

# CLEA

## Clinical Legal Education Association

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March 5, 2007

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William R. Rakes, Chair  
ABA Section of Legal Education  
and Admissions to the Bar  
321 N. Clark St.  
Chicago, IL 60610-4714

Dear Bill:

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We have been informed that the Accreditation Committee has requested the Council to ask the Standards Review Committee to advise it on the proper application of Interpretation 405-6. CLEA joins in the request for a clarification of the Interpretation.

We believe that the Accreditation Committee is wrong in its widely distributed action in allowing Northwestern University to put clinicians on one year contracts that are renewable at the will of the Law School, regardless of the effectiveness of the teacher. Interpretation 405-6, properly read, requires that all long-term contracts for clinical faculty must be five years long and be either presumptively renewable or provide for academic freedom through some arrangement other than a renewable contract. In either case, the contract must be five years in length to be a long-term contract.

Our reading of Interpretation 405-6 is supported by the language of the Standard and Interpretation and by logic and policy. Northwestern's short contracts have been read by the Committee to be long-term contracts. Essentially, under the Committee's ruling, a law school can have one-day, at will contracts that have academic freedom protections; however, this is not consistent with the "form of security of position reasonably similar to tenure" in both Standard 405(c) and Interpretation 405-6.

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We are also of the opinion that the Accreditation Committee's action approving the governance arrangements at Northwestern that do not allow clinical faculty members to vote on anything, not even the hiring of clinical teachers, is wrong and is inconsistent with Interpretation 405-8.

We request that we be allowed to fully participate in the hearings on and consideration of these issues, including submitting a fuller statement of our position on the issues raised.

Thank you for your consideration.

Sincerely yours,

Paulette J. Williams  
CLEA President

Dear Mr. Askew:

I am writing in response to the ABA Accreditation Policy Task Force's request for feedback. Will you please forward this note to the members of the Task Force? I have four comments:

1. I disagree with the viewpoint expressed by the American Law Deans Association (ALDA) concerning conditions of employment. I served as Associate Dean for Clinical Affairs at the University of Michigan Law School during a time when implementation of long-term contracts for clinicians worked to greatly enhance our clinical programs. The University of Michigan now has many of the strongest clinical faculty members in the country and our ability to build effective, consistent clinical legal education improved radically with the introduction of long-term contracts and applicable high performance standards pursuant to Standard 405(c).

I now serve as Dean at the University of New Mexico School of Law where the quality of our required clinical courses is greatly enhanced by the tenuring of clinical faculty members. Indeed, the requirement of meeting tenure standards protects the high quality of clinical legal education provided to our students by our faculty.

The accreditation process should protect the quality of legal education. If a school offers clinical legal education, that education should come with the same quality of teaching as is protected in the classroom through the standards and expectations that flow from the tenure process. If tenure is someday abolished, the position of the ALDA Board may make sense. Until that time (and it seems unlikely), the accreditation process must set minimum employment standards for those who teach our students. Without those standards, the ABA invites a lessening of the quality of clinical education programs.

2. I am very supportive of defining outcome-based standards for legal education. I wrote a short essay on this topic: *Serving the Most Important Constituency: Our Graduates' Clients*, 36 *Tol. L. Rev* 167 (2005). In it, I suggest that a client-centered view of law school outcomes should be our priority.

3. I am very supportive of the ABA's tradition of taking a strong stand in support of racial and ethnic diversity as vital to our effectiveness as law schools.

4. Perhaps it is because I have just finished co-chairing New Mexico Governor Bill Richardson's Ethics Task Force that I feel more strongly than ever that a set of standards should be set for the hosting of site teams. Several years ago, when I served on my first site team, I was astonished at the expensive treatment we received. I have also heard the tale of a team leader who informed a school before a visit that the team should dine at the 3 most expensive restaurants in the school's location. I have heard from my colleagues that for all of the work we put into these visits (and it IS a lot of work) we should be treated well. I don't disagree, but I am concerned about at least the appearance of impropriety. Perhaps basic spending guidelines and restrictions on gifts provided to team members would provide some protection to teams from the appearance of being influenced and might protect less wealthy schools from the unrealistic expectations of teams.

Please let me know if I can provide any further support to the good work of the Task Force.

Sincerely,

Suellyn Scarnecchia  
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November 20, 2006

Hulett H. Askew, Esq.  
Consultant on Legal Education to the ABA  
321 N. Clark St.  
Chicago, IL 60610-4714

Dear Bucky:

As you can see, I have enclosed a copy of BEST PRACTICES FOR LEGAL EDUCATION. It is undergoing final editing, and we expect it to be published in March. I understand that Bill Sullivan has sent you a copy of EDUCATING LAWYERS, the results of a field study of legal education by the Carnegie Foundation for the Advancement of Teaching.

These documents may be relevant to the work of the Section's Task Force on Accreditation, particularly regarding the program of instruction. I have not done a thorough analysis of the issues, but I do have some thoughts about what these documents say that could have accreditation implications.

Both documents agree that legal education in the United States is seriously flawed. We also agree that the quality of legal education can be greatly improved if law teachers, bar examiners, and accrediting agencies make a commitment to change the status quo. It will not be an easy task or one that can be accomplished quickly, but it is important that we make the effort.

The ABA's accreditation standards and review process can be a powerful tool in helping legal education move in positive directions. In my opinion, there are two separate but related issues that should be addressed: the need to more vigorously enforce some standards and the need to add to or clarify the standards.

#### A. THE NEED TO MORE VIGOROUSLY ENFORCE SOME STANDARDS.

Some of the problems with legal education exist because the ABA has failed to vigorously enforce compliance with some of the standards. Too many of the existing standards and interpretations that say exactly the right things are ignored by many schools.

Let me give you some examples:

1. Self-studies. We all know that very few schools conduct self-studies with a sincere interest in examining the academic program and developing strategies for improving it. I think new Standard 203, Strategic Planning and Assessment, is a huge step in the right direction, but it will have little impact unless the ABA teaches law schools how to engage in strategic planning and rigorously enforces the new Standard. The Task Force may want to review Chapter Eight in my book, Best Practices for Assessing Institutional Effectiveness, and consider whether additional Standards or Interpretations are needed.
2. Teaching Effectiveness. Standard 401 requires law schools "to ensure effective teaching by all persons providing instruction to students." This is another Standard to which the ABA pays too little attention and law schools largely ignore. As discussed in my book in Chapter Four in section B, "continuously strive to improve your teaching skills," almost no entry level law teachers have any formal educational training, law school teacher training programs are virtually nonexistent, and the reward system values scholarship over teaching at most institutions. Carnegie agrees that law schools give too little attention to the quality of teaching.

The ABA should put some teeth into Standard 401 and its enforcement. For example, the ABA could require schools to demonstrate what they are doing to “ensure effective teaching,” including that of adjunct faculty. Chapters Four, Five, and Six in my book describe best practices for delivering instruction. The principles of best practices described in these chapters could be used to create checklists for site inspectors so that the reports can have more objective findings than “above average,” etc.

3. Assessing Student Learning. Standard 303 (b) requires law schools to “monitor students’ academic progress and achievement from the beginning of and periodically throughout their studies.” In order to monitor academic progress, a law school must utilize valid, reliable, and fair methods of assessing student learning. Unfortunately, the assessment practices of law schools are neither valid, reliable, nor fair. They are quite simply indefensible, and the ABA has ignored their shortcomings. Chapter Seven in my book describes the problems with current assessment methods and describes what law schools should be doing. Standard 303 could stand a top to bottom revision. Carnegie also concluded that current assessment practices are woeful.

4. Law Schools ignore their mandate to prepare students for entry into the legal profession. Standard 301 requires law schools to prepare its students for “effective and responsible participation in the legal profession.” The Standards do not explain how a law school’s compliance with this responsibility should be measured, and the inspection

and review process does not even require schools to submit evidence of their compliance. It is a largely ignored Standard, and far too many students graduate from law school who are not adequately prepared for their first professional jobs. I discuss this issue in Chapter One.

5. Law schools largely ignore Standard 302(a)(5). Standard 302(a)(5) requires schools to require each student to receive substantial instruction in “the history, goals, structure, values, rules, and responsibilities of the legal profession and its members.” At many law schools, students are required to take a single class in professional responsibility, which typically focuses on the formal rules of professional conduct. One might debate the issue of whether one course is “substantial instruction” in the rules of professional conduct, but there is no doubt that the other topics on the list receive very little attention at most law schools. The ABA should require law schools to demonstrate their compliance with this Standard, and inspection teams should be asked to closely look into this issue. My book and the Carnegie book discuss the importance of such instruction to the professional development of novice lawyers.

## B. THE NEED TO ADD TO OR CLARIFY THE STANDARDS.

I want to turn now to what I consider to be significant omissions from or flaws in the Standards.

1. Law Schools Are Not Required to Articulate Their Education Objectives. The first step of sound academic planning is to clearly articulate the objectives of the program of instruction and each component of it. The Standards do not require law schools to do this, even though Department of Education criterion 602.17 requires accrediting agencies to “evaluate whether an institution or program (1) maintains clearly specified educational objectives that are consistent with its mission and appropriate in light of the degrees or certificates awarded, and (2) is successful in achieving its stated objectives.”

This omission can be easily resolved by adopting a new Standard tracking the language of the DOE criterion. I discuss the importance of articulating goals for the program of instruction in Chapter Two, beginning on page 41. Carnegie agrees that the failure of legal educators to define their objectives is a major shortcoming of legal education.

2. Curriculum Requirements are Stated in Terms of Course Content Rather Than Outcomes.

I may be wrong, but I do not think there is another accrediting body for professional schools that does not prescribe a core curriculum that must be provided to all students. As it turns out in practice, most of the required courses in law schools are

virtually identical. Unfortunately, they primarily deal with substantive law, not professional role development or how to practice law.

The bigger problem is that to the extent that curriculum requirements are mandated in the standards, they describe course content, not what students will know, be able to do, or how they will do it. I discuss this issue in Chapter Two, and compare the language of the Standards (content-focused) with the language in the Preamble to the Standards (outcome-focused) on page 46.

A good example is Standard 302 (4) which requires law schools to provide substantial instruction in "other professional skills generally regarded as necessary for effective and responsible participation in the legal profession," such as interviewing, counseling, negotiation, problem-solving, etc. What is missing here and throughout the Standards is any statement about the purposes of such instruction. If the overall goal of legal education, as recognized in Standard 301, is to prepare students for effective and responsible participation in the legal profession, then shouldn't the goal of such instruction be to help students acquire a sufficient level of proficiency to perform their first legal jobs competently? Yes, and the Standards should say so. What I am hearing is that many law schools think they can comply with this Standard by requiring all students to enroll in a single professional skills course, which some schools plan to claim include field placement programs - an unlikely way to provide effective skills instruction. Even worse, apparently Deans are being given reason to believe this will be enough to satisfy the Accreditation Committee. It would be much better for students and their future clients if the Standard stated the outcomes that skills instruction should achieve and required law schools to demonstrate the degree to which they are achieving those results.

My book takes the position on page 48 that all the Standards should be written in outcomes-focused language, and law schools should be required to describe publically what their students will know, be able to do, and how they will do it upon graduation. Also, in Chapter Two, we propose outcomes that would be appropriate for law schools to pursue. Reasonable people can disagree about what should be on the list, but educators around the world are moving toward outcomes-focused education, and accrediting agencies, including regional accrediting bodies in the United States are requiring schools to be accountable for their products.

### C. CONCLUSION

In sum, my book and Carnegie's reach very similar conclusions about the needs of legal education. These include:

- clarify the objectives of legal education.
- broaden the goals of legal education, including in the first year curriculum, to give more emphasis to professional role development and learning how to practice law, and reduce the amount of substantive law that students are expected to memorize (yes, some coordination with bar examiners is needed).
- improve the quality of instruction, generally. Specifically, reduce the over reliance on the Socratic dialogue, and make greater use of discussion and context-based and experiential education.
- improve methods of assessing student learning.

-regularly evaluate institutional effectiveness.

The ABA Standards and review process can become a more effective tool for improving legal education. I hope the Task Force sees fit to recommend the necessary changes, or at least begin a process of national discussion to improve the future of legal education. If I can be of any assistance, please let me know.

Sincerely,

Roy Stuckey

cc: Pauline Schneider  
Randy Hertz  
Bill Rakes  
Bill Sullivan

enclosure

## MEMORANDUM

**TO:** The Accreditation Task Force  
**FROM:** Roy Stuckey, University of South Carolina School of Law  
**RE:** Sound Legal Education  
**DATE:** February 12, 2007

The accreditation process cannot function appropriately until we develop a shared understanding of what it means to provide a sound legal education. This point was highlighted by the first speaker at your January 5<sup>th</sup> hearing in Washington, D.C., Dean David Van Zandt of Northwestern.

Dean Van Zandt said, "The standards should require a law school to provide a sound legal education." Transcript, p. 19, ll 22-24. He continued, "In evaluating whether a law school provides a sound legal education, the standards should be based chiefly on an evaluation of the resulting legal education that a law school provides and not on the specific inputs into the educational process." Transcript, p. 20, ll 4-9.

I agree with Dean Van Zandt. I encourage the Task Force to invite Dean Van Zandt and others to help you define "a sound legal education" and to suggest how the accreditation process can measure the degree to which a law school provides one.

Descriptions of a sound legal education are contained in EDUCATING LAWYERS and BEST PRACTICES FOR LEGAL EDUCATION, drafts of which have been made available to you through the Consultant's office. The best practices document also includes a chapter on how law schools can evaluate whether they are achieving their educational objectives. Both books agree that few, if any, law schools in the United States are providing a sound legal education. This should be of great concern to you and to all people who care about protecting the public's interests.

There is no common understanding among law schools of what they are supposed to be trying to accomplish. Without a clear understanding of our basic educational objectives, consumer protection is impossible. The one common goal of all law schools, as reflected in Standard 301, is to prepare our students for effective, responsible participation in the legal profession. Unfortunately, too many law schools are ignoring this responsibility. The fact that a law school may have multiple missions does not excuse its failure to prepare its students to practice law.

One final comment. I disagree with Dean Van Zandt that the accreditation standards impede innovation. If anything, they give law schools too much leeway and fail to require true accountability for the quality of their educational outcomes. I noticed that Dean Van Zandt did not mention a single innovation that he wants to implement that is impeded by the accreditation standards. Law schools need more guidance from the standards and more accountability to consumers, not less.

cc: Dean Van Zandt

## MEMORANDUM

**TO:** The Accreditation Task Force  
**FROM:** Roy Stuckey, University of South Carolina School of Law  
**RE:** Law School Governance  
**DATE:** February 12, 2007

I understand that you are reexamining Standard 405, particularly Standard 405(c) and related interpretations. Your deliberations will have a profound impact on legal education in the United States. Putting all other considerations aside, the future of legal education will be determined by who is allowed to participate in selecting members of law school faculties and in making curricular decisions at each law school. Traditional doctrinal teachers have controlled these issues for many, many years, and legal education is none the better for it.

It is time for the ABA to mandate without any equivocation that all full-time employees of a law school whose primary responsibilities are to teach or to produce scholarship must have equal voices and votes in matters considered by the general law school faculty, including *inter alia*, hiring the dean, hiring other teachers and scholars, making decisions about the program of instruction, and determining the terms and conditions of employment for teachers and scholars. Until this happens, no one should expect legal education to improve.

It was either in the late 1970's or early 1980's when an inspection team reported that the clinical teachers at a southern California law school were employed on different terms than other members of the faculty. The accreditation committee told the school that it should treat all full-time members of the faculty equally. Although an outsider might have considered this to be a reasonable solution, the accreditation committee's action produced such a strong objection from many law school deans that the accreditation committee backed off and appointed a committee to study the situation and make recommendations. Over the course of some years, this led to the compromises that are reflected in the standards today, followed by many years of half-hearted enforcement by the accreditation committee. Even after the ABA House of Delegates finally changed "should" to "shall" in 1996 over the objection of the AALS and others, some schools have been allowed to drag their feet in complying with 405(c). Nevertheless, the compromise standards and interpretations related to status and governance rights have produced some positive results at many schools.

In all the years of discussion and debate about these issues, not once have I heard anyone explain the potential harm that might result from giving all stakeholders in the educational process an equal voice in faculty decisions, including who will teach at their schools and what and how they will teach. In truth, there is no potential harm, only potential good, the evidence of which is found at the many schools where clinical faculty have full voting rights as well as job security and perquisites equal to all other members of the faculty. To the best of my knowledge, those schools are stronger and better as a result of fuller participation by clinical faculty in the decision-making process. I would also point out the huge body of scholarship that would not exist but for Standard 405(c) – scholarship about law practice, improving access to justice, the roles and values of the legal profession, educational pedagogy, clients, and much more (there is an online annotated bibliography of clinical legal education by J.P. Ogilvy with Karen Czpankiy at <http://faculty.cua.edu/ogilvy/Index1.htm>).

I will not address job security and other issues raised by Dean Van Zandt at the hearing on January 5<sup>th</sup>, because they are not the main issue. Law school governance is the main issue. There is no reason to debate other issues until a decision is made about law school governance. Dean Van Zandt said at the hearing, “To our knowledge, requiring specific terms and conditions has no precedent in the accreditation standards of other educational institutions and programs and do not for a very good reason. They are not necessary to provide a sound educational program and impinge unnecessarily on the institutional autonomy of law schools and universities.” Transcript, p. 27, l.14 to p. 28, l.20.

While I agree with Dean Van Zandt that such standards are not necessary to provide a sound educational program in most educational environments, I doubt that any other accrediting body is confronted by an entrenched old guard that act as though they are more interested in protecting their personal interests and maintaining the *status quo* than in considering the public’s interests and providing a sound legal education.

Traditional doctrinal teachers have ignored repeated and reasonable calls for reform for 130 years. There are many deans and traditional teachers who are beginning to understand the pressing need for legal education to improve, but apparently not yet enough to tip the balance at most law schools. As the Carnegie Foundation’s report on legal education concluded, change has occurred at the fringe, but core, fundamental changes in practices and attitudes are needed.

The reality that improvements in legal education are impeded by existing faculty attitudes is not a recent development. In an article published in 1982, Roger Cramton concluded that the most serious impediment to curriculum reform – he calls it “the real sticking point” – are members of law faculties.

Like other professional groups, we are jealous of our prerogatives, comfortable with the way things are, and are intensely conservative about matters central to our selfhood such as what and how we teach. Moreover, our special strengths and weaknesses are perpetuated by the hiring process, which tends to filter out people who do not have the same accomplishments and interests, have not attended the same schools and shared the same experiences. We are threatened by discussions of values, by personal involvement with students or clients and we place these matters out of bounds for classroom discussion. We are tied to familiar teaching materials and methods and increasingly share the same national perspectives on how a teacher-scholar should spend his or her time.<sup>1</sup>

Geoffrey C. Hazard, Jr., echoed Cramton’s sentiments in 1985:

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<sup>1</sup>Roger C. Cramton, *The Current State of the Law Curriculum*, 32 J. LEGAL EDUC. 321, 333-34 (1982).

My essential thesis here is that the structure of the law school curriculum is a product of the law school faculty. This thesis, if correct, could explain why the law school curriculum has not changed very much over the years, despite repeated calls for reform. It also predicts that there will not be very much change in the future, or at least that change will continue to be very slow . . . .

[L]aw faculties are in a position effectively to block any but an aggressive and sustained movement of reform, and probably could dilute or suppress even a movement of great strength. This is particularly true of faculties that have tenure and authoritative vote in law school governance. The law faculties at all accredited law schools have that status at least nominally, and almost all of them have it in fact as well. Hence, I suggested, in curriculum reform the faculty of the law schools were not so much the solution as the problem.<sup>2</sup>

The most important contribution that you can make to the future of legal education is to ensure that all full-time teachers and scholars at every law school participate equally in defining the missions of their law schools and deciding how those missions will be achieved. There are not enough clinical and legal writing teachers at any law school to control faculty decisions, but when they are teamed with reform-minded deans and traditional faculty, they may make the difference in determining whether legal education will move forward or remain stuck in the 1880's.

The Carnegie Foundation's forthcoming report on legal education concludes that its findings and recommendations present "a historic opportunity to advance legal education." You should support efforts to reform legal education. Maintaining the *status quo*, or returning to the pre-405(c) days as Dean Van Zandt proposes, will not improve anything. You should not allow a handful of disgruntled deans to cloud your understanding of what is at stake and what is best for legal education.

cc: Dean Van Zandt

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<sup>2</sup>Geoffrey C. Hazard, Jr., *Curriculum Structure and Faculty Structure*, 35 J. LEGAL EDUC. 326 (1985).



## *American Association of Law Libraries*

MAXIMIZING THE POWER OF THE LAW LIBRARY COMMUNITY SINCE 1906

February 5, 2007

### **Statement of the American Association of Law Libraries to the Accreditation Policy Task Force, Council of Legal Education and Admissions to the Bar, American Bar Association**

The American Association of Law Libraries (AALL) is a non-profit, 501(c)(3) educational organization with 5000 members. That membership includes more than 1800 members employed as academic law librarians. Besides law library directors, this number includes academic law librarians with a wide range of job responsibilities: reference librarians, technical services librarians, catalog librarians, electronic services librarians, and public services librarians. AALL is dedicated to providing continuing education, leadership, and advocacy in the fields of legal information and information policy. The Association has reviewed the questions raised by the Accreditation Policy Task Force and submits the following comments, focusing on our expertise in the impact of accreditation policies on academic law libraries.

We applaud the initiative of William R. Rakes, Chair of the ABA Section of Legal Education and Admissions to the Bar, and the members of the Accreditation Policy Task Force in undertaking this comprehensive review of the policies behind the accreditation process. We believe that such periodic examinations help ensure the validity and vitality of any policy. The continual process of evaluation and amendment to the Standards has been important, and we have participated regularly. A comprehensive review is important, however, to maintain coherence and keep the Standards in an appropriate context.

As a whole, we believe that the Standards provide a sound, basic structure for library services in support of the law school's educational program. The application of the Standards, through the system of site visits and review by the Accreditation Committee and Council, has been even-handed and exhaustive. We recognize that, from time to time, a single law school or administrator will take issue with the conclusions drawn by the ABA. In general, however, the system works. Academic law libraries in the U.S. are the models upon which other countries base their own information centers.

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As a practical matter, academic law librarians work with the Standards every day. We have found them properly flexible, allowing for significant creativity and variation from library to library as conditions dictate. Their current format is a tremendous improvement over the more quantitative, and often inflexible, Standards of past years. We support the movement away from strictly quantitative measurements and toward a combination of both quantitative and qualitative information. We especially encourage consideration of the inclusion of output measurements in the Standards, and we respectfully request significant participation in the development of such measures for library services.

In response to several of the specific questions asked by the Task Force, we offer the following comments.

**Question 2:** As noted above, we support the consideration of identifying and including appropriate output measures in the Standards, including for law libraries. The AALL Academic Law Libraries Special Interest Section is working currently to identify just such measures. We understand that the Law Libraries Committee of the Section is also considering the issue. There is significant literature on library assessment that can provide guidance in the development of concrete output measurements, in addition to existing, nationally recognized assessment tools such as LibQual+, a project of the Association of Research Libraries. This is an area in which we believe the Standards could be improved.

**Question 3:** We believe that, as it currently operates, the process of site review and accreditation allows for appropriate transparency. The differences between public and private institutions, and even the political climate within a particular state, could make it difficult to incorporate specific criteria regarding public release of some information required for a full assessment of a particular school. However, we encourage the development of more detailed guidelines for the internal circulation of site visit reports and accompanying Accreditation Committee and Section actions, which would increase the internal transparency of the process. All too often these documents are not available to those most affected—the law school personnel who administer or work in the various departments.

We also encourage the continuation of the process by which subject specialists, most especially librarians but also clinicians and administrators, are required members of the site visit teams, the Accreditation Committee, and the Council. How else can the complex programs of a modern law school be fairly reviewed and then evaluated other than by active participation of subject specialists?

**Question 4:** AALL strongly supports the identification and pursuit of challenging goals. Our own strategic planning process reflects this, and our implementation procedures give us a blueprint for achieving the goals. We believe that encouraging law schools to identify and pursue aspirations beyond the minimums required for accreditation, whether through strategic planning, self studies, or other processes, could be very useful.

We can envision a situation, however, in which the anticipation of ABA “pressure” to achieve more than that which is required or seems feasible under the circumstances could lead a school to set its sights at a lower point. Formalizing a review of demanding goals could have a negative impact. Further, the goals of one law dean—or one university administrator—may not be accepted by the next, and changes in the financial structure or well-being of an institution may render previously reachable goals unattainable.

Instead of including an assessment of aspirations as part of the formal accreditation process, perhaps more emphasis could be placed on the typical “informal consultations” that occur during site visits. Many site teams have conversations with the law school and university administrators regarding law school goals. Often these conversations are extremely useful to the law school, helping to refine vague goals or providing suggestions for reaching an aspirational goal.

This question is closely related to the development of outcome measures (question 2). As outcome measurements are developed for the range of law school programs and services, a different type and level of review may be possible for an individual law school’s goals, whatever those may be.

**Question 5:** AALL believes that the issue of cost must be addressed with more empirical data and a concrete understanding of the causal effect between quality improvements and access. The importance of a diverse legal profession and the necessity of providing a quality legal education are core principles of legal education. Neither should be compromised without a full understanding of their inter-relationship.

**Question 7:** AALL supports the existing review process in which all law schools are evaluated by means of a uniform set of criteria applied in an even-handed manner. We understand the desire of schools that have a long-standing record of compliance to be subject to varying levels of review. But we suggest that this will diminish significantly the positive outcome of a regular and thorough review of the law school’s programs. The lack of a regular comprehensive review could have the effect of allowing small, solvable problems to escalate unnecessarily into large, difficult conditions. Treating all schools in a like manner minimizes claims of unfairness and lack of transparency in the review process.

**Question 9:** AALL supports the Task Force’s work on a comprehensive review of the policies behind the ABA Standards for Approval of Law Schools. We believe that the Standards are generally sound and remarkably flexible, allowing for effective evaluation and comparison of libraries as diverse as those in the Ivy League with those of the newest law schools, and those providing cutting edge and innovative services with those emphasizing more traditional service offerings. Innovation and autonomy in the development of library services are not only possible but actually anticipated and encouraged by the Standards relating to library services. AALL believes that the underlying philosophy and implementation of the Standards is appropriate. Given the recent comprehensive review of Chapter 6, Library and Information Resources, and their furtherance of a sound educational experience, we see no benefit from extensive modification of the Standards at this time. The current process by which individual provisions

are amended and updated is effective generally, as exemplified by the discussions at present regarding ways to effectively evaluate the collection's volume count, title count, and electronic resources.

In particular, we encourage the retention of Standard 603(d) and its accompanying Interpretations. The practice of law is dedicated to the pursuit of truth and justice and the preservation of freedom; the same ends must be part of legal education. Law, of all disciplines, must protect the academic freedom of its faculty, as academic freedom enables rigorous evaluation of doctrines and principles in the quest for truth. It is incumbent upon the accrediting body for law schools to

retain status requirements in its accreditation standards, as a statement of the importance of academic freedom and a reflection of the philosophy of the profession. The status requirements are especially important for the protection of women faculty members and minority faculty members. Both categories are often underrepresented on faculties and their viewpoints may differ from those of the majority.

Academic freedom for law library directors, guaranteed by faculty status, provides them with the latitude necessary to acquire materials espousing all viewpoints, on even the most controversial of topics, in order to guarantee the strongest library collections possible. It also provides the atmosphere necessary to innovate, to create, and to enhance library services, thereby carrying out the spirit of the Standards and advancing the law school's mission.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Sarah G. Holterhoff".

Sarah G. Holterhoff  
President, American Association of Law Libraries