

From: Susan Nevelow Mart
Sent: Tuesday, December 7, 2010
To: Stretch, Charlotte (Becky)
Cc: Don Polden
Subject: Proposed Changes to Standard 606

Dear Ms. Stretch and Dean Polden:

I am writing in response to your request for comments on the proposed changes to the ABA standards. Thank you for soliciting opinions from the law library community, and for the extensive work the subcommittee has already done. I would like to comment on proposed changes to Standard 606, Collection. I am very concerned that by allowing or appearing to allow complete reliance on leased or free digital access, law schools will be encouraged to focus on one format to the detriment of legal scholarship and the education of lawyers, as well as to the detriment of maintaining a collection of primary law materials that is truly authentic. At this point in time very few online databases of legal materials are, in fact, authentic

Several of the points I am concerned about have been made quite well by Victoria J. Szymczak, in her November, 2010 comments, and I endorse and incorporate her comments here. I agree that law libraries have made many cuts to print in the name of economy, even as law firms have been cutting online access in the name of economy. Law schools need to maintain a mix of formats so that students can be comfortable with the formats they actually use in practice. To the extent that the current revision of Standard 606 allows a law school to decide that on-line only access is appropriate for its students, this is an unacceptable preparation for law practice.

In addition to Ms. Szymczak's reasons why the change is not acceptable, which I adopt, I also see another problem with having an interpretation that permits a core collection to be online only. Most online primary legal materials are not authentic versions of the law. A collection that fails to offer access to authentic versions of the law, to satisfy the requirements of a journal, of a judge, or of the rigors of legal scholarship, is not meeting its educational mission: a law school whose mission is to educate its students to practice law should have available authentic versions of primary law. Most primary law online sources are not authenticated: cases on Lexis are not authentic; cases on Westlaw not available as pdfs are not authentic; statutes on Westlaw, Lexis and most state-supported websites for state codes are not authentic. A few government web sites have started authenticating materials; the efforts of the Government Printing Office on FdSys in making authentic versions of bills, laws, and the Federal Register available is a primary exemplar of good practices. But almost no one else is providing online access to authentic legal materials yet. To empower a law school to provide only online access to unauthenticated primary legal materials will not prepare students for the practice of law, nor will it promote digital access to authenticated legal materials for the law students of the future.

I would suggest that the Interpretation of Standard 606 continue to require a mixed format.

Thank you for considering my comments and suggestions. If you have any questions, please feel free to contact me.

Respectfully,

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