

CLEA

Clinical Legal Education Association

<http://cleaweb.org>

Paulette J. Williams, President
Michael Pinard, Vice-President
Suzanne J. Levitt, Treasurer
Paula Galowitz, Secretary
Susan L. Kay, Past President

Mark Aaronson
Claudia Angelos
Jeanne Charn
Christine Cimini
Kim Diana Connolly
Mary Jo Eyster
Keri K. Gould
Steven J. Gunn
Bill Ong Hing
Margaret Moore Jackson
Randi Mandelbaum
Ellen Marrus
Laura Rovner
David Santracroce
Jeff Selbin

Past Presidents:
Susan L. Kay 2006
Alexander Scherr 2005
Antoinette Sedillo Lopez 2004
Annette Appell 2003
Peter Joy 2002
Carrie Kaas 2001
Stacy Caplow 2000
Margaret Martin Barry 1999
Sue Bryant 1998
Bob Seibel 1998
Nina Tarr 1997
Karen Tokarz 1996
Jane Aiken 1995
Richard Boswell 1993-1994
Liz Ryan Cole 1992-1993

Paulette J. Williams
University of Tennessee
College of Law
1505 West Cumberland Ave.
Knoxville, TN 37996
pwilliam@law.utk.edu
(865) 974-9796
(865) 974-6782 fax

September 25, 2007

Hulett H. Askew, Esq.
Consultant on Legal Education
ABA Section of Legal Education and Admissions to the Bar
American Bar Association
321 N. Clark Street
Chicago, IL 60610

Dear Bucky,

We submit this letter to add our voice to the discussions involving the proposed revisions to Interpretation 405-6. We understand that the Subcommittee on 405-6 met recently and made preliminary recommendations “to improve the clarity of the current interpretation.” Specifically, we write to reiterate our position that Interpretation 405-6 now requires, and should continue to require, that all long-term contracts for clinical faculty must be at least five years in length and presumptively renewable.

We hope that that, in the end, the subcommittee recommends that 405-6 continue to provide protections to clinical faculty that are “reasonably similar” to tenured and tenure-track faculty. As a result, 405-6 should require renewal of contracts absent a showing of “cause” for termination. Moreover, this presumption should not be linked to the additional protection of academic freedom, as both of the proposed revisions suggests. Indeed, academic freedom is a separate right under 405-b, one that protects all clinical teachers, regardless of status.

CLEA is concerned that changing the Interpretation in a way that makes presumptively renewable contracts a mere example of one way to protect academic freedom will strip away protections currently afforded long-term clinical faculty. Academic freedom is simply not a sufficient protection against the danger of non-renewal. Such a vague standard will lead us all back to where we are now: Having schools parse language in Interpretation 405-6 in ways that marginalize clinical faculty, and recreating the hierarchal class systems that the interpretation was designed to eliminate.

We ask the subcommittee to consider, when issuing its final recommendations, the historical backdrop that led to Interpretation 405-6. We also ask the subcommittee to consider the ways in which schools, despite the protections of this interpretation, continue to marginalize all clinical faculty, including those they assert to be on long-term contracts.

In the end, we hope that Interpretation 405-6 can finally fulfill its purpose, which is to provide clinical faculty “[a] form of security of position reasonably similar to tenure.” At a minimum, this requires that long-term contracts must be presumptively renewable, and therefore can only be terminated “for cause.”

Please find enclosed CLEA’s Statement on the Recommendations of the Accreditation Policy Task Force on the Security of Position of Clinical Teachers, dated August 6, 2007; CLEA’s letter to the ABA Section of Legal Education and Admissions to the Bar, dated May 1, 2007; CLEA’s letter to the ABA Section of Legal Education and Admissions to the Bar, dated March 5, 2007; and CLEA’s Memorandum to the Council on Legal Education and Admissions to the Bar, dated June 16, 2005. These documents illustrate CLEA’s position on this issue, both when Interpretation 405-6 was being drafted, and when it was being applied.

We thank the Subcommittee on Interpretation 405-6 for its continued work on these vital issues.

Sincerely,

Michael Pinard
CLEA Vice-President