November 18, 2013

The Honorable Solomon Oliver, Jr., Council Chairperson
Barry A. Currier, Managing Director of Accreditation and Legal Education
Section on Legal Education and Admissions to the Bar
321 N. Clark Street, 21st Floor
Chicago, IL 60654-7958

Dear Judge Oliver and Mr. Currier,

Please find the final Resolution on Tenure Protection and the ABA, which was voted on by the faculty of Rutgers School of Law-Newark, October 24, 2013. As you can see, the vote was unanimous and we hope that the tenure standard requirement is retained.

Thank you for your consideration.

Sincerely,

[Signature]

Reid K. Weisbord
RESOLUTION ON TENURE PROTECTION & THE ABA
FACULTY MEETING, OCTOBER 24, 2013

TO: The Hon. Solomon Oliver, Jr., Council Chairperson,
Barry A. Currier, Managing Director of Accreditation and Legal
Education, Section on Legal Education and Admissions to the Bar (the
“Section”)
FROM: The Faculty of Rutgers School of Law – Newark
DATE: October 24, 2013
RE: Resolution Regarding Proposed Revisions to Standard 405

Motion by Dean Chen to vote on the resolution. MOTION PASSED (in favor; 37;
opposed 0; abstained: 1). The final text of the resolution was adopted unanimously.

We strongly support the protections of academic freedom provided by Standard
405—specifically, the language in subpart (b) that explicitly requires “an established
and announced policy” respecting tenure as a condition of law school accreditation—
and oppose any proposed change.

Historically, tenure has proven to contribute to freedom of thought, research and
public engagement—the essential elements of a creative and productive legal
education. This is especially relevant in public institutions like ours. The courts have,
in the wake of Garcetti v. Ceballos, 547 U.S. 410 (2006), whittled away speech
protections for public employees, leaving faculty vulnerable to dismissal and reprisal
for their opinions and beliefs, and clinical faculty under fire for the cases they pursue.
Tenure functions effectively to preserve free speech and free inquiry as bedrocks of
American legal education.

At the same time, we remain aware of the economic realities faced by many
institutions of legal education. Tenure, however, is not the root cause of these
challenges. Tenure provides a procedural protection, not a compensation guarantee,
and ought not be lumped together with declining enrollments, large law firm hiring
practices, rising student debt burdens, and a shrinking public sector, among other
things, as a contributing source of our current difficulties.

Finally, the burden for the proposed radical change in Standard 405 is on its
proponents, and, to date, their arguments are woefully unpersuasive.

We urge you to retain the long-standing protection of academic freedom provided by
Standard 405.

Respectfully submitted,
The Faculty of Rutgers School of Law – Newark