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August 29, 2011

The Honorable Charles E. Grassley
United States Senate
Washington, DC 20510

Dear Senator Grassley:

On behalf of the American Bar Association, I am responding to your letter of August 8, 2011, to Stephen N. Zack; I succeeded Mr. Zack as ABA President on August 9.

As you know, the Section of Legal Education and Admissions to the Bar, as the Department of Education's accreditor for legal education, is required to operate independently and separately from the ABA. Therefore, the Section has again prepared a separate memo accompanying this letter to respond to your questions. We would also welcome the opportunity to meet with you to learn more about your concerns and to provide you additional background.

The ABA remains committed to assisting law students and law school graduates to find rewarding legal careers, and we appreciate your interest.

Sincerely,



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To: Senator Charles Grassley

From: Section of Legal Education and Admissions
to the Bar,
American Bar Association

Date: August 29, 2011

This memorandum is submitted in response to your follow-up letter of August 9, 2011, to now-Immediate Past President Stephen N. Zack. The Section of Legal Education and Admissions to the Bar (the Section) responded to your first letter on July 20, 2011. Upon receiving your follow-up letter, ABA staff spoke with a member of your staff, and offered to meet with you to discuss your concerns; we welcome the opportunity to meet with you to discuss these issues further should you wish to do so after reviewing the additional information provided in this memorandum. We also appreciate your staff's extending the time for this response to August 29.

As stated in our memorandum of July 20, 2011, the Section is separate and independent of the American Bar Association, as required by the Department of Education's regulations governing accrediting agencies.

In the following paragraphs, the Section addresses your follow-up inquiries in four parts, based on issue area, to promote clarity in our treatment of these issues:

1. Law Student Debt (## 1, 6)
2. Composition of Section Council and Committees (## 2-3)
3. Scholarship Retention (## 4-5)
4. Regulation of the Legal Employment Market (## 7-10)

1. Law Student Debt (Questions 1 and 6):

Although law school graduate student loan default rates are significantly lower than default rates for undergraduates, any unemployed law school graduate will face challenges repaying loans. The federal student lending programs have adapted to the economy by adopting new options for students who are financially challenged. Many of the lenders, such as the Access Group (the largest private lender to law students), are working to increase information available to student borrowers, as well as providing training and assistance for law school financial aid administrators.

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As noted in our memorandum of July 20, 2011, the Section has long-standing accreditation standards that seek to minimize student loan defaults. Standard 510 of the ABA Standards for Approval of Law Schools (the Standards) requires all accredited law schools to “take reasonable steps to minimize student loan defaults, including provision of debt counseling at the inception of a student’s loan obligations and prior to graduation.” Interpretation 510-1 states that student loan default rates shall be considered by the accreditation project in assessing the extent to which a law school complies with this Standard. Thus, law schools must provide debt counseling at both the beginning and end of the educational program, and take steps to minimize loan defaults; and the accreditation project considers loan default rates in determining compliance with the Standards.

To date, the Standards have focused on minimizing defaults and have not specified a default rate that is considered acceptable. Because the default rate for law school graduates has been comparatively low, establishing a benchmark is a challenge. The Council of the Section will be considering a revised Standard as soon as possible, and will report to the Department of Education on this matter before the summer of 2012.

The Official Guide to ABA-Approved Law Schools, which is produced jointly by the Section and the Law School Admissions Council, is developed specifically to provide guidance to prospective law students. It has chapters on becoming a lawyer, choosing a law school, financing a legal education, finding a job and career placement. This book, available in hard copy and on-line, is extremely useful to those who take advantage of the information and data presented in it. To assist law school graduates and lawyers in the current economic climate, the ABA also has a website with information on student loan repayment, job search assistance, and other resources.

Further, state bar examiners often take into account whether a law graduate has defaulted on financial obligations as part of their character and fitness assessment for admission to the bar. Generally, states do not admit graduates with defaulted student loans until the graduates enter into some type of repayment agreement. These bar admission standards work at the state level to minimize law graduate student loan defaults.

2. Composition of Section Council and Committees (Questions 2-3):

The memberships of the Council of the Section on Legal Education and Admissions to the Bar (the Council) and of Section committees comply with the Department of Education and Department of Justice governance requirements. As previously noted, the Section is independent from the larger ABA, as required by regulations governing accreditation.

The Section actively recruits sitting judges, practicing lawyers, public interest lawyers, bar examiners and others to serve on Section Committees and Task Forces. Diversity in the composition of the Council, Section committees and site evaluation teams is not limited to occupational categories. The composition of the Section’s committees and the Council are diverse in many different ways: by occupation, gender, race, ethnicity

and geography. For example, the current Chair of the Accreditation Committee is the Chair of the New York Board of Law Examiners and is a practicing lawyer. Ten of the nineteen members of the Committee are not connected by employment or in a governance capacity to a law school. The immediate past chair of the Council is the Chief Justice of the Supreme Court of Utah. Eleven of the twenty-one members of the Council are not employed by a law school or involved in the governance of a law school. Additionally, all site teams that visit ABA-approved law schools typically include practicing lawyers and judges. The Section conducts annual training workshops for judges, practicing lawyers, and other non-academics who will serve on site visit teams.

Again, the makeup of the Council and Section committees is in full compliance with Department of Education as well as Department of Justice requirements. The Bylaws of the Section require that "... Members of the Council shall be persons of integrity and intelligence who have evidenced interest in legal education or admission to the bar and whose participation is likely to be guided by the interests of the public and by the high standards of the legal profession, rather than any personal interest." The Council and Committee members all sign conflict-of-interest statements and abide by the Section's Statement of Ethical Practices, which among other things require recusal on matters affecting a school with which the member has a former or ongoing relationship.

3. Scholarship Retention (Questions 4-5):

Because law schools are not required to offer scholarships, and the terms and amounts of any scholarships vary widely among law schools, the Section does not specify requirements for the renewal of law school scholarships. However, as explained in our first memorandum, the Section is moving ahead to require more publicly available data on scholarship retention, both through its questionnaires and by a change in the Standards. The Standards currently require all schools to publish basic consumer information, in a fair and accurate manner, including information on tuition and refunds, financial aid, placement rates and bar passage. The Section is moving to require law schools to provide more specific data through the Annual Questionnaires on scholarship retention requirements and rates; this data will then be published by the ABA. The Standards Review Committee is considering a proposal to amend Standard 509 to require schools to publish on their websites specific data about scholarship retention rates. This information will permit entering students offered scholarships to fully understand both the requirements for renewal and the likelihood that they will meet those requirements.

4. Regulation of the Legal Employment Market (Questions 7-10):

The Section's accreditation mission is to (1) serve a fair, effective, and efficient accrediting system for American law schools, and (2) to serve, through its Council, as the nationally recognized accrediting body for American law schools. This mission does not include regulation of the legal employment market, and the Section does not

conduct economic research. Placing a cap on the number of law schools that will receive ABA-approval could be a violation of antitrust law, although increasing the level and rigor of the accreditation review, and adding new or more rigorous accreditation Standards, would not likely constitute a violation of law. However, as detailed in our first memorandum, the current process is very rigorous and the Standards are applied through a thorough and conscientious accreditation process that is reviewed and approved by the Department of Education. The Standards undergo regular periodic review and are currently under careful review to add additional requirements for transparency and rigor where appropriate.

The Standards currently use placement rates, along with bar examination passage rates, as key measures of a law school's educational program. Further, the Standards require law schools to provide basic student support services, including active career counseling services to assist students in making sound career choices and obtaining employment. The Section has very recently implemented new requirements for reporting more detailed placement data, which will permit the accreditation project to better evaluate the effectiveness of law schools' placement efforts. The Section is currently working on a revision to the Standards that will require law schools to affirmatively demonstrate that they are devoting satisfactory ongoing efforts to assist students in finding jobs and to promote student loan repayment when a school's placement rate falls below a specified level.

In closing, thank you for your continuing interest in law school accreditation Standards. We renew our request for a meeting with you and Section leadership to address any remaining issues you may have. Please feel free to contact us again if we can be of any further assistance.