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Amy Wallace

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A Law-Themed Charter High School Born at New York Law School Remains Indelibly Linked

Amy L. Wallace¹

It was a confluence of unrelated events at New York Law School in the spring of 2009 that led to the founding of the Charter High School for Law and Social Justice (CHLSJ) in the Bronx, New York. Dedicated law school faculty members were crucial to the school's launch and the law school, its law students and faculty continue to nurture this unique and reciprocal relationship. Professor Richard Marsico² was the unstoppable force behind the founding of the charter school and its close connection to New York Law School (NYLS). This article details the origins of CHLSJ, the current relationship between NYLS and the high school, and plans for future cooperation.

¹ Amy L. Wallace is an adjunct professor of law at New York Law School. Wallace founded and teaches the Street Law experiential course at NYLS. She is a graduate of the University of Toronto (B.A. in Political Science), Georgetown University Law Center (J.D.), and Lehman College (M. Ed. – New York City Teaching Fellows Program). She consults for Street Law, Inc., a non-profit focused on law-related education based outside of Washington, D.C. At Street Law, Inc. she helped design the CHLSJ Summer Law Program and continues to serve as the Legal Director of that program.

² Richard Marsico is a professor of law at New York Law School, and Director of the Impact Center for Public Interest Law.

1. Origins

Professor Marsico has identified three factors in the spring of 2009 that led to the birth of the charter school³: (1) a conference discussing the devastating effects of the school-to-prison pipeline; (2) thank you notes from middle school students who had participated in NYLS's Street Law program and completed their oral arguments at NYLS; and (3) an education law and policy class discussion on non-traditional public school alternatives. In the United States public schools are institutions that are operated and funded by the local, state, or federal government.⁴ At the elementary and secondary level, public schools are generally free to attend. Most public schools are open to any student who lives within the geographic area.

On April 1, 2009, the American Civil Liberties Union's Racial Justice Program, New York Law School's Racial Justice Project, and the New York Law School Law Review co-sponsored a national symposium entitled "Challenging the School-to-Prison Pipeline". The pipeline is identified as "the collection of education and

³ Telephone interview with Richard Marsico, Professor of Law, New York Law School (June 20, 2018).

⁴ 42 U.S.C. § 2000c(c).

public safety policies and practices that push our nation's schoolchildren out of the classroom and into the streets, the juvenile justice system, or the criminal justice system."⁵ A disproportionate number of urban students of color are being thrust into this pipeline with catastrophic and lasting consequences.⁶ According to a 2000 United States Department of Education survey, African American students made up 17% of public school enrollment nationally but 34% of suspensions.⁷ An earlier study found that African American students were suspended or expelled 250% more often than white students.⁸ The symposium hosted advocates, attorneys, and education experts from around the country to discuss strategies to address this issue and its effect on urban communities. As co-chair of the NYLS Justice Action Center, Professor Marsico attended the conference and felt compelled to take action.

Before CHSLSJ was conceived, New York Law School worked with middle school students at Jordan L. Mott Middle School (MS 22) in the Bronx. The assistant

⁵ Deborah N. Archer, *Introduction: Challenging the School-to-Prison Pipeline*, 54 N.Y. L. SCH. L. REV. 867, 868 (2009-2010).

⁶ *Id.*

⁷ The Advancement Project, *Education on Lockdown: The Schoolhouse to Jailhouse Track*, at 18 (2005) citing U.S. Department of Education, 2000 Office of Civil Rights Elementary and Secondary School Survey.

⁸ Russell J. Skiba, Suzanne E. Eckes, and Kevin Brown, *African American Disproportionality in School Discipline: The Divide Between Best Evidence and Legal Remedy*, 54 N.Y. L. SCH. L. REV. 1071, 1086 (2009-2010) citing Kevin P. Brady, *Zero Tolerance or (In)Tolerance Policies? Weaponless School Violence, Due Process, and the Law of Student Suspensions and Expulsions: An Examination of Fuller v. Decatur Public School Board of Education School District*, 22 B.Y.U. EDUC. & L.J. 159, 198 (2001).

principal at MS 22, Josh Brookstein was an NYLS student at the time. On Friday afternoons, New York Law School students visited MS 22 as part of a volunteer-run student organization. The middle school students examined a criminal procedure issue, prepared for, and completed oral arguments through the law school's existing Street Law program.⁹ NYLS hosted the oral arguments as a way to expose the middle school students to a law school environment. Upon completion of their oral arguments in spring 2009, the MS 22 students sent notes to NYLS thanking the school for hosting the program. Some students went further expressing a dream that they would one day attend NYLS. As the students illustrated with their letters, instead of a school-to-prison pipeline, at-risk students in the Bronx need a higher education/law school pipeline.

As he had many times before, Professor Marsico taught an upper level elective course entitled Education Law and Policy in NYLS's spring 2009 semester. Part of the course included a discussion of non-traditional public school alternatives including magnet schools, school zoning, and charter schools. One afternoon, the discussion grew quite animated and Professor Marsico suggested, "we should start our own school that would counteract the school-to-prison pipeline by

⁹ As discussed in Section 3 below, law-school-based Street Law programs vary throughout the country. NYLS initially had a student-run program. The faculty-taught credit-bearing program began in the fall of 2017. The student-run volunteer program still exists as the renamed Criminal Law Moot Court Competition. It takes place on Friday afternoons at NYLS and the competition is open to CHSLSJ students as well as other schools.

creating a middle school to law school pipeline.” The problem illustrated by the pipeline conference had a concrete action plan.

Despite a minimal understanding of charter schools, Professor Marsico and his team began an intensive four-year odyssey to research and prepare the charter application for CHSLSJ. Along with Justice Action Center fellows, law students working on capstone projects, final papers, and as research assistants explored the legal requirements to start a charter school in New York State.¹⁰ A feasibility study was performed that examined the different charter school models including different law-themed schools. The team created three working groups: a group focused on community outreach; a management group; and a group to draft the charter application.

The community outreach committee initially considered the Tribeca neighborhood because of its proximity to the law school. After a location study was performed, the group ultimately decided that the educational needs were far greater in the Bronx. The group then identified local stakeholders including community leaders, elected officials, government agencies, and non-profits. The committee reached out to almost sixty individuals and groups, and held thirty

¹⁰ 56 N.Y. Educ. L. § 2854 (2015).

meetings with interested parties.¹¹ These stakeholders were critical for community interest, input, and cooperation.

A founding group of experts in law and education was formed to prepare the charter application.¹² The group included among others Professor Marsico, NYLS Professor of Law Lawrence Grosberg, NYLS Assistant Professor of Law Cynara McQuillan, and NYLS graduate fellows Kelly Weiner and Katie Smelas. Because of the school's close relationship to NYLS, law and social justice was chosen as the school's theme. Although charter schools are not required to be themed and many are not, some schools choose a theme to attract students, and guide elective class and extracurricular choices. Regardless of theme, New York State charter schools are required to teach and administer all state-mandated courses and exams.¹³

The charter application filed with New York State, carefully details everything including governance, facilities, curricular goals, professional development, assessment, and a fiscal plan.¹⁴ The school's close association with NYLS is evident throughout the charter application.

¹¹ CHARTER H. SCH. FOR L. AND SOC. JUST., N.Y.S. CHARTER APPLICATION, § I. E., at 12 (2013).

¹² CHARTER H. SCH. FOR L. AND SOC. JUST., N.Y.S. CHARTER APPLICATION, § III. A., at 40-1 (2013).

¹³ 56 N.Y. Educ. L. § 2854 (d) (2015).

¹⁴ 56 N.Y. Educ. L. § 2851 (2015).

The application begins with a detailed description of the school's law and social justice theme and the role that its law school partner will play. The mission statement reads in part:

Using a theme of law and social justice, the School will engage, inspire, and empower its students, and will equip them with the academic skills to earn a regents diploma and gain admission to the college of their choice prepared for success. The School will create a pathway for its students to law school and careers as attorneys. The pathway will include mentoring opportunities with law students and attorneys and partnerships with institutions of higher learning. These institutions will offer college and law school experiences to our students and share with them the academic benchmarks and habits necessary to gain entrance to college and law school.¹⁵

From the outset the school was designed to create unique opportunities for high school students, law students, and attorneys to work together.

¹⁵ CHARTER H. SCH. FOR L. AND SOC. JUST., N.Y.S. CHARTER APPLICATION, § I. A., at 1 (2013).

New York Law School is identified in the charter application as an organizational partner.¹⁶ The application details the law school's contributions to the new high school. Law school faculty will provide curricular support to ensure law and social justice topics are incorporated into the core curriculum. In addition, law school faculty will train CHSLSJ faculty on legal skills including trial advocacy, appellate advocacy, and debate. New York Law School will recruit and train law students as mentors and to assist with classroom teaching. Law students will also contribute to the school's summer law program. The law school will help design community service projects, and through its extensive alumni network, connect high school students with legal experiences. New York Law School faculty will use expertise in restorative justice¹⁷ to draft the CHSLSJ Code of Conduct for students. Finally, NYLS will host CHSLSJ students to expose them to the law school experience.

As a law-themed school, the curriculum is designed to include a law or social justice course in each academic year. The application asserts that the law school, its faculty, and its law students will be crucial in the development and execution

¹⁶ CHARTER H. SCH. FOR L. AND SOC. JUST., N.Y.S. CHARTER APPLICATION, § III. C. 2, at 47 (2013).

¹⁷ "The idea behind restorative justice is that criminal acts are not just random acts against the state – they harm victims, offenders themselves, and whole communities. Sentences that reflect restorative justice principles include ways for offenders to repair the harm done to victims, to understand the impact of their actions, and to learn new skills while connecting to their communities in positive ways." LEE P. ARBETMAN, STREET LAW: A COURSE IN PRACTICAL LAW 194 (9th ed. 2016).

of law-related education at CHSLSJ and the integration of law and social justice themes into other core courses such as literature, chemistry, and biology.¹⁸

The charter application also outlines the desire for CHSLSJ to be a pathway to college and even law school.¹⁹ It describes the unique relationship between the high school, the College of Mount Saint Vincent, and NYLS. The application explains that this broad network will provide experiences and exposure unlike those offered in the New York City public school system.

The charter application was initially filed in March 2013. The state responded with some questions and the application was resubmitted in September 2013. The charter for the four-year high school was granted on December 13, 2013. Eighteen months later, CHSLSJ accepted its first class of ninth grade students. Acceptances to CHSLSJ are awarded on a first-come first served basis unless the number of applicants exceeds the available spots. In that case, acceptances are assigned based on a lottery. In the United States, high school is typically ninth through twelfth grade. Although it varies, students entering ninth grade are fourteen or fifteen years old. When the charter was granted, CHSLSJ applied for a three-year grant from the United States Office of Innovation & Improvement's Charter Schools

¹⁸ CHARTER H. SCH. FOR L. AND SOC. JUST., N.Y.S. CHARTER APPLICATION, § I. A. (b),(d), at 1, 2 (2013).

¹⁹ CHARTER H. SCH. FOR L. AND SOC. JUST., N.Y.S. CHARTER APPLICATION, § I. A. (e), at 2 (2013).

Program²⁰ to finance the founding of the school. The grant was crucial to the start-up phase of CHSLSJ. In New York State, charter schools are funded by the school district based on student enrollment.²¹ However, certain programs at CHSLSJ, including the Summer Law Program (see section 2 below), are partially funded by private donations.

2. Summer Law Program

The Charter High School for Law and Social Justice welcomed its inaugural ninth grade class in the summer of 2015 for the school's mandatory summer bridge program. Increasingly schools in the United States are implementing summer programs to help students make the difficult transition from middle school to high school. Including a summer program is a recommended strategy to support incoming ninth-graders.²² These programs have "led to improved pass rates for ninth-graders, fewer discipline problems, and increased self-esteem."²³ Four NYLS law students taught the two ten-day summer bridge sessions. Held on the campus of the College of Mount Saint Vincent in Riverdale, New York, the

²⁰ <https://innovation.ed.gov/what-we-do/charter-schools/>.

²¹ 56 N.Y. Educ. L. § 2856 (2015).

²² See Ronald Williamston, *Transition from Middle to High School*, EDUCATION PARTNERSHIPS, INC. (Apr. 23, 2010) accessed July 4, 2019, <https://files.eric.ed.gov/fulltext/ED538706.pdf>.

²³ Sarah Butrymowicz & Linda Shaw, *Summer-bridge classes help kids kick-start high school*, THE HECHINGER REPORT (Sept. 8, 2010) accessed July 4, 2019, <https://hechingerreport.org/summer-bridge-classes-help-kids-kick-start-high-school/>.

program covered causes of crime, theories of punishment, criminal procedure, and mock trial.

In late spring 2016, in an effort to solidify a comprehensive program for its students, CHSLSJ issued a request for proposals to law-related education organizations asking for revamped summer bridge program designs. The summer bridge program is organized as an introduction to the legal courses that are offered as part of the regular academic year at CHSLSJ and to prepare the students for the level of academic rigor expected at the high school level. The request for proposals sought plans for a fifteen-day experiential law and social justice curriculum. Street Law, Inc., an international leader in law and civics curriculum development was awarded the contract. Street Law's interactive student-centered lessons help students develop their "analytical and critical thinking skills, their communication and advocacy skills, and their creativity and problem solving skills."²⁴ Because of time constraints, CHSLSJ hired both law students from NYLS and other law schools to teach the new summer bridge program that summer. Ten law students taught the revised three-week curriculum. It included an introduction to the rule of law as well as lessons on criminal law and procedure, the Bill of Rights, juvenile justice, contracts, and torts. The program concluded with a weeklong preparation

²⁴ Sean Arthurs, *Street Law: Creating Tomorrow's Citizens Today*, 19 (4) LEWIS & CLARK L. REV. 926, 931 (2015).

for a final mock trial. Volunteer lawyers from Schulte, Roth & Zabel LLP visited the program to judge the mock trials.

New York Law School's participation in the summer bridge program continued to develop in the summer of 2017 when five NYLS law students joined three students from other law schools to teach the program. In 2018 all eight instructors were NYLS students. That year the summer bridge program became the Summer Law Program and was expanded to include a Street Law, Inc. designed simulations program for tenth through twelfth grade students. Twenty students participated in this voluntary summer program. The upper grade students spent a week preparing a mock trial and a week preparing oral arguments for a moot court. Lawyers from Schulte, Roth & Zabel LLP and attorney volunteers from the legal department of Dentsu Aegis Network (see Section 4 below) judged the oral arguments and both the upper grade and the ninth grade mock trials.

For summer 2019 seven NYLS law students will teach the program. Two law students will be returning to teach for their second summer and two instructors just finished teaching at CHSLSJ through the Street Law experiential course at NYLS (see section 3 below).

In addition to helping the ninth-graders transition to a new high school environment, the summer program exposes the high school students to enthusiastic law students who serve as mentors and role models. The law students also benefit from their role as legal instructor. When asked what the program meant to her, Summer Law Program alumna Sydney Hershenhorn explained,

[T]eaching Street Law during the summer was one of my most meaningful law school experiences. Spending the summer in the classroom was the perfect opportunity to help others while also developing essential lawyering skills of my own. Each Street Law lesson helps the high-school students learn to use the high-order analytical thinking skills that they will need as they progress in their education, and in turn provides a chance for instructors to practice indispensable professional skills like explaining the law to non-lawyers and answering complex legal questions on the spot.²⁵

These reciprocal benefits have cemented the commitment of both NYLS and CHSLSJ to this important relationship.

²⁵ Letter from Sydney Hershenhorn, NYLS student to Amy Wallace, NYLS Adjunct Professor of Law (June 25, 2019).

3. Street Law Experiential Course

At the completion of the 2016 summer bridge program, the high school students completed anonymous surveys about the program. Because of the positive response to the interactive law-themed lessons, Professor Marsico sought to expand the involvement of NYLS at CHSLSJ during the school year. Following a model founded at the Georgetown University Law Center in the early 1970s, many law schools now have Street Law programs where law students are paired with local high schools, and law students facilitate interactive law lessons in civics or history classes. The Georgetown program has been a blueprint for over 120 programs at law schools in the United States and abroad.²⁶ Some programs are taught by law school faculty for course credit, and some are led by law students as community service projects. The courses taught by faculty are generally designed with more frequent classroom visits by law students, which therefore can have a greater impact. In addition to learning substantive law, Street Law courses help law students improve lawyering skills, oral communication skills, organizational skills, and community connections. The law school quickly approved a four-credit experiential course to start the following academic year.

²⁶ Lee Arbetman, *Street Law, Inc.: Context, History and Future*, 2(1) INT'L J. OF PUB. LEGAL EDUC. 3, 4 (2018).

In fall 2017, ten law students signed on as the inaugural Street Law class at NYLS. The students spent the first three weeks in seminar where they learned legal content, interactive teaching techniques, and classroom management skills. As part of the experiential program, the law students continue to attend a weekly seminar to discuss the substantive legal topic being taught at CHSLSJ that week. Unlike the Summer Law Program, the law students then write a student-centered lesson plan, which they submit to the professor for review and comment. On Fridays, the law students then teach their lesson at CHSLSJ. In September 2017, the law students were paired to team-teach five law sections at CHSLSJ focused on criminal law. Law students taught lessons on topics including crimes against people and property, defenses, and juvenile justice. Most sections concluded the semester with a mock trial. In order to ensure a high level of instruction and to provide meaningful feedback on teaching skills, the law students are regularly observed by faculty.

As part of their required course work, law students submit weekly journals to review their experiences in the classroom. Law students also share successes and struggles in weekly discussions during seminar. In a journal reflection written later in the semester, a law student wrote,

[O]ne of the most pivotal moments this week was when we were going over how the laws in New York have changed surrounding stop and frisk situations. We had a very open discussion about the ability individuals have to change the laws that impact their society. I kept reiterating how making these big changes starts with passing Street Law, graduating high school, maybe going onto[sic] law school.²⁷

Law students teaching at CHSLSJ contribute to realizing the mission statement of the school. As mentors, they deliver legal content and encourage the high school students to see themselves as powerful participants in their community.

Following a positive first semester for high school and law students, NYLS decided to offer Street Law in both the fall and spring semesters for the next academic year. Law students are still only permitted to take Street Law for one semester. In fall 2018, NYLS welcomed a new clinic to its broad lineup of offerings. The Legislative Advocacy Clinic – Everytown for Gun Safety was established and partnered with the NYLS Street Law program to address these issues in the high school setting. Because of current events, students at CHSLSJ expressed enormous interest in the legal issues involving gun violence. Half of the fall 2018 Street Law

²⁷ Journal from Allyson Balcolm, NYLS student for NYLS Street Law Seminar (Nov. 11, 2017).

semester at CHSLSJ was devoted to lessons on gun laws. At the end of the semester, the high school students prepared a mock trial addressing a mass-shooting incident at a mall. Charter High School for Law and Social Justice students came to NYLS for the mock trial and two attorneys from Everytown for Gun Safety volunteered to serve as judges for the trials.

Through teaching at CHSLSJ, the law students develop empathy and a greater understanding of the law's impact on the community. On the first day of school that fall, one law student commented, "I had a great time with the students and am very much looking forward to being their teacher and establishing a connection with my students."²⁸ This relationship is more valuable to both the high school and law students than any one topic they will cover in class. Later in the semester the same student recalled, "I told the class that they had done a great job and that we were in the presence of twelve future attorneys."²⁹

In 2019, law students taught Street Law in the spring semester for the first time. The semester started with the same training program for the new group of law students. The extra classroom time enabled the law students to focus entirely on criminal procedure. They wrote lessons on search and seizure, rights against self-

²⁸ Journal from Hannah Osman, NYLS student for NYLS Street Law Seminar (Sept. 21, 2018).

²⁹ Journal from Hannah Osman, NYLS student for NYLS Street Law Seminar (Oct. 12, 2018).

incrimination, and even the death penalty. The semester concluded with a deep dive into *Carpenter v. United States*.³⁰ The high school students were particularly interested in how this case impacts the privacy of cell phone data. The students completed the semester by mooted the case with oral arguments held at New York Law School and judged by a panel of Street Law law student alumni and NYLS Professor of Law Susan Abraham. Oral arguments can be daunting for law students so unsurprisingly some of the high school students were intimidated by both the assignment and the venue. One law student instructor remarked,

[I]t is so intimidating for these students to stand up, in a law school setting especially, and argue in front of a bunch of adults. But they all faced their fear and did it anyway. My biggest takeaway from the day was that important lessons, including embracing your fear, can be learned from the most unexpected teachers. I am so grateful for all that my students taught me this semester.³¹

³⁰ *Carpenter v. United States*, 138 S. Ct. 2206 (2018). The question in this case was whether the warrantless search of cell phone records including cell-site or location data violate the Fourth Amendment to the U.S. Constitution. The United States Supreme Court decided the search was a violation of the defendant's Fourth Amendment rights.

³¹ Journal from Erin Peake, NYLS student for NYLS Street Law Seminar (May 3, 2019).

Both the law students and the high school students are proud of the knowledge, skills, and courage they develop over the semester. Another law student commented,

I think moot court is such a great thing for these kids to do in order for them to build confidence, realize their strengths as students and as people, and give them a glimpse into what practicing the law might look like. A student came up to me after they argued and said that they[sic] were really considering applying to law school once they finished college. I told her that I thought she was incredibly talented, and should definitely consider attending. These kids have more potential than they believe, and it was great seeing them acknowledging [sic] towards the end of the semester.³²

Faculty participants have also enjoyed working with the high school students and observing the NYLS law students in a new role. Professor Abraham commented that it was a pleasure to participate as a judge for the moot court.³³

³² Journal from Cara Sheena, NYLS student for NYLS Street Law Seminar (May 3, 2019).

³³ Email from Susan Abraham, NYLS Professor of Law to Amy Wallace NYLS Adjunct Professor of Law, July 10, 2019.

4. Legal Professionals

In spring 2018, Professor Marsico, as Director of the NYLS Impact Center for Public Interest Law was approached by Miri Miller, Associate General Counsel of Dentsu Aegis Network. Dentsu Aegis Network (DAN) is an international advertising and brand management company. While spearheading the company's United States pro bono program Ms. Miller was looking to get involved with NYLS, ideally with an education-related project. She was immediately excited about partnering her colleagues with CHSLSJ. Dentsu Aegis Network already had extensive experience delivering intellectual property (IP), and privacy advice and training to internal clients, and was excited to design student-friendly lessons on these topics for CHSLSJ. In April 2018, in honor of World Intellectual Property Day, a group of DAN attorneys visited NYLS to facilitate workshops with CHSLSJ students. The interactive discussions focused on different forms of intellectual property and how IP affects the students' daily life. The student-centered seminars allowed each CHSLSJ student to assume the role of an IP attorney.

To celebrate Youth Law Day³⁴ in May 2019, a group of CHSLSJ students, accompanied by their NYLS Street Law instructors and their classroom teacher,

³⁴ The New York State Bar Association partners with New York State law schools to host events that expose underserved high school students to law school and legal careers. <https://www.nysba.org/youthlawday>.

visited DAN's Tribeca offices in lower Manhattan. After they learned about the different types of IP, the high school students had to craft an advertising campaign and identify potential IP issues. The DAN lawyers were particularly impressed when one of the high school groups designed a campaign very similar to what the company was about to unveil. After the visit, a law student reflected,

I think the attorneys who gave presentations to the students prepared thoroughly and explained IP law in an understandable way. I really loved how they incorporated so much pop culture into their morning with us because it does a great job in bridging the age gap between the students and the attorneys. They talked about current trends in IP such as the debate on whether certain dance moves can be subject to IP protections and I think the students really enjoyed learning a bit about a different area of law.³⁵

Dentsu Aegis Network attorneys have also served as judges for final mock trials and moot courts during the CHSLSJ Summer Law Program. Intellectual property is a growing and increasingly critical field and both the high school and law students benefit from this partnership and these experiences.

³⁵ Journal from Gianna Signorille, NYLS student for NYLS Street Law Seminar (May 1, 2019).

5. What Lies Ahead

As with many new high schools there have been a number of staff and administrative changes at CHSLSJ over the last four years. The close connection between NYLS and CHSLSJ has been a constant. Twenty NYLS law students will team-teach ten Street Law sections at CHSLSJ in the 2019/2020 academic year.

The charter school added one grade level each academic year starting in the fall 2015. On June 27, 2019, CHSLSJ held its first commencement ceremony at Lehman College in the Bronx. The momentousness of this first graduation was perceptible to the students, parents, faculty, and staff. In her speech, the valedictorian referenced the school's theme and mission, and charged her fellow classmates to go out into their community, live up to their school's name, and make a difference.³⁶

Not all elements of the high school's charter mission statement have been fulfilled. Work remains on developing community service projects and internships for upper grade students. The high school hopes to incorporate more legal and social justice themes into non-social studies core courses. The charter school's mission will truly be actualized when New York Law School enrolls its first CHSLSJ

³⁶ Aaliyah Ball, Charter High School for Law and Social Justice student, Valedictory Address at the Commencement Ceremony for the Charter High School for Law and Social Justice (June 27, 2019).

graduate. Until then, NYLS and CHSLSJ will continue to work together to strengthen the skills of both high school and law students with this special partnership. Ten years after the idea for the Charter High School for Law and Social Justice was born at New York Law School, the schools remain indelibly linked.