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December 8, 2008

To: Standards Review Committee
From: Board of Directors of ALDA
Re: Standard 104

The following is a statement of the Board of Directors of the American Law Deans Association:

The American Law Dean's Association ("ALDA") is an association of the deans from over 130 law schools in the United States. This letter, however, expresses the views of the Board of Directors of ALDA (the "ALDA Board") alone, and has not been reviewed or agreed to by the entire membership of ALDA.

Standard 104

The Standards Review Committee has proposed to the Council on Legal Education and Admissions to the Bar the deletion of Standard 104. The ALDA Board wholeheartedly supports this revision to the Standards for the reasons stated in the Explanation of Deletion of Interpretations 402-1 and 402-2 transmitted by the Memorandum dated August 2008 from Hulett H. Askew, Consultant on Legal Education, and Donald J. Polden, Chair, Standards Review Committee and the additional reasons stated below.

The ALDA Board has consistently urged the Council to revise the Standards and their implementation so that the focus is on whether or not a law school meets the minimum standards necessary to provide a sound legal education. As pointed out by the Explanation, Standard 104 is aspirational; while it states an aspiration we all share, it is not a minimum standard necessary to provide a sound legal education as specified by the Preamble to the Standards.

Moreover, such a requirement is difficult to enforce and fraught with risks in its enforcement. It is difficult enough to determine whether a law school meets the minimum requirements necessary for a sound legal education. Requiring a law school to demonstrate in addition that it seeks "to exceed the minimum requirements of the Standards" invites an inquiry into the minds of the various individuals who make up a law school's community even when it is clear that the legal education actually provided needs meets the minimum requirements of the Standards. Such vague requirements about inputs to a program of legal education risk the danger that a school will be in effect required to meet a standard that is higher, more onerous, and more costly than required by the other Standards.

Conclusion

For the reasons stated above, the ALDA Board believes that the recommendation of the Standards Review Committee on Standard 104 is another positive step in improving the Standards. We congratulate the Committee on, and are encouraged by, its recent efforts to remove some of the more inappropriate Standards and Interpretations. The ALDA Board requests that the recommendation of the Standards Review Committee that Standard 104 be deleted be adopted by the Council.