

# C L E A

## Clinical Legal Education Association

<http://cleaweb.org>

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June 10, 2013

Jon Streeter, Chairperson  
State Bar of California Task Force on Admissions Regulation Reform  
By email: [jstreeter@kvn.com](mailto:jstreeter@kvn.com)

Dear Chairperson Streeter:

I write on behalf of the Clinical Legal Education Association (“CLEA”) to express several concerns regarding the 6/11/2013 Phase I Final Report of the State Bar of California’s Task Force on Admissions Regulation Reform. As you know, CLEA has been generally supportive of the work of the Task Force and believes the proposals of the Task Force will have a positive impact nationally on choices that law schools and law students make. As a membership organization comprised of over one thousand teachers of professional skills courses, CLEA has a special interest and expertise in the issues surrounding the pre-admission skills education requirements under consideration by the Task Force.

We write to express, among other things, our disappointment that the 6/11 Report makes no reference to the information provided by CLEA in its May 31<sup>st</sup> submission to the Task Force. In that Comment, CLEA pointed out that, even with the adoption of a 15-credit pre-admission professional skills requirement, legal education will continue to lag behind all other professions in relation to the skills education that is required for admission. Other professions require that professional skills courses make up one-third to one-half of the applicant’s pre-admission credits. This is in contrast to the 15 skills credits recommended by the Task Force, which represents one-sixth of the total number of credits required for law school graduation. In addition, CLEA’s May 31<sup>st</sup> Comment provided information showing that a number of law schools already require more than 15 practical skills credits after the first year of law school and that many law schools require students to take either a clinic or externship in order to graduate. These data provide strong support for the Task Force’s recommendations.

On behalf of CLEA, I outline below five specific additional concerns raised by the 6/11 Report, each of which relate to the Task Force’s proposal regarding the pre-admission skills requirement:

*CLEA is the nation's largest association of law teachers, representing over 1000 dues-paying faculty at over 180 law schools. CLEA is committed to legal education that trains law students to be competent, ethical practitioners and to promoting access to legal representation. Its membership consists of law professors who teach students in their role as lawyers and who devote their energy and attention to identifying, teaching, and assessing proficiency in the skills and values essential to lawyering.*

Katherine Kruse, CLEA President, Hamline University School of Law, 1536 Hewitt Ave., MS-D2017, Saint Paul, MN 55104, 651-523-2472, [kkkruse02@hamline.edu](mailto:kkkruse02@hamline.edu)

1. The 6/11 Report includes, for the first time, an allowance for the required 15 course units of professional skills instruction to extend into the first year of law school, rather than restricting the 15 course unit requirement to the second and third year curriculum. As a result, the strength of the Task Force’s requirement is diluted. The Task Force states in its Report that the difference between requiring 15 course units of professional skills during three years of law school and requiring that same number of course units in professional skills after the first year should have minimal impact. This conclusion is based, however, on the assumption that “in a traditional law school model . . . all or most of the first year is devoted to doctrinal courses.” However, ABA Standard 302(a) requires a rigorous writing experience and instruction in legal research during the first year of law school. The Task Force should clarify, at a minimum, whether its pre-admission skills education requirement will include or exclude ABA-mandated legal research and writing courses.

Further, if the Task Force proposes to include course units representing first year legal research and writing courses, then the total number of pre-admission skills course units should be increased to 21 to prevent significantly watering down the requirement. The Task Force states that one of its goals in adopting the new skills requirement is to “create the incentive structure” for law students to choose “practice-based, experiential curricular options.” This incentive structure is substantially altered if students are required to choose only nine units of practice-based experiential courses after the first year of law school.

2. The Task Force should clearly identify the types of skills that will be considered to fall within the definition of “practice-based experiential learning” and should distinguish those skills from the skills taught in doctrinal courses, such as the skills of legal analysis and reasoning. To differentiate the kinds of courses the Report intends to target from traditional doctrinal instruction, the Report needs to use clear and unequivocal language. The Report could be more clear by repeating the phrase “practice-based, experiential” on p. 1 in the pre-admission recommendation overview and in the second paragraph on p. 16, to modify the kinds of courses the Report intends for schools to count toward the pre-admission requirement.<sup>1</sup>

3. CLEA renews its previously stated proposal (see CLEA’s May 31<sup>st</sup> Comment) that one-third of the pre-admission requirement—or five credits—should be devoted to skills training in real-practice settings through law clinics or externships. As the Dean of the University of California-Irvine School of Law recently stated, “there is no way to learn to be a lawyer except by doing it.” Dean Chemerinsky pointed out the absurdity of not requiring all students to handle real cases with real clients by remarking that “it is unthinkable that medical schools could graduate doctors who had never seen patients or that they would declare that they just wanted to teach their students to think like doctors.”<sup>2</sup>

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<sup>1</sup> The language on page 1 would then read as follows: “There would be two routes to fulfillment of this pre-admission competency skills training requirement: (a) at any time in law school, a candidate for admission must have taken at least 15 units of practice-based, experiential course work that is designed to develop law practice competencies. . . .” On page 16, the language would read: “There would be two routes for fulfillment of this pre-admission competency skills requirement: (1) in law school, where 15 units of practice-based, experiential coursework designed to foster the development of professional competency skills must be taken . . .”

<sup>2</sup> Law School Survey of Student Engagement, “2012 Annual Survey Results” (foreword by Erwin Chemerinsky).

4. The Task Force should carefully consider the list of “subject matter areas” that are intended to represent practice-based skills course work, which is set forth on page 16 of the Report, to avoid listing subject areas competencies that are also taught in traditional doctrinal courses, professional responsibility courses, and legal writing courses. Examples of such subject areas are “speaking and writing,” “professional civility and applied ethics,” and “basics of the justice system.” The Task Force should strive to achieve its stated goal of developing “competencies not covered by doctrinal learning.”

5. CLEA proposes that the Task Force create a bright-line rule that the 15 course unit pre-admission skills requirement apply only to those courses that meet the definition of “other professional skills” set forth in ABA Accreditation Standard 302(a)(4). This ABA standard requires that all law graduates receive “substantial instruction in ... other professional skills generally regarded as necessary for effective and responsible participation in the legal profession” and specifically defines such instruction as that which “engage[s] each student in skills performances that are assessed by the instructor.” Interpretation 302-3. Law schools may comply with this accreditation standard by providing students with a menu of courses that meet this professional skills requirement. Since the Task Force proposes self-certification by law schools of the 15-credit unit professional skills requirement in California, the administrative burden placed on the law schools would be greatly reduced if they were able to refer to a national standard with which they are already familiar. In addition, reference to the national standard should reduce the burden of oversight by the State Bar.

CLEA appreciates the opportunity to be heard as the Task Force deliberates these important reforms to bar admission. Professor Nancy Stuart, from the University of California Hastings College of the Law, will represent CLEA at the Task Force’s June 11<sup>th</sup> hearing to express CLEA’s concerns more directly.

Sincerely,

A handwritten signature in cursive script that reads "Katherine Kruse".

Katherine Kruse  
CLEA President