

RESPONDING TO A YEAR OF CRISES, BUILDING TOWARD A BETTER SYSTEM.



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FROM THE INCOMING CEO

# **OUR MISSION**

IAALS, the Institute for the Advancement of the American Legal System at the University of Denver, is a national, independent research center dedicated to facilitating continuous improvement and advancing excellence in the American legal system. Our mission is to forge innovative and practical solutions to problems within the American legal system.

# FROM THE **EXECUTIVE DIRECTOR**

The last twelve months have been an unforgettable crucible marked by profound loss and inherent uncertainty, as well as a societal awakening to how equity, access, and justice have been deprived from so many for so long. Our institutions, dependent on a shared national commitment, have been challenged and sometimes eroded by hyperpartisanship. Yet this also has been a time of rapid and profound innovation as people and nations came together to overcome our shared challenges. 2020 fundamentally changed the world around us—and it also changed IAALS. In response to the crises of the past year, we have taken a hard look at our work and what it will take to build a better legal system for everyone. In the end, our mission remains the same, but our vision for that system has been reframed.



As America reckons with institutional racism, IAALS commits to ensuring that our work directly improves the lives of those who historically and systemically have not been treated fairly. While our projects often do provide insights and recommendations to remediate racial injustices, we have not always been explicit about it and that goal was rarely a primary driver for the work. We at IAALS—and we as a nation—must make the clarion call to address the manifest inequality in the legal system our own. We must ask ourselves, Will our work and projects result in a more equitable system? And we must strive for the answer always to be yes.

Hand in hand with racial justice must come a renewed commitment to imagining access to justice in the broadest possible terms, underpinned by the rule of law. The COVID-19 pandemic brought with it a new set of challenges on that front. As the world grappled with threats to our lives and livelihoods, IAALS pivoted its work to provide tools and resources to keep the wheels of justice turning. As courts and legal service providers innovated, went virtual, and found new and better ways to serve the public, IAALS was there to help make it happen.

2020 was a tough year for all of us, but, in the end, we are proud to have accomplished more than ever. In this Annual Report, you will read more about our projects and the ways in which many of them are advancing equity and increasing access in our justice system. This is just a beginning, but IAALS commits to doing the hard work that needs to be done—and our incoming CEO, David Yellen, stands fully behind us.

Fifteen years ago, in January 2006, IAALS opened its doors on the University of Denver campus. While this year was mostly spent away from that home, in many ways we became closer: closer to each other, closer to our partners, and closer to a vision of an inclusive and accessible legal system. With your continuing support, we can make that vision a reality.

Sem Dem.

# FOR THE PEOPLE

What good is the promise of justice for all if costs, complexity, and inaccessibility make it impossible for so many? And how effective can reform really be if the people who need access to our legal system are left out of the conversation? At IAALS, we bring not only research and analytics to understanding the challenges people face—we also bring the actual people affected to the table. Our system is designed to serve the people, so IAALS places them at the center of all we do.

#### ASSESSING JUSTICE NEEDS IN THE UNITED STATES

#### **OBJECTIVE**

To better understand the nation's justice needs in order to target reform efforts and ensure those needs are met.

#### **PROGRESS**

The events of 2020 highlighted more than ever the justice gaps in our society, and they also jump-started long-overdue conversations about how to close those gaps once and for all. But before we can truly fix things, we must more fully understand the experiences and outcomes of those seeking justice in America—especially those the system has ignored. To do so, we must uncover the types of justice needs that people encounter in their daily lives, if and how they are resolved, and how people perceive the fairness of the justice process. That's what IAALS is accomplishing through its US Justice Needs project, in partnership with HiiL, The Hague Institute for Innovation of Law. More than 10,000 people across the country responded to our justice needs survey this year—from every region and across every demographic—helping to ensure the resulting data is representative of the national population. IAALS and HiiL are completing their analysis, in consultation with other access to justice advocates, leading toward a new comprehensive picture of where the cracks are, who needs our help the most, and how we can best meet their needs, wherever they are and whomever they are. We will then conduct similar research to understand the justice needs of small, mid-size, and large businesses in 2021 as we emerge from the pandemic.

"UNDERSTANDING THE
LEGAL NEEDS OF
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SOCIETY HAS NEVER BEEN
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NOW, WITH THE COVID-19
PANDEMIC AND
LONGSTANDING RACIAL
INJUSTICES POSING
SERIOUS CHALLENGES
TO THE NATION AND
JUSTICE SYSTEM."

 James J. Sandman, President Emeritus of the Legal Services Corporation, Distinguished Lecturer at the University of Pennsylvania Carey Law School, Member of the US Justice Needs Advisory Committee

#### **EQUITY & ACCESS**

Our study, the largest of its kind to date, will provide key insights into how minoritized groups—and especially racial and ethnic groups—experience the justice system, as well as how those experiences differ across demographics. Our findings will provide crucial insights for developing and deploying improved services for those who need them most—working toward a justice system that is truly equitable.



#### IMPROVING THE DEBT COLLECTION PROCESS

#### **OBJECTIVE**

To create a coherent, comprehensive, and fair approach for state courts to tackle the growing number of consumer debt collection cases.

#### **PROGRESS**

Americans are drowning in debt, with consumer debt hitting a high of \$14.3 trillion at the beginning of the pandemic. Many struggle to repay their debts—especially those incurred for living expenses, emergency situations, and medical costs—and that burden has increased for many more over the past year. Those who find themselves as defendants in consumer debt collection cases are overwhelmingly unrepresented, intimidated by court procedures, and uninformed about their rights or how to assert them in court. To help address this growing problem, IAALS and the National Center for State Courts (NCSC) published new guidance for state court policymakers on how to better manage debt collection cases from start to finish, based on promising reforms implemented in New York and elsewhere. The report, Preventing Whack-a-Mole Management of Consumer Debt Cases, highlights the importance of aligning court rules, procedures, staffing, technology, and information for litigants with the needs of these difficult cases. Under this model for reform, state courts can not only ease the burden of their caseloads, they can provide significant relief for everyday people.

#### **EQUITY & ACCESS**

Consumer debt cases come coupled with long-term ramifications on economic stability, housing, credit, and employment. And, low- and moderate-income Americans are disproportionately impacted by consumer debt cases—as are Black and Hispanic communities. By improving the debt collection process, we can help those who are most frequently affected get notice and be heard, respected, and able to get justice—not just in theory but in practice.

In 2020, IAALS partnered with the Pandemic Rapid Response Team—created by the Conference of Chief Justices and the Conference of State Court Administrators, and supported by the National Center for State Courts—to develop guidance and tools for state courts as they worked to ensure continued access to justice during the COVID-19 pandemic—and beyond. As part of the RRT's Civil Working Group, IAALS helped develop even more resources and webinars pertaining to debt collection and garnishment that have guided state courts' responses during this challenging time. The pandemic has only deepened the debt collection crisis for many in the United States, making reform in this area all the more important.



#### EXTENDING THE REACH OF COURT AND LEGAL SERVICES

#### **OBJECTIVE**

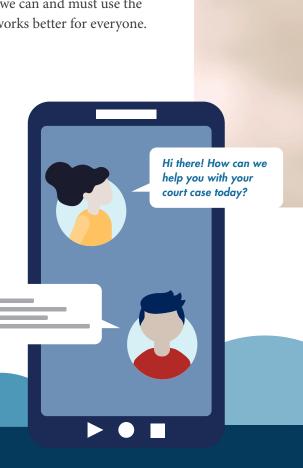
To synthesize the innovative shifts toward virtual services during the pandemic and provide others with the tools they need to continue the momentum toward greater access.

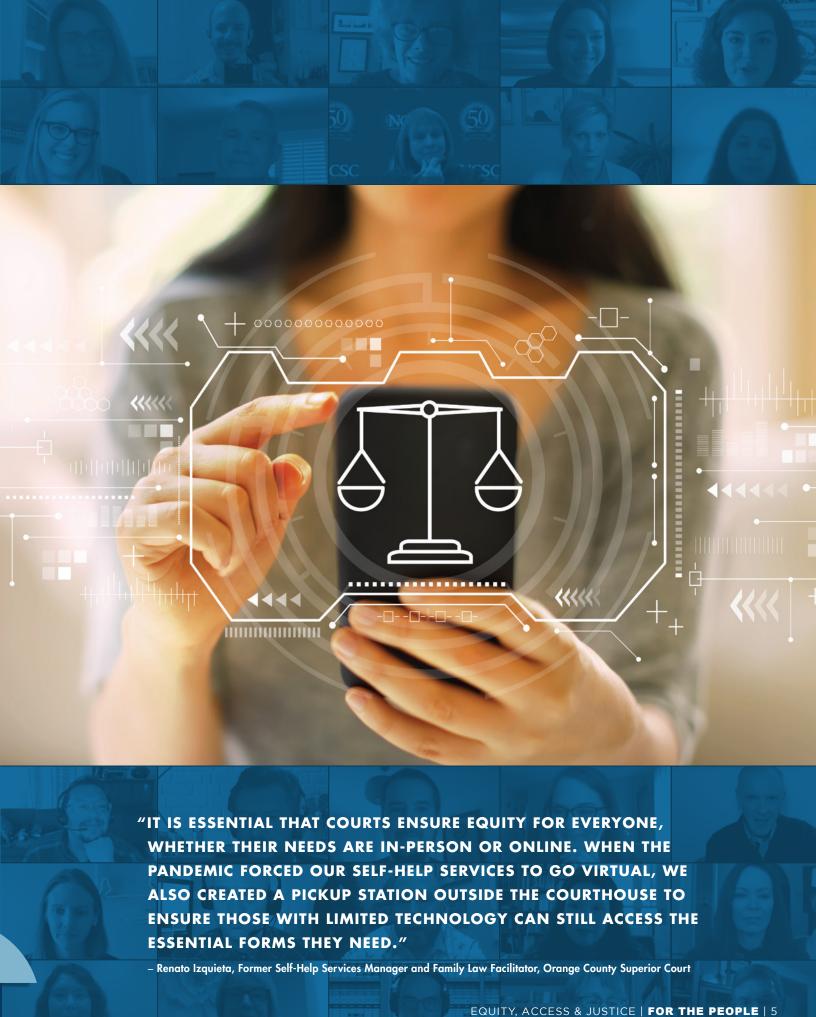
#### **PROGRESS**

Long before the COVID-19 pandemic, there was a call for courts to make better use of technology to reach and serve the people who need their services. Remote services help ensure that self-represented litigants have greater access to assistance from the safety of their own home, avoiding childcare worries, parking costs, and missed work—and while courts were slowly moving in that direction, the pandemic forced them to make that transition a priority. In the fall of 2020, IAALS conducted in-depth case studies of the innovative ways that courts, self-help centers, legal aid centers, and law/public libraries changed to provide and improve remote services across the country in response to COVID-19. Details were published in Pandemic Positives: Extending the Reach of Court and Legal Services, including the specifics of how 11 organizations deployed changes to update customers, balanced in-person and remote needs, adopted new technologies, and leveraged partnerships. The how-to tips from these organizations can be helpful to others that are still updating their services or exploring adding virtual services. Though the pandemic has created immense challenges, we can and must use the lessons learned during this time to make a system that works better for everyone.

#### **EQUITY & ACCESS**

By sharing lessons learned across the industry, we can foster further innovation to help people get information, level the playing field, and seek justice. But solely moving legal services online is not achieving equity or access in and of itself. We must continue to address the digital divide that prevents many without access to the internet or a computer from getting the services they need, and we must continue to refine virtual service offerings to ensure they are free of bias.





# THROUGH THE COURTS

Courts designed hundreds of years ago don't work today. Litigants who have a choice often opt out of using our courts altogether—and those who do go to court often do so without a lawyer. At IAALS, we're identifying innovations that make the court system easier to navigate for everyone, from individuals to families to businesses, while also helping courts increase efficiency, reduce procedural complexity, and make the most of the often limited resources they have.

#### ADVANCING FAMILY JUSTICE NATIONWIDE

#### **OBJECTIVE**

To develop and implement national guidelines and best practices to make family courts less adversarial, more efficient, and more responsive to the needs of modern families.

#### **PROGRESS**

Since the 13 Principles for Family Justice Reform were launched in 2019, the Family Justice Initiative (now renamed the Cady Initiative for Family Justice Reform) has been hard at work on the next step: implementing them nationwide. IAALS, the NCSC, and the National Council of Juvenile and Family Court Judges teamed up with four jurisdictions in Arizona, Florida, Ohio, and Washington to build momentum for change and pilot implementation of the Principles—and just as work began, COVID-19 delayed the plans. In the meantime, IAALS and our partners have honed further guidance to help family courts overcome not only the historic barriers to access but also new barriers created by the pandemic. To that end, the Conference of Chief Justices and the Conference of State Court Administrators issued a resolution in July 2020 in support of redesigning court processes for families, specifically calling for all state courts to implement the reforms. This supplemental guidance includes triaging earlier, simplifying

procedures, providing both in-person and remote self-help services, offering families a choice of dispute resolution options, and promoting the well-being of families from start to finish. As the dust settles from the pandemic and courts take stock of their new reality, we'll be there to ensure the Cady Initiative Principles are an immediate priority.



#### **EQUITY & ACCESS**

We know that the majority of civil and family cases involve litigants who don't have an attorney helping them. And we also know that these self-represented litigants are often from underserved communities. The Cady Initiative Principles were developed in recognition of these facts and to ensure everyone has access to the information and services they need when it comes to family disputes. Every family deserves to be heard and deserves to be helped, and courts can make that happen by following the Cady Initiative recommendations.

## IMPROVING THE PANDEMIC RECOVERY **PROCESS FOR BUSINESSES**

#### **OBJECTIVE**

To streamline and improve the resolution process for everyone involved in business interruption insurance disputes—the business owners, the insurance industry, and the legal system.

#### **PROGRESS**

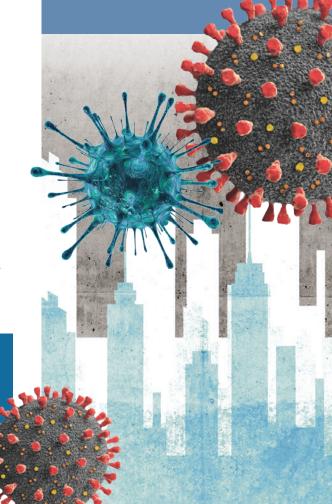
Both large and small businesses nationwide are struggling amid the pandemic, with closures and reduced capacity surging throughout the year. The upheaval has generated an unprecedented wave of insurance claims for income losses stemming from business interruptions, which are now flooding courts in all 50 states. As businesses look to their insurance policies for help in these difficult times, disputes over coverage and valuation can be both costly and time-consuming for everyone involved, including the courts. To help ensure these cases are efficiently processed in both state and federal courts, IAALS developed a set of protocols for courts and litigants to follow that make it easier and faster for the parties to exchange important information at the outset, properly frame the issues to be resolved, and accurately value the insurance claims—ultimately reducing conflict and costs for everyone. The Initial Discovery Protocols were informed by a working group of expert plaintiff and defense attorneys from around the country, as well as leading judges who have experience with these types of cases and who have used similar protocols effectively in their courts. The result is an efficient and targeted discovery process—normally one of the most expensive, contentious, and lengthy parts of litigation. With courts standing by to adopt the protocols, we are helping businesses, their insurance companies, and the courts work together—and providing broad relief at a time when the need is greatest.

#### **EQUITY & ACCESS**

Efforts to streamline business interruption coverage cases will help advance equity and fairness in our legal system, particularly for the economically disadvantaged. At a time when small businesses—a bedrock of our economy—are hit the hardest, creating more costeffective avenues to justice is critical.

"A SET OF PROTOCOLS FOR THESE CASES IS THE DOCKET EQUIVALENT OF SOCIAL DISTANCING AND MASKS-IT IS AN **IMPORTANT WAY TO FLATTEN THE CURVE AND AVOID UNNECESSARY** COST AND DELAY."

- Chief Judge Lee H. Rosenthal, U.S. **District Court for the Southern District** of Texas, Houston Division



# WITH THE LEGAL PROFESSION

Fostering justice that we can believe in is possible only if the legal profession evolves to put client and consumer needs at the center of its work. That begins with rethinking how we train and license lawyers, but also extends to how we regulate legal services generally. At IAALS, we're helping law schools learn to better educate the lawyers of tomorrow while also rethinking the way legal services can and should be delivered so they are more available and responsive to all.

#### UNLOCKING LEGAL REGULATION AROUND THE COUNTRY

#### **OBJECTIVE**

To support, facilitate, and evaluate efforts to improve the regulation of legal services and expand access to those services.

#### **PROGRESS**

Too many people cannot access—or afford—the legal help they need to protect their rights and resolve their disputes, creating a vast unmet need for legal services. At the same time, the rules governing lawyers prevent the legal profession from expanding and adapting to help more people. IAALS' *Unlocking Legal Regulation* project has begun opening doors nationally for a better regulatory structure that puts consumers first and expands the market for high-quality, cost-effective legal services. IAALS is serving as an independent evaluator for Utah's historic pilot project sandbox allowing new, creative ways for lawyers and other professionals to practice law together and reach more clients. We are collecting and assessing data on the types of new services offered, the quality of those services, and consumer experiences with them. As other states expressed interest in Utah's work, IAALS convened state court officers, state task forces, and other organizations throughout 2020 to explore opportunities and collaborate on possible new regulatory innovations around the country. We also took the conversation to the public, hosting the five-part Future of Legal Services speaker series—among our most-attended events ever—which will continue in

#### **EQUITY & ACCESS**

There is real harm occurring when people cannot get legal help, and the stakes can be life-changing. Those who are forced to deal with evictions, foreclosures, child custody disputes, and debt collection cases without help face disproportionately adverse outcomes. Our work is expanding the legal profession so that it can serve more people, guided by regulations that actually protect the public and increase their access, instead of locking them out. When more services are available to more people, everyone benefits.

"IAALS IS LAYING THE GROUNDWORK FOR A MUCH NEEDED CONSUMER-CENTERED REGULATORY SYSTEM, AND DEVELOPING IMPORTANT MODELS THAT STATES CAN USE AS THEY ARE RE-THINKING THE WAYS IN WHICH THEY REGULATE THE LEGAL PROFESSION."

- Bridget Gramme, Administrative Director and Supervising Attorney, Center for Public Interest Law (CPIL), University of San Diego

2021 as the momentum for legal regulation reform reaches new heights.

## SOLIDIFYING THE FOUNDATIONS FOR PRACTICE IN LAW SCHOOL AND LEGAL HIRING

#### **OBJECTIVE**

To build successful lawyer foundations into the core of the legal profession through improved law school learning outcomes and better hiring practices.

#### **PROGRESS**

For a long time, legal employers and their clients have been demanding new lawyers who can hit the ground running immediately. In response, IAALS created the Foundations for Practice project, which identified the foundations—legal skills, professional competencies, and personal characteristics—that new lawyers need right out of law school to effectively serve clients. But, the responsibility of developing these essential foundations in new lawyers must be shared by educators and employers. While law schools do the important work of educating students, legal employers can influence how schools prepare new lawyers by hiring truly qualified candidates—those who possess the foundations for practice—instead of candidates who only tick historical (and often biased) hiring boxes. Thus, Foundations for Practice helps both legal education and legal employers, with the goal of strengthening both. To accomplish this, IAALS developed Model Learning Outcomes and has

begun the process of mapping curriculum at two pilot law schools to ensure graduates have the foundations they need. Additionally, we have established two pilot projects at separate, regional law firms to implement foundations-based hiring practices and assess the outcomes. IAALS will also soon publish an Instructional Design Guide and a Hiring Guide, and we will begin consulting with schools and employers nationwide to put them into practice and ensure the next generation of lawyers is primed for success.

#### **EQUITY & ACCESS**

The foundations that make for great lawyers include a wide array of experiences and achievements, and are not limited to traditional criteria like law school attended or class rank—criteria that often reflect socioeconomic background and access to elite opportunities. By creating more objective, transparent, and accountable practices for assessing students and graduates, our work can directly address systemic inequity and open the door for more diversity in the legal profession. To make these changes a reality, IAALS is working with law firms around the country and the Denver Law Firm Coalition for Racial Equity to put our recommended hiring processes into practice and improve employment outcomes, including increasing diversity among new hires.

"A FOUNDATIONS-BASED HIRING APPROACH EMPOWERS A COMPANY TO IDENTIFY ITS CRITERIA FOR SUCCESS, WHICH IN TURN ENABLES IT TO RECRUIT AND EMPLOY ATTORNEYS WHO BEST EXEMPLIFY THOSE QUALITIES. WE ARE **EXCITED ABOUT OUR PARTNERSHIP WITH IAALS IN OUR EFFORT TO IMPROVE** CONVENTIONAL HIRING PRACTICES." - Kenzo Kawanabe, Partner, Davis Graham & Stubbs LLP

# **BUILDING A BETTER BAR (AND EXAM)**

#### **OBJECTIVE**

To define the minimum competence lawyers need to practice law and align the bar exam and legal licensing with that new understanding.

#### **PROGRESS**

The legal profession has never had a clear, explicit understanding of the minimum competence needed to practice law and how it should be tested on the bar exam (or through other licensing approaches). Without this understanding, it is impossible to know if the bar exam is a valid licensing tool or just an artificial barrier to becoming a lawyer. However, through our Building a Better Bar project—in partnership with Professor Deborah Merritt at The Ohio State University Moritz College of Law—we have defined minimum competence and have new recommendations for how the legal licensing process, including the bar exam, must change to better serve the public. The research makes clear that minimum competence consists of 12 interlocking building blocks, from understanding sources of law and identifying legal issues to researching and seeing the big picture for clients. What's also clear is that closed-book, multiple-choice, timeconstrained assessments—like the components of the current bar exam offer a poor measure of minimum competence to practice law; practicebased assessments, like clinical performance, offer far more promising avenues. We propose 10 recommendations that courts, law schools, bar associations, bar examiners, and other stakeholders should consider in their efforts to move toward better, evidence-based lawyer licensing. In the end, we must rethink the bar exam and we must consider how legal education can play a role in the licensing process—and our research and recommendations provide the critical first step on this path.

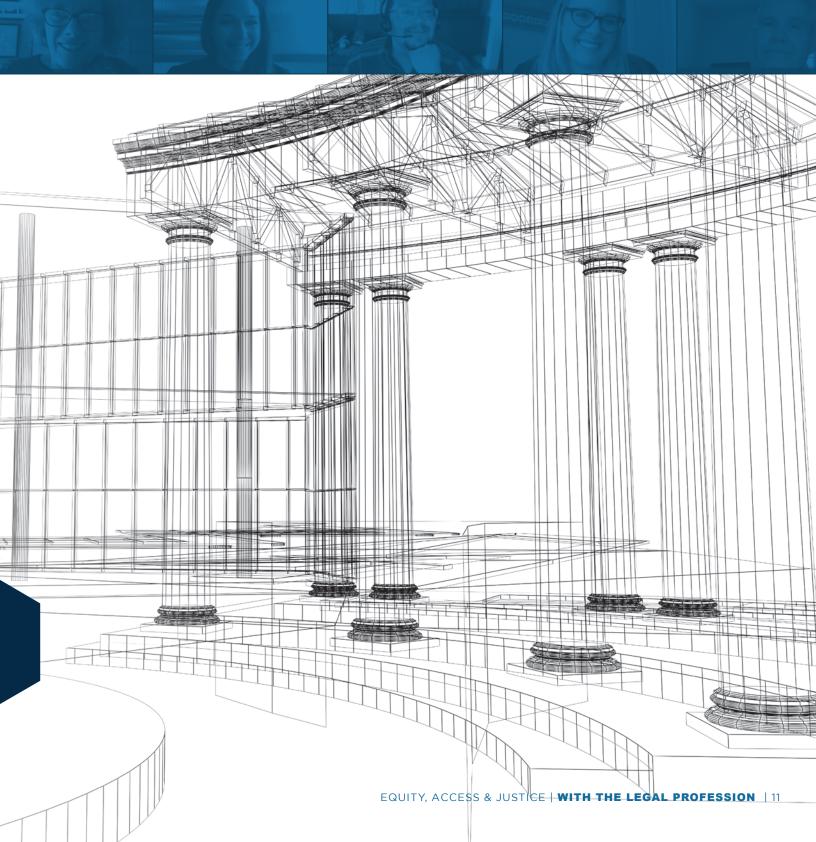
#### **EQUITY & ACCESS**

Standardized testing comes hand in hand with inherent biases, including racial bias, and our legal system itself has been built upon institutional racism and protectionist roots. Our research and recommendations are a wake-up call to bar examiners and licensing bodies that being a lawyer is more than a standardized test. We promote better ways to assess would-be lawyers' abilities that are more objective and more fair, and that reflect what it actually means to be a lawyer, regardless of race or background.



"THE BUILDING A BETTER BAR STUDY PRODUCED AN EVIDENCE-BASED DEFINITION OF MINIMUM COMPETENCE FOR BEGINNING LAWYERS—THE KNOWLEDGE, SKILLS, AND JUDGMENT NEEDED TO SERVE CLIENTS—ALONG WITH CRITICALLY IMPORTANT RECOMMENDATIONS THAT PROVIDE A SOUND PATH TO IMPROVING THE ENTIRE LEGAL LICENSING PROCESS."

- Sara Berman, Director of Programs for Academic and Bar Success, AccessLex Institute Center for Legal Education Excellence



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# REBUILDING JUSTICE AWARD CELEBRATION

IAALS' Rebuilding Justice Award was presented at a virtual celebration this year, and we were joined by people from all over the country and world via Zoom to honor both Margaret Hagan and the late Iowa Supreme Court Chief Justice Mark Cady for their leadership and innovation in advancing our justice system. The two have inspired the movement toward user-centric reforms in family courts—leading to better pathways for families nationwide.

Texas Supreme Court Chief Justice Nathan Hecht paid homage to Chief Justice Cady and his legacy, and Margaret Hagan provided the keynote of the event, focused on her latest project at the Stanford Legal Design Lab addressing the eviction crisis—which the COVID-19 pandemic has exacerbated.



Margaret Hagan



Chief Justice Mark Cady





How do we increase people's meaningful participation in the civil justice system?





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<sup>\*</sup>IAALS is so grateful to have had Paula's friendship and partnership over the years. Her passing has left a void in our profession, but we will continue to champion her vision for improving legal education, the delivery of legal services, and the legal system at large. She is greatly missed by all.



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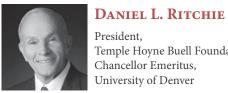
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# FROM THE INCOMING CEO

The achievements of IAALS, as described in this report, illustrate not only the organization's ability to foster change in our system—but also its capacity to do even more. It is amazing what this small but mighty team can achieve on such a broad and national scale.

It goes without saying that the leadership at IAALS has been instrumental in getting us to this point. I want to thank Scott Bales and Sam Walker for all they have done over the last year to strengthen our foundation, nurture our team, and set the stage for the future of IAALS. I could not be prouder to take the reins at this pivotal time.

IAALS' work is more important than ever. We are leaders in research, in innovation, and in action. We are nimble, responsive, and reliable. We are a convener of ideas and a force for change. And just as we demand change in our justice system, we recognize that we must change as well.



Lavid Yellan

We commit to bringing diversity, equity, and inclusion into the core of IAALS—both internally and externally. We acknowledge systemic injustices and racial disparities and will work to remedy them. We will seize opportunities to advance our system for the better in the face of COVID-19 and not backslide into the status quo. And we will center our work around making access to justice and legal services a reality for all.

I look forward to working with you—our partners and friends—to make this vision a reality.

# **HISTORY**

Located on the campus of the University of Denver, IAALS opened its doors on January 17, 2006, and was founded by the University's Chancellor Emeritus Daniel Ritchie, Denver attorney and bar leader John Moye, business leader and philanthropist Charles C. Gates, and Founding Executive Director Rebecca Love Kourlis.









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