Professor Olivas was quoted in an article published in the National Law Journal and posted on the law.com website. He comments on his letter on behalf of the Executive Committee of the AALS to ABA officials requesting that its Standards Review Committee put on hold the current accreditation standards Comprehensive Review, to allow a more inclusive discussion of proposed standards.

The following article was posted on the Law.com website on Wednesday, March 30, 2011:

AALS urges delay in debate over law school accreditation standards

Karen Sloan


The Association of American Law Schools is not pleased with the American Bar Association's effort to update its law school accreditation standards, and has asked that the review be put on hold to allow for a broader debate about the purpose and vision of accreditation.

AALS President Michael Olivas sent a letter to ABA officials this week requesting that its Standards Review Committee reject proposals that he fears would "weaken" legal education. He asked the committee to allow time for "important constituencies" to understand and debate the proposals. Additionally, he asked that the commission undertake an "independent, fact-based study of the actual cost drivers in legal education, and their relationship with the accreditation process."

In an interview on March 30, Olivas said that the committee is prioritizing cost-cutting and efficiency over the quality of legal education, and that individual proposed changes are not being considered in the larger context.

"Our letter says that they need to step back and look at this from 30,000 feet," Olivas said. "There's just way too many moving parts, and there's been no serious opportunity for anybody to comment on the process to the committee. There are complex, interlocking issues, and this process doesn't allow the committee to see the interaction of all the individual parts."

Committee Chairman Donald Polden, dean of the Santa Clara University School of Law, referred questions about the AALS letter to Hulett "Bucky" Askew, the top administrator in the ABA's Section of Legal Education and Admissions to the Bar. However, Polden did take exception to the charge that the committee has not been open or receptive to feedback.

"In any event, after 2 1/2 years of working on the comprehensive review in a highly transparent manner, I have some definite thoughts about the AALS' recent request," he said, declining to comment further.

Askew said that putting the review process on hold would be problematic.

"We're 2 1/2 years into this and we have a mandate to do a comprehensive review every five years," Askew said. "To stop it now and start all over again with a large public process — which you can see from our Web site we've already had — would build in a large delay.
"We would argue that we've had that public debate," he said. "What's the argument for going back and doing it all over again, when the committee has spent hundreds of hours and have pleaded that people submit comments?"

Still, delaying or restarting the review process is an option that the ABA's Council on Legal Education and Admissions to the Bar or the Standards Review Committee could consider, he said.

Each of the proposed changes to the accreditation standards has been posted on the ABA's Web site, and the committee has encouraged interested parties to submit written comments, which it has posted online.

While the AALS wants the committee to step back and consider the larger goals of the accreditation and the review process, that's a step the committee has already taken, Askew said. Before the committee started drafting proposals, it agreed in 2009 upon a set of principles and fundamental goals. They include assuring education quality, advancing the core mission of legal education, accountability for law schools, clarity and precision in the standards, and assessing program quality and student learning.

The AALS did not object or comment on those goals when they were established, Askew said. Since then, the AALS, the Clinical Legal Education Association and the Society of American Law Teachers have submitted comments that have become more critical over time.

None of the proposed standards have rankled educators more than changes to so-called "security of position" for faculty members. The committee has interpreted the existing standards to say that schools are not required to maintain tenure systems. Many educators insist that they do. The proposed standards would make clear that schools are not required to have tenure, and would remove certain contract requirements for nontenured faculty including clinicians.

That's a prime example of how different proposed standards contradict each other, Olivas said. On one hand, the committee wants to make skills training a bigger part of law school curriculum — a change many legal educators support. At the same time, the committee has proposed weakening the position of the clinicians who provide that key training, he said.

Among the AALS' other objections are that the committee has proposed removing a requirement that law schools consult the Law School Admission Test or "another valid and reliable admission test" in admissions decisions. Olivas said there have been no studies into what it would mean to move away from the LSAT.

The AALS also warned of proposals to reduce the financial protections law schools enjoy under the existing standards. For instance, the committee is considering dropping a requirement that "resources generated by a law school that is part of a university should be made available to the law school to maintain and enhance its program of legal education." Without that standard, "the temptation to see law schools as even richer cash cows seems almost inevitable," Olivas wrote.
The AALS objects to a proposal to increase the number of credit hours students can take via distance learning. "The proposed standards may well ease financial pain at law schools, but they may also lead to a 'race to the bottom,' as schools find they can reduce their offerings and services while still remaining accredited," Olivas wrote.

Contrary to Olivas' assertion in his letter, slashing law school operating costs is not the committee's guiding principle, Askew said.

"I think the AALS' perception is that we're going too far and building in too much flexibility and eliminating mandated requirements," he said. "The other side of it is that you need to provide law schools with the flexibility to adapt to a changing legal profession. That's the balance that needs to be struck."

The debate over the accreditation standards review will heat up this weekend, when the committee meets for two days in Chicago. The meeting will kick off with an open forum, during which interested parties may share their thoughts about the review process. Olivas said he is not pleased, however, with the 10-minute limit for speakers.

"The kabuki dance is one that all of us must participate in," Olivas said.

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Professor Olivas was quoted in an article posted on the Chronicle of Higher Education’s website, commenting on the proposed changes to the standards the ABA uses to accredit law schools.

The following article was posted on the Chronicle of Higher Education’s website on Wednesday, March 30, 2011:

Will Law School Pay Off? Proposed Change Would Give Applicants the Data to Decide

By Katherine Mangan

http://chronicle.com/article/Will-Law-School-Pay-Off-/126942/?key=Hjp71gdbxVfbHA3ZG5Fnj8HP3JuYUp7a3cZOCkhblBREA%3D%3D

Law schools would be required to post detailed information about the cost of a legal education, as well as the success their graduates are having in landing full-time, law-related jobs, under one of several proposals up for discussion at a meeting of the American Bar Association this weekend.

Legal educators will gather in Chicago to weigh in on that suggestion and other proposed changes to the standards the ABA uses to accredit law schools.

One of the proposals the Standards Review Committee of the ABA Section of Legal Education and Admissions to the Bar is considering would address widespread concerns about how law schools inform potential students about their costs and placement rates. It comes at a time when applications to law schools are taking a nosedive.

The Law School Admission Council confirmed on Wednesday that, with about 90 percent of applications for next year received, the number of applicants is down 11 percent from the same time last year. That’s the lowest it has been at this point since 2001.

Experts attribute the decline to the rising cost of law school and the diminished job prospects for graduates—factors that have resulted in a flurry of news articles and blog entries questioning the value of a law degree. In addition, with the economy slowly improving, some students who might have headed to law school to delay entering the work force are feeling more optimistic about getting jobs today, admissions officials say.

The University of Kansas School of Law, for instance, extended its deadline by one month, to April 15, but it still expects applications to be down 15 percent to 20 percent from last year.

Under the proposal that would require schools to post detailed job-placement and cost information on their Web sites, potential applicants would get a more realistic picture of whether their investment would pay off.

Another proposal before the standards committee would raise the required passage rate on the bar exam from 75 percent to 80 percent. Other suggested changes would allow schools to drop
the Law School Admission Test as an admissions requirement and require schools to design and apply new methods to measure how much students are learning.

And perhaps the most controversial suggestion would eliminate what many consider a requirement that law schools offer a tenure system. Law schools could retain tenure, or instead devise their own, possibly cheaper, ways to ensure that professors have academic freedom.

Donald J. Polden, dean of Santa Clara University School of Law, says the committee, which he chairs, is trying to make the accreditation process more flexible and less expensive for law schools, while providing prospective students with more accurate information.

But some legal experts worry that the committee is moving too fast.

Michael A. Olivas, a professor of law at the University of Houston and president of the Association of American Law Schools, says giving each speaker 10 minutes to address such a wide range of topics is not enough.

"My biggest concern is that they want to do way too much all at once," Mr. Olivas said in an interview this week. It is difficult to understand how the proposals interrelate unless they're examined together, and some of the proposed changes were only posted online less than two weeks before the deadline for people who want to speak to submit written comments, he said.

"This wasn't designed to be a discourse, but a slam, bam, thank you, ma'am."

Arming Students With Information

The proposed changes and the dozens of written comments they have generated are now posted on the standards committee's Web site.

The consumer-information subcommittee described the existing standards on the job-placement data schools must disclose as "vague" and said that as a result, law schools often provide limited information that is hard to compare from school to school and is sometimes misleading.

The proposed change would apply a more consistent approach, requiring each law school to fill a chart with detailed employment data, including the percentage of jobs that are full- or part-time and whether they are related to the legal profession. (Currently, schools aren't required to detail the types of jobs their graduates have, so students who are working as bartenders or store clerks are counted as employed.) Each school would have to post the chart on its Web site and update it annually.

"This new standard will, if adopted, provide more meaningful and consistent employment information to prospective students," the subcommittee wrote. "We believe that this information will greatly assist prospective students in making informed decisions about whether to go to law school or which school to attend." The proposed change would not require much more work for law schools, the subcommittee wrote, because they already collect the information that would be on the chart.
Among the groups that have been pushing for such a requirement are the ABA's Young Lawyers Division, which, in February approved a resolution urging law schools to provide better, more accurate information about job prospects and law-school costs to prospective law students.

A nonprofit group called Law School Transparency has also been prodding schools to provide students with more reliable employment data.