

ALWD

ASSOCIATION OF LEGAL WRITING DIRECTORS

June 29, 2009

Bucky Askew and Randy Hertz
Council of the Section of Legal Education and Admissions to the Bar
c/o Maxine Klein
American Bar Association
Section of Legal Education and Admissions to the Bar
321 North Clark Street, 21st Floor
Chicago, IL 60654-7958

Re.: Supplemental Submission Following Council Mini-Retreat

Dear Bucky and Randy:

Thank you for allowing the Association of Legal Writing Directors to participate in the Council's retreat discussing the impact of the current financial situation on the Accreditation Standards. We found the weekend to be a very productive and helpful. As requested, we send this letter to supplement our previous submission. We offer three main points:

- Proponents of deregulation blame the Standards for stifling creativity and raising the cost of legal education. ALWD disagrees with these assertions.

The Standards are flexible with few absolutes. There is ample evidence of law school experimentation under the existing interpretations. Merely because some law schools claim an inability to innovate in exactly the manner they wish does not mean the Council should jettison Standards that have evolved and been calibrated over many years.

In addition, there is no evidence analyzing how the Standards have raised the cost of legal education as compared to how other factors have raised the cost, such as 1) the *U.S. News and World Report* ranking system, 2) increases in the cost of living, and 3) the ready availability of financial aid. Perhaps the report to Congress on August 14, 2009, will provide some insight into what extent accreditation raises the cost of legal education. Until this cost is quantified and compared in detail with other factors, any major changes in the Standards based on a cost rationale seem premature.

- We particularly liked Michael Olivas's suggestion that the Council solicit ideas for innovation/experimentation (e.g., 3-2 programs, LSAT alternatives) and ask 5-10 law schools to participate in pilot programs. The Council would control the experiment, provide clear evaluation standards, and then report on how the projects worked. Once ideas are so tested and evaluated, they can be rolled out to more schools if the ideas are consistent with the Council's goal of protecting the public. If currently (and we do not know whether this is true or not) variances are not given freely given to law schools to experiment, perhaps pilot projects are a better place to start than eliminating useful Standards designed and proven to prevent harm to students and the public.
- Finally, we would encourage discussion about relations between universities and their law schools. Even if law schools could minimize tuition increases, universities may respond to the economic downturn by mandating increases and seeking thereby to fund programs outside the law school. Benefits to the law school from these increases would likely be tangential at best, yet law students would be saddled with higher tuition costs and thus heavier debt. More problematic is the risk that university officials will seek to circumvent carefully crafted financial agreements with their law schools. These agreements are often a basis of continued good accreditation standing. Breach of such an agreement would weaken a law school's ability to fund its program of legal education sufficiently. Universities should not be permitted to breach these agreements with impunity.

We look forward to continuing this conversation with you. We applaud your examining the role of the Standards on legal education and know the retreat discussions will be very helpful to the Standards Review Committee as it continues its comprehensive review.

Sincerely,

Judy

Judith M. Stinson
President, Association of Legal Writing Directors