**Clinical Legal Education Association's comments to the Department of Education’s National Advisory Committee on Institutional Quality and Integrity, concerning the American Bar Association Council of the Section of Legal Education and Admission to the Bar’s Petition for Renewal of Recognition**

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**CLEA’s interest in the matter**

CLEA represents more than 900 dues-paying faculty at more than 180 law schools and is an affiliated organization of the ABA Council of the Section of Legal Education and Admissions to the Bar. It is the nation’s largest organization of law professors. It has worked closely with the Council for almost twenty years to advance American legal education.

**CLEA’s support for the ABA's application for continued recognition as the accrediting agency for law schools**

CLEA supports the ABA's petition for continued recognition. The independence and stability of the legal profession have been enhanced by the ABA's commitment to our profession as both a learned and professional pursuit. The American bar plays unique role in our polity, and it is essential that law schools be accredited by an agency with a deeply-rooted understanding of the legal profession. Despite our support for the ABA and our admiration of much of its work, CLEA does have some concerns about the ABA’s willingness to consult at important decision-making points with the various constituencies in legal education, and we summarize those concerns here.

**CLEA’s concerns about the ABA’s compliance with Rules 602.2, 602.13, and 602.21(b) (3)**

We urge the Department of Education to evaluate and provide guidance regarding the extent of the ABA’s good-faith compliance with the letter and the spirit of the Secretary's Criteria for Recognition in connection with the Council’s current “comprehensive review” of the standards for law school accreditation. The quality of much of the process and the substance of many of the proposals involved in this review, which is currently before the Council's Standards Review Committee, have generated significant dissent and distress among almost all important constituencies in legal education Unfortunately, it appears that more often than not the views of the Council’s affiliated organizations and of other interested constituencies are not considered or even referred to as the committee goes about its work.

The most notable example, among several, is one radical proposal currently under consideration in the Standards Review Committee that would strip important protections of academic freedom and faculty governance rights in law schools by eliminating tenure and security of position for deans and faculty members. This proposal is the product of a small subcommittee on the Standards Review Committee, which has not consulted or collaborated with any other groups or individuals. It has been so alarming as to motivate more than 65 law faculties to pass formal resolutions in opposition. Every other significant group of faculty in legal education has also voiced opposition to the proposal, including the AALS, SALT, ALWD, a group of law school deans of color, the American Association of Law Libraries, the AAUP, and a group of AALS past presidents. Indeed, we are aware of no organized group other the Standard Review Committee's own small drafting subcommittee that supports this set of proposals. The resulting controversy is deep and divisive and might well have been avoided had the Council directed the Standards Review Committee to reach out and work collaboratively with the full range of stakeholders. Adding to the problem is the fact that the composition of the Standards Review Committee does not itself reflect the constituencies involved in legal education. More than one-third of the committee’s members are deans or former deans, more than any other constituency, while only one is a practicing lawyer.

These shortcomings implicate the DOE’s Criteria for Recognition, as section 602.13 requires that the accrediting agency’s “standards, policies, and procedures . . . are widely accepted” by its various constituencies. The ABA’s flawed comprehensive review process thus far also implicates Section 602.21, which requires a “systematic program of review” that “involves all of the agency’s relevant constituencies and affords them a meaningful opportunity for input into the review.” Input is most meaningful at the developmental stage of comprehensive review and when significant specific proposals are being drafted. But in the current process too often the only input those outside the ABA’s formal structure have been able to offer on important matters has been limited to written comments on last-minute proposals that have been in development behind closed doors without any involvement by concerned stakeholders. The comprehensive review process should be, but has not been, consistent and transparent.

Finally, we are concerned about the ABA’s compliance with Section 602.21(b) (3)’s requirement that the agency examine any revisions to the Standards “as a whole.” The accrediting agency should step back to consider how proposed revisions to the standards will work – or fail to work – together. The net impact on American legal education of all the current proposals being considered by the Standards Review Committee has not yet been discussed at any level. This kind of big-picture discussion should have taken place at the start of the comprehensive review, and should have included the many groups and stakeholders who have been trying with little success thus far to be heard and participate in the process. Instead, important constituencies have been excluded and are deeply alarmed about the overall effect on the future of the legal profession of the proposals being contemplated.

In sum, the Council's comprehensive review process has been insufficiently attentive to the views of many of its relevant stakeholders and has provided very little opportunity for meaningful input on some of the most important matters under review in the critical early stage of this very important process. It has resulted in significant alarm and dissent throughout legal education. The DOE’s regulations and the spirit that underlies them contemplate that all groups in the profession will be participants in the process of developing the standards of professional education. We hope that the DOE will encourage the ABA to develop a more inclusive, transparent, and collaborative comprehensive review process that comports with the intent of the DOE's Criteria for Recognition.