Remarks of Lauren K. Robel President-Elect Association of American Law Schools

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Thank you for this opportunity to speak with you today on behalf of the Association of American Law Schools. On behalf of our board, I am grateful to the Committee for including us in the process of reviewing the standards that inform law school accreditation.

I thought it might be helpful to start with a brief description of AALS. AALS is a membership organization of 172 U.S. law schools. We focus on enhancing the quality of legal education for the benefit of our profession and our society. A law school's membership in our organization signifies agreement with our association's core values. Member schools therefore strive for faculties composed primarily of full-time teachers and scholars. These faculties form self-governing intellectual communities devoted to teaching, creating knowledge about the law, and fostering respect for the profession's highest traditions. As members, our schools commit to rigorous academic programs built on strong teaching in the context of a dynamic curriculum and to a diverse faculty and staff selected and retained on the basis of high standards of teaching and scholarship. Finally, they commit to selecting students based upon intellectual ability and personal potential for success in the study and practice of law, through a fair and non-discriminatory process designed to produce a diverse student body and a broadly representative profession.

Our belief is that adherence to these core values creates and supports law schools where students can study and learn in intellectually vibrant institutions capable of preparing them for the many roles they assume in their professional lives as lawyers, leaders, and policy makers, and helps instill in them a sense of justice and public service.

All of the Association's members have also been accredited by the ABA, and we are among the groups that rely on the ABA's accreditation process. So we are united with you in two beliefs: 1) that a strong system of accreditation is critical to the quality of legal education, and 2) that excellent legal education is the foundation of a strong profession. Our mutual commitment to this vision is why the ABA and the AALS have cooperated so closely for so many decades to encourage and steward the academic quality of U.S. law schools.
We are also quite aware that the Standards Review Committee is facing enormous challenges to its work from various fronts. Those challenges include the cascading effects of the seriously weakened economy since the Committee began its work on the comprehensive review in earnest in 2008. Specifically, as we all know, the state of the economy has placed great strains on our students, our graduates, our law schools, and our profession.

Many of our schools are facing difficult financial choices. Like all of higher education, law schools rely on various combinations of tuition, private support, and public funds. Both the private and the public sources of funding have been under stress, which places greater reliance and emphasis on tuition at a time when it is harder and harder for students and their families to afford tuition increases.

High unemployment constrains employment choices and drives people to consider investing in their own human capital through legal education. But our students are understandably concerned about the amount of debt they are incurring and the opportunities that will exist to use their education when they graduate. These economic anxieties, both for students and for schools, are much more pronounced and acute now than when you began your work.

Your review occurs as well at a time when there is increasing evidence that the profession is facing structural changes that will have a long-term effect on our society and on the law schools that produce future lawyers.

The economy, coupled with a potential restructuring of the profession, causes many students and graduates to focus more intently on the quality of information available to help them to make decisions about their choices, whether it be about the continuing availability of scholarships or their employment opportunities after graduation. And sadly and indefensibly, there are instances where the information that law schools have provided to answer these questions has proven false or inaccurate.

In light of both our core values and these serious challenges, then, I appear to make four points.

First, we strongly and emphatically support the ABA's commitment to the integrity of the data it provides to the public, to our prospective and current students and graduates, and to the many other constituencies, such as the state licensing authorities and the federal government, that depend on the ABA's accreditation process. Nothing undermines the public credibility of our institutions more directly and immediately than the intentional misrepresentation of basic facts about our programs.

Some of the information the ABA requests from schools, such as admissions data, is straightforward. Other kinds of data, such as employment information, require more nuanced analysis and more difficult collection efforts. It will require judgment
on your part to balance the costs of more nuanced or deeper data collection and analysis against the value of the information to all of the constituencies served by the ABA accreditation process. But balance you must, and we completely and utterly support you in these efforts. Breaches of ethics and integrity by institutions that are supposed to be models of ethics and integrity to future members of the profession are intolerable.

Second, especially now when our institutions are under financial stress, we need to focus all of our efforts on assuring the continued strength of the parts of the enterprise that are fundamental to both its quality and to our continued competitiveness in a global marketplace. It goes without saying that it would be a mistake to approach the challenges we face by pulling back from our commitment to excellence in legal education. At a time when our global economic competitors are moving towards the US JD model of legal education, we need to sustain our commitment to the elements of that model that are foundational at the same time we recommit to innovation.

Through our efforts over the last decade to engage with our colleagues abroad in the formation of an International Association of Law Schools, AALS has gained insight into what educators, businesses, and governments in many other countries aspire to as they think of improving the quality of legal education. Again, and again, what we see is interest in adopting important elements of U.S. legal education. Those include interactive classrooms that encourage the expression of divergent viewpoints and develop critical thinking; the development of clinical programs that integrate theory, doctrine and practice; and, of course, the creation of full time faculties.

Many parts of the world have such institutions, but those that do not aspire to them, because they provide a powerful education that supports a robust rule of law. We are human institutions, which means by definition that we can be improved. But there is a reason our global competitors have been sending their brightest students to US law schools in large numbers, and are rapidly creating schools that mirror ours in important respects.

Our past communications with this committee have stressed that the cornerstone—the linchpin—of our model of legal education is its full-time faculty, and there really is no adequate substitute for it. The full-time faculty commit their professional lives to the integrity and quality of our educational institutions. This is the group that creates and monitors the content of our curricula, the quality of our teaching, and our visible commitment to public service and justice at our law schools. The permanent members of our law faculties have daily and ongoing responsibility to their students and to the institutions that serve those students. They are the people who have the primary responsibility to guide and mentor our future lawyers until they are out in the profession, and they often build lifelong relationships with our students. Accreditors visit intermittently. Deans come and go. And part time faculty provide important education to our students. But the full-time faculty remain the best assurance of educational quality in our schools, and it is their vision for and
commitment to these institutions, in partnership with the members of the bench
and bar who give so generously of their time and support, that is the best hope we
have of navigating these difficult times while retaining quality.

We have spoken at some length in our previous submissions to the Committee about
the importance of the permanent faculty to the mission, governance, strategic
thinking and curricular planning at our schools, and to scholarship in service of the
quality of the profession and the legal system. As you continue to assess the
standards, we ask you to keep the necessity of recruiting and retaining a full-time,
permanent, diverse faculty front and center.

[In that regard, we note that all of our schools have structured their employment
arrangements with the members of their full-time faculties in compliance with and
in reliance on the current accreditation standards. The draft of Chapter Four
contains two proposals concerning so-called security of position. One would
eliminate all of the many existing references to it in the standards; the other would
require that any form of security of position be extended on the same basis to all
full-time members of a law school's faculty. In our view, neither proposal is wise in
this fragile economy. The adoption of either proposal would, at a minimum, unsettle
the reliance of over 200 employers of several thousand full-time faculty members on
the existing system, under which every one of those faculty members was hired,
promoted, tenured, or given their contracts. In any legal framework, it would
require a powerful rationale to unsettle such a broadly-recognized set of principles
upon which institutions and human beings have ordered their relationships. It is
particularly unwise to require law schools to engage in an analysis of and reaction to
such a basic reordering at a time when all of their resources need to be devoted to
preserving their core academic functions.]

Third, we need to assure that the changes in the various parts of the accreditation
standards fit together seamlessly and coherently to support the academic quality
and missions of legal education. We reiterate our request that you, the Council, and
the many others who are interested in your work have an opportunity to look
collectively at the entirety of the changes you are suggesting----at one time, at the
end, before they are adopted----to assure that we understand the interrelationships
among the proposals; that we identify and avoid as many unintended consequences
as possible; and that we are able to identify and weigh the costs of the choices you
are proposing in the fullest light and context possible.

I recognize that the comprehensive standards review you have undertaken is an
administratively difficult process, and I also understand that this process has to
have a conclusion. But let me give you one example of where adopting what looks
like a sensible change in the standards in isolation, without having an opportunity
to consider its relationship to other changes, might have undermined both
transparency and the core strength of the schools. The Committee proposed---and
continues to propose----eliminating the interpretation that calculates a standard
student-faculty ratio at each school. The current guidelines for calculating the
faculty-student ratio are misleading and frankly bizarre, and rethinking those
guidelines is laudable. Eliminating any guidelines at all is not, and is in strong
tension with the goal of transparency that has come into sharper focus as this
process has continued. Looking at the interpretation in isolation, it is easy to see its
flaws. Looking at in the context of the broader set of information we need to
evaluate the quality of schools, and just as importantly, that our prospective
students need to compare institutions, it is clearer that its elimination could
unintentionally reduce both the total amount of, and transparency of, the
information available to students about a matter central to their educational
choices. It could also compromise the ABA’s ability to productively compare
institutions on a matter central to their quality.

Finally, going forward and independent of this process, all of the stakeholders in
legal education----the ABA, the AALS, our member schools and other organizations
that are deeply committed to the quality of and access to legal education----need to
work together to address the rising costs of a legal education. In a previous
submission, we requested that the SRC consider putting together a task force to
examine the costs of accreditation per se. We are happy to abandon that request in
favor of a suggestion that we join together to address these broader questions of
educational cost in an inclusive and full discussion among all constituencies. Legal
education is not unique in the pressures it faces. However, without a concerted
effort to work together to identify ways to reduce the cost of a legal education, we
will continue to be perceived, rightly, as unwilling to grapple with a central concern
at a time when educational cost is without question a critical piece of the national
agenda. We are happy to convene such a discussion, but you all have the data that
would make it productive.

Chairman Lewis, thank you and the committee so much for this opportunity to
discuss these important issues with you. I appreciate deeply the thought and care
you are giving to the accreditation standards, and the difficulties involved in the
judgments you are required to make. I understand, of course, that people of good
faith can and do reasonably come to different judgments about many of the issues
you face. Our board is grateful for the commitment you are making to engaged
dialogue about these issues with us, and we look forward to remaining fully engaged
with you as we go forward.