A A L S
ASSOCIATION OF AMERICAN
LAW SCHOOLS

December 9, 1998

Patrick S. Ottinger
President
Louisiana State Bar Association
601 St. Charles Avenue
New Orleans, LA 70130

Dear President Ottinger:

I am writing on behalf of the Association of American Law Schools. As you may know, the A.A.L.S. opposed the recent revision of Louisiana Supreme Court Rule XX, entitled "Limited Participation of Law Students in Trial Work." The A.A.L.S. filed a submission concerning the Supreme Court's Student Practice Rule on December 17, 1997. Additionally, I wrote Governor Foster on August 21, 1998, repeating our opposition and requesting his help in repealing the revisions.

The Association of American Law Schools is now requesting the help of the Louisiana Bar in opposing these changes to the student practice rule. We understand that the Louisiana Bar is going to discuss Rule XX at its January meeting. The Executive Committee adopted the attached position paper, explaining the A.A.L.S.'s concerns about the restrictions contained in the revised rule. We hope that you will consider our views during your discussion.

I would be happy to discuss this with you at your convenience. Thank you for your consideration of this request.

Sincerely yours,

Carl C. Monk
Executive Director

Enclosure

cc: Robert Ellis Guillory, Jr., President-Elect, Louisiana State Bar Association
Loretta L. Topey, Executive Director, Louisiana State Bar Association
Executive Committee
Governor Foster and Louisiana Supreme Court Justices

CCM:eb
k:\home\beaner\q4\98-71

1201 Connecticut Avenue, N.W.
Suite 800
Washington, D.C. 20036-2605
PHONE: 202/296-8851
FAX: 202/296-8869
INTERNET: aals@aals.org
WEB SITE: www.aals.org

A A L S
ASSOCIATION OF AMERICAN
LAW SCHOOLS

POSITION STATEMENT REGARDING LOUISIANA SUPREME COURT RULE XX

1201 Connecticut Avenue, N.W.
Suite 800
Washington, D.C. 20036-2605
PHONE: 202/296-8851
FAX: 202/296-8869
INTERNET: aals@aals.org
WEB SITE: www.aals.org

Each of the fifty states 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.

Louisiana Supreme Court Rule XX, as recently amended by the Louisiana Supreme Court, is the most restrictive student practice rule in the nation. 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.
- 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 working families 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.

It is the view of the Association of American Law Schools that amended Rule XX unduly interferes with the ability of law schools in the State of Louisiana to provide a first-rate legal education and infringes upon academic freedom. Moreover, it effectively denies law faculty (as attorneys and supervisors of law students) the ability to practice their profession in a manner that is consistent with the rules of professional conduct. Finally, notwithstanding Rule XX's recognition that "the bench and bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services" (a principle that is equally recognized in ethical rules across the country), the amendments to Rule XX effectively deny law students the opportunity to provide access to justice for the many people and community organizations in Louisiana.

k:\home\beaner\q4\98-70