

表1.州の弁護士会が提供している法教育プログラム

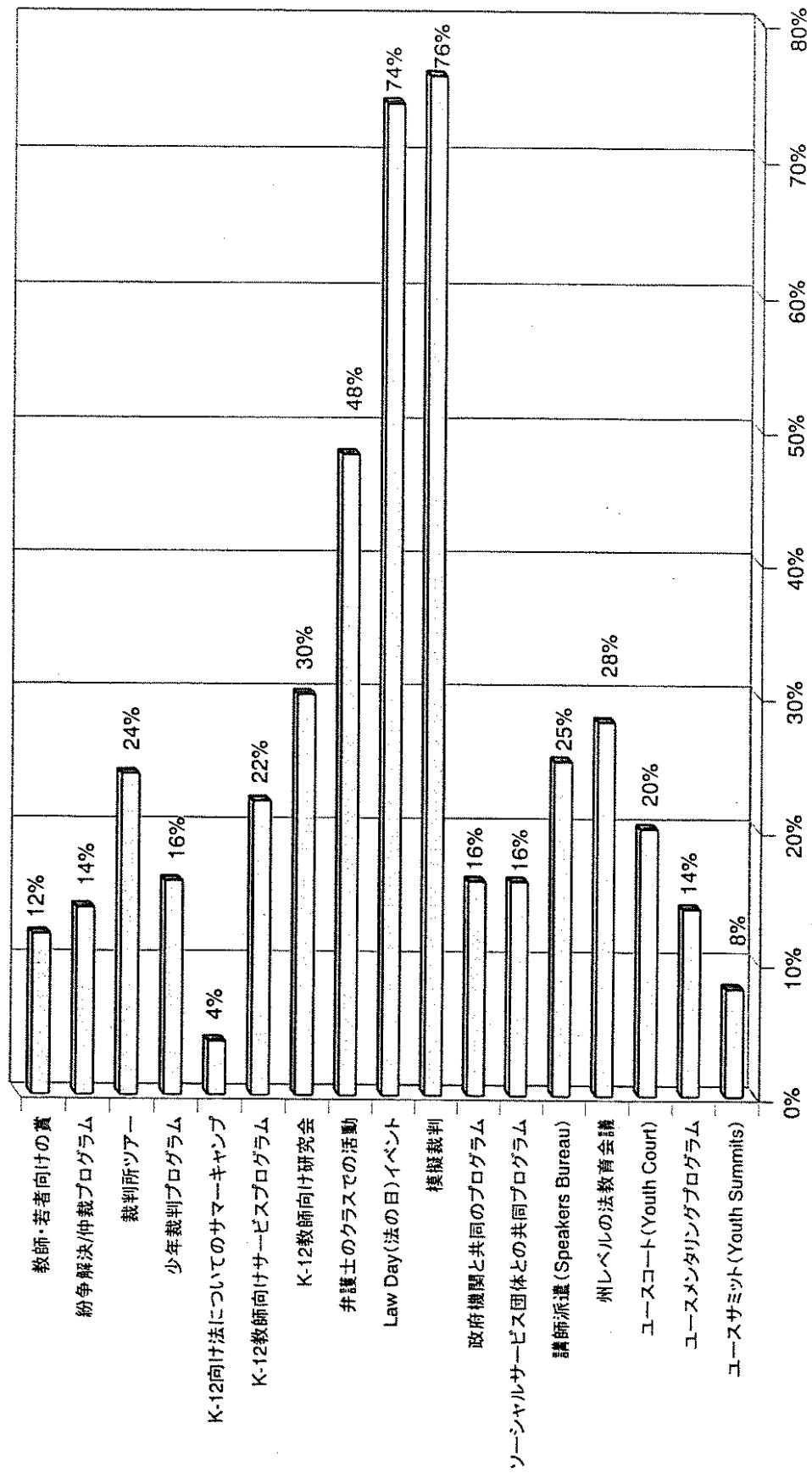


表2. 州の弁護士会が提供している法教育プロダクト

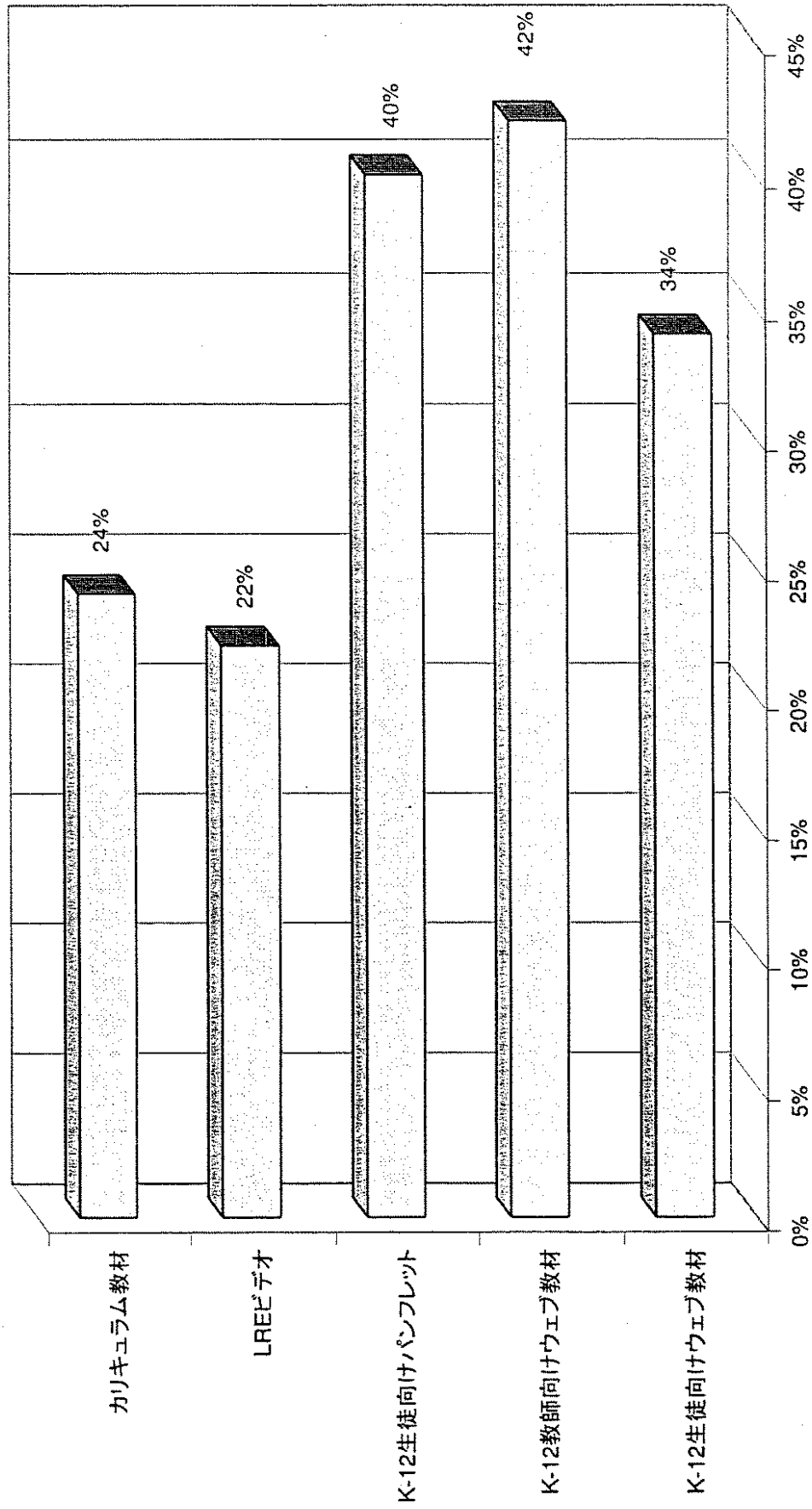
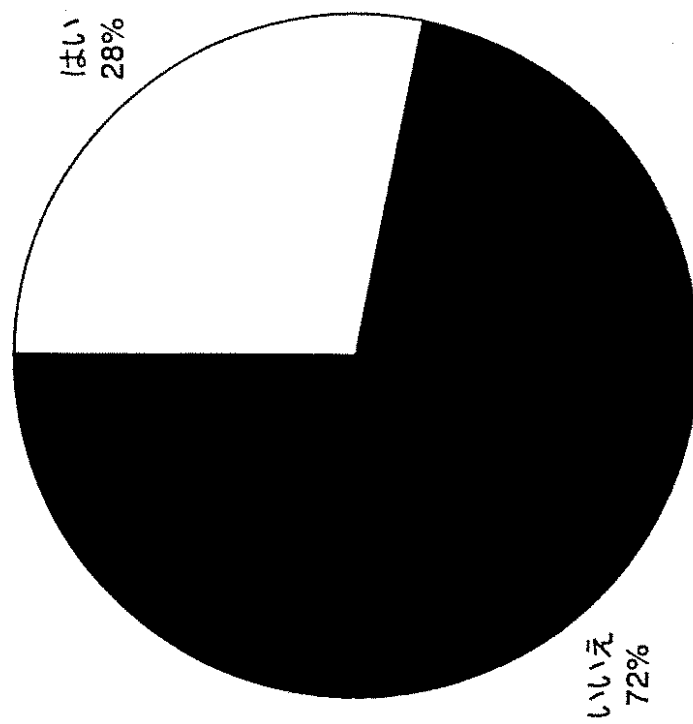


表3. 市民向けにニュースレターを定期的に配布していますか
(弁護士会会員以外に配布しているか)?



**Educate/Advocate: Building Public Confidence and Understanding of
the Rule of Law**

Remarks by

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Prepared for

The Japan Federation of Bar Associations

Symposium on Law-Related Education for the People

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I. In a constitutional democracy, the effectiveness and, indeed, the very survival of the justice system relies essentially on public understanding, trust, and confidence. This is so because the justice system in a democracy is a public institution that depends on popular participation and support to maintain its authority.

In the fall of 1998, then President of the American Bar Association, Phillip Anderson, commissioned a national survey of the American public regarding their perceptions of the American justice system. The objectives of the survey were to:

- Assess the public's current understanding of the justice system,
- Identify the public's current attitudes toward the justice system,
- Understand what drives those attitudes – education, personal experience, demographics, and
- Identify the key sources of information about and knowledge of the justice system.

The findings, released in February 1999 at a national symposium on the public perceptions of the U.S. justice system, show that there is strong support for the justice system. More than 80% of those surveyed concurred with the statement that, in spite of its problems, the American justice system is still the best in the world.ⁱ When public attitudes towards the specific institutions that make up the justice system are examined in closer detail, however, the survey found greater disparity among respondent's levels of confidence. For instance, although Americans expressed very high levels of confidence in the U.S. Supreme Court, only 14% showed strong confidence in lawyers.ⁱⁱ

In addition, when asked factual questions about the justice system, many people's knowledge was quite poor. A central finding of the survey, nevertheless, reveals that the more knowledge people have about the justice system, the greater their confidence is overall, as well as in a whole host of its components.ⁱⁱⁱ Fostering public understanding, in short, furthers public confidence and trust in the law and the justice system. Such understanding does not happen automatically, but rather must be learned by each new generation, and so must be transmitted by preceding ones. Accordingly, such understanding is also vital to nurturing civic participation in a democracy under the rule of law. As Thomas Jefferson insisted, "I know of no safe depository of the ultimate powers of society but the people themselves, and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them but to inform their discretion."^{iv}

As guardians and caretakers, as well as stakeholders, in the justice system, lawyers and judges must foster the public's understanding of and confidence in the law and the justice system. Ultimately, our justice system would perish without such understanding and confidence. As the April 1999 report issued following a second ABA-cosponsored national conference on judicial independence and public understanding and perceptions of the justice system emphasized, "Public confidence not grounded in citizen knowledge is too thin to long support the institutions of self government."^v

The survey on public perceptions, then, underscores the need to improve public knowledge of the justice system as a means to building public confidence and trust. One of the most significant of the survey's findings was the alarming lack of public confidence in the legal profession. Two trends in American society seem to contribute to this perception. First, negative and misleading coverage and treatment of lawyers and legal issues in the news and entertainment media. Secondly, the proliferation of law and law-related content in the mass media, notably on television, through coverage of high-profile trials, and depictions in legal drama and reality-based shows. While these trends may advance the public's understanding and build trust and confidence in the justice system, they also have led to wide dissemination of misinformation and reinforced existing misperceptions and misunderstandings. In deed, the voyeuristic viewing of American trials and law-related incidents has become such an integral part of American life that the separation between news and entertainment is thin at best. It undermines the public's respect for the law and the essential civic commitment to resolve disputes lawfully and peacefully, rather than extra-legally or through violence.

Further, the increasing power of new information technologies, such as the Internet, presents even greater possibilities of the spread of misinformation. In response to this trend, people will need guidance in locating authoritative, accurate and balanced sources of information about the law, lawyers and the justice system. Responsible media and schools can provide critical support, but the legal profession must provide leadership for this effort. Such leadership is compromised without the support of every lawyer. Hence, a strategy of public education about law, from the earliest grades through college, helps to accomplish the goal of an informed public.

II. In recognition of the importance of an educated citizenry to the health of a constitutional democracy, the ABA has long supported efforts in public education about the law and legal system. Beginning in the 1920's the Association established a committee on teaching of the U.S. Constitution and the Bill of Rights. That committee served until 1958, when then president of the American Bar Association, Charles Rhyne, lobbied President Eisenhower to establish Law Day. Law Day, established as a reminder to Americans of the freedoms enjoyed under the Constitution, is celebrated on May 1 of each year. The ABA serves as the national facilitator of Law Day, which was designated as an established commemoration by Congress in 1961. In 1963, the late Associate Supreme Court Justice William Brennan, accepted an invitation to speak at the annual meeting of the National Council of the Social Studies. His address encouraged educators to transform rote memorization of civil liberties to the study of landmark judicial rulings and student participation in activities such as mock trials and other law-related

simulations. Justice Brennan's remarks sparked what has evolved into the law-related education movement in the United States. While it began one state, one bar association, one school at a time, the strong support of prominent judges, lawyers and educators provided the impetus for continuing development. Leon Jaworski, former special prosecutor in the Watergate hearings which as you know led to the resignation of U. S. President Richard Nixon, became president of the ABA in 1970. His legacy to the law-related education movement was the establishment of the ABA Special Committee on Youth Education for Citizenship. Again, the Associations leadership was central, lending authority and legitimacy to the fledgling movement.

In 1981, the ABA Board of Governors asserted that "The effectiveness of the American legal system requires the fullest public understanding of its purposes and functions. The Association will encourage the development and implementation of public education programs designed to foster that understanding." ^{vi} Thus, the Association established the Division for Public Education as an entity charged with leading the ABA's efforts to educate the public about the law. Over the years, the ABA House of Delegates, the policy-making body of the Association, has approved numerous resolutions on Association in support of law-related/citizenship education. For example, the House urged bar associations to become involved in Bill of Rights education programs in 1990 and, in 1994, urged the organized bar to support public education about the Constitution and the law through implementation of the national education goals and voluntary standards for civics education established by the U.S. Department of Education.

In February of 2000, the House of Delegates passed a very important resolution in response to the ABA survey detailed previously. "Resolved, that the American Bar Association considers it part of every lawyer's fundamental professional responsibility to further the public's understanding of and confidence in the rule of law and the American system of justice." Moreover, that resolution has found its way into the preamble of the ABA's model rules of conduct for the practice of law. These model rules are used as templates or blueprints for the development of rules of conduct for lawyers throughout the country. As the former chair of the Standing Committee on Public Education, Allan Tanenbaum remarked in advocating for this resolution, "This effort [to foster trust and confidence in the justice system through public education] requires the full support of the legal and judicial communities and the professional organizations that represent us."^{vii}

III. Given this history and background, let me turn now to the efforts of state and local bar associations in support of law-related education. Across the country, many bar associations and courts are also actively conducting innovative and comprehensive public education programs designed to foster public understanding of the law and the justice system, many in partnership with educators and civic groups. In 2001-2002, the ABA Division for Public Education surveyed state bar associations regarding the LRE programs they conducted and/or supported through the active involvement of their associations.^{ix} I should note here that there are 55 state bar associations and more than 300 county and local bar associations. "All fifty states have some type of involvement in law-related education at the state bar level... (This chart) shows the most common law-related education programs supported by bar associations." Mock trials and Law Day are the most often reported at 76% and 74% respectively. Lawyer-the-Classroom programs was third at 48%.

What kind of programs do bar associations offer? Let me highlight just a few taken from our report on *State Bar Involvement in Law-Related Education*^{ix}

- **Mock Trials:** The Minnesota State Bar Association and Minnesota Law-Related Education, Inc. hosted over 300 students, representing 44 teams from across the U.S., Guam, and the Northern Mariana Islands, at the National High School Mock Trial Championships in 2000. This annual tournament brings together the winning teams from around the country for an intense two-day competition that results in awards for first and second place.
- The Illinois State Bar Association's Committee on Law-Related Education for the Public offers mock trials as well as mock trial teacher-training materials that were developed cooperatively with the Young Lawyers Division and the Illinois Law-Related Education and Resource Network.
- **Law Day:** The Virginia State Bar's litigation section sponsors the Law in Society Award Competition, an essay contest for high school seniors. Essays are judged on how well they demonstrate how the legal system affects the day to day lives of citizens.
- **Lawyers in the Classroom:** The Kansas Bar Association, with funding by the Kansas Bar Foundation, coordinates the U.S. Supreme Court in Review for schools and other interested groups through a variety of media, including live satellite broadcast, the Internet and interactive television.
- The Massachusetts Bar Association launched "Conversations on Law and Liberty in Times of Crisis," a program developed by the ABA Division for Public Education to encourage public discussion of the complex legal and civic issues facing our nation in the wake of the September 11 terror attack. Over 100 attorneys participated in high school classroom discussion around the state during the current school year.
- **State-wide conferences** for elementary and secondary teachers, administrators, curriculum specialists, juvenile justice personnel, and law-related community resource people.
- **Speaker's Bureaus** matching volunteer lawyers with schools, community groups, and civic organizations for substantive expertise on particular topics.
- **Court tours** in which students have the opportunity to observe an arraignment, visit the holding area where people wait prior to hearings and observe actual trials. In the state of Connecticut, alone, over 57,000 students have participated in such programs.
- **Peer Mediation and Conflict Resolution programs** are designed to teach elementary and secondary students how to resolve disagreements through mediation.
- **Curriculum materials, web sites for teachers, students and the general public, reference books and videos** round out the primary offerings supported by bar associations. For example, Mississippi Bar Association developed a pamphlet for students and families on the "Consequences of Misconduct in School." Other bar associations offer booklets on their rights and responsibilities as they enter adulthood.

To oversee and fund these efforts, bar associations use a range of organizational strategies. The bar foundation is often the “institutional” home for law-related education in the bar. Many bars fund these efforts through IOLTA (Interest on Lawyers Trust Accounts) collected through legislative and judicial order. The young lawyers in many associations are the primary source for human resources for school-based projects. Many of these young lawyers volunteer because they have children in the schools or simply, find that law-related activities are an excellent way to begin their public service as lawyers. Finally, bar committees spearhead the coordination of these programs and are critical to successful planning and implementation. These committees include lawyers and judges and, often, also include educators. A practice I recommend highly.

IV. The work of the state and local bar associations is impressive and, we, in my division, take great pride in their achievements. Early in my tenure as director of the division, I asked several executive directors of bar associations to tell me what we might do at the ABA to support their programs. Their answer to me was that the most important thing I could do would be to create the public space that lends credibility to their work. What do I mean by public space? For example, when the bar approaches a school about law-related education, the effort would be facilitated greatly if teachers were already informed about law-related education. They would know how it “fits” in the school curriculum. They would know its reputation among national educators. We, the division, would have laid the groundwork for getting schools engaged. We have taken their advice to heart and I believe we are viewed as facilitators of their work, rather than competitors. They freely use our materials, attend our conferences and welcome our collaboration. I am very proud of the strong relationships we have forged.

Let me share a brief snapshot of the division with you.

The mission of the Division for Public Education is to promote public understanding of law and its role in society. Through its programs, the division reaches nearly 25 million Americans annually and generates non-dues revenue in excess of \$900,000 each year to support program activities. The division’s programs are designed to accomplish two key objectives: first to promote public understanding of the law, legal system, and legal professionals; and second, to provide materials and other resources that lawyers and judges can themselves use to promote public understanding of the law. All of the programs supported by the division have clearly defined goals and audiences and are fully aligned with the division’s strategic focus as stated in our strategic plan. To operationalize the broad mandate of the division – to educate the public – activities have been organized to reflect the following areas of emphasis: educational programs, meetings and conferences, clearinghouse services, awards and contests, publications and educational resources, and division website. I believe you have a translation of our division brochure which describes these efforts. I will not repeat that here, but let me provide some context for these efforts.

The division conducts programs for school that engage pre-collegiate and undergraduate college students, as well as institutions promoting life-long learning. These programs focus on providing teachers with the knowledge and skills to effectively teach about the law in their classrooms. This is achieved through the development of model programs and curriculum, links to appropriate local resources and technical assistance. Programs efforts are also directed to the “general public” and segments of that public, including citizens, non-citizens, jurors, voters, consumers

and media “end users.” The division’s programs employ a variety of delivery systems and dissemination mechanisms to assure the widest reception possible among our target audiences. From Law Day (the division’s most expansive public outreach effort) to the National On-line Youth Summit (the division’s direct service model program for secondary teachers and students), there is an on-going effort to deliver high quality, innovative programming that promotes partnerships with a variety of organizations. For example, this past Law Day nearly 40 legal organizations, professional associations, and non-profit groups joined with the ABA and local and state bar associations in promoting the Law Day theme to their constituents.

The division is guided in its work by the ABA Standing Committee and Advisory Commission on Public Education whose collaboration provides access to organizations, scholars and resources that would be challenging and expensive to garner independently. The 15 lawyer-member Standing Committee is supported in its work by a 14 member Advisory Commission comprised of leaders in the fields most directly engaged in the work of the division. Commission members include representatives of major education and civic organizations and institutions.

The division has been fortunate to enjoy a continuing support among the leaders of the ABA and stability within its staff leadership. In the Division’s 20 year history, I am its second director. It surprises me to realize that I have held this position for 10 years. With the exception of one, my most senior staff has been with the division from 10 to 30 years. I have spent my 24 year career at the ABA in this division. We have a staff of 16 people whose professional background is in education, law and the humanities. The professional staff is a critical asset to sustaining an extensive and comprehensive program in a constantly changing delivery environment. To assure effectiveness, the staff works in program teams, that are designed to achieve the most substantively rich and efficiently produced work product possible. Teams are coordinated by a team leader who is responsible for maintaining the strategic focus of the project. In practice, we employ a project-oriented staffing approach. At any time, staff may be assigned to multiple teams working on several programmatic activities. This flexible approach allows us to assign staff on the basis of skill, expertise and need. As warranted, staff is supplemented by consultants retained for specific projects. I am very fortunate to work with such intellectually curious, competent, committed and creative people. It makes coming to work each day a pleasure.

The division’s is funded through an ABA general revenue allocation which is used primarily to cover the cost of staff and office operations. This arrangement provides stability for on-going program development, implementation and networking. In addition, as noted previously, each year the division produces more than \$900,000 in non-dues revenue to cover the cost of its very aggressive program efforts. (Non-dues revenues as used here include publication and product revenue, grants, conference registration fees, royalties and corporate contributions.) Even program activities most directly dependent on general revenues, Law Day and the Silver Gavel Awards, defray about 40% of their costs through non-dues revenue sources. Print projects are budgeted to cover all production costs through non-dues revenue. In the case of non-periodical publications, we anticipate at least two years of distribution in our print run. Hence in the first year of sale, we recover production costs. Each project is carefully reviewed to ensure appropriate cost containment and adherence to our yearly budgeting process.

V. One of the challenges that any program faces is meeting the changing needs of its constituency or addressing, in practical terms, developments in the educational landscape in which our work is implemented. On the immediate horizon are three efforts I thought might be of interest to you.

The current president of the ABA, A.P. Carlton, spearheaded a review of the ABA's strategic plan. A strong sentiment of this plan centers on the importance of sustaining the level of member satisfaction with the work of the Association. Going forward, ABA entities must demonstrate how they promote advocacy for the profession in their programmatic efforts. Let me quote from a letter that the current chair of the Standing Committee on Public Education sent to President Carlton last spring. "There are many ways in which the division advocates for the profession, a reflection of the diversity of programs the division offers..."

- **Building public understanding of and confidence in the legal system.** The importance of this element has been confirmed by the ABA's own research. A central finding of the ABA's 1999 survey of public perceptions of the American justice system was "that the more knowledge people have about the justice system, the greater their confidence in the justice system overall, as well as in a whole host of its components."
- **Countering misleading or inaccurate ideas and images of legal professionals and the legal system.** The profession suffers when the public receives distorted or inaccurate impressions of its work and the work of the legal system. The Division works closely with ABA sections and other legal experts to ensure the quality and accuracy of the information it provides.
- **Educating our young people to understand and respect the rule of law in our democracy.** The elementary, secondary, and college years offer the best opportunities to provide U.S. citizens with a firm grounding in American legal and constitutional history and the role our legal system plays in ensuring the stability of our democracy and the integrity of our institutions. The school audience is the primary target of many Division programs.
- **Offering the public information to help them determine when they may need legal assistance.** Our legal system is admittedly, and necessarily, complex. One of the most valuable services the Division offers the profession is helping the public understand how and when the law can help them resolve or prevent conflicts.
- **Providing lawyers with the information they need to keep their clients apprised of important legal issues.** One of the most popular services we provide to the profession is information pre-packaged for clients. These materials offer lawyers a convenient way to advise clients about legal issues before they turn into problems.
- **Developing materials lawyers and judges can use to educate the public about our legal system.** As you noted in your letter, our Standing Committee has long pressed for greater involvement by the profession in the education of our students, recognizing that lawyers and judges make the best advocates for the profession. The Division has developed a wealth of materials to facilitate the efforts of lawyers and judges to promote education in our schools and communities.
- **Providing forums and resources that enable informed public discussion of law and the legal system.** One of the most effective means of enhancing public understanding of the law is through informed dialogue that enables in-depth exploration of the complex issues the legal profession addresses. By providing both resources and forums for such dialogues, the Division facilitates public discussion of the law at the national, regional, and local levels."

At our most recent committee meeting, we began to consider alternative strategies for raising funds for the division's programs. The ideas under discussion are

- Corporate funding for selected division programs. This decision raises concerns, of course, that the substantive work of the division remain independent of the influence of such sponsors.
- Aggressively soliciting funds from "friends" of the division. Leon Jaworski's estate established a proprietary fund for public education. The division is the named recipient of these funds. However, in the 15 or so years of the fund, we have not added to the endowment. We have simply drawn on the income. We are exploring how to enrich the endowment in the future.
- The Jaworski endowment is very important to our work, yet we have not sought to encourage such estate-based planning on our behalf. We believe in the current economic environment that it is naïve, short-sighted and a bit foolish not to consider this resource and build the appropriate relationships to make such contributions a reality.

Finally, the September 11 tragedy has spawned a renewed interest in Civic Education in the United States. On September 17, 2002 President George Bush announced three "initiatives that will improve students' knowledge of American history, increase their civic involvement, and deepen their love for our great country." ^x As a result of this interest at the highest levels of our government, we hope to work with others to maximize the effectiveness of this program as it influences implementation in the nation's schools. To begin the advocacy for a sustained effort to reinvigorate teaching civic education in schools, "the Center for Information and Research on Civic Learning and Engagement (CIRCLE) and Carnegie Corporation of New York, in consultation with the Corporation for National and Community Service, convened a series of meetings involving some of the nation's most distinguished and respected scholars and practitioners in this area to determine, based on solid data and evidence, the components of effective and feasible civic education programs." They issued a report, *The Civic Mission of Schools*, made several recommendations which have been widely distributed nationally in the U.S. I attended and/or participated in each of these efforts. The Standing Committee and Advisory Commission has been carefully reviewing these efforts to determine how best to strategically position the ABA in these efforts moving forward. It is important to note, however, that ours was the only major professional organization involved in these discussions whose primary work was not education. This, I believe, speaks to the important and respected contribution that the Association has made to law-related/civic education for over eighty years.

Thank you for the opportunity to share my thoughts with you and to visit your beautiful country. I welcome your questions.

ⁱ Executive Summary of APerceptions of the U.S. Justice System,= American Bar Association (prepared by M/A/R/C Research), p. 6.

ⁱⁱ APerceptions of the U.S. Justice System,= p. 7.

ⁱⁱⁱ *Ibid.*

^{iv} Jefferson, Thomas, *Letter to William Charles Jarvis*, September 28, 1820.

^v Marshall Jr., D. P. et al., *Symposia Report Prepared in Advance of National Conference on Public Trust and Confidence in the Justice System*, American Bar Association Symposia Taskforce, April 29, 1999, p.6.

^{vi} Priorities of the American Bar Association Board of Governors, 1981.

^{vii} "Question: How Can We Public Confidence in the System," Answer: EDUCATE, EDUCATE, EDUCATE!" Resource Packet; ABA Forum on Justice Improvements; St. Petersburg, Florida; October 23, 1999.

^{viii} Kittlaus, Jennifer, *State Bar Involvement in Law-Related Education*, Technical Assistance Bulletin No.20; ABA Division for Public Education, 2003

^{ix} Remarks of the President of the United States on Teaching American History and Civic education Initiative, The Rose Garden, September 17, 2002

^x CIRCLE and Carnegie Corporation, *The Civic Mission of Schools*, February, 2003

Figure 1. LRE Programs Offered by State Bar Associations

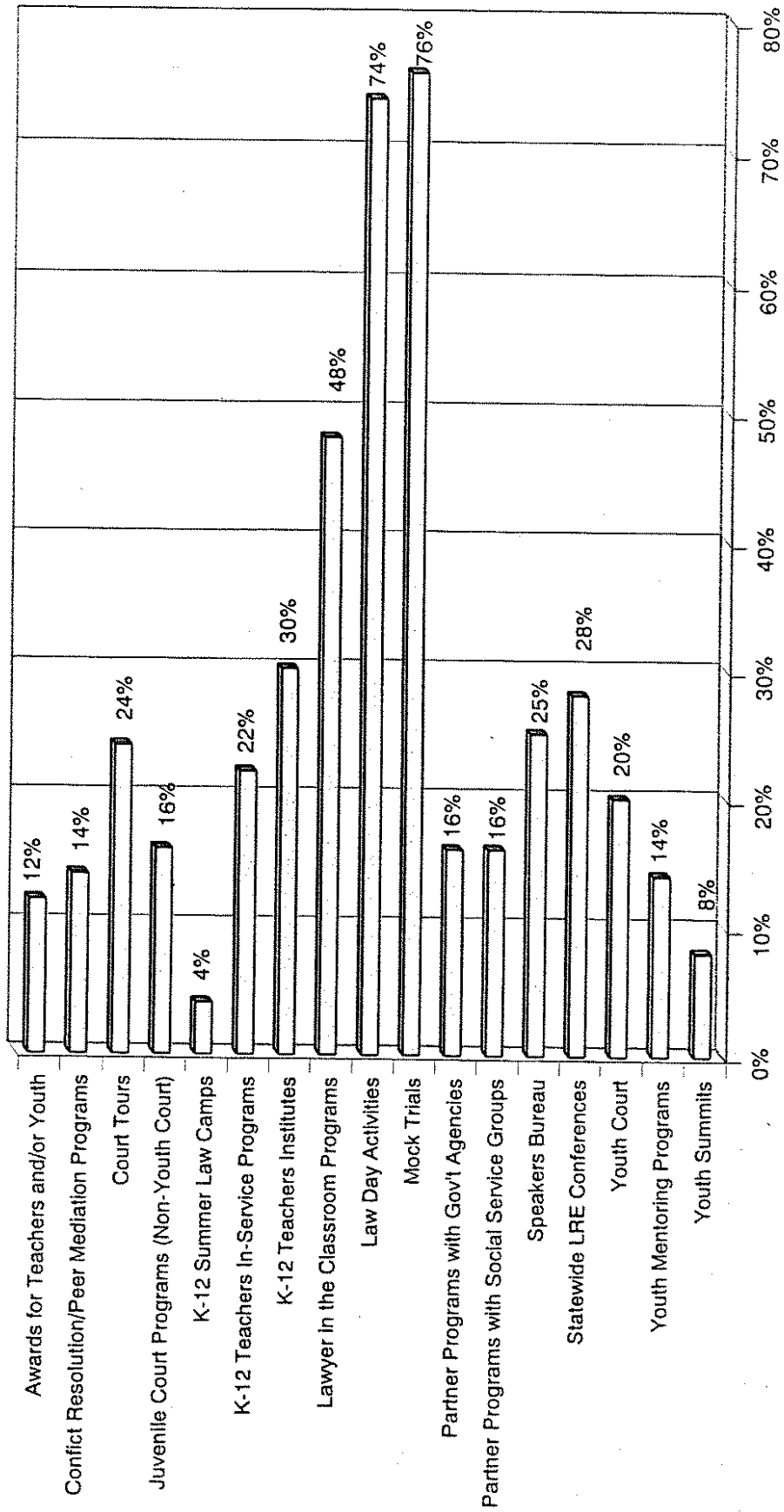


Figure 2. LRE Products Offered by State Bar Associations

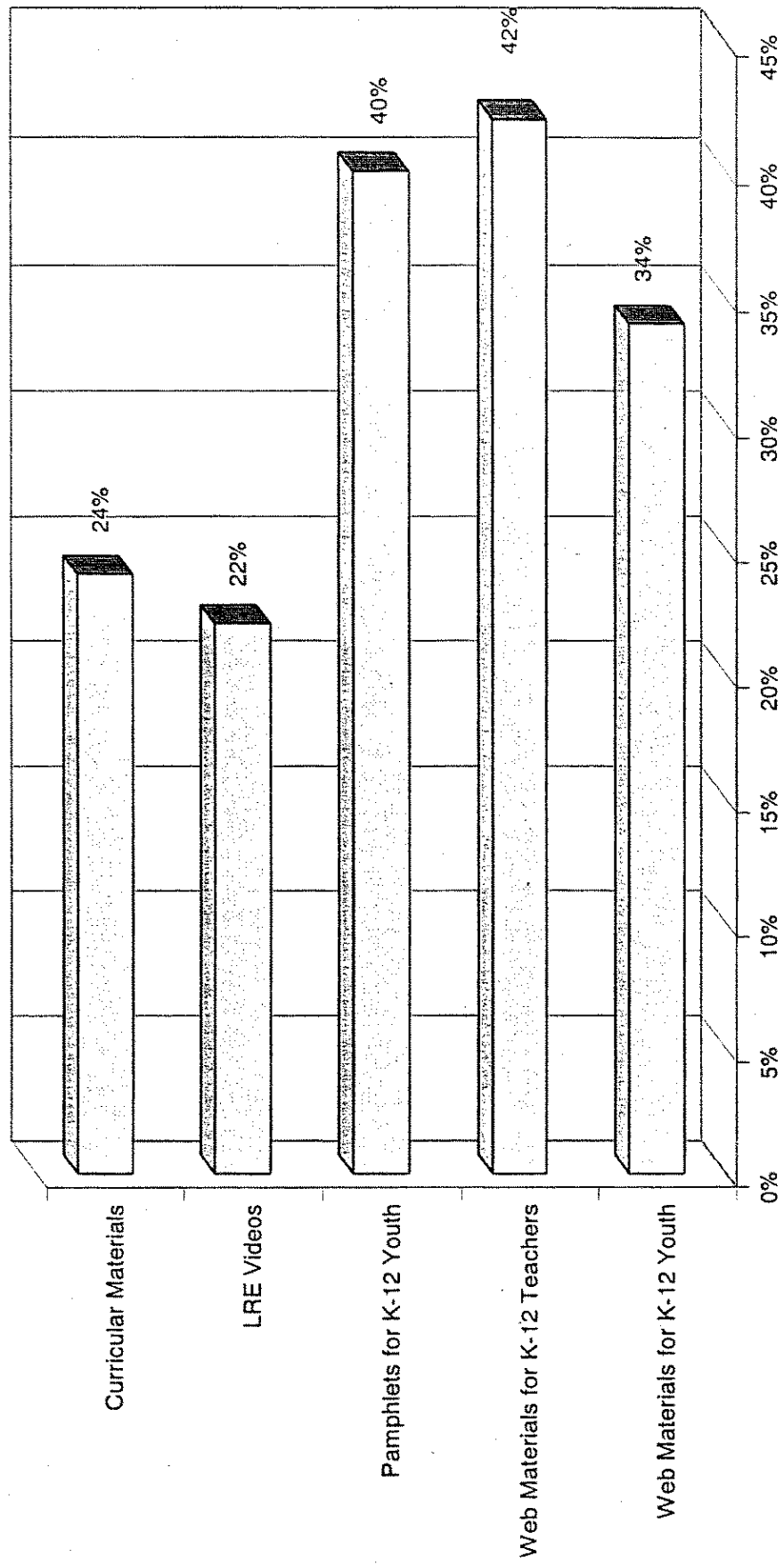
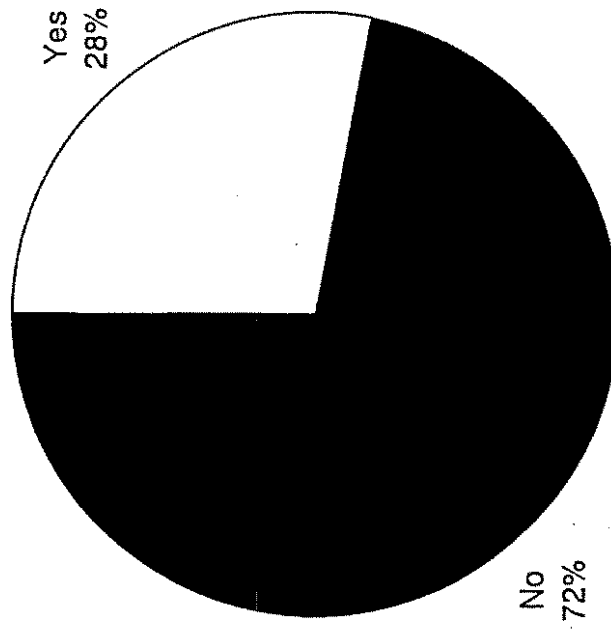


Figure 3. Does Your State Bar Association Regularly Distribute a Newsletter Oriented to the Public (Mailed to Non-Bar Association Members)?



平成15年3月5日

日本弁護士連合会

会長 本林 徹 殿

市民のための法教育対策ワーキンググループ
座長 古井 明 男

「市民のための法教育」に関する提言

1 法教育の必要性

(1) 生まれながらの「市民」はいない

日本国憲法は、個人の尊厳を認め、人権を保障し、このような国民の権利が侵されることのないような統治制度の基本を定めている。これに基づき、公法とよばれるものが、さまざまな制度を規律している。また、民法その他の私法や社会法、経済法と呼ばれるものは、自由で公正な社会を実現すべく、私人間の関係を規律している。そして、すべての法は、平和的に紛争を解決し、法過程を通じて正義を実現することを要請している。

すなわち、個人を尊重する自由で公正な立憲民主主義社会における「法」は、個人はそれぞれ異なった存在であることを認め、独自の善き人生を追求していくことを前提に、それぞれ異なる者が平和的に共存していくことを可能とする基本的枠組みを提供しているのである。

このような自由で公正な立憲民主主義社会を持続・発展させていくためには、国民一人一人が、立憲民主主義における法の役割、諸原理や諸制度についての十分な知識、この知識を応用する技能や法過程に参加する技能、さらには、他人を尊重し、各人の基本的権利を守り、法に従って法的問題を解決する姿勢を身につけなければならない。

このような意味で法的資質を備え、社会に対し積極的で責任ある行動をとれる国民を「市民」と定義するなら、立憲民主主義社会においては市民こそがその中核なのである。しかし、生まれながらの市民はおらず、不断の努力により市民を育成していかなければならない。

このような「市民」となるための、単に法的知識の取得に止まらない、法的知識を応用する技能・法的参加の技能の修得や法的問題を法に従って解決する態度形成などの法的資質を育成する教育を「法教育」と呼ぶならば、法教育は、幼稚園から成人までの学校や地域社会における教育的場面において、広く展開されなければならない。

(2) これまでの教育では足りない

学校教育においては、中学生・高校生を対象に「公民的資質の育成」の名の下、主として「社会科」「公民科」により上述した意味での法教育が予定されている。

我々弁護士も、主として高校生以上を対象として、これまで「憲法教育」「人権教育」「消費者教育」あるいは裁判傍聴・模擬裁判の実施などを通じて、このような役割の一部を担ってきた。

しかし、残念ながら一般の国民においては、今でも「法」と聞くと、権力者の秩序維持の道具と捉え、できることなら、「法」や「裁判」とは一生関わらないで過ごしたいと回避的な態度を取ったり、逆に、あらゆるものを機械的に解決する万能の規範であると捉え、ささいな困りごとに「人権救済」を訴え、行政により解決してもらおうと依存的な態度を取ったり、あるいは、法に反しない限り何をしてもかまわないという利己主義的な権利行使の態度をとったりする現象が見られるところである。

こうしたことは、これまでの学校教育においては、法に関して抽象的な知識の伝達に終始し、技能の修得や態度形成の視点が等閑視されてきたこと、幼稚園や小学生からの一貫した法教育という視点が欠落していること、また、弁護士の実践も、断片的、対処療法的知識の伝達に止まっていたこと、対象に対する継続的な教育ではなかったこと、中学生以下の子どもたちに対する教育という視点が欠けていたことなどが考えられるが、それはすなわち、教育関係者にも弁護士にも、上述したような意味での市民を育成するための法教育を提供するという視点を十分に持っていなかったことを意味すると考えられる。

今日、単に法的知識の伝達に止まらない、法的技能・態度形成を含めた法的資質を備えた市民を育成するための法教育を実施することは急務である。

(3) 現在の日本社会での必要性

現在の日本社会は、21世紀を迎え、あらゆる領域において重大な転換期にある。たとえば、価値観の多様化に伴い、道徳・慣習などの伝統的価値観による社会統制機能が低下し、法による社会統制の比重が高まりつつある。また、現在、政治改革、行政改革、地方分権推進、規制緩和などの各種の経済構造改革が進められており、これらの改革が実現した社会においては、自由競争・自己責任がこれまで以上に重視される。そのような社会で、国民が、自らの善き生を実現し、生き抜くためには、法過程に参加する技能や態度、法を積極的に活用していく能力が必要不可欠である。また、司法制度改革の一つとして、裁判に国民が関与する「裁判員」制度が導入されるが、そこでは国民に法曹と同一の法的資質が要求されているわけではないが、少なくとも、法的手続に従い、議論し、合意形成をするなどの法的な技能や、法の理念に従うという態度を備えているという意味で法的資質が要求される。司法制度改革が、法を真に国民のものとするためのものであるならば、何よりも国民に対してこのような意味での法的資質を育成するための教育が必要不可欠となるのである。

2 弁護士が関わることの必要性

そして、国民に対し広く法教育を実施することは、法律専門家である我々弁護士にとっても、その重要な責務の一つである。

弁護士は本来、法の専門家であるだけでなく、思慮分別があり責任ある行動をとれる「市民」であるはずである。そうだとすれば、市民となる法的資質を育成するために必要な教育内容を作

成したり、あるいは指導したりすることにもっとも適した人材であるはずである。我々弁護士は、これまでともするとその活動を法廷活動に限定してきたが、これからの司法改革とそれに伴う法曹人口の増加は、弁護士に法的知識・技能を公的に役立てることを益々求めることになるであろうし、我々もこうした要請に答えていかなければならない。こうした活動をすることによってこそ、弁護士や法に対する国民の信頼もまた得られることになるからである。

さらには、法教育ないし司法教育に関して、法務省ないし文部科学省が積極的に動き出そうとしているやに聞いているが、ことは民主主義の中核をなす「市民」を育てるという問題であり、市民の目からみた理想的市民を作るための教育内容としていかなければならない。そのためには、官主導ではなく、まさに在野法曹である弁護士こそが主導していかなければならないテーマなのである。

3 日弁連の委員会の目的・活動

A 暫定的達成目標

- ① 学校教育への法教育の導入
- ② 大人に対する法教育の整備

B 前提的課題

法教育の内容の確定

どのような形でどのような法教育をしていくべきか、弁護士はどのように関与していくべきかについての検討であり、なるべく早くこれを確定して、その後の日弁連の活動方針とする必要がある。

C 実践的課題

国民・各界への法教育の啓発活動、裁判所・法務省・文部科学省をはじめとした中央官庁、地方自治体、教育関係者への法教育のアピール活動

上記法教育の内容の確定を受けて、あるいはこれと並行して、法教育を広く普及させるべく、活動していく必要がある。

D 上記課題を達成するための当面の具体的活動内容

- a 委員による実験的授業の実施
- b 各単位会の弁護士による実験的授業の実施への呼びかけとその支援体制の整備
例えば、人的な支援や実験的授業のための教材づくりなど
- c 実際に行われつつある法教育の情報収集
- d 教育関係者とのネットワークづくり
- e 海外における法教育の実践の調査
- f 法教育に関するイベントの開催（例えばコンテストの実施など）

日弁連の行う法教育の目的を一言で言うならば、幼稚園児から成人まで、学校や地域社会での教育的場面において、法についての質の高い教育を普及、展開することに尽きると思われる。

ただ、問題は、法教育が、何よりもまず規範意識を取得する幼児段階からの学校教育において、継続的に取り入れられなければならないものであるのに対して、現状では全く不十分な状態にあるということである。

従って、日弁連としても、学校教育に法教育を取り入れるべく、国民、教育関係者や中央官庁に法教育を宣伝・啓発活動していかねばならないが、それに先行あるいは並行する形で、どのような形で法教育を学校教育に取り入れるべきかについて教育関係者と連携して調査研究していかねばならない。その中で、弁護士がどのような形で法教育に関与していくべきかも議論していかねばならない。

他方で、成人層に対する法教育の方法も検討していかねばならない。

このように法教育の概念が定着していない現段階では、法教育委員会の目的・活動は、暫定的・段階的なものとならざるを得ない。学校教育に法教育がどのような形で定着するかにより、その後の委員会のあり方も自ずと変わってくることになる。例えば、学校教育に正式な科目として法教育が取り入れられることになれば、法教育プログラムや教材の情報収集や評価、教員へ法的知識の指導といった後方支援的な役割にとどまることが考えられる。これに対して、課外授業的な取り入れられ方にとどまる場合は、より積極的に法教育プログラムや教材を開発したり、学校に弁護士を派遣したりする必要が出てこよう。後者の場合には、それなりの財政的負担が予想されることからすれば、あるいは法教育財団のようなものを作る必要性も生じてこよう。

また、成人層に対しては、各種委員会で、法教育の一部といえるものを実施しており（例えば、模擬裁判、裁判傍聴、裁判員模擬裁判など）、これらをどう調整していくかも問題となる。

当面の具体的活動内容としては、弁護士による実験的授業の実施が大きな柱になると考える。1コマでもいいから、弁護士が実際に学校に行って授業をすることにより、弁護士自身が法教育の重要性を認識することにもなるし、国民や教育関係者への啓発にもなる。しかも、それによっ

てはじめてどのような法教育が望ましいかも見えて来るであろう。そして、それは全国的に行ってこそ、最大の効果を発揮するものであり、各単位会の協力が必要不可欠である。そのためにも、早い段階で実験的授業のための教材やマニュアルを作成する必要がある。

その他、法教育の内容を確定するためにも、各種の調査・情報収集を行う必要がある。

また、前述したようにこれまでの法教育的実践との調整の問題はあるが、例えば、法の日などに、法教育に関するイベントを開催することも必要であろう。

4 委員会の設置、およびそれに向けての各単位会・弁護士への啓発

このような意味での法教育について、関東弁護士会連合会平成14年度（第49回）定期大会において、「子どものための法教育」に関する宣言がなされ、そこにおいて、『法律専門家』ではない人々を対象に、法とは何か、法がどのように作られるか、法がどのように用いられるのかについて、その知識の修得に止まらず、それらの基礎にある原理や価値、例えば、自由、責任、人権、権威、権力、平等、公正、正義などを教えるとともに、その知識等を応用して使いこなす具体的な技能と、さらにそれをふまえて主体的に行動しようとする意欲と態度について併せ学習

し身につけさせる機会、すなわち『法教育』を提供する必要がある。」とし、さらに「このような法教育の研究、カリキュラムの開発、情報交換等を、弁護士会全体として継続的かつ専門的に行う組織が必要と考え、日本弁護士連合会に対し、法教育のための専門委員会等を早急に設置することを要望する。」としている。

これは誠に時機を得た宣言であり、我々市民のための法教育ワーキンググループ委員一同もまた、日本弁護士連合会が、国民に対し、広く「法教育」を普及・実践していくことが弁護士の責務であることを認識し、「市民のための法教育」を研究・推進する専門委員会を設置されるよう提言する。

また、上記宣言がなされたとはいえ、法教育という概念が、各単位会や個々の弁護士にとってはまだまだなじみのないものであることに鑑み、上記委員会の設置に先立ち、法教育の意義・重要性について早急に各単位会・弁護士に対し、啓発・宣伝するようあえて付言する。法教育の全国的な普及活動を展開するためには各単位会・弁護士の協力が必要不可欠であり、単に上記委員会に委員を送り込むだけでは足りず、各単位会にも法教育を担う相応の受け皿を設置してもらう必要がある。そして、平成15年6月に委員会を立ち上げるためには、4月までに各単位会での上記委員会に対応する受け皿づくりをする必要があると考えるからである。

5 委員会の構成

上述したように、法教育を国民に広く提供することが弁護士にとっても重要な責務の一つであること、当面、全国的規模での実験的授業を実施することが必要不可欠であることからすれば、できれば各単位会から1名以上の委員を選出する形が望ましいと思われる。しかし、この点は、予算的な制約もあろうから会長に一任する。

ただ、教育に関する委員会であるから、委員会自体にも教育関係者等の協力が必要不可欠であり、外部委員を予定するなど、弁護士以外の適宜の人材の協力が得られやすい形を考慮していただきたい。