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September 16, 2009

Donald J. Polden, Chair
ABA Accreditation Standards Review Committee

Dear Dean Polden:

Thank you for the continuing opportunity to comment on aspects of the Accreditation Standards Review Committee's work. We appreciate your having posted the prior recommendations of the Standing Committee on Professionalism. On behalf of the Standing Committee, I am submitting the additional attached recommendations for changes to the current ABA Accreditation Standards, which the Standing Committee on Professionalism hopes you will incorporate into those Standards in whatever new form they may take. Please note that our proposed change to Standard 302(a)(5) includes a 3 hour course requirement. We understand that many schools present professional responsibility as a 2 hour course. The Committee is hoping that an increase in the time commitment would allow for the incorporation of professionalism issues that might not otherwise be covered in a strictly rules-based ethics course.

In addition, the Standing Committee has had the opportunity to review the proposed possible alternatives to current Standard 302 that the ASRC included in the agenda materials for its last meeting and that are also attached hereto. The Standing Committee would like to voice its support for the direction taken in those proposals and its preference in paragraph (a) for Alternative One and Option One thereunder due to their higher degree of specificity.

The Standing Committee on Professionalism will continue to follow your committee's deliberations and to work with other entities that also have an interest in your charge and may provide you with additional recommendations at a later date.

Again, thank you for the opportunity to participate in this difficult and important review.

Sincerely,

Melvin F. Wright, Jr.

Melvin F. Wright Jr.

**Standing Committee on Professionalism
Accreditation Standards Recommendations
(September 2009)**

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. A law school shall require that each student, in order to qualify for graduation, successfully complete a course of no less than 3 credit hours in legal ethics/professional responsibility, which shall include instruction in the rules of professional conduct.

(b) A law school shall ~~offer substantial opportunities for~~ require that each student receive substantial instruction in the following formats:

- (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 401. QUALIFICATIONS

A law school shall have a faculty whose qualifications and experience are appropriate to the stated mission of the law school 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, experience in teaching ~~or~~ and practice, teaching effectiveness, and scholarly research and writing.

Standard 404. RESPONSIBILITIES OF FULL-TIME FACULTY

(a) A law school shall establish policies with respect to a full-time faculty member's 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 teaching responsibilities, including carrying a fair share of the law school's course offerings, preparing for classes, being available for student consultation, participating in academic advising, and creating an atmosphere in which students and faculty may voice opinions and exchange ideas;

(2) 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;

(3) Obligations to the law school and university community, including participation in the governance of the law school;

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

(5) Obligations to the public, including participation in pro bono activities, as defined in Rule 6.1 of the Model Rules of Professional Conduct.

(b) A law school shall evaluate periodically the extent to which each faculty member discharges her or his responsibilities under policies adopted pursuant to Standard 404(a).

Standard 505. PREVIOUSLY DISQUALIFIED APPLICANT

A law school may admit or readmit a student who has been disqualified previously ~~for academic reasons~~ upon an affirmative showing that the student possesses the requisite ability and that the prior disqualification does not indicate a lack of capacity to complete the course of study at the admitting school or an indication of probable inability to meet the character and fitness requirements for practicing law. In the case of admission to a law school other than the disqualifying school, this showing shall be made either by a letter from the disqualifying school or, if two or more years have elapsed since the date of the determination of that disqualification, by the nature of interim work, activity, or studies indicating ~~a stronger potential for law study~~ resolution or remediation of the reason for the prior disqualification. For every admission or readmission of a previously

disqualified individual, a statement of the considerations that led to the decision shall be placed in the admittee's file.

Standard 511. STUDENT SUPPORT SERVICES

A law school shall provide all its students, regardless of enrollment or scheduling option, with basic student services, including maintenance of accurate student records, academic advising and counseling, financial aid counseling, confidential substance abuse and mental health information, counseling and intervention, and an active career counseling service to assist students in making sound career choices and obtaining employment. If a law school does not provide these types of student services directly, it must demonstrate that its students have reasonable access to such services from the university of which it is a part or from other sources.

The following draft paragraphs were presented as possible alternatives to the current Standard 302 at the July 13-14 Accreditation Standards Review Committee meeting. Per the attached letter, the Standing Committee on Professionalism would like to voice its support for the direction taken in these proposals and its preference in paragraph (a) for Alternative One and Option One thereunder due to their higher degree of specificity.

(a) (*Alternative one*) A law school shall demonstrate through appropriate assessment tools that at the time of graduation each student has effectively achieved the learning outcomes it identifies as necessary for effective and responsible participation in the legal profession. The learning outcomes required of each school shall, at a minimum, include these learning outcomes:

(1) a knowledge and understanding of the substantive law generally regarded as necessary to effective and responsible participation in the legal profession.

(2) an understanding and appreciation of their ethical responsibilities as representatives of clients, officers of the courts, and public citizens responsible for the quality and availability of justice.

(3) (*Option one*) a proficiency in professional skills generally regarded as necessary for effective and responsible participation in the legal profession, including problem solving, legal analysis and reasoning, legal research, factual investigation, written and oral communications in a legal context, client counseling, negotiation, dispute resolution, and organization and management of legal work.

(3) (*Option two*) a proficiency in those professional skills that the law school determines and articulates are generally as necessary for effective and responsible participation in the legal profession.

(4) an understanding and appreciation of the history, goals, structure, values, rules and responsibilities of the legal profession and its members.

(5) an understanding and appreciation of the law as public profession calling for the performance of pro bono legal services

(a) (*Alternative two*) A law school shall identify and articulate learning outcomes to measure whether each law student has the knowledge, skills and values that the law school believes are necessary for effective and responsible participation in the legal profession and shall demonstrate through appropriate assessment tools that each student, at the time of graduation, has achieved those learning outcomes.

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(c) (*Alternative one*) Each law school shall develop a method to assess that it has sufficient reason to believe each graduate possesses the attributes of a good lawyer, including integrity, professionalism and respect for the law.

(c) (*Alternative two*) Each law school shall develop a method to ensure that any information casting reasonable doubt on a student's character and fitness to practice law is available to that office at the law school responsible for certifying the good character of students applying for admissions to the bar.