

# C L E A

## Clinical Legal Education Association

<http://cleaweb.org>

### **Executive Committee:**

Robert Kuehn, President  
Ian Weinstein, Vice-President  
Claudia Angelos, Treasurer  
Katherine Kruse, Secretary  
Kim Diana Connolly, Past  
President

### **CLEA Board:**

Sameer Ashar  
Lisa Bliss  
Esther Canty-Barnes  
Jeanne Charn  
Evelyn Cruz  
Leigh Goodmark  
Carolyn Grose  
Renee Hutchins  
Donna Lee  
Laura McNally  
Binny Miller  
Jeff Pokorak  
Yoli Redero  
Jenny Roberts  
Michael Robinson-Dorn  
Jeff Selbin  
Kele Williams

### **Past Presidents:**

Kim Diana Connolly 2009  
Michael Pinard 2008  
Paulette Williams 2007  
Susan L. Kay 2006  
Alexander Scherr 2005  
Antoinette Sedilla 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

*Robert Kuehn*  
CLEA President  
Washington University School of Law  
Campus Box 1120  
One Brookings Drive  
St. Louis, MO 63130-4899  
314/935-5706  
[rkuehn@wulaw.wustl.edu](mailto:rkuehn@wulaw.wustl.edu)

### **Hand-delivered**

May 10, 2010

Senator Ann Duplessis, Chair  
Louisiana Senate Commerce, Consumer Protection, and International  
Affairs Committee

Re: Senate Bill 549

Dear Senator Duplessis:

As the nation's largest association of law teachers, the Clinical Legal Education Association (CLEA) writes to express its serious concerns with Senate Bill 549's attack on the clinical programs at Louisiana's four law schools (Louisiana State University, Loyola University, Southern University, and Tulane University). The provisions in this bill demonstrate a failure to understand the importance of providing access to legal representation to all citizens, rich or poor, and the structure of contemporary legal education. Those supporting this bill appear more concerned about protecting favored businesses from compliance with the law and punishing the state's universities than about higher education and access to justice.

As with other professions, hands-on work is a necessary part of a solid legal education. Every law school in America is thus required by the American Bar Association to provide its students with the opportunity for real-life practice experience courses, and clinics at the state's four law schools do an excellent job of providing these experiences. Law clinic training benefits not just law students but all the citizens of Louisiana by both training ethical, skilled attorneys and providing countless thousands of hours of free legal assistance each year to those who otherwise cannot afford attorneys.

(CLEA is the nation's largest association of law teachers, representing over 750 dues-paying faculty at over 150 U.S. law schools. CLEA is committed to legal education that trains law students to be competent, ethical practitioners and to promoting access to legal representation. Its membership consists of law professors who teach students in role as lawyers and who devote their energy and attention to identifying, teaching, and assessing proficiency in the skills and values essential to lawyering.)

In order to appear in court, clinic students swear to follow the Louisiana Supreme Court's oath for lawyers, which, among other ethical obligations, commits every attorney in the state to "never reject, from any consideration personal to myself, the cause of the defenseless or oppressed." Consistent with this oath, when Louisiana residents found themselves homeless after Hurricane Katrina and unable to afford private attorneys, they turned to the state's law clinics and were provided free legal assistance. When the elderly are victimized by unscrupulous contractors or salespersons, the state's law clinics are available to lend a free hand. When taxpayers have a dispute with the IRS, the law clinics are there. And, when persons with disabilities find themselves the targets of discrimination, clinic students can help.

Each of Louisiana's well-regarded law schools has a vibrant clinical program, training hundreds of students each year in the professional skills needed to practice law. LSU's new clinical program already offers students the opportunity to participate in four different clinics. Students at Loyola can choose among seven different law clinic fields of practice. Southern's seven clinics run the gamut from civil law to elder law to tax law. Tulane likewise offers students the chance to participate in seven different clinics, which, like the state's other clinics, represent people who would otherwise go unrepresented or get a lawyer paid for by the state.

Most of this good work on behalf of the state's needy residents would be wiped out by Senate Bill 549, which prohibits the filing and defending (via a motion) of most lawsuits and would leave clinic students unable to fulfill their ethical obligation to zealously represent their client's cause by prohibiting state constitutional claims or monetary damages in the few non-criminal court actions that might still be available. The Louisiana Supreme Court has already imposed the nation's most stringent student practice rule on the state's law clinics. This bill would go much further and, for the first time anywhere, put legislative commerce committees in charge of a state's legal education and regulation of court appearances.

The question is why. The proponent of this bill, the Louisiana Chemical Association, is quoted as seeking to financially "kneecap" Tulane University for its law clinic's audacity to represent citizens bringing legal actions to protect the environment. So, while the Gulf churns with oil and the state mourns the deaths of 11 oil rig workers, the Louisiana legislature is being asked to serve up a favor to the state's petrochemical industry by harming New Orleans' largest employer (Tulane) and crippling the state's clinical legal education. If anything, your committee should be commending these universities for the job they do in creating an educated workforce, supporting the state's research needs, and serving the state's disadvantaged citizens.

Legal disputes should be settled in court not through restrictions on higher education and threats to bankrupt universities. If those seeking to close down law clinics think a case is frivolous, they can seek sanctions in court. This is a common legal maneuver, but we understand that, to date, no court has seen any basis to impose such sanctions on any of the state's law clinics. Yet, if the opponents of clinic cases have violated the law, let them be punished like everyone else. And if they have violated no laws, then they of course have nothing to fear from a legal proceeding that will judge those issues. But no one should be granted what this bill seeks - to be placed above the reach of the law because of their money and influence in the legislature.

We strongly urge you to reject Senate Bill 549 and this effort to punish these universities and cripple their clinical programs. Let's leave the business of higher education with university officials, the regulation of lawyers under the watchful eyes of the Louisiana Supreme Court, and the legal needs of thousands of less fortunate Louisiana residents still in the helping hands of the state's outstanding law clinics.

Sincerely,

 Robert R. Kent

 Claudia Angelos

Clinical Legal Education Association

cc: Mike Martin, Chancellor, Louisiana State University  
Rev. Kevin Wildes, S.J., President, Loyola University New Orleans  
Kofi Lomotey, Chancellor, Southern University  
Scott Cowen, President, Tulane University  
Jack Weiss, Chancellor, Louisiana State University Law Center  
Brian Bromberger, Dean, Loyola University New Orleans School of Law  
Freddie Pitcher, Jr., Chancellor, Southern University Law Center  
Stephen M. Griffin, Interim Dean, Tulane University School of Law