Dear Chief Judge Oliver, Mr. Currier, and Council Members:

This letter is sent to comment on the proposed revisions to Standard 303(a) (3). While I believe that experiential learning can be very valuable, I strongly oppose any effort by the Section to enact a new requirement that law students complete either 6 or 15 hours of experiential credits. Not only is this contrary to the spirit of the recent report by the Task Force on the Future of Legal Education’s message that one size fits all rules are to be avoided, but it also could actually harm efforts by schools to provide the rich experiences that its authors would promote.

We at the University of Chicago wholeheartedly support experiential learning. In the past four years we have added three clinics—Environmental Law, Human Rights, and Prosecution and Defense—to our well established clinical offerings that include the Mandel Legal Aid Clinic, the Exoneration Project Clinic, the Young Center Immigrant Child Advocacy Clinic, the Institute for Justice Clinic on Entrepreneurship, Corporate Lab: Transaction Clinic, and the Poverty and Housing Law Clinic. We also have a full-time pro bono director who coordinates hundreds of volunteer opportunities for our students to provide legal assistance. In addition, the Law School’s Committee on Professional Skills Development closely monitors the availability of professional skills courses. During the current academic year, 48 courses are being offered that fulfill the professional skills requirement set by the Accreditation Committee. Although all of our students complete at least one of these, many students elect to take two or more from this list, and numerous offerings on this list continue for more than one quarter and carry 9 to 16 credits for the multi-quarter enrollment.

While we are very proud of our diverse offerings, we are certainly not alone in making such a breadth of experiential learning available to law students. The ABA’s own Task force on the Future of Legal Education has within the past year called for a rebalancing “between doctrinal instruction and focused preparation for the delivery of legal services” with a “shift still further toward developing the competencies required by people who will deliver services to clients.” As the legal marketplace economy and the employment outlook for new lawyers have changed dramatically in recent years, many law schools have moved and continue to move toward a wide array of offerings. These range from intense in-house clinical offerings and simulation courses to supervised externships and field placements with legal service providers who partner with the law school in training and supervising students or recent graduates. The market, prospective student interests, and current student expectations have combined to reinforce legal education’s innovation and expansion of skills offerings and competency-based classes. Further regulation is not necessary to achieve these objectives.
In fact, more rigid accreditation standards could have a harmful effect on this innovation. As the Task Force cited above notes:

The system of accreditation administered by the ABA Section of Legal Education and Admissions to the Bar has served the profession and nation well. Today, however, it reinforces a far higher level of standardization in legal education than is necessary to turn out capable lawyers. The ABA Standards for Approval of Law Schools also impose certain requirements that increase costs without conferring commensurate benefits. The Task Force concludes that the Standards would better serve the public interest by enabling more attention to services, outcomes, and value delivered to law students. The Task Force recommends that a number of the Standards be repealed or dramatically liberalized.

By increasing the hours required for a specific course or type of class, law schools may well find themselves circumscribed in the number and type of other valuable courses that they can offer. For instance, they might be forced to trim their offerings in areas that tie together law and business, such as finance, financial analysis, empirical methods, and the decision sciences. These are areas that the legal marketplace is coming to value to ever greater extents. Students might also be limited in their ability to take a sequence of related courses or a large number of courses in a single area. An inability to specialize and obtain deep expertise in a field could similarly hold students back as they seek to enter practice.

Experiential learning is also quite expensive for law schools to provide. During a period in which law schools are endeavoring to decrease tuition or increase financial aid in order to ease the burden of loans on students, this can force law schools to face difficult and troubling choices. Larger law schools may find themselves forced either to increase the number of small class/skills courses and thereby increase the cost of legal education or, in the alternative, increase the size of these classes and thereby decrease the quality of the feedback and attention that instructors can provide to students. The unintended consequences of such a choice are damaging to both the quality of the student experience and the reputation of legal education.

Law schools that offer joint or concurrent degrees may similarly be limited in those offerings unless they are willing to extend the length and therefore the expense of law schools. These compressed degrees in law and fields such as business or public policy have provided graduates with tremendous value in a legal marketplace that increasingly demands either broad, multidimensional training or specialized expertise.

The University of Chicago Law School continues to support a rigorous analytical legal education that combines an emphasis on the life of the mind, participatory learning, and interdisciplinary inquiry. We think that legal education should provide an array of courses and experiences that enable lawyers to excel in a range of business and service professions in addition to the traditional practice of law. Standard 303(a) (3) imposes a homogeneity on the participatory learning component of this equation. It requires the very standardization in legal education that the ABA’s Task force warned against. It circumscribes a law school’s ability to
explore more effective ways of focusing on learning outcomes. It also inhibits the individual law student’s ability to maximize the selection of pedagogical styles, active-learning classes, and doctrinal courses that will serve her best in the legal marketplace.

For the reasons described above, we are concerned about the proposed revisions to Standard 303(a) (3), and urge the Council to not adopt any credit hour requirement for experiential learning.

Sincerely,

Michael H. Schill