor the SALT website and email blasts for more information regarding the election process. More importantly, please participate in the process as we select new members to serve on the Board of Governors. And check out the next issue of the *Equalizer* to learn more about the candidates.

If you have questions about the elections process, please contact Holly Maguigan at [holly.maguigan@nyu.edu](mailto:holly.maguigan@nyu.edu), or Olympia Duhart at [duharto@nsu.law.nova.edu](mailto:duharto@nsu.law.nova.edu), Co-Chairs of the Nominations Committee.

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## Membership Matters

Olympia Duhart, Nova Southeastern University Shepard Broad Law Center

Do the math.

According to recent figures (see <http://www.nationaljurist.com/content/law-school-faculties-40-larger-10-years-ago>), there are now more than 17,000 full-time law professors, librarians, deans and law school administrators who teach throughout the United States. And this year SALT's current membership exceeded 700 for the first time in many years.

While we're proud of the progress we're making, the huge gap that remains between the two figures makes it clear that we still need to do a lot of work to boost SALT membership. With everyone's help, we can make it happen.

To strengthen our voice and improve our ability to represent our core base, SALT

membership must expand. That means we need to work even harder to recruit members who will get involved, pay dues and propel our agenda. We need more people to help us confront the important issues in today's legal academy.

These issues include tenure, security of position, diversity, academic freedom and access to justice for all of our communities. Now, more than ever, membership in SALT matters.

SALT relies on membership to meet its mission. During the past academic year, SALT committee members have been busy at work on topics as varied as student learning outcomes, security of position, tenure, and increasing diversity in the legal academy. We have also organized public interest and

social justice retreats for law school students around the country. In addition, we hosted a successful teaching conference in Hawai'i. We were also proud to give members publication opportunities through either contributing to our new blog or participating in our new book project. By ensuring that our membership base is wide-sweeping, we guarantee that we have the human-power and financial resources in place to successfully complete projects consistent with our objectives.

Moreover, a strong membership base gives us more credibility with respect to our position papers. Speaking for hundreds of law teachers around the country gives us a seat at the table and helps our voice carry –

*Membership Matters, continued on page 9*



## SALT Blog: Recruiting New Voices for Our New Venture

Kathleen Bergin, University of Cincinnati College of Law (visiting), and Olympia Duhart, Nova Southeastern University Shepard Broad Law Center

They say that blogs are good for business. They're a way to engage the community, test new ideas, and inform the public about upcoming projects and initiatives.

Those same principles apply at SALT's blog SALT<sup>LAW</sup>, where progressive law professors and their allies go to engage the public and draw attention to issues at the intersection of the law and social justice. SALT<sup>LAW</sup> launched last April, and over the past year we've developed a reputation for insightful and provocative commentary covering a range of issues, including gender equity in athletics, inter-generational poverty, American foreign policy, the financial collapse, life balance in law school, and of course, the ongoing assault on tenure. And then there is the occasional post about the intersection between law and popular culture – whether it's a comment about documentary films or talking heads on television.

New at the SALT blog this year is the “theme of the month,” which focuses the discussion on a selected topic of interest.

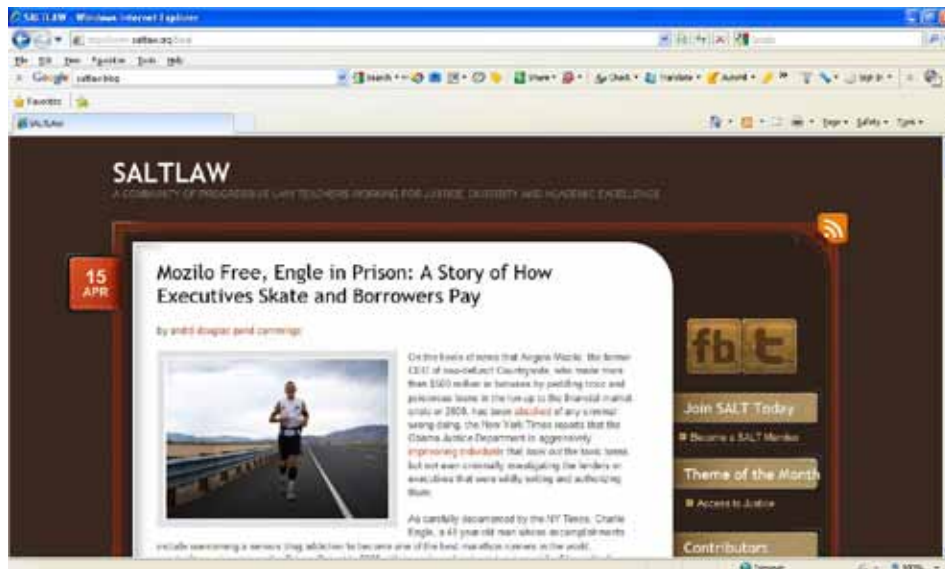
### Membership Matters

▼ *continued from page 8*

whether we are trying to reach the Capitol, the courthouse or the classroom. It also strengthens our bargaining power with the ABA, LSAC and AALS.

Through membership initiatives, we are able to build bridges to achieve sustainability. We reach out to support and engage members through concentrated efforts by the Board of Governors, membership drives, and regional activities such as pipeline events.

With close to two hundred ABA-approved law schools throughout the country, and even more law professors in the classroom, in 2011-12 we hope to meet our goal of placing a SALT Rep at every law school in the



Under the theme of “Rhetoric and Ranting,” bloggers interrogated the decline of political discourse. Our “Access to Justice” theme addressed barriers to legal representation and inequality in the criminal justice system. In coming months, we’ll focus on best practices and new directions in teaching, LGBT equality, human rights following natural disasters,

and efforts to make the legal academy more reflective of the diverse community we serve.

SALT<sup>LAW</sup> readership is on the rise, and the number of regular and monthly guest bloggers continues to grow. And we invite YOU to be a part of its success. Posts are open for comment, and all of our guest bloggers are SALT members, just like you. Test your theory, preview your upcoming law review article, share some new insight, raise awareness on an important legal issue, or trade teaching ideas.

In other words, if you’ve got something to share, we want to hear it. To add your name to the blog-roll, just contact Olympia Duhart, [duharto@nsu.law.nova.edu](mailto:duharto@nsu.law.nova.edu), or Kathleen Bergin, [kbergin@stcl.edu](mailto:kbergin@stcl.edu), and we’ll get you started. The SALT blog is your platform, so we look forward to hearing from you and continuing the dialogue.

If you have any questions about membership, would like to volunteer to be your school’s Rep, or would like to organize a regional membership activity in your area, please contact Olympia Duhart, Chair of SALT Membership, at [duharto@nsu.law.nova.edu](mailto:duharto@nsu.law.nova.edu), or call 954.262.6313.

SALT membership does matter.

**Check out SALT's new blog at <http://www.saltlaw.org/blog/>.**

## Human Rights Committee: A Busy, Productive Year with More to Come

Karla McKanders, University of Tennessee College of Law, and Marjorie Cohn, Thomas Jefferson School of Law

This year has again been a busy and productive one for SALT's Human Rights Committee. We kicked off with exciting new events and advocacy on behalf of the immigrant community and will continue to write letters urging compliance with national and international human rights norms that affect areas of concern to SALT members, professors and students within the legal academy.

The Human Rights Committee started the year with phenomenal events. In January 2011, Professors Raquel Aldana, (McGeorge), Beth Lyon (Villanova) and Karla McKanders (Tennessee) participated in a panel discussion at the AALS annual meeting on admission of undocumented students into law schools. This program will result in a paper that will advise law schools on best practices for admitting undocumented law students. This is an issue with which the SALT Human Rights Committee has been concerned, unfortunately, for decades; however, Congress has failed to provide a just solution. In January 2011, Congress considered and once again failed to pass the

DREAM (Development, Relief and Education for Alien Minors) Act, which would have created a path to legalization for students attending institutions of higher learning. The inequitable status quo thus continues. To date, most conversations surrounding the DREAM Act focus on undocumented students graduating from high school and seeking to attend college. The panel shifted the focus to undocumented college graduates seeking to enroll in law schools.

In March, the Human Rights Committee continued its busy streak. On March 15, 2011, the SALT Human Rights Committee co-sponsored a film screening and discussion with filmmaker Monika Navarro about her documentary "Lost Souls" ("Animas Perdidas"). The film tells the story of a Latina filmmaker's troubled family, torn apart by borders, both physical and emotional. The event was co-sponsored with the Penn Law Public Interest Center and Penn Law Civil Rights Law Project.

The Committee also continues to advocate against Arizona anti-immigrant

laws. Most recently, the Committee has been working on a statement to the Arizona legislatures regarding opposition to constitutional Fourteenth Amendment birthright citizenship. The statement is intended to educate the Arizona legislature about the constitutionality and history of the Fourteenth Amendment as its members begin to debate the bill.

Last year, in June 2010, the Committee began to advocate on behalf of Jennifer Harbury, who received SALT's 2009 Gilbert Human Rights Award for her attempts to ensure justice for the victims of gross human rights abuses and war crimes by the Guatemalan military in cooperation with the Central Intelligence Agency. Ms. Harbury was working with Guatemalan officials to resolve the case of Efraim Bámaca Velásquez's forced disappearance, torture and execution, and other "paradigmatic" war crimes cases. Ms. Harbury requested a delegation of American law professors and activists travel to Guatemala to advocate for those whose human rights have been violated, and those who work on their behalf. Her request came at a critical time for human rights accountability in Guatemala and for those brave enough to pursue it. The civil war in Guatemala, which lasted from 1960 until 1996, left a river of blood, with 200,000 dead, the vast majority Mayan Indians, but also many labor, church, civic, and student leaders, as well as their families. Despite clear evidence that the military planned and executed the atrocities, including rape, torture, extrajudicial assassination, the massacre of innocent civilians, and a scorched earth policy of genocide, the subsequent efforts to bring the perpetrators to justice have faced a circuitous and uphill battle.

In response to Harbury's request, a del-

**Human Rights Committee,**  
*continued on page 11*



*U.S. delegation of law professors and activists meet with Guatemalan prosecutors*

## ▼ Human Rights Committee

*continued from page 10*

egation of law professors and human rights lawyers traveled to Guatemala City from December 5-8, 2010, to (1) meet with Guatemalan judges and other key government officials who are currently under immense pressure to reverse several seminal wartime human rights cases in Guatemalan courts; and (2) provide crucial protection to several human rights defenders, prosecutors, and judges who continue to face violent attacks and criminal charges against them based on their work in these and other human rights cases. The delegation consisted of Raquel Aldana (McGeorge), Catherine Grosso (Michigan State), Lauren Carasik (Western New England); Erin Corcoran (New Hampshire); Michele McKinley (Oregon), and Marcia Esparza (John Jay).

The participants felt that it was a profoundly haunting and disturbing experience. On the trip, the delegation met with non-governmental organizations, survivors of the genocide, and human rights lawyers. All confirmed that the risk to human rights defenders is grave. Their first stop was FAMDEGUA (Families of the Disappeared in Guatemala). The group's leader, Aura Elena, whose brother was disappeared during the war, has been beaten and kidnapped at gunpoint, and was the victim of a suspicious car accident in the highlands. Every wall of the FAMDEGUA office is lined with photos of the disappeared. Delegates also met with CALDH (the Center for Legal Action on Human Rights); ADIVIMA (the Center for the Integral Development of the Victims of the Violence in Verapaces, Maya Achi); Maria Dolores, a lawyer working on reparations in the highlands; and the Rigoberta Munchú Foundation, founded by the eponymous Nobel Laureate, where delegates heard of their efforts to bring to justice the perpetrators of the massacre of 31 people in the Spanish Embassy. All of the organizations have had



*Photos of the disappeared on the walls of the FAMDEGUA office*

their offices vandalized and files stolen, and the workers still endure constant threats and intimidation. Their most devastating meeting was with Jesús Tecú Osario, one of the few survivors of the massacre of 170 women and children in Río Negro in 1982; he is a crucial witness to the human rights violations committed during that massacre, a role that imperils his life. On their last day, they met with the prosecutors in charge of the human rights litigation, who work in deplorable conditions: Much-needed security consists of a broken metal detector and one distracted guard. The delegation shows that SALT members' commitment to human rights advocacy extends beyond our borders.

In December 2010, SALT's Human Rights Committee organized a panel discussion entitled "Teaching Ethics in Transformative Era: Lessons Learned from Yoo and Bybee" for the SALT teaching conference in Honolulu, Hawai'i. The panel addressed the way in which lawyers in the Bush Administration's Department of Justice Office of Legal Counsel, including John Yoo and Jay Bybee, wrote memoranda to provide legal cover for administration officials who wished to utilize torture and abuse in the interrogation of detainees. These memos unethically advo-

cated violation of U.S. and international law. Marjorie Cohn (Thomas Jefferson) and John Cary Sims (McGeorge) served as panelists.

Hazel Weiser attended a meeting at the Department of State to which NGOs, referred to as "civil society," were invited to discuss how the United States should report on compliance with the provisions of the International Covenant on Civil and Political Rights (ICCPR). When the United States ratified the ICCPR, we undertook an obligation to report on U.S. compliance with the mandates in that treaty. NGOs were invited to submit brief written statements to reiterate their positions on issues of concern. In response, SALT's Human Rights Committee, with the assistance of SALT's 2010 summer intern, Madeline Zuckerman, drafted a brief statement, which refers to three areas on which SALT has issued public statements. They are also covered by the terms of the ICCPR: immigration, accountability for the use of torture, and racial discrimination. In June 2010, SALT submitted a document at the invitation of the Department of State to assist the United States in the important task of drafting its report on compliance with the

***Human Rights Committee,***  
*continued on page 12*

## Equal Opportunity and Affirmative Action Committee: Taking on Challenges from High School to Law School and Beyond

Ruben Garcia, California Western School of Law, and Solangel Maldonado, Seton Hall University School of Law

The SALT Equal Opportunity/Affirmative Action Committee continues to work on challenges to affirmative action and equal opportunity at several levels of educational and professional life. The Committee has been examining problems throughout the

### ▼ Human Rights Committee

*continued from page 11*

ICCPR, which was due on August 1, 2010.

As always, the Human Rights Committee continues to draft important letters and statements addressing issues pertinent to SALT. In March 2011, the Committee signed onto the Americans for Constitutional Citizenship statement. In May 2010, SALT called for the immediate release of William Mitchell law professor Peter Erlinder following his arrest in Kigali, Rwanda. Professor Erlinder was targeted for statements he made in the course of representing Victoire Ingabire, an opposition candidate who announced her intent to challenge President Paul Kagame in the upcoming August elections. In its letter, SALT encouraged the U.S. government to make it a priority to expedite Professor Erlinder's release. At the same time, the Committee drafted a letter to the Obama administration in opposition to Arizona's SB 1070. In June 2010, SALT also signed on to an amicus brief in *Friendly House v. Whiting*.

The 13th Annual Trina Grillo Public Interest and Social Justice Retreat, sponsored each year by SALT and hosted this year by University of San Francisco School of Law, chose as its theme "Human Rights at Home & Abroad." The opening plenary, "How International Human Rights Law is Being Used in the United States to Protect Human Rights," moderated by Hazel Weiser, featured Marjorie Cohn (Thomas Jefferson), Connie

diversity pipeline from high school to college to law school and other professional schools. The Committee is partnering with a number of academic and community organizations both to identify gaps in equal opportunity, and to take steps to rectify them.

de la Vega (USF), and Kyra Millich (USF). Other panels focused on the U.N. Convention on the Rights of the Child, immigration reform, the impact of the economic downturn on the working classes, and indigenous rights.

As we move into the summer, the Human Rights Committee intends to continue focusing on important issues that affect justice both inside and outside the academy. We plan to continue our work in support of human rights by protesting the illegal treatment of Pfc. Bradley Manning, who is being held in solitary confinement at the Quantico military brig; solitary confinement, which can lead to hallucination and suicide, constitutes torture. He has also been made to strip naked in front of other inmates, which constitutes prohibited humiliating and degrading treatment. We hope to support lawyers and scholars who are struggling to achieve freedom, justice and equality in the Middle East and North African countries participating in the "Arab Spring." The Defense of Marriage Act is still in force and we will continue to work for its repeal. And we will continue to support the DREAM Act in schools.

If you have any interest or expertise in any of the above areas or have an idea of your own, please contact either of SALT's Human Rights Committee Co-Chairs, Marjorie Cohn at [majorielegal@gmail.com](mailto:majorielegal@gmail.com) or Karla McKanders at [mckanders@utk.edu](mailto:mckanders@utk.edu). We look forward to hearing from you.

The path from college to law school has become increasingly more difficult for people of color as shown by the "Disturbing Trend in Law School Admissions" report and web site, <http://blogs.law.columbia.edu/salt>. This report found that the proportion and actual number of African-American and Mexican-American students in law school had decreased between 1993 and 2008, even as the size of the first-year class across the nation increased by 3,000 seats. Despite these challenges, the Committee is supporting the efforts of the Lawyering in the Digital Age Clinic at Columbia Law School. Former SALT Board Member Conrad Johnson is seeking information about schools that have pre-law programs with 50 or more students and provide more than a few days of LSAT prep. If you have any information about these programs to share, please e-mail Conrad Johnson at [cjohnson@law.columbia.edu](mailto:cjohnson@law.columbia.edu).

The Committee is also supporting SALT's efforts to collaborate with the Leadership Council on Legal Diversity (LCLD). The LCLD is an organization of more than 175 corporate chief legal officers and law firm managing partners committed to addressing the critical shortage of diversity in law schools, law firms, and general counsel positions.

Finally, the Committee continues to monitor possible ballot initiatives in a number of states. Although most of these initiatives are not planned until the election year 2012, there is much groundwork that will need to be done for the rest of this year and into next. We have the materials and analysis generated by the successful 2008 Colorado ballot fight that was discussed at the April 2010 SALT conference, hosted by

**Affirmative Action Committee,**  
*continued on page 13*

## LGBT Committee: Working for Equality

Jackie Gardina, Vermont Law School

Throughout the year, the SALT LGBT Committee remained committed to ending “Don’t Ask Don’t Tell.” In August 2010, SALT sent a letter to law school deans educating them on the status of repeal efforts and urging them to act within the limits of the law to fortify the principles of anti-discrimination and to show unconditional support for LGBT students during the recruiting season. While Congress was voting on repeal measures, we sent emails to SALT members asking them to call their Senators and Representatives to vote to “yes” on repeal. And we celebrated when President Obama signed into law the “Don’t Ask Don’t Tell Repeal Act of 2010.”

The Act, however, is just a first step towards full equality. Unfortunately, the statute neither repeals 10 U.S.C. § 654 nor prohibits discrimination based on sexual orientation in the armed forces. Instead, the Act provides for repeal of “Don’t Ask Don’t Tell” only after certain statutorily-prescribed actions occur. Specifically, the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff are required to certify to the congressional defense committees that repeal is “consistent with the standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention of the Armed Forces.” The statute does not provide a time frame for the certification process and explicitly states that “Don’t Ask Don’t Tell” remains in effect until the requirements are met. Unfortunately, efforts are already underway to delay certification.

Representative Duncan Hunter has introduced the “Restore Military Effectiveness Act” (H.R. 337), which would require the Chiefs of Staff of each branch, some of them vocal opponents of repeal, to certify that repeal was appropriate. In April 2011, the House Armed Services Committee held two hearings to question the propriety of

repeal. The current chair of the committee, Representative Joe Wilson, specifically stated that he hopes to “reinstate” the law.

Moreover, the Act does not ensure equality for gay and lesbian service members. While the bill originally introduced into Congress contained a nondiscrimination provision, that provision was removed during negotiations. Additional steps must be taken to finally end the discrimination that SALT has so long opposed. The absence of a non-discrimination provision creates the possibility that service members could still be discriminated against based on their real or perceived sexual orientation.

SALT will continue to monitor the certification process and to advocate for President Obama to issue an executive order eliminating discrimination based on sexual orientation. It is unclear whether “Don’t Ask Don’t Tell” will be repealed by the next recruiting season, requiring schools to continue their amelioration efforts. SALT is poised to remind schools of their obligation to LGBT students.

In addition to our work on “Don’t Ask Don’t Tell,” SALT joined in an amicus brief filed with the Ninth Circuit Court of Appeals, challenging the constitutionality of California’s Proposition 8. At the same time, we issued a statement supporting equal access to marriage. SALT’s LGBT Committee members Pat Cain and Marc Poirier played significant roles in helping to shape the arguments presented.

The Committee is setting priorities for the coming year and we are interested in your input. For the first time, we will have a table at the National Gay and Lesbian Bar Association’s annual Lavender Law Conference. We will be distributing material about our Pipeline Project and building relationships with law firms invested in recruiting LGBT students. We also intend to distribute

an “experts list” to students interested in inviting speakers to their campuses. The list would be comprised of SALT members who write and speak on LGBT issues. If you would like your name added to the list, please contact Jackie Gardina at [jgardina@vermontlaw.edu](mailto:jgardina@vermontlaw.edu).

### ▼ Affirmative Action Committee

*continued from page 12*

University of Denver College of Law and organized by Roberto Corrada and Melissa Hart. A history of the 2008 ballot fights in five states is available from the Howard Samuels Graduate Center at CUNY.

The Committee is in preliminary discussions with several other important partners – the Ronald Brown Center for Civil Rights and Economic Development, CUNY’s Center for Diversity in the Legal Profession, and Seton Hall University School of Law – to reach out to pre-law counselors so that they can better identify and serve the needs of college students of color who might be interested in attending law school.

The members of the Committee are Co-Chairs Ruben Garcia (California Western) and Solangel Maldonado (Seton Hall), Bryan Adamson (Seattle), Roberto Corrada (Denver), Karla McKanders (Tennessee), Deborah Post (Touro) and Lisa Pruitt (UC-Davis). Please email us at [rgarcia@cwsu.edu](mailto:rgarcia@cwsu.edu) or [solangel.maldonado@shu.edu](mailto:solangel.maldonado@shu.edu) if you have questions or would like to become involved with the Committee’s work.

## Issues in Legal Education Committee: Comments on Pending ABA Accreditation Standards

Andi Curcio, Georgia State University College of Law, and Carol Chomsky, University of Minnesota Law School

Over the past year, the SALT Issues in Legal Education Committee has commented upon proposed changes to the ABA law school accreditation standards being discussed by the ABA Standards Review Committee, including accreditation standards governing tenure and security of position, law school admissions requirements, bar passage rate requirements, and what and how students are taught and assessed. The proposed changes to the accreditation standards will have a profound impact on the future of legal education. This article briefly explains the process for adoption of new accreditation standards, as well as some of the work that SALT's Issues in Legal Education Committee has done in response to various proposed standard changes.

### ***Why Accreditation Standards Matter***

Accreditation is critical for a school so that its students will be eligible for financial aid and its graduates able to sit for most state bar exams. Accreditation standards set the minimum requirements all law schools must meet if they want to get or retain accreditation. The standards cover all aspects of legal education, including facilities, faculty rights and responsibilities, curriculum, teaching and assessment, admissions policies and bar passage rates, and what information schools must provide for prospective students. Because of the breadth and depth of what they cover, the standards play a significant role in determining the form and content of the delivery of legal education.

### ***The Process for Adopting New Accreditation Standards***

The Department of Education (DOE) has delegated law school accreditation authority to the ABA Council on Legal Education. The

Council delegates the review of accreditation standards to the ABA's Standards Review Committee (SRC), which has designated subcommittees to perform the drafting and bring proposed standards to the full committee for discussion. During the review process, the drafts are posted before each quarterly SRC meeting, and interested groups and individuals can submit written comments. The discussion/re-drafting procedure may occur multiple times. Eventually, the SRC approves the draft standards, either as a package or chapter-by-chapter, and submits them to the Council. The Council then decides whether to approve the standards for public notice and comment. After the notice and comment period, the Council decides whether to adopt the standards, either as proposed or as it amends them, but the standards do not become effective until reviewed by the ABA House of Delegates. The House may approve the standards or send them back to the Council for reconsideration. The House of Delegates can send a standard back to Council up to two times. The decision of the Council following the second referral is final.

### ***The Current Process***

The SRC has undertaken a comprehensive review of all the accreditation standards, in accordance with the DOE mandate that the accreditation standards periodically undergo review. As of April 2011, the SRC had preliminarily approved some provisions while others remained in the drafting/re-drafting stage. The SRC has indicated it expects some of the standards to go to the Council in the fall of 2011 or the early winter of 2012.

### ***SALT's Work on Proposed Accreditation Standards***

SALT has focused its attention on standards that implicate our concerns about teaching

and learning, faculty responsibilities, and diversity in legal education, filing comments on proposed changes related to student learning outcomes and assessment, bar passage rates, law school admissions tests, and faculty tenure and security of position. Articles on the work of SALT's Issues in Legal Education Committee on standards on tenure and security of position and the bar pass rate can be found elsewhere in this issue of the *Equalizer*. Those topics were discussed at the April 2011 SRC meeting and will be on the agenda again, with additional edits made, in July. The proposed move to incorporate student learning outcome measures and to eliminate the standard requiring use of the LSAT (discussed below) are in the final stages of drafting and likely to be finalized by the SRC soon with few additional changes.

### ***Outcome Measures***

The SRC has spent the last two years drafting "Outcome Measures" standards, which seek to shift the focus from what students are taught to what students learn and will require faculty to engage in critical thinking about their learning goals and how effectively they are attaining them. In its comments, SALT has endorsed the move to outcome measures as pedagogically sound, and has praised the requirement that schools explicitly teach students about the profession's values and that they teach a broader range of skills than is currently required. SALT has supported the standard requiring every student to take at least one upper-level course that integrates doctrine, theory, skills, ethics and professionalism. SALT has expressed concerns that the new outcome measures standards are not rigorous enough

***Accreditation,***  
*continued on page 15*

## Issues in Legal Education Committee: Proposed Changes to Accreditation Standard on Tenure and Security of Position

Andi Curcio, Georgia State University College of Law, and Carol Chomsky, University of Minnesota Law School

As noted in a related article in this issue of the *Equalizer*, the ABA Standards Review Committee (SRC) is considering changes to the accreditation standards that govern tenure and security of position, as part of its comprehensive review of the standards. The SRC subcommittee draft explicitly says tenure would not be required as long as a school has a written policy providing for academic freedom for faculty. The subcommittee supported these changes by arguing that tenure has never actually been required by the accreditation standards, that tenure

and security of position are not appropriate matters for an accrediting body, and that as long as academic freedom is protected, there is no need for the accreditation standards to require a system of tenure or security of position.

SALT has opposed the proposed changes, as have many other individuals and groups including the Clinical Legal Education Association (CLEA), the Association of Legal Writing Directors (ALWD), the AALS, and the ABA Committee on Clinical Skills. SALT

submitted written comments, and SALT's former Co-President Carol Chomsky explained SALT's opposition to the proposal at an April 2, 2011, SRC Open Forum.

Citing to two thorough historical overviews of the tenure standards, one prepared by CLEA and the other by Professor Richard Neumann (both available on the SRC website at <http://apps.americanbar.org/legaled/committees/comstandards.html>),

**Tenure,**  
*continued on page 16*

### ▼ Accreditation

*continued from page 14*

and will not require schools to substantially change current practices, and we have urged the SRC to require that students have multiple upper-level learning experiences that integrate doctrine, skills and professionalism and to mandate learning outcomes for additional skills, including multicultural competence.

Some observers have worried about the burdens of switching to outcome measures and about how compliance will be assessed. SALT has advocated that, at least initially, compliance with the outcome measures standards focus on the seriousness of a school's effort to establish and assess student learning outcomes, and not upon attainment of a particular level of achievement for each learning outcome. That suggestion has been incorporated by the subcommittee drafting the Outcome Measures standards to ease transition to the new standards, if adopted.

The proposed standards, and SALT's comments, are available at <http://www.saltlaw.org/contents/view/316>. At its April meeting,

the SRC voted preliminary approval of the outcome measures standards and set them aside to await revisions to the rest of Chapter 3 on the program of legal education.

### **Requirement that Schools Have an Admissions Test**

Current Standard 503 requires that all law students "take a valid and reliable admissions test"; in effect, this mandates use of the LSAT, the only such test available. The SRC has proposed eliminating that requirement. SALT supports this proposed change after years of criticism of both the test itself and the way in which it is used in law school admissions. Use of the LSAT is problematic because: (1) law schools disregard the LSAC's cautionary instructions about the LSAT's limited utility and instead rely heavily on its numerical data as an admissions criterion; (2) schools increasingly are relying on the LSAT to award "merit" scholarships in lieu of offering "need-based" scholarships; (3) the LSAT does not measure a student's potential success as a lawyer; and (4) law schools' over-reliance on the LSAT excludes otherwise meritorious law school candidates from under-represented populations, including

students of color and students from lower socio-economic status.

Some have argued that the elimination of the LSAT requirement might mean a return to the "good old boy" admissions process. SALT agrees that it is important to guard against such a result but believes those concerns are outweighed by the problems created by schools' over-reliance on, and misuse of, the LSAT. Thus, SALT supports the SRC's proposed elimination of an accreditation standard requirement that schools use a valid and reliable admissions test. For more information about SALT's position on the LSAT, see <http://www.saltlaw.org/contents/view/316>.

Based on the discussion at the last SRC meeting, it is likely that the SRC will adopt the proposal to eliminate the admissions test requirement at its July meeting and send that proposed change to the Council. For more information about the April SRC meeting, including the Open Forum during which SALT and numerous organizations publicly commented on the proposed standards changes, see <http://www.saltlaw.org/userfiles/4-9-11SRCCChomsky.pdf>.

## ▼ Tenure

*continued from page 15*

Professor Chomsky said that the academy had long interpreted the existing standards as requiring a system of tenure and security of position, and she noted the critical importance of tenure and security of position to ensure protection of academic freedom and meaningful participation in law school governance. She stressed the uniform opposition to the changes from the 18 law faculties and 18 African-American, Asian-American, and Latino deans who had already filed statements with the SRC. She also reminded the committee that faculty members who already have tenure or security of position, or who are in appointments that lead there, would not themselves be affected by the proposed changes and thus were not speaking from a position of self-interest. Rather, those opposing the changes were doing so because of a concern that future faculty members would be less willing to take controversial positions in their scholarship, represent unpopular clinic clients, challenge students with innovative teaching and provocative material, and speak their minds to authority both inside and outside of the law school.

Professor Chomsky argued that a policy declaring academic freedom does not provide the same protection as tenure and the equivalent security of position that are now the norm. To remove a faculty member who has tenure or security of position, the burden is on a school to demonstrate that the individual was not competent, was engaging in professional misconduct, or was not fulfilling his or her scholarship, academic or service responsibilities. On the other hand, if a faculty member did not have tenure or security of position, a school could simply fail to renew the contract when the opportunity arose, or specify other plausible reasons, and the burden would be on the faculty member to show that the removal or non-renewal violated academic freedom.

To illustrate why tenure is important, Professor Chomsky, along with SALT's Issues in Legal Education Committee chair Andi Curcio, collected "tenure stories" from faculty members across the country who related how tenure or security of position, or their absence, affected their ability to stand up for what they thought was important in scholarship, teaching, advocacy, or institutional governance. Those stories help provide context and meaning to why tenure is important and reference to a number of them was included in the SALT statement on Tenure/Security of Position. That statement is available at [http://www.saltlaw.org/user-files/file/StatementOnTenureSecurityOfPosition\\_Final\\_3-28-11.pdf](http://www.saltlaw.org/user-files/file/StatementOnTenureSecurityOfPosition_Final_3-28-11.pdf).

After hearing from SALT, CLEA, AALS, ALWD, Best Practices and many others about their concerns with the proposed changes to the tenure and security of position accreditation standards, the SRC considered the subcommittee draft. A substantial number of members voiced support for an alternative proposal that incorporated security of position for most full-time faculty. A number also supported the principle behind a clause barring discrimination among traditional, clinical, and legal writing faculty, though acknowledging the practical difficulties in implementing such a requirement.

The subcommittee will produce a new draft based on the discussion at the meeting and on draft language proposed by CLEA and the Special Committee on the Professional Education Continuum. Once drafted, the changes will be brought before the SRC again for further discussion. After the SRC approves the changes, which is likely to take at least through the July and November SRC meetings, the proposed changes to the standards will be presented to the Council on Legal Education. The Council will then decide whether to accept the changes and publish them for notice and comment, or to reject the changes. The timeline for the adoption by the SRC of any proposed

changes and their consideration by Council is unknown. SALT will continue to monitor and comment on proposed changes to these accreditation standards.

Those wishing to follow this issue more closely can monitor the SRC website at <http://apps.americanbar.org/legaled/committees/comstandards.html>. That website contains all proposed drafts, as well as comments by SALT, CLEA, AALS and others about the proposed drafts.



## Issues in Legal Education Committee: SALT Opposes Changes to the Accreditation Standard Governing Bar Pass Rates

*Andi Curcio, Georgia State University College of Law, and Eileen Kaufman, Touro College, Jacob D. Fuchsberg Law Center*

Accreditation Standard 301 requires schools to “maintain an educational program that prepares its students for admission to the bar.” Up until a few years ago, a school’s bar passage rate was just one factor considered in determining whether it was in compliance with that standard. In 2007, the Council approved a new stand-alone, bright-line test for bar passage, under a mandate from the Department of Education to make the standard more transparent. The Standards Review Committee (SRC) is currently considering making that bright-line test more difficult to satisfy. As it did in 2007, SALT opposes treating bar passage as an independent compliance requirement for accreditation. SALT also opposes the effort to raise the minimum bar pass rate standard.

The current bar passage accreditation requirement is set forth in Interpretation 301-6. It focuses on both first-time bar pass rates and ultimate bar pass rates as a means of providing more opportunities for a school to come into compliance. The Interpretation requires that a school demonstrate that in three or more of the last five years, the annual first-time bar passage rate was no more than 15 points below the state ABA average or that at least 75% of the graduates from the past five years who sat for a bar examination passed. Alternatively, the school may demonstrate that in the last five years, 75% of its graduates who sat for a bar examination passed. A school’s failure to meet this bar passage standard means the school is out of compliance, which could result in the loss of accreditation. The ABA reports that all schools have been able to meet this standard since it went into effect in 2007. This is likely due both to increased bar preparation courses and academic support programs and to schools’ reluctance to admit students, many of them from under-represented popula-

tions, who have predictors (e.g., LSAT scores) that indicate they may struggle to pass the state’s bar exam. It is the latter issue that SALT finds alarming. The current proposal being considered by the SRC is to increase the ultimate bar passage requirement from 75% to 80% – and maybe eventually to 85% – and to change the first-time bar passage requirement from no more than 15 points below the state average to no more than 10 points below the state average.

SALT opposes retaining the bar passage as a bright-line accreditation criterion because emphasizing bar passage in that fashion undermines efforts to develop meaningful student learning outcome measures. The bright-line bar passage rate forces schools and students to focus their curricular efforts on courses and assessments designed to improve bar pass rates. Reifying bar pass rates undercuts the efforts to encourage schools to develop more varied assessments that measure a wider range of skills and values and thus are a better gauge of whether a law student is likely to be a responsible, ethical and competent new lawyer than are multiple choice and short essay question tests.

Finally, a bright-line bar pass accreditation standard, and especially a higher standard than is already required, negatively affects the profession’s diversity by further hampering schools’ efforts to admit more diverse law student bodies. Minority law student enrollment has declined in the past several years. A recent study found that there was a 7.5% decrease in the proportion of African-Americans in the 2008 entering law school class as compared with the 1993 class, and an 11.7% decrease in the proportion of Mexican-Americans in the 2008 class as compared with the proportion entering law school 15 years ago. (See <http://blogs.law.columbia.edu/salt>.) This decrease has

occurred even though there are now 3,000 more law school seats available for entering law students. In fact, even with 3,000 additional law school seats available, there are fewer African-American and Mexican-American law students in the 2008 class (4,060 combined) than there were in the 1993 class (4,142 combined). Additionally, African-American enrollment has dramatically declined at historically black law schools, which have played an incredibly important role in diversifying the profession. Professor Gary Rosin reports that “the seven historically black schools represented only 2.7% of the Fall 2005 through Fall 2009 entering classes, as a group, but 16.3% of Black, African-American entering students.” (See <http://uberlaw.net/LawNumbers/?p=392>.) Bar passage concerns have already affected these schools, which are now admitting fewer African-American students. In fact, one of the seven historically black law schools, the University of the District of Columbia, no longer has a majority of African American students.

SALT is concerned that raising the accreditation bar pass rate standard will further exacerbate the trend to exclude African-American and Mexican-American students from law schools and lead to a less diverse bench and bar. Statistics show that the ultimate bar pass rate is 94.8% for Caucasians and 77.6% for African-Americans. If the accreditation standard governing bar passage is raised, it is likely that schools near the margin – at least some of which take as their mission providing access to law school to underserved communities – will be even more reluctant to admit students who may put the school’s bar pass rate, and consequently the school’s accreditation, at risk.

*Bar Passage,  
continued on page 18*

## 2011 Norman Amaker Public Interest Law and Social Justice Retreat: “Building Public Interest Leaders to Overcome Social Injustice”

Kevin Lichtenberg, Staff Attorney, Director of Intake and Client Advocacy, Health Justice Project, Loyola University Chicago School of Law

The Norman Amaker Public Interest Law Retreat found a new home in 2011. The school that was the home to Professor Norman Amaker for twenty-four years, Loyola University Chicago School of Law, hosted the retreat for the first time from February 18-20, 2011, and, after an inspired weekend, it's there to stay.

Keeping with tradition, the retreat opened with a celebration of the life and the legal career of Professor Norman Amaker. It is well-known that Norman Amaker dedicated his life to civil rights and racial justice during his years of counsel to Martin Luther King, Jr. What is less discussed is Norman Amaker as the man, as the personality, and as the educator.

This year, the Loyola faculty who taught beside Professor Amaker struck a more personal tone. Dean Emeritus Nina Appel, a brilliant lawyer and educator who hired “Stormin’ Norman,” told tales of Professor Amaker’s selflessness and dedication to his students. Professor Neil Williams then proffered a call to action, sharing inspira-

tional stories of his colleague in the fight for equality and civil rights. Arthur Amaker, Professor Amaker’s son, shared compelling stories about his father as a force of good and reminded attendees, “We are all perfect in our imperfections.”

The first night of the retreat ended with a social event and a champagne toast to the future and the social justice that will inevita-

bly occur due to the contributions of those in attendance.

The retreat was held at Loyola’s Retreat and Ecological Campus in Woodstock, Illinois, located 50 miles northwest of downtown Chicago. The property spans twenty acres, enveloping ponds, streams, woods,

***Amaker Retreat,**  
continued on page 19*



Dean Nina Appel speaks about Norman Amaker

### ▼ Bar Passage

*continued from page 17*

This means that many potential law students of color will never have the chance to enter law school and become lawyers, even if those individuals ultimately could pass the bar exam and become excellent lawyers, because schools will be unwilling to risk a loss of accreditation and may thus be unwilling to give them a chance to succeed.

SALT argued to the SRC that it is bad policy to have a bar passage standard that penalizes schools that admit and educate students who will diversify the bench and bar. The appropriate question is not how

well the school’s graduates pass the bar, but whether the school is doing a good job of educating the students it admits. As SALT noted in its March 28, 2011, statement to the SRC: “If bar passage is a valid measure of law school competence, a law school whose students are predicted to pass the bar at 98% but which routinely achieves 90% should be scrutinized, notwithstanding the seeming success of its students in passing the bar, but that kind of scrutiny is not part of the proposed standard.” For more information about this issue, see [http://www.saltlaw.org/userfiles/file/StatementOnBarPassageInterpretation\\_Final\\_3-28-11.pdf](http://www.saltlaw.org/userfiles/file/StatementOnBarPassageInterpretation_Final_3-28-11.pdf).

At the April SRC meeting, the issue of raising the bar exam passage rate was discussed but not decided. However, from comments made in the discussion, it appears that the SRC will recommend to the Council that the bar passage standard be retained as a bright-line accreditation measure and that it be made more difficult to satisfy, both with respect to first-time bar passage rates and ultimate passage rates. SALT expects the SRC to re-visit this issue at its July meeting. SALT encourages those concerned about this issue to write comments to the SRC urging it to reconsider the matter.

## ▼ Amaker Retreat

*continued from page 18*

and prairie land. It does not require a huge stretch of the imagination to see that this retreat center is perfect to host Midwest law schools.

Over the course of the weekend, students and faculty from fourteen Midwest schools gained valuable “takeaways” to employ throughout law school and in their careers:

Takeaway #1 from Defining Speaker Professor Emily A. Benfer, Clinical Professor of Law, Loyola University Chicago School of Law: As public interest lawyers, our heightened moral sensibility moves us to give the seemingly powerless the forum to be heard and to be visible. We must recognize that we are an important part of a movement: something within each of us calls upon us to effectuate social justice.

Takeaway #2 from John Bouman, President, Sargent Shriver National Center on Poverty Law, and Rene Heybach, Director, Chicago Coalition for the Homeless: Representation of people without financial resources must include bigger picture advocacy that addresses causes – and therefore public interest lawyers must engage in policymaking.

Takeaway #3 from Jovan Mosely, the client who inspired the Life After Innocence Project at Loyola University Chicago School of Law: Never discount what you can do for a person, no matter how small the act. On the other hand, do not consider any one issue too big. Never underestimate your ability to accomplish both.

Takeaway #4 from Professor Laura Caldwell, author and founder of the Life After Innocence Project at Loyola University Chicago School of Law: Do not let anyone talk you out of work that will make the world more just. Believe that you can make change.

Takeaway #5 from Leadership Speaker Professor Florence Wagman Roisman, Indi-



*Florence Wagman Roisman, the Amaker Leadership Speaker*

ana University School of Law-Indianapolis: If someone asks you to do something or you see something that scares you, do it. Moments that scare you will help define for you what your life will be. Being an activist is risky and dangerous, but that means it is important.

Takeaway #6 from the sixty law students together over that weekend: Leadership is not flashy nor a path to fame. Leadership is characterized by steady commitment, integrity, collaboration, and courage.

Attendees also heard from:

- Sacha Coupet and Stacey Platt, faculty members at Loyola, on “Improving Child Client Communication”;
- Kelly Scott-Flood of the ABA Center for Pro Bono, David Cardenas of the Los Angeles County Department of Public Health, and the author on “Medical-Legal Partnerships and Collaborating Across Disciplines”;
- Sara Mauk and Michael O’Connor of Mauk & O’Connor, LLP, and Daniel Contreras of Equip for Equality on “Special Education Injustice”;
- Elizabeth Lewis of McDermott, Will & Emery, and Kelly Tautges of the Chicago Bar Foundation on “Increasing Access to

the Legal System through Pro Bono”;

- Beth Cunningham of the Chicago Coalition for the Homeless on “Homelessness and Poverty”;
- Doria Dee Johnson on the “History of Lynching and Lessons for the Future”;
- Randolph Stone of the University of Chicago Law School, Rita Fry of RAF Consulting, and Azim Ramelize of the Chicago Department of Children and Youth Services on “Disparate Impact of the Criminal Justice System”;
- and
- Larry Suffredin, the Cook County Commissioner on Public Interest Politics, and Layla P. Suleiman Gonzalez of the Illinois Department of Human Services, on “Civil Rights Lawyering”.

From all of these speakers, the biggest takeaway for the students was, as public interest lawyers, we are not alone. There is a vast network of support full of lawyers who share our commitment to social justice. Professor Norman Amaker provided a voice to the most historic social movement of the 20th century. It is now your turn.

*Save the Date: 2012 Norman Amaker Public Interest Law and Social Justice Retreat, February 24-26 in Woodstock, Illinois*

## 24th Annual Robert Cover Retreat Sets a Gold Standard

Jamie Rhodes, Roger Williams University School of Law '12

Twenty-four years and counting. This year, as it has for the past twenty-three years, the progressive arm of the legal profession met for the annual Robert M. Cover Retreat in Peterborough, New Hampshire. The 2011 retreat, held on March 4-6, was sponsored by SALT and Yale Law School, and organized by students from Roger Williams University School of Law in Bristol, Rhode Island.

This year we set a gold standard. One hundred twenty students, representing twenty-seven different schools from North Carolina Central and Catholic University of Columbus all the way to the University of Maine, descended upon nature's classroom in Peterborough to learn from the collective experience of twenty-five successful public interest practitioners and academics. It was an awe-inspiring event that will make a lasting impact on the next generation of public interest lawyers.

As Roger Williams University Professor and Immigration Clinic Director Mary Holper explains its appeal, while "one goal of the retreat is networking," the retreat



Steve Wizner

"also helps students find a national support network in their choice of public interest careers, which often involve tough work for little pay. The retreat is also a great opportunity for practitioners to meet others in the various fields of public interest legal work, and to connect with future attorneys in their fields."

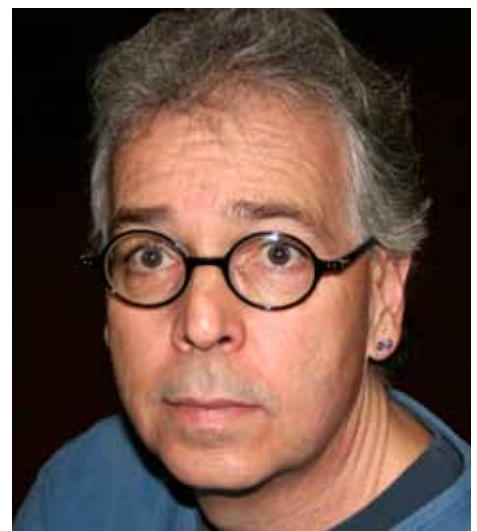
Terrell Williamson, first year student at North Carolina Central University, adds, "I simply loved being in the same place with people who were all committed to public interest work. I was energized by the experience and the sense of renewed purpose was refreshing." Ida Nininger, first-year from Vermont Law School, says her favorite part of the retreat was "the balanced atmosphere of relaxed accessibility yet utter professionalism." It "was absolutely perfect, and made the retreat an inspiring and rewarding experience" in her view.

While a number of factors caused the retreat to grow in size from recent years, one stands out among the rest: More and more law schools are developing active chapters of the National Lawyers Guild and more broad Public Interest Associations. These student organizations are vital to creating a positive atmosphere on campus, where students are free to express their anger at the state of our legal system and aspirations for their legal careers, and to build a support network for like-minded students. The Cover Retreat is designed to provide a much-needed service to this student population, letting them meet lawyers who are putting these lessons into practice.

The quality of practitioners and academics who attended this year will fuel the explosion in interest for next year's Cover Retreat. The keynote address from James Moreno of the Federal Defenders Association of Philadelphia sparked much feedback and discussion. Moreno, who has spent 18 years



Jamie Rhodes



Jim Moreno

handling death penalty appeals, has a storehouse of anecdotes that provide an insight into how the death penalty operates within our criminal justice system. His stories told of police documents that were submitted to the court with key phrases whited-out, and the police detention of a key witness who, according to the police, was missing. Audience reactions oscillated between disbelief and anger. Though depressing in content, the message was clear: Standing on the side of

**Cover Retreat,**  
*continued on page 21*

## 13th Annual Trina Grillo Social Justice Retreat: Focus on Human Rights

Hazel Weiser, Executive Director, SALT

With 180 in attendance, the 13th Annual Trina Grillo Public Interest and Social Justice Retreat, organized and hosted this year by the University of San Francisco School of Law, was an enormous success, bringing to-



Retired Naval Commander Beth Coye

gether students from twelve consortium law schools to explore “Human Rights at Home & Abroad” on March 25-26, 2011.

As Dean Jeffrey S. Brand, Dean and Professor of Law, reminded everyone during his touching and inspiring welcome, Trina Grillo had been a beloved member of the USF faculty when she took ill and died: “The 13th Annual! That phrase in some ways is numbing. It is a solemn reminder that it has been fifteen years since Trina Grillo, our colleague, friend and inspiration, too soon left the planet, three years shy of her fiftieth birthday. That phrase – the 13th Annual – is also inspiring, as it demonstrates the lasting power of Trina’s legacy and the persistence of the struggle in which we all engage and to which the annual retreat is dedicated.”

“A poem written in her memory by her children movingly provides the texture. Listen to these two simple lines: ‘She helped

us to see the light in ourselves / And helped us know it could be taught to shine.’”

That theme – that we can learn how to be better citizens of the world – ran throughout the retreat. Retired Naval Commander Beth F. Coye addressed the crowd in the keynote address on Friday night. Commander Coye was on her way to perhaps becoming the first woman admiral when her conscience and her values made her resign her commission after twenty-one years. She is a lesbian, and although she had fought within the military to open leadership opportunities to women, she knew she could not to fight inside the military to end the discriminatory “Don’t Ask Don’t Tell” policy. Using a framework developed by Cornelius Kerwin, the president of American University, that explains how interest groups influence

**Grillo Retreat,**  
*continued on page 22*

### ▼ Cover Retreat

*continued from page 20*

justice will often be difficult, but the reward of a life saved will always be worth the work.

Though this was Moreno’s first appearance at Cover, his presence complemented our usual ensemble cast of Stephen and Ben Wizner, John Brittain, Paul Rudof, Lynne Williams, and Danny Greenberg. Small group discussion topics included “Lawyering for the Poor,” “Hanging Your Shingle,” “Fighting for Education Equity,” and “Reproductive Freedom.” Each of these discussions allowed students to hear first-hand what it is like to work for these goals from those that have already walked the path. The practitioners help guide law students to reach their potential and keep focused on the larger picture. There was even one confirmed summer internship in addition to the

life-long connections that were established.

Of course, no report of the Cover Retreat could possibly be complete if the Friday and Saturday parties were ignored. Rafa Cancel made his second trip up north from his environmental justice practice in Puerto Rico to shake everyone’s hips through much-welcome salsa lessons, his primary method of funding his public interest work. Many games were played, reminding everyone that sometimes we just need to act like undergraduates for a night to remember why we work so hard all day. (On a personal note, Saturday night was not all about relaxing for me, since it brought the final ACC regular season basketball game between Duke and North Carolina. As a lifelong Duke fan, it pained me to suffer the gloating emanating from the North Carolina Central students as UNC routed Duke to capture the regular season title.)

All of the attendees are already looking forward to next year. Though the date has yet to be set, Billy Peard, currently a first-year student at Vermont Law School, will be succeeding me as the lead organizer of the 25th annual Cover Retreat. As I was this year, Billy will be supported by Ben Smilowitz, 2008 Student Organizer, in providing everything necessary to ensure that the retreat continues to build every year. Good luck to Billy and his support team at Vermont Law School. We are all looking forward to another great winter weekend in New Hampshire!

*Editor’s note: Jamie Rhodes volunteered to organize the 2011 Cover Retreat because he was so inspired by the students and professionals he met at the 2010 retreat. For more information on the retreat, please email him at [jrhodes382@g.rvu.edu](mailto:jrhodes382@g.rvu.edu).*

## ▼ Grillo Retreat

*continued from page 21*

government, Commander Coye told us how she risked, struggled, and spoke the truth about the impact of the discriminatory DADT policy on the individual lives of servicemembers and consequently, on the state of the United States military. She organized, edited, and assembled “We Are Family, Too,” stories by thirty-seven members of the five branches of the U.S. military, which were circulated to civilian and military leaders in the Pentagon and to members of Congress and their staffs, and brought into the White House so that the truth about what DADT really means to individuals, their families, and the military would inform the repeal process. As a testament to her professionalism and caring, that rare combination, Commander Coye stayed at the Trina Grillo Retreat for the two days, attended the panel discussions, and made herself accessible to students, faculty, and activists.

The plenary panels were “How International Human Rights Law is Being Used in the United States to Protect Human Rights,” with Marjorie Cohn, Connie de la Vega, and Kyra Millich presenting and Hazel Weiser

moderating, and “Forging the Path, Funding the Vision: How to Support Your Plan,” featuring Emily Arnold-Fernandez, Shirley Hochhausen, James C. Sturdevant presenting and Bryan Hinkle moderating. Concurrent panels focused on the rights of children, immigration reform, the economic downturn, and indigenous rights. Also included was an immigration pro bono training.

After the retreat, Keir Wilkinson, a student at University of the Pacific, McGeorge School of Law, wrote to SALT Co-President Raquel Aldana, who teaches at McGeorge: “Thank you for the opportunity to spend the weekend at the Trina Grillo retreat. It

reminded me why I went to law school, ideas and feelings that had long since subsided underneath stress about debt, disillusionment about the petty cliquishness of many parts of law school, and the regular threat of ambivalence about making the system, and society, work in a more just fashion. I wish I would have gone my first and second years, as well.”

A hearty thank you to USF and Dean Brand and especially to assistant dean of student affairs Erin Elaine Dolly for coordinating this year’s retreat, and bringing to the event her enthusiasm, dedication, and inclusiveness.



*Dean Jeff Brand speaks with students*



*Opening keynote at the Grillo Retreat*

## Meet Dorsen-Filler Fellow Kimberly Pray

As the SALT Dorsen-Filler Fellow, Kimberly Pray works closely with SALT's Executive Director Hazel Weiser to advance organizational development goals, including pursuing funding opportunities and preparing grant proposals and reports. Since July 2010, she has identified and evaluated hundreds of prospective funding sources, assisted with program development, and completed numerous funding proposals and reports.

Kimberly also serves as the Assistant Director of the Green Business Initiative at the University of Oregon School of Law, where she develops programs to promote research and scholarship, coordinates interdisciplinary projects, and oversees student externships. She also works to implement the vision and goals of the overall Portland Program, which includes coordinating a new fundraising program.

In 2010, Kimberly founded and served as chair of the New Tax Lawyer Committee of the Taxation Section, which provides professional development, leadership, and educational opportunities and resources to lawyers new to the tax law practice. She also serves on the board of the Portland Tax Forum, a non-profit organization that promotes professional tax education and organizes nationally recognized speakers on tax topics throughout the year.

Kimberly received her J.D. from Gonzaga University School of Law in 2008. Admitted to the Oregon State Bar in the same year, she went on to earn an LL.M. from the University of Washington's graduate program in taxation in 2009. During law school, she served as a law clerk at Foster Pepper in Spokane, Washington, where she worked primarily with the litigation practice group. She also served as the Notes/Comments Editor of the Gonzaga Law Review, was a member of the Moot Court Honors Council, and received the National Second Place Brief Award at the 2008 Saul Lefkowitz National Trademark Moot Court Competition. While living in Spokane, she served on the City of Spokane Bicycle Advisory Board.

Prior to law school, Kimberly served as Director of Development for Ecotrust, where she successfully managed three consecutive \$6 million annual fundraising goals. Her primary responsibilities included coordinating grant proposal development and funding requests, cultivating individual donors, and maintaining donor relations. Previously, she served as the first executive director of the Columbia Gorge Ecology Center, based in Hood River, Oregon. She received a B.S. in Environmental Science in 1997 from Brown University.



*Kimberly Pray*



*Elizabeth Luzzi*

## Farewell to Elizabeth Luzzi

*Hazel Weiser, Executive Director, SALT*

Elizabeth Luzzi joined SALT as a bookkeeper in the summer of 2008 and came on board full time in November 2009 as the assistant to the executive director. Now Elizabeth is following her dream. She has been accepted as a graduate student at the Bernard and Anne Spitzer School of Architecture at the City College of New York where she is entering the landscape architecture program. Elizabeth is not quite leaving SALT, however. She will be supporting her three years of full time studies with her bookkeeping business, the way she first came to us.

Everyone who has had dealings with Elizabeth knows her for her competence, friendliness, and just how quickly she can resolve a membership or computer log-in problem. We will all miss her, and SALT thanks her for her valuable contribution to the growth of the organization.

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