

## **Standards Review Committee Meeting Agenda July 12-13, 2013**

Chicago, IL

Friday, July 12, 2013

8:30 a.m.	Welcome and Introductions Approval of April Meeting Minutes	Jeff Lewis
8:45 a.m.	Chapter 1: General Purposes and Practices	Tom Edmonds (chair) Bob Cooper Scott Pagel
10 a.m.	Break	
10:15 a.m.	Proposed Standard 405: Professional Environment Proposed Standard 206(c): Dean Proposed Standard 603(d): Library Director	Reese Hansen (chair) Tom Edmonds Susan Kay Lisa Kloppenberg
12 p.m.	Lunch	
1 p.m.	Chapter 3: Academic Program	Jeff Lewis (chair) Anthony Caprio Jim Hanks Susan Kay Lisa Kloppenberg Peter McDonough
3:15 p.m.	Break	
3:30 p.m.	Proposed Standard 315: Bar Passage	Catherine Carpenter (chair) Erica Moeser Kurt Schmoke Peter McDonough
5 p.m.	Adjourn	

Saturday, July 13, 2013

8:30 a.m.	Proposed Standard 401: Qualifications Proposed Standard 402: Size of Full-Time Faculty Proposed Standard 403: Instructional Role of Faculty Proposed Standard 404: Responsibilities of Full-Time Faculty Definition of Full Time Faculty Member	Reese Hansen (chair) Tom Edmonds Susan Kay Lisa Kloppenberg
10 a.m.	Break	
10:15 a.m.	Proposed Standard 401: Qualifications Proposed Standard 402: Size of Full-Time Faculty Proposed Standard 403: Instructional Role of Faculty Proposed Standard 404: Responsibilities of Full-Time Faculty Definition of Full Time Faculty Member	Reese Hansen (chair) Tom Edmonds Susan Kay Lisa Kloppenberg
11 a.m.	Standard 211: Non-Discrimination and Equality of Opportunity Standard 212: Equal Opportunity and Diversity Standard 213: Reasonable Accommodation for Qualified Individuals with Disabilities	Bob Cordy (chair) Susan Kay Peter McDonough Kurt Schmoke
12 p.m.	Adjourn	

**American Bar Association  
Section of Legal Education and Admissions to the Bar  
Standards Review Committee  
April 26-27, 2013**

**Minutes**

Present

Jeffrey E. Lewis, Dean Emeritus and Professor, Saint Louis University School of Law; Chair  
Dr. Anthony S. Caprio, President, Western New England University  
Hon. Robert E. Cooper, Jr., Attorney General, Nashville, Tennessee  
Hon. Robert J. Cordy, Associate Justice, Massachusetts Supreme Judicial Court  
Thomas A. Edmonds, Esq., Virginia  
James J. Hanks, Jr., Esq., Maryland  
H. Reese Hansen, Professor, Brigham Young University J. Reuben Clark Law School  
Susan L. Kay, Professor, Vanderbilt University Law School  
Lisa A. Kloppenberg, Professor, University of Dayton School of Law  
Peter McDonough, General Counsel, Princeton University  
Erica Moeser, President and CEO, National Conference of Bar Examiners  
Scott B. Pagel, Associate Dean, The George Washington University Jacob Burns Law Library  
Kurt Schmoke, Vice President and General Counsel, Howard University

Guests

Pamela Lysaght, Professor, University of Detroit Mercy School of Law;  
Accreditation Committee Liaison  
Dean John F. O'Brien, New England Law – Boston; Council Liaison  
Hon. Solomon Oliver, Jr., United States District Judge; Council Chair-Elect

Staff

Barry Currier, Interim Consultant  
Scott Norberg, Deputy Consultant  
Charlotte Stretch, Assistant Consultant  
JR Clark, Paralegal

Observers

Claudia Angelos, New York University School of Law; CLEA  
Carol Chomsky, University of Minnesota Law School; SALT  
Mark Hansen, ABA Journal  
Richard Neumann, Hofstra Law School; ALWD  
Anthony Niedwiecki, John Marshall Law School, Chicago; ALWD  
John Nussbaumer, ABA Council on Racial and Ethnic Diversity in the Educational Pipeline  
Jenny Roberts, American University Washington College of Law; CLEA  
Ann Shalleck, American University Washington College of Law; AALS

Chair Lewis invited the guests in the room to introduce themselves.

## **I. Approval of Minutes**

The minutes of the prior meeting were approved.

## **II. Standard 405**

Reese Hansen reported that the working group on Standard 405 met several times on the phone and has prepared three alternative drafts based on comments received at the last meeting.

### Alternative A

Alternative A is designed to make explicit in the standard what we understand to have been the application of the standard over the years. Some of the nuances are hard to articulate.

The current standard does not specifically address governance even though governance is mentioned in 402 and 404. The standard is complicated because the explicit language does not seem to require tenure but hints at it. The historic application of the standard has been to require tenure.

At the last meeting, the committee recommended that the various considerations in 405 should be separated – attract and retain; academic freedom; security of position and governance.

Part (a): A member questioned why the words “full-time” were added in (a). Others responded that the application and intent of the (a) was to apply to full-time faculty. Issues of security of position and governance usually do not affect part-time faculty and it is the full-time faculty who have the burden of operating the law school. The provision addresses what it takes to attract and retain the core group of full-time faculty.

It was noted that there are references in chapter 2 to “faculty” that should say “full-time faculty”.

The Committee agreed to change the sentence to read:

A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty that is sufficient to enable ~~it~~ the law school to operate in compliance with the Standards and accomplish its mission.

Part (b): As suggested at the last meeting, this provision now just addresses academic freedom. Security of position is addressed in part (d). A member asked if following the university policy on academic freedom was sufficient. It was suggested that an Interpretation addressing that may be helpful.

A member noted that the provision on academic freedom in Alternatives B and C seems better. The provision in Alternative A was not changed to be exactly like B and C since Alternative A is supposed to be as close as possible to the current Standard. The working group will consider making this provision identical to Alternatives B and C.

In (b), the language “shall have an established and announced policy” was changed to “shall adopt, publish and adhere to policies and procedures” to be consistent with changes made in Chapter 3. The committee agreed that similar phrases in the rest of the provisions should also be changed.

Part (c): This is a new provision on governance, which is not addressed in current 405.

Part (d): This is a new explicit requirement for tenure or a comparable form of security of position. This is an attempt to state the current understanding of the application of this standard. Several members asked what a comparable form of security of position would be and how tenure would be defined.

It was pointed out that saying that all full-time faculty other than those described in (f) and (g) must have tenure would imply that anyone other than clinical and legal writing faculty would have to have tenure. The working group will look at this.

In addition, a member suggested that an Interpretation be added to state that a law school may have tenure for all if it wishes to. He was concerned that the provision makes it sound like that is not permitted.

Part (e): This provision was moved from the Interpretations into the standard. The committee suggested adding “appointment” to the list, eliminating the word “candidate”, and changing the order of the words, so that the provision would read:

A law school shall adopt, publish and adhere to policies and procedures for evaluating all appointment, promotion, tenure, renewal of contracts or other form of security of position, and termination decisions for all full-time faculty positions.

Part (f): This is what is currently in standard 405(c). The last sentence is amended to clarify the intent. A member asked what is meant by “a form of security of position reasonably similar to tenure” and wondered how that differed from “a comparable form of security of position” in (d). Others noted that in order to be consistent with the current standards (and to capture current practice) the two must mean different things.

The committee agree to take out “or a comparable form of security of position” in (d).

There was general agreement to move the second sentence to an Interpretation. The purpose of the sentence is to say that the standard for clinicians can be equally high as that for other full-time faculty.

There was agreement to change the last sentence to say: A law school may utilize fixed, short-term appointments in a clinical program so long as the program is predominantly staffed by full-time clinical faculty members with security of position.

It was suggested that the sentence could be redrafted to be more mandatory: If a law school utilizes fixed, short-term appointments in a clinical program....

Part (g): This provision essentially requires a school to do what is necessary to attract and retain a qualified legal writing faculty. A member asked what was meant by “other rights and privileges” and how it differs from “perquisites” in (f).

A member suggested changing the provision to simply state that the law school must have procedures necessary to attract well qualified writing faculty.

### Alternative B

Part (a) is the same as Alternative A.

Part (b): As in Alternative A, this provision addresses academic freedom but elaborates on the application of academic freedom in the exercise of teaching responsibilities, client representation in clinical programs, and in pursuing research activities, governance responsibilities, and law school related public service activities.

Part (c) is the same as Alternative A, part (e).

Part (d) addresses security of position. It requires that all full-time faculty have a form of security of position sufficient to ensure academic freedom and to attract and retain a competent full-time faculty. Interpretation 405-3 explains that a tenure system is a safe harbor and that security of position means, at a minimum, five-year presumptively renewable contract after a probationary period not to exceed seven years. Distinctions between faculty members are permitted.

Part (e) is the same as Alternative A, part (c) on participation in governance.

An Interpretation, 405-5, addresses the use of short-term contracts. The committee asked the working group to look at whether this should be in the standard.

A member asked whether it was necessary or appropriate to set five years as the time for presumptively renewable contracts. Some universities do not allow five year contracts. Another member noted that the five year period is really a period for review rather than a contract period.

### Comments:

- \*for the professional environment we want, security of position is essential to achieve the goal.
- \*security of position is not an appropriate accreditation goal.
- \*the discussion of Alternative A shows how difficult this is to codify.
- \*is equalizing job security part of the accreditation process? to move for more regimentation, seems contrary to current environment.
- \*any goals should be tied to educational quality.
- \*can't ignore the history and practice and the fact that equity and status issues are so gendered.
- \*what is the evidence that security of position is tied to academic freedom and competent faculty.

- \*the standards are based on the assumption that tenure is tied to academic freedom.
- \*405-4 says that presumptively renewable contracts are subject to the same kind of review (eg, for termination) as the tenured faculty. That provides significant safeguards.
- \*this alternative B allows different treatment as long as the school can show it is working.
- \*the school bears the burden to show how it is protecting academic freedom if not through tenure.
- \*don't think we need to say five years because 405-1 and 2 give schools the burden to show how they provide protection without tenure.

It was moved and seconded to amend Interpretation 405-3 to delete "long term" and "that are at least five years in duration." The motion passed with three opposed.

### Alternative C

Part (a), (b), and (c) are the same as Alternative B.

Part (d) addresses security of position. It differs from the draft seen by the committee at the last meeting in two respects. The first sentence, which is the same as (d) in Alternative B, was added to make clear that security of position is required in this alternative. The second sentence was reworded to be stated more positively. It now states that all full-time faculty members must have the same rights with respect to security of position, governance and other rights of full-time faculty, regardless of a faculty member's academic field or teaching methodology. Tenure is a safe harbor for security of position.

This alternative does not have a separate provision on governance but says in (d) that all full-time faculty must have the same rights with respect to governance.

A member suggested deleting the words "In so doing" at the beginning of the second sentence.

A member noted that under this alternative, if a university requires tenure for doctrinal faculty, they would have to give everyone tenure.

Part (e) is a provision regarding short term contracts. A member suggested deleting the word "fixed" in (e).

### Alternative D

The committee agreed that an Alternative D should be developed that does not require security of position. Several members felt that a draft should be developed so that the Council could at least discuss the alternative.

## **III. Standard 402**

Reese Hansen provided an overview of the memorandum from the working group on Standard 402. The Standard has been problematic and has many detractors. There are problems with calculations of both the numerator and the denominator of the student-faculty ratio computation.

Not all full-time faculty members count as a “1” in the calculation. The calculation is neither an accurate reflection of teaching resources nor a measure of faculty effectiveness in fulfilling its responsibilities under Standard 404. The working group recommends treating all full-time faculty as “1” and only counting full-time faculty. This would provide a reflection of the ability of the full-time faculty to meet the overall responsibilities under 404.

Determining how to count students is also complex: graduate students; part-time students; students participating in externships, etc.

A member commenting that not counting adjuncts in the faculty calculation is a major shift and does not acknowledge the huge role that adjunct faculty serve as teaching resources. Another observed that there are different considerations that need to be considered. One is providing consumer information about teaching resources. The other is looking at the sufficiency and effectiveness of the faculty in meeting the requirements of 404.

The working group will report at the next meeting with a draft. It may be necessary to finalize the recommendation on 405 before finalizing 402.

#### **IV: Standards 401, 403 and 404**

Standard 401: a member suggested that in the second sentence, the “or” should be change to an “and” because the sentence refers to the faculty as a whole.

A member commented that the second sentence of 401 seems to ratchet up the requirements of the first sentence and should probably be deleted. The use of the term “academic qualifications” was suggested. The working group will work on a revision.

There was some discussion of possibly restructuring Standards 401, 402 and 403.

A member recommended deleting the words “as defined by each law school” in 404(a)(3).

A suggestion was made to delete 404(a)(7).

#### **V. Standard 603**

603(a): The committee agreed to delete last sentence.

603(c): The committee agreed to replace the requirement of “a law degree and a degree in library or information science” with “appropriate academic qualifications”. The committee also decided to delete the detailed list of areas in which the director must have knowledge and experience with a requirement that the director have knowledge and experience in library administration sufficient to support the program of legal education and to enable the law school to operate in compliance with the standards. A suggestion was made to mirror the language of Standard 401 regarding faculty whose qualifications and experience are appropriate to the stated mission of the law school.



The committee agreed that all of the interpretation should be deleted.

The committee agreed that a final decision on 206 and 603 need to wait for a decision on 405.

## **VI. Standard 315**

The proposed revisions to the bar passage standard look only at ultimate bar pass rates for purposes of accreditation. Using the ultimate passage rate, it is not necessary to look at state variations in bar passage results.

At the last meeting, Erica Moeser presented information about the number of times graduates take the bar examination. Based on the information presented, the committee agreed that it is not necessary to give schools five years to reach the required ultimate bar passage rate. The committee agreed that two calendar years following graduation is a sufficient amount of time.

The proposed standard requires a school to reach a pass rate of 80% with two calendar years following graduation. The cohort consists of all graduates in a calendar year. Any graduates who never take a bar examination are not included.

The last section of the proposed standard outlines factors to consider if a schools need additional time to reach compliance.

The committee discussed the need to make sure that all schools can obtain the necessary information from bar admission authorities about whether students have taken and passed the bar. Erica Moeser will report at the next meeting on how all jurisdictions currently report examination results. The committee felt that this information is crucial before making any final decision about this proposal. The Section could assist by developing a universal release form for students to sign. Erica Moeser and the Section could reach out to the Chief Justices to see if they are able to assist in requiring reporting of examination results.

A suggestion was made that we should clarify that a school may stop counting students after the school has reached 80% for a given group.

A suggestion was made that subsection (d) should be deleted.

The committee agrees with having the standard look at ultimate pass rates, with shortening the period for reaching the ultimate pass rate, and with a rate of 80%.

It may be necessary to include a phase-in period with this revision.

For consumer information purposes, the Data Policy and Collection Committee has decided to report three years of bar passages rates rather than one as is currently done.

## **VII. Chapter 3**

The committee discussed Standard 309, which defines “credit hours” and requires schools to establish written policies about how they award credit hours. Some suggestions were made for redrafting. A new draft will be circulated prior to the Council meeting for review by the committee.

There was insufficient time for a full discussion of the rest of chapter 3. The chair invited comments for consideration by the working group.

- \*delete “publish” in 302(a); clarify whether this provision is aspirational.

- \*the concept of “competency to represent clients and to participate effectively, ethically, and responsibly as member of the legal profession” should perhaps just be in (b).

- \*in 303, change all reference to just say “credit hour” – don’t need the references to semester or equivalent quarter hours.

- \*in 303(a)(3), “faculty supervised” may not be necessary. It isn’t exactly the same as 303(b)(1), where it is necessary.

- \*work on definition of a clinical course in 304; possibly delete “full-time” from the definition

- \*303(b)(2) and 303-2 should be consistent in references to law-related public service activities and other references.

**American Bar Association  
Section of Legal Education and Admissions to the Bar  
Standards Review Committee**

**Chapter 1 – General Purposes and Practices; Definitions**

**REDLINE – DRAFT for July 2013 Meeting**

Strike-outs and underlines show changes from the current standards.

**To be added to Definitions Section:**

**“Separate location” means a location not in reasonable proximity to the law school’s main campus at which the law school offers more than sixteen credit hours of the program of legal education.**

**“Branch campus” means a separate location at which a student may earn more than two thirds of the credit hours that the law school requires for the award of a J.D.**

**Standard 101. BASIC REQUIREMENTS FOR APPROVAL**

**(a) A law school approved by the Association or seeking approval by the Association Council shall demonstrate that its program is consistent with sound legal education principles. It does so by establishing that it is being operated in compliance with the Standards.**

**(b) Approval of a law school by the Council is not transferable. A transfer of all, or substantially all, of the academic programs or assets of (1) a law school, or (2) a university or college of which a law schools is a part does not include the transfer of the law school’s approval.**

***Interpretation 101-1***

*To enable the Accreditation Committee and Council to determine whether a law school has demonstrated that its program of legal education is consistent with sound legal education principles and is being operated in compliance with the Standards, a law school shall furnish an annual questionnaire, self study, site evaluation questionnaire, and such other information as the Accreditation Committee and Council may require. These documents must be complete and accurate and submitted timely in the form specified.*

*The information provided by these means not only informs the Council about the status of each law school but also enables the Council, in meeting its obligations with respect to legal education as a whole, to ascertain national norms of legal education, areas in which improvements are being made, and those where further attention is needed.*

***Interpretation 101-2***

*Accreditation or approval of a law school by the American Bar Association is not transferable. A transfer of all, or substantially all, of the academic programs or assets of (1) a law school or (2)*

*a university or college of which the law school is a part does not include the transfer of the law school's accreditation status.*

## Standard 102. PROVISIONAL APPROVAL

(a) A law school shall be granted provisional approval ~~only~~ if at the time it seeks such approval it establishes that it ~~is in~~ has achieved substantial compliance with each of the Standards and presents a reliable plan for bringing the law school into full compliance with the Standards within three years after receiving provisional approval. In order to establish that it has a reliable plan to come into full compliance with the Standards within three years after receiving provisional approval, a law school must clearly state the specific actions it plans to take to bring the school into full compliance and show that there is a reasonable probability that such actions will be successful. A provisionally approved law school may apply for full approval no earlier than two years after receiving provisional approval and must obtain full approval within five years.

(b) A law school that is provisionally approved may have its approval withdrawn if it is determined that the law school is ~~not~~ no longer in substantial compliance with each of the Standards, or that the law school is not making adequate progress toward ~~coming into achieving~~ full compliance with the Standards.

(c) If five years have elapsed since the law school was provisionally approved and it has not ~~qualified been granted for~~ full approval, provisional approval shall ~~lapse~~ terminate and the law school shall ~~automatically~~ be removed from the list of approved law schools, ~~unless, prior~~ Prior to the end of the five year period, in an extraordinary case and for good cause shown, the Council may extend ~~extends~~ the time within which the law school must obtain full approval.

(e) ~~A law school shall confer the J.D. degree contemporaneously with the time academic requirements for the degree are completed.~~

(d) A provisionally approved law school shall not offer a post-J.D. or non-J.D. degree program, offer a program in a foreign country, or seek to establish a separate location.

(e) A provisionally approved law school shall state that it is provisionally approved in all of its printed and electronic materials describing the law school and its program and in any other publication that references the law school's approval by the Council.

(f) A law school seeking provisional approval shall make its status clear in any printed and electronic materials describing the law school and its program and in any other publication that references the law school's approval status. At a minimum, the law school shall state the following in all such communications:

The Law School is not currently approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association and makes

**no representation to any applicant that it will receive approval from the Council prior to the graduation of any matriculating student.**

**(g) A law school seeking provisional approval shall not delay conferring a J.D. upon a student in anticipation of obtaining approval. An approved law school may not retroactively grant a J.D. degree as an approved school to a student who graduated from the law school prior to its approval.**

**Interpretation 102-1**

*Plans to achieve substantial compliance with any of the Standards are not sufficient to demonstrate substantial compliance.*

**Interpretation 102-1**

*Substantial compliance must be achieved as to each of the Standards. Substantial compliance with each Standard is measured at the time a law school seeks provisional approval. Plans for construction, financing, library improvement, and recruitment of faculty which are presented by a law school seeking provisional approval do not, in themselves, constitute evidence of substantial compliance.*

**Interpretation 102-2**

*In order to establish that it has a reliable plan to come into full compliance with the Standards within three years after receiving provisional approval, a law school must clearly state the specific steps that it plans to take to bring itself into full compliance and must show that there is a reasonable probability that such steps will be successful.*

**Interpretation 102-3**

*A law school seeking provisional approval may not offer a post-J.D. degree program. The primary focus of a school seeking provisional approval should be to do everything necessary to comply with the Standards for the J.D. degree program.*

**Interpretation 102-4**

*A student at a provisionally approved law school and an individual who graduates while the school is provisionally approved are to be entitled to the same recognition given to students and graduates of fully approved law schools.*

**Interpretation 102-5**

*An approved law school may not retroactively grant a J.D. degree to a graduate of its predecessor unapproved institution.*

**Interpretation 102-6**

*A provisionally approved law school shall state in all of its printed and electronic materials generally describing the law school and its program and in any printed and electronic materials specifically targeted at prospective students that it is a provisionally approved law school. Similarly, when it refers to its approval status in publicity releases and communications with all students, applicants or other interested parties, it shall state that it is a provisionally approved law school.*

***Interpretation 102-7***

*An unapproved law school seeking provisional approval must include the following language in all of its printed and electronic materials generally describing the law school and its program and in any printed and electronic materials specifically targeted at prospective students:*

*~~The Dean is fully informed as to the Standards and Rules of Procedure for the Approval of Law Schools by the American Bar Association. The Administration and the Dean are determined to devote all necessary resources and in other respects to take all necessary steps to present a program of legal education that will qualify for approval by the American Bar Association. The Law School makes no representation to any applicant that it will be approved by the American Bar Association prior to the graduation of any matriculating student.~~*

***Interpretation 102-8***

*In most jurisdictions an individual cannot sit for the bar examination unless he or she has graduated from a law school fully or provisionally approved by the American Bar Association. However, the determination of qualifications and fitness to sit for the bar examination is made by the jurisdiction's bar admission authorities.*

***Interpretation 102-9***

*A law school seeking provisional approval shall not delay conferring a J.D. degree upon a student in anticipation of obtaining American Bar Association approval.*

***Interpretation 102-10***

*An individual who matriculates at a law school that is provisionally approved or who is a student enrolled in a law school at the time it receives provisional approval and who completes the course of study and graduates from that school within a typical and reasonable period of time is deemed by the Council to be a graduate of an approved law school, even though the school loses its provisional approval status while the individual is enrolled in the school.*

**Standard 103. FULL APPROVAL**

**(a) A law school is granted full approval if it establishes that it is in full compliance with each of the Standards, ~~and it has been provisionally approved for not fewer than two years~~. Plans to achieve full compliance with any of the Standards are not sufficient to demonstrate full compliance.**

**(b) ~~Sanctions, including probation and removal from the list of law schools approved by the Association, may be imposed upon a law school as provided in Rules 16 and 17 of the Rules.~~**

***Interpretation 103-1***

*An individual who matriculates at a law school that is then approved and who completes the course of study and graduates in the normal period of time required therefore is deemed to be a graduate of an approved school, even though the school's approval was withdrawn while the individual was enrolled therein.*

***Interpretation 103-2***

*In the case of an approval required as the consequence of a major change in organizational structure, the minimum time period of two years stated in this Standard may be modified and/or conditioned pursuant to Rule 20 of the Rules of Procedure for Approval of Law School.*

**Standard 104. ~~[Reserved]~~ PROVISION OF INFORMATION BY LAW SCHOOLS TO ACCREDITATION COMMITTEE AND COUNCIL**

***Interpretation 101-1***

~~To enable the Accreditation Committee and Council to determine whether a law school has demonstrated that its program of legal education is consistent with sound legal education principles and is being operated in compliance with the Standards, a~~ A law school shall furnish ~~an~~ a completed annual questionnaire, self-study, site evaluation questionnaire, and such other information as the Accreditation Committee ~~and~~ or Council may require. ~~These documents~~ This information must be complete, ~~and accurate, and not misleading,~~ and must be submitted timely in the form, manner, and time frame in the form specified by the Council.

**Standard 105. ACQUIESCENCE FOR MAJOR CHANGE IN PROGRAM OR STRUCTURE**

(a) Before a law school makes a major change in its educational program of legal education or organizational structure, it shall obtain the acquiescence of the Council for the change. A major change in program or structure that requires application for acquiescence includes: ~~*Interpretation 105-1 Major changes in the program of legal education or the organizational structure of a law school include:*~~

- (1) Instituting a new full-time or part-time division;
- (2) Changing from a full-time to a part-time program or from a part-time to a full-time program;
- (3) Establishing a two-year undergraduate/four year law school or similar program;
- (4) Establishing a new or different program leading to a degree other than the J.D. degree;
- (5) A change in program length measurement from clock hours to credit hours;
- (6) A substantial increase in the number of clock or credit hours that are required for graduation;
- (7) Merging or affiliating with one or more approved or unapproved law schools;
- (8) Merging or affiliating with one or more universities;

- (9) **Materially modifying the law school's legal status or institutional relationship with a parent institution;**
- (10) **Acquiring another law school, program, or educational institution;**
- (11) **Acquiring or merging with another university by the parent university where it appears that there may be substantial impact on the operation of the law school;**
- (12) **Transferring all, or substantially all, of the academic program or assets of the approved law school to another law school or university;**
- (13) **~~Opening of a Branch campus or Satellite campus~~ Operating a separate location;**
- (14) **A change in control of the school resulting from a change in ownership of the school or a contractual arrangement;**
- (15) **A change in the location of the school that could result in substantial changes in the faculty, administration, student body, or management of the school;**
- (16) **Contracting with an educational entity that is not certified to participate in Title IV, HEA programs, that would permit a student to earn 25 percent or more of the course credits required for graduation from the approved law school;**
- (17) **The addition of a permanent location at which the law school is conducting a teach-out for students at another law school that has ceased operating before all students have completed their program of study;**
- (18) **A significant change in the mission or objectives of the law school; and**
- (19) **The addition of courses or programs that represent a significant departure from existing offerings or method of delivery since the last accreditation period.**

**(b) Subject to the additional requirements of subsections (1) and (2), acquiescence The Council shall grant acquiescence only if the law school establishes that the change will not detract from the law school's ability to remain in compliance with the Standards.**

**~~(1) If the proposed major change is the establishment of a degree program other than the J.D. degree, the law school must also establish that it meets the requirements of Standard 308.~~**

**~~(2) If the proposed major change involves instituting a new full-time or part-time division, merging or affiliating with one or more approved or unapproved law schools, acquiring another law school or educational institution, or opening a Branch or Satellite campus, the law school must also establish that the law school is in compliance with the Standards or that the proposed major change will substantially enhance the law school's ability to comply with the Standards.~~**



### ***Interpretation 105-2***

*The establishment of a Branch campus of an approved law school constitutes the creation of a different law school. Consequently, a Branch campus must have a permanent full-time faculty, an adequate working library, adequate support and administrative staff, and adequate physical facilities and technological capacities. A Branch campus shall apply for provisional approval under the provisions of Standard 102 and Rule 4.*

### ***Interpretation 105-3***

*The establishment of a Satellite campus at which a law school offers no more than the first year of its full-time program, or the first three semesters (or equivalent) of its part-time program, requires at least:*

- (1) Full-time faculty of the law school who teach substantially all of the curriculum offered at the Satellite campus and who are reasonably available at the Satellite campus for consultation with students;*
- (2) Library resources and staff at the Satellite campus that are adequate to support the curriculum offered at the Satellite campus and that are reasonably accessible to students at the Satellite campus;*
- (3) Academic advising, career services and other student support services that are adequate to support the program offered at the Satellite campus, that are reasonably equivalent to such services offered to similarly situated students at the law school's main campus and that are offered in person at the Satellite campus or otherwise are reasonably accessible to students at the Satellite campus;*
- (4) That students attending the Satellite campus have access to the school's co-curricular activities and other educational benefits on a roughly proportional basis; and*
- (5) Physical facilities and technological capacities at the Satellite campus that are adequate to support the curriculum offered at and the students attending the Satellite campus.*

### ***Interpretation 105-4***

*A law school that seeks to establish a Satellite campus at which it will offer courses beyond its first-year program must show that it can adequately support its program at the Satellite campus. It must establish at least:*

- (1) That students attending the Satellite campus have reasonable access to full-time faculty, library resources and staff, and academic advising, career services and other support services that are adequate to support the program that the law school offers at the Satellite campus and that are reasonably equivalent to the resources and services offered to similarly situated students at the law school's main campus;*
- (2) That students attending the Satellite campus have access to the school's co-curricular activities and other educational benefits on a roughly proportional basis; and*
- (3) That the physical facilities and technological capacities at the Satellite campus are adequate to support the curriculum offered at and the students attending the Satellite campus.*

### ***Interpretation 105-5***

*If a student would be able to take at a Satellite campus the equivalent of two-thirds or more of the credit hours that a law school requires for the award of the J.D. degree, all of the*

*requirements set forth in Interpretation 105-2 apply to the establishment of such a Satellite campus except the requirement concerning provisional approval.*

**Interpretation 105-6**

*The Council has delegated to the Accreditation Committee the authority to grant acquiescence in the types of major changes listed in Interpretations 105-1 (4), (5), and (6).*

**Standard 106. SEPARATE LOCATIONS AND BRANCH CAMPUSES**

**(a) A law school must provide the following at a separate location (other than a separate location in a foreign country governed by Standard 312):**

**(1) Full-time faculty of the law school who teach substantially all the curriculum offered at the separate location and who are reasonably accessible to students at the separate location.**

**(2) Library resources and staff that are adequate to support the curriculum offered at the separate location and that are reasonably accessible to students at the separate location;**

**(3) Academic advising, career services and other student support services that are adequate to support the program offered at the separate location and that are reasonably equivalent to such services offered to similarly situated students at the law school's main campus;**

**(4) Access to co-curricular activities and other educational benefits adequate to support the students at the separate location; and**

**(5) Physical facilities and technological capacities that are adequate to support the curriculum offered and the student body at the separate location.**

**(b) In addition to the requirements of section (a), a branch campus shall also meet the requirements of Rule 5.4(b) and, in addition, shall offer reasonably comparable opportunities for access to the law school's program of legal education, courses taught by full-time faculty, student services, co-curricular programs, and other educational benefits as required by Standard 311.**

**(c) A law school shall not seek to establish a separate location until at least four years after the law school was granted initial full approval.**

**Interpretation 106-1**

*"Separate location" and "branch campus" as used in this standard are defined terms that apply only to locations at which a law school offers more than sixteen credits of the program of legal education.*

**Interpretation 106-2**

It is sufficient for a school with a separate location to have one dean for all campuses.

### **Interpretation 106-3**

For purposes of compliance with Standards 104 and 509, the following reporting is required:

a) Separate locations that are not branch campuses may be included in the main campus reports, provided distinctions are made sufficient to demonstrate compliance with Standard 106(c).

b) Branch campuses are required to report separately from the main campus, unless the branch campus is unified with the main campus. A branch is unified with the main campus if it meets the following criteria:

- i. applicants apply for admission to the law school, not to an individual campus;
- ii. admitted applicants can freely elect the campus at which they wish to commence study; and
- iii. students can move back and forth between campuses from one semester to the next, or within the same semester if the campuses are close enough, without special permission.

(c) Campuses that are unified under Interpretation 106-2(b) may aggregate data for all campuses for purposes of reporting in the Annual Questionnaire or in the form and manner prescribed by the Council on admissions, enrollment, placement, and bar passage rates.

### **Interpretation 106-4**

Separate locations, including branch campuses, are not required to engage independently in the self-study, strategic planning and assessment required by the Standards. These processes may be managed in collaboration with the main campus and in keeping with the mission or missions of the institution.

## **Standard 107. VARIANCES**

**A law school proposing to make any change that is or may be inconsistent with one or more of the Standards may apply to the Council for a variance only on one of the following bases:**

**a) In response to extraordinary circumstances in which compliance with the relevant Standard or Standards would create or constitute extreme hardship for the law school and/or its students, the law school may apply for a variance. In such cases, the law school must clearly establish that: 1) the proposed variance is consistent with the general purposes and objectives of the overall Standards, and 2) the anticipated benefits of granting the variance outweigh any anticipated harms to the law school's program or its students.**

**The variance, if granted, will be for a term certain and limited to the expected duration of the extraordinary circumstances on the basis of which it was granted. It may be extended**

once for a further term certain, but only if the extra ordinary circumstances persist and are beyond the control of the law school.

The decision granting a variance on this basis may require the law school to report to the Consultant, the Accreditation Committee or the Council regularly as specified in the decision.

b) In all variance applications that do not fall within subsection (a), the law school must clearly establish that: 1) the proposed variance is consistent with the general purposes and objectives of the overall Standards, 2) the proposed changes or actions that are the basis for the requested variance are experimental or innovative and have the potential to improve or advance the state of legal education, and 3) the anticipated benefits of granting the variance outweigh any anticipated harms to the law school's program or its students.

The variance, if granted, shall be for a term certain and can be extended once, with the extension being for either a further term certain or indefinite, but subject to revocation on the basis of either a change in the showing made by the law school when the variance was granted or a change in circumstances.

The decision granting a variance on this basis may require the law school to report to the Consultant, the Accreditation Committee or the Council regularly as specified in the decision.

(c) Should the changes that are the subject of the application for a variance constitute or come to constitute a major change in programs or structure under Standard 105 or 106, then the law school shall seek acquiescence by the Council in order to initiate or continue the changes.

(d) Variances, when granted, are school-specific and are based on and limited to the facts and circumstances that existed at the law school at the time it applied for the variance.

## **Standard 802. VARIANCE**

~~A law school proposing to offer a program of legal education a portion of which is inconsistent with a Standard may apply for a variance. If the Council finds that the proposal is nevertheless consistent with the general purposes of the Standards, the Council may grant the variance, may impose conditions, and shall impose time limits it considers appropriate. Council may terminate a variance prior to the end of the stated time limit if the school fails to comply with any conditions imposed by the Council. As a general rule, the duration of a variance should not exceed three years.~~

### ***Interpretation 802-1***

*Variances are generally limited to proposals based on one or more of the following:*

- ~~(a) a response to extraordinary circumstances that would create extreme hardship for students or for an approved law school; or~~
- ~~(b) an experimental program based on all of the following:~~
  - ~~(1) good reason to believe that there is a likelihood of success;~~
  - ~~(2) high quality experimental design;~~
  - ~~(3) clear and measurable criteria for assessing the success of the experimental program;~~
  - ~~(4) strong reason to believe that the benefits of the experiment will be greater than its risks; and~~
  - ~~(5) adequately informed participation by students involved in the experiment.~~

***Interpretation 802-2***

~~A school applying for a variance has the burden of demonstrating that the variance should be granted. The application should include, at a minimum, the following:~~

- ~~(a) a precise statement of the variance sought;~~
- ~~(b) an explanation of the bases and reasons for the variance; and~~
- ~~(c) additional information needed to support the application.~~

***Interpretation 802-3***

~~The Chair of the Accreditation Committee or the Consultant may appoint one or more fact finders to elicit facts relevant to consideration of the application for a variance. Thus an application for a variance must be filed well in advance of consideration of the application by the Accreditation Committee and the Council.~~

***Interpretation 802-4***

~~The Consultant, the Accreditation Committee or the Council may from time to time request written reports from the school concerning the variance.~~

***Interpretation 802-5***

~~Variances are school-specific and based on the circumstances existing at the law school filing the request.~~

**American Bar Association  
Section of Legal Education and Admissions to the Bar  
Standards Review Committee**

**Chapter 1 – General Purposes and Practices; Definitions**

**CLEAN COPY – DRAFT for July 2013 Meeting**

**To be added to Definitions Section:**

**“Separate location” means a location not in reasonable proximity to the law school’s main campus at which the law school offers more than sixteen credit hours of the program of legal education.**

**“Branch campus” means a separate location at which a student may earn more than two thirds of the credit hours that the law school requires for the award of a J.D.**

**Standard 101. BASIC REQUIREMENTS FOR APPROVAL**

**(a) A law school seeking approval by the Council shall demonstrate that it is being operated in compliance with the Standards.**

**(b) Approval of a law school by the Council is not transferable. A transfer of all, or substantially all, of the academic programs or assets of (1) a law school, or (2) a university or college of which a law schools is a part does not include the transfer of the law school’s approval.**

**Standard 102. PROVISIONAL APPROVAL**

**(a) A law school shall be granted provisional approval if at the time it seeks such approval it establishes that it has achieved substantial compliance with each of the Standards and presents a reliable plan for bringing the law school into full compliance with the Standards within three years after receiving provisional approval. In order to establish that it has a reliable plan to come into full compliance with the Standards within three years after receiving provisional approval, a law school must clearly state the specific actions it plans to take to bring the school into full compliance and show that there is a reasonable probability that such actions will be successful. A provisionally approved law school may apply for full approval no earlier than two years after receiving provisional approval and must obtain full approval within five years.**

**(b) A law school that is provisionally approved may have its approval withdrawn if it is determined that the law school is no longer in substantial compliance with each of the Standards, or that the law school is not making adequate progress toward achieving full compliance with the Standards.**

**(c) If five years have elapsed since the law school was provisionally approved and it has not been granted full approval, provisional approval shall terminate and the law school shall be removed from the list of approved law schools. Prior to the end of the five year period in**

**an extraordinary case and for good cause shown, the Council may extend the time within which the law school must obtain full approval.**

**(d) A provisionally approved law school shall not offer a post-J.D. or non-J.D. degree program, offer a program in a foreign country, or seek to establish a separate location.**

**(e) A provisionally approved law school shall state that it is provisionally approved in all of its printed and electronic materials describing the law school and its program and in any other publication that references the law school's approval by the Council.**

**(f) A law school seeking provisional approval shall make its status clear in any printed and electronic materials describing the law school and its program and in any other publication that references the law school's approval status. At a minimum, the law school shall state the following in all such communications:**

**The Law School is not currently approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association and makes no representation to any applicant that it will receive approval from the Council prior to the graduation of any matriculating student.**

**(g) A law school seeking provisional approval shall not delay conferring a J.D. upon a student in anticipation of obtaining approval. An approved law school may not retroactively grant a J.D. degree as an approved school to a student who graduated from the law school prior to its approval.**

***Interpretation 102-1***

*Plans to achieve substantial compliance with any of the Standards are not sufficient to demonstrate substantial compliance.*

**Standard 103. FULL APPROVAL**

**A law school is granted full approval if it establishes that it is in full compliance with each of the Standards. Plans to achieve full compliance with any of the Standards are not sufficient to demonstrate full compliance.**

**Standard 104. PROVISION OF INFORMATION BY LAW SCHOOLS TO ACCREDITATION COMMITTEE AND COUNCIL**

**A law school shall furnish a completed annual questionnaire, self-study, site evaluation questionnaire, and such other information as the Accreditation Committee or Council may require. This information must be complete, accurate, and not misleading, and must be submitted in the form, manner, and time frame specified by the Council.**

**Standard 105. ACQUIESCENCE FOR MAJOR CHANGE IN PROGRAM OR STRUCTURE**

**(a) Before a law school makes a major change in its educational program or organizational structure, it shall obtain the acquiescence of the Council for the change. A major change in program or structure that requires application for acquiescence includes:**

- (1) Instituting a new full-time or part-time division;**
- (2) Changing from a full-time to a part-time program or from a part-time to a full-time program;**
- (3) Establishing a two-year undergraduate/four year law school or similar program;**
- (4) Establishing a new or different program leading to a degree other than the J.D. degree;**
- (5) A change in program length measurement from clock hours to credit hours;**
- (6) A substantial increase in the number of clock or credit hours that are required for graduation;**
- (7) Merging or affiliating with one or more approved or unapproved law schools;**
- (8) Merging or affiliating with one or more universities;**
- (9) Materially modifying the law school's legal status or institutional relationship with a parent institution;**
- (10) Acquiring another law school, program, or educational institution;**
- (11) Acquiring or merging with another university by the parent university where it appears that there may be substantial impact on the operation of the law school;**
- (12) Transferring all, or substantially all, of the academic program or assets of the approved law school to another law school or university;**
- (13) Operating a separate location;**
- (14) A change in control of the school resulting from a change in ownership of the school or a contractual arrangement;**
- (15) A change in the location of the school that could result in substantial changes in the faculty, administration, student body, or management of the school;**



**(16) Contracting with an educational entity that is not certified to participate in Title IV, HEA programs, that would permit a student to earn 25 percent or more of the course credits required for graduation from the approved law school;**

**(17) The addition of a permanent location at which the law school is conducting a teach-out for students at another law school that has ceased operating before all students have completed their program of study;**

**(18) A significant change in the mission or objectives of the law school; and**

**(19) The addition of courses or programs that represent a significant departure from existing offerings or method of delivery since the last accreditation period.**

**(b) The Council shall grant acquiescence only if the law school establishes that the change will not detract from the law school's ability to remain in compliance with the Standards.**

#### **Standard 106. SEPARATE LOCATIONS AND BRANCH CAMPUSES**

**(a) A law school must provide the following at a separate location (other than a separate location in a foreign country governed by Standard 312):**

**(1) Full-time faculty of the law school who teach substantially all the curriculum offered at the separate location and who are reasonably accessible to students at the separate location.**

**(2) Library resources and staff that are adequate to support the curriculum offered at the separate location and that are reasonably accessible to students at the separate location;**

**(3) Academic advising, career services and other student support services that are adequate to support the program offered at the separate location and that are reasonably equivalent to such services offered to similarly situated students at the law school's main campus;**

**(4) Access to co-curricular activities and other educational benefits adequate to support the students at the separate location; and**

**(5) Physical facilities and technological capacities that are adequate to support the curriculum offered and the student body at the separate location.**

**(b) In addition to the requirements of section (a), a branch campus shall also meet the requirements of Rule 5.4(b) and, in addition, shall offer reasonably comparable opportunities for access to the law school's program of legal education, courses taught by full-time faculty, student services, co-curricular programs, and other educational benefits as required by Standard 311.**

**(c) A law school shall not seek to establish a separate location until at least four years after the law school was granted initial full approval.**

***Interpretation 106-1***

*“Separate location” and “branch campus” as used in this standard are defined terms that apply only to locations at which a law school offers more than sixteen credits of the program of legal education.*

***Interpretation 106-2***

*It is sufficient for a school with a separate location to have one dean for all campuses.*

***Interpretation 106-3***

*For purposes of compliance with Standards 104 and 509, the following reporting is required:*

- a) Separate locations that are not branch campuses may be included in the main campus reports, provided distinctions are made sufficient to demonstrate compliance with Standard 106(c).*
- b) Branch campuses are required to report separately from the main campus, unless the branch campus is unified with the main campus. A branch is unified with the main campus if it meets the following criteria:*
  - i. applicants apply for admission to the law school, not to an individual campus;*
  - ii. admitted applicants can freely elect the campus at which they wish to commence study; and*
  - iii. students can move back and forth between campuses from one semester to the next, or within the same semester if the campuses are close enough, without special permission.*

*(c) Campuses that are unified under Interpretation 106-2(b) may aggregate data for all campuses for purposes of reporting in the Annual Questionnaire or in the form and manner prescribed by the Council on admissions, enrollment, placement, and bar passage rates.*

***Interpretation 106-4***

*Separate locations, including branch campuses, are not required to engage independently in the self-study, strategic planning and assessment required by the Standards. These processes may be managed in collaboration with the main campus and in keeping with the mission or missions of the institution.*

**Standard 107. VARIANCES**

**A law school proposing to make any change that is or may be inconsistent with one or more of the Standards may apply to the Council for a variance only on one of the following bases:**

- a) In response to extraordinary circumstances in which compliance with the relevant Standard or Standards would create or constitute extreme hardship for the law school**

**and/or its students, the law school may apply for a variance. In such cases, the law school must clearly establish that: 1) the proposed variance is consistent with the general purposes and objectives of the overall Standards, and 2) the anticipated benefits of granting the variance outweigh any anticipated harms to the law school's program or its students.**

**The variance, if granted, will be for a term certain and limited to the expected duration of the extraordinary circumstances on the basis of which it was granted. It may be extended once for a further term certain, but only if the extra ordinary circumstances persist and are beyond the control of the law school.**

**The decision granting a variance on this basis may require the law school to report to the Consultant, the Accreditation Committee or the Council regularly as specified in the decision.**

**b) In all variance applications that do not fall within subsection (a), the law school must clearly establish that: 1) the proposed variance is consistent with the general purposes and objectives of the overall Standards, 2) the proposed changes or actions that are the basis for the requested variance are experimental or innovative and have the potential to improve or advance the state of legal education, and 3) the anticipated benefits of granting the variance outweigh any anticipated harms to the law school's program or its students.**

**The variance, if granted, shall be for a term certain and can be extended once, with the extension being for either a further term certain or indefinite, but subject to revocation on the basis of either a change in the showing made by the law school when the variance was granted or a change in circumstances.**

**The decision granting a variance on this basis may require the law school to report to the Consultant, the Accreditation Committee or the Council regularly as specified in the decision.**

**(c) Should the changes that are the subject of the application for a variance constitute or come to constitute a major change in programs or structure under Standard 105 or 106, then the law school shall seek acquiescence by the Council in order to initiate or continue the changes.**

**(d) Variances, when granted, are school-specific and are based on and limited to the facts and circumstances that existed at the law school at the time it applied for the variance.**

**American Bar Association  
Section of Legal Education and Admissions to the Bar  
Standards Review Committee**

**STANDARDS 211-213**

**CURRENT STANDARDS -- DRAFT for July 2013 Meeting**

**Standard 211. NON-DISCRIMINATION AND EQUALITY OF OPPORTUNITY**

**(a) A law school shall foster and maintain equality of opportunity in legal education, including employment of faculty and staff, without discrimination or segregation on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability.**

**(b) A law school shall not use admission policies or take other action to preclude admission of applicants or retention of students on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability.**

**(c) This Standard does not prevent a law school from having a religious affiliation or purpose and adopting and applying policies of admission of students and employment of faculty and staff that directly relate to this affiliation or purpose so long as (i) notice of these policies has been given to applicants, students, faculty, and staff before their affiliation with the law school, and (ii) the religious affiliation, purpose, or policies do not contravene any other Standard, including Standard 405(b) concerning academic freedom. These policies may provide a preference for persons adhering to the religious affiliation or purpose of the law school, but shall not be applied to use admission policies or take other action to preclude admission of applicants or retention of students on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability. This Standard permits religious affiliation or purpose policies as to admission, retention, and employment only to the extent that these policies are protected by the United States Constitution. It is administered as though the First Amendment of the United States Constitution governs its application.**

**(d) Non-discrimination and equality of opportunity in legal education includes equal opportunity to obtain employment. A law school shall communicate to every employer to whom it furnishes assistance and facilities for interviewing and other placement functions the school's firm expectation that the employer will observe the principles of non-discrimination and equality of opportunity on the basis of race, color, religion, national origin, gender, sexual orientation, age and disability in regard to hiring, promotion, retention and conditions of employment.**

***Interpretation 211-1***

*Schools may not require applicants, students, faculty or employees to disclose their sexual orientation, although they may provide opportunities for them to do so voluntarily.*

### ***Interpretation 211-2***

*As long as a school complies with the requirements of Standard 211(c), the prohibition concerning sexual orientation does not require a religiously affiliated school to act inconsistently with the essential elements of its religious values and beliefs. For example, it does not require a school to recognize or fund organizations whose purposes or objectives with respect to sexual orientation conflict with the essential elements of the religious values and beliefs held by the school.*

### ***Interpretation 211-3***

*Standard 211(d) applies to all employers, including government agencies, to which a school furnishes assistance and facilities for interviewing and other placement services. However, this Standard does not require a law school to implement its terms by excluding any employer unless that employer discriminates unlawfully.*

### ***Interpretation 211-4***

*The denial by a law school of admission to a qualified applicant is treated as made upon the basis of race, color, religion, national origin, gender, sexual orientation, age or disability if the basis of denial relied upon is an admissions qualification of the school which is intended to prevent the admission of applicants on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability though not purporting to do so.*

### ***Interpretation 211-5***

*The denial by a law school of employment to a qualified individual is treated as made upon the basis of race, color, religion, national origin, gender, sexual orientation, age or disability if the basis of denial relied upon is an employment policy of the school which is intended to prevent the employment of individuals on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability though not purporting to do so.*

## **Standard 212. EQUAL OPPORTUNITY AND DIVERSITY**

**(a) Consistent with sound legal education policy and the Standards, a law school shall demonstrate by concrete action a commitment to providing full opportunities for the study of law and entry into the profession by members of underrepresented groups, particularly racial and ethnic minorities, and a commitment to having a student body that is diverse with respect to gender, race, and ethnicity.**

**(b) Consistent with sound educational policy and the Standards, a law school shall demonstrate by concrete action a commitment to having a faculty and staff that are diverse with respect to gender, race and ethnicity.**

### ***Interpretation 212-1***

*The requirement of a constitutional provision or statute that purports to prohibit consideration of gender, race, ethnicity or national origin in admissions or employment decisions is not a justification for a school's non-compliance with Standard 212. A law school that is subject to such constitutional or statutory provisions would have to demonstrate the commitment required*

*by Standard 212 by means other than those prohibited by the applicable constitutional or statutory provisions.*

***Interpretation 212-2***

*Consistent with the U.S. Supreme Court's decision in Grutter v. Bollinger, 529 U.S. 306 (2003), a law school may use race and ethnicity in its admissions process to promote equal opportunity and diversity. Through its admissions policies and practices, a law school shall take concrete actions to enroll a diverse student body that promotes cross-cultural understanding, helps break down racial and ethnic stereotypes, and enables students to better understand persons of different races, ethnic groups and backgrounds.*

***Interpretation 212-3***

*This Standard does not specify the forms of concrete actions a law school must take to satisfy its equal opportunity and diversity obligations. The determination of a law school's satisfaction of such obligations is based on the totality of the law school's actions and the results achieved. The commitment to providing full educational opportunities for members of underrepresented groups typically includes a special concern for determining the potential of these applicants through the admission process, special recruitment efforts, and programs that assist in meeting the academic and financial needs of many of these students and that create a more favorable environment for students from underrepresented groups.*

**Standard 213. REASONABLE ACCOMMODATION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES**

**Assuring equality of opportunity for qualified individuals with disabilities, as required by Standard 211, may require a law school to provide such students, faculty and staff with reasonable accommodations.**

***Interpretation 213-1***

*For the purpose of this Standard and Standard 211, disability is defined as in Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, as further defined by the regulations on post secondary education, 45C.F.R. Section 84.3(k)(3) and by the Americans with Disabilities Act, 42 U.S.C. Sections 12101 et seq.*

***Interpretation 213-2***

*As to those matters covered by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, neither this Standard nor Standard 211 imposes obligations upon law schools beyond those provided by those statutes.*

***Interpretation 213-3***

*Applicants and students shall be individually evaluated to determine whether they meet the academic standards requisite to admission and participation in the law school program. The use of the term "qualified" in the Standard requires a careful and thorough consideration of each applicant and each student's qualifications in light of reasonable accommodations. Reasonable accommodations are those that are consistent with the fundamental nature of the school's program of legal education, that can be provided without undue financial or administrative*

*burden, and that can be provided while maintaining academic and other essential performance standards.*

American Bar Association  
Section of Legal Education and Admissions to the Bar  
Standards Review Committee

Chapter 3 - PROGRAM OF LEGAL EDUCATION

REDLINE -- DRAFT for July 2013 Meeting

Strike-outs and underlines show changes from the current Standards.

**Standard 301. OBJECTIVES OF ACADEMIC PROGRAM**

**(a) A law school shall maintain a an rigorous educational academic program that prepares its students, upon graduation, for (1) admission to the bar, and (2) for effective, ethical and responsible participation as members of the legal profession. A law school shall also establish and publish learning outcomes designed to achieve the objectives of its academic program.**

**(b) ~~A law school shall ensure that all students have reasonably comparable opportunities to take advantage of the school's educational program, co-curricular programs, and other educational benefits.~~**

***Interpretation 301-1***

*~~A law school shall maintain an educational program that prepares its students to address current and anticipated legal problems.~~*

***Interpretation 301-2***

*~~A law school may offer an education program designed to emphasize certain aspects of the law or the legal profession.~~*

***Interpretation 301-3***

*~~Among the factors to be considered in assessing the extent to which a law school complies with this Standard are the rigor of its academic program, including its assessment of student performance, and the bar passage rates of its graduates.~~*

***Interpretation 301-4***

*~~Among the factors to consider in assessing compliance with Standard 301(b) are whether students have reasonably comparable opportunities to benefit from regular interaction with full-time faculty and other students, from such co-curricular programs as journals and competition teams, and from special events such as lecture series and short-time visitors.~~*

***Interpretation 301-5***

*~~For schools providing more than one enrollment or scheduling option, the opportunities to take advantage of the school's educational program, co-curricular activities, and other educational benefits for students enrolled under one option shall be deemed reasonably comparable to the~~*



*opportunities of students enrolled under other options if the opportunities are roughly proportional based upon the relative number of students enrolled in various options.*

### **Standard 302. CURRICULUM**

**(a) A law school shall require that each student receive substantial instruction in:**

- (1) the substantive law generally regarded as necessary to effective and responsible participation in the legal profession;**
- (2) legal analysis and reasoning, legal research, problem solving, and oral communication;**
- (3) writing in a legal context, including at least one rigorous writing experience in the first year and at least one additional rigorous writing experience after the first year;**
- (4) other professional skills generally regarded as necessary for effective and responsible participation in the legal profession; and**
- (5) the history, goals, structure, values, rules and responsibilities of the legal profession and its members.**

**(b) A law school shall offer substantial opportunities for:**

- (1) live client or other real-life practice experiences, appropriately supervised and designed to encourage reflection by students on their experiences and on the values and responsibilities of the legal profession, and the development of one's ability to assess his or her performance and level of competence;**
- (2) student participation in pro bono activities; and**
- (3) small group work through seminars, directed research, small classes, or collaborative work.**

### **Standard 302. LEARNING OUTCOMES**

**A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:**

- (1) Knowledge and understanding of substantive and procedural law;**
- (2) Legal analysis and reasoning, legal research, problem solving, and written and oral communication in the legal context;**

**(3) Exercise of proper professional and ethical responsibilities to clients and the legal system;**

**(4) Other professional skills needed for competent and ethical participation as a member of the legal profession; and**

**(5) Other learning outcomes deemed by the school as important or necessary to meet the needs of its students and to accomplish its mission.**

**Interpretation 302-1**

*For the purposes of Standard 302(4), other professional skills include, but are not limited to, the following: interviewing; counseling; negotiation; fact development and analysis; trial practice; document drafting; conflict resolution; organization and management of legal work; collaboration; cultural competency; and self-evaluation.*

**Standard 303. CURRICULUM**

**(a) A law school shall offer a curriculum that is designed to achieve the objectives of its academic program and its established learning outcomes. In addition, the law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:**

**(1) one course of at least two credit hours in professional responsibility that includes substantial instruction in the history, goals, structure, values, and responsibilities of the legal profession and its members;**

**(2) one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty supervised; and**

**(3) one or more experiential course(s) totaling at least three credit hours after the first year. An experiential course or courses must be: (i) simulation course(s); or (ii) clinical course(s); or (iii) field placement(s). To satisfy this requirement, a course must be primarily experiential in nature and must:**

**(i) integrate doctrine, theory, skills, and legal ethics and engage students in performance of one or more of the professional skills identified in Standard 302;**

**(ii) develop the concepts underlying the professional skills being taught;**

**(iii) provide multiple opportunities for performance; and**

**(iv) provide opportunities for self-evaluation.**

**(b) A law school shall provide substantial opportunities to students for:**

**(1) faculty supervised clinical courses or field placement(s); and**

**(2) student participation in pro bono legal services or law-related public service activities.**

**Interpretation 302-1 303-1**

*Factors to be considered in evaluating the rigor of a ~~writing instruction~~ experience include: the number and nature of writing projects assigned to students; the ~~opportunities a student has to meet with a writing instructor for purposes of form and extent of~~ individualized assessment of the a student's written products; ~~and the number of drafts that a student must produce of for any writing experience project. and the form of assessment used by the writing instructor.~~*

**Interpretation 302-10 303-2**

*Each law school is encouraged to be creative in developing substantial opportunities for student participation in pro bono activities. Pro bono opportunities should at a minimum involve the rendering of meaningful law-related service to persons of limited means or to organizations that serve such persons; however volunteer programs that involve meaningful services that are not law-related also may be included within the law school's overall program. Law-related pro bono opportunities need not be structured to accomplish any of the professional skills training required by Standard 302(a)(4). While most existing law school pro bono programs include only activities for which students do not receive academic credit, Standard 302(b) (2) does not preclude the inclusion of credit-granting activities within a law school's overall program of pro bono opportunities so long as law-related non-credit bearing initiatives are also part of that program.*

*ABA Model Rule 6.1 recognizes the professional responsibility of a lawyer to provide pro bono legal services. The Model Rule encourages lawyers to provide at least 50 hours of pro bono legal services per year, primarily to persons of limited means or to organizations that serve such persons, but also by providing additional law-related public service. In meeting the requirement of Standard 302(b)(2), law schools are encouraged to promote opportunities for law student pro bono service that incorporate the priorities established by the ABA in Model Rule 6.1.*

**Interpretation 303-3**

*Law-related public service activities include: (i) helping groups or organizations seeking to secure or protect civil rights, civil liberties or public rights; (ii) helping charitable, religious, civic, community, governmental and educational organizations not able to afford legal representation; (iii) participating in activities providing information about justice, the law or the legal system to those who might not otherwise have such information; and (iv) engaging in activities to enhance the capacity of the law and legal institutions to do justice. Pro bono and public service opportunities need not be structured to accomplish any of the outcomes required by Standard 302. Standard 303(b)(2) does not preclude the inclusion of credit-granting activities within a law school's overall program of law-related pro bono opportunities so long as law-related non-credit bearing initiatives are also part of that program.*

**Interpretation 302-2**

*Each law school is encouraged to be creative in developing programs of instruction in professional skills related to the various responsibilities which lawyers are called upon to meet, using the strengths and resources available to the school. Trial and appellate advocacy,*

~~alternative methods of dispute resolution, counseling, interviewing, negotiating, problem-solving, factual investigation, organization and management of legal work, and drafting are among the areas of instruction in professional skills that fulfill Standard 302(a)(4).~~

***Interpretation 302-3***

~~A school may satisfy the requirement for substantial instruction in professional skills in various ways, including, for example, requiring students to take one or more courses having substantial professional skills components. To be "substantial," instruction in professional skills must engage each student in skills performances that are assessed by the instructor.~~

***Interpretation 302-4***

~~A law school need not accommodate every student requesting enrollment in a particular professional skills course.~~

***Interpretation 302-5***

~~The offering of live client or real-life experience may be accomplished through clinics or field placements. A law school need not offer these experiences to every student nor must a law school accommodate every student requesting enrollment in any particular live client or other real-life practice experience.~~

***Interpretation 302-6***

~~A law school should involve members of the bench and bar in the instruction required by Standard 302(d)(2).~~

***Interpretation 302-7 Reserved***

***Interpretation 302-8***

~~A law school shall engage in periodic review of its curriculum to ensure that it prepares the school's graduates to participate effectively and responsibly in the legal profession.~~

***Interpretation 302-9***

~~The substantial instruction in the history, structure, values, rules, and responsibilities of the legal profession and its members required by Standard 302(d)(2) includes instruction in matters such as the law of lawyering and the Model Rules of Professional Conduct of the American Bar Association.~~

**Standard 304. INTERNAL SIMULATION AND CLINICAL COURSES**

**(a) A simulation course provides substantial experience not involving actual clients, that is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a set of facts and circumstances devised or adopted by a faculty member, and supervised by a faculty member, and that includes:**

- (1) direct supervision of the student's performance by the faculty member;**
- (2) multiple opportunities for performance, feed-back from a faculty member, and self-evaluation; and**

**(3) a classroom instructional component.**

**(b) A clinical course provides substantial lawyering experience, involving one or more actual clients, that is supervised by a faculty member and that includes:**

**(1) advising or representing a client;**

**(2) direct supervision of the student's performance by the faculty member;**

**(3) multiple opportunities for performance feed-back from a faculty member and self-evaluation; and**

**(4) a classroom instructional component.**

**Standard 305. FIELD PLACEMENTS AND OTHER EXTERNAL STUDY OUTSIDE THE CLASSROOM**

**(a) A law school may grant credit toward the J.D. degree for courses or a program that permits or requires student participation in studies or activities away from or outside the law school or in a format that does not involve attendance at regularly scheduled class sessions.**

**(b) Credit granted shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.**

**(c) Each student's academic achievement shall be evaluated by a faculty member. For purposes of Standard 305 and its Interpretations, the term "faculty member" means a member of the full-time or part-time faculty. When appropriate a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program.**

**(d) The studies or activities shall be approved in advance and periodically reviewed following the school's established procedures for approval of the curriculum.**

**(e) A field placement program shall include:**

**(1) a clear statement of ~~the~~ its goals and methods, and a demonstrated relationship between those goals and methods ~~to~~ and the program in operation;**

**(2) adequate instructional resources, including faculty teaching in and supervising the program who devote the requisite time and attention to satisfy program goals and are sufficiently available to students;**

**(3) a clearly articulated method of evaluating each student's academic performance involving both a faculty member and the ~~field placement~~ site supervisor;**

**(4) a method for selecting, training, evaluating, and communicating with ~~field placement~~ site supervisors;**

**(5) ~~periodic on-site visits or their equivalent by a faculty member if the field placement program awards four or more academic credit (or equivalent) for field work in any academic term or if on-site visits or their equivalent are otherwise necessary and appropriate;~~ for field placements that award three or more credit hours, regular contact between the faculty supervisor or law school administrator and the site supervisor to assure the quality of the student educational experience, including the appropriateness of the supervision and the student work. Regular contact can be achieved through in-person visits or other methods of communication that will assure the quality of the student educational experience;**

**(6) a requirement that students have successfully completed instruction equivalent to 28 credit hours toward the J.D. degree ~~one academic year of study~~ prior to participation in the field placement program;**

**(7) opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student can earn ~~four~~ three or more academic credit hours ~~(or equivalent)~~ in the ~~program for fieldwork~~ a field placement program, the opportunity for student reflection, ~~the seminar, tutorial, or other means of guided reflection~~ must be provided contemporaneously.**

***Interpretation 305-1***

*Activities covered by Standard 305(a) include field placements, moot court, law review, and directed research programs or courses for which credit toward the J.D. degree is granted, as well as courses taken in parts of ~~the~~ a college or university outside the law school for which credit toward the J.D. degree is granted.*

***Interpretation 305-2***

*The nature of field placement programs presents special opportunities and unique challenges for the maintenance of educational quality. Field placement programs accordingly require particular attention from the law school and the Accreditation Committee.*

***Interpretation 305-2 ~~305-3~~***

*A law school may not grant credit to a student for participation in a field placement program for which the student receives compensation. This Interpretation does not preclude reimbursement of reasonable out-of-pocket expenses related to the field placement.*

***Interpretation 305-3 ~~305-4~~***

*(a) A law school that has a field placement program shall develop, publish, and communicate to students and site supervisors ~~field instructors~~ a statement that describes the educational objectives of the program.*

*(b) In a field placement program, as the number of students involved or the number of credits awarded increases, the level of instructional resources devoted to the program should also increase.*

***Interpretation 305-5***

*Standard 305 by its own force does not allow credit for distance education courses.*

**Standard 306. DISTANCE EDUCATION**

**(a) A distance education course is one in which students are separated from the instructor for more than one-third of the instruction and the instruction involves the use of technology to support regular and substantive interaction among students and between the students and the instructor, either synchronously or asynchronously.**

**~~(b) Distance education is an educational process characterized by the separation in time or place between instructor and student. It includes courses offered principally by means of:~~**  
**~~(1) technological transmission, including Internet, open broadcast, closed circuit, cable, microwave, or satellite transmission;~~**  
**~~(2) audio or computer conferencing;~~**  
**~~(3) video cassettes or discs; or~~**  
**~~(4) correspondence.~~**

**~~(b) (a) A law school may offer credit toward the J.D. degree for study offered through distance education consistent with the provisions of this Standard and Interpretations of this Standard. Such Distance education credit shall be awarded only if the academic content, the method of course delivery, and the method of evaluating student performance are approved as part of the school's regular curriculum approval process.~~**

**(c) A law school shall have the technological capacity, staff, information resources, and facilities necessary to assure the educational quality of distance education.**

**~~(e)(d)~~ A law school may award credit for distance education and may count that credit toward the ~~45,000 minutes of instruction~~ 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction required by Standard 310(b) ~~304(b)~~ if:**

**(1) there is opportunity for regular and substantive interaction between instructor and student and between students; there is ample interaction with the instructor and other students both inside and outside the formal structure of the course throughout its duration; and**

**(2) there is ample regular monitoring of student effort by the instructor and opportunity for communication about that effort and accomplishment as the course progresses, and**

**(3) the learning outcomes for the course are consistent with Standard 302.**

**~~(d)(e)~~ A law school shall not grant a student more than a total of 15 credit hours ~~four credit hours in any term, nor more than a total of 12 credit hours,~~ toward the J.D. degree for courses qualifying under this Standard.**

~~(e)(f) No student~~ **A law school shall not enroll a student in courses qualifying for credit under this Standard until that student has completed instruction equivalent to 28 credit hours toward the J.D. degree.**

~~(f) No credit otherwise may be given toward the J.D. degree for any distance education course.~~

**(g) A law school shall establish a process that is effective for verifying the identity of students taking distance education courses and protects student privacy. If any additional student charges are associated with verification of student identity, students must be notified at the time of registration or enrollment.**

**Interpretation 306-1**

**Technology used to support a distance education course may include, for example:**

**(1) The internet;**

**(2) One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;**

**(3) Audio conferencing; or**

**(4) Video cassettes, DVDs, and CD-ROMs, if the cassettes, DVDs, or CD-ROMs are used in a course in conjunction with any of the technologies listed in paragraphs (1) through (3) of this definition.**

**Interpretation 306-2 306-10**

*Methods to verify student identity as required in 306(g) include, but are not limited to: (i) a secure login and pass code; (ii) proctored examinations; and (iii) new or other technologies and practices that are effective in verifying student identity.*

**Interpretation 306-1**

*To allow the Council and the Standards Review Committee to review and adjust this Standard, law schools shall report each year on the distance education courses that they offer.*

**Interpretation 306-2**

*Distance education presents special opportunities and unique challenges for the maintenance of educational quality. Distance education accordingly requires particular attention from the law school and by site visit teams and the Accreditation Committee.*

**Interpretation 306-3**

*Courses in which two-thirds or more of the course instruction consists of regular classroom instruction shall not be treated as “distance education” for purposes of 306(d) and (e) even though they also include substantial on-line interaction or other common components of “distance education” courses so long as such instruction complies with the provisions of subsections (1) and (2) of Standard 306(e).*



***Interpretation 306-4***

*Law schools shall take steps to provide students in distance education courses opportunities to interact with instructors that equal or exceed the opportunities for such interaction with instructors in a traditional classroom setting.*

***Interpretation 306-5***

*Law schools shall have the technological capacity, staff, information resources, and facilities required to provide the support needed for instructors and students involved in distance education at the school.*

***Interpretation 306-6***

*Law schools shall establish mechanisms to assure that faculty who teach distance education courses and students who enroll in them have the skills and access to the technology necessary to enable them to participate effectively.*

***Interpretation 306-7***

*Faculty approval of credit for a distance education course shall include a specific explanation of how the course credit was determined. Credit shall be awarded in a manner consistent with the requirement of Interpretation 304-4 that requires 700 minutes of instruction for each credit awarded.*

***Interpretation 306-8***

*A law school that offers more than an incidental amount of credit for distance education shall adopt a written plan for distance education at the law school and shall periodically review the educational effectiveness of its distance education courses and programs.*

***Interpretation 306-9***

*“Credits” in this Standard means semester hour credits as provided in Interpretation 304-4. Law schools that use quarter hours of credit shall convert these credits in a manner that is consistent with the provisions of Interpretation 304-4.*

**Standard 307. PARTICIPATION IN STUDIES OR ACTIVITIES IN A FOREIGN COUNTRY**

**(a)** A law school may grant credit for student participation in studies or activities in a foreign country **as follows:**

**(1)** ~~only if the~~ studies or activities **that** are approved in accordance with the Rules of Procedure and Criteria as adopted by the Council; ~~;~~ **and**

**(2)** **field placements in a foreign country that meet the requirements of Standard 305 and are not held in conjunction with studies or activities that are approved in accordance with the Rule of Procedure and Criteria as adopted by the Council.**

**(b) The total credits for student participation in such studies or activities may not exceed one-third of the credits required for the J.D. degree.**

**Interpretation 307-1**

*The three Criteria adopted by the Council are: Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools; Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools; and Criteria for Student Study at a Foreign Institution.*

**Interpretation 307-2 307-1**

*In addition to studies or activities covered by Criteria adopted by the Council, a law school may grant credit for (a) studies or activities in a foreign country that meet the requirements of Standard 305 and (b) brief visits to a foreign country that are part of a law school course approved through the school's regular curriculum approval process.*  
*For purposes of Standard 307, a brief visit to a foreign country that is part of a course offered and based primarily at the law school and approved through the school's regular curriculum approval process is not considered to be studies in a foreign country.*

**Standard ~~303~~ 308. ACADEMIC STANDARDS AND ACHIEVEMENTS**

**(a) A law school shall ~~have~~ adopt, publish, and adhere to sound academic standards, including those clearly defined standards for good standing, academic integrity, and graduation and dismissal.**

**(b) ~~A law school shall monitor students' academic progress and achievement from the beginning of and periodically throughout their studies.~~**

**(c) ~~A law school shall not continue the enrollment of a student whose inability to do satisfactory work is sufficiently manifest so that the student's continuation in school would inculcate false hopes, constitute economic exploitation, or detrimentally affect the education of other students.~~**

**(b) A law school shall adopt, publish, and adhere to due process policies that shall be fairly and consistently applied when taking any action that adversely affects the good standing or graduation of a student.**

**Standard XXX. ACADEMIC ADVISING AND SUPPORT**

**(a) A law school shall provide an academic advising program for students that communicates effectively the school's academic standards and graduation requirements, and that provides guidance on course selection.**

**(b) A law school shall provide academic support designed to afford each student a reasonable opportunity to complete the academic program, graduate, and become a member of the legal profession.**

**Interpretation 303-1**

~~Scholastic achievement of students shall be evaluated by examinations of suitable length and complexity, papers, projects, or by assessment of performances of students in the role of lawyers.~~

**Interpretation 303-2**

~~A law school shall provide academic advising to students to communicate effectively to them the school's academic standards and graduation requirements, and guidance regarding course selection and sequencing. Academic advising should include assisting each student with planning a program of study consistent with that student's goals.~~

**Interpretation 303-3**

~~A law school shall provide the academic support necessary to assure each student a satisfactory opportunity to complete the program, graduate, and become a member of the legal profession. This obligation may require a school to create and maintain a formal academic support program.~~

**Standard 309. DETERMINATION OF CREDIT HOURS FOR COURSEWORK**

**(a) A law school shall adopt, publish, and adhere to written policies and procedures for determining the credit hours that it awards for coursework.**

**(b) A "credit hour" is an amount of work that is represented in intended learning outcomes and verified by evidence of student achievement and comprises:**

**(1) not less than one hour of classroom or direct faculty instruction and two hours of out of class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time; or**

**(2) at least an equivalent amount of work as required in subparagraph (1) of this definition for other academic activities as established by the institution, including simulation, field placement, clinical, co-curricular and other academic work leading to the award of credit hours.**

**Interpretation 309-1**

~~For purposes of this Standard, fifty minutes suffices for one hour of classroom or direct faculty instruction. An "hour" for out-of-class student work is sixty minutes. The fifteen-week period may include one week for a final examination.~~

**Interpretation 309-2**

~~A school may award credit hours for coursework that extends over any period of time, provided that the coursework entails no less than the minimum total amounts of classroom or direct faculty instruction and of out of class student work specified in Standard 309(b).~~

**Standard 310 304. COURSE OF STUDY ACADEMIC PROGRAM AND ACADEMIC CALENDAR**

(a) A law school shall have an academic year of not fewer than ~~130~~ 140 days on which classes and examinations are regularly scheduled in the law school, extending into not fewer than eight calendar months. The law school shall provide adequate time for reading periods, ~~examinations~~, and breaks, but such time does not count toward the ~~130~~ 140 day academic year requirement.

(b) A law school shall require, as a condition for graduation, successful completion of a course of study ~~in residence~~ of not fewer than 83 credit hours. ~~58,000 minutes of instruction time, except as otherwise provided. At least 45,000~~ 64 of these ~~minutes~~ credit hours shall be by in courses that require attendance in regularly scheduled class classroom sessions or direct faculty instruction at the law school.

(c) A law school shall require that the course of study for the J.D. degree be completed no earlier than 24 months and, except in extraordinary circumstances, no later than 84 months after a student has commenced law study at the law school or a law school from which the school has accepted transfer credit.

~~(d)-(e)~~ A law school shall not permit a student to be enrolled at any time in coursework that, ~~if successfully completed, would exceed~~ exceeds 20 percent of the total coursework credit hours required by that school for graduation ~~(or a proportionate number for schools on other academic schedules, such as a quarter system).~~

(e) Credit for a J.D. degree shall only be given for course work taken after the student has matriculated in a law school. A law school may not grant credit toward the J.D. degree for work taken in a pre-admission program.

~~(f) (d)~~ A law school shall adopt, publish and adhere to a ~~require regular and punctual~~ policy requiring regular class attendance.

~~(f) A student may not be employed more than 20 hours per week in any week in which the student is enrolled in more than twelve class hours.~~

#### ***Interpretation 304-1***

*This Standard establishes a minimum period of academic instruction as a condition for graduation. While the academic year is typically divided into two equal terms of at least thirteen weeks, that equal division is not required. The Standard accommodates deviations from a conventional semester system, including quarter systems, trimesters, and mini-terms.*

#### ***Interpretation 310-1 304-2***

*A law school may not count more than five class days each week toward the ~~130~~ 140-day requirement. Only class days that are part of the mandatory school calendar may ~~can~~ be counted toward the 140 day requirement. For example, voluntary winter intersession or summer programs do not count toward the 140 day requirement.*

#### ***Interpretation 310-2 304-3***

*In calculating the 45,000 minutes of “regularly scheduled class sessions” for the purpose of*

~~Standard 304 305(b), the time may include:~~

~~(a) coursework at a law school for which a student receives credit toward the J.D. degree by the law school, so long as that work itself meets the requirements of Standard 304;~~

~~(b) coursework for which a student receives credit toward the J.D. degree that is work done in a foreign study program that qualifies under Standard 307;~~

~~(c) law school coursework that meets the requirements of Standard 306(c);~~

~~(d) in a seminar or other upper-level course other than an independent research course, the minutes allocated for preparation of a substantial paper or project if the time and effort required and anticipated educational benefit are commensurate with the credit awarded; and~~

~~(e) in a law school clinical course, the minutes allocated for clinical work so long as (i) the clinical course includes a classroom instructional component, (ii) the clinical work is done under the direct supervision of a member of the law school faculty or instructional staff whose primary professional employment is with the law school, and (iii) the time and effort required and anticipated educational benefit are commensurate with the credit awarded.~~

~~A law school shall not include in the 45,000 minutes required by Standard 304(b) to be by attendance in regularly scheduled class sessions at the law school any other coursework, including but not limited to (i) work qualifying for credit under Standard 305; (ii) coursework completed in another department, school or college of the university with which the law school is affiliated or at another institution of higher learning; and (iii) co-curricular activities such as law review, moot court, and trial competitions.~~

(a) In calculating the 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction for the purpose of Standard 310(b), the credit hours may include:

1. Credit hours earned by attendance in regularly scheduled classroom sessions or direct faculty instruction;

2. Credit hours earned by participation in internal simulation or clinical courses in compliance with Standard 304;

3. Credit hours earned through distance education in compliance with Standard 306; and

4. Credit hours earned by participation in law-related studies or activities in a foreign country in compliance with Standard 307.

(b) In calculating the 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction for the purpose of Standard 310(b), the credit hours shall not include any other coursework, including, but not limited to:

1. Credit hours earned through field placements and other external study in compliance with Standard 305;

2. Credit hours earned in another department, school, or college of the university with which the law school is affiliated, or at another institution of higher learning;

3. Credit hours earned for participation in co-curricular activities such as law review, moot court, and trial competition; and

4. Credit hours earned by participation in studies or activities in a foreign country in compliance with Standard 307 for studies or activities that are not law-related.

#### ***Interpretation 304-4***

~~Law schools may find the following examples useful. Law schools on a conventional semester system typically require 700 minutes of instruction time per “credit,” exclusive of time for an examination. A quarter hour of credit requires 450 minutes of instruction time, exclusive of time for an examination. To achieve the required total of 58,000 minutes of instruction time, a law school must require at least 83 semester hours of credit, or 129 quarter hours of credit. If a law school on a semester system offers classes in units of 50 minutes per credit, it can provide 700 minutes of instruction in 14 classes. If such a law school offers classes in units of 55 minutes per class, it can provide 700 minutes of instruction in 13 classes. If such a law school offers classes in units of 75 minutes per class, it can provide 700 minutes of instruction in 10 classes. If a law school on a quarter system offers classes in units of 50 minutes per class, it can provide 450 minutes of instruction in 9 classes. If such a law school offers classes in units of 65 minutes per class, it can provide 450 minutes of instruction in 8 classes. If such a law school offers classes in units of 75 minutes per class, it can provide 450 minutes of instruction in 6 classes.~~

~~In all events, the 130-day requirement of Standard 304(a) and the 58,000-minute requirement of Standard 304(b) should be understood as separate and independent requirements.~~

#### ***Interpretation 304-5***

~~Credit for a J.D. degree shall is only to be given for course work taken after the student has matriculated in a law school. A law school may not grant credit toward the J.D. degree for work taken in a pre-admission program.~~

#### ***Interpretation 304-6***

~~A law school shall demonstrate that it has adopted and enforces policies insuring that individual students satisfy the requirements of this Standard, including the implementation of policies relating to class scheduling and, attendance, and limitation on employment.~~

#### ***Interpretation 304-7 MOVE TO CHAPTER 5***

~~Subject to the provisions of this Interpretation, a law school shall require a student who has completed work in an LL.M. or other post J.D. program to complete all of the work for which it will award the J.D. degree following the student's regular enrollment in the school's J.D. program. A law school may accept transfer credit as otherwise allowed by the Standards.~~

~~A law school may award credit toward a J.D. degree for work undertaken in a LL.M. or other post J.D. program offered by it or another law school if:~~

~~(a) that work was the successful completion of a J.D. course while the student was enrolled in a post J.D. law program;~~

~~(b) the law school at which the course was taken has a grading system for LL.M. students in J.D. courses that is comparable to the grading system for J.D. students in the course, and~~



~~(c) the law school accepting the transfer credit will require that the student successfully complete a course of study that satisfies the requirements of Standards 302(a)-(b) Standard 304 and that meets all of the school's requirement for the awarding of the J.D. degree.~~

### **Interpretation 310-3**

Whenever a student is permitted on the basis of extraordinary circumstances to exceed the 84 month program limitation in Standard 310(c), the law school shall place in the student's file a statement signed by an appropriate law school official explaining the extraordinary circumstances leading the law school to permit an exception to this limitation. Such extraordinary circumstances, for example, might include an interruption of a student's legal education because of an illness, family exigency or military service.

### **Interpretation 310-4**

For purposes of Standard 310(c), the time for determining the commencement of law study is ordinarily the time when a student commences law study at any institution. For example, if a law school accepts transfer credit from another institution, the time begins when the student commenced study at the law school from which the transfer credit is accepted. If a law school accepts a student who has completed law studies at a foreign law school and grants up to one-third of the total credit hours required for the J.D. degree as permitted under Standard 505, the time begins to run with the amount of credit that is given – a maximum of one year.

## **Standard 311. REASONABLY COMPARABLE OPPORTUNITIES**

~~[301(b)]~~ **A law school providing more than one enrollment or scheduling option shall ensure that all students have reasonably comparable opportunities to take advantage of for access to the law school's educational academic program, courses taught by full-time faculty, student services, co-curricular programs, and other educational benefits. Identical opportunities are not required.**

## **Standard 312 308. DEGREE PROGRAMS IN ADDITION TO J.D.**

**A law school may not offer a degree program other than its J.D. degree program unless:**

**(a) the law school is fully approved;**

**(b) the new degree program will not interfere with the ability of the law school to operate in compliance with the Standards and to carry out its academic program; and**

**(c) acquiescence has been granted by the Council.**

~~A law school may not establish a degree program other than its J.D. degree program without obtaining the Council's prior acquiescence. A law school may not establish a degree program in addition to its J.D. degree program unless the school is fully approved. The additional degree program may not detract from a law school's ability to maintain a J.D. degree program that meets the requirements of the Standards.~~

**Interpretation 312-1 308-1**

*~~Reasons for withholding a~~ Acquiescence in the establishment of an advanced degree program  
Include may be granted if:*

- (1) ~~Lack of~~ there are sufficient full-time faculty to conduct both the J.D. degree program and the additional degree program;*
- (2) ~~Lack of~~ there are adequate physical facilities, ~~which has a negative and material effect on the education students receive~~ to support both the J.D. program and the additional degree program;*
- (3) ~~Lack of an adequate~~ the law library resources are adequate to support both a J.D. and an ~~advanced~~ additional degree program; and*
- (4) ~~A J.D. degree curriculum lacking sufficient diversity and richness in course offerings.~~ the law school curriculum is adequate to support both the J.D. program and an additional degree program.*

**Interpretation 312-2 308-2**

*Acquiescence in a degree program other than the first degree in law is not an approval of the program itself, and, therefore, a school may not announce that the program is approved by the American Bar Association.*

**Standard 313. ASSESSMENT OF STUDENT LEARNING**

**A law school shall utilize both formative and summative assessment methods in its curriculum to measure and improve student learning and provide meaningful feedback to students.**

**Interpretation 313-1**

*Formative assessment methods are measurements at different points during a particular course or at different points over the span of a student's education that provide meaningful feedback to improve student learning. Summative assessments methods are measurements at the culmination of a particular course or at the culmination of any part of a student's legal education that measure the degree of student learning.*

**Interpretation 313-2**

*A law school need not apply multiple assessment methods in any particular course. Assessment methods are likely to be different from school to school. Law schools are not required by Standard 313 to use any particular methods.*

**Standard 314. EVALUATION OF ACADEMIC PROGRAM, LEARNING OUTCOMES, AND ASSESSMENT METHODS**



**The dean and faculty of a law school shall conduct ongoing evaluation of the law school's academic program, learning outcomes, and assessment methods; and shall use the results of this evaluation to determine the degree of student attainment of competency in the learning outcomes and to make appropriate changes to improve the curriculum.**

**Interpretation 314-1**

*Examples of methods that may be used to measure the degree to which students have attained competency in the school's student learning outcomes include: review of the records the law school maintains to measure individual student achievement pursuant to Standard 313; evaluation of student learning portfolios; student evaluation of the sufficiency of their education; student performance in capstone courses or other courses that appropriately assess a variety of skills and knowledge; bar exam passage rates; placement rates; surveys of attorneys, judges, and alumni; and assessment of student performance by judges, attorneys or law professors from other schools. The methods used to measure the degree of student achievement of learning outcomes are likely to differ from school to school and law schools are not required by this standard to use any particular methods.*

**Standard 315. BAR PASSAGE**

**(a) No later than the end of the second calendar year following the year of their graduation, 80% of a law school's graduates from that year who took a bar examination must have passed a bar examination.**

**(b) A fully approved law school must demonstrate compliance with this Standard in at least four of the seven years since the previous inspection.**

**(c) Prior to being considered by the Council for full approval, a provisionally approved law school must demonstrate compliance with this Standard for graduates from at least two calendar years.**

**(d) In demonstrating compliance, a law school must report on all of its graduates who took a bar examination; however, a law school is not obligated to continue to collect data once the 80% threshold set forth in (a) has been met. If a law school is unable to report a sufficient number of its graduates, the burden is on the law school to demonstrate that it was unable to acquire the information.**

**(e) A law school found out of compliance under this Standard and that has not been able to come into compliance within the two-year period specified in Rule 13(b) of the Rules of Procedure for Approval of Law Schools, may seek to demonstrate good cause for extending the period the law school has to demonstrate compliance by submitting evidence of:**

**(1) The law school's trend in bar passage rates;**

**(2) Effective and sustained actions by the law school to address the inadequate bar passage results of its graduates in the form of pervasive academic support and bar preparation efforts involving the entire faculty;**

(3) Actions taken by the law school to implement an effective and sustained program to assist graduates who did not pass the bar examination in addressing their deficiencies;

(4) Efforts by the law school to provide broader access to legal education while maintaining academic rigor;

(5) Temporary circumstances beyond the control of the law school, but which the law school is addressing: for example, a natural disaster that disrupts operations or a significant increase in the standard for passing the relevant bar examination(s);

(6) Other factors, consistent with a law school's demonstrated and sustained mission, which the school considers relevant in explaining its deficient bar passage results and in explaining the school's efforts to improve them.

**Interpretation 315-1**

*Complying with Standard 315 is not alone sufficient to comply with any other Standard.*

**Interpretation 301-6**

~~(a) A law school's bar passage rate shall be sufficient, for purposes of Standard 301(a), if the school demonstrates that it meets any one of the following tests:~~

~~(1) That for students who graduated from the law school within the five most recently completed calendar years:~~

~~(A) 75 percent or more of these graduates who sat for the bar passed a bar examination; or~~

~~(B) in at least three of these calendar years, 75 percent of the students graduating in those years and sitting for the bar have passed a bar examination.~~

~~In demonstrating compliance under sections (1)(A) and (B) (1)(a) and (b), the school must report bar passage results from as many jurisdictions as necessary to account for at least 70% of its graduates each year, starting with the jurisdiction in which the highest number of graduates took the bar exam and proceeding in descending order of frequency.~~

~~(2) That in three or more of the five most recently completed calendar years, the school's annual first-time bar passage rate in the jurisdictions reported by the school is no more than 15 points below the average first-time bar passage rates for graduates of ABA-approved law schools taking the bar examination in these same jurisdictions.~~

~~In demonstrating compliance under section (2), the school must report first-time bar passage data from as many jurisdictions as necessary to account for at least 70~~

~~percent of its graduates each year, starting with the jurisdiction in which the highest number of graduates took the bar exam and proceeding in descending order of frequency. When more than one jurisdiction is reported, the weighted average of the results in each of the reported jurisdictions shall be used to determine compliance.~~

~~(b) A school shall be out of compliance with this Standard if it is unable to demonstrate that it meets the requirements of paragraph (a)(1) or (2).~~

~~(c) A school found out of compliance under paragraph (B) and that has not been able to come into compliance within the two year period specified in Rule 13(b) of the Rules of Procedure for Approval of Law Schools, may seek to demonstrate good cause for extending the period the law school has to demonstrate compliance by submitting evidence of:~~

~~(1) The law school's trend in bar passage rates for both first-time and subsequent takers: a clear trend of improvement will be considered in the school's favor, a declining or flat trend against it.~~

~~(2) The length of time the law school's bar passage rates have been below the first-time and ultimate rates established in paragraph A: a shorter time period will be considered in the school's favor, a longer period against it.~~

~~(3) Actions by the law school to address bar passage, particularly the law school's academic rigor and the demonstrated value and effectiveness of its academic support and bar preparation programs: value-added, effective, sustained and pervasive actions to address bar passage problems will be considered in the law school's favor; ineffective or only marginally effective programs or limited action by the law school against it.~~

~~(4) Efforts by the law school to facilitate bar passage for its graduates who did not pass the bar on prior attempts: effective and sustained efforts by the law school will be considered in the school's favor; ineffective or limited efforts by the law school against it.~~

~~(5) Efforts by the law school to provide broader access to legal education while maintaining academic rigor: sustained meaningful efforts will be viewed in the law school's favor; intermittent or limited efforts by the law school against it.~~

~~(6) The demonstrated likelihood that the law school's students who transfer to other ABA-approved schools will pass the bar examination: transfers by students with a strong likelihood of passing the bar will be considered in the school's favor, providing the law school has undertaken counseling and other appropriate efforts to retain its well-performing students.~~

~~(7) Temporary circumstances beyond the control of the law school, but which the law school is addressing: for example, a natural disaster that disrupts operations or a significant increase in the standard for passing the relevant bar examination(s).~~

~~(8) Other factors, consistent with a law school's demonstrated and sustained mission, which the school considers relevant in explaining its deficient bar passage results and in explaining the school's efforts to improve them.~~

## EFFECTIVE DATE

The effective date of new Standards 302, 303 and 313 is three years from the date of adoption. The effective date of new Standard 314 is five years from the date of adoption. Prior to three years after the date of adoption, law schools may elect, for the purpose of their sabbatical inspections, to be evaluated under either (a) existing Standard 302; (b) new Standards 302, 303 and 313; or (c) new Standards 302, 303, 313, and 314. From the period of three years after the date of adoption to five years after the date of adoption, law schools may elect whether or not to be evaluated under Standard 314.

## TRANSITION

In the initial phases of implementation of the outcome measures standards set forth in Standards 301, 302, and 313, compliance will be assessed based upon evaluating the seriousness of the school's efforts to establish and assess student learning outcomes, not upon attainment of a particular level of achievement for each learning outcome. Among factors to consider assessing compliance with these standards are whether a school has demonstrated faculty engagement in the identification of the student learning outcomes it seeks for its graduates; whether the school is working effectively to identify how the school's curriculum encompasses the identified outcomes, and to integrate teaching and assessment of those outcomes into its curriculum; and whether the school has identified when and how students receive feedback on their development of the identified outcomes.

In the initial phases of implementation of the institutional effectiveness standard set forth in Standard 314, compliance will be assessed based on the seriousness of the law school's efforts to engage in an ongoing process of gathering information about its students' progress toward achieving identified outcomes and whether it is using the information gathered to regularly review, assess and adapt its academic program.

**American Bar Association  
Section of Legal Education and Admissions to the Bar  
Standards Review Committee**

**Chapter 3 – PROGRAM OF LEGAL EDUCATION**

**CLEAN Draft for July 2013 Meeting**

**Standard 301. OBJECTIVES OF ACADEMIC PROGRAM**

**A law school shall maintain a rigorous academic program that prepares its students, upon graduation, for admission to the bar and for effective, ethical and responsible participation as members of the legal profession. A law school shall also establish and publish learning outcomes designed to achieve the objectives of its academic program.**

**Standard 302. LEARNING OUTCOMES**

**A law school shall establish learning outcomes that, at a minimum, include competency in the following:**

- (1) Knowledge and understanding of substantive and procedural law;**
- (2) Legal analysis and reasoning, legal research, problem solving, and written and oral communication in the legal context;**
- (3) Exercise of proper professional and ethical responsibilities to clients and the legal system;**
- (4) Other professional skills needed for competent and ethical participation as a member of the legal profession; and**
- (5) Other learning outcomes deemed by the school as important or necessary to meet the needs of its students and to accomplish its mission.**

***Interpretation 302-1***

*For the purposes of Standard 302(4), other professional skills include, but are not limited to, the following: interviewing; counseling; negotiation; fact development and analysis; trial practice; document drafting; conflict resolution; organization and management of legal work; collaboration; cultural competency; and self-evaluation.*

## **Standard 303. CURRICULUM**

- (a) A law school shall offer a curriculum that is designed to achieve the objectives of its academic program and its established learning outcomes. In addition, the law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:**
- (1) one course of at least two credit hours in professional responsibility that includes substantial instruction in the history, goals, structure, values, and responsibilities of the legal profession and its members;**
  - (2) one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty-supervised; and**
  - (3) one or more experiential course(s) totaling at least three credit hours after the first year. An experiential course or courses must be: (i) simulation course(s); or (ii) clinical course(s); or (iii) field placement(s). To satisfy this requirement, a course must be primarily experiential in nature and must:**
    - (i) integrate doctrine, theory, skills, and legal ethics and engage students in performance of one or more of the professional skills identified in Standard 302;**
    - (ii) develop the concepts underlying the professional skills being taught;**
    - (iii) provide multiple opportunities for performance; and**
    - (iv) provide opportunities for self-evaluation.**
- (b) A law school shall provide substantial opportunities to students for:**
- (1) faculty supervised clinical or field placement(s); and**
  - (2) student participation in pro bono legal services or law-related public service activities.**

### ***Interpretation 303-1***

*Factors to be considered in evaluating the rigor of a writing experience include: the number and nature of writing projects assigned to students; the form and extent of individualized assessment of a student's written products; and the number of drafts that a student must produce for any writing experience.*

### ***Interpretation 303-2***

*ABA Model Rule 6.1 recognizes the professional responsibility of a lawyer to provide pro bono legal services. The Model Rule encourages lawyers to provide at least 50 hours of pro bono legal services per year, primarily to persons of limited means or to organizations that serve such persons, but also by providing additional law-related public service. In meeting the requirement*

*of Standard 303(b)(2), law schools are encouraged to promote opportunities for law student pro bono service that incorporate the priorities established by the ABA in Model Rule 6.1.*

### **Interpretation 303-3**

*Law-related public service activities include: (i) helping groups or organizations seeking to secure or protect civil rights, civil liberties or public rights; (ii) helping charitable, religious, civic, community, governmental and educational organizations not able to afford legal representation; (iii) participating in activities providing information about justice, the law or the legal system to those who might not otherwise have such information; and (iv) engaging in activities to enhance the capacity of the law and legal institutions to do justice. Pro bono and public service opportunities need not be structured to accomplish any of the outcomes required by Standard 302. Standard 303(b)(2) does not preclude the inclusion of credit-granting activities within a law school's overall program of law-related pro bono opportunities so long as law-related non-credit bearing initiatives are also part of that program.*

### **Standard 304. INTERNAL SIMULATION AND CLINICAL COURSES**

**(a) A simulation course provides substantial experience not involving actual clients, that is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a set of facts and circumstances devised or adopted by a faculty member, and supervised by a faculty member, and that includes:**

- (1) direct supervision of the student's performance by the faculty member;**
- (2) multiple opportunities for performance, feed-back from a faculty member, and self-evaluation; and**
- (3) a classroom instructional component.**

**(b) A clinical course provides substantial lawyering experience, involving one or more actual clients, that is supervised by a faculty member and that includes:**

- (1) advising or representing a client;**
- (2) direct supervision of the student's performance by the faculty member;**
- (3) multiple opportunities for performance feed-back from a faculty member and self-evaluation; and**
- (4) a classroom instructional component.**

### **Standard 305. FIELD PLACEMENTS AND OTHER EXTERNAL STUDY**

**(a) A law school may grant credit toward the J.D. degree for courses or a program that permits or requires student participation in studies or activities away from or outside the law school or in a format that does not involve attendance at regularly scheduled class sessions.**

**(b) Credit granted shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.**

**(c) Each student's academic achievement shall be evaluated by a faculty member. For purposes of Standard 305 and its Interpretations, the term "faculty member" means a**

**member of the full-time or part-time faculty. When appropriate a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program.**

**(d) The studies or activities shall be approved in advance and periodically reviewed following the school's established procedures for approval of the curriculum.**

**(e) A field placement program shall include:**

**(1) a clear statement of its goals and methods, and a demonstrated relationship between those goals and methods and the program in operation;**

**(2) adequate instructional resources, including faculty teaching in and supervising the program who devote the requisite time and attention to satisfy program goals and are sufficiently available to students;**

**(3) a clearly articulated method of evaluating each student's academic performance involving both a faculty member and the site supervisor;**

**(4) a method for selecting, training, evaluating, and communicating with site supervisors;**

**(5) for field placements that award three or more credit hours, regular contact between the faculty supervisor or law school administrator and the site supervisor to assure the quality of the student educational experience, including the appropriateness of the supervision and the student work. Regular contact can be achieved through in-person visits or other methods of communication that will assure the quality of the student educational experience;**

**(6) a requirement that students have successfully completed instruction equivalent to 28 credit hours toward the J.D. degree prior to participation in the field placement program;**

**(7) opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student can earn three or more credit hours in a field placement program, the opportunity for student reflection must be provided contemporaneously.**

***Interpretation 305-1***

*Activities covered by Standard 305(a) include field placements, moot court, law review, and directed research programs or courses for which credit toward the J.D. degree is granted, as well as courses taken in parts of a college or university outside the law school for which credit toward the J.D. degree is granted.*

***Interpretation 305-2***

*A law school may not grant credit to a student for participation in a field placement program for*



*which the student receives compensation. This Interpretation does not preclude reimbursement of reasonable out-of-pocket expenses related to the field placement.*

***Interpretation 305-3***

*(a) A law school that has a field placement program shall develop, publish, and communicate to students and site supervisors a statement that describes the educational objectives of the program.*

*(b) In a field placement program, as the number of students involved or the number of credits awarded increases, the level of instructional resources devoted to the program should also increase.*

**Standard 306. DISTANCE EDUCATION**

**(a) A distance education course is one in which students are separated from the instructor for more than one-third of the instruction and the instruction involves the use of technology to support regular and substantive interaction among students and between the students and the instructor, either synchronously or asynchronously.**

**(b) Distance education credit shall be awarded only if the academic content, the method of course delivery, and the method of evaluating student performance are approved as part of the school's regular curriculum approval process.**

**(c) A law school shall have the technological capacity, staff, information resources, and facilities necessary to assure the educational quality of distance education.**

**(d) A law school may award credit for distance education and may count that credit toward the 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction required by Standard 310(b) if:**

**(1) there is opportunity for regular and substantive interaction between instructor and student and between students;**

**(2) there is regular monitoring of student effort by the instructor and opportunity for communication about that effort; and**

**(3) the learning outcomes for the course are consistent with Standard 302.**

**(e) A law school shall not grant a student more than a total of 15 credit hours toward the J.D. degree for courses qualifying under this Standard.**

**(f) A law school shall not enroll a student in courses qualifying for credit under this Standard until that student has completed instruction equivalent to 28 credit hours toward the J.D. degree.**

**(g) A law school shall establish a process that is effective for verifying the identity of**

students taking distance education courses and that also protects student privacy. If any additional student charges are associated with verification of student identity, students must be notified at the time of registration or enrollment.

***Interpretation 306-1***

*Technology used to support a distance education course may include, for example:*

- (1) The internet;*
- (2) One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;*
- (3) Audio conferencing; or*
- (4) Video cassettes, DVDs, and CD-ROMs, if the cassettes, DVDs, or CD-ROMs are used in a course in conjunction with any of the technologies listed in paragraphs (1) through (3) of this definition.*

***Interpretation 306-2***

*Methods to verify student identity as required in 306(g) include, but are not limited to: (i) a secure login and pass code; (ii) proctored examinations; and (iii) new or other technologies and practices that are effective in verifying student identity.*

**Standard 307. PARTICIPATION IN STUDIES OR ACTIVITIES IN A FOREIGN COUNTRY**

**(a) A law school may grant credit for student participation in studies or activities in a foreign country as follows:**

- (1) studies or activities that are approved in accordance with the Rules of Procedure and Criteria as adopted by the Council; and**
- (2) field placements in a foreign country that meet the requirements of Standard 305 and are not held in conjunction with studies or activities that are approved in accordance with the Rule of Procedure and Criteria as adopted by the Council.**

**(b) The total credits for student participation in such studies or activities may not exceed one-third of the credits required for the J.D. degree.**

***Interpretation 307-1***

*The three Criteria adopted by the Council are: Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools; Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools; and Criteria for Student Study at a Foreign Institution.*

***Interpretation 307-2***

*For purposes of Standard 307, a brief visit to a foreign country that is part of a course offered and based primarily at the law school and approved through the school's regular curriculum approval process is not considered to be studies in a foreign country.*

#### **Standard 308. ACADEMIC STANDARDS**

**(a) A law school shall adopt, publish, and adhere to sound academic standards, including those for good standing, academic integrity, graduation and dismissal.**

**(b) A law school shall adopt, publish, and adhere to due process policies that shall be fairly and consistently applied when taking any action that adversely affects the good standing or graduation of a student.**

#### **Standard XXX. ACADEMIC ADVISING AND SUPPORT**

**(a) A law school shall provide an academic advising program for students that communicates effectively the school's academic standards and graduation requirements, and that provides guidance on course selection.**

**(b) A law school shall provide academic support designed to afford each student a reasonable opportunity to complete the academic program, graduate, and become a member of the legal profession.**

#### **Standard 309. DETERMINATION OF CREDIT HOURS FOR COURSEWORK**

**(a) A law school shall adopt, publish, and adhere to written policies and procedures for determining the credit hours that it awards for coursework.**

**(b) A "credit hour" is an amount of work that is represented in intended learning outcomes and verified by evidence of student achievement and comprises:**

**(1) not less than one hour of classroom or direct faculty instruction and two hours of out of class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time; or**

**(2) at least an equivalent amount of work as required in subparagraph (1) of this definition for other academic activities as established by the institution, including simulation, field placement, clinical, co-curricular and other academic work leading to the award of credit hours.**

##### ***Interpretation 309-1***

*For purposes of this Standard, fifty minutes suffices for one hour of classroom or direct faculty instruction. An "hour" for out-of-class student work is sixty minutes. The fifteen-week period may include one week for a final examination.*

##### ***Interpretation 309-2***

*A school may award credit hours for coursework that extends over any period of time, provided that the coursework entails no less than the minimum total amounts of classroom or direct faculty instruction and of out of class student work specified in Standard 309(b).*

### **Standard 310. ACADEMIC PROGRAM AND ACADEMIC CALENDAR**

**(a) A law school shall have an academic year of not fewer than 140 days on which classes and examinations are regularly scheduled in the law school, extending into not fewer than eight calendar months. The law school shall provide adequate time for reading periods and breaks, but such time does not count toward the 140 day academic year requirement.**

**(b) A law school shall require, as a condition of graduation, successful completion of a course of study of not less than 83 credit hours. At least 64 of these credit hours shall be in courses that require attendance in regularly scheduled classroom sessions or direct faculty instruction.**

**(c) A law school shall require that the course of study for the J.D. degree be completed no earlier than 24 months and, except in extraordinary circumstances, no later than 84 months after a student has commenced law study at the law school or a law school from which the school has accepted transfer credit.**

**(d) A law school shall not permit a student to be enrolled at any time in coursework that exceeds 20 percent of the total credit hours required by that school for graduation.**

**(e) Credit for a J.D. degree shall only be given for course work taken after the student has matriculated in a law school. A law school may not grant credit toward the J.D. degree for work taken in a pre-admission program.**

**(f) A law school shall adopt, publish and adhere to a policy requiring regular class attendance.**

#### ***Interpretation 310-1***

*A law school may not count more than five class days each week toward the 140 day requirement. Only class days that are part of the mandatory school calendar may be counted toward the 140 day requirement. For example, voluntary winter intersession or summer programs do not count toward the 140 day requirement.*

#### ***Interpretation 310-2***

**(a) In calculating the 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction for the purpose of Standard 310(b), the credit hours may include:**

- 1. Credit hours earned by attendance in regularly scheduled classroom sessions or direct faculty instruction;**
- 2. Credit hours earned by participation in internal simulation or clinical courses in compliance with Standard 304;**
- 3. Credit hours earned through distance education in compliance with Standard 306; and**
- 4. Credit hours earned by participation in law-related studies or activities in a foreign**

*country in compliance with Standard 307.*

*(b) In calculating the 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction for the purpose of Standard 310(b), the credit hours shall not include any other coursework, including, but not limited to:*

*1. Credit hours earned through field placements and other external study in compliance with Standard 305;*

*2. Credit hours earned in another department, school, or college of the university with which the law school is affiliated, or at another institution of higher learning;*

*3. Credit hours earned for participation in co-curricular activities such as law review, moot court, and trial competition; and*

*4. Credit hours earned by participation in studies or activities in a foreign country in compliance with Standard 307 for studies or activities that are not law-related.*

### ***Interpretation 310-3***

*Whenever a student is permitted on the basis of extraordinary circumstances to exceed the 84 month program limitation in Standard 310(c), the law school shall place in the student's file a statement signed by an appropriate law school official explaining the extraordinary circumstances leading the law school to permit an exception to this limitation. Such extraordinary circumstances, for example, might include an interruption of a student's legal education because of an illness, family exigency or military service.*

### ***Interpretation 310-4***

*For purposes of Standard 310(c), the time for determining the commencement of law study is ordinarily the time when a student commences law study at any institution. For example, if a law school accepts transfer credit from another institution, the time begins when the student commenced study at the law school from which the transfer credit is accepted. If a law school accepts a student who has completed law studies at a foreign law school and grants up to one-third of the total credit hours required for the J.D. degree as permitted under Standard 505, the time begins to run with the amount of credit that is given – a maximum of one year.*

## **Standard 311. REASONABLY COMPARABLE OPPORTUNITIES**

**A law school providing more than one enrollment or scheduling option shall ensure that all students have reasonably comparable opportunities for access to the law school's academic program, courses taught by full-time faculty, student services, co-curricular programs, and other educational benefits. Identical opportunities are not required.**

## **Standard 312. DEGREE PROGRAMS IN ADDITION TO J.D.**

**A law school may not offer a degree program other than its J.D. degree program unless:**

**(a) the law school is fully approved;**

**(b) the new degree program will not interfere with the ability of the law school to operate in compliance with the Standards and to carry out its academic program; and**

**(c) acquiescence has been granted by the Council.**

***Interpretation 312-1***

*Acquiescence in an advanced degree program may be granted if:*

- (1) there are sufficient full-time faculty to conduct both the J.D. degree program and the additional degree program;*
- (2) there are adequate facilities to support both the J.D. program and the additional degree program;*
- (3) the law library resources are adequate to support both a J.D. and an additional degree program; and*
- (4) the law school curriculum is adequate to support both the J.D. program and an additional degree program.*

***Interpretation 312-2***

*Acquiescence in a degree program other than the first degree in law is not an approval of the program itself, and, therefore, a school may not announce that the program is approved by the American Bar Association.*

**Standard 313. ASSESSMENT OF STUDENT LEARNING**

**A law school shall utilize both formative and summative assessment methods in its curriculum to measure and improve student learning and provide meaningful feedback to students.**

***Interpretation 313-1***

*Formative assessment methods are measurements at different points during a particular course or at different points over the span of a student's education that provide meaningful feedback to improve student learning. Summative assessments methods are measurements at the culmination of a particular course or at the culmination of any part of a student's legal education that measure the degree of student learning.*

***Interpretation 313-2***

*A law school need not apply multiple assessment methods in any particular course. Assessment methods are likely to be different from school to school. Law schools are not required by Standard 313 to use any particular methods.*

**Standard 314. EVALUATION OF ACADEMIC PROGRAM, LEARNING OUTCOMES, AND ASSESSMENT METHODS**

**The dean and faculty of a law school shall conduct ongoing evaluation of the law school's academic program, learning outcomes, and assessment methods; and shall use the results**

**of this evaluation to determine the degree of student attainment of competency in the learning outcomes and to make appropriate changes to improve the curriculum.**

***Interpretation 314-1***

*Examples of methods that may be used to measure the degree to which students have attained competency in the school's student learning outcomes include: review of the records the law school maintains to measure individual student achievement pursuant to Standard 313; evaluation of student learning portfolios; student evaluation of the sufficiency of their education; student performance in capstone courses or other courses that appropriately assess a variety of skills and knowledge; bar exam passage rates; placement rates; surveys of attorneys, judges, and alumni; and assessment of student performance by judges, attorneys or law professors from other schools. The methods used to measure the degree of student achievement of learning outcomes are likely to differ from school to school and law schools are not required by this standard to use any particular methods.*

**Standard 315. BAR PASSAGE**

**(a) No later than the end of the second calendar year following the year of their graduation, 80% of a law school's graduates from that year who took a bar examination must have passed a bar examination.**

**(b) A fully approved law school must demonstrate compliance with this Standard in at least four of the seven years since the previous inspection.**

**(c) Prior to being considered by the Council for full approval, a provisionally approved law school must demonstrate compliance with this Standard for graduates from at least two calendar years.**

**(d) In demonstrating compliance, a law school must report on all of its graduates who took a bar examination; however, a law school is not obligated to continue to collect data once the 80% threshold set forth in (a) has been met. If a law school is unable to report a sufficient number of its graduates, the burden is on the law school to demonstrate that it was unable to acquire the information.**

**(e) A law school found out of compliance under this Standard and that has not been able to come into compliance within the two-year period specified in Rule 13(b) of the Rules of Procedure for Approval of Law Schools, may seek to demonstrate good cause for extending the period the law school has to demonstrate compliance by submitting evidence of:**

**(1) The law school's trend in bar passage rates;**

**(2) Effective and sustained actions by the law school to address the inadequate bar passage results of its graduates in the form of pervasive academic support and bar preparation efforts involving the entire faculty;**

**(3) Actions taken by the law school to implement an effective and sustained program to assist graduates who did not pass the bar examination in addressing their**

**deficiencies;**

**(4) Efforts by the law school to provide broader access to legal education while maintaining academic rigor;**

**(5) Temporary circumstances beyond the control of the law school, but which the law school is addressing: for example, a natural disaster that disrupts operations or a significant increase in the standard for passing the relevant bar examination(s);**

**(6) Other factors, consistent with a law school's demonstrated and sustained mission, which the school considers relevant in explaining its deficient bar passage results and in explaining the school's efforts to improve them.**

***Interpretation 315-1***

*Complying with Standard 315 is not alone sufficient to comply with any other Standard.*

**EFFECTIVE DATE**

The effective date of new Standards 302, 303 and 313 is three years from the date of adoption. The effective date of new Standard 314 is five years from the date of adoption. Prior to three years after the date of adoption, law schools may elect, for the purpose of their sabbatical inspections, to be evaluated under either (a) existing Standard 302; (b) new Standards 302, 303 and 313; or (c) new Standards 302, 303, 313, and 314. From the period of three years after the date of adoption to five years after the date of adoption, law schools may elect whether or not to be evaluated under Standard 314.

**TRANSITION**

In the initial phases of implementation of the outcome measures standards set forth in Standards 301, 302, and 313, compliance will be assessed based upon evaluating the seriousness of the school's efforts to establish and assess student learning outcomes, not upon attainment of a particular level of achievement for each learning outcome. Among factors to consider assessing compliance with these standards are whether a school has demonstrated faculty engagement in the identification of the student learning outcomes it seeks for its graduates; whether the school is working effectively to identify how the school's curriculum encompasses the identified outcomes, and to integrate teaching and assessment of those outcomes into its curriculum; and whether the school has identified when and how students receive feedback on their development of the identified outcomes.

In the initial phases of implementation of the institutional effectiveness standard set forth in Standard 314, compliance will be assessed based on the seriousness of the law school's efforts to engage in an ongoing process of gathering information about its students' progress toward achieving identified outcomes and whether it is using the information gathered to regularly review, assess and adapt its academic program.



## **Comments Re: Proposed Standard 315**

### **July 2013**

Proposed Standard 315 attempts to simplify and improve upon Interpretation 301-6 by setting forth a single straightforward basis on which a law school can demonstrate its performance measured by the outcome of success on a licensing examination. The Standard as proposed should prove to be more easily understood, and more administrable, than its predecessor.

### **The Conceptual Framework of Proposed Standard 315**

The basic concepts embodied in the proposed Standard are as follows:

1. A law school is responsible for making a good-faith effort to track all of its graduates who earn degrees in each calendar year.
2. The proposal abandons the measure of a first-time bar passage rate and now looks exclusively at the ultimate pass rate, defined as the success rate of law school graduates, the majority of whom will have had no less than five opportunities to take a bar examination. (This is supported by data that reveal that most first-time takers sit for the July exam. In 2012, 47,598 candidates who were graduates of ABA-approved law schools took the July exam, as against 10,665 first-time takers who sat in February of that year.) Based on this information, it is reasonable to conclude that roughly 80% of graduates in a given year will have the opportunity to take the July exam in their year of graduation as well as the two examinations—February and July—in each of the two years following their graduation, for a total of five opportunities.
3. To the extent that some graduates do not choose to take a licensing examination at all during that three-year period, their non-participation will not be held against the law school; that is, they are eliminated from the number to which the 80% ultimate pass rate is applied.
4. The calculation does include those who take the bar examination unsuccessfully and do not persist. Just as the calculation excludes those graduates who do not test at all during the three-year period on the theory that they may not have wished to become licensed lawyers, the calculation will include those who, by taking a bar examination, signaled their wish to enter the profession.
5. The proposal acknowledges that some law schools may experience difficulty in tracking their graduates, and allows a law school to demonstrate it has made a good faith, albeit unsuccessful, effort to secure the information. (At this juncture, 43 jurisdictions, including New York and California, release name-specific pass/fail information. *See Attachment A.* Using 2012 data, of 58,263 first-time takers, pass/fail information was unavailable for 6,290 (11%) of candidates—and available for 89%. *See Attachment B.*)
6. The proposed Standard contemplates that once a law school has demonstrated that 80% of its graduates from a given year passed a bar exam, there is no need for further pursuit of data or for record-keeping.

7. The proposed Standard builds in a series of mitigating factors that a law school may cite if it fails to demonstrate compliance.

### **The Justification for Sharpening the Focus of Interpretation 301(6)**

Standard 315 as proposed is intended to modestly strengthen the regulatory objective initially developed as Interpretation 301(6). Under I-306(6), a poorly performing law school remained in compliance for longer than available data support.

Two studies undertaken by the measurement staff of the National Conference of Bar Examiners illuminate that the five-year window allowed in I-301(6) is excessive and unnecessary. Two studies (of all first-time takers who could be identified and who began testing in July 2006 and July 2007) revealed that only a small percentage were still testing after four administrations. This was true for all racial and ethnic groups. *See Attachment C.* Two additional studies focusing on California, which applies a fairly high cut score (144 on a 200-point scale), revealed similar results.

In addition, using MBE data, a review of all first-time takers who took the July 2010 bar examination revealed that after five opportunities to test, only 1.17% sat for a sixth administration in the same jurisdiction in which they originally tested. This does not suggest that candidates still testing had already tested five times; it merely demonstrates that few who began testing needed to continue testing at this point, whether because they had passed or dropped out. *See Attachment D.*

Finally, data collected and published annually by the National Conference of Bar Examiners disclose that the overall first-time-taker pass rate for graduates of ABA-approved law schools, as reported by the testing jurisdictions, has ranged between 79% and 85% over the past five calendar years. (The repeater rates for the same five years range from 38% to 44%.)

### **Addressing Concerns About the Impact of Change**

In assessing the wisdom of developing proposed Standard 315, the Standards Review Committee has been mindful of the reservations expressed by several commentators, and particularly those that speculate that the adoption of Standard 315 as proposed would pose a setback to diversifying the profession.

The data do not support that this will occur. Further, the language of the Standard specifically contemplates that law schools found out of compliance will be given additional time to come into compliance if they come within one or more of six categories that will serve to mitigate.

### **Conclusion**

At bedrock, given the time and expense involved in obtaining a legal education, every graduate who wishes to seek entrance into the profession for which they have trained should

be able to do so. In accepting students for such training, a law school is obligated to tailor that training so as to help each student succeed.

Given that year after year roughly 80% of all first-time takers pass the bar examination on the first attempt, it is hardly unreasonable to sanction a law school if, after five attempts at a bar examination, less than four of five of its graduates can pass. At some point it is fair to say that a law school has exploited its students in failing to equip them to enter the legal profession if they signified, by taking a bar examination, that they hoped to do so.

## Summary: Pass/Fail Disclosure of Bar Exam Results

1. Does your jurisdiction provide name-specific pass/fail information (not scores) to the law schools from which your test-takers graduate?							
Jurisdiction automatically discloses name-specific pass/fail information to law schools from which test-takers graduate.		Jurisdiction automatically discloses name-specific pass/fail information to in-state law schools. Out-of-state law schools must request information from jurisdiction.		All law schools must request name-specific pass/fail information from jurisdiction.		Jurisdiction does not provide name-specific pass/fail information to law schools.	
CA	Yes	AR	Yes	AK	Yes	AL	No
CT	Yes	FL	Yes	AZ	Yes	HI	No
IL	Yes	GA	Yes	CO	Yes	NH	No*
KS	Yes	IN	Yes	DC	Yes	NJ	No
MD	Yes	KY	Yes	DE	Yes	OR	No
NE	Yes	LA	Yes	IA	Yes	SD	No
NY	Yes	MA	Yes	ID	Yes	VT	No**
OK	Yes	MN	Yes	ME	Yes	WY	No
WA	Yes	MO	Yes	MI	Yes	GU	No
WI	Yes	MT	Yes	MS	Yes	MP	No
		NC	Yes	NV	Yes	PR	No
		ND	Yes	PA	Yes	PW	No
		NM	Yes	RI	Yes	VI	No
		OH	Yes	SC	Yes		
		TN	Yes	TX	Yes		
		VA	Yes	UT	Yes		
		WV	Yes				

\* Passing only

\*\* Information available but not administratively feasible

## 2012 First-Time Exam Takers<sup>a</sup> and Repeaters from ABA-Approved Law Schools

Jurisdiction	2012 Administration	ABA First-Timers			ABA Repeaters		
		Taking	Passing	% Passing	Taking	Passing	% Passing
Alabama	February	98	78	80%	20	9	45%
	July	344	309	90%	16	4	25%
	Total	442	387	88%	36	13	36%
Alaska	February	34	27	79%	22	9	41%
	July	76	59	78%	26	11	42%
	Total	110	86	78%	48	20	42%
Arizona	February	180	129	72%	105	60	57%
	July	598	495	83%	93	47	51%
	Total	778	624	80%	198	107	54%
Arkansas	February	71	46	65%	40	18	45%
	July	217	174	80%	39	11	28%
	Total	288	220	76%	79	29	37%
California	February	762	432	57%	1,775	827	47%
	July	5,532	4,064	73%	1,109	255	23%
	Total	6,294	4,496	71%	2,884	1,082	38%
Colorado	February	305	244	80%	137	65	47%
	July	896	763	85%	101	35	35%
	Total	1,201	1,007	84%	238	100	42%
Connecticut	February	169	146	86%	65	23	35%
	July	453	380	84%	52	20	38%
	Total	622	526	85%	117	43	37%
Delaware	February	No February examination					
	July	180	125	69%	43	15	35%
	Total	180	125	69%	43	15	35%
Dist. of Columbia	February	100	74	74%	48	11	23%
	July	100	77	77%	39	11	28%
	Total	200	151	76%	87	22	25%
Florida	February	869	663	76%	433	135	31%
	July	3,033	2,432	80%	378	113	30%
	Total	3,902	3,095	79%	811	248	31%
Georgia	February	299	236	79%	201	91	45%
	July	1,155	985	85%	149	66	44%
	Total	1,454	1,221	84%	350	157	45%
Hawaii	February	87	68	78%	32	12	38%
	July	146	107	73%	29	12	41%
	Total	233	175	75%	61	24	39%
Idaho	February	61	54	89%	17	7	41%
	July	126	106	84%	11	4	36%
	Total	187	160	86%	28	11	39%
Illinois	February	619	506	82%	267	133	50%
	July	2,414	2,143	89%	184	71	39%
	Total	3,033	2,649	87%	451	204	45%
Indiana	February	200	151	76%	94	45	48%
	July	505	409	81%	67	18	27%
	Total	705	560	79%	161	63	39%

<sup>a</sup>First-time exam takers are defined as examinees taking the bar examination for the first time in the reporting jurisdiction.

## 2012 First-Time Exam Takers<sup>a</sup> and Repeaters from ABA-Approved Law Schools (*continued*)

Jurisdiction	2012 Administration	ABA First-Timers			ABA Repeaters		
		Taking	Passing	% Passing	Taking	Passing	% Passing
Iowa	February	66	60	91%	27	16	59%
	July	292	271	93%	16	7	44%
	Total	358	331	92%	43	23	53%
Kansas	February	107	93	87%	24	12	50%
	July	243	217	89%	19	8	42%
	Total	350	310	89%	43	20	47%
Kentucky	February	135	106	79%	77	40	52%
	July	355	297	84%	53	29	55%
	Total	490	403	82%	130	69	53%
Louisiana	February	128	57	45%	180	111	62%
	July	641	432	67%	103	30	29%
	Total	769	489	64%	283	141	50%
Maine	February	39	26	67%	24	12	50%
	July	102	78	76%	17	9	53%
	Total	141	104	74%	41	21	51%
Maryland	February	279	188	67%	276	115	42%
	July	1,418	1,144	81%	184	77	42%
	Total	1,697	1,332	78%	460	192	42%
Massachusetts	February	294	228	78%	188	95	51%
	July	2,031	1,753	86%	119	57	48%
	Total	2,325	1,981	85%	307	152	50%
Michigan	February	374	244	65%	151	67	44%
	July	820	524	64%	145	24	17%
	Total	1,194	768	64%	296	91	31%
Minnesota	February	146	116	79%	52	17	33%
	July	721	670	93%	50	25	50%
	Total	867	786	91%	102	42	41%
Mississippi	February	57	45	79%	48	18	38%
	July	209	170	81%	22	8	36%
	Total	266	215	81%	70	26	37%
Missouri	February	213	190	89%	52	30	58%
	July	750	697	93%	41	21	51%
	Total	963	887	92%	93	51	55%
Montana	February	67	65	97%	12	9	75%
	July	138	125	91%	2	1	50%
	Total	205	190	93%	14	10	71%
Nebraska	February	12	9	75%	13	7	54%
	July	77	65	84%	9	0	0%
	Total	89	74	83%	22	7	32%
Nevada	February	139	94	68%	69	23	33%
	July	260	201	77%	75	30	40%
	Total	399	295	74%	144	53	37%

<sup>a</sup>First-time exam takers are defined as examinees taking the bar examination for the first time in the reporting jurisdiction.

## 2012 First-Time Exam Takers<sup>a</sup> and Repeaters from ABA-Approved Law Schools (*continued*)

Jurisdiction	2012 Administration	ABA First-Timers			ABA Repeaters		
		Taking	Passing	% Passing	Taking	Passing	% Passing
New Hampshire	February	27	22	81%	13	10	77%
	July	135	118	87%	4	2	50%
	Total	162	140	86%	17	12	71%
New Jersey	February	476	320	67%	489	140	29%
	July	3,497	2,774	79%	212	88	42%
	Total	3,973	3,094	78%	701	228	33%
New Mexico	February	122	110	90%	29	16	55%
	July	192	170	89%	23	10	43%
	Total	314	280	89%	52	26	50%
New York	February	1,069	733	69%	1,248	501	40%
	July	7,885	6,569	83%	836	268	32%
	Total	8,954	7,302	82%	2,084	769	37%
North Carolina	February	188	152	81%	281	65	23%
	July	1,004	790	79%	193	76	39%
	Total	1,192	942	79%	474	141	30%
North Dakota	February	30	25	83%	9	4	44%
	July	91	73	80%	4	2	50%
	Total	121	98	81%	13	6	46%
Ohio	February	223	177	79%	172	73	42%
	July	1,081	919	85%	123	56	46%
	Total	1,304	1,096	84%	295	129	44%
Oklahoma	February	95	79	83%	47	30	64%
	July	375	316	84%	24	7	29%
	Total	470	395	84%	71	37	52%
Oregon	February	106	82	77%	104	64	62%
	July	381	315	83%	65	15	23%
	Total	487	397	82%	169	79	47%
Pennsylvania	February	349	260	74%	313	136	43%
	July	1,872	1,554	83%	203	52	26%
	Total	2,221	1,814	82%	516	188	36%
Rhode Island	February	32	29	91%	23	10	43%
	July	188	153	81%	10	6	60%
	Total	220	182	83%	33	16	48%
South Carolina	February	155	107	69%	97	47	48%
	July	433	321	74%	71	28	39%
	Total	588	428	73%	168	75	45%
South Dakota	February	15	12	80%	4	1	25%
	July	87	76	87%	3	1	33%
	Total	102	88	86%	7	2	29%
Tennessee	February	111	87	78%	79	31	39%
	July	514	395	77%	62	58	94%
	Total	625	482	77%	141	89	63%

<sup>a</sup>First-time exam takers are defined as examinees taking the bar examination for the first time in the reporting jurisdiction.

## 2012 First-Time Exam Takers<sup>a</sup> and Repeaters from ABA-Approved Law Schools (*continued*)

Jurisdiction	2012 Administration	ABA First-Timers			ABA Repeaters		
		Taking	Passing	% Passing	Taking	Passing	% Passing
Texas	February	685	516	75%	360	169	47%
	July	2,593	2,174	84%	326	128	39%
	Total	3,278	2,690	82%	686	297	43%
Utah	February	110	90	82%	31	12	39%
	July	301	247	82%	35	20	57%
	Total	411	337	82%	66	32	48%
Vermont	February	28	20	71%	13	7	54%
	July	77	60	78%	8	3	38%
	Total	105	80	76%	21	10	48%
Virginia	February	255	172	67%	244	117	48%
	July	1,359	1,080	79%	145	50	34%
	Total	1,614	1,252	78%	389	167	43%
Washington	February	315	166	53%	131	122	93%
	July	785	495	63%	74	62	84%
	Total	1,100	661	60%	205	184	90%
West Virginia	February	66	50	76%	37	16	43%
	July	189	158	84%	31	9	29%
	Total	255	208	82%	68	25	37%
Wisconsin	February	74	60	81%	14	8	57%
	July	165	146	88%	15	11	73%
	Total	239	206	86%	29	19	66%
Wyoming	February	34	25	74%	35	13	37%
	July	65	34	52%	17	8	47%
	Total	99	59	60%	52	21	40%
Guam	February	9	4	44%	3	2	67%
	July	6	5	83%	3	1	33%
	Total	15	9	60%	6	3	50%
N. Mariana Islands	February	3	3	100%	1	1	100%
	July	4	4	100%	—	—	—
	Total	7	7	100%	1	1	100%
Palau	February	No February examination					
	July	3	2	67%	—	—	—
	Total	3	2	67%	—	—	—
Puerto Rico <sup>b</sup>	February	158	57	36%	328	90	27%
	July	464	227	49%	247	68	28%
	Total	622	284	46%	575	158	27%
Virgin Islands	February	20	16	80%	5	1	20%
	July	20	12	60%	—	—	—
	Total	40	28	70%	5	1	20%
TOTALS	February	10,665	7,749	73%	8,559	3,703	43%
	July	47,598	38,459	81%	5,925	2,048	35%
	Total	58,263	46,208	79%	14,484	5,751	40%

<sup>a</sup>First-time exam takers are defined as examinees taking the bar examination for the first time in the reporting jurisdiction.

<sup>b</sup>Examinations in Puerto Rico are administered in March and September.



Figure 1. Percentage of Examinees Taking the MBE One or More Times  
(N=30,878; 1<sup>st</sup> attempt in July 2006)

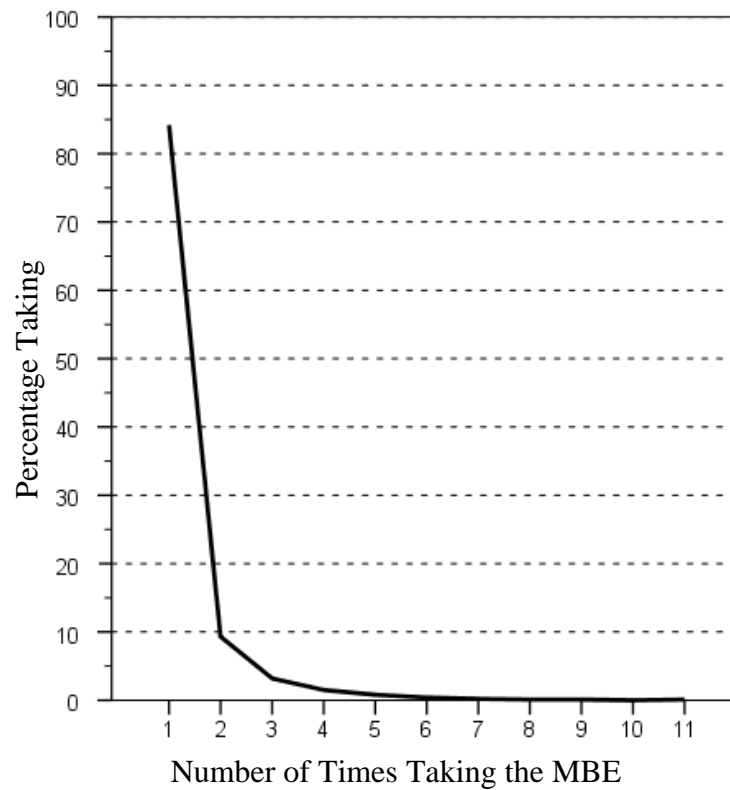


Figure 2. Percentage of Examinees Taking the MBE One or More Times by Ethnic Group  
(N=30,878; 1<sup>st</sup> attempt in July 2006)

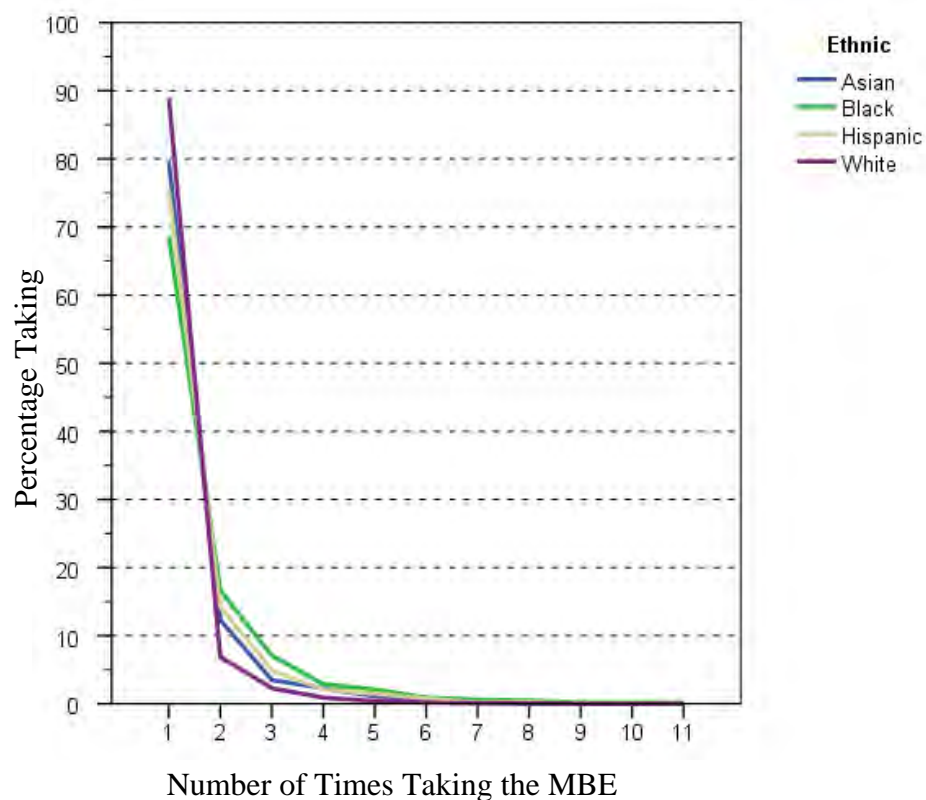


Figure 3. Percentage of Examinees Taking the MBE One or More Times  
(N=30,759; 1<sup>st</sup> attempt in July 2007)

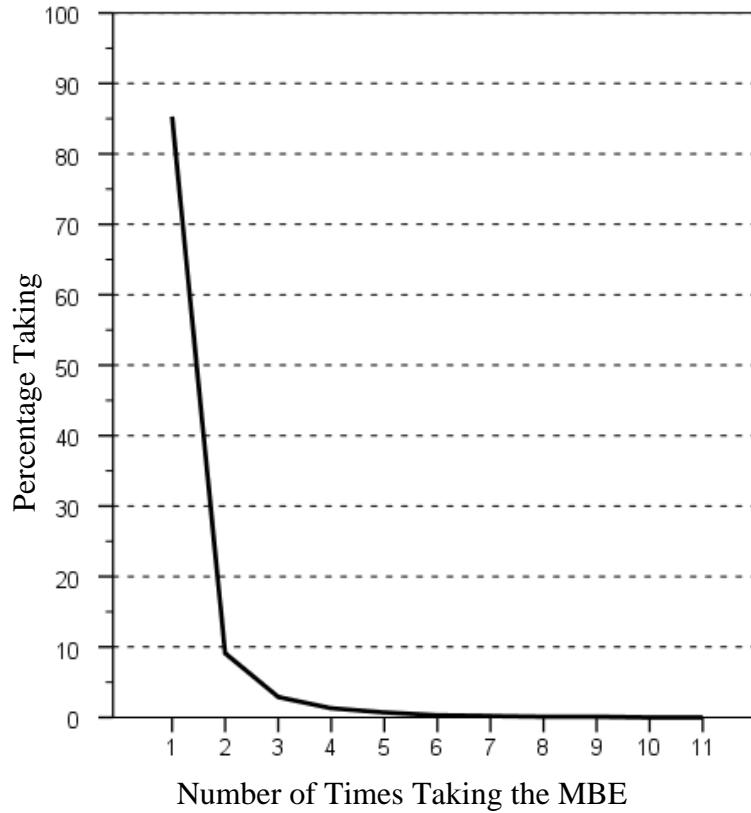
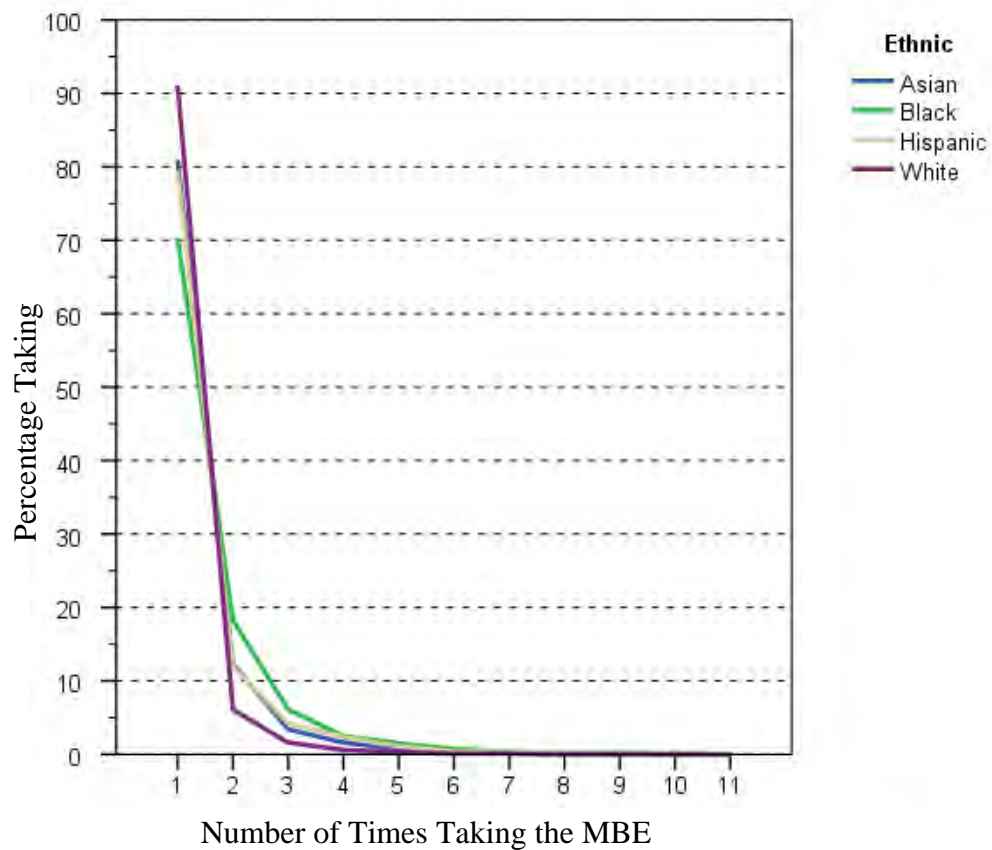


Figure 4. Percentage of Examinees Taking the MBE One or More Times by Ethnic Group  
(N=30,759; 1<sup>st</sup> attempt in July 2007)



Number and percentage of examinees taking the MBE after five administrations beginning with their first in July 2010

Joanne Kane, Ph.D.

4/16/2013

Juris Name	First Taking July 2010	Retaking Feb 2013	Percent Retaking Feb 2013
Alabama	377	3	0.80%
Alaska	57	0	0.00%
Arizona	420	3	0.71%
Arkansas	183	0	0.00%
California	5,663	160	2.83%
Colorado	701	4	0.57%
Connecticut	337	5	1.48%
Delaware	119	0	0.00%
DC	73	5	6.85%
Florida	2,464	31	1.26%
Georgia	.	.	.
Hawaii	99	0	0.00%
Idaho	96	1	1.04%
Illinois	2,144	10	0.47%
Indiana	465	5	1.08%
Iowa	258	0	0.00%
Kansas	170	0	0.00%
Kentucky	330	3	0.91%
Maine	85	1	1.18%
Maryland	1,165	6	0.52%
Massachusetts	1,275	2	0.16%
Michigan	.	.	.
Minnesota	722	3	0.42%
Mississippi	201	5	2.49%
Missouri	640	0	0.00%

Juris Name	First Taking July 2010	Retaking Feb 2013	Percent Retaking Feb 2013
Montana	97	1	1.03%
Nebraska	102	1	0.98%
Nevada	230	3	1.30%
New Hampshire	89	1	1.12%
New Jersey	401	3	0.75%
New Mexico	.	.	.
New York	7,560	93	1.23%
North Carolina	817	12	1.47%
North Dakota	52	2	3.85%
Ohio	1,036	7	0.68%
Oklahoma	329	0	0.00%
Oregon	403	1	0.25%
Pennsylvania	1,657	11	0.66%
Rhode Island	116	1	0.86%
South Carolina	331	2	0.60%
South Dakota	52	0	0.00%
Tennessee	495	1	0.20%
Texas	.	.	.
Utah	266	1	0.38%
Vermont	46	0	0.00%
Virginia	1,262	6	0.48%
West Virginia	149	2	1.34%
Wisconsin	141	1	0.71%
Wyoming	33	0	0.00%

Total	33,708	396	1.17%
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Number and percentage of examinees taking the MBE after five administrations beginning with their first in July 2010

Joanne Kane, Ph.D.

4/16/2013

For this research project, we started with a cohort of examinees who sat for the Bar Exam for the first time ever in July 2010. Note that this inclusion criterion might seem to deflate the numbers in a jurisdiction like DC, for example, where candidates might be relatively unlikely to be first-time takers (being more likely to first take the exam in another jurisdiction (state) and later take the exam in DC). We included only the examinees who had provided a valid SSN, since that was the identifier we used to track the examinees over time.

We followed the cohort over time, and looked at the percentage of examinees who were still taking the exam six administrations later *in the same jurisdiction*.

N.B. that in the table on the previous page we are not reflecting the proportion of people who took the exam in the same jurisdiction all six opportunities they had to do so. A few of these examinees did that, but very few. More commonly, people take the exam in one jurisdiction (say, CA) a few times, then switch to another jurisdiction (NY), and then switch back to the first jurisdiction for the focal admin (February 2013 in this report). Other candidates try once or twice and then skip a few administrations (taking a break maybe) and then try again in the focal administration (Feb. 13). This chart should not be interpreted as describing the percentage of examinees who persist on the Bar Exam for six straight administrations; examinees may have taken it as few as two times.

**American Bar Association  
Section of Legal Education and Admissions to the Bar  
Standards Review Committee**

**Chapter 4 - THE FACULTY**

**REDLINED -- DRAFT for July 2013 Meeting**

Strike-outs and underlines show changes from the current Standards.

**To be added to Definitions Section:**

**“Full-time faculty member” means** ~~(b) A full-time faculty member is one~~ an individual whose primary professional employment is with the law school, ~~and who~~ and who devotes substantially all working time during the academic year to the responsibilities described in Standard 404(a), ~~and whose outside professional activities, other than those described in Standard 404(a), if any, are limited to those that relate to major academic interests or enrich the faculty member’s capacity as a scholar and teacher, are of service to the legal profession and the public generally, and do not unduly interfere with one’s his or her responsibility responsibilities as a full-time faculty member.~~

**Standard 401. QUALIFICATIONS**

A law school shall have a faculty whose qualifications and experience are appropriate to the stated mission of the law school and enable it to operate in compliance with the Standards and carry out its ~~and to maintaining a program of legal education consistent with the requirements of Standards 301 and 302.~~ The faculty shall possess a high degree of competence, as demonstrated by ~~its education~~ academic qualification, experience in teaching or practice, teaching effectiveness and ~~scholarly research and writing~~ scholarship.

**Standard 402. SIZE OF FULL-TIME FACULTY**

(a) A law school shall have a sufficient number of full-time faculty to fulfill the requirements of the Standards and meet the goals of its educational program. The number of full-time faculty necessary depends on:

- (1) the size of the student body and the opportunity for students to meet individually with and consult full-time faculty members;
- (2) the nature and scope of the educational program; and
- (3) the opportunities for the full-time faculty to adequately fulfill its teaching obligations, conduct scholarly research, and participate effectively in the governance of the law school and ~~in~~ provide service to the legal profession and the public.

~~(b) A full-time faculty member is one who meets the definition of full-time faculty member in [Standard 108]. A full-time faculty member is one whose primary professional employment is with the law school and who devotes substantially all working time during the academic year to the responsibilities described in Standard 404(a), and whose outside professional activities, if any, are limited to those that relate to major academic interests or enrich the faculty member's capacity as a scholar and teacher, are of service to the legal profession and the public generally, and do not unduly interfere with one's responsibility as a faculty member.~~

(c) In determining whether a law school complies with the Standards, the ratio of the number of full-time equivalent students to the number of full-time faculty members is considered.

(1) In computing the student/faculty ratio, full-time faculty are those who meet the definition of a full-time faculty member in [Standard 108].

(2) For the purpose of computing the student/faculty ratio, student includes those enrolled in the JD program and in any graduate law degree program. A student is considered full-time or part-time as determined by the school, provided that no student who is enrolled in fewer than ten credit hours in a term shall be considered a full-time student, and no student enrolled in more than 13 credit hours shall be considered a part-time student. A full-time student is counted as 1.0. A part-time student is counted as a two-thirds equivalent student.

#### ***Interpretation 402-1***

~~In determining whether a law school complies with the Standards, the ratio of the number of full-time equivalent students to the number of full-time equivalent faculty members is considered.~~

~~(1) In computing the student/faculty ratio, full-time equivalent teachers are those who are employed as full-time teachers on tenure track or its equivalent who shall be counted as one each plus those who constitute "additional teaching resources" as defined below. No limit is imposed on the total number of teachers that a school may employ as additional teaching resources, but these additional teaching resources shall be counted at a fraction of less than 1 and may constitute in the aggregate up to 20 percent of the full-time faculty for purposes of calculating the student/faculty ratio.~~

~~(A) Additional teaching resources and the proportional weight assigned to each category include:~~

~~(i) teachers on tenure track or its equivalent who have administrative duties beyond those normally performed by full-time faculty members: 0.5;~~

~~(ii) clinicians and legal writing instructors not on tenure track or its equivalent who teach a full load: 0.7; and~~

~~(iii) adjuncts, emeriti faculty who teach, non-tenure track administrators who teach, librarians who teach, and teachers from other units of the university: 0.2.~~

~~(B) These norms have been selected to provide a workable framework to recognize the effective contributions of additional teaching resources. To the extent a law school has types or categories of teachers not specifically described above, they shall be counted as appropriate in accordance with the weights specified above. It is recognized that the designated proportional weights may not in all cases reflect the contributions to the law school of particular teachers. In exceptional cases, a school may seek to demonstrate to site evaluation teams and the Accreditation Committee that these proportional weights should be changed to weigh contributions of individual teachers.~~

~~(2) For the purpose of computing the student/faculty ratio, a student is considered full-time or part-time as determined by the school, provided that no student who is enrolled in fewer than ten credit hours in a term shall be considered a full-time student, and no student enrolled in more than 13 credit hours shall be considered a part-time student. A part-time student is counted as a two-thirds equivalent student.~~

~~(3) If there are graduate or non-degree students whose presence might result in a dilution of J.D. program resources, the circumstances of the individual school are considered to determine the adequacy of the teaching resources available for the J.D. program.~~

**Interpretation 402-2 Interpretation 402-1**

[This interpretation will need revision based on the establishment of the student/faculty ratio formula adopted for subsection (c) and data showing what student/faculty ratios will be when the new formula is implemented].

~~Student/faculty ratios are considered in determining a law school's compliance with the Standards.~~

~~(1) A ratio of 20:1 or less presumptively indicates that a law school complies with the Standards. However, the educational effects shall be examined to determine whether the size and duties of the full-time faculty meet the Standards.~~

~~(2) A ratio of 30:1 or more presumptively indicates that a law school does not comply with the Standards.~~

~~(3) At a ratio of between 20:1 and 30:1 and to rebut the presumption created by a ratio of 30:1 or greater, the examination will take into account the effects of all teaching resources on the school's educational program, including such matters as quality of teaching, class size, availability of small group classes and seminars, student/faculty contact, examinations and grading, scholarly contributions, public service, discharge of governance responsibilities, and the ability of the law school to carry out its announced mission.~~

***Interpretation 402-3 402-2***

*A full-time faculty member who is teaching an additional full-time load at another law school may not be considered as a full-time faculty member at either institution.*

***Interpretation 402-4 402-3***

*Regularly engaging in law practice or having an ongoing relationship with a law firm or other business creates a presumption that a faculty member is not a full-time faculty member under this Standard. This presumption may be rebutted if the law school is able to demonstrate that the individual has a full-time commitment to teaching, research, and public service, is available to students, and is able to participate in the governance of the institution to the same extent expected of full-time faculty*

**Standard 403. INSTRUCTIONAL ROLE OF FACULTY**

**(a) The full-time faculty shall teach ~~the major portion of the law school's curriculum including~~ substantially all of the first one-third of each student's coursework. The full-time faculty shall also teach during the academic year either (1) more than half of all of the credit hours actually offered by the school, or (2) two thirds of the student contact hours generated by student enrollment at the school.**

**(b) A law school shall ensure effective teaching by all persons providing instruction to its students.**

**~~(c) A law school should include experienced practicing lawyers and judges as teaching resources to enrich the educational program. Appropriate use of practicing lawyers and judges as faculty requires that a law school shall provide them with orientation, guidance, monitoring, and evaluation.~~**

***Interpretation 403-1***

*The full-time faculty's teaching responsibility will usually be determined by the proportion of student credit hours taught by full-time faculty in each of the law school's programs or divisions (such as full-time, part-time evening study, and part-time weekend study). For purposes of Standard 403(a), a faculty member is considered full-time if that person's primary professional employment is with the law school.*

***Interpretation 403-2 403-1***

*Efforts to ensure teaching effectiveness may include: orientation, guidance and mentoring for new faculty members; a faculty committee on effective teaching; class visitations; critiques of videotaped teaching; institutional review of student course evaluations; evaluation of teaching; colloquia on effective teaching; and recognition and use of creative scholarship in law school teaching methodology. A law school shall provide all new faculty members with orientation, guidance, mentoring, and periodic evaluation.*

**Standard 404. RESPONSIBILITIES OF FULL-TIME FACULTY**



(a) A law school shall ~~establish~~ provide written policies with respect to ~~a full-time faculty members' member's~~ responsibilities. The policies shall require that the full-time faculty, as a collective body, fulfill these core responsibilities: in teaching, scholarship, service to the law school community, and professional activities outside the law school. The policies need not seek uniformity among faculty members, but should address:

(1) ~~Faculty T~~ teaching, responsibilities, including carrying a fair share of the law school's course offerings preparing for classes, being available for student consultation about those classes, assessing student performance in those classes, and remaining current in the subjects being taught;

(2) ~~P~~ participating in academic advising, and creating an atmosphere in which students and faculty may voice opinions and exchange ideas, and assessing student learning at the law school;

(3)(2) Engaging in scholarship, as defined by each law school; Research and scholarship, and integrity in the conduct of scholarship, including appropriate use of student research assistants, acknowledgment of the contributions of others, and responsibility of faculty members to keep abreast of developments in their specialties;

(4)(3) Service Obligations to the law school and university community, including participation in the governance of the law school, curriculum development, and other institutional responsibilities described in the Standards;

(5)(4) Obligations Service to the profession, including working with the practicing bar and judiciary to improve the profession; and

(6)(5) Obligations Service to the public, including participation in pro bono activities; and

(7) Any other contributions deemed important by the law school for the achievement of its mission.

(b) ~~The A-law school shall periodically evaluate periodically the extent to which each the faculty member discharges his or her its core responsibilities under the law school's policies and the contributions of each full-time faculty member to meeting the core responsibilities of the faculty. adopted pursuant to Standard 404(a).~~

#### ~~Standard 405. PROFESSIONAL ENVIRONMENT~~

(a) ~~A law school shall establish and maintain conditions adequate to attract and retain a competent faculty.~~

(b) ~~A law school shall have an established and announced policy with respect to academic freedom and tenure of which Appendix 1 herein is an example but is not obligatory.~~

~~(c) A law school shall afford to full-time clinical faculty members a form of security of position reasonably similar to tenure, and non-compensatory perquisites reasonably similar to those provided other full-time faculty members. A law school may require these faculty members to meet standards and obligations reasonably similar to those required of other full-time faculty members. However, this Standard does not preclude a limited number of fixed, short-term appointments in a clinical program predominantly staffed by full-time faculty members, or in an experimental program of limited duration.~~

~~(d) A law school shall afford legal writing teachers such security of position and other rights and privileges of faculty membership as may be necessary to (1) attract and retain a faculty that is well-qualified to provide legal writing instruction as required by Standard 302(a)(3), and (2) safeguard academic freedom.~~

**~~Interpretation 405-1~~**

~~A fixed limit on the percent of a law faculty that may hold tenure under any circumstances violates the Standards.~~

**~~Interpretation 405-2~~**

~~A law faculty as professionals should not be required to be a part of the general university bargaining unit.~~

**~~Interpretation 405-3~~**

~~A law school shall have a comprehensive system for evaluating candidates for promotion and tenure or other forms of security of position, including written criteria and procedures that are made available to the faculty.~~

**~~Interpretation 405-4~~**

~~A law school not a part of a university in considering and deciding on appointment, termination, promotion, and tenure of faculty members should have procedures that contain the same principles of fairness and due process that should be employed by a law school that is part of a university. If the dean and faculty have made a recommendation that is unfavorable to a candidate, the candidate should be given an opportunity to appeal to the president, chairman, or governing board.~~

**~~Interpretation 405-5~~**

~~If the dean and faculty have determined the question of responsibility for examination schedules and the schedule has been announced by the authority responsible for it, it is not a violation of academic freedom for a member of the law faculty to be required to adhere to the schedule.~~

**~~Interpretation 405-6~~**

~~A form of security of position reasonably similar to tenure includes a separate tenure track or a program of renewable long-term contracts. Under a separate tenure track, a full-time clinical faculty member, after a probationary period reasonably similar to that for other full-time faculty, may be granted tenure. After tenure is granted, the faculty member may be terminated only for good cause, including termination or material modification of the entire clinical program. A program of renewable long-term contracts shall provide that, after a probationary period reasonably similar to that for other full-time faculty, during which the clinical faculty member~~

~~may be employed on short-term contracts, the services of a faculty member in a clinical program may be either terminated or continued by the granting of a long-term renewable contract. For the purposes of this Interpretation, "longterm contract" means at least a five-year contract that is presumptively renewable or other arrangement sufficient to ensure academic freedom. During the initial long-term contract or any renewal period, the contract may be terminated for good cause, including termination or material modification of the entire clinical program.~~

**~~Interpretation 405-7~~**

~~In determining if the members of the full-time clinical faculty meet standards and obligations reasonably similar to those provided for other full-time faculty, competence in the areas of teaching and scholarly research and writing should be judged in terms of the responsibilities of clinical faculty. A law school should develop criteria for retention, promotion, and security of employment of full-time clinical faculty.~~

**~~Interpretation 405-8~~**

~~A law school shall afford to full-time clinical faculty members participation in faculty meetings, committees, and other aspects of law school governance in a manner reasonably similar to other full-time faculty members. This Interpretation does not apply to those persons referred to in the last sentence of Standard 405(e).~~

**~~Interpretation 405-9~~**

~~Subsection (d) of this Standard does not preclude the use of short-term contracts for legal writing teachers, nor does it preclude law schools from offering fellowship programs designed to produce candidates for full-time teaching by offering individuals supervised teaching experience.~~

## **Standard 405. PROFESSIONAL ENVIRONMENT**

### **ALTERNATIVE A**

**(a) A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty that will enable the law school to operate in compliance with the Standards and accomplish its mission.**

**(b) A law school shall adopt, publish and adhere to policies and procedures that provide protection for the academic freedom of all of its full-time and part-time faculty in exercising their teaching responsibilities, including those related to client representation in clinical programs, and in pursuing their research activities, governance responsibilities, and law school related public service activities.**

**(c) A law school shall adopt, publish and adhere to policies and procedures that provide for the meaningful participation of all full-time faculty members in the governance of the school.**

**(d) A law school shall adopt, publish and adhere to policies and procedures that provide for tenure or a comparable form of security of position for full-time faculty; a form of security of position reasonably similar to tenure for full-time faculty covered in 405(e); or other form of security of position as necessary for full-time faculty covered in 405(f).**

**(e) A law school shall have written and announced policies and procedures that afford full-time clinical faculty members a form of security of position reasonably similar to tenure, and non-compensatory perquisites reasonably similar to those provided other full-time faculty members. A law school may utilize short-term appointments in a clinical program so long as the program is predominantly staffed by full-time clinical faculty members with security of position.**

**(f) A law school shall adopt, publish and adhere to policies and procedures that afford full-time legal writing faculty members such security of position and other rights and privileges of faculty membership as may be necessary to attract and retain a faculty that is well qualified to provide legal writing instruction as required by Standard 303(a)(2).**

**(g) A law school shall adopt, publish and adhere to a comprehensive system for considering and making decisions regarding [appointments,] promotion, tenure, renewal of contracts or other forms of security of position, and terminations for all full-time faculty positions.**

### ***Interpretation 405-1***

*A system of tenure earning rights can be one important factor in a law schools' ability to attract and retain a full-time faculty which is capable of accomplishing the mission of the law school and meet the requirements of the Standards. For full-time faculty positions that do not include the possibility of a tenured appointment, the law school bears the burden of showing that it has established sufficient conditions to attract and retain competent faculty in those positions. In assessing whether the school has met that burden, the following should be considered: evidence of turnover in full-time faculty members; history of successful hiring of full-time faculty members; evidence of a system that permits full-time faculty members in those positions to be appointed with*

*long-term, presumptively renewable contracts; evidence of full-time faculty members ability to participate in governance of the law school; and evidence of other perquisites similar to tenured faculty, such as participation in faculty development and support programs.*

#### **Interpretation 405-2**

*A system of tenure earning rights can be an effective method of protecting faculty members' academic freedom. For full-time faculty positions in the law school that do not carry traditional tenure, the law school bears the burden of establishing that it provides sufficient protection for academic freedom. The law school's written policy with respect to the protection of the academic freedom of its full-time faculty members should provide procedures to ensure that its policy is followed, including rules that prohibit the non-renewal, denial of promotion, or loss of a faculty position unless a representative group of law faculty agree that the determination is not a violation of academic freedom and that offer the affected faculty member the opportunity to present any claims to the faculty making that determination. The law school should also have announced and written policies and procedures protecting the academic freedom of part-time faculty members, as appropriate for their positions. A school may meet its burden by presenting evidence of it, or its university's explicit acceptance of the academic freedom protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments or that the school follows its university's policy on academic freedom of faculty if that policy satisfies the requirements of the Standards.*

#### **Interpretation 405-3**

*Meaningful participation in law school governance minimally includes participation and voting in decisions affecting the mission and direction of the law school, and academic matters such as curriculum, academic standards, and methods of instruction. The law school shall have a written policy on full-time faculty participation in appointment, renewal, promotion, and grant of tenure or presumptively renewable contract status of members of the faculty.*

#### **Interpretation 405-4**

*Appendix 1 herein is provided as an example of a tenure policy which satisfies the requirements of subsections (b) protecting academic freedom of full- and part-time faculty.*

*Appendix 1 is also an example of a policy which satisfies the requirements of subsection (d) requiring tenure or a comparable form of security of position for full-time faculty.*

*Adoption of Appendix 1 is not required, but the policy adopted by a law school must be consistent with the principles articulated in Appendix 1. A school may meet its burden by presenting evidence of its', or its university's, explicit acceptance of the academic freedom protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments.*

#### **Interpretation 405-5**

*A form of security of position reasonably similar to tenure includes a separate tenure track or a program of renewable long-term contracts. Under a separate tenure track, a full-time clinical faculty member, after a probationary period reasonably similar to that for other full-time faculty, may be granted tenure. After tenure is granted, the faculty member may be terminated only for good cause, including termination or material modification of the entire clinical program.*

*A program of renewable long-term contracts shall provide that, after a probationary period reasonably similar to that for other full-time faculty, during which the clinical faculty member may be employed on short-term contracts, the services of a faculty member in a clinical program may be either terminated or continued by the granting of a long-term renewable contract. For the purposes of this Interpretation, "long-term contract" means at least a five-year contract that is presumptively renewable or other substantially similar arrangement sufficient to ensure academic freedom. During the initial long-term contract or any renewal period, the contract may be terminated for good cause, including termination or material modification of the entire clinical program.*

***Interpretation 405-6***

*A law school shall afford to full-time clinical faculty members participation in faculty meetings, committees, and other aspects of law school governance in a manner reasonably similar to other full-time faculty members. This Interpretation does not apply to those persons referred to in the last sentence of Standard 405(e).*

***Interpretation 405-7***

*A law school may require full-time clinical faculty member to meet standards and obligations reasonably similar to those required of other full-time faculty members. In determining if the members of the full-time clinical faculty meet standards and obligations reasonably similar to those provided for other full-time faculty, competence in the areas of teaching and scholarly research and writing should be judged in terms of the responsibilities of clinical faculty. A law school should develop criteria for retention, promotion, and security of employment of full-time clinical faculty.*

***Interpretation 405-8*** *A law school's clinical program is predominantly staffed by full-time clinical faculty if the combined total number of full-time clinical faculty with security of position in all of the law school's clinics exceeds the combined total number of clinical faculty on fixed, short-term appointments in the law school's clinical program.*

***Interpretation 405-9***

*A fixed limit on the percent of a law faculty that may hold tenure under any circumstances violates the Standards.*

***Interpretation 405-10***

*A law school not a part of a university in considering and deciding on appointment, termination, promotion, and tenure of faculty members should have procedures that contain the same principles of fairness and due process that should be employed by a law school that is part of a university. If the dean and faculty have made a recommendation that is unfavorable to a candidate, the candidate should be given an opportunity to appeal to the president, chairman, or governing board.*

***Interpretation 405-11-***

*Subsection (f) of this Standard does not preclude the use of short-term contracts for legal writing teachers.*

***Interpretation 405-12***

*This Standard does not preclude a law school from offering:*

- a) fixed, short-term full-time faculty appointments, including visiting appointments, that meet the needs of the law school and do not provide all of the normal rights and privileges of full-time faculty membership, so long as such appointments are not utilized as the predominant method for staffing a particular program or teaching methodology within the law school; or*
- b) fellowship or visiting assistant professor programs designed to produce candidates for full-time teaching by offering individuals supervised teaching experiences of limited duration, or*
- c) experimental programs of limited duration with faculty on fixed, short-term appointments.*

## **Standard 405. PROFESSIONAL ENVIRONMENT**

### **ALTERNATIVE B**

**(a) A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty that will enable the law school to operate in compliance with the Standards and accomplish its mission.**

**(b) A law school shall adopt, publish and adhere to policies and procedures that provide protection for the academic freedom of all of its full-time and part-time faculty in exercising their teaching responsibilities, including those related to client representation in clinical programs, and in pursuing their research activities, governance responsibilities, and law school related public service activities.**

**(c) A law school shall have a written and announced comprehensive system for evaluating candidates for all full-time positions for promotion, termination, tenure and renewal of contracts or other form of security of position.**

**(d) A law school shall afford all full-time faculty members a form of security of position sufficient to ensure academic freedom and attraction and retention of a competent full-time faculty.**

**(e) A law school shall have announced and written policies and procedures that provide for the meaningful participation of all full-time faculty members in the governance of the school.**

#### ***Interpretation 405-1***

*A system of tenure earning rights can be an effective method of attracting and retaining a competent full-time faculty. For full-time faculty positions that do not include the possibility of a tenured appointment, the law school bears the burden of showing that it has established sufficient conditions to attract and retain competent faculty in those positions. In assessing whether the school has met that burden, the following should be considered: evidence of turnover in full-time faculty members; history of successful hiring of full-time faculty members; evidence of a system that permits full-time faculty members in those positions to be appointed with long-term; presumptively renewable contracts; evidence of full-time faculty members' ability to participate in governance of the law school; and evidence of other perquisites similar to tenured faculty, such as participation in faculty development and support programs.*

#### ***Interpretation 405-2***

*A system of tenure earning rights can be an effective method of protecting faculty members' academic freedom. For full-time faculty positions in the law school that do not carry traditional tenure, the law school bears the burden of establishing that it provides sufficient protection for academic freedom. The law school's written policy with respect to the protection of the academic freedom of its full-time faculty members should provide procedures to ensure that its policy is followed, including rules that prohibit the non-renewal, denial of promotion, or loss of a faculty position unless a representative group of law faculty agree that the determination is not a violation of academic freedom and that offer the affected faculty member the opportunity to present any claims to the faculty making that determination. The law school should also have*



*written and announced policies and procedures protecting the academic freedom of part-time faculty members, as appropriate for their positions. A school may meet its burden by presenting evidence of its, or its university's, explicit acceptance of the academic freedom protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments.*

***Interpretation 405-3***

*Security of position sufficient to satisfy this Standard can be satisfied by a system of tenure earning rights, but must, at a minimum, provide a program of presumptively renewable long-term contracts that are at least five years in duration after a probationary period not to exceed seven years. During probationary period full-time faculty may be employed on short-term contracts.*

***Interpretation 405-4***

*A program of presumptively renewable contracts means a program that provides protection against non-renewal of a contract similar to the protections typically provided to a tenured faculty member against removal of tenure. A school may establish compliance by presenting evidence of its, or its university's, explicit acceptance of the security of position protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments and an established procedure involving a representative group of faculty to review the performance of those faculty for appointment, renewal of contracts of appointment, and termination. Either tenure or a presumptively renewable contract may be limited to a specified program and may be conditioned on the continuation of that particular program.*

***Interpretation 405-5***

*This Standard does not preclude the use of short-term contracts for a limited number of fixed term appointments, so long as they are not utilized as the predominant method for staffing a particular program or teaching methodology within the law school nor does it preclude a law school from offering fellowship or visiting assistant professor programs designed to produce candidates for full-time teaching by offering individuals supervised teaching experiences of limited duration.*

***Interpretation 405-6***

*Meaningful participation in law school governance minimally includes participation and voting in decisions affecting the mission and direction of the law school, and academic matters such as curriculum, academic standards, and methods of instruction. The law school shall have a written policy on full-time faculty participation in appointment, renewal, promotion, and grant of tenure or presumptively renewable contract status of members of the faculty.*

## **Standard 405. PROFESSIONAL ENVIRONMENT**

### **ALTERNATIVE C**

**(a) A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty that will enable the law school to operate in compliance with the Standards and accomplish its mission.**

**(b) A law school shall adopt, publish and adhere to policies and procedures that provide protection for the academic freedom of all of its full-time and part-time faculty in exercising their teaching responsibilities, including those related to client representation in clinical programs, and in pursuing their research activities, governance responsibilities, and law school related public service activities.**

**(c) A law school shall adopt, publish and adhere to policies and procedures that provide a comprehensive system for considering and making decisions regarding appointments, promotions, tenure awards, renewal of contracts or other forms of security of position, and terminations for all full-time faculty positions.**

**(d) A law school shall afford all full-time faculty members a form of security of position sufficient to ensure academic freedom and attraction and retention of a competent full-time faculty. A law school shall accord all of its full-time faculty members the same rights with respect to security of position, participation in law school governance, and other rights or privileges of full-time faculty membership, irrespective of a full-time faculty member's academic field or teaching methodology.**

**(e) This Standard does not preclude a law school from having some short-term full-time faculty appointments that meet the needs of the school and do not provide all of the normal rights and privileges of full-time faculty membership, so long as such appointments are not limited to any particular academic field or teaching methodology.**

#### ***Interpretation 405-1***

*A system of tenure earning rights, while not required, can be an effective method of attracting and retaining a competent full-time faculty for all areas in which the law school's instructional program is carried out. If the law school's full-time faculty positions do not include the possibility of a tenured appointment, the law school bears the burden of showing that it has established sufficient conditions to attract and retain a competent faculty. In assessing whether the school has met that burden, the following should be considered: evidence of the level of turnover among full-time faculty members; a history of success or lack of success in hiring of full-time faculty members; evidence of a system that permits all full-time faculty members at the school to be appointed with long-term, presumptively renewable contracts; evidence of all full-time faculty members' ability to participate fully in governance of the law school; and evidence of other perquisites available to all full time faculty, such as participation in faculty development and support programs.*

#### ***Interpretation 405-2***

*A system of tenure earning rights, while not required, can be an effective method of protecting*

*faculty members' academic freedom. If the law school's full-time faculty positions do not carry traditional academic tenure, the law school bears the burden of establishing that it provides sufficient protection for academic freedom. A school may meet its burden by presenting evidence of its, or its university's, explicit acceptance of the protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments and an established procedure involving a representative group of faculty to review the performance of faculty members for appointment, renewal of contracts of appointment, and termination that effectively protects academic freedom for the faculty.*

***Interpretation 405-3***

*The law school's written policy with respect to the protection of the academic freedom of its full-time and part-time faculty members should provide procedures to ensure that its policy is followed, including rules that prohibit the non-renewal, denial of promotion, or loss of a faculty position unless a representative group of law and university faculty agree that the determination is not a violation of academic freedom and that offer the affected faculty member the opportunity to present any claims to the faculty making that determination.*

***Interpretation 405-4***

*Participation in law school governance includes a full right to participate in decisions affecting the mission and direction of the law school, including academic matters such as curriculum, academic standards, and methods of instruction. The law school shall have and enforce a written policy on full-time faculty participation in appointment, renewal, promotion and grant of tenure or other security of position of members of the faculty.*

**TRANSITION**

Because the requirements of subsections (d) and (e) of Standard 405 will necessitate significant changes in full-time faculty hiring, contractual arrangements and treatment at some law schools, such schools will have until August 1, 2018, to achieve full compliance with these requirements. Earlier compliance is encouraged where feasible. During this transition period, law schools can demonstrate compliance by showing that they comply with the relevant pre-existing requirements of Standard 405 contained in the 2012-13 edition of the Standards.

## **Standard 405. PROFESSIONAL ENVIRONMENT**

### **ALTERNATIVE D**

**(a) A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty that will enable the law school to operate in compliance with the Standards and accomplish its mission.**

**(b) A law school shall adopt, publish and adhere to policies and procedures that provide protection for the academic freedom of all of its full-time and part-time faculty in exercising their teaching responsibilities, including those related to client representation in clinical programs, and in pursuing their research activities, governance responsibilities, and law school related public service activities.**

**(c) A law school shall have a policy that provides for meaningful participation of all full time faculty members in the governance of the school.**

**(d) A law school shall adopt, publish and adhere to a comprehensive system for evaluating all promotion, tenure, renewal of contracts or other form of security of position, and termination decisions for all full-time faculty positions.**

#### ***Interpretation 405-1***

*A system of tenure earning rights, while not required, can be an effective method of attracting and retaining a competent full time faculty. For full-time faculty positions that do not include the possibility of a tenured appointment, the law school bears the burden of showing that it has established sufficient conditions to attract and retain competent faculty in those positions. In assessing whether the school has met that burden, the following should be considered: evidence of turnover in full time faculty members, history of successful hiring of full time faculty members, evidence of a system that permits full time faculty members in those positions to be appointed with long-term, presumptively renewable contracts, evidence of full-time faculty members ability to participate in governance of the law school, and evidence of other perquisites similar to tenured faculty, such as participation in faculty development and support programs.*

#### ***Interpretation 405-2***

*A system of tenure earning rights, while not required, can be an effective method of protecting faculty members' academic freedom. For full-time faculty positions in the law school that do not carry traditional tenure, the law school bears the burden of establishing that it provides sufficient protection for academic freedom. A school may meet its burden by presenting evidence of its, or its university's, explicit acceptance of the protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments and an established procedure involving a representative group of faculty to review the performance of those faculty for appointment, renewal of contracts of appointment, and termination that effectively protects academic freedom involving the faculty, or a subset thereof.*

***Interpretation 405-3***

*The law school's written policy with respect to the protection of the academic freedom of its full time faculty members should provide procedures to ensure that its policy is followed, including rules that prohibit the non-renewal, denial of promotion, or loss of a faculty position unless a representative group of law faculty agree that the determination is not a violation of academic freedom and that offer the affected faculty member the opportunity to present any claims to the faculty making that determination.*

***Interpretation 405-4***

*Meaningful participation in law school governance minimally includes participation and voting in decisions affecting the mission and direction of the law school, and academic matters such as curriculum, academic standards, and methods of instruction. The law school shall have a written policy on full-time faculty participation in appointment, renewal, promotion, and grant of tenure or presumptively renewable contract status of members of the faculty.*

**Standard 206. DEAN**

(c) ~~Except in extraordinary circumstances, a~~ A dean shall also hold appointment as a member of the law faculty with ~~tenure~~ the rights and protections accorded to other members of the full time-faculty under Standard 405.

**Standard 603. DIRECTOR OF THE LAW LIBRARY**

(d) ~~Except in extraordinary circumstances, a~~ A law library director shall hold appointment as a member of the law faculty ~~a law faculty appointment with security of faculty position~~ the rights and protections accorded to other members of the full-time faculty under Standard 405.

**American Bar Association  
Section of Legal Education and Admissions to the Bar  
Standards Review Committee**

**Chapter 4 - THE FACULTY**

**CLEAN – DRAFT for July 2013 meeting**

**To be added to Definitions Section:**

**“Full-time faculty member” means a law faculty member whose primary professional employment is with the law school, who devotes substantially all working time during the academic year to the responsibilities described in Standard 404(a), and whose outside activities, other than those described in Standard 404(a), if any, do not unduly interfere with his or her responsibilities as a full-time faculty member.**

**Standard 401. QUALIFICATIONS**

**A law school shall have a faculty whose qualifications and experience are appropriate to the stated mission of the law school and enable it to operate in compliance with the Standards and carry out its program of legal education. The faculty shall possess a high degree of competence, as demonstrated by academic qualification, experience in teaching or practice, teaching effectiveness and scholarship.**

**Standard 402. SIZE OF FULL-TIME FACULTY**

**(a) A law school shall have a sufficient number of full-time faculty to fulfill the requirements of the Standards and meet the goals of its educational program. The number of full-time faculty necessary depends on:**

**(1) the size of the student body and the opportunity for students to meet individually with and consult full-time faculty members;**

**(2) the nature and scope of the educational program; and**

**(3) the opportunities for the full-time faculty to adequately fulfill its teaching obligations, conduct scholarly research, and participate effectively in the governance of the law school and provide service to the legal profession and the public.**

**(b) A full-time faculty member is one who meets the definition of full-time faculty member in [Standard 108].**

**(c) In determining whether a law school complies with the Standards, the ratio of the number of full-time equivalent students to the number of full-time faculty members is considered.**

**(1) In computing the student/faculty ratio, full-time faculty are those who meet the definition of a full-time faculty member in [Standard 108].**

**(2) For the purpose of computing the student/faculty ratio, student includes those enrolled in the JD program and in any graduate law degree program. A student is considered full-time or part-time as determined by the school, provided that no student who is enrolled in fewer than ten credit hours in a term shall be considered a full-time student, and no student enrolled in more than 13 credit hours shall be considered a part-time student. A full-time student is counted as 1.0. A part-time student is counted as a two-thirds equivalent student.**

***Interpretation 402-1***

*[This interpretation will need revision based on the establishment of the student/faculty ratio formula adopted for subsection (c) and data showing what student/faculty ratios will be when the new formula is implemented].*

***Interpretation 402-2***

*A full-time faculty member who is teaching an additional full-time load at another law school may not be considered as a full-time faculty member at either institution.*

***Interpretation 402-3***

*Regularly engaging in law practice or having an ongoing relationship with a law firm or other business creates a presumption that a faculty member is not a full-time faculty member under this Standard. This presumption may be rebutted if the law school is able to demonstrate that the individual has a full-time commitment to teaching, research, and public service, is available to students, and is able to participate in the governance of the institution to the same extent expected of full-time faculty*

**Standard 403. INSTRUCTIONAL ROLE OF FACULTY**

**(a) The full-time faculty shall teach substantially all of the first one-third of each student's coursework. The full-time faculty shall also teach during the academic year either (1) more than half of all of the credit hours actually offered by the school, or (2) two thirds of the student contact hours generated by student enrollment at the school.**

**(b) A law school shall ensure effective teaching by all persons providing instruction to its students.**

***Interpretation 403-1***

*Efforts to ensure teaching effectiveness may include: orientation, guidance and mentoring for new faculty members; a faculty committee on effective teaching; class visitations; critiques of*



*videotaped teaching; institutional review of student course evaluations; colloquia on effective teaching; and recognition and use of creative scholarship in law school teaching methodology.*

#### **Standard 404. RESPONSIBILITIES OF FULL-TIME FACULTY**

**(a) A law school shall provide written policies with respect to full-time faculty members' responsibilities. The policies shall require that the full-time faculty, as a collective body, fulfill these core responsibilities:**

**(1) Teaching, preparing for classes, being available for student consultation about those classes, assessing student performance in those classes, and remaining current in the subjects being taught;**

**(2) Participating in academic advising, creating an atmosphere in which students and faculty may voice opinions and exchange ideas, and assessing student learning at the law school;**

**(3) Engaging in scholarship, as defined by each law school;**

**(4) Service to the law school and university community, including participation in the governance of the law school, curriculum development, and other institutional responsibilities described in the Standards;**

**(5) Service to the profession, including working with the practicing bar and judiciary to improve the profession;**

**(6) Service to the public, including participation in pro bono activities; and**

**(7) Any other contributions deemed important by the law school for the achievement of its mission.**

**(b) The law school shall periodically evaluate the extent to which the faculty discharges its core responsibilities under the law school's policies and the contributions of each full-time faculty member to meeting the core responsibilities of the faculty.**

## **Standard 405. PROFESSIONAL ENVIRONMENT**

### **ALTERNATIVE A**

**(a) A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty that will enable the law school to operate in compliance with the Standards and accomplish its mission.**

**(b) A law school shall adopt, publish and adhere to policies and procedures that provide protection for the academic freedom of all of its full-time and part-time faculty in exercising their teaching responsibilities, including those related to client representation in clinical programs, and in pursuing their research activities, governance responsibilities, and law school related public service activities.**

**(c) A law school shall adopt, publish and adhere to policies and procedures that provide for the meaningful participation of all full-time faculty members in the governance of the school.**

**(d) A law school shall adopt, publish and adhere to policies and procedures that provide for tenure or a comparable form of security of position for full-time faculty; a form of security of position reasonably similar to tenure for full-time faculty covered in 405(e); or other form of security of position as necessary for full-time faculty covered in 405(f).**

**(e) A law school shall have written and announced policies and procedures that afford full-time clinical faculty members a form of security of position reasonably similar to tenure, and non-compensatory perquisites reasonably similar to those provided other full-time faculty members. A law school may utilize short-term appointments in a clinical program so long as the program is predominantly staffed by full-time clinical faculty members with security of position.**

**(f) A law school shall adopt, publish and adhere to policies and procedures that afford full-time legal writing faculty members such security of position and other rights and privileges of faculty membership as may be necessary to attract and retain a faculty that is well qualified to provide legal writing instruction as required by Standard 303(a)(2).**

**(g) A law school shall adopt, publish and adhere to a comprehensive system for considering and making decisions regarding [appointments,] promotion, tenure, renewal of contracts or other forms of security of position, and terminations for all full-time faculty positions.**

### ***Interpretation 405-1***

*A system of tenure earning rights can be one important factor in a law schools' ability to attract and retain a full-time faculty which is capable of accomplishing the mission of the law school and meet the requirements of the Standards. For full-time faculty positions that do not include the possibility of a tenured appointment, the law school bears the burden of showing that it has established sufficient conditions to attract and retain competent faculty in those positions. In assessing whether the school has met that burden, the following should be considered: evidence of turnover in full-time faculty members; history of successful hiring of full-time faculty members; evidence of a system that permits full-time faculty members in those positions to be appointed with long-term, presumptively renewable contracts; evidence of full-time faculty members ability to*

*participate in governance of the law school; and evidence of other perquisites similar to tenured faculty, such as participation in faculty development and support programs.*

#### **Interpretation 405-2**

*A system of tenure earning rights can be an effective method of protecting faculty members' academic freedom. For full-time faculty positions in the law school that do not carry traditional tenure, the law school bears the burden of establishing that it provides sufficient protection for academic freedom. The law school's written policy with respect to the protection of the academic freedom of its full-time faculty members should provide procedures to ensure that its policy is followed, including rules that prohibit the non-renewal, denial of promotion, or loss of a faculty position unless a representative group of law faculty agree that the determination is not a violation of academic freedom and that offer the affected faculty member the opportunity to present any claims to the faculty making that determination. The law school should also have announced and written policies and procedures protecting the academic freedom of part-time faculty members, as appropriate for their positions. A school may meet its burden by presenting evidence of it, or its university's explicit acceptance of the academic freedom protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments or that the school follows its university's policy on academic freedom of faculty if that policy satisfies the requirements of the Standards.*

#### **Interpretation 405-3**

*Meaningful participation in law school governance minimally includes participation and voting in decisions affecting the mission and direction of the law school, and academic matters such as curriculum, academic standards, and methods of instruction. The law school shall have a written policy on full-time faculty participation in appointment, renewal, promotion, and grant of tenure or presumptively renewable contract status of members of the faculty.*

#### **Interpretation 405-4**

*Appendix 1 herein is provided as an example of a tenure policy which satisfies the requirements of subsections (b) protecting academic freedom of full- and part-time faculty.*

*Appendix 1 is also an example of a policy which satisfies the requirements of subsection (d) requiring tenure or a comparable form of security of position for full-time faculty.*

*Adoption of Appendix 1 is not required, but the policy adopted by a law school must be consistent with the principles articulated in Appendix 1. A school may meet its burden by presenting evidence of its', or its university's, explicit acceptance of the academic freedom protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments.*

#### **Interpretation 405-5**

*A form of security of position reasonably similar to tenure includes a separate tenure track or a program of renewable long-term contracts. Under a separate tenure track, a full-time clinical faculty member, after a probationary period reasonably similar to that for other full-time faculty, may be granted tenure. After tenure is granted, the faculty member may be terminated only for good cause, including termination or material modification of the entire clinical program.*

*A program of renewable long-term contracts shall provide that, after a probationary period*

*reasonably similar to that for other full-time faculty, during which the clinical faculty member may be employed on short-term contracts, the services of a faculty member in a clinical program may be either terminated or continued by the granting of a long-term renewable contract. For the purposes of this Interpretation, "long-term contract" means at least a five-year contract that is presumptively renewable or other substantially similar arrangement sufficient to ensure academic freedom. During the initial long-term contract or any renewal period, the contract may be terminated for good cause, including termination or material modification of the entire clinical program.*

***Interpretation 405-6***

*A law school shall afford to full-time clinical faculty members participation in faculty meetings, committees, and other aspects of law school governance in a manner reasonably similar to other full-time faculty members. This Interpretation does not apply to those persons referred to in the last sentence of Standard 405(e).*

***Interpretation 405-7***

*A law school may require full-time clinical faculty member to meet standards and obligations reasonably similar to those required of other full-time faculty members. In determining if the members of the full-time clinical faculty meet standards and obligations reasonably similar to those provided for other full-time faculty, competence in the areas of teaching and scholarly research and writing should be judged in terms of the responsibilities of clinical faculty. A law school should develop criteria for retention, promotion, and security of employment of full-time clinical faculty.*

***Interpretation 405-8*** *A law school's clinical program is predominantly staffed by full-time clinical faculty if the combined total number of full-time clinical faculty with security of position in all of the law school's clinics exceeds the combined total number of clinical faculty on fixed, short-term appointments in the law school's clinical program.*

***Interpretation 405-9***

*A fixed limit on the percent of a law faculty that may hold tenure under any circumstances violates the Standards.*

***Interpretation 405-10***

*A law school not a part of a university in considering and deciding on appointment, termination, promotion, and tenure of faculty members should have procedures that contain the same principles of fairness and due process that should be employed by a law school that is part of a university. If the dean and faculty have made a recommendation that is unfavorable to a candidate, the candidate should be given an opportunity to appeal to the president, chairman, or governing board.*

***Interpretation 405-11***

*Subsection (f) of this Standard does not preclude the use of short-term contracts for legal writing teachers.*

***Interpretation 405-12***

*This Standard does not preclude a law school from offering:*

- a) fixed, short-term full-time faculty appointments, including visiting appointments, that meet the needs of the law school and do not provide all of the normal rights and privileges of full-time faculty membership, so long as such appointments are not utilized as the predominant method for staffing a particular program or teaching methodology within the law school; or*
- b) fellowship or visiting assistant professor programs designed to produce candidates for full-time teaching by offering individuals supervised teaching experiences of limited duration, or*
- c) experimental programs of limited duration with faculty on fixed, short-term appointments.*

## **Standard 405. PROFESSIONAL ENVIRONMENT**

### **ALTERNATIVE B**

**(a) A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty that will enable the law school to operate in compliance with the Standards and accomplish its mission.**

**(b) A law school shall adopt, publish and adhere to policies and procedures that provide protection for the academic freedom of all of its full-time and part-time faculty in exercising their teaching responsibilities, including those related to client representation in clinical programs, and in pursuing their research activities, governance responsibilities, and law school related public service activities.**

**(c) A law school shall have a written and announced comprehensive system for evaluating candidates for all full-time positions for promotion, termination, tenure and renewal of contracts or other form of security of position.**

**(d) A law school shall afford all full-time faculty members a form of security of position sufficient to ensure academic freedom and attraction and retention of a competent full-time faculty.**

**(e) A law school shall have announced and written policies and procedures that provide for the meaningful participation of all full-time faculty members in the governance of the school.**

#### ***Interpretation 405-1***

*A system of tenure earning rights can be an effective method of attracting and retaining a competent full-time faculty. For full-time faculty positions that do not include the possibility of a tenured appointment, the law school bears the burden of showing that it has established sufficient conditions to attract and retain competent faculty in those positions. In assessing whether the school has met that burden, the following should be considered: evidence of turnover in full-time faculty members; history of successful hiring of full-time faculty members; evidence of a system that permits full-time faculty members in those positions to be appointed with long-term; presumptively renewable contracts; evidence of full-time faculty members' ability to participate in governance of the law school; and evidence of other perquisites similar to tenured faculty, such as participation in faculty development and support programs.*

#### ***Interpretation 405-2***

*A system of tenure earning rights can be an effective method of protecting faculty members' academic freedom. For full-time faculty positions in the law school that do not carry traditional tenure, the law school bears the burden of establishing that it provides sufficient protection for academic freedom. The law school's written policy with respect to the protection of the academic freedom of its full-time faculty members should provide procedures to ensure that its policy is followed, including rules that prohibit the non-renewal, denial of promotion, or loss of a faculty position unless a representative group of law faculty agree that the determination is not a violation of academic freedom and that offer the affected faculty member the opportunity to present any claims to the faculty making that determination. The law school should also have written and announced policies and procedures protecting the academic freedom of part-time*

*faculty members, as appropriate for their positions. A school may meet its burden by presenting evidence of its, or its university's, explicit acceptance of the academic freedom protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments.*

***Interpretation 405-3***

*Security of position sufficient to satisfy this Standard can be satisfied by a system of tenure earning rights, but must, at a minimum, provide a program of presumptively renewable long-term contracts that are at least five years in duration after a probationary period not to exceed seven years. During probationary period full-time faculty may be employed on short-term contracts.*

***Interpretation 405-4***

*A program of presumptively renewable contracts means a program that provides protection against non-renewal of a contract similar to the protections typically provided to a tenured faculty member against removal of tenure. A school may establish compliance by presenting evidence of its, or its university's, explicit acceptance of the security of position protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments and an established procedure involving a representative group of faculty to review the performance of those faculty for appointment, renewal of contracts of appointment, and termination. Either tenure or a presumptively renewable contract may be limited to a specified program and may be conditioned on the continuation of that particular program.*

***Interpretation 405-5***

*This Standard does not preclude the use of short-term contracts for a limited number of fixed term appointments, so long as they are not utilized as the predominant method for staffing a particular program or teaching methodology within the law school nor does it preclude a law school from offering fellowship or visiting assistant professor programs designed to produce candidates for full-time teaching by offering individuals supervised teaching experiences of limited duration.*

***Interpretation 405-6***

*Meaningful participation in law school governance minimally includes participation and voting in decisions affecting the mission and direction of the law school, and academic matters such as curriculum, academic standards, and methods of instruction. The law school shall have a written policy on full-time faculty participation in appointment, renewal, promotion, and grant of tenure or presumptively renewable contract status of members of the faculty.*

## **Standard 405. PROFESSIONAL ENVIRONMENT**

### **ALTERNATIVE C**

**(a) A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty that will enable the law school to operate in compliance with the Standards and accomplish its mission.**

**(b) A law school shall adopt, publish and adhere to policies and procedures that provide protection for the academic freedom of all of its full-time and part-time faculty in exercising their teaching responsibilities, including those related to client representation in clinical programs, and in pursuing their research activities, governance responsibilities, and law school related public service activities.**

**(c) A law school shall adopt, publish and adhere to policies and procedures that provide a comprehensive system for considering and making decisions regarding appointments, promotions, tenure awards, renewal of contracts or other forms of security of position, and terminations for all full-time faculty positions.**

**(d) A law school shall afford all full-time faculty members a form of security of position sufficient to ensure academic freedom and attraction and retention of a competent full-time faculty. A law school shall accord all of its full-time faculty members the same rights with respect to security of position, participation in law school governance, and other rights or privileges of full-time faculty membership, irrespective of a full-time faculty member's academic field or teaching methodology.**

**(e) This Standard does not preclude a law school from having some short-term full-time faculty appointments that meet the needs of the school and do not provide all of the normal rights and privileges of full-time faculty membership, so long as such appointments are not limited to any particular academic field or teaching methodology.**

#### ***Interpretation 405-1***

*A system of tenure earning rights, while not required, can be an effective method of attracting and retaining a competent full-time faculty for all areas in which the law school's instructional program is carried out. If the law school's full-time faculty positions do not include the possibility of a tenured appointment, the law school bears the burden of showing that it has established sufficient conditions to attract and retain a competent faculty. In assessing whether the school has met that burden, the following should be considered: evidence of the level of turnover among full-time faculty members; a history of success or lack of success in hiring of full-time faculty members; evidence of a system that permits all full-time faculty members at the school to be appointed with long-term, presumptively renewable contracts; evidence of all full-time faculty members' ability to participate fully in governance of the law school; and evidence of other perquisites available to all full time faculty, such as participation in faculty development and support programs.*

#### ***Interpretation 405-2***

*A system of tenure earning rights, while not required, can be an effective method of protecting*



*faculty members' academic freedom. If the law school's full-time faculty positions do not carry traditional academic tenure, the law school bears the burden of establishing that it provides sufficient protection for academic freedom. A school may meet its burden by presenting evidence of its, or its university's, explicit acceptance of the protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments and an established procedure involving a representative group of faculty to review the performance of faculty members for appointment, renewal of contracts of appointment, and termination that effectively protects academic freedom for the faculty.*

#### ***Interpretation 405-3***

*The law school's written policy with respect to the protection of the academic freedom of its full-time and part-time faculty members should provide procedures to ensure that its policy is followed, including rules that prohibit the non-renewal, denial of promotion, or loss of a faculty position unless a representative group of law and university faculty agree that the determination is not a violation of academic freedom and that offer the affected faculty member the opportunity to present any claims to the faculty making that determination.*

#### ***Interpretation 405-4***

*Participation in law school governance includes a full right to participate in decisions affecting the mission and direction of the law school, including academic matters such as curriculum, academic standards, and methods of instruction. The law school shall have and enforce a written policy on full-time faculty participation in appointment, renewal, promotion and grant of tenure or other security of position of members of the faculty.*

### **TRANSITION**

Because the requirements of subsections (d) and (e) of Standard 405 will necessitate significant changes in full-time faculty hiring, contractual arrangements and treatment at some law schools, such schools will have until August 1, 2018, to achieve full compliance with these requirements. Earlier compliance is encouraged where feasible. During this transition period, law schools can demonstrate compliance by showing that they comply with the relevant pre-existing requirements of Standard 405 contained in the 2012-13 edition of the Standards.

## **Standard 405. PROFESSIONAL ENVIRONMENT**

### **ALTERNATIVE D**

**(a) A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty that will enable the law school to operate in compliance with the Standards and accomplish its mission.**

**(b) A law school shall adopt, publish and adhere to policies and procedures that provide protection for the academic freedom of all of its full-time and part-time faculty in exercising their teaching responsibilities, including those related to client representation in clinical programs, and in pursuing their research activities, governance responsibilities, and law school related public service activities.**

**(c) A law school shall have a policy that provides for meaningful participation of all full time faculty members in the governance of the school.**

**(d) A law school shall adopt, publish and adhere to a comprehensive system for evaluating all promotion, tenure, renewal of contracts or other form of security of position, and termination decisions for all full-time faculty positions.**

#### ***Interpretation 405-1***

*A system of tenure earning rights, while not required, can be an effective method of attracting and retaining a competent full time faculty. For full-time faculty positions that do not include the possibility of a tenured appointment, the law school bears the burden of showing that it has established sufficient conditions to attract and retain competent faculty in those positions. In assessing whether the school has met that burden, the following should be considered: evidence of turnover in full time faculty members, history of successful hiring of full time faculty members, evidence of a system that permits full time faculty members in those positions to be appointed with long-term, presumptively renewable contracts, evidence of full-time faculty members ability to participate in governance of the law school, and evidence of other perquisites similar to tenured faculty, such as participation in faculty development and support programs.*

#### ***Interpretation 405-2***

*A system of tenure earning rights, while not required, can be an effective method of protecting faculty members' academic freedom. For full-time faculty positions in the law school that do not carry traditional tenure, the law school bears the burden of establishing that it provides sufficient protection for academic freedom. A school may meet its burden by presenting evidence of its, or its university's, explicit acceptance of the protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments and an established procedure involving a representative group of faculty to review the performance of those faculty for appointment, renewal of contracts of appointment, and termination that effectively protects academic freedom involving the faculty, or a subset thereof.*

***Interpretation 405-3***

*The law school's written policy with respect to the protection of the academic freedom of its full time faculty members should provide procedures to ensure that its policy is followed, including rules that prohibit the non-renewal, denial of promotion, or loss of a faculty position unless a representative group of law faculty agree that the determination is not a violation of academic freedom and that offer the affected faculty member the opportunity to present any claims to the faculty making that determination.*

***Interpretation 405-4***

*Meaningful participation in law school governance minimally includes participation and voting in decisions affecting the mission and direction of the law school, and academic matters such as curriculum, academic standards, and methods of instruction. The law school shall have a written policy on full-time faculty participation in appointment, renewal, promotion, and grant of tenure or presumptively renewable contract status of members of the faculty.*

**Standard 206. DEAN**

**(c) A dean shall hold appointment as a member of the law faculty with the rights and protections accorded to other members of the full time-faculty under Standard 405.**

**Standard 603. DIRECTOR OF THE LAW LIBRARY**

**(d) A law library director shall hold appointment as a member of the law faculty with the rights and protections accorded to other members of the full-time faculty under Standard 405.**