



RAISING THE BAR IN D.C. CAMPAIGN

Among the core missions of the D.C. Access to Justice Commission is to encourage funding for local civil legal services. The Commission's signature effort around private funding is the *Raising the Bar in D.C. Campaign*, which recognizes financial support provided by area law firms to local legal services providers. This year, the Commission recognized 44 law firms that collectively gave over \$6.3 million to local legal services providers in 2019. Due to the way the campaign is structured, firms of every size participate – from global entities, to small and mid-sized firms, to solo practitioners. This is a powerful statement of the commitment across the District's private bar to ensuring that every individual, regardless of income, has equal access to justice.

Background and History

The Commission has always advocated for funding to support District civil legal services, which has three principal sources: federal and local public funding; the IOLTA (Interest on Lawyers Trust Accounts) program; and donations by law firms and individuals. The public funding piece includes an appropriation from the District government as well as a comparably smaller appropriation of federal funding which largely benefits only one District legal services provider. Funding from private sources (IOLTA, law firm, and individual donations) comprises a significant portion of support for the legal services network.

To support this effort, the Commission set out to design a campaign that would encourage private giving among area law firms. The Commission came to this with several goals in mind: to increase private law firm giving to local legal services organizations, establish a system that would provide guidance on appropriate levels of giving and result in increasing contributions over time, provide a means to compare giving levels across peer-level firms, create an advocacy tool for law firm attorneys to use internally to increase law firm giving, provide recognition for the most generous donor firms, and give legal services providers tools to improve fundraising efforts. The Commission explored initiatives utilized in other jurisdictions to enhance private giving by law firms, benefiting from the expertise of professionals and organizations across the country. The Commission also considered feedback from District law firms, legal services providers, and bar leaders, particularly those with expertise in fundraising and law firm governance. Finally, the Commission partnered with an auditor, Ernst & Young, which lent its professional expertise to the program design.

Ultimately, the Commission decided to pursue a benchmarking initiative, where law firms that meet pre-determined levels of giving to local legal services based on a percentage of revenue are recognized. There were several reasons why the Commission favored this approach. Local law firm leaders said that they would benefit from having clear benchmarks that could serve as guidance on appropriate ranges of giving. They thought campaign results would provide a useful comparison to other peer-level firms and would foster healthy competition. They also shared that using a percentage of revenue, as opposed to dollar amounts, would provide equal opportunity for firms of varying sizes to be recognized in the campaign – something that has now become a signature of the campaign. A revenue-percentage measure was also favored because it was relatively easy to calculate, had the advantage of fluctuating with economic conditions, and obviated the need to revise benchmarks periodically to ensure that net giving increases. Firms recommended using a three-year rolling average of D.C. office revenues rather than based only on a single year's revenue, something the Commission incorporated into the proposed structure.

Once this broad structure was adopted, the Commission worked to fine tune the components of the program in the following areas, again looking to District legal community stakeholders and Ernst & Young for support:

Measuring Law Firm Giving – To get a sense of law firm giving, the auditor first collected information from legal services organizations about the volume and type of financial support received from law firms during the prior year. While a broad range of support was reviewed by the auditors, the Commission ultimately determined that the campaign would consider cash payments, donated attorneys' fees, and payments for fellowships benefiting eligible local legal services organizations. The Commission decided not to include the value of in-kind donations, loaned associates, or pro bono hours served in measuring whether a firm had qualified for a certain benchmark level, due to concerns about ability to measure these contributions accurately and because pro bono work was already being recognized through a different, pre-existing campaign. Similarly, because the focus of the campaign is on institutional law firm giving, contributions made by individual attorneys were excluded from the campaign. The Commission committed to including language in materials encouraging firms to maximize these other areas of support, however.

Determining Eligible Organizations – The Commission also worked to develop criteria about which recipient organizations would be eligible for the campaign. The Commission felt that the campaign should focus on the unique obligation that area law firms have to ensure equal access to justice for low-income individuals in the local communities in which they are located. While the Commission recognized that law firms make critical contributions to other local non-profit organizations as well as national organizations, it felt that it was crucial for the health of the District that firms invest in the communities where they do business. Thus, the Commission determined that law firms should only measure contributions to local non-profit organizations that have as a core purpose the provision of direct civil legal services to low-income or underserved District residents, as well as contributions to the D.C. Bar Foundation, a grant-making organization whose sole purpose is to fund District legal services. After discussion, the Commission determined that contributions benefitting the D.C. Access to Justice Commission could be credited, but only once a firm had met the lowest benchmark level of giving through donations to other eligible organizations.

Creating Benchmarks – The Commission sought to select benchmark levels that would raise the level of giving. However, it also sought to choose levels that at least a few firms were close to meeting – or were at already – so that the benchmarks were realistically achievable. The auditor reviewed revenue data for the 20 highest grossing District firms to provide guidance on setting specific benchmarks for giving.¹ The auditor considered each firm's current giving level and how much each would have to donate to reach different sample benchmark levels. The auditor proposed benchmark levels where many of the most generous firms were already clustered, so that meeting those levels necessitated only an incremental giving increase (if any) by the most generous firms, while still substantially increasing the net level of giving. The Commission determined that the following benchmark levels represented an appropriate balance between increasing net revenue for legal services and choosing realistic targets: Platinum tier of .11% of D.C. office revenue; Gold tier of .09% of D.C. office revenue; and Silver tier of .075% of D.C. office revenue. The Commission also committed to measure the growth of giving each year as another indicator of the campaign's impact.

Gathering Support – The Commission, with the endorsement of the D.C. Bar Foundation and the D.C. Bar, launched the campaign in December 2010. It came at a critical time, when local legal services were still

¹ Firms provided this data confidentially and information provided to the Commission was non-identifying.

reeling from the impact of the recession.² Prior to the launch, the Commission identified a core group of law firms that would commit to participation. This Leadership Circle of eight leading law firms – Akin, Gump, Strauss, Hauer & Feld, Covington & Burling, Crowell & Moring, DLA Piper, Jenner & Block, Sidley Austin, Sutherland Asbill & Brennan (now Eversheds Sutherland), and Steptoe & Johnson – joined in the launch of the campaign by pledging to donate funds to local legal services providers at a benchmark level in 2011. These firms also joined the Commission in an appeal to the larger law firm community to spread the word about the campaign and encourage them to join. The initial 2011 campaign eventually included 23 law firms, which collectively gave \$3 million towards local civil legal services.

Impact – Since its launch, the *Raising the Bar in D.C. Campaign* has made a measurable impact in the District. The following chart provides a summary of the growth of firm participation and giving since the launch of the campaign.

Year	No. of Firms	Aggregate Donations	Aggregate Increase in Giving
2011	23	Over \$3 Million	Over \$500,000
2012	36	Nearly \$3.6 Million	Over \$830,000
2013	43	Over \$4 Million	Over \$1 Million
2014	48	Over \$5 Million	Over \$2 Million
2015	46	Nearly \$5 Million	Almost \$2 Million
2016	47	Nearly \$5.5 Million	Almost \$2.5 Million
2017	48	Over \$5.5 Million	Over \$2.6 Million
2018	43	Nearly \$6 Million	Over \$3 Million
2019	44	Over \$6.3 Million	Over \$3.2 Million

Core Program Structure

To participate in the *Raising the Bar in D.C. Campaign*, a firm must take the following steps:

1. Donate a benchmark percentage of revenue in the current calendar year to one or more of the eligible organizations. Donation levels are calculated based on a rolling average of the firm's three previous years' D.C. office revenues. (For example, for giving made during the year of 2020, the firm would measure against the average of D.C. office revenue in 2017, 2018, and 2019.)
2. All cash contributions, attorneys' fees donations, and payments for fellowships sponsored by the firm at one of the eligible organizations are counted in calculating the donation level. Once a firm has reached the silver giving level, donations to the D.C. Access to Justice Commission may also be included in the calculation. Contributions made to organizations by individual attorneys, the value of loaned associates (which are considered pro bono hours), and in-kind donations are not counted.
3. After the close of the calendar year, firms provide confidential information to Ernst & Young that enables Ernst & Young to inform the Commission that the law firm has met a benchmark level for that year. Firms provide the aggregate amount donated to the eligible organizations for the year under consideration, what benchmark category this represents for the firm, and the aggregate increase in donations from the previous

² *Rationing Justice: The Effect of the Recession on Access to Justice in the District of Columbia a Joint Report of the District of Columbia Access to Justice Commission and the D.C. Consortium of Legal Services Providers* (November 2009) available at: http://www.dcccesstojustice.org/files/Rationing_Justice_Report_final_PDF_.pdf.

year. Firms are not asked to provide any information about their revenue or information about amounts donated to individual organizations.

4. Ernst & Young keeps reporting information confidential and releases to the Commission only a certification of the benchmark level met by the firm, the aggregate amount of money donated by all the participating firms to the legal services community through this campaign, and any aggregate increase in giving from participating firms.
5. Participating law firms are publicly recognized at an annual reception which is attended by District community leaders and has featured remarks from notables like U.S. Attorney General Eric Holder, the Honorable David Tatel, D.C. Mayor Vincent Gray, U.S. Secretary of Labor Thomas E. Perez, U.S. Solicitor General Donald B. Verrilli, Jr., Deputy U.S. Attorney General Vanita Gupta, and U.S. Commission on Civil Rights Chair Catherine E. Lhamon. The Commission also works with local media outlets to publicize both the campaign and its honored firms, and the National Law Journal has served as media sponsor for many years. Firms are also provided with certificates and seals that they can display and/or use in their own communications (e.g., website, social media, etc.)

Conclusion

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