

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

**Chapter 2  
Draft for January 8-9, 2011 Meeting**

Strike-outs and underlines show changes from the November 2010 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 ~~law school~~ 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.**

[Comment: The phrase “dean and faculty” was changed to “law school” after discussion at the July full committee meeting on the theory that the focus of this standard is on law school-university relations, not on the division of power between the dean and faculty. When the full committee looked at this change in November concerns were raised that this made it sound like all the responsibility highlighted in this standard resided in the law school administration. So the consensus was to return to “dean and faculty.”]

**(c) The dean and faculty ~~law school~~ 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.**

[Comment: As in paragraph (b), this paragraph reverts to “dean and faculty” instead of “law school.” There was some discussion of using the phrase “primary responsibility” both for selection issues and retention, promotion and tenure issues, to make clear that a university decision to overturn a P & T decision should be an unusual occurrence. The general sentiment seemed to be that there is a distinction between the role of the dean and faculty in selection vs. P & T, and that the above language accurately reflected that distinction.]

**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.**

### **Standard 203. RESOURCES FOR PROGRAM**

**The present and anticipated financial resources of a law school shall be sufficient to fulfill the requirements of the Standards, and advance ~~meet the goals of its educational program, and advance its mission.~~**

#### **Interpretation 203-1**

**(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 advance ~~meet the goals of its educational program, or advance its mission.~~**

**(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:**

- i. fulfill the requirements of the Standards;**
- ii. or advance ~~meet the goals of its educational program, or advance its mission in the immediate future.~~**

[Comment: The committee's view, in the November meeting, was that the use of the phrase "advance its mission" throughout the standards risked bringing back the "seek to exceed" language we recently deleted, in that once a school sets for itself an ambitious mission, it would become a violation of a number of different standards, including this one, to fail to achieve (or provide the resources necessary to achieve) that mission. The appropriate place for language about mission is in the planning standard (206) and the consumer protection standard (509). The reorganization of the interpretation into two parts, each with two subparts, is designed to clarify the language.]

### **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 faculty or a representative body of it shall have meaningful involvement 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 it regarding the appointment of an interim or acting dean.**

[Comment: David Yellen pointed out at the end of our full committee discussion of the above provision that it since for a regular decanal appointment it is enough that “the faculty or a representative body of it” have meaningful involvement in the process, the language regarding consultation with the faculty regarding interim or acting appointments should be similarly broad. I.e., the requirement to consult should be with “the faculty or a representative body of it.”]

#### **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.

### **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 each institution as long as both the dean and the faculty have a significant role in determining educational policy.**

[From the 202/203 Subcommittee:

#### **Standard 206. REGULAR PLANNING AND ASSESSMENT**

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

**(b) When appropriate in light of these assessments of effectiveness, the school shall 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.**

#### **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.

[Comment: In our full committee discussion in November the suggestion was made that Standard 206 should cross-reference appropriate provisions in the library chapter and chapter 3 concerning planning and assessment. It was also suggested that we should add an interpretation making clear that the requirement of regular planning and assessment is not met simply by doing a self study every seven years.

In subcommittee discussion of these suggestions, Don Dahlin proposed separating Standard 206 into three paragraphs, which we have done with the above draft. The rationale is that schools are being asked to perform three separate tasks, and putting them in different paragraphs clarifies the distinctness of each task. Paragraph (a) focuses on the duty to engage in regular planning and assessment. Added to this paragraph are the cross-references to Standard 305 and Interpretation 601-2. Paragraph (b) was the second half of the first sentence of Standard 206, addressing the obligation to make periodic revisions to plans, goals and mission, where appropriate. Paragraph (c) was the last sentence of Standard 206, addressing the obligation to produce a self study in advance of a site visit.

The thinking of the subcommittee is that by separating out the three obligations imposed on schools by Standard 206, it is no longer necessary to make the point in an interpretation that the requirement of regular planning and assessment (paragraph (a)) is not met simply by doing a self study every seven years (paragraph (c)).]

#### **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.**