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August 21, 1998

The Honorable M. J. "Mike" Foster
Governor, State of Louisiana
P.O. Box 94004
Baton Rouge, LA 70804-9004

Re: Louisiana Supreme Court Rule XX

Dear Governor Foster:

Professor Robert Kuehn of Tulane Law School has asked that we write to you, providing information from the Association of American Law Schools ("AALS") on the recent amendments to Louisiana Supreme Court Rule XX.

The amended Rule XX is out of line with the student practice rules in neighboring states and in the nation as a whole. It is the most restrictive student practice rule in the nation in several respects. Specifically:

- No other student practice rule limits the representation of organizations to community organizations and prohibits the representation of organizations that have any affiliation with national organizations.
- No other student practice rule requires members of an organization to reveal their incomes, nor does any other state require that a majority of the organization's members meet some income or poverty restriction.
- No other student practice rule requires individual law clinic clients to meet federal poverty standards. Indeed, none of Louisiana's neighboring states even limits their clinics to representing only indigent clients. *See* TX. STUD. PRAC. R., R. IV(A); AR. R. XV(B)(1); MS. ST. § 73-2-207; AL. STUD. PRAC. R. § II(A).
- No other student practice rule seeks to restrict or prohibit clinic students from providing information or free legal assistance, since it is well established that solicitation of clients or cases is protected by the First Amendment provided the solicitation is not motivated by the law student's or lawyer's pecuniary gain.

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- No other state prohibits the representation of community organizations where a clinical program has provided legal assistance in forming, creating, or incorporating the organization.
- No other state prohibits law students from appearing in a representative capacity before the legislature.

The federal poverty guidelines adopted for use by the federally-funded Legal Services Corporation are extremely low, in part because they involve the use of scarce taxpayer funds. In our experience, limiting students to representing only the poorest of the poor means that the working poor will generally be unable to obtain legal help. Low-income working families might be able to hire a lawyer for the simplest of matters, such as drafting a will, but as a practical matter the amendments to Rule XX will mean that many citizens will be unable to afford counsel, especially in cases that take more than an hour or two of a lawyer's time.

Further, the prohibition on students working for local community organizations with national organization affiliations ignores the reality that most such community organizations still lack sufficient funds to hire a private attorney, as do community organizations without national organization affiliations. This prohibition also will mean that students will lose the opportunity to participate in some of the most pressing and important issues of the day.

Moreover, the invasive inquiry into the family incomes of persons who are members of purely local community organizations will chill the members of these organizations from seeking representation from law school clinics. This inquiry into members' incomes also ignores the fact that the organization or nonprofit corporation has its own separate legal identity, and any income eligibility requirement should look to the income of the organization or nonprofit corporation and not the persons affiliated with it.

Each of the fifty states now has a student practice rule. The states have promulgated these rules because leaders of the bench, bar and academia have concluded that "real-client" clinics are important components of a modern legal education. The amended Rule XX is the most restrictive student practice rule in the nation. We believe that it unduly interferes with the ability of law schools in the State of Louisiana to provide a first-rate legal education, and will effectively deny law students the opportunity to provide access to justice for the working poor and for many poor community organizations in Louisiana.

The AALS hopes that the Supreme Court will reconsider its recent amendments, and that you will join in the law deans' request to stay the amendments pending further consideration and an opportunity for the affected public and members of the Louisiana bar to comment.

Sincerely yours,



Carl C. Monk
Executive Director