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June 30, 2016

To: Elizabeth R. Parker
Executive Director, State Bar of California
180 Howard Street
San Francisco, CA 94105

From: AALS Deans Steering Committee
Daniel Rodriguez, Chair
1614 20th Street, NW
Washington, DC 20009

Re: Comment on the California Task Force on
Admissions Regulation
Recommendations (TFARR) Phased and
Scaled Recommendation Implementation

You have requested comment on the proposed Phased and Scaled Recommendation Implementation (PSRI) of the California Task Force on Admissions Regulation Recommendations (TFARR), dated May 10, 2016. We write to offer our support of the PSRI. As a group of law deans from across the United States charged with considering the national impact of topics affecting law schools, we believe strongly that the various state standards for admission to the legal profession should be as uniform as possible. The balkanization of the U.S. legal profession weakens the relevance and competitiveness of the American legal system in a globalized economic and political environment, and hobbles the mobility of recent law school graduates in a rapidly

changing market for legal services. We therefore applaud efforts made in the PSRI to adopt experiential learning requirements for admission to the State Bar of California that are consistent with those now required of all ABA-accredited law schools.

One year ago, on July 6, 2015, we offered a statement on the TFARR proposals. [<http://www.aals.org/tfarr-statement/>]. While we embraced the idea that the legal profession is experiencing significant and ongoing change, and commended efforts in California to respond, we expressed a number of concerns with the TFARR at that time. In particular:

- The TFARR proposals would undermine the longstanding commitment to having the ABA set nationally uniform, minimum accreditation requirements that allow students to pursue study and practice across the nation;
- The 15-credit hour experiential requirement was at odds with the new ABA experiential learning requirements reflected in ABA Standard 304; and
- Such dramatic mandates over the content and methods of legal education were deeply at odds with widespread ongoing innovation in legal education, unduly restricting the educational pathways of students who come to law school with varying interests and professional goals.

We believe that the PSRI represents a thoughtful response to our concerns, and to others raised in response to the work of the TFARR. Because all ABA accredited law schools are in the process of implementing the new and detailed 6-unit experiential learning requirement under Standard 304, we believe that the PSRI forwards the goal of the California bar to admit well-prepared lawyers without limiting broad access to legal education opportunities around the country for students. The PSRI also considers the significant implementation costs of the TFARR proposals for the State Bar of California, as described by Phase I and Phase II TFARR committees and the documents they produced. Law schools would also bear substantial costs in order to comply with the TFARR mandates, particularly if TFARR were to accelerate the creation of widely divergent state bar admissions requirements across the country.

The 15-credit hour requirement as originally proposed in both Phase I and Phase II of TFARR would make it more difficult to maintain a uniform, national system of legal education in the United States. In the July 2014, administration of the California bar exam, 28% of those sitting had attended law school outside California. As the nation's most populous state, a unique mandate for experiential learning credits for bar admission in California would no doubt set off a flurry of similar actions by other states, leading to a patchwork of bar admission standards that would create an administrative nightmare for law schools around the country. This would impose significant but highly varied costs on law schools, and because of the costs, many schools would find themselves unable to offer a degree that would be acceptable in every state. Worse yet, some law schools might be pressured to adopt lower-cost but lower-value experiential learning solutions to satisfy varied mandates.

As originally envisioned in the Phase I and Phase II reports, the TFARR recommendations shifted the focus of regulation from the outcomes of legal education – what graduates need to know to pass the bar and be licensed as lawyers in California – to how law students should be trained. Such an approach confuses the role of bar regulators and legal educators. We believe the impact of the state bars taking on educational responsibilities best suited to law schools would be to restrict innovation in legal education precisely at a time that calls for more innovation. While the PSRI also mandates “how” as well as “what,” it does so on the basis of an emerging national standard and subject to the national

procedures, standards, and reasoning of the ABA Section on Legal Education and Admission to the Bar. Because this approach is attentive to the goals and purposes of the regulation of the profession, and the related but distinct goals and purposes of educating members of the profession, we support the PSRI as a sound and thoughtful implementation and outcome of the TFARR process.

We remain committed to the idea that change is called for throughout the legal profession. We respect the leadership the State Bar of California has demonstrated with the TFARR process, including the wise evolution of the proposals in the PSRI. We appreciate the opportunity to comment.