April 8, 2018

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Section Council members:

I recommend the adoption of the proposed revision to Standard 503. There is extraordinary momentum building among ABA-accredited law schools in innovating – in curricula, in programs, in student well-being, in economic opportunity, in academy-bar-bench collaborations, and in facilitating access to justice. Paralleling these important developments has been a golden era in accreditation reform. Driven by creative thinking and, as best I can discern from the vantage point of a long-time dean and legal educator, an openness to input from myriad stakeholders, the Section has been hard at work at reforming and refashioning not only specific standards, but the overall philosophy of accreditation.

I commend the Section for this remarkable work, unfolding over the course of many years and with many courageous lawyer-leaders from throughout our profession. When we look back at this era, all of us in legal education should be admiring and supportive of the omnibus effort to rethink accreditation, this along a triptych paradigm of (1) consumer protection; (2) transparency, and (3) incentivizing innovation.

The proposed reform to Standard 503 is in the tradition of this salutary approach. And, with respect, the mostly LSAC-driven resistance to this reform is anachronistic and unhelpful. And, although this debate concerns just one among many accreditation standards, it is a bellwether of ongoing and future debates about the role of the Section in encouraging innovation among its member schools and in embracing a future in which law schools are working hard to develop new approaches to strengthen our fundamental missions and widen our horizons and our public responsibilities to access and opportunity in the profession.

You have data readily at hand about the Law School Admissions Test and also, to a growing extent, about the Graduate Record Examination. We now have a good sense that both are good tests. That is certainly the experience of those of us who have undertaken rigorous analysis of our student cohorts. These
studies, certainly ours, have been circulating for several months. And I am not aware of any serious critique of the study, its methodology or its conclusions. So, the objection to the GRE is little more than a red herring.

Beyond the debate about the efficacy of the testing analysis, we know this: Law schools themselves have the most to gain and the most to lose in deciding to one or another of these tests in doing their critical evaluations. A law school will use a sub-standard test for evaluating applicants at its peril. For they have the most to lose if the GRE (or another test) does not truly assist the school in admitting the best students. And if, as has been asserted, the GRE has a negative impact on the diversity of the student body, the results will be felt by the law schools which have a commitment to diversity in the student body which no one can seriously question. The deep assumption underlying LSAC’s sustained effort to ensure its monopoly over law school testing is that law schools cannot be trusted, and that it is only with the combined efforts of LSAC and the Section, that the public can be protected against unscrupulous law schools.

The choice for the Section on the 503 issue is a fundamental one: Can law schools be trusted to undertake admissions testing with the best interests of its students at heart? Can they be trusted to innovate in an effort – just as the growing number of law schools which have adopted the GRE as one possible test option – to widen the student pipeline and to potentially reconfigure one element of its admissions scheme? The LSAC’s claim is that they cannot be so trusted. Moreover, they claim that a continued hegemony in the testing space is the only security against mismanagement and mendacity, against retreat from hard-fought and hard-won diversity goals.

LSAC’s objection is fundamentally unwarranted. And, worse yet, it is misleading and even insulting to suggest that the ever growing number of schools who prefer to use the GRE as an alternative test in law school admissions are uninformed, less than rigorous in our internal analyses, and insufficiently committed to diversity in our profession.

The idea of law school innovation in testing is one whose time has come. I strongly urge the adoption of the proposed revision.

Sincerely,

Daniel B. Rodriguez