

Comment from Special Counsel Jeffrey S. Lubbers on *Nonlawyer Assistance and Representation*
October 15, 2024

One general comment—I'm a little concerned that some of the recommendations suggesting qualifications and accreditation might unintentionally create a “barrier to entry” making it harder for nonlawyer representatives to participate.

Here are some more specific comment/suggestions:

Line 3: Substitute “many” or “most” for “others”.

Line 4: maybe delete “would”.

Line 12: substitute “lacking assistance” for “without representation”

Line 45: before “benefits” add “a form or”

Recommendation 3: This paragraph seems to describe exclusion from an ongoing proceeding, but should it also address some sorts of prospective or categorical exclusions?

Recommendation 4(h): Similar comment—are you referring to past cases or an ongoing case (or both)?

Recommendation 5: Should this be so categorical and forever? I would think that in some cases a disbarred lawyer could be rehabilitated enough to provide assistance as a non-lawyer.

Recommendation 6: I know it says “consider,” but it still seems to encourage agencies to create a high bar for nonlawyer representatives, especially with respect to (b)—since those parties are the ones most in need of help and where there may be shortages of people to provide such assistance.

Recommendation 11: Presumably such debarment-like sanctions would be judicially reviewable—should that be mentioned?

Recommendation 12: Should this disclosure (which is a form of “shaming”) be allowed/encouraged before any judicial review (if the rep has sought judicial review)?

Recommendation 15: Should make clear that supervision by clinical professors would be sufficient. I think they are all lawyers, but I wouldn't want to leave the impression that it has to be a private sector lawyer.