

Society of American Law Teachers SALT

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October 13, 2010

Hulett H. Askew

Consultant on Legal Education

Section of Legal Education & Admissions to the Bar

American Bar Association

321 N. Clark Street, 21st Floor

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Dear Mr. Askew:

On behalf of the Society of American Law Teachers (SALT), we submit the following comments on the proposal to accredit foreign law schools that teach American law.

We also urge the Council to consider thoroughly the comments raised by others.

Accrediting foreign schools is a major change that warrants more complete consideration of the implications than is reflected in the Special Committee recommendation.

SALT is concerned both about whether the Council has or will have the knowledge it needs to accredit foreign law schools and about the message inherent in the proposed change: that United States' schools are the model that others should follow. Some countries might have more advanced systems of legal education than our own, others might not. The Council should seriously question whether the ABA is in a position to evaluate the quality of legal education offered in other countries, particularly in law schools operating within legal systems significantly different from that of the U.S. It also should consider whether this change in accreditation standards might be looked upon unfavorably by other countries, which might see this as yet another example of U.S. exceptionalism.

It is not clear from the Special Committee report whether what is contemplated is accrediting schools that prepare students for practice in both the United States and the country in which the school is located, or instead accrediting schools that are focused solely on American law. If the former, there are many unanswered (and unasked) questions about how two programs of that kind would be integrated and whether a school could effectively educate students to practice in two possibly very different legal environments. If the latter, the Council should consider the implications of accrediting a school whose graduates could be licensed in the United States, but perhaps not in their home countries, since the standards and educational programs

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might differ in important ways. For example, before licensure, students in many countries must complete an apprenticeship and a practicum course,¹ but there is no such requirement currently in U.S.-accredited schools. The Council should consider whether it is sensible to allow students from such countries to become licensed in the United States upon graduation from an ABA-accredited foreign law school when, without additional experience or skills courses, they would not be allowed to practice law in the country in which they attended law school.

Which leads us to the last point: SALT urges the Council to consider whether now is the time to make a decision about expanding ABA accreditation to foreign law schools. There are unanswered questions about whether the current standards can be effectively used to accredit non-U.S. law schools. But the current standards may not be the future standards. The Standards Review Committee (SRC) is considering comprehensive changes in the accreditation standards, and it seems impossible to determine whether standards yet to be adopted can be effectively used in such very different environments. That is especially true as ALDA proposes, and the SRC contemplates, removing many of the explicit standards and moving to a more deregulated environment. The quality of U.S. law schools is based largely in the quality of faculty, their deep involvement in the governance of their schools, and the protections accorded faculty through traditional commitment to the principles of academic freedom. Until the outcome of the review of the Standards is known, it is impossible to determine whether the Standards will demand such structures and protections, especially important if they are to be applied to institutions in vastly different societies, many without such long-standing traditions.

Moreover, SALT considers that a more urgent task is for the Council to weigh in on whether it should accredit LLM programs offered in U.S. law schools to prepare foreign lawyers for the practice of law in the United States. These programs are growing in U.S. law schools and yet no standards exist to regulate the admissions, curricula, or outcome measures to measure whether foreign lawyers are successfully being integrated into the practice of law in the United States. SALT is concerned that the absence of standards is affecting the quality of these programs, and consequently, the fairness of such programs to foreign lawyers.

SALT urges the Council to defer consideration of the proposal to change the rules and allow for ABA accreditation of foreign law schools pending completion of the comprehensive review of the accreditation standards. If the Council decides to move forward with this proposal, SALT urges the Council to give serious consideration to the issues raised in this letter and the issues raised by others who have commented.

Sincerely yours,



Raquel Aldana
Co-President



Steven Bender
Co-President

¹ E.g., Ireland, England, Scotland, and Canada require both an apprenticeship and successful completion of a practical skills course before lawyers may be licensed. Israel, Japan, Belgium, Czech Republic, Denmark, The Netherlands, Germany, Greece, Italy, Chile and Peru are amongst the other countries that require successful completion of an apprenticeship prior to licensing.