

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

Standards 102, 103  
DRAFT FOR January 8 - 9, 2010 Meeting

Material added to the current Standard or Interpretation has been underlined; deletions from the current Model Rule have been ~~struck through~~, as have deletions from the previous draft for purposes of discussion.

Changes from draft of October 2009 appear in italics.

**Standard 102. PROVISIONAL APPROVAL**

(a) A law school shall be granted provisional approval ~~only if~~ at the time it seeks 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. A provisionally approved law school may apply for full approval after no earlier than two years after receiving provisional approval and must obtain full approval within five years. The Council may extend this period in an extraordinary case and for good cause shown.

(b) A law school that is provisionally approved may have its approval withdrawn if it is determined that the law school is no longer in substantial compliance with the Standards or that the law school is not making adequate progress toward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 approved for full approval, provisional approval shall lapse and the law school shall automatically be removed from the list of approved law schools unless, prior to the end of the five year period, in an extraordinary case and for good cause shown, the Council 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 school may shall not offer a post-J.D. degree program.

(e) An unapproved law school seeking provisional approval or a provisionally approved law school shall make its status clear in any printed and electronic materials describing the law school and its program. At a minimum, the law school shall state the following in such communications:

The Law School makes no representation to any applicant that it will *receive accreditation from* ~~be approved by~~ the American Bar Association prior to the graduation of any matriculating student.

(f) A law school seeking provisional approval shall not delay conferring a J.D. upon a student in anticipation of obtaining accreditation approval

(g) An approved law school may not retroactively grant a J.D. degree to a student who graduated from the institution prior to its approval.

### **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.~~

**Comment: See 102-1 below for the second sentence of this deleted interpretation. Standard 102(a) addresses the first sentence.**

### **Interpretation ~~102-2~~ 102-1**

~~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. 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 ~~102-3~~**

~~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.~~

**Comment: This interpretation is covered by new Standard 102(d).**

### **Interpretation ~~102-4~~ 102-2**

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

**Comment: This provision is intended to give guidance to state admissions authorities in considering the application of students who have graduated from provisionally 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.~~

**Comment:** This interpretation is covered in new Standard ~~103(e)~~-102(f).

**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.~~

**Comment:** Standard 102(e) now addresses what was covered in 102-6 and 102-7. For both unapproved and provisionally approved law schools, a clear statement on all printed and electronic ~~communications materials~~ describing the law school and its program is needed -- “generally” is dropped as providing unhelpful room for interpretation.

**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.~~

**Comment:** This provision does not interpret the Standard. It is an observation; though possibly a helpful one, not one appropriately placed in the Interpretations.

**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.~~

**Comment:** 102-9 now appears as Standard 102(f). As with similar changes, it does not interpret the Standard; it sets a requirement that must be met by schools seeking provisional approval.

**Interpretation ~~102-10~~ 102-3**

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.

**Comment:** As with 102-2 (previous 102-4), this provision is intended to give guidance to state admissions authorities. At the SRC meeting in October, deletion of this provision was raised. The subcommittee discussed this and decided that it should remain. There was discussion that language should be added to 102(e) above, but this and the provisions in 102-2 and 103-1 may be more appropriately addressed in Standard 509.

### 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~~

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

~~*(c) An approved law school may not retroactively grant a J.D. degree to a student who graduated from the institution prior to its approval.*~~

#### 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 by the Council 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 Schools.~~

#### Comments:

**103 (a):** The second part of the sentence is deleted as it is covered by Standard 102. The addition of "each" is to make the expectation clear, per the earlier SRC discussion.

**103(b):** The provision is modified to indicate that sanctions may be imposed but without specifying what since this is fully stated in the rules; nor did it seem necessary to identify which rules, especially in the Standard as it may limit or burden reorganizing the Rules. Note, however, that a different approach is taken in 105, which specifically identifies Rules. The committee should decide which approach is preferred and we will conform the provisions accordingly.

| *103(c) was moved to 102(f) per comments at the last SRC meeting.*

Deleted:

**Interpretation 103-1:** As with 102-4 (proposed 102-2) and 102-10 (proposed 102-3), this Interpretation provides helpful information that survived objections to not qualifying as more than commentary. As with the other provisions, alternatives would be to have the Council write a Council Statement or to possibly have a Consultant's memo on this topic.

**Interpretation 103-2:** To the extent that additional authority may be needed to trigger Rule 20 considerations here, it should be addressed in 105, so it is deleted.