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August 5, 2015

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Re: AALS Deans Steering Committee, regarding the California Task Force on Admissions and Regulation Reform

Dear Professor Marshall and Professor Weisselberg,

As current and incoming chairs of the AALS Deans Steering Committee, we are grateful for your letter and for your service on the California Task Force on Admissions Regulation reform.

We have followed the process and revisions closely; in doing so, we relied on the TFARR / CABAR site, <http://www.calbar.ca.gov/AboutUs/BoardofTrustees/TaskForceonAdmissionsRegulationReform.aspx>, and on conversations with people involved in the deliberations within the Working group. The website includes the working group recommendations that informed the September 25, 2014 Phase II Final Report (Sept. 25, 2014) (hereinafter Phase II Report). Unfortunately, the site does not yet include the text of the Phase II Report, so we are especially glad now that you have sent it to us and given us the opportunity to read it carefully. If we have looked in the wrong place, let us know.

We have studied the Phase II Report and also your request that we withdraw our statement. For reasons we explain, we decline to do so.

We are glad to see that the Phase II Report adopted the spirit of flexibility advanced by the working group and proposed implementing rules. We agree with your assessment that this reflects progress and a meaningful improvement over the initial proposal. In particular, eliminating a requirement of “Bar-approved” externships and placements and allowing, under some circumstances, pro bono service pre-bar to count also for experiential learning are helpful improvements in making the TFARR recommendations more workable. We are glad to see that the Phase II Report adjusts for competencies related to technology, business, and interdisciplinary work.

However, because our statement expresses central concerns that remain and are shared by members of the Deans Steering Committee, a committee made up of deans from a wide variety of law schools throughout the United States,¹ we do not plan to withdraw our July 6, 2015 statement. We would be glad to learn if there are any developments not yet posted on the site or otherwise communicated publicly, and look forward to further information and discussions about the topic pursued by the California Task Force.

The Phase II Report language helpfully makes the experiential learning proposal less strict, but it does not resolve the Steering Committee’s three major concerns with the proposal. We asked: Why 15 hours? Why restrict the autonomy of students who have and rightfully should pursue diverse academic and career goals? And why balkanize the regulation of law schools around amounts and definitions of required experiential education, especially just as the American Bar Association has introduced an experiential education requirement? Here, the “safe harbor” offered by the Phase II Report provides some protection against conflicting regulation, but neglects the larger issues that arise even if California stands alone in imposing such administrative burdens, and that would be amplified if each bar jurisdiction decides to impose distinctive regulations on law schools. This is a concern especially in the face of trends in practice that make state and national boundaries less significant than ever.

Discussions about experiments in legal education, about experiential education, and about California’s process are occurring all over the country, as well as at Association of American Law Schools meetings, and at the Chapman Law School event in February 2015. As people charged with convening discussions among the deans of all the accredited law schools in the country, we hear splendid ideas and serious concerns. We do not disagree with your observation that, in California, “the Bar has every right to set the criteria for admission” (p.5); however, we respectfully suggest that law schools within California and across the country both have a stake and interest in proposals emanating from our largest state. Law schools around the country recruit and welcome California citizens as students and prepare talented individuals from all over the world, some of whom will pursue opportunities in California. Our July 6, 2015 statement raises serious concerns with the direction of the TFARR recommendations. The Phase II Report does not adequately assuage these concerns and therefore we stand by our statement.

¹ Your letter describes on p.1 the AALS Steering Committee as “on TFARR.” Actually, this Committee is a standing committee, created by the AALS executive committee to discuss and, where it deems appropriate, speak out on matters important to our member schools and legal education more generally.

We look forward, as we know you do, to productive next steps and to continual improvement of legal education.

Sincerely,

A handwritten signature in black ink, appearing to read "Martha Minow". The signature is fluid and cursive, with the first name "Martha" and last name "Minow" clearly distinguishable.

Martha Minow
Chair, AALS Deans Steering Committee 2013-2015
Morgan and Helen Chu Dean and Professor
Harvard Law School

A handwritten signature in black ink, appearing to read "Daniel B. Rodriguez". The signature is stylized and cursive, with the first name "Daniel" and last name "Rodriguez" clearly distinguishable.

Daniel B. Rodriguez
Chair-Elect, AALS Deans Steering Committee
Dean and Harold Washington Professor
Northwestern University School of Law