To: The American Bar Association
Scott Bales, Esq., Council Chair
William Adams, Esq., Managing Director of Accreditation and Legal Education
c/o Fernando Mariduena (Fernando.Mariduena@americanbar.org)

Re: ABA Standards – Matters for Notice and Comment – Standards 205, 206, 303, 507, and 508

I am a Clinical Professor of Law at Cornell Law School, and Director of the Cornell Securities Law Clinic, which I founded in 2008. I submit this letter in my individual capacity, in opposition to certain aspects of the ABA Proposed modifications to Accreditation Standards 205, 206, 303, 507, and 508 (the "Proposal").

I do not object to the expansion of prohibited discrimination to include under Standard 205, ethnicity, military status, and gender expression. I also have no objection to the revisions to Standards 507 (student loan programs) and 508 (student support services).

The proposed revisions to Standards 206 and 303, however, are objectionable.

I have signed a separate letter to be submitted by Gerald E. Hawxhurst, Esq., on behalf of numerous signatories, and I incorporate those comments here, particularly as relates to the ABA's unwarranted interference in academic freedom. I also support the comments of (a) six Yale Law School Professors (https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/comments/2021/june-2021/june-21-comment-yale-law-school.pdf, and (b) Professor David Bernstein (incorporating a critique by Prof. Brian Leiter) (https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/comments/2021/june-2021/june-21-comment-bernstein-and-leiter.pdf, and others who have pointed out the inconsistencies and vagueness of the proposals, particularly as relates to the pressure these proposals will bring on law schools arguably to unlawfully discriminate in order to achieve compliance.

I raise separately here a strong objection to this abuse of the accreditation power by the ABA to force an ideological viewpoint into the accreditation process.

Standard 206 adds the word "Equity" to the title and substance, without definition. "Equity" is a relatively recent buzzword associated with various Critical Race Theory offshoots, particularly that espoused by Prof. Ibram X. Kendi. It is hotly contested whether equality of results, rather than equality of opportunity, is an appropriate goal, particularly where discrimination is used to achieve equal results. Regardless, by injecting "equity" as a concept into accreditation process, the ABA uses its accreditation power to make what will be understood to be an ideological point and will take "equity" off the table for debate. That is not the role of ABA accreditation, and it is an abuse of power.

Standard 303 also would mandate courses related to racism:

> (c) A law school shall provide training and education to law students on bias, cross-cultural competency, and racism: (1) at the start of the program of legal education, and (2) at least once again before graduation.

Such curricula, if any, should be within the purview of individual law schools, and there is hardly a consensus around such mandates. In a somewhat analogous recent situation, there was a proposal to impose "anti-racism" educational mandates on students and faculty at Cornell University that ended up with substantial opposition in the Faculty Senate, resulting in no clear consensus for such mandates. See, https://www.forbes.com/sites/michaelpoliakoff/2021/06/03/how-will-cornell-balance-academic-freedom-and-anti-racism/?sh=580a8bb62b06. These are debates that are playing out at law schools around the country. Those debates should not be preempted through the force of ABA accreditation.

For the reasons set forth in the incorporated comments, and above, I urge the ABA to go back to the drawing board on these proposals, and not to use its accreditation power to advance an ideological result.

Respectfully submitted,

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