



the president's message

Letter to ABA Standards Review

*H. Reese Hansen, Brigham Young University
J. Reuben Clark Law School*

On June 1, 2010, AALS President H. Reese Hansen wrote the following letter to Hewlett H. Askew, Consultant on Legal Education Section on Legal Education and Admissions to the Bar, regarding American Bar Association Standards Review Committee proposals.

Dear Bucky:

The ABA and AALS have cooperated closely for many decades on important questions of legal education and the quality of American law schools. It has been a positive, productive relationship, and we are proud to be a partner of the ABA in working to make legal education a source of pride for American lawyers and a model for much of the rest of the world.

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Ohio State University President and Law Professor to Speak During 2011 AALS Annual Meeting Luncheon

E. Gordon Gee is among the most highly experienced and respected university presidents in the nation. He returned to The Ohio State University in 2007 after having served as Chancellor of Vanderbilt University for seven years. Prior to his tenure at Vanderbilt, he was president of Brown University (1998-2000), The Ohio State University (1990-97), the University of Colorado (1985-90), and West Virginia University (1981-85).



Born in Vernal, Utah, Gee graduated from the University of Utah with an honors degree in history and earned his J. D. and Ed. D degrees from Columbia University. He clerked under Chief Judge David T. Lewis of the U. S. 10th Circuit Court of Appeals before being named a judicial fellow and staff assistant to the U. S. Supreme Court, where he worked for Chief Justice Warren Burger on administrative and legal problems of the Court and federal judiciary. Gee returned to Utah as an associate professor and associate dean in the J. Reuben Clark Law School at Brigham Young University, eventually achieving the rank of full professor. In 1979 he was named dean of the West Virginia University Law School, and in 1981 was appointed to that university's presidency.

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Association of American Law Schools 2011 Annual Meeting Luncheon

Friday, January 7, 2011

12:30 – 2:00 p. m.

Advance ticket purchase is necessary. Tickets may be purchased at

On-Site Registration until 7:00 p. m. on Thursday, January 6. Price \$79.00

Register for the 2011 AALS Annual Meeting today:

www.aals.org/am2011/

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President's Message

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Needless to say, the AALS has a great interest in the work of the Standards Review Committee and the Council as you consider revising the ABA Standards for Accreditation of Law Schools. We welcome your invitation to comment on the proposals. Toward this end, I appointed an Advisory Committee to advise the AALS Executive Committee on potential issues raised by proposed changes in the Standards. Following the work of the Advisory Committee, the AALS Executive Committee has undertaken serious consideration of those issues. These deliberations produced three guiding principles that we propose which we hope will be helpful as the ABA continues its efforts to improve the Standards.

The first principle relates to a number of the changes that the Standards Review Committee has under consideration: "The Measure of a Law School is the Quality of its Full-Time Faculty." One of the core values of the AALS is that its member schools value a faculty "composed primarily of full-time teacher/scholars who constitute a self-governing intellectual community engaged in the creation and dissemination of knowledge about law, legal processes, and legal systems, and who are devoted to fostering justice and public service in the legal community." This commitment entails law schools having a substantial full-time permanent faculty that is responsible for, knowledgeable about, and actively engaged in legal education. That faculty must necessarily have aca-

demically freedom and security of position in order to be able to pursue their teaching, scholarship, and faculty governance responsibilities free of the threat of penalty for their particular views or because of the content of their work. A law school so composed, while not necessarily university-based, incorporates into the vision of professional education the values that have defined our great universities.

To illustrate the importance of a full-time faculty to a law school, a comparison to the world of law practice might be helpful. Imagine a law firm made up entirely of "of counsel" lawyers who are either in part-time retirement or devoted primarily to some other professional undertaking. Such a firm would be a far different kind of organization than what most law firms aspire to be. It would likely be less committed to firm organization and governance, strategic thinking, the articulation and implementation of a firm mission, the public service obligations of the firm and advancement of the profession more generally. While the analogy is not perfect, a law school run by a governing faculty made up largely of members whose primary affiliations lie elsewhere would also lack some of the same, critical attributes. This is not to say that adjunct faculty do not have an important role in law schools; they can bring needed specialized skills and experience to the classroom, just like "of counsel" attorneys can bring special skills and experience to a law firm. But adjunct and part-

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2011 Annual Meeting Luncheon Keynote Address Speaker Announced

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Active in a number of national professional and service organizations, Gee served as a Trustee for the Harry S. Truman Scholarship Foundation and as chairman of the Kellogg Commission on the Future of State and Land Grant Universities. He is a member of the National Commission on Writing for America's Families, Schools, and Colleges, founded by the College Board to improve the teaching and learning of writing. He also serves as co-chair of the Association of Public and Land-Grant Universities' Energy Advisory Committee.

Gee is a member of the Board of Governors of the National Hospice Foundation, the Advisory Board of the Christopher Isherwood Foundation, and the Board of Trustees of the Christopher Columbus Fellowship Foundation, an independent Federal government agency established to "encourage and support research, study and labor designed to produce new discoveries in all fields of endeavor for the benefit of mankind." He also is a member of the Business-Higher Education Forum.

Gee has received a number of honorary degrees, awards, and recognitions. He was a Mellon Fellow for the Aspen Institute for Humanistic Studies and a W. K. Kellogg Fellow. In 1994, he received the Distinguished Alumnus Award from the University of Utah as well as from Teachers College of Columbia University. In 2009 he was named the country's best college president by *Time* magazine. He is the co-author of eight books and the author of numerous papers and articles on law and education.

President's Message

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time faculty with primary commitments elsewhere cannot be expected to be fully invested in the school's mission, governance, strategic thinking, curricular planning and development, creation of new and innovative teaching methods, service obligations, and institutional improvement.

Primary reliance on full-time faculty members also helps achieve a second AALS core value – "scholarship, academic freedom, and diversity of viewpoints." Legal scholarship is essential to the improvement of our laws and legal system, because it identifies the strengths and weaknesses of that system and evaluates opportunities

for improvement. Legal scholarship keeps the legal process self-reflective, self-aware and self-critical. In that sense, legal scholarship is essential to the improvement of our laws and legal system, and full-time law teachers play a crucial role in that enterprise. Scholarship comes in many forms – from foundational writing that helps change ways citizens think about an area of the law, through doctrinal analysis that may be directly relevant to how judges interpret laws or how legislators draft new laws, to analysis of the work of lawyers and the impact of law on clients and communities. As examples, legal scholars have been in the forefront of efforts to evaluate specialized courts, improve

handling of juvenile offenses, and improve environmental regulation. Scholars have also led debates about such matters as the appropriate treatment of enemy combatants, the permissible scope of a police search, the standards that should apply in resolving a custody dispute, the limits on state seizure of private property for public uses, and the duties of employers with respect to sexual harassment. Without full-time law faculty engaged and committed to scholarship on these and countless other issues, deep generative research about law, the work of lawyers, and the impact of law on clients and society would not occur, and the quality of our laws and legal system would be the worse for it.

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2011 Annual Meeting Workshop on Changing Society, Changing Law: Conflicts Over Sexuality and the Evolving American Family

Thursday, January 6, 2011
San Francisco, California

Why Attend?

This day-long workshop considers a broad range of historical, empirical, and theoretical perspectives on sexual orientation and gender identity issues in family and constitutional law. Social movements and counter-movements in the U. S. have been fighting an increasingly pitched battle over the understandings of family that should be reflected in law. The use of history and social science literature in legal arguments is common but deeply contested. In the family law arena, there is a particular tension between nationalizing doctrines of citizens' equal rights and interstate relations on one hand and the localizing impulse of "our federalism," which views state diversity as a valuable means of developing social policy and new legal approaches to common problems. The workshop seeks to reveal and to question the descriptive and normative assumptions behind the competing positions being fought out in conflicts over sexuality, gender, and "the family."

The workshop explores emerging questions of family law and constitutional law while addressing a variety of broader themes. Legal questions considered go beyond marriage equality to include issues of parenting (such as adoption and alternative reproductive technologies), and require facing issues of federalism and civil rights. Because LGBT communities are heterogeneous, the legal regulation of families is inevitably embedded in issues of race, gender, and class. Throughout, the workshop considers cross-cutting questions concerning law and interdisciplinarity, social movements and legal change, and the complicated processes by which we reconstitute ourselves as a political community governed by a written but interpreted Constitution.

Who Should Attend?

All law teachers will find this Workshop of interest.

When and Where?

The AALS Annual Meeting Workshop on Changing Society, Changing Law: Conflicts Over Sexuality and the Evolving American Family will be held during the AALS Annual Meeting at the Hilton San Francisco Union Square Hotel in San Francisco, California beginning at 8:45 a. m. on Thursday, January 6, 2011 and concluding at 5:00 p. m.

How Do I Register?

The registration fee for law teachers at AALS Member and Fee-Paid Schools to attend this workshop is included in the Annual Meeting registration fee of \$425. 00 if payment is received by November 17, 2010 or \$475. 00 if received after November 17, 2010. Attendance will be on a first come, first served basis.

Confirmed Speakers:

Devon Wayne Carbado, University of California, Los Angeles School of Law; June Rose Carbone, University of Missouri-Kansas City School of Law; Mary Anne C. Case, The University of Chicago The Law School; Matt Coles, American Civil Liberties Union Center for Equality; Nancy Cott, Harvard University History Department; William Nichol Eskridge, Yale Law School; Gary J. Gates, University of California, Los Angeles School of Law; Suzanne B. Goldberg, Columbia University School of Law; Courtney G. Joslin, University of California, Davis School of Law; Pamela S. Karlan, Stanford Law School; Shannon Price Minter, National Center for Lesbian Rights; Melissa E. Murray, University of California, Berkeley School of Law; Douglas G. NeJaime, Loyola Law School; Nancy D. Polikoff, American University Washington College of Law; Russell K. Robinson, University of California, Los Angeles School of Law; Jane S. Schacter, Stanford Law School; Dean Spade, Seattle University School of Law.

~Planning Committee for Workshop on Changing Society, Changing Law: Conflicts Over Sexuality and the Evolving American Family

Patricia A. Cain, Santa Clara University School of Law, **Chair**

David Cruz, University of Southern California Gould School of Law

Taylor Flynn, Western New England College School of Law

Reva Siegel, Yale Law School

2011 Annual Meeting Workshop on Criminal Justice

Thursday, January 6, 2011
San Francisco, California

Why Attend?

Many of the controversies in criminal justice are longstanding: the limits of the criminal sanction, the dilemmas of regulating law enforcement in a democratic society, the purposes and justifications of punishment. But as new social problems emerge, these longstanding problems present themselves in novel guises. This daylong program will critically examine a wide range of challenges in thinking about, writing about, and teaching about criminal justice today—challenges that include making sense of the shifting intersections of criminal justice with issues of race, gender, and nationality; shifting boundaries of federal, state, and local responsibility for criminal justice; and shifting patterns of cooperation and competition between the criminal justice system and the family.

Who Should Attend?

All law teachers will find this Workshop of interest.

When and Where?

The AALS Annual Meeting Workshop on Criminal Justice: New Challenges and Persistent Controversies will be held during the AALS Annual Meeting at the Hilton San Francisco Union Square in San Francisco, California beginning at 8:45 a. m. on Thursday, January 6, 2011 and concluding at 5:00 p. m.

How Do I Register?

The registration fee for law teachers at AALS Member and Fee-Paid Schools to attend this workshop is included in the Annual Meeting registration fee of \$425. 00 if payment is received by November 17, 2010 or \$475. 00 if received after November 17, 2010. Attendance will be on a first come, first served basis.

There is a separate fee of \$79. 00 for the Workshop's luncheon which features debate between Paul Butler, The George Washington University Law School, and Glenn F. Ivey, State's Attorney, Prince George's County, Upper Marlboro, Maryland, moderated by Angela J. Davis, American University Washington College of Law.

Confirmed Speakers:

Samuel W. Buell, Duke University School of Law; Paul Butler, The George Washington University Law School; Jennifer M. Chacon, University of California, Irvine Donald Bren School of Law; Jennifer Collins, Wake Forest University School of Law; Anne M. Coughlin, University of Virginia School of Law; Mary Anne Franks, Cornell Law School; Angela P. Harris, University of California, Berkeley School of Law; Glenn F. Ivey, State's Attorney, Prince George's County, Upper Marlboro, Maryland; Cynthia Jones, American University Washington College of Law; Lisa L. Miller, Rutgers University, Department of Political Science; Melissa E. Murray, University of California, Berkeley School of Law; Camille A. Nelson, Suffolk University Law School; Daniel C. Richman, Columbia University School of Law; Jeannie Suk, Harvard Law School.

~Planning Committee for Workshop on Criminal Justice

Bennett Capers, Hofstra University School of Law
Angela J. Davis, American University Washington College of Law
Tracey L. Meares, Yale Law School
Susan D. Rozelle, Stetson University College of Law
David A. Sklansky, University of California, Berkeley School of Law, **Chair**

AALS Annual Meeting Workshop for Deans and Law Librarians: Reconciling Core Values and the Bottom Line

**Thursday, January 6, 2011
San Francisco, California**

Why Attend

Law libraries, as much as any part of American law schools, are where legal educators are often trying to do more with less. The “less” usually means schools face challenges both in their budgets and in their physical space. The “more” usually means schools face dramatic changes in how their constituents access information and in their hopes and expectations for the services law librarians will provide.

This workshop for deans and law librarians – Reconciling Core Values and the Bottom Line – will raise critical questions about what happens when law libraries must do more with less, and will explore pragmatic and innovative approaches for the future. Attendees will receive an insightful overview of law library budgeting, and will explore how deans and law librarians can work together to confront budgeting challenges. In addition, participants will hear from deans, law librarians, and experts who have successful experience in helping law libraries expand their services to meet the evolving needs of their schools (including research, job placement, alumni & development, skills training, and internationalization) and reconfigure their traditional spaces to respond to the new ways students, faculty, and the community interact.

The workshop is designed around the belief that law libraries will evolve dramatically in these challenging times, but that the core values and services of law libraries will remain vital to school missions, including the mission to educate professionals, foster knowledge and serve the community.

Who Should Attend?

Deans and law librarians will find this Workshop of particular value.

The Workshop will also be informative for faculty members who care about the future of law libraries.

When and Where?

The AALS Annual Meeting Workshop for Deans and Law Librarians: Reconciling Core Values and the Bottom Line will be held during the AALS Annual Meeting at the Hilton San Francisco Union Square in San Francisco, California beginning at 8:45 a. m. on Thursday, January 6, 2011 and concluding at 5:00 p. m.

~Planning Committee for Workshop for Deans and Law Librarians: Reconciling Core Values and the Bottom Line

Paul George, University of Pennsylvania Law School
Joan S. Howland, University of Minnesota Law School, **Chair**
Veryl Victoria Miles, The Catholic University of America
Columbus School of Law
Pablo G. Molina, Georgetown University Law Center
John F. O'Brien, New England Law - Boston
Lawrence Ponoroff, The University of Arizona
James E. Rogers College of Law
Kent D. Syverud, Washington University School of Law

How Do I Register?

The registration fee for law teachers at AALS Member and Fee-Paid Schools to attend this workshop is included in the Annual Meeting registration fee of \$425. 00 if payment is received by November 17, 2010 or \$475. 00 if received after November 17, 2010.

There is a separate fee of \$79. 00 for the Workshop's luncheon.

Confirmed Speakers:

Linda, L. Ammons, Widener University School of Law; Pauline, M. Aranas, University of Southern California Gould School of Law; Jeffrey S. Brand, University of San Francisco School of Law; R. Lawrence Dessem, University of Missouri, School of Law; Michael A. Fitts, University of Pennsylvania Law School; Scott, B. Pagel, The George Washington University Law School; Victoria K. Trotta, Arizona State University Sandra Day O'Connor College of Law; Steven R. Smith, California Western School of Law.

President's Message

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The scholarly activities of a full-time faculty also directly improve the quality of teaching in America's law schools. Research gives faculty expertise that they impart to students. The engagement in research activity also models for students the importance of sustained inquiry and commitment to improving the law, legal processes, and legal institutions. Through their research faculty also model the value in exchange between people with diverse viewpoints – principles that are essential to the integrity and diversity of the legal profession.

A full-time, fully-engaged faculty also supports the need for a rich, evolving curriculum. The AALS is committed to "a rigorous academic program," "strong teaching," and "a dynamic curriculum that is both broad and deep." Law schools should teach theory and practice, substantive law and process, rigorous analytical thinking, the exercise of professional judgment, approaches to problem solving, and applied skills. Students need a mix of broad survey courses and intense focus on particular issues. They need exposure to both domestic and international legal systems. Some courses should be required; students should be allowed to select among a menu of other, non-required courses. Shaping the mix of offerings and a program's requirements, again, is best done by a core of full-time faculty that determines the teaching and research functions of the school. Our system may seem obvious to us, but the model of a professional legal

professoriate is distinctive. It is one of the most important reasons why our legal education is respected across the world.

For these reasons, we are concerned about any revisions in the ABA Standards that might either undercut the basic structure of faculty governance of law schools by full-time faculty or weaken the academic freedom of faculty. Measures that would weaken or abolish the tenure and security of position requirements in the ABA standards are central to our concerns; such measures would inevitably contribute to a decline in effective faculty governance and undercut efforts to improve law school quality that only joint efforts by a dean and faculty working together can achieve. It is also unlikely that any substitute for tenure designed to protect academic freedom and faculty teaching programs will be as effective as tenure in protecting the internal balance of institutional governance or responding to external pressures law schools will certainly face. One example of outside pressure is the growing number of attacks some law school clinics have faced for representing unpopular clients. Preserving the principle of academic freedom is not only an AALS core value; it is an essential public value.

We have related concerns with measures that would make it more difficult to determine the extent to which a law school is functioning according to the model based on a full-time faculty described above.

This concern extends to the proposal to eliminate the calculation of a law school's student-faculty ratio. We are sympathetic with the fact that the calculation formula in the current ABA Standards can be hard to apply in a way that gives a true picture of available teaching resources, and we urge further effort to improve upon it. But we are concerned that eliminating student-faculty ratio data, however calculated, from the accreditation calculus is almost certain to move law schools in the direction of larger classes, fewer full-time teachers, or both. Such a move – however effective in an effort to reduce costs – would represent a terrible loss for both the legal system and for the very students in whose name the cost savings likely will be justified by depriving potential students of important information that could be obtained from reliable numbers that could come from the ABA.

In our stress on the importance of faculty role and faculty governance, we recognize that, if anything, law school decanal leadership is becoming even more important. As demands of law school constituents become more varied and intense, prudent management of resources becomes ever more difficult. But we urge the ABA not to let the rhetoric of industrial production control the conversation about the minimal standards of a quality legal education. It is appropriate to ask whether legal education is worth its cost and whether law students are getting what they have been promised. But legal ed-

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President's Message

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ucation is not primarily achieved by better managers. Lawyers are not “produced” or even “trained” by law schools. What lawyers must ultimately deliver is judgment – whether judgment about what action a client should take, judgment about what issues or materials are relevant, or judgment about how ideas should be expressed. That kind of mature judgment is primarily created by personal interaction between individual faculty and individual students in countless educational settings. What law schools ultimately deliver, in short, are not skills alone. What law schools deliver are graduates who have fundamentally matured into independent professionals as a result of rich, reflective and varied educational experiences.

The second accreditation principle that we commend to you is: “Don’t conflate clinical education with skills training.” The two ideas are quite different. One source of the confusion is that any mental process can be reframed as a skill (e. g., the skill of critical thinking). Clinical education and skills training are, however, quite different teaching concepts. Skills training focuses largely on discrete, concrete and quantifiable skills, typically taught in single courses aimed at those skills. This training can be beneficial to students and is a useful component of a complete legal education. But lawyers must act skillfully and ethically in the world based upon complex knowledge. The challenge for legal education is to develop a way to frame a broad and deep commit-

ment to professional knowledge and education that draws upon what the AALS sees as an intellectual project that incorporates rather than isolates the skill dimension of legal education.

Most clinical education goes beyond the accumulation of practical skills. It aims at the integration of substantive and applied learning. Clinical courses are less add-ons to the traditional substantive curriculum than they are culminations of these courses, in which students reinforce and extend the learning in substantive courses to the practice context. Through these courses, students typically develop problem-solving skills, learn to exercise critical judgment, and enhance analytical thinking as they bring substantive law to bear on practice experience. They represent some of the kinds of integrative education that are highly praised in the Carnegie Report.

Integrative teaching methods and new approaches to law, lawyering, and legal practice are spreading throughout the curriculum at many schools. These efforts bridge traditional divisions in the curriculum and enhance not only the integration of skills and content, but also the relevance of other disciplines such as economics, psychology, history, and business. They have occurred because full-time teachers have exercised their responsibility for curriculum development as well as governance of their institutions more generally. These efforts, which the ABA and AALS have both helped to generate, continue

to evolve and should be encouraged to percolate.

Our third principle is: “Do No Harm.” “Do no harm” is the first principle in medicine and we commend it as a key principle of lawyer regulation as well. Trying to measure outputs without reliable techniques to do so, for example, runs a real risk of producing data that is more misleading than helpful.

Our focus here is the pending proposal for greater reliance on outcome measures. We all agree that verifying student learning is central to the educational process; determining what students have gained from their legal education is everyone’s bottom line issue. We also agree that inputs often are imperfect, only “second-best” measures of student learning. Setting aside the difficulty of distinguishing in all cases between input and output measures, it is surely reasonable to say that an input measure such as passing a class in trial practice is at least some measure of learning trial skills. The same can be said for passing a course in property law or civil procedure. Our review of the literature suggests that no one has yet documented significant, reliable or valid outcome measures that would better measure what law schools do. Inputs theoretically may be “second best,” but so long as output measures are unreliable, we are very concerned that the proposed shift to output measures may replace one system of quality control with one that is even less effective.

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2011 Workshop on Women Rethinking Equality

June 20-22, 2011

Washington, DC

Women seeking equality in America today face an uneven prospect. Women are represented in record numbers in all branches of government, yet also struggle in unprecedented numbers below the poverty line, and they remain notably absent from many corporate boardrooms. Two more women have been appointed to the Supreme Court, including the first Latina justice; yet the popular debate and confirmation hearings were marred by race and gender stereotypes and by homophobia. Advocates of same sex marriage and new reproductive technologies have challenged the traditional family, yet they have been met by efforts to re-naturalize marriage, childbirth, and the place of women in the private sphere. These same contradictions mark women's role in legal education. Women comprise a majority of students in many law schools, yet women are not equally represented in the professoriat. A recent AALS Report revealed a "tenure gap" affecting all women, which was particularly wide and increasing among women of color. The predominance of women in lower-paid, lower status positions without job security in the legal academy mirrors their relative absence from top positions in law firms, law schools, and other highly-paid legal positions.

As we address the unfinished business of equality, women confront complex challenges. Some impediments stem from a public perception that the central problems of women's equality were

solved a generation ago. Other obstacles – which women are often reluctant to confront – arise from the heterogeneity of the group itself. We are heterogeneous first in the ways we experience our lives as women: women share commonalities based on sex, while also differing along lines of race, ethnicity, class, immigration status, religion, sexual orientation, and disability. In the cities and rural areas of this country, as in the halls of law schools, these stark variations can give women widely different experiences of gender and sharply different stakes in its continued political amelioration. Women also vary in our conceptualizations of the challenges we face: "sex discrimination" has ceased to be the only way of characterizing the social and institutional dynamics that reproduce the inequality of women. Theorists and activists have argued that we are subject not simply to the varied forms of exclusion and hierarchy that constitute "subordination." Our lives are also shaped by pressures to conform to bifurcated gender norms, to expectations of cross-sex sexual desires and the fulfillment of these desires within marital, nuclear, reproductive families. This concern with gender norms and the constraining social patterns they produce creates potentially fruitful areas of intersection between feminism and LGBT and transgender theory and activism. Finally we are heterogeneous in our personal and professional aspirations: Many women may not analyze sex or gender in these explicitly politicized ways, or may not

use more formalized constructs to discuss them. We may be struggling to do our best work – and to achieve the recognition it merits – in fields and workplaces that are still dominated by men; we may be striving to combine work and family in the context of inevitable shortages of time and money. Yet we may want to commit our efforts not to unpacking or responding to gendered dynamics in a theoretical way, but to developing practical strategies for confronting them in our daily lives or individual workplaces. Such heterogeneity is hardly surprising in a group that includes more than half of the human race. Yet if women fail to understand and negotiate this heterogeneity in a self-aware, reflective way, we may end up chasing an elusive unity, or diffusing our efforts with unnecessary friction.

The 2011 Workshop on Women Rethinking Equality will address these challenges, in the broader society and in the specific context of legal education. In analyzing the remaining barriers, we will think specifically about how to understand and to bridge the heterogeneity our group reflects – by glimpsing our shared stake in struggles of particular subgroups, and by focusing on the immediate institutional environment that we all share. We will also ask how we might use many kinds of connections among women – networking, mentoring, sharing of information – to secure greater opportunity, and transform the institutional settings in which we live and work.

2011 AALS Annual Meeting Presidential Programs

Presidential Program I

Teaching Excellence: Integrating Knowledge, Skills, Values and Assessment

David B. Babbe, University of California, Los Angeles School of Law (*formerly of Morrison & Foerster*)

Roberto L. Corrada, University of Denver Sturm College of Law

Ingrid Michelsen Hillinger, Boston College Law School

Hiroshi Motomura, University of California, Los Angeles School of Law

Moderators: Alison G. Anderson, University of California, Los Angeles School of Law

Gerald F. Hess, Gonzaga University School of Law

A large and sophisticated empirical literature about teaching and learning tells us that effective classrooms are learner-centered, knowledge-centered, assessment-centered, and best seen as a community built on active, cooperative learning. Excellent law teachers integrate knowledge, skills and values in their classroom teaching, building in opportunities for assessment during the semester as well as at the end of the course in order to ensure that their students are actually learning what is being taught. Within a framework of basic concepts from learning theory, experienced law teachers and one experienced practitioner will talk about what constitutes effective teaching and mentorship both in the classroom and in the development of new lawyers.

Presidential Program II

Law School Diversity in a Post-Racial World

Devon Wayne Carbado, University of California, Los Angeles School of Law

Elaine M. Chiu, St. John's University School of Law

Rachel Godsil, Seton Hall University School of Law

Tanya Kateri Hernandez, Fordham University School of Law

Moderator: Kent D. Syverud, Washington University School of Law

AALS President H. Reese Hansen in his inaugural address, "Principles to Guide Us," spoke about the importance of focusing on AALS core values during these uncertain times. One of those core values is the value of diversity in the classroom, the profession, and the judiciary. He highlighted the diminishing enrollment of Black and Latino/a students in our law schools since the turn of the 21st century as well as the pressure faced by member schools to focus on securing higher LSAT scores with each new incoming class. The other core value he discussed was the importance of preserving faculty governance. This panel will focus on both of those core values by examining diversity issues facing students as well as faculty members all during a so-called "post-racial" era.

Professor Hernandez will discuss the new Department of Education guidelines on "counting" the race and ethnicity of our students and what impact that might have for member schools as well as on the AALS' core value of diversity. Professor Godsil will describe a study she is collaborating on that for the first time attempts to apply the "stereotype threat" literature in the context of undergraduate students taking the LSAT. Professors Chiu and Carbado will discuss the 21st century challenges of recruiting and retaining, respectively, professors of color. Time will be left for significant audience participation and this should prove to be a lively and thought-provoking session. Dean Syverud will serve as moderator.

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Furthermore, not everything that can be measured is worth measuring. Unless output standards measure qualities that matter, they will do nothing to improve legal education and may even trivialize it. As a system of measurable outcome measures becomes institutionalized, there is a danger that pressure to define goals in measurable ways will lead law schools to move away from what matters most – i. e., the development of students' analytical skills, professional judgment, and concern about public values. It is simply easier to measure a simplified image of learning than a complex one. While measurement of individual skills might work for activities that can be broken down into elements that can be taught as skills, it seems inevitable that mandating things that are measurable will distort, over time, what is taught and how it is taught.

Still further, while an outcome measures approach is, in part, a response to the desire for greater accountability of law schools to the students who pay high tuitions, compliance with the new approach will, without question, add to the cost of legal education. Some of the costs will be administrative, including the cost of developing measurement and assessment tools that satisfy the standards and establishing the reliability and validity of such tools. Still greater costs will be necessary if the shift to outcome standards makes a school feel it needs new programs and courses whose learning goals are more readily measurable.

Most important, we are concerned that the proposals before you may have a profound negative impact on the diversity of law school faculty, staff, and students. Our commitment to diversity springs from the benefits of diversity to a rigorous educational program, as well as to the need to educate lawyers who are broadly representative of society, and who, in turn, are able to reflect the importance of inclusion and non-discrimination in our society. The AALS has a clear commitment to diversity – in viewpoint, personnel matters, and composition of the student body and the legal profession. Substituting a vague and unreliable set of outcome standards for a system that is increasingly creating multi-dimensional learning opportunities for students and that has at least begun to achieve a measure of diversity in the legal profession seems to us to be unwise. "Do no harm" is a principle with which it should be hard to disagree.

To the extent that the impetus for reform of the accreditation standards is driven by a desire for curricular reform, it is important to underscore that innovation today characterizes the curricula of a great many law schools. Some schools have added an emphasis on the lawyering process in the first year, while others introduce first-year students to international issues, to exemplars of their profession, to different disciplinary perspectives, or to public service work. Clinical and skills courses that used to be focused on trial and pre-trial practice and oral advocacy now

include a broad range of practice areas and introduce many aspects of the work of a lawyer, including fact-finding, interviewing, negotiation, contract drafting, administrative hearings, and transactional work. Practice areas such as tax, intellectual property, and bankruptcy now have clinical offerings. A few schools are even experimenting with an entirely new model for the third year, in which students integrate their substantive law learning with actual cases through a wide range of in-house clinical courses, placement clinics, externships, internships, and mentoring relationships with practicing attorneys.

Few would doubt that we are passing through a challenging time in legal education. The cost of going to law school remains high, the current recession has meant that available jobs for law graduates have been fewer, and law firms have faced sometimes conflicting directions from their clients about how they want legal services delivered. At the same time, we see this as one of the most exciting and creative times at U. S. law schools. There is curricular innovation and competition at schools all over the country as schools seek to attract the very best students by offering the most innovative possible ways to become lawyers. We believe that a shift in the standards to reliance upon formulaic outcome measures will stifle this kind of innovation by pushing schools to adopt curriculum and teaching methods that are most easily measurable.

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President's Message

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When we reflect about why American law schools are so innovative and so well regarded around the world, it seems to us that, over the years, the self-study process required by accreditation standards has been one of the most important, positive factors in the improvement of legal education. In its self-study, a law school revises and affirms its mission, defines its distinctive identity, assesses its external environment, evaluates the strengths and weaknesses of its faculty, curriculum, intellectual life, facilities, technological support, communications, and resources, and sets short- and long-term goals. This process allows a law school to take account of the constituencies it serves, and its own goals and needs. Does the law school serve primarily the needs of residents of a given state or region, including a substantial number of sole practitioners or attorneys who practice in small firms? Does a school prepare more of its students for large, national or international law firm practices? Does a given school produce a large number of academics, or entrepreneurs, or public interest advocates? Does it have a religious mission, or a goal of meeting the needs of special populations, such as Native Americans, or the inner-city poor? Does it place a priority on criminal law practice? Or, does it wish to be a pioneer in alternative dispute resolution, international and comparative law, or constitutional theory? Done right, the self-study process takes considerable time, energy, and resources, but it is generally viewed as a productive undertaking,

by helping the school to define its core values, evaluate its challenges and opportunities, articulate new initiatives, and set institutional priorities. An AALS concern is that a focus on measurable student learning outcomes in the ABA Standards will deflect a law school's attention in the self-study process from the most fundamental questions about the school's identity, assessment, and priorities, to those matters most susceptible to objective measurement.

Finally, legal education occurs in the context of preparing students to take their place in what is ultimately a public profession. While lawyers may primarily represent private clients, they inevitably do so in ways that have public consequences. Courts have long seen lawyers as among their "officers" in the sense that lawyers have a responsibility for helping achieve justice in ways that are reputable and honorable. And there has long been a consensus that more law enforcement is done by private lawyers counseling their clients to stay out of trouble than by enforcement officials charging clients who did not get the message. The public quality of private lawyers can never be wholly defined by reference to what private clients demand, and any decline in the excellence of law schools is likely to be seen first in that effect on lawyers' public role. Beyond private practice, countless lawyers work in the public sector and on pro bono matters. We believe it is essential, in short, that before the accreditation standards are changed that there is certainty that the changes will, in fact, produce the desired results.

I end this letter as I began: The AALS Executive Committee has great respect for the efforts made by the ABA to improve the quality of legal education over many years. We appreciate your openness to suggestions and hope you will take the comments in this letter as simply the first phase of a continuing dialogue. We look forward to continuing our common effort to keep U. S. legal education the finest in the world.

Sincerely yours,
H. Reese Hansen
President

**Be on the lookout for your copy of the
2010-2011 AALS Directory of Law Teachers!**

**The AALS
Directory of Law Teachers
2010-2011**

*Copies will be
mailed to the
dean's offices
of every AALS
member and fee-
paid school this
fall.*

2011 Workshop on Women Rethinking Equality

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“Women Rethinking Equality” will appeal to a full range of teachers and scholars in all subject areas. The program creates opportunities for a rich dialogue about the meaning, contours, implications, and status of equality for women, specifically in the setting of legal education. Workshop sessions will focus on substantive law and scholarship, teaching concerns and professional development issues. The substance and format of the program will offer opportunities for networking and small-group discussion. We welcome participation by all AALS members, and particularly all women, whether or not their scholarship includes a gender focus.

The first full day of the Meeting will open with a morning plenary on “The Unfinished Business of Women’s Equality in Legal Education,” which will focus attention on our shared context in contemporary legal academia. This panel will focus on issues that continue to impede women’s equal opportunity in legal academia: from the lack of women in certain substantive areas of law teaching, to continuing challenges faced by women teachers in the classroom, with particular attention to those faced by younger women, women of color, LGBT women, and pregnant women; to problems confronting women as visitors; to the devaluation of scholars who write outsider scholarship in all forms, including feminist legal theory, critical race theory, and queer theory; to the effect of parenting leaves on consideration for tenure; to the continuing reluctance to integrate

issues of gender equality in scholarship and teaching in all substantive areas of the law. Breakout sessions will take place in the plenary room, allowing participants to discuss in small groups the issues raised by the plenary. The second plenary, “The Workplace as a Site of (In)Equality,” will feature work by social scientists and others who have analyzed barriers to gender equality in a range of contemporary workplaces. Focusing on issues such as women and negotiation, subtle sexism, harassment of female supervisors by male supervisees, “pink collar ghettos,” and work/family conflict, they will describe research from other workplace contexts that offers women faculty tools for thinking about our own work environments. This panel, too, will be followed by breakout groups, which will convene in the plenary room for further discussion.

Following lunch, the afternoon sessions will step back from the immediate context of the workplace, to explore broader questions of sex and gender equality. The first afternoon plenary, “Meanings and Contexts of Equality” will examine the roles of sex, gender, and sexuality in producing women’s inequality, including their intersection with attributes such as race or socioeconomic status. Panelists will also explore different ways of conceiving equality, such as substantive notions of equality emerging in Canadian and European contexts. These conceptual tools will help participants to think about inequality in a range of contexts, including legal academia. After the panel discussion, concurrent sessions will provide

participants with opportunities for more in-depth examination of sex and gender in a range of substantive law contexts, including but not limited to international human rights, reproductive rights, corporate and tax law, criminal justice, and economic equality. The first day’s meetings will be followed by an evening poster presentation and reception. The reception will be structured to enable participants to meet others within their substantive fields; it will feature posters on forthcoming and recent scholarship by women faculty. It will be followed by a “Dine-Around” option, in which participants, who will be invited to sign up in advance, can meet in small groups for dinner at nearby restaurants.

The second day of “Women Rethinking Equality” will return to the law school setting, to focus on women’s professional development and institutional change. The first plenary, “Women as Scholars,” will examine the obstacles faced by particular groups of women scholars, such as junior faculty, women of color writing in feminist legal theory, or women striving for visibility and influence in male-dominated fields. It will also explore newer or less conventional vehicles for the dissemination and promotion of scholarly work, such as popular books, university press monographs, or blogging. This panel will be followed by concurrent sessions on scholarship. In these sessions, faculty selected through a call for papers will present works-in-progress in small group sessions, receiving feedback from assigned commentators and other participants.

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Hot Topic Proposals at the AALS 2011 Annual Meeting

Time is being reserved in the Annual Meeting schedule for programs devoted to late-breaking legal issues or topics. Faculty members who are interested in organizing a panel on such an issue or topic will have the opportunity to submit proposals until November 10, 2010 for the 2011 Annual Meeting in San Francisco.

The purpose of this special “hot topics” slot is to provide a forum for a panel presentation on a timely and important issue of general interest that arises after the deadline for section and other programs. Hot topic program proposals should only be submitted by individuals and may not be submitted by sections or other organizations.

When developing the proposal you should consider the following:

- Is there a diversity of presenters?
- Is there junior and senior faculty involvement?

Each proposal should contain the following information:

- (1) the title of the proposed program;
- (2) a brief description of the program;
- (3) a confirmed list of panel members; and
- (4) an explanation of why the proposed topic is “Hot”—i. e., why it could not have been the subject of other program proposals that had to be submitted by March 15, 2010.

In addition, the proposed topic should not be one addressed elsewhere in the Annual Meeting Program.

Proposals will be evaluated by a committee of the AALS chaired by Immediate Past President Rachel F. Moran. Hot Topic programs that are selected will be assigned a time slot by the AALS National Office with attention paid to relevant conflicts; selected Hot Topics do not choose their assigned time slot.

Proposals may be e-mailed to hottopic@aals.org. If you have questions, please contact Brenda Simoes at bsimoes@aals.org

2011 Workshop on Women Rethinking Equality

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The afternoon session will open with a plenary on “Women as Teachers.” This session will consider evidence of a gap between the ways that today’s students and many faculty members talk about sex, gender, and sexuality; it will ask how we can bridge that gap in the often-veiled discussions these topics create. This plenary will examine presumptions of incompetence which continue to affect all women faculty, but pose particular challenges to women of color and younger women, as well as other issues in the evaluation of women as teachers. This panel discussion will be followed by breakout sessions which will take place in the plenary room. The final session of the conference, “Reshaping Institutions” will proceed in three phases. First a plenary discussion will highlight a series of potential areas for action, including: increasing the recruitment, promotion and retention of women of color; securing positions of leadership for women in law schools; establishing structures that support mentoring of women faculty and students; re-valuing legal writing and clinical work in the currency of salary and full academic “citizenship”; and accommodating the care responsibilities of all faculty members. Participants will then break into small groups to discuss strategies for addressing these issues within their individual law schools; finally, these groups will come together to share their suggestions in a concluding session.

2011 Annual Meeting Theme

AALS CORE EDUCATIONAL VALUES: *Guideposts for the Pursuit of Excellence in Challenging Times*

San Francisco, California
January 5-8, 2010

The core values of the AALS, which are articulated in Bylaw 6-1, provide critically important guidance in the Association's activities and to our member schools. The core values emphasize excellent classroom teaching across a rigorous academic curriculum. They focus on the importance of faculty scholarship, academic freedom, and diversity of viewpoints. The core values also establish an expectation that member schools will value faculty governance and instill in our students commitments to justice and to public service in the legal community. All of these objectives are to be supported in an environment free of discrimination and rich in diversity among faculty, staff, and student body. These core values combine to provide an environment where students have opportunity to study law in an intellectually vibrant institution capable of preparing them for professional lives as lawyers instilled with a sense of justice and an obligation of public service.

Almost all of our member schools are dealing with extraordinary financial pressures as a result of the economic crisis in the country. Reductions in financial support from state legislatures and shrinking endowments have put unprecedented financial pressure on law schools in meeting their obligations to students and the profession. Almost all law schools are dealing with budget cuts, which have produced a variety of cost saving strategies including hiring freezes, travel restrictions, program and course-offering reductions, and even salary reductions and layoffs.

Other events, including review of ABA accreditation standards relating to student learning outcomes, law school governance, and academic freedom and security of position as well as the changing nature of the legal profession that our graduates will enter, raise additional, potentially challenging issues for the legal academy.

Our 2011 Annual Meeting in San Francisco provides us with an opportunity to discuss how the Association's core values guide law schools as they address the issues confronting legal education. It is precisely because law schools have pursued these values that legal education in the U. S. is the model and envy of the world. Especially in the face of daunting challenges, it is important that law schools continue to be anchored in these values as we adapt to necessary changes in what we do and how we do it.

Because the AALS core values focus on excellent teaching, a rich curriculum, high quality scholarship, academic freedom and faculty governance, nondiscrimination, and diversity, there will be much that can be highlighted. I am looking forward to meeting with you in San Francisco.

*-H. Reese Hansen,
AALS President and Brigham Young University J. Reuben Clark Law School*

aalscalendar

2011 Mid-Year Meeting

June 11-17, 2011
Seattle, Washington

Workshop on Curriculum

June 11-14, 2011

Conference on Clinical Legal Education

June 14-17, 2011

2011 Workshop on Women Rethinking Equality

June 20-22, 2011
Washington, DC

2011 Workshops for New Law School Teachers

Workshop for Beginning Legal Writing Law School Teachers

June 22-23, 2011

Washington, DC

Workshop for New Law School Teachers

June 23-25, 2011

Washington, DC

Workshop for Pretenured People of Color Law School Teachers

June 25-26, 2011

Washington, DC

Future Annual Meeting Dates and Locations

- January 4-8, 2011, San Francisco
- January 4-8, 2012, Washington, D. C.
- January 4-8, 2013, New Orleans

Future Faculty Recruitment Conference Dates Washington, D. C.

- October 28-30, 2010
- October 13-15, 2011
- October 11-13, 2012
- October 17-19, 2013
- October 16-18, 2014



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