January 27, 2014

Hon. Solomon Oliver, Jr.
Council Chair
ABA Section of Legal Education and Admissions to the Bar
321 N. Clark Street
Chicago, IL 60654

Mr. Barry Currier
Managing Director of Accreditation and Legal Education
ABA Section of Legal Education and Admissions to the Bar
321 N. Clark Street
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RE: Recommendation and Request to Revise ABA Standard 305-3

Dear Judge Oliver and Mr. Currier:

In examining the various proposed revisions in the ABA Standards for Approval of Law School Matters for Notice and Comment (dated September 6, 2013) and receiving and reviewing feedback from over 1,000 ABA law student members, the Law Student Division Board of Governors urges the Council of the Section of Legal Education and Admissions to the Bar and the Standards Review Committee of the Section to also include a revision to current Interpretation 305-3 that would allow a law school to grant academic credit for a field placement program for which the law student receives compensation from the employer.

Proposed revision to 305-3:

“A law school may not grant credit to a student for participation in a field placement program for which the student receives compensation from the employer. This Interpretation does not preclude and/or reimbursement of reasonable out-of-pocket expenses related to the field placement.”

Revising Interpretation 305-3 to allow both academic credit from the law school and compensation from the employer would not require any action of accredited law schools, nor would it necessarily lead to a change in the status quo. Rather, allowing a law student to receive both law school academic credit and employer compensation would merely allow, not require, law schools and legal employers to take such action, if desired. The merits of Interpretation 305-3 have been challenged for several years and most fervently since the onset of the economic recession and subsequent decline of legal employment opportunities – both pre-graduation and post-graduation. As early as 2009, the Law Student
Division Assembly (the Division’s policy-making body comprised of ABA Reps and SBA Presidents from each ABA-approved law school) urged the Section of Legal Education and Admissions to the Bar to revise Interpretation 305-3 and remove the barrier for law students to earn both academic credit and compensation from a single field placement program opportunity.

Today’s law students continue to encounter increasing financial hurdles in financing their legal educations and securing legal employment. The cost of a legal education is at an all-time high while the job market for new lawyers is at an all-time low. With the shortage of paid legal jobs available before and after graduation, students cannot afford to pass up paid legal employment opportunities. Law students that are fortunate enough to obtain a paid externship that assists with their living and educational expenses do so at the sacrifice of receiving much needed academic credit. Other students are doubling-up, taking an additional unpaid externship to gain the equally needed educational credits. If permitted under a revised Interpretation 305-3, the paid externship could feasibly meet both the financial and educational objectives and reduce the need for a law student to hold multiple externships.

The Law Student Division surveyed its membership to gather feedback on Interpretation 305-3 via roundtable and panel discussions held at the Division’s four fall regional conferences which involved law students, as well as leaders in the legal education community who were familiar with the proposed standard revisions. The Division’s Board of Governors has discussed this issue intensely following the opportunity for comment. Additionally, the Division has surveyed and received extensive written feedback on current Interpretation 305-3 from over one thousand ABA law student members.

The survey results indicate that law students overwhelmingly believe that receipt of compensation and academic credit are not mutually exclusive concepts. A student may gain practical experience from their field placement experience regardless of whether they are paid. Permitting law students the ability to simultaneously receive compensation and academic credit is efficient, reduces the strain and scheduling challenges of the law student holding multiple externships/paid jobs, and increases the quality of their work given the double economic and academic incentives.

Approximately 95% of the 1,955 ABA law student member survey respondents indicated they would be more encouraged to pursue an externship if it provided compensation, with 743 of those law student respondents providing supplemental written comments further advocating their positions. About half of all respondents said they have had to choose between accepting a non-paying externship and a paying job. When asked if there was a concern of potential conflicts between a paying employer and achieving the learning objectives of an externship, most respondents indicated that they are held to a higher work standard and more accountable to their paying legal employers than those who are involved in unpaid externships. Nearly 90% of all respondents to the survey believed there would be no conflict
between the demands of an employer and the learning objectives of a law school if both academic credit and compensation were allowed in field placement opportunities.

The ABA Task Force on the Future of Legal Education also proposes the modification or elimination of Interpretation, which it refers to as 503(c), in its August 2013 Working Paper. The Standards Review Committee and the ABA Task Force on the Future of Legal Education have set out to make changes that improve legal education, and the Division’s request to review Interpretation 305-3 falls in line with such purpose and intent.

In further support of revising Interpretation 305-3, consider the impact of the Standard Review Committee's proposal to increase experiential credits to six (6) in Section 303(a)(3). Such a requirement would create a greater financial and academic burden on students. While this new requirement will help prepare graduates for practice, it also requires that they seek out more opportunities to earn credit outside of the traditional, theoretical law school classes. With the requirement of (6) experiential credit hours, students may have to forego paid internship or externship which may have an impact on their abilities to meet their financial obligations. Revising Interpretation 305-3 would further the goals of the Standards Review Committee regarding Section 303(a)(3) because students would be able to fulfill that academic requirement and potentially receive much needed compensation. Failure to revise Interpretation 305-3 would place students in a more difficult financial situation, while revision of Interpretation 305-3 would allow for more practical experience to be gained and lessen the financial burden on students.

Students seeking more practical experience are being drawn to “semester-in-practice” programs that allow students to work full-time for an employer and earn up to twelve (12) hours of academic credit. It is not uncommon for students in these programs to relocate to the employer’s city with the hope of securing full-time employment from the employer upon graduation. Students in these full-time programs have relatively little remaining time to take on a much needed paid position to offset their expenses, making this a significant hardship.

Eliminating the barrier in Interpretation 305-3 to receiving both academic credit and compensation for a field placement program will send a bold message to our nation’s law students that the ABA Section of Legal Education and Admissions to the Bar is committed to addressing some of the financial hurdles law students encounter financing their legal educations. We believe that this commitment will be well received by our law student members and non-members, particularly as the Association develops an increased presence in law schools across the county and recruits the next generation of ABA members and lawyers.

We welcome any future discussions regarding this request and thank you in advance for your consideration.
Respectfully submitted:

**ABA Law Student Division Board of Governors**

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