

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

**Chapter 2
DRAFT FOR April 2011 Meeting**

Strike-outs and underlines show changes from the January 2011 draft.

ORGANIZATION AND ADMINISTRATION

Standard 201. GOVERNING BOARD AND LAW SCHOOL AUTHORITY

(a) The policies of a governing board of a university that are applicable to a law school shall be consistent with the Standards.

(b) The dean and faculty shall have primary responsibility for planning, implementing and administering the educational program of the law school, including curriculum, methods of instruction and evaluation, admissions policies and procedures, and academic standards.

(c) The dean and faculty shall have primary responsibility for the selection of members of the faculty, and shall recommend retention, promotion, and tenure (or granting of security of position) of members of the faculty.

Interpretation 201-1

Admission of a student to a law school in contravention of the law school's admissions policies and procedures violates Standards 201(b).

Standard 202. LAW SCHOOL-UNIVERSITY RELATIONSHIP

(a) If a law school is part of a university, that relationship shall serve to enhance the law school's program.

(b) Appropriate separate policies shall be established for the law school where a university's general policies do not adequately facilitate the law school's efforts to attract and retain a competent law faculty or adequately protect academic freedom.

[In subcommittee discussions a question was raised about whether Standard 202(a) is needed. What does it mean, and would a school ever be found to be in violation of its terms? Others on the subcommittee believe it makes an important point about the basic character of the relationship between the law school and its university. Suggestions were made for substitutes for the word "enhance", including "support" and "sustain."

To put this issue in historical perspective, it is perhaps important to remember that in the current Standards, this was all part of Standard 210, which had four paragraphs, including, in addition to (a) and (b) above, paragraph (c) stating that resources generated by the law school should be made available to the law school, and paragraph (d) requiring that the law school be given the opportunity to present its recommendations on budgetary matters to the university. We have also eliminated what is now Interpretation 210-2, which, among other things, requires the university to provide the law school with a satisfactory explanation for use of resources generated by the law school to support non law school activities and central university services.]

Standard 203. RESOURCES FOR PROGRAM

(a) The present and anticipated financial resources shall be sufficient to enable the law school of a law school shall be sufficient to fulfill the requirements of the Standards, and carry out advance its educational program.

~~Interpretation 203-1~~

~~(b)(a)~~ A law school does not comply with the Standards if its current lack of financial resources has a negative and material effect on the school's ability:

- i. to fulfill the requirements of the Standards;**
- ii. or carry out advance its educational program.**

~~(c)(b)~~ A law school also does not comply with the Standards if its anticipated lack of financial resources will have a negative and material effect in the immediate future on the school's ability to:

- iii. fulfill the requirements of the Standards;**
- iv. or carry out advance its educational program.**

[Comment: The suggestion was made to lift the two paragraphs of Interpretation 203-1 into the Standard as paragraphs (b) and (c), with the original paragraph of the Standard becoming paragraph (a). We also decided to use "carry out" instead of "advance." And we did some wordsmithing on the first sentence.]

Standard 204. DEAN

(a) A law school shall have a full-time dean, selected by the governing board or its designee, to whom the dean shall be responsible.

(b) A law school shall provide the dean with the authority and support needed to discharge the responsibilities of the position and those contemplated by the Standards.

[To be reviewed by Terms & Conditions Subcommittee:

(c) Except in extraordinary circumstances, a dean shall also hold appointment as a member of the faculty with tenure.]

(d) The law school or university, as appropriate, shall have and follow a procedure for decanal appointment that assures The faculty or a representative body of it shall have

meaningful involvement by the faculty or a representative body of the faculty in the selection of a dean. Except in extraordinary circumstances, a dean shall not be appointed or reappointed to a new term over the stated objections of a substantial majority of the faculty. While involvement by faculty in the appointment of an interim or acting dean will necessarily be more limited, there shall still be consultation with the faculty or a representative body of the faculty regarding the appointment of an interim or acting dean.

Interpretation 204-1

For purposes of Standard 204(d), the extension of an interim or acting dean's service beyond two years shall be treated as a regular decanal appointment or reappointment.

[Comment: At the suggestion of Jay Conison, the first sentence of Standard 204(d) was modified to clarify that what we are requiring is that schools have and follow a procedure for decanal appointments.]

Standard 205. ALLOCATION OF AUTHORITY BETWEEN DEAN AND FACULTY

The allocation of authority between the dean and the ~~law~~ faculty is a matter for determination by the law school ~~each institution~~ as long as both the dean and the faculty have a significant role in determining educational policy.

[Comment: Minor changes in wording. No change in substantive content.]

[From the 202/203 Subcommittee:

Standard 206. REGULAR PLANNING AND ASSESSMENT

(a) The dean, and faculty ~~and other constituencies the law school deems appropriate~~ shall engage in a regular planning and assessment process, including ongoing assessment of the law school's effectiveness in achieving its mission and realizing its established goals. As a part of this process, the law school will include regular, ongoing assessment of its institutional effectiveness as required by Standard 305 and regular, ongoing assessment of its effectiveness in carrying out the planning for the law library provided for in Standard 601 and Interpretation 601-2.

(b) When appropriate in light of these assessments of effectiveness, the school shall revise ~~its make periodic revision of~~ plans, goals, or mission.

(c) In addition, before each site evaluation visit a self study document shall be prepared in accordance with the requirements of Rule 2 of the Rules of Procedure for Approval of Law Schools.

[Comment: The suggestion was made to move the language about involving other constituencies in the planning and assessment process to an Interpretation, to change "ongoing" to "regular, ongoing" in the second sentence of (a), to add a cross-reference to Standard 601, and to make the language in paragraph (b) more direct.]

Interpretation 206-1

To assure ongoing vitality and successful adaptation to the rapidly changing environment of legal education and the practice of law, law schools must establish periodic or cyclical institutional planning processes and activities. Planning efforts that have proven successful in law schools and other professional or business milieus typically involve the definition and periodic reassessment of both short-term and long-range goals for the successful accomplishment of institutional missions. By framing goals in terms of measurable outcomes wherever circumstances permit, a law school can more readily track progress towards their achievement. The manner in which a law school engages in institutional planning will vary according to available resources and local circumstances, but all law schools shall be able to document their vision, mission, and goals, evidence indicating their achievement, and strategies for periodic or ongoing reassessment of successes and unmet challenges.

Interpretation 206-2

The law school may invite other constituencies to participate in the planning and assessment process, including administrative staff, adjunct faculty, students, alumni, representatives of the university, and members of the legal community served by the law school.

[Comment: This is a new Interpretation, moved from the first sentence in paragraph (a) of the Standard. We did not discuss in the meeting precise language for this new Interpretation. I thought that as an Interpretation, it might be appropriate to include examples of the other kinds of constituencies a school might think about including in the process. But I would be equally fine with ending the sentence after “assessment process”, with no list of examples.]

Standard 207. GOVERNING BOARD OF AN INDEPENDENT LAW SCHOOL

A law school that is not part of a university shall be governed by a governing board composed of individuals dedicated to the maintenance of a sound program of legal education.