VIA ELECTRONIC MAIL

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Dear Dean Polden:

I write in response to the Proposed Draft of Standards 601, 602, 604, 605, and 606 as well as the Standards Review Committee "Draft, Security of Position, Academic Freedom, and Attract and Retain Faculty" document dated July 15, 2010. Both documents have only very recently been posted on the Standards Committee website.

I am distressed that a discussion of both of these drafts will happen at this weekend's meeting of the standards review committee in Chicago. Both of these discussion drafts have only been available since July 20, 2010, merely three days before the standards committee meeting. Moreover, it is only today that I learned of the proposed draft of standards 601, 602, 604, 605 and 606. Less than one week is hardly enough time to think critically and carefully about these important standards and to engage in a fully informed discussions amongst my library and faculty colleagues. Nevertheless, I want to take this opportunity to comment if briefly on the drafts.

Standard 606 Collection

While I applaud the draft in its continuance of the idea of a core collection of essential materials, I find it distressing that "reliable access" alone would suffice to provide "effective support of the school's teaching, scholarship, research, and service programs." (Standards 601 (A.)) I am also distressed by the removal of the requirement that a collection that consisting of a single format may violate standards 606. (Interpretation 606 -2)

Because the discussion draft of 606 suggests that either *ownership* or *reliable access* would suffice, if the text of 606 were promulgated, it is conceivable that an institution could argue that ownership of a library collection is not required.

The proposed standard does not correspond with the current practices of academic law libraries. For example, in the latest comparative statistics of law libraries produced by the ABA, US academic law libraries spent over $25,000,000 in the previous fiscal year for monographs alone.[1] One can easily imagine the significant financial investment that law schools have spent on books over the long years of law library existence. Most of these books—*not* case reporters or journals, but monographs—could not be supplied by reliable access as defined in interpretation 606 -3. This is because the revised standard suggests that a subscription to a paid databases or even a free databases might suffice for reliable access.

Presently, there is no subscription database that contains contemporary monographs required for a law library collection and law faculty scholarship. A core electronic collection is premature until a complete scholarly monograph collection is available in electronic format. Moreover, the proposed standard for reliable access dangerously shifts collection development and control from the law library to the database or free website provider. Reliable access can also be satisfied through "participation in a formal resource sharing arrangements." which resembles current interlibrary loan practices.

It is conceivable that a library would satisfy the draft standard by subscribing to Westlaw or LexisNexis, along with an additional database, or even to argue that the free databases available from the U.S. government suffice to satisfy the reliable access standard.

In my view, the meaning of *reliable access* should be removed or at least clarified as the current language suggests that any one of the three arrangements of resources would suffice to meet the reliable access standard. Defining a law library collection in any of the above fashions constitutes wishful thinking about the future of legal information rather than the actual practice.

I would urge the return of the language which provides that a collection consisting of a single format violates standard 606.

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[1] 2008-2009 ABA Law School Questionnaire dated April 10, 2010.

Security of Position, Academic Freedom and Attract and Retain Faculty

It is unclear how exactly to read this document. The introduction to part three, Recommendations of Special Committee on Security of Position, states that "the following are the 'black letter' recommendations of the report of the Special Committee on Security of Position from which I have drawn heavily in preparing this draft." Is the text here intended to be read as a supplement to Part II, **Proposed Changes to Existing Standards and Interpretations,** or to suggest that the drafter (it remains unclear who is the I in this document) intended that any of the items in part three that haven't made it into part two are rejected by the drafter? In other words, is any of the text that does not explicitly become part of part two, rejected by the drafter.

Standard 603 Director of the Library

603(c) deletes the requirement that the library director must have both a law degree and a degree in library or information science, instead looking to *skills and experience* to provide leadership to the law school's information resource needs. I find this rather distressing change. While I recognize there have been excellent examples of law library directors who don't have both of these degrees, I believe this is the exception rather than the rule. The draft text suggests that it is skills and experience alone rather than law degree in library science degree that make the law library profession. But what skills? And what experience? If this language were to become the standard, how might accreditation teams determine what skills and experience are relevant and which are not? It seems to me that language here turns the exception to the rule.

I think a better wording would require both the law degree and the library science degree but allowing for the occasional exception for people otherwise well-qualified. The draft language as written would allow for the director of information technology, a faculty member or a dean to be the director of the law library assuming that they had these rather nebulous "requisites skills and experience." In an era when the provision of law library and information resources has become more complex, it seems odd that the draft standards would require less education for this job.

Standard 405 Professional Environment

Reading Standard 603 alongside Standard 405 raises questions. While standard 603 (d) suggests that a library director shall hold law faculty appointment standard 405 B. provides

academic freedom protection in the areas of teaching, research, governance, and public service. And a reading of the two sections together might suggest the law library directors do not have academic freedom in the work they do administering the law library. Are there, under this text, academic freedom protections for law library directors to purchase materials in areas that are considered controversial? I would urge the standards committee to add language to 405B providing protection for academic freedom for faculty in their administrative capacity as well as teaching, research, governance, and public service activities. I fear that the draft language could be construed to protect the law library director's academic freedom only in so far as their teaching, research, law school governance, or public services.

Thank you for the opportunity to respond to the drafts.

Sincerely,

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