

C L E A

Clinical Legal Education Association

September 8, 2016

Gregory Murphy, Chair
Dean Maureen O'Rourke, Vice-Chair
Council of the ABA Section on Legal Education and Admissions to the Bar
321 N. Clark Street
21st Floor
Chicago, Illinois 60604
Via Email to: Barry.Currier@americanbar.org

Re: The Standards Review Committee's Planning Retreat

Dear Mr. Murphy and Dean O'Rourke:

The Clinical Legal Education Association (CLEA) writes to express its concern about the upcoming closed-session "planning retreat" for the Standards Review Committee (SRC). According to a memorandum dated August 24 from Barry Currier, a planning retreat will be held sometime before the Council's October 21-22 meeting and that retreat will result in a memorandum with "suggestions for matters that the Council might address." Because there has not been any indication about the time and place of the planning retreat or notice about the content of its agenda, we believe that the meeting will not include interested stakeholders, like CLEA, or our input on the SRC's suggested changes to the Standards, Interpretations, and Rules. Although CLEA has raised concerns about a closed-session planning retreat in the past, this more exclusive and non-transparent process for annual planning is particularly troubling to CLEA given the new composition of the SRC to now include the Data Policy and Collection Committee and the U.S. Department of Education's attention to the Council as the accreditor for legal education programs. The Department's regulations intend for all groups in the profession to be participants in the process of developing the standards of professional education.

CLEA represents more than 1,300 members of law school faculties nationwide. We have long and deep experience with and expertise in experiential learning through clinics, simulation courses, and field placements. The membership of the Council and its committees, while including the occasional clinical faculty member, does not have equivalent expertise. As the Council is now looking to learning outcomes, formative assessment, and the development of professional skills beyond legal knowledge and analysis, we would expect that it would engage earlier and more collaboratively with us. We would hope that the Council would welcome our perspective on the opportunities and challenges of moving to a more outcome-based accreditation regime, and our knowledge of how various proposed revisions to the Chapter Three Standards will work in practice. Instead, we are invited into the process in a very formalized way only after proposals have been finalized. This process is inefficient, ineffective, and alienating.

We are also concerned about the lack of transparency that the planning retreat represents. Transparency should be a goal of the Council and the SRC so that stakeholders can contribute to a list of intended changes before that list is framed. Early input into the possible changes to the Standards and Rules guarantees that the agenda set by the Council each year has at least considered potential unintended consequences of its proposals and the diverse perspectives of its affiliates and other interested parties to the legal profession before it becomes too entrenched in moving forward with a change.

CLEA has been a long and consistent observer of the work of the SRC and the Council. Our experience is that the processes of the Council and the SRC have become less inclusive and transparent over the past half-decade. For example, for the first several years of the last comprehensive review of the Standards, CLEA and other affiliate representatives were invited, in a limited but helpful way, to participate in SRC meetings. For the first time at its April 2010 meeting, the then-chair of the committee announced that there would be no time for affiliate feedback on the SRC deliberations; that meeting ended two hours early. The long-established committee procedure of inviting oral comment from attending affiliates was never revived. Since then the SRC has often made important decisions with an imperfect understanding of the potential impact of its changes and without sufficient input from knowledgeable, affected stakeholders. We ask the Council to reverse this trend.

CLEA urges the Council to adopt a transparent, inclusive, and collaborative process by which the Standards Review Committee identifies potential revisions to the Standards, Interpretations, and Rules at the beginning of each academic year. Affiliates should be made aware of the content of the planning retreat, be permitted to comment on possible changes, and invited to attend the session to participate in the process.

Sincerely,

/s/
Margaret Johnson
University of Baltimore School of Law
Co-President, CLEA

/s/
Maritza Karmely
Suffolk University Law School
Co-President, CLEA

cc: Pamela Lysaght
Chair, Standards Review Committee

Barry Currier
Managing Director, ABA Council