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March 12, 2015

VIA E-MAIL howla001@unm.edu

Joan Howland, Chair
ABA Section of Legal Education and Admissions to the Bar
University of Minnesota Law School
120B Mondale Hall
229–19th Ave. South
Minneapolis, MN 55455

Dear Chair Howland:

On behalf of the National Native American Bar Association (“NNABA”), I write to comment on the March 2, 2015 Memorandum (the “Memorandum”) of the American Bar Association (“ABA”) Section of Legal Education and Admissions to the Bar (the “Section”) Data Policy and Collection Committee (“DPCC”) that year-long school-funded public interest fellowships be classified as “short-term” employment positions. While NNABA supports the DPCC’s goal of transparency and agrees that law school reporting of employment data to the ABA be as comprehensive and complete as possible, NNABA believes that this recommendation could have the unintended consequence of providing disincentives for law schools to support such fellowships and to perpetuate the justice gap, which is particularly acute in Indian Country.

NNABA represents over 2,500 American Indian, Alaska Native and Hawaiian Native attorneys throughout the United States. As you know, Native Americans still represent less than 1% of all law students. Next month, NNABA will be releasing the first-ever comprehensive study of Native American attorneys, and this research will show that the motivations for Native Americans to attend law school are vastly different than the motivations of non-Native lawyers, with Native lawyers reporting that giving back to their tribe and fighting for justice in Indian Country are strong motivating factors for pursuing a career in the law.

Although it certainly is important for potential law students to select the schools they attend on full information about the employment status of their graduates, we think that implementation of the recommendation will substantially undermine the ability of talented and motivated law school graduates to improve access to justice for individuals and communities, particularly in tribal communities.

Unlike corporate law firms, organizations such as the Native American Rights Fund (“NARF”) and others like it simply do not have the funds to hire new graduates even though their time and talents are needed. Legal services, nonprofit lawyer organizations and some government agencies understandably reserve their scarce resources to employ lawyers with work experience and bar admission. Fellowship providers like the Skadden Foundation and EJW (which will continue to count as long-term employment) can fund only a few dozen law graduates in certain qualified positions. The law school fellowship programs are a very important supplement to their work.

For example, NARF has benefited this year from Columbia Law School's Social Justice and Government Postgraduate Fellowship Program, which allows one of its graduates to work with NARF and provide valuable assistance to its clients. At the same time, the Columbia graduate is obtaining the postgraduate experience necessary to secure a permanent public interest position with NARF or another organization.

Implementation of the DPCC recommendation will have the direct and immediate effects of harming NARF's clients and Native American communities and of diminishing the opportunities of law graduates to serve Indian Country. The DPCC recommendation will create a disincentive for law schools to support public interest employment by treating their one-year fellowships differently than other yearlong opportunities. The DPCC's initiative is out of step with the call by bar leaders, the judiciary and elected officials for creative solutions to address the great disparity between access to justice for those who can afford it and those who cannot. The ABA should encourage more law schools to support their graduates who serve the public interest, not punish the few who do.

I urge you to reject the DPCC recommendation.

If you have any further questions, do not hesitate to contact me via e-mail at marysmith828@hotmail.com or via cell at 202-236-0339.

Sincerely,



Mary Smith
NNABA President, 2013-2015