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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.

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MEMORANDUM

**Section of Legal Education
and Admissions to the Bar**
Office of the Managing Director
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www.americanbar.org/legaled

To: Elizabeth R. Parker, Executive Director, State Bar of California

From: Barry Currier, Managing Director of Accreditation and Legal Education


Re: Comment on the Phased and Scaled Recommendation Implementation of
the Recommendations of the California Task Force on Admissions Regulation
Reform

Date: July 6, 2016

I write in advance of the July 7th meeting of members of the California State Bar Admission and Education Committee and the Admissions Regulation Reform Task Force (TFARR) to provide brief comments on the ongoing discussion regarding the TFARR recommendation that graduates of ABA-approved law schools must certify to the Committee of Bar Examiners that they have completed a minimum of fifteen credits of practice-based, experiential courses in law school or in a Bar-approved (and presumably Bar-funded) externship, clerkship or apprenticeship program prior to being certified to sit for the bar exam.

These comments are offered on behalf of the Council of the ABA Section of Legal Education and Admissions to the Bar, not on behalf of the larger American Bar Association, because, with respect to matters of law school accreditation, the Council acts separately and independently from the ABA.

We are aware of the Phased and Scaled Recommendation Implementation (PSRI) plan, dated May 10. We hope that the relevant parties within the California Bar Association will adopt that plan as it relates to the pre-admissions competency portion of the TFARR report.¹

We continue to believe that the TFARR requirement that students complete fifteen credits of skills/experiential learning, practically speaking, during law school is

¹ We would encourage you to consider amending the plan to provide that graduates of ABA-approved law schools are exempt from separate certification for experiential learning courses because Standard 303(a)(3) imposes that requirement as a condition of their school's accreditation by the ABA.

premature and may be unnecessary as a bar-exam eligibility requirement in light of the new ABA requirement in Standard 303(a)(3).

An experiential learning requirement should not be about how many credits of experiential learning should be required, in the abstract, for a J.D. degree and to qualify to sit for a bar examination. Rather, the requirement should be tailored to require whatever experiential learning will assure that new lawyers have acquired an appropriate set of basic competencies as they begin their careers in the law.

This was the underlying concern that the TFARR recommendation addressed. As you know, new ABA Standard 303(a)(3) addresses that matter directly and requires that ABA-approved law schools require each student to complete at least six credits of experiential learning courses (clinics, externships, or simulations) as a condition of earning an ABA-approved J.D. degree. This change moved the ABA Standards from basically one course [see former Standard 302(a)(4) and former Interpretation 302-3] to the six credits required by the current Standards. It did so after considerable process and consideration of a variety of possible approaches, including a 15-credit requirement.

New Standard 303 was adopted in 2014, but implementation was deferred for two years to give schools time to determine how best to come into compliance with what the Standard requires, consistent with their missions, resources, and staffing.

We will see over the next several years, as the new requirement takes hold, whether a six-credit requirement satisfies the concerns that animated the TFARR recommendation and similar concerns in other jurisdictions. If so, then there would be no need for a fifteen-credit requirement.² If six credits prove insufficient and the concerns of the profession persist, then the Council will revisit the Standard and adjust it.

While states have control over the practice of law and the bar admissions process, there is great benefit to students/graduates, bar admissions processes, law schools, and the profession in jurisdictions committing to a shared, common set of national educational requirements. It is cost-effective and efficient. That commitment acknowledges that the marketplace in which law schools and the legal profession operate is increasingly national. The benefit of a single set of standards considerably outweighs the costs and burdens of a more fragmented and balkanized system, even accepting that the ABA Standards are not perfect in anyone's eyes.

Certainly the many benefits of embracing a common set of rules suggest that before a jurisdiction adds educational requirements on top of what the ABA Standards require, a

² Accreditation standards set necessary and sufficient minimum requirements that apply to all approved programs. Beyond those base line requirements, schools are able to develop their own missions, programs, and requirements for a degree. This model has worked well for legal education. Among other things, it provided space for skills training and clinical legal education to grow and flourish.

compelling case should be offered. In the absence of data about the impact of new ABA Standard 303, that compelling case has not been established.

There are many other issues on which we could comment that go to the substance of the original TFARR recommendation.³ But our focus here is on the difficulties, expenses, and problems – particularly for law students and recent graduates – that we see flowing from California’s imposition of education requirements to sit for the bar examination that are out of sync with ABA Standard 303.

We think that the “wait, watch, and see” approach suggested by the PSRI proposal makes sense. We encourage its adoption. Please know that the Council and the Managing Director’s Office remain available to you and your colleagues to be helpful in any way that we can to your deliberation and to exploring ways that we might discuss changes in our process that would make it more likely to believe that your voice was heard.

c: Rebecca White Berch, Council Chair

³ For example, the move to require as many as fifteen credits of experiential learning is at odds with the movement in the Standards toward outputs, rather than inputs measures. Further, the TFARR proposal implicitly sends an anti-innovation message to law schools because it would occupy approximately one quarter of a student’s elective curriculum with a particular type of course and, to a certain extent, pedagogy.

July 7, 2016

Elizabeth R. Parker
Executive Director and Chief Executive Officer
State Bar of California
180 Howard Street
San Francisco, CA 94105

Dear Ms. Parker:

We understand that in a May 10th memo to the Admissions and Education Committee of the bar, you have proposed that the bar seek public comment on a revised set of bar admissions requirements (the Phased and Scaled Recommendation implementation (PSRI) plan for the pre and post-admissions requirements that emerged from the Task Force on Admissions Regulation Reform (TFARR)).

We write to strongly endorse your proposal to seek public comment on the PSRI. As legal educators, we have a keen interest in the TFARR proposals and their implementation, and we have an especially strong interest in any pre-admission requirements that would need to be satisfied when students are in law school.

Public comment will allow further factual development and deliberation on important matters associated with new requirements. Our sense is that many California law school deans do not currently even know of the existence of the PSRI plan. We believe that without an opportunity for public comment and discussion, California legal educators will be deprived of the opportunity to share their views, and the Bar will have missed an important opportunity to take those views under advisement in its own decision-making process.

Based on a reading of the May 10th memo, it is our understanding that the PSRI tracks some of the elements of TFARR, but also proposes a pre-admission requirement on experiential learning that, unlike the TFARR, would track the new, national ABA standard on experiential learning for all ABA-accredited law schools. While we would very much welcome the chance for further substantive comment, we will note here that we see significant merit to this revised approach.

In the spirit of continued deliberation, we know deans of law schools would also welcome the opportunity to discuss these issues in person. The upcoming ABA meeting in San Francisco in August might be a good occasion to facilitate such dialogue. It is likely that many deans of law schools will be present at that meeting and, if the State Bar of California could host a meeting to discuss the PSRI and other issues of mutual interest, we believe many deans would welcome the opportunity for further dialogue with the leadership of the State Bar of California. Another alternative, depending on the Bar's planned timing, might be the AALS annual meeting, which will also be held in San Francisco in January 2017.

Sincerely,

Erwin Chemerinsky

Dean and Distinguished Professor of Law
Raymond Pryke Professor of First Amendment Law
University of California, Irvine School of Law
Irvine, CA

David L. Faigman

Acting Chancellor and Dean
John F. Digardi Distinguished Professor of Law
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Fritz B. Burns Dean and Senior Vice President
Loyola Law School at Loyola Marymount University
Los Angeles, CA

July 15, 2016

To: Elizabeth R. Parker, Executive Director, State Bar of California
Teri Greenman, Executive Offices, State Bar of California

From: Niels Schaumann, Dean, California Western School of Law
Barbara Cox, Vice Dean, California Western School of Law
Linda Morton, Assoc. Dean of Experiential Learning, California Western School of Law

Re: Concerns regarding the proposed Phased and Scaled Recommendation Implementation (PSRI) of May 10, 2016

By email: Elizabeth.Parker@calbar.ca.gov; teri.greenman@calbar.ca.gov

We write to register our deep disappointment in the decision by a few members of the State Bar to reject the years of work by the TFARR Committee in creating a thoughtful and extensively-vetted proposal to require 15 units of experiential learning for all State Bar applicants.

California Western School of Law has already moved forward to require all of our graduates complete 15 units of experiential education, because we believe in the value of requiring experiential work along with traditional doctrinal classes. In fact, the faculty at California Western voted *unanimously* to adopt the requirement that each student graduate with a minimum of 15 units of experiential education. The concept was also supported by law school students, staff, and community members.

The State Bar's concerns appear to be fiscal, although costs of implementation were outlined long ago and no doubt apparent to the Board of Trustees when they voted in favor of the proposal almost two years ago. We will be implementing the requirement here at California Western and, while some costs may be incurred, the school is committed to providing this valuable training to all of our students.

To meet current applicant demand, law schools across the country are promoting their experiential learning programs. Experiential dean positions, Clinics, and Field Placement programs are expanding rapidly. Insuring that experiential learning occupy 17 % of the law school curriculum should not be viewed by schools as an onerous burden, but instead as a necessity for the profession to maintain its credibility.

C L E A

Clinical Legal Education Association

July 18, 2016

Via Electronic Communication

Elizabeth.Parker@calbar.ca.gov

Elizabeth Parker, Executive Director
California State Bar
180 Howard Street
San Francisco, CA 94105

**RE: CLINICAL LEGAL EDUCATION ASSOCIATION (CLEA) SUPPORT OF
THE CALIFORNIA STATE BAR 15 UNIT EXPERIENTIAL EDUCATION
REQUIREMENT**

Dear Ms. Parker:

On behalf of more than 1,300 law professors around the country who teach experiential units, Clinical Legal Education Association (CLEA) writes to express our support of the 15-unit experiential education requirement that the State Bar of California Task Force on Admissions Regulation Reform (TFARR) and the State Bar of California Board of Trustees unanimously passed in 2014. The 15-unit requirement was the product of several years of careful examination, study, and compromise, which included multiple rounds of public comment from law schools, deans, the legal community, and the public. Like many who participated in the multi-year process, CLEA is at a loss to understand why the Board of Trustees is being asked to reconsider the requirement it unanimously approved, or why there is need to delay for further public comment.

Founded in 1992, CLEA's mission is to establish clinical legal education as a fundamental component of the education of lawyers. For over 20 years, CLEA and its members have worked with the American Bar Association (ABA), the American Association of Law Schools (AALS), state bars and committees, and individual law schools to reform law school curricula, accreditation standards, and bar admission rules in order to improve the professional abilities of law school graduates.

Throughout the multi-year process that TFARR deliberated, CLEA was one of the many organizations that submitted written and oral comments. Though CLEA, like others, advocated for a broader requirement than the compromise that was ultimately agreed upon, we support the 2014 TFARR recommendation. You can find the reasons for our support in the forms of statements and letters submitted to TFARR on April 17, 2013, May 30, 2013, June 10, 2013, September 4, 2013, and September 10, 2014. While these documents are

available on the state bar and CLEA websites, we briefly restate our key reasons for supporting the 15 experiential unit requirement here.

1. The California requirement supplements the new ABA 6 unit experiential requirement to help ensure greater competency of new lawyers. It does not conflict with or undermine ABA Accreditation Standards. The TFARR 15 unit recommendation was carefully designed to be far more flexible than ABA Standards and allows students to comply through externships, summer clerkships, pro bono work, and partial credit courses. The idea that, by adopting TFARR's 15 unit recommendation, California would be creating some kind of "balkanization" of experiential education requirements nationwide is simply not correct.
2. Fifteen units of experience in professional settings (representing about one-sixth of a law student's total credit hours) are certainly the minimum necessary to ensure that law school graduates are ready to begin the practice of law.
3. Every other profession requires that at least one-quarter, and up to one half, of a graduate's pre-licensing education be in role in supervised professional practice, and a majority further require a period of post-professional school apprenticeship before licensing. The professional education training and licensing of lawyers falls very far behind the other professions. For your convenience, attached is a chart CLEA submitted to TFARR on September 4, 2013, that demonstrates the different requirements for practical skills training for various professions.
4. California has always been a leader in setting high ethical standards for the members of its bar and promoting access to justice. This 15 experiential unit requirement is consistent with California's leadership in these areas. We applaud Californians for their efforts to invest in public protection.
5. The claim that a new skills requirement for law practice will be too costly is not supported by any evidence. A number of schools already have the courses to meet the requirement without any demonstrable impact on costs to students.

We understand that the delay in moving forward TFARR's recommendations to the Supreme Court has caused some to want to revisit the integrity of the process and ability of law schools to implement this requirement. As the association that represents those who are tasked by deans and faculties to implement experiential education in our law schools, we believe that continuing to delay this highly vetted 15-unit requirement recommendation only discourages innovation in legal education and stymies the ability of our students to acquire the practice training necessary to represent the public in legal matters.

CLEA welcomes the opportunity to work with you to implement the 15-unit experiential requirement passed by the California State Bar Board of Trustees. We welcome the

opportunity to participate in any and all conversations about this bar admissions requirement with you, the Board of Trustees, and law school deans. We request that our letter be shared with the Board of Trustees who will make a decision on how to proceed with the 15-unit proposal.

Sincerely,

/s/

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

/s/

Maritza Karmely
Suffolk University Law School
Co-President, CLEA

cc: California State Bar Board of Trustees
(via email to: Teri Greenman at Teri.Greenman@calbar.ca.gov)

Experiential Education Requirements for Professional Schools

Law	Medicine	Veterinary	Pharmacy	Dentistry	Social Work	Architecture	Nursing
minimum of 1 credit of 83 required for graduation --- 1.2% of the student's course load --- in prof'l skills ₁	2 of 4 years in clinical settings ₂	minimum of 1 of 4 years in clinical settings ₃	300 hours in 1st year; 1,440 hours (36 weeks) in last year in clinical settings ₄	57% of education in actual patient care ₅	900 hours (18 of 60 required credits) in field education courses ₆	50 of 160 credits in studio courses (national licensing board's calculation of minimum needed for licensure) ₇	varies by state - e.g., Cal. 18 of 53 credits (1/3); Texas ratio of clinical to classroom of 3 to 18
1/83	1/2	1/4+	1/4+	1/2+	1/3	1/3	1/3+

(prepared by R. Kuehn, Washington Univ. School of Law (July 2013))

1. ABA Accreditation Std. 302(b)(4); ABA Consultant's Memo # 3 (Mar. 2010).
2. Molly Cooke, David M. Irby and Bridget C. O'Brien, "A Summary of *Educating Physicians: A Call for Reform of Medical School and Residency*" (2010).
3. American Veterinary Medical Association, "Accreditation Policies and Procedures of the AVMA Council on Education," Sec. 7.9, Std. 9 (2012).
4. Accreditation Council for Pharmacy Education, "Accreditation Standards and Guidelines for the Professional Program in Pharmacy Leading to the Doctor of Pharmacy Degree," Guidelines 14.4 & 14.6 (2011).
5. American Dentistry Association, "Accreditation Standards for Dental Education Programs" Std. 2-4 (2008); Massachusetts Bar Association, "Report of the Task Force on Law, the Economy, and Underemployment - Beginning the Conversation" 4 (2012).
6. Council on Social Work Education, "Educational Policy and Accreditation Standards," Educ. Policy 2.3., Accreditation Std. 2.1.3 (2012).
7. National Council of Architectural Registration Boards, "NCARB Education Standard" 24 (2012) ("The *NCARB Education Standard* is the approximation of the requirements of a professional degree from a program accredited by the National Architectural Accrediting Board (NAAB).").
8. 16 Cal. Code of Regulations § 1426; Texas Board of Nursing, "Rules and Regulations Relating to Nurse Education, Licensure and Practice," § 215.9(c).

July 19, 2016

Elizabeth Parker
Executive Director and Chief Executive Officer
State Bar of California
180 Howard Street
San Francisco, CA 94105
Via Electronic Communication: Elizabeth.Parker@calbar.ca.gov

Cc: California State Bar Board of Trustees
(via email to: Teri Greenman at Teri.Greenman@cal.bar.ca.gov)

Dear Ms. Parker:

It has recently been brought to our attention that you will be making a recommendation to the Board of Trustees at the July 21 –22nd meeting to solicit public comment regarding a proposal to reconsider the Board's unanimous approval of TFARR's recommendation of a 15-unit experiential learning requirement and replace it with a 6-unit requirement.

We write in our individual capacities as field placement directors and others involved in experiential learning from Northern and Southern California law schools to reiterate the support for TFARR's recommendations from the field placement and externship communities, and to provide some information about the rigor with which field placements are supervised.

To help provide context and information about the supervision provided to our externs receiving academic credit, we write to highlight the best practices we have developed and implemented. The member schools in Bay Area Consortium on Externships (BACE) and Greater Los Angeles Consortium on Externships, (GLACE) provide significant guidance and oversight to ensure our students receive adequate supervision in their field placement experiences.

Governed by our own law school rules and the ABA Standards and Rules of Procedure for Approval of Law Schools, Rule 305 (Field Placements and other Study Outside the Classroom), BACE and GLACE take seriously the requirements to have:

--A method for selecting, training, evaluating and communicating with site supervisors (ABA Standard 305(e)(4))

--For field placements that award three or more credit hours, regular contact between the faculty supervisor or law school administrator and the site supervisor to assure the quality of the student educational experience, including the appropriateness of the supervision and the student work (ABA Standard 305(e)(5)).

We support and hold our site supervisors accountable for providing the level of supervision and feedback to externs that meets our schools' and the ABA's standards. Every member school:

1. Has a process for screening and approving field placements;
2. Communicates with the field placement site supervisors throughout the student experience;

3. Conducts evaluations, through site visits and other contacts and by student evaluations of their placement experiences;
4. Maintains ongoing communication with their students in the field placements; and
5. Has relationships with site supervisors and offers to provide assistance and support when students are at their placements.

In addition, each fall, BACE conducts a supervising attorney training in which all active supervising attorneys are invited to meet and learn about best practices on a variety of topics including feedback, professional responsibility, and other related topics. Beginning in the summer of 2015, BACE conducted a summer teaching retreat for law school members responsible for these programs to discuss classroom and supervision issues impacting our students. We have invited our GLACE colleagues to join us as we present and discuss best practices in externship supervision.

In conclusion, we hear day in and day out from our students how hungry they are for meaningful experiential learning opportunities. We are confident that the externship programs at our schools are of the highest caliber and adhere to appropriate educational standards. We encourage the State Bar and our law schools to support the students' desire for high-quality experiential learning opportunities.

Thank you for your attention to our comments being submitted in our individual capacities,

Nira Geevargis

Director and Assistant Professor
Externship Programs
University of San Francisco School of Law

Brittany Glidden

Director of Externship and Pro Bono Programs
UC Hastings School of Law

D'lorah L. Hughes

Director of Externships
UC, Irvine School of Law

Lisa Mead

Director of Extern & Field Placement Programs
UCLA School of Law

Thiadora Pina

Assistant Director, Externship Program
Santa Clara School of Law

Sue Schechter

Field Placement Director
UC Berkeley School of Law

Teresa Wall-Cyb

Director of Externship Programs
Golden Gate University School of Law

Attachment: BACE Supervising Attorney Manual