January 5, 2018

Maureen A. O'Rourke  
Council Chair, ABA Section of Legal Education and Admissions to the Bar  
American Bar Association  
321 North Clark Street  
Chicago, IL 60654-7598

Dear Dean O'Rourke:

We write in anticipation of the February 2018 meeting of the Council of the Section of Legal Education and Admissions to the Bar to discuss the manner in which law schools report employment statistics for their graduating classes. We are troubled that the Council has abandoned its previous decision, reached in June 2017, to include full time, long term, bar passage required, school-funded public interest fellowships within the ABA’s calculation of full time, long term, bar passage required employment.

As nonprofit legal services and public interest organizations, we seek talented and motivated law school graduates to help meet current needs and to create a pipeline for future leadership in public interest law. Excluding school-funded public interest fellowships from the calculation of full-time, long term, bar passage required employment directly undermines both these goals. It harms talented and motivated students; it frustrates pursuits of the nation's public good; it casts doubt upon the accuracy of reported student employment outcomes; and it diminishes the reputation of the Bar itself.

Across the country, funding for entry-level positions in public service law is scarce. Opportunities for newly graduated lawyers to gain experience in public service law are similarly limited. Legal services and nonprofit lawyer organizations understandably reserve their scarce full-salaried job openings for lawyers with work experience and Bar admission. Law students face real challenges in obtaining the relevant postgraduate experience necessary to secure permanent public interest positions, even as organizations like ours face a desperate need for their time and talents.

Our nation needs more lawyers who are dedicated to ensuring that the least wealthy and the least powerful among us have equal access to justice. Equal Justice Works and Skadden should be praised for seeking to address the needs of clients and communities and for helping graduating law students pursue their ideals. However, these fellowships alone cannot meet the needs of the communities and clients we serve. By creating year-long public interest fellowships, law schools are also stepping up to the challenge posed by the justice gap.

When new lawyers join our organizations on year-long fellowships, they take on substantive legal projects that directly further our respective missions. In return, we treat them as what they are: public interest lawyers working in full time, long term, bar passage required positions.

The ABA’s exclusion of school-funded positions from the calculation of full time, long term, bar passage required employment has the direct and immediate effect of harming our clients and the communities we serve. This exclusion punishes law schools by treating their year-long fellowships as second-class employment, compared to other year-long opportunities. Under the current policy, law
schools are incentivized to decrease their support for such fellowships. More importantly, in the face of a staggering gulf between the amount of justice available for those who can afford representation and those who cannot, this differential treatment of school-funded fellowships signals a decreasing commitment to public service by the Bar. Why would the Bar seek to penalize schools who aim to encourage students to pursue public service law careers? Why close off avenues to public service when judges and Bar leaders urge that we redouble our efforts to provide legal representation to those who cannot afford it?

Furthermore, the policy of excluding school-funded fellowships also misrepresents student employment outcomes for law schools that fund such fellowships. Many of the paralegals, investigators, and legal assistants on staff at some of our organizations are recent college graduates who aspire to attend law school in the coming years. By obscuring actual employment outcomes for schools that fund public interest fellowships, the ABA’s current policy disserves staff members of some of us and other prospective law students, all of whom deserve and demand accurate information when selecting between schools. As mentioned above, when recent law school graduates with school-funded fellowships join our organizations, they work as full-time public interest lawyers. Excluding these attorneys from the ABA’s classification of students employed in full time, long term, bar passage required positions, solely because of the source of their fellowship funding, misrepresents their work and is simply inaccurate.

We look forward to your response and urge you to move forward with the June revisions to the Employment Outcomes Disclosure Form. Communities in need all over the country await your action.

Sincerely,

ACLU of Connecticut
ACLU of Maryland
ACLU of Massachusetts
ACLU of Michigan
ACLU of Pennsylvania
ACLU San Diego and Imperial Counties
ACLU of Southern California
ACLU of Utah
ACLU of West Virginia
ACLU Immigrants’ Rights Project
ACLU Speech, Privacy, and Technology Project
ACLU Women’s Rights Project
Advancing Justice-Asian Law Caucus
Advocates for Basic Legal Equality, Inc.

Americans for Immigration Justice
Asian American Legal Defense and Education Fund
Asian Americans Advancing Justice-LA
Ayuda
Brennan Center for Justice at NYU School of Law
Center for Constitutional Rights
Center for Popular Democracy
Charlotte Center for Legal Advocacy
CLEAR Project, CUNY School of Law
Community Legal Services, Inc.
Connecticut Veterans Legal Center
Her Justice
Human Rights First
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<td>National Immigration Project of the National Lawyers Guild</td>
<td>Urban Justice Center</td>
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CC: Pamela Lysaght  
Chair, Standards Review Committee