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August 8, 2011

Mr. Stephen N. Zack
President
American Bar Association
321 North Clark Street
Chicago, IL 60654-7598

Dear President Zack,

Thank you for your prompt response to my letter and for your commitment that “[n]o one could be more focused on the future of the next generation of lawyers than the ABA.” Your inclusion of the ABA’s report: “The Value Proposition of Attending Law School” is also appreciated. Please note, however, pages two and three of my previous letter already referenced the report.

In order to more fully understand the ABA’s regulation of law schools, law student debt, and law school accreditation, please answer the following questions:

1. The ABA’s report states:

Students are now competing for half as many jobs at top law firms.... Recruitment at many levels of the job market is declining by similar amounts. Although numbers are not available yet, many members of the class of 2010 and 2011 may graduate without a job, and those who are lucky enough to find employment likely will collectively have lower salaries than their predecessors. In short, the job market is more challenging than it has been in many years, as well-paying jobs are in short supply.

- a. Given these sobering statistics, are you concerned that graduates will have difficulty paying off their student loans?
- b. If so, what proactive steps is the ABA taking to address this problem in order to reduce the taxpayer dollars at risk?

2. Your letter states that “the accreditation-related Committees of the Section...are populated by a very diverse group of professionals.” However the data supplied by the Section states that of the three accreditation-related committees, legal academics and University Presidents and Vice-Presidents make up 48%, 52%, and 64%, respectively, of the total membership of each committee. Has the ABA taken any steps to make these panels more representative of the legal profession as a whole in order to minimize the appearance of a conflict of interest in favor or accrediting more law schools to create more jobs in academia?
 - a. If so, what steps has the ABA taken?
 - b. If not, why not?
3. Is it the ABA’s position that a committee composition which allocates approximately half of its seats to a legal specialty comprising a very small subset of the overall legal profession constitutes “diversity”?
4. The memorandum provided in response to my questions states that the ABA does not track retention rates because there is “no Standard regarding retention of scholarships.” It appears that the ABA could remedy this by creating a scholarship retention standard. Is the ABA currently pursuing research regarding the creation of a standard regarding retention of scholarships?
 - a. If so, when will this research be complete?
 - b. If not, why has the ABA made a decision not to conduct this research?
5. The memorandum states, “The Section has received no complaints about recipients not being given prior notice of the requirements to maintain their scholarships; therefore, the concern seems to be that students do not fully understand or appreciate the implication of those rules....” It appears however, that currently there is little readily available public data explaining how many merit scholarships are given at each law school, the extent of each law school’s curve, and the total number of students statistically doomed to lose their scholarship. This may lead to law students having difficulty “understand[ing] or appreciat[ing] the implication of those rules.”
 - a. Has the ABA examined solutions to swiftly increase transparency in what appears to be a rapidly growing problem for law students?
 - b. How does requiring mere adherence to a minimal notice standard “do everything possible” to assist the next generation of law students in making educated choices about actions which could lead to over \$100,000 in debt?
6. The “Additional Comments” section of the memorandum notes that the ABA “...does not have a benchmark for what is an unacceptable default rate.” As defaulted student loans

are paid for by the American taxpayer, is the ABA considering creating a benchmark for what is an unacceptable default rate?

- a. If so, what steps has the ABA taken to determine this rate?
 - b. If not, why not?
7. This section also states, “The purpose of accredited law schools is to graduate attorneys who can serve the justice system and the long term need for lawyers over a lifetime. ...[A]djustments in the number of students enrolling in law school to begin their careers cannot and should not be affected by short-range economic developments.” Given the current lack of employment opportunities for attorneys, what economic research has the ABA conducted which shows that there will be a dramatic increase in attorney employment opportunities in the long term?
 - a. What innovations and changes does the ABA expect to drive this increase?
 - b. There are many divergent views among economists regarding the current state of our economy and the prospects for an economic recovery. How has the ABA determined that our current economic state falls into the category of “short-range economic developments”?
 - c. Has the ABA taken steps to prepare for a situation in which our current “economic developments” persist into the long term?
 1. If so, what are those steps?
 2. If not, why has the ABA decided that this is an unlikely possibility?
8. The Section states, “[D]enying accreditation to an otherwise-qualified law school would be a violation of Department of Education regulations.”
 - a. Under Department of Education regulations, is it your opinion that it would be legal for the ABA to tighten accreditation restrictions in order to combat the presence of bad actors and law schools which do not offer meaningful employment opportunities for their students?
 - b. If so, what steps has the ABA taken to strongly regulate the legal accreditation process?
9. The Section also states, “[R]egardless of what some may see as the desirability of denying access to the legal profession on the basis of even medium-term employment opportunities, the accrediting agency simply cannot lawfully do so.” Please explain how a more restrictive accreditation standard would “deny access to the legal profession” and would violate the law.

10. The Department of Education's policies for accreditation standards, which you have provided in attachment #3, specifically cite "job placement rates" as a standard by which to accredit institutions. Is it your opinion that this section of the statute grants the ABA the power to craft regulations which would consider "job placement rates" as a standard by which to determine accreditation of individual law schools?

Thank you in advance for your attention to this matter. I would appreciate receiving your response to this letter by August 22, 2011. When responding, please number your answers in accordance with my questions. Should you have any questions regarding this matter, please do not hesitate to contact Chris Lucas on my staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary