

# SYLLABUS

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American Bar Association Section of Legal Education and Admissions to the Bar

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## New Year Brings New Challenges, Opportunities

*Message from the New Section Chairperson*

*By Honorable Ruth V. McGregor,  
Chief Justice, Arizona Supreme Court*

**W**hen I joined the Council of the Section of Legal Education and Admissions to the Bar, I had only a limited understanding of the dedication that the academics, practicing lawyers, and judges



bring to their work on the Council, the Accreditation Committee, the Standards Review Committee, and special committees formed to address specific issues. Over the last several years, I have come to appreciate, and frankly marvel at, the enormous contribution made by these volunteers as they work with Section staff to fulfill its mission. Each year, Section volunteers contribute thousands of hours, usually with little attention paid to or thanks for their work. Each year, however, some area of Section effort generates discussion and even controversy. This year will be no different. I anticipate that the coming year will bring

both challenges and opportunities to move forward.

The Section's opportunities to move forward will result, in large part, from the work done last year by the Accreditation Policy Task Force. During his term as Chair, Bill Rakes charged this group to take a fresh look at accreditation from a policy standpoint, taking into account changes in legal education and the legal process, the Section's experience with the accreditation process, the feedback the Section has received regarding that process, and other relevant considerations. Based upon recommendations from the Task Force, I have established three special committees to continue and expand the work done by the Task Force.

The first special committee will examine options for evaluating law school programs by adopting "outcome measures." This committee, which will include members from all stakeholder groups, will consider whether and how we can measure directly whether a law school is fulfilling the goals that we now assess indirectly, as well as whether we should adopt

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## Congressional Action to Provide Educational Debt Relief for Graduates in Public Service

**O**n Friday, September 7, Congress passed the College Cost Reduction Act (Conference Report H. R. 110-317), and the president signed it into law on September 27 (Public Law 110-84). The Act will open the door to public service careers even for those who receive modest salaries and emerge from law school with significant educational loans. Applying to other professionals as well, the Act does not remove the financial sacrifice that these individuals must make to serve in the government and nonprofit sector, but it makes these careers feasi-

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# Reflections from the Immediate Past Chairperson

By William R. Rakes, Esq.

It is traditional for the outgoing Chairperson of the Section of Legal Education and Admissions to the Bar to outline the events and accomplishments of his or her year, and to thank those who have supported the efforts. While I would like to write a more substantive piece as my final column, I must succumb to tradition as we had an active year and have many individuals to thank.

The year was dominated by issues surrounding the Council's petition for re-recognition as the accrediting agency for American law schools. Two hearings were postponed by the U. S. Department of Education and one was finally held in December 2006, which ultimately resulted in re-recognition for a period of 18 months. At the center of the



delay and inquiry on the part of certain of the DOE staff was our diversity standard. The Council will be filing a petition in January 2008 with a hearing to be held in June of 2008 requesting re-recognition for a five-year period. It is expected that the diversity and bar passage standards will continue to be focal points.

During the past year, we have sponsored three conclaves on legal education consistent with our theme for the year, "Sharing the Responsibility for Legal Education Among the Law Schools, the Bar and the Bench." Con-

claves were planned and conducted in cooperation with the state bars of Florida and Virginia in connection with the Council's meetings in December in Naples and in June in Charlottesville. A national conclave was held in Chicago in April with over 100 legal academics, practitioners and judges in attendance. The agendas for the conclaves focused on issues important to the improvement of legal education and the profession.

An Accreditation Policy Task Force was appointed at the beginning of the year, chaired by Pauline Schneider. The Task Force consisted of 11 very bright and talented individuals who worked very hard and, after a full year of meetings and hearings, rendered its report in June. It made findings and recommendations with regard to transparency and consistency and other issues fundamental to an appropriate accreditation program. However, despite a substantial effort on the part of the Task Force, it was unable to come to a conclusion with regard to whether the security of position or terms and conditions of employment provisions should be removed from the Standards. There was consensus on the Task Force that if one were drafting Standards from scratch, other ways would likely be found to protect the principles that were sought to be protected when these Standards were adopted. However, the Task Force was unable to determine what might be alternatives to the existing Standards. Upon the recommendation of the Task Force,

a new committee has been appointed with the charge to assume that the goals protected by the security of position provisions must be accomplished by some other method and to examine alternative approaches that can protect those goals.

Justice Elizabeth Lacy chaired a Governance Committee, which was established last year to examine the Section's bylaws and operating procedures. It rendered its report, and amendments to the bylaws and operating procedures were adopted during the course of the year. The Governance Committee under the new bylaws will be a standing committee of the Section.

We also had a special committee look at the Section's role in international activities. Consultant Emeritus James P. White chaired the committee, which assessed the Section's role in working with the leadership of the ABA on international issues as well as working with law schools abroad in a consultative capacity. In addition, the Section sponsored various conferences and workshops and performed much of its work through its various committees, including the Accreditation Committee and the Standards Review Committee, both of which had extraordinarily busy years.

This past year also provided extraordinary opportunities and challenges with regard to new staff leadership. Hulett "Bucky" Askew became Consultant at the beginning of the year after having worked several months in a transition mode. I can say without reservation that he has done an

excellent job in all aspects of his position. It was a genuine pleasure working with him. He hit the ground running. He is knowledgeable and thoughtful. He works well with all the different groups and interests that have a stake in legal education. We were indeed fortunate to retain him as Consultant. He has stimulated the staff and accomplished a great deal in a very busy year with a limited size staff.

This was also a year when the American Bar Association hired a new executive director. It has been a pleasure working with Hank White in his new role as Executive Director of the ABA. I believe advances have been made this year in the Section's relationship with the larger ABA and its leadership. This is an area that needs ongoing attention to improve communication and cooperation.

I am grateful to all those whom I have asked to serve on committees or work on projects during the course of the past year. The support I have received has been magnificent and I am grateful to each person for his/her contributions. At the ABA Annual Meeting in San Francisco, I passed the gavel to Chief Justice Ruth McGregor. She will be followed by Randy Hertz, the

Chair-Elect. The leadership of the Section is in excellent hands—both the volunteers and the staff.

So much for looking back. As Winston Churchill once said, "I am an optimist. It doesn't seem much use to be anything else." I am optimistic about our profession. There are great challenges and opportunities ahead. Legal education is so fundamental to our profession that we must continue our quest for excellence through continued active participation by the legal academy, the bar and the bench. I am convinced that more can be accomplished for the profession working together than each branch of the profession addressing the issues alone.

This year, as Chair of the Section, I have had both the reason and the opportunity to reflect on our profession and the role of legal education—where it has been, where it is and where it is going. There is more than hope for our profession—we have great opportunities ahead of us!

I always wanted to be a lawyer. I have always been proud to be a lawyer. I will always treasure my year as Chair of the ABA Section of Legal Education and Admissions to the Bar. 🏠

# SYLLABUS

Volume 39, Number 1 • Fall 2007

*Editor:* Mary McNulty

*Designer:* Sonya Taylor

The Section of Legal Education and Admissions to the Bar publishes *Syllabus* (ISSN: 1939-3962) three times a year. Opinions and positions stated in individual articles are those of the authors and not necessarily those of the American Bar Association or members of the Section of Legal Education and Admissions to the Bar.

The editor reviews all manuscripts, and those accepted become the property of the American Bar Association. Manuscripts or letters may be submitted to the American Bar Association, Section of Legal Education and Admissions to the Bar, 321 N. Clark St., Chicago, IL 60610.

Change of address should be sent to Member Services Division, American Bar Association, 321 N. Clark St., Chicago, IL 60610. Please include mailing label.

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“Comments and Reports” area  
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# From the CONSULTANT

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By Hulett H. Askew, Consultant on Legal Education

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## The Accreditor's Role:

Can you help and judge?

Should you?

Is there tension in the two roles?

Does there need to be?

I worked for many years for the Legal Services Corporation (LSC), a Congressionally-chartered non-profit organization that provides federal funding for civil legal aid programs in the United States. In my role with



LSC, I not only evaluated our legal aid grantees for compliance with the LSC Act and Regulations, but also provided technical assistance to those

grantees to improve the quality of services they provided to poor people. While this is not the same as accreditation, the analogy fits because both entities (the ABA and LSC) are compliance agencies with the authority to regulate programs AND provide assistance to programs in their efforts to improve services.

I was always comfortable in that role, and I believe that with proper notice and understanding the grantees were comfortable with the agency playing that role. I also believe that accreditors can be both the regulator and the helper. If we look at how the ABA accreditation process functions, you can see why I believe this and how it works in practice.

The term "Consultant" is an interesting one in the accredita-

tion context. The ABA has been recognized by the Department of Education as the accrediting agency for American law schools since 1952. Only in 1973 did the ABA have a full-time staff person on accreditation, and he was titled the Consultant for two reasons: (1) he was part time and (2) he truly was a "consultant" in that he provided both advice and assistance in compliance matters and, during the periods of rapid growth in legal education, "consulted" very often on how to begin and operate successfully a new law school.

The Mission of the Section of Legal Education and Admissions to the Bar is twofold:

- (a) To provide a fair, effective and efficient accrediting system for American law schools that promotes quality legal education, and
- (b) To be a creative national force in providing leadership and services to those responsible for, and who benefit from, a sound program of legal education and bar admissions.

So the Section clearly has a mandate to do accreditation and do it well, but also to work toward the improvement of legal education generally.

The process for ABA approval provides a careful and comprehensive evaluation of a law school and its compliance with the Standards, which follow the recognition criteria set by the Department of Education and are central to quality legal education. The Standards are instruc-

ive. Standard 104 says: "An approved law school *should* seek to exceed the minimum requirements of the Standards." Thus the Standards are calling on schools to aspire to more than just meet the baseline Standards. However, it is a "should" Standard rather than a "shall" Standard, calling upon schools to reach aspirational goals, not mandatory minimums. There are some other "should" Standards or Interpretations, (e.g., a school "should involve the bench and bar in the educational program").

So that raises the question—should the Section facilitate and assist schools in responding to these aspirational goals? Historically, we have answered that in the affirmative. How do we do that?

We view the site inspection process as a peer review process. Peer review, of necessity, involves both helping and judging. This is not just an external review, or judging, process. It is meant to be more than that. Assisting in the improvement of the quality of programs is a legitimate, if perhaps secondary, role of peer review in site inspection context.

The Section also sponsors conferences that are not directed at accreditation but at quality improvement: the annual Deans' Workshop (run by and for the Deans); the annual New Deans' Seminar; and the biennial Law School Development Conference. This past year, three conclaves brought together the academy, bench and bar to discuss the future of legal education.

A newly planned Bar Exam Passage Conference will address legal education's obvious outcome measure—the bar exam. The Standards require the schools to "prepare students for admission to the bar" (i.e., pass the exam) and the Accreditation Committee holds schools accountable for bar exam pass

rates. However, bar exams vary widely from state-to-state, so setting a national standard is very tricky, as we have all learned. In the fall of 2008, the Section will sponsor a conference on “best practices” to explore how some schools have creatively and effectively improved student performance on the bar exam.

Other initiatives that Section committees are working on include the effect of globalization on legal education, collaborating with other legal institutions to create a uniform bar exam, work-

ing closely with the Conference of Chief Justices on licensing and other issues, and producing useful and appropriate consumer information for potential students and their parents.

So the Section takes seriously its dual role—as the accreditor and as a supporter of high-quality legal education. We know we do the first very well and we work very hard at the second. Which hat the peer reviewer is wearing needs always to be clear. Roles must be obvious to the staff of the Section, the site inspectors, and to

the schools. There should be a firewall between judging and helping so that the two do not become confused.

I agree there can be a tension here, but that does not need to be the case. If the accreditors are clear in terms of which roles they are playing (regulator or helper), and if the schools are clear as to what is mandatory and what is hortatory, the accreditor can be faithful to both roles and hopefully the legal education system will benefit. 🏠

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## Phoenix School of Law Receives Provisional Accreditation

**A**t its June 2007 meeting, the Council of the Section of Legal Education and Admissions to the Bar granted provisional approval to Phoenix School of Law.

Founded in 2005 as a dual division law school, it is the first law school in Arizona to offer part-time and evening programs. Phoenix Law is a member of InfiLaw Holding, LLC, a consortium of independent law schools. The other consortium schools are Florida Coastal School of Law, an ABA-approved law school in Jacksonville, Florida, and Charlotte School of Law, a state-approved law school in Charlotte, North Carolina.

The school's founders point to the MacCrate Report findings, specifically the demand for a more practice-ready law school graduate, as one of the impetuses for establishing Phoenix Law. Its mission is to provide a legal education that is student-centered; facilitates practice readiness; and serves underserved communities. In spring 2005, Phoenix Law



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### PHOENIX SCHOOL OF LAW AT A GLANCE

**FOUNDED:**

January 2005

**PROVISIONAL APPROVAL:**

June 2007

**NUMBER OF STUDENTS:**

194

**NUMBER OF FACULTY MEMBERS:**

21

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enrolled its first class of 28 part-time students. Currently, the school has 104 full-time students, 90 part-time students, 18 full-time faculty, 3 adjunct faculty, and 37 staff members.

Dean Dennis Shields stated that “Receiving provisional approval is confirmation by the ABA of the quality of the work product contributed by the facul-

ty, staff and students of Phoenix School of Law over the past two years. We are energized by the opportunities ahead of us: graduating our first students, further developing our program of study and continuing our work toward receiving full ABA accreditation. Guided by our mission, PSL is committed to steadily progressing towards our goals.” 🏠

# Charlotte “Becky” Stretch Joins the Section of Legal Education and Admissions to the Bar

The Section’s newly created position of Assistant Consultant has been filled by Charlotte “Becky” Stretch, who has been with the ABA for 18 years and brings a wealth of experience and energy to the Consultant’s



Office. In making the announcement, Consultant Bucky Askew said, “While her primary functions will be in the accreditation arena, I also plan to

involve Becky in broader Section activities and in helping us build and maintain constructive working relationships within the ABA.”

Becky joined the ABA Center for Professional Responsibility in 1989 as counsel to the Commission on Evaluation of Disciplinary Enforcement, which conducted a three-year nationwide study of lawyer disciplinary systems. She worked with the Joint Subcommittee on Lawyer Regulation in implementing the Commission’s recommendations and with the Joint Committee on

Judicial Discipline in drafting the Model Rules for Judicial Disciplinary Enforcement. Additionally, she served as a project consultant for the Conference of Chief Justices’ Working Group for a Study and Action Plan to Improve Lawyer Competence and Professionalism, and worked with the Center and the Conference of Chief Justices on a project funded by the Open Society Institute to implement the Action Plan.

From 1997 to 2002, Becky served as counsel to the Commission to Evaluate the Rules of Professional Conduct, the “Ethics 2000” Commission, which proposed extensive amendments to the ABA Model Rules of Professional Conduct. She has worked for a number of years with the Center’s Policy Implementation Committee, advising states that are reviewing ABA policies for adoption.

Becky has also volunteered her time and talent to ABA organizational projects. In 2003, she was appointed by ABA President A.P. Carlton as one of six ABA employees to serve on a Committee of the Board of Governors to review the ABA’s pension plan. In 2006, she was asked to serve as team leader

for the “Legal Family” in the ABA’s Compensation and Job Evaluation Re-Design Project.

Before joining the ABA, Becky served as Assistant Director of the Hawaii State Ethics Commission and as Counsel to the Ethics Commission of the City and County of Honolulu. She received a J.D. degree from the University of California Hastings College of the Law.

Becky is providing immediate assistance to Deputy Consultant Dan Freehling and Associate Consultant Camille deJorna in structuring site teams for the spring 2008 visits and in reviewing site reports from the spring 2007 visits. She will also be involved in the Standards review process and in being the Section’s staff representative to the ABA Task Force on International Trade in Legal Services.

“I had worked with Bucky Askew before in areas of lawyer regulation and was always interested in the work of the Section,” Becky said. “What drew me to this new position were the opportunities to work with Bucky again and to be actively involved in the accreditation process.”

## VOLUNTEER OPPORTUNITIES

Site visits required by the ABA Standards for Approval of Law Schools and the Rules of Procedure for the Approval of Law Schools are organized by the Office of the Consultant on Legal Education. These visits may be regular site visits for fully-approved law schools, which take place every seventh year; visits to provisionally-approved schools, which take place each year; visits to schools seeking provisional approval; and any special site visits that may be ordered by the Accreditation Committee or the Council in accordance with the Standards and Rules of Procedure. If you are interested in serving on a site evaluation team, please contact one of the following persons for more information:

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# New Deans Seminar and Development Conference Convene in Colorado

The Omni Interlocken Resort in Broomfield, Colorado, was the site for two Section workshops this past spring. Thirty-six new deans and interim deans attended the Section's 15th annual Seminar for New Deans of ABA-Approved Law Schools, May 27-29. Open to deans who assumed their positions between June 2006 and the fall semester of 2007, this two-and-one-half-day seminar addresses issues often faced during a dean's first year: relationships with faculty, staff and students; strategic planning; finances; university, board and legislative relations; and the ABA accreditation process. This year's seminar was chaired by Dean Alex Aleinikoff of Georgetown University Law Center; Elena Kagan of Harvard Law School served as the vice-chair. Guest speakers included Jeff Lehman, former dean of the University of Michigan Law School and president of Cornell University and Deans Kent Syverud, Linda Ammons and Lou Bilionis.

Immediately following the New Deans Seminar, more than 350 deans and development administrators gathered from May 29 to June 1 for the biennial Conference on Law School Development for Deans and Administrators. The conference was extremely well attended, with the largest turnout for the program in its history.

Dean Michael Fitts, University of Pennsylvania Law School, and Development Dean Vicki Fleischer, Seton Hall University, were the co-chairs for the ninth in this series of conferences, which is historically referred to as the Jackson Hole Conference in honor of its traditional location at the Jackson Lake Lodge in Wyoming. The Section's Committee on Law School Development organized the conference.

The program opened with dinner and welcoming remarks from the co-chairs and a keynote address by Chancellor Mark Yudoff of the University of Texas. Yudoff gave an overview of recent changes in university phi-

lanthropy. The next two-and-a-half days were marked by extensive programming, typically with plenary sessions in the morning followed by breakout and special interest sessions.

Large picture discussions included topics such as "The Changing Landscape of Development" and "Developing Institutional Priorities and Connecting Those Priorities to Fundraising." The workshop also featured numerous nuts-and-bolts sessions, including "Development 101," "Planned Giving: Building Blocks for the Future and Tools of the Trade," "Campaigns," "Using Technology," and "Public School Issues." A number of sessions were divided into those of interest to administrators faced with building nascent development programs as compared to those focused on more mature programs. The Planning Committee for the next conference in 2009 is already at work assisted by the comments and evaluations of this year's participants. 🏠

## UPCOMING CONFERENCES

**February 7-8, 2008**

**Deans' Workshop**

Loews Santa Monica Hotel  
Los Angeles, California

**Co-Chairs:** Dean Hannah Arterian and  
Dean Peter Alexander

**Late May/Early June 2008**

**New Deans' Workshop**

Location to be determined

**Chair:** Dean Suellyn Scarnecchia  
**Vice-Chair:** Dean Veryl Miles

**June 12-15, 2008**

**Associate Deans' Conference:**

**The Changing Role of the Associate Dean**

Inverness Hotel, Englewood, Colorado

Presented by the Law School Administration Committee

**Chair:** Dean Darby Dickerson

The biennial conference for associate deans and senior student affairs deans will address:

- How the Associate Dean's Changing Roles Affect Relationships
- Implementing and Evaluating Strategic Change

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# Innovative EDUCATION

By Mary McNulty, Editor

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**The culminating event of the social justice project work.** After completing their written work client product, the student law office teams put on oral presentations of their findings to the client organization representatives and the law school community. The presentations advance the students' platform skills necessary for any lawyerly presentation once they enter practice.

## Northeastern University School of Law Teaching Students How to Use the Law for Social Change

The genesis of Northeastern University School of Law's Legal Skills in Social Context (LSSC) Social Justice Program was a 1992 walkout staged by students of color demanding that the school address progressive issues of importance to the community and to marginalized communities. An intensive first-year critical reasoning and practice course, LSSC pairs student teams with community organizations that apply to receive 1,000 hours of free work to address unmet social justice needs. Through each project, students learn four core lawyering skills: legal research, legal writing, client representation, and exploring law in its social context.

And in the spirit of its begin-

nings, the program opens students' eyes and ears to underserved populations. "We are also educating students in the marginalization of many parts of the society for whom legal representation is behind their means," said Professor Susan Maze-Rothstein, LSSC director since 1997, "and teaching the complexities of how the law can be used to solve problems. We want them to know this from the outset of their legal education: that law can be a tool for social change."

The students are divided into 16 team groups of approximately 15 students that are structured as law offices. Each "law office" is led by two second- and third-year students in the roles of lawyering fellows. Two tenured professors oversee the program. The lawyering fellows work with the community organizations to structure the research project and then write

lesson plans and deliver the material to the students. Individual research and writing instruction is integrated into the program and taught by adjunct professors. At the close of the project, each student group makes an oral presentation and completes a final written report. Client organizations submit three evaluations during the course of the project.

Occurring in March and April, the oral presentations are school-wide events and typically draw 100 audience members. First-year students are required to attend at least two presentations. Professors often bring entire classes if the subject matter complements their curriculum. The LSSC groups pour energy and imagination into their presentations. During the 2000-2001 academic year, one group worked with The Stanley Jones Clean Slate Project to show how nursing home job applicants were barred from employment because their names appeared in Criminal Offender Record Information records (CORI).

"The immediate image, of course, is that a criminal is going to be caring for your grandmother," Maze-Rothstein said. "Students themselves had to work through this image. What they found was that most of the criminal records were for fairly innocuous offenses such as parking tickets."

To illustrate their findings, the students played a PowerPoint slide show, backed by the "Law & Order" soundtrack, depicting famous humanitarians—Gandhi and Rosa Parks—accompanied by the message "could not work in a nursing home." Audience members were then asked to stand if they had been cited for any of a list of offenses that prohibited nursing home employment.

"Within five minutes, said Maze-Rothstein, "virtually everyone in the audience was standing."

First-year students are randomly assigned to projects. "It is important for students to learn that if lawyers want to eat regularly, especially when they are first starting out, they won't always get to choose their clients and they need to figure out how to zealously defend them," Maze-Rothstein said.

Many students start out as skeptics but Maze-Rothstein finds that the most cynical of those often become candidates for lawyering fellows. Lawyering fellow positions are considered important leadership roles at Northeastern's School of Law, which does not have a law review. Each quarter, 40 to 50 candidates compete for the 16 lawyering fellow positions. The school provides a stipend for the fellows who are providing 20 to 30 hours of work per week.

Becca Rausch, an associate in the Boston firm of Krokidas & Bluestein, entered Northeastern's law school in 2000 and as a first-year student in LSSC was assigned to work with the Innocence Project, the national organization that works to exonerate wrongly convicted people through DNA testing. Her group's assignment was to conduct a 50-state survey to determine which states had a compensatory statute for exonerated individuals. "Whereas properly convicted ex-offenders are eligible for transitional services," Rausch explained, "those wrongly accused often are not."

Their research yielded several states with some type of compensatory law and the group created a model for a Massachusetts compensatory law. It also provided Rausch with what she calls "the most poignant experience of my entire law school career" when two exonerated people visited the class to talk about how they did not have access to the tools they

needed to rebuild their lives.

"Chunks of their lives had been lost because of a flaw in the justice system," Rausch said.

As a second-year student, Rausch became a lawyering fellow and worked on a project with the Massachusetts Department of Health HIV and AIDS program to prevent the passage of a willful exposure law.

"All of the reading that the 1L students are expected to read, the lawyering fellows read as well," Rausch said. "We also studied dispute resolution, conflict, group dynamics, and the impact of gender and class on classroom dynamics."

In spite of the heavy workload, she changed the rotation of her co-op work in order to be a lawyering fellow again during her third year. After graduation, she became an advising attorney to the program.

"Many students do not think that skills taught in LSSC are valuable and that is extraordinarily unfortunate," Rausch said. "Once you learn to analyze case law, you can do that regardless of the field of practice. But lawyering is a service profession. You are always working as a team. It could be just you, your client and a legal assistant. But you still need team-building skills."

Maze-Rothstein echoes this. "We are trying to explode the notion of the gladiatorial approach that is taught in law school and to encourage a broad scope of problem-solving pedagogy. The adversarial, competitive approach that is most prevalent and gets carried over into the profession is a cause for many to leave the profession after they have spent so much time and money to be educated.

"We want to show how much can be done by working together. This approach is not unique to other professional academies. Business and medical schools, for example, teach that teams work

best to serve and solve problems. Regrettably, law schools are well below the curve on this issue."

Evelyn Murphy, Ph.D., is the founder and president of The WAGE Project, an initiative that aims to end wage discrimination against women in the workplace. While in the process of building a Web site as a national resource, Murphy submitted a proposal to the Legal Skills in Social Context program for students to research the 50 states for sex discrimination consent decrees. It is a project that LSSC has now worked on for several years. Murphy credits the students' work with laying a strong basis from which she applied for and received a Ford Foundation grant to study the effectiveness of those consent decrees.

"The LSSC program gives students real-life experience in which they have to learn about the client's needs and expectations for the finished product," Murphy said. "From working with LSSC, I learned how to incorporate legal work into grassroots activities. And I now have the best Web site with which to inform women about wage discrimination and what to do about it."

Murphy also noted that while some students were less than enthusiastic about the project at its outset, by the end many wanted to continue their involvement with The WAGE Project. In one instance, a student translated segments of the Web site into Spanish in the most common dialect spoken in each state.

"I would not be where I am today if not for the skills I learned," Becca Rausch said. "Learning to work with other people: these skills are the most important part of my current work. You have to know how to serve your clients and how to work with your colleagues. You have to know where people are coming from." 🏠

ABA SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR

# 2007 ANNUAL MEETING WRAP-UP



## Section Presents Two Programs at the 2007 Annual Meeting

*Carl Brambrink, Director of Operations*

### **Legal Education from an International Perspective**

Hulett H. Askew, ABA Consultant on Legal Education and Admissions to the Bar, moderated the panel discussion focusing on developments in legal education outside the United States. The role of the Section of Legal Education and Admissions to the Bar regarding collaboration and cooperation with non-U.S. legal education initiatives was also covered in the discussion. A group of distinguished panelists included Colin Tyre, president of the Council of the Bars and Law Societies of Europe (CCBE); Stephen Gillers, professor at New York University School of Law; Honorable Christine M. Durham, Supreme Court of Utah; Carl Monk, executive vice president and executive director, Association of American Law Schools (AALS); and Steven R. Smith, dean of California Western School of Law.

### **Challenging Assumptions About Business as Usual in Legal Education**

Two recently published books call for fundamental changes in legal education. This panel discussion examined whether law schools should be doing more to prepare law students for the practice of law. The session began with an overview of the primary recom-

mendations contained in *Educating Lawyers*, presented by Lee Shulman, president of the Carnegie Foundation for the Advancement of Teaching, and *Best Practices for Legal Education*, presented by Roy T. Stuckey, professor at the University of South Carolina School of Law. Representing the law school dean's perspective on the value of these recommendations for stimulating faculty discussion about curricular planning were Lisa Kloppenberg, dean of the University of Dayton School of Law, and Suellyn Scarnecchia, dean of the University of New Mexico Law School.

To learn more about these two programs, you may contact the presenters by email at:

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# Professor Cruz Reynoso Receives 2007 Kutak Award

By Mary McNulty, Editor



Cruz Reynoso, 2007 Kutak Award Winner

On Friday, August 10, at the Hotel Nikko in San Francisco, the Section of Legal Education and Admissions to the Bar presented the 24th annual Robert J. Kutak Award to Cruz Reynoso, Professor of Law Emeritus at the University of California-Davis School of Law, in recognition of his leadership in civil rights, immigration and refugee policy, government reform, the administration of justice, and legal services for the indigent.

A tireless advocate for the human and civil rights of underrepresented people, Professor Reynoso grew up in Southern California, the son of Mexican immigrant farm workers. His passion for civil rights was ignited early and at the age of 14 he petitioned the federal government to provide mail service for his home community of La Habra. After graduating from Pomona College, Reynoso earned a law degree at the University of California-Berkeley. In 1967, Professor Reynoso went to work for the Equal Employment Opportunity Commission. He then returned to California to lead California Rural Legal Assistance, Inc., which provides no-cost legal services to California's rural poor.

In 1972, Professor Reynoso joined the University

of New Mexico Law Faculty. Four years later, he was appointed Associate Justice of the California Court of Appeals and subsequently became the first Latino to serve on the California Supreme Court, a position he held from 1982 to 1987. Professor Reynoso joined the UCLA law faculty in 1991 where he was voted 1995 Professor of the Year. At UC-Davis, Reynoso was the school's inaugural Boochever & Bird Chair for the Study and Teaching of Freedom and Equality. He has also served on the U.S. Commission on Civil Rights, the U.N. Commission on Human Rights, the Select Commission on Immigration and Refugee Policy and the California Post-Secondary Education Commission.

In 2000, President Bill Clinton honored Professor Reynoso with the Presidential Medal of Freedom. Among his many other honors are the ABA Spirit of Excellence Award (1997), the Hispanic Heritage Foundation Award in Education (2000), and the UC-Davis Public Service Award (2002).

The Section of Legal Education and Admissions to the Bar and the national Kutak Rock law firm established the Robert J. Kutak Award in 1984. The award is in memory of Mr. Kutak, a distinguished Omaha lawyer, champion of legal reform, and advocate for legal education. Mr. Kutak was a member of the Section's Council at the time of his death. The award is given annually to an individual who has contributed significantly toward increased cooperation between legal education, the practicing bar, and the judiciary. Most recipients have been members of the Section and active participants in its work. 🏠

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## PREVIOUS KUTAK AWARD WINNERS:

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<b>2006</b>	Sandra Day O'Connor	<b>1994</b>	Rosalie E. Wahl
<b>2005</b>	Geoffrey C. Hazard	<b>1993</b>	Frank E. A. Sander
<b>2004</b>	Harry T. Edwards	<b>1992</b>	Harold Gill Reuschlein
<b>2003</b>	Nina Appel	<b>1991</b>	Gordon D. Schaber
<b>2002</b>	Anthony G. Amsterdam	<b>1990</b>	Samuel D. Thurman
<b>2001</b>	James P. White	<b>1989</b>	Sharp Whitmore
<b>2000</b>	Henry Ramsey, Jr.	<b>1988</b>	Millard H. Ruud
<b>1999</b>	Peter A. Winograd	<b>1987</b>	Robert B. McKay
<b>1998</b>	Talbot D'Alemberte	<b>1986</b>	Robert W. Meserve
<b>1997</b>	Harry Edward Groves	<b>1985</b>	Richardson W. Nahstoll
<b>1996</b>	Norman Redlich	<b>1984</b>	William J. Pincus
<b>1995</b>	Robert MacCrate		

## Council Members for 2007-08 Elected

**A**t the Section's annual business meeting in August, the following members were elected or reelected to serve on the 2007-2008 Council of the Section of Legal Education and Admissions to the Bar

### Council Members

#### *Chairperson (automatic under the Bylaws)*

**Honorable Ruth V. McGregor**, is Chief Justice of the Arizona Supreme Court. She earned a B.A. degree, *summa cum laude*, and an M.A. from the University of Iowa. After receiving a J.D., *summa cum laude*, from Arizona State University College of Law in 1974, Justice McGregor entered private practice with the Phoenix firm of Fennemore Craig. In 1981, she accepted a clerkship to Justice Sandra Day O'Connor during Justice O'Connor's first term on the United States Supreme Court. McGregor then returned to Fennemore Craig in 1982, where she continued to practice in the areas of civil trial, administrative and appellate cases in both state and federal jurisdictions. McGregor became a judge of the Arizona Court of Appeals in 1989, serving as vice-chief judge from 1993 to 1995 and chief judge from 1995 to 1997. In 1998, she earned an LL.M. from the University of Virginia. She has served on the Arizona Supreme Court since February 1998 and as its chief justice since June 2005. Justice McGregor has participated extensively in professional activities, particularly those involving legal education and the discipline of lawyers and judges. She currently serves on the board of trustees for the American Inns of Court Foundation; and has served on the Section's Standards Review Committee and been an elected member of the Council since 2003.

#### *Chairperson-Elect*

**Randy A. Hertz** is Professor of Law at New York University School of Law. Professor Hertz holds a B.A. from Carlton College, and a J.D. from Stanford University, where he was a member of the editorial board of the *Stanford Law Review*. He clerked for Chief Justice Utter of the Washington Supreme Court and served as a public defender in the District of Columbia from 1980 through 1985. Currently, Hertz is an editor-in-chief of the *Clinical Law Review*. A member of the Council since 2000, Hertz previously was a member of the Section's Standards Review Committee. He also served as a consultant

to the MacCrate Task Force on Legal Education and as a reporter to the Wahl Commission on the Accreditation of Law Schools.

#### *Vice-Chairperson*

**Jerome C. Hafter** is a partner in the Jackson, Mississippi office of Phelps Dunbar, LLP, which has offices in Louisiana, Mississippi, Texas, Florida and the United Kingdom. He practices in the areas of business, corporate, and commercial law with a particular emphasis on representing agribusiness industries. Hafter has served as president of the Washington County Bar Association, is a member of the American Law Institute and the American Judicature Society, and a fellow of the Mississippi Bar Foundation. Since 1979 he has served as chairperson of the Mississippi Board of Bar Admissions; from 1989 to 2000 as a member of the Board of Managers of the National Conference of Bar Examiners and its chair from 1998 to 1999. Hafter received his undergraduate degree, *summa cum laude*, from Rice University where he was a member of Phi Beta Kappa and president of the Student Association. He attended Oxford University in England as a Marshall Scholar, obtaining a BA/MA with First Class Honors in Modern History and attended law school at Yale University, where he served as associate editor of the *Yale Law Journal*. Hafter is the author of numerous published books and articles. He has served on the Accreditation Committee from 1998 to 2002 and the Council since 2000.

#### *Immediate Past-Chairperson (automatic under the Bylaws)*

**William Rakes** is a partner in the Roanoke, Virginia, law firm of Gentry Locke Rakes & Moore, LLP. His practice focuses on commercial litigation, banking and general corporate law. Rakes holds both a B.A. and an LL.B. from the University of Virginia. He is a former president of the Virginia State Bar and the Roanoke Bar Association. During his tenure as president of the Virginia State Bar, he served as convener of two Virginia conclaves on legal education. He was a member of the American Bar Association Board of Governors from 1998 to 2001 during which time he served as Board of Governors Liaison to the Section of Legal Education and Admissions to the Bar. He served on the Section Council from 1995 to 1998 and from 2002 to present, serving as the Chairperson in 2006-2007.

### **Secretary**

**Peter Winograd** is Professor Emeritus at The University of New Mexico School of Law where he was associate dean from 1976 to 2004. Previously, he served as assistant dean at New York University School of Law, associate dean at Georgetown University Law Center, and director of law programs at Educational Testing Services. Winograd holds a B.A. degree from Brown University, a J.D. from Harvard Law School, an LL.M. from New York University School of Law, and an honorary LL.D. from The John Marshall Law School of Chicago. From 1989 to 1991, he was chair of the Law School Admission Council and served several terms on its board of trustees. Professor Winograd was elected to membership in the American Law Institute in 1989 and received an Outstanding Contribution Award from the State Bar of New Mexico in 1993. He was appointed, in 2006, as a public member of the Liaison Committee on Medical Education, the recognized accrediting agency for U.S. and Canadian medical schools. Professor Winograd has been a member of the Council since 2000, served as its secretary since 2005, and received the Section's Robert J. Kutak Award in 1999. Winograd currently chairs the Kutak Nominating Committee and the Government Relations and Student Financial Aid Committee; has served on the Standards Review and Questionnaire Committees; and has chaired or been a member of more than 25 site evaluation teams.

### **At-Large Council Members**

#### ***Re-elected to Three-Year Terms***

**Joseph F. Baca, Esq.,** is a retired chief justice of the New Mexico Supreme Court and currently engages in a private practice of arbitration and mediation. Baca was elected to the Court in 1988 and served 13 years. He also served 16 years as district judge in the Second Judicial District. Baca earned his J.D. degree at the George Washington University School of Law, and an LL.M. degree from the University of Virginia School of Law. He previously served on the Section's Accreditation Committee, the ABA Task Forces on Opportunities for Minorities in Law Schools and Opportunities for Minorities in the Judiciary. President Clinton appointed Baca to the State Justice Institute Board of Directors, where he currently serves as vice-chairman. He has received numerous awards, including the J. William Fulbright Award for Distinguished Public Service from the George Washington University Law School and the Outstanding Judicial Service Award from the New Mexico Bar Association. Justice Baca was named twice by *Hispanic Business* magazine as one of the "100 Most Influential Hispanics" in America.

**Becky Cain Ceperley** is President and CEO of the Greater Kanawha Valley Foundation in Charleston, West Virginia. Previously, she was president of the League of Women Voters of the United States from 1992 to 1998, where she played an active role in the fight for the passage of the National Voter Registration Act. Following her tenure at the League, Ceperley worked to achieve campaign finance reform in Congress as president of Campaign for America. In 1996, the *Ladies' Home Journal* named her one of the most powerful women in politics and in 2006, *West Virginia Executive* magazine named her one of the 50 most powerful people in West Virginia. Ceperley is chair of the Building Bridges and Empowering Citizens Steering Committee of West Virginia Vision Shared, vice chair of Vision Shared, Inc., and is a member of the governing board of *Imagine* West Virginia. She also serves on the executive committee of the Association of Community Grantmakers and is a member of the community development committee of the Charleston Area Alliance. Ceperley earned a bachelor of arts degree from West Virginia University, which has honored her with a Distinguished Alumni Award from the political science department and a College of Arts and Sciences Alumni Recognition Award for public service. Ceperley has also received honorary doctor of law degrees from Ripon College and the University of Charleston. Her columns and guest editorials have been carried by Scripps-Howard and Cox News Service, and she is currently a contributing columnist for *The Charleston Gazette*.

**Phoebe Haddon** is Professor of Law at Temple University, James E. Beasley School of Law. Her undergraduate degree is from Smith College and her law degree is from Duquesne University School of Law. Professor Haddon served as clerk to the Honorable Joseph F. Weis, United States Court of Appeals for the Third Circuit, following graduation from Duquesne. She then practiced with the law firm of Wilmer, Cutler & Pickering in Washington, D.C., until she joined the faculty at Temple University School of Law in the fall of 1981. She received her LL.M. at Yale Law School in 1985 and also served as deputy executive director of the redevelopment authority of the city of Philadelphia, and president of its low-income housing development subsidiary, the Philadelphia Development Mortgage Assistance Corporation, from 1987 to 1989. Professor Haddon currently serves as a trustee of the Law School Admission Council. She previously served on the executive committee and the professional development committee of the Association of American Law Schools. Professor Haddon teaches constitutional law, torts, products liability and a seminar on law, justice and morality. She is the co-author of two

# ABA SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR 2007 ANNUAL MEETING WRAP-UP

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casebooks in constitutional law and torts and has written numerous articles on equal protection, jury participation, academic freedom, and diversity.

**Mary Kay Kane** is the John F. Digardi Distinguished Professor of Law, Chancellor and Dean Emeritus at the University of California, Hastings College of the Law. She received her B.A. from the University of Michigan and her J.D. from the University of Michigan Law School. After graduation Kane became a research associate at the University of Michigan Law School, where she was the co-director of the National Science Foundation project on privacy, confidentiality and social science research data. In 1974, she became an assistant professor at the State University of New York at Buffalo Law School. In 1977, she joined the Hastings faculty, becoming associate academic dean in 1981, dean of the law school in 1993, and chancellor in 2000. Kane served as dean and chancellor until 2006. She served on the Executive Committee of the Association of American Law Schools from 1991 to 1993 and as AALS president in 2001. She is a member of the Council of the American Law Institute and served as reporter on the ALI complex litigation project. She also serves on the Section's Questionnaire Committee. Dean Kane is the author of numerous law review articles and books, particularly in the area of civil procedure.

**Rennard Strickland** is Professor Emeritus of Law at the University of Oregon School of Law, where he served as dean from 1997-2002. Previously, he served as dean and professor at the Oklahoma City University School of Law, professor at the University of Wisconsin Law School, dean and professor at Southern Illinois University School of Law, and John W. Shleppey Research Professor of Law and History at the University of Tulsa. From 1990 to 1995, Strickland was the director of American Indian Law and Policy Center at the University of Oklahoma. A legal historian of Osage and Cherokee heritage, Professor Strickland is considered a pioneer in introducing Indian law into university curriculum. He earned a B.A. from Northeastern State College, a J.D. from the University of Virginia

School of Law, an M.A. from the University of Arkansas, and an S.J.D. from the University of Virginia School of Law. Strickland has written and edited over 35 books and is frequently cited by courts and scholars for his work as revision editor of the *Handbook of Federal Indian Law*. He has served as president of the Association of American Law Schools, chair of the Law School Admissions Council, and as a member of the ABA Task Force on Accreditation Processes. Professor Strickland has served on the Council since 2005.

## Young Lawyer Division Liaison

### *Elected to a Two-Year Term*

**Irving Freeman** is Executive Director of Academic Affairs at Mercy Hospital of Pittsburgh, and Interim Compliance Officer of Pittsburgh Mercy Health System. He earned his J.D., *magna cum laude*, from Duquesne University School of Law in June 2005, and was admitted to the bar of Pennsylvania in October of that year. Freeman also holds a Ph.D. in higher education from the University of North Texas and bachelor's and master's degrees from the University of Michigan and Eastern Michigan University, respectively. During law school, he served as the law student liaison to the Section of Legal Education and Admissions to the Bar (2002 to 2004) and the Health Law Section (2004-2005). Freeman has also served on the Commission on Massage Therapy Accreditation, the Commission on Dental Accreditation, and the certifying board of the National Registry of Microbiologists.

## Law Student Division Member

### *Elected to a One-Year Term*

**Christine Brady** is a second year law student at the University of Nevada-Las Vegas, William S. Boyd School of Law. She earned a B.A. in political science and an M.A. in sociology from Leland Stanford Jr. University in Stanford, California. Currently, Brady is lieutenant governor for student bar associations in the 14th circuit of the ABA's Law Student Division. 🏠

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## NEW YEAR

*Continued from page 1*

standards that measure factors such as the “value added” by particular practices. The committee will also consider whether, to use outcome measures effectively, we need to refine the information now available to evaluate factors such as employment and bar passage rates of law graduates.

The second special committee will consider how we can structure and administer the accreditation process to ensure appropriate transparency, while maintaining confidentiality where appropriate. Many accrediting bodies regularly permit public access to information related to actions similar to those undertaken during our accrediting process. The Task Force recommended that the Section’s default position should be one of openness and accessibility; the committee’s charge will be to identify steps we can take to accomplish that purpose.

I have assigned the final special committee the task of considering the alternatives to the current “security of position” provisions. For years, the Section debated whether security of position provisions should remain part of the Standards, hearing forceful arguments on each side of the issue. The special committee will not attempt to resolve that dispute. Instead, to provide a basis for moving this discussion forward, the committee will assume that the goals protected by the security of position provisions must be accom-

plished by some other method and will examine alternative approaches that can protect these goals. Representatives from all stakeholder groups will serve on the committee and will report back to the Council.

I asked for volunteers to serve on these three committees, and your response has been gratifying. The committee reports will be of great value to the Section as we continue our ongoing efforts to improve the accreditation process.

One challenge of the coming year involves preparing and pursuing the Section’s next application for renewed Department of Education recognition of the Section as the accrediting body for law schools. The Section will continue to take steps to demonstrate to the Department that we fully comply with its recognition criteria and that our goal is to ensure that accredited law schools provide a sound legal education with fairness and procedures designed to protect the interests of the public, students, faculty and staff, and others interested in legal education.

All these tasks will require input and help from the members of the Section. We ask that you submit your comments and suggestions when requested so that we can complete our work with a full understanding of the impact of adopting suggested Standards and procedures. I look forward to working with you. 🏠

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## COLLEGE COST REDUCTION ACT

*Continued from page 1*

ble. Especially notable are provisions that (a) place an annual ceiling on loan payments for borrowers with high educational loan obligations compared to their incomes and (b) enable such borrowers to make affordable monthly payments for ten years while in public service, broadly defined, after which the federal government will forgive the remaining obligation. The ABA and AALS celebrate this major development for law graduates and the nation.

Professor Philip G. Schrag of the Georgetown University Law Center, who has worked tirelessly for many years to achieve this result, has written an analysis of the Act, which can be found on the Section Web site at [www.abanet.org/legaled](http://www.abanet.org/legaled). Professor Schrag deserves our deep gratitude, as does Peter

Winograd of the University of New Mexico School of Law, who has served for several years as Chair of the Section’s Government Relations and Financial Aid Committee, Ken Goldsmith of the ABA Government Affairs Office, and Kinvin Wroth of Vermont Law School, Chair of the AALS Government Affairs Committee. They credit hundreds of others, without whom this would not have been possible. Congress passed the Act 292-97 in the House and 79-12 in the Senate, so we will have many in Congress to thank; in particular Rep. John Sarbanes, Rep. George Miller and Sen. Edward Kennedy.

You will want to forward Professor Schrag’s analysis to your financial aid, career services, and loan repayment assistance staff. 🏠

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**For the latest Section news, events, publications and more,  
visit the Section’s web site at: [www.abanet.org/legaled](http://www.abanet.org/legaled)**

# Commentary on Revisions to Standards and Rules of Procedure for Approval of Law Schools 2006-2007

At regular intervals, as required by Department of Education requirements, the Standards Review Committee undertakes a review of the Standards, Interpretations, and Rules of Procedure for the approval of law schools. Comments are invited for the review of existing Standards and for the creation of new Standards. In 2005-2006, the Committee completed a comprehensive review. During 2006-2007, the Standards Review Committee, under the leadership of Dean Richard Morgan of the University of Nevada-Las Vegas School of Law, proposed changes to one Standard, added two new Interpretations, and revised the Rules of Procedure. The following commentary on these changes are followed by the revised Standards, Interpretations and Rules.

## Revisions Approved During 2006-2007

During the 2006-2007 year, the Council of the Section of Legal Education and Admissions to the Bar approved revisions to Standard 801(a) (Council Authority) and new Interpretations 302-10 (Pro Bono Activities) and 509-3 (Publication of Academic Calendar) of the *Standards for Approval of Law Schools*. In addition, it approved amendments to Rules 13, 18, 20 and 21 of the *Rules of Procedure for Approval of Law Schools*.

The Council approved the amendment to Standard 801(a), new Interpretation 509-3, and the amendments to Rules 13, 18, 20 and 21 of the Rules of Procedure for publication for notice and comment at its meeting of December 1-2, 2006. The proposed changes were also posted on the Section's Web site. Public hearings on those changes were held on February 8, 2007, at the InterContinental Hotel in Miami, Florida, during the ABA Midyear Meeting, and May 16, 2007, at the Westin St. Francis in San Francisco, California, during the American Law Institute Annual Meeting. Very few comments were submitted. The Standards Review Committee met on May 16, 2007, and recommended approval of the proposed changes. The Council met on June 9, 2007, and approved the changes as recommended by the Committee.

At its meeting of June 17-18, 2005, the Council approved new Interpretation 302-10 to be distributed for notice and comment. The proposed Interpretation was also posted on the Section's Web site. A pub-

lic hearing was held on Saturday, August 6, 2005, at the Fairmont Hotel in Chicago, Illinois, during the ABA Annual Meeting. The Standards Review Committee approved the Interpretation at its meeting of November 4-5, 2005. At its meeting of December 2-3, 2005, the Council of the Section of Legal Education and Admissions to the Bar approved the new Interpretation. Interpretation 302-10 was on the agenda for concurrence by the House of Delegates of the ABA at its August 7, 2006, meeting in Honolulu. Immediately before the House convened, the Section leadership decided that Report 106A (recommending concurrence by the House) should be withdrawn from consideration for further revision of the language. After conversations with interested groups and reviewing comments received, the Standards Review Committee, at its meeting on July 30, 2007, recommended to the Council that the Interpretation be approved. The Council approved the recommendation at its meeting on August 10, 2007.

The ABA House of Delegates concurred in all of these changes at its meeting in San Francisco, California, on August 13, 2007, and upon that concurrence the changes were effective.

## Interpretation 302-10 (Pro Bono Activities)

Interpretation 302-10 is intended to provide guidance for determining compliance with the requirements of Standard 302(b)(2), which the Council adopted in August 2004 and in which the House concurred in February 2005.

Standard 302(b)(2) provides:

- (b) A law school shall offer substantial opportunities for:
  - ...
  - (2) student participation in pro bono activities . . . .

When the Council initially approved the pro bono requirement in 2005, the Council did not intend to exclude any significant existing types of law school pro bono activities from being considered in fulfillment of the new requirement. Thus the Interpretation, building on existing Interpretation 302-2 concerning the professional skills requirement, encourages law schools to be creative in developing

their pro bono programs. The Interpretation states that pro bono programs “should at a minimum” involve law-related services, but it also makes it clear that non-law-related activities may be included within a school’s overall program. Some non-law-related activities could assist students in developing useful professional skills; doing intake interviewing at a rescue mission, for example, would assist in honing interviewing and counseling skills.

Many pro bono activities currently undertaken at law schools do involve professional skills—such as having students work as volunteers on pro bono matters under the supervision of law faculty or licensed attorneys in public service or public interest legal settings. The Council, however, thought it important to emphasize in the Interpretation that such pro bono opportunities need not be designed to fulfill curricular professional skills training objectives (and thus would not necessarily require the level of law school supervision required of field placement or externship programs under Standard 305). The AALS Pro Bono Handbook contains a statement with similar effect.

The last sentence of the proposed Interpretation again recognizes the existing range of pro bono programs at law schools by stating that, while most law school pro bono programs are not credit-granting, Standard 302(b)(2) does not preclude the inclusion of credit-granting programs within a law school’s overall pro bono programs.

The Council believes that the Interpretation provides guidance that is useful and necessary with respect to the pro bono requirement without being unduly prescriptive and without unduly impairing the Accreditation Committee’s ability to make appropriate individualized determinations as it applies Standard 302(b)(2) to the particular facts presented by the programs of specific law schools.

### **Interpretation 509-3 (Publication of Academic Calendar)**

Department of Education regulations require the publication of certain consumer information, most of which the Section includes in the *ABA-LSAC Official Guide to ABA-Approved Law Schools* (the “509 Book”). The DOE was concerned that Standard 509 did not require the publication of each school’s academic calendar, which DOE requires in its regulations [34 CFR 602.16(a)1(vii)].

The Council adopted an entirely new Interpretation on this matter. It would have been possible to just amend Interpretation 509-1 to add “Academic Calendar” to the list, but the Council felt that, given the DOE concern, a separate Interpretation was appropriate. Interpretation 509-3 also makes it clear

that the academic calendar information will not be included in the *Official Guide* publication. The school will have flexibility as to how it complies, but it will be required to publish the calendar on its website.

### **Standard 801(a). Council Authority**

The purpose of the revision to Standard 801(a) is to make it consistent with Rule 10 of the *Rules of Procedure for Approval of Law Schools*. Standard 801(a) and Rule 10 both speak to when a decision of the Council becomes final with respect to granting or denying provisional or full approval; or withdrawing provisional or full approval. Changes to Rule 10 were approved by the House in 2005, and this change in the Standard simply makes it consistent with those changes.

### **Rule 13. Action Concerning Apparent Non-Compliance with Standards**

Rules 13(a) and (b) [formerly 11(a) and (b)] of the Rules of Procedure for Approval of Law Schools describe the process by which the Accreditation Committee of the Section investigates a law school’s apparent noncompliance with the Standards. Under 13(a), the Committee may request further information from a school if it “has reason to believe that a law school does not comply with the Standards.” If such a finding is made, the school is given a date certain by which to provide information showing that the Committee’s belief is wrong. It is noteworthy that under 13(a) the Committee does not actually find a law school out of compliance with the Standards; rather, it finds that it has questions about whether the school is in compliance and it requests information to resolve those questions. Not until the Accreditation Committee actually makes a finding under 13(b) is a law school considered out of compliance with the Standards.

The Department of Education recognition criteria [Section 602.20(a) and (b)] require that once an agency determines that a school is “not in compliance” with a Standard, the school must be given a maximum of two years to bring itself into compliance. If it does not do so, the agency (the ABA) must take “adverse action” against the school unless the agency, for good cause, extends the period for coming into compliance. Under 602.3, “adverse action” means suspension, revocation or termination of accreditation, and probation is not “adverse action.”

The revisions attempt to more clearly frame a 13(a) conclusion as meaning that the school has not demonstrated compliance and is being given an additional chance to demonstrate compliance, and to frame 13(b) as a conclusion that a school has been found to be out of compliance. Note then the use of “shall” rather than “may” in the fourth line.

Implicit in this rule, however, is that if a school responds to a 13(a) request and does not demonstrate compliance, it should normally be immediately moved to 13(b), thus starting the two-year clock. If this is what DOE requires (and it seems to be), then schools should clearly be informed of the fact that they have only two years to demonstrate compliance or the school must be removed from the list, absent an extension for good cause. The language added to the end of 13(b) makes that clear.

**Rule 18. Compliance with Sanctions or with Remedial or Probationary Requirements**

The changes to Rule 18(a) were made to simply bring that language into conformity with the language changes made to Rules 13(a) and (b). This makes it clear that once a law school is found out of compliance with the Standards pursuant to Rule 13(b), the school has two years to come into compliance.

**Rule 20. Major Change in the Organizational Structure of a Provisionally or Fully Approved Law School**

**Rule 21. Major Change in the Program of Legal Education of a Provisionally or Fully Approved Law School**

These are Rules regarding major changes in the organizational structure of a school. The recommended change to Rule 20 is intended to cure the problem that the Rules do not contain an outer limit as to the time by which a law school must apply for

provisional approval of a Branch campus. In many situations, it would be difficult and possibly premature for a Branch campus to apply for provisional approval in the first year of operation; and additionally requiring the application in the second year of operation is similar to the normal application process for a new start-up law school. October 15 of the second year of operation is the date selected by which schools must apply for provisional approval. This is necessary guidance to schools that choose to open a Branch campus.

The change to Rule 21 is intended to meet the criticism of the Department of Education Staff Analysis that the Council does not comply with the provisions of 602.22 and 602.24 because the current Rules state that the post-acquiescence site visit may be as late as two years after the date of acquiescence. The DOE says that a site visit in the first academic term after the opening of a Branch Campus complies, and thus the third sentence was revised to require the timing of a site visit to any new program [Rules 21(a) (1) – (4)] or the opening of a Branch or Satellite campus. The first sentence provides that the post-acquiescence site visit after any other major change (e.g., a change in ownership) must occur within six months after acquiescence. The new Rule calls for only one post-acquiescence visit, now in all cases earlier than in the second year after acquiescence. The Council does not recommend requiring another post-acquiescence visit in the second or third year of operation; a later evaluation of the impact of the major change can adequately be handled in the course of regular site evaluations. ☞

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# Approved Changes to the Standards for Approval of Law Schools, Associated Interpretations and Rules of Procedure

August 2007  
(Additions underlined; deletions struck-through)

***Interpretation 302-10 (Pro Bono Activities)***

Each law school is encouraged to be creative in developing substantial opportunities for student participation in pro bono activities. Pro bono opportunities should at a minimum involve the rendering of

meaningful law-related service to persons of limited means or to organizations that serve such persons; however, volunteer programs that involve meaningful services that are not law-related also may be included within the law school's overall program. Law-related pro bono opportunities need not be structured to accomplish any of the professional skills training required by Standard 302(a) (4). While most existing law school pro bono programs

include only activities for which students do not receive academic credit, Standard 302(b)(2) does not preclude the inclusion of credit-granting activities within a law school's overall program of pro bono opportunities so long as law-related non-credit bearing initiatives are also part of that program.

***Interpretation 509-3 (Publication of Academic Calendar) [and renumber current 509-3 through 509-6 as 509-4 through 509-7]***

In addition to the publication of information required by Interpretations 509-1 and 509-2, a law school shall publish its academic calendar in its own catalog or similar publication and on its website.

**Standard 801(a). Council Authority**

(a) The Council shall have the authority to grant or deny a law school's application for provisional or full approval or to withdraw provisional or full approval from a law school. A decision of the Council to grant ~~or withdraw~~ provisional or full approval ~~shall not become effective until it has been reviewed by the House. Review of such a decision by the House shall be conducted pursuant to the procedures set forth in the Rules of Procedure of the House and the Rules of Procedure for Approval of Law Schools.~~ is effective upon the action of the Council. A decision of the Council to deny or withdraw approval is effective as follows:

- (i) if no timely notice of appeal is filed, upon the expiration of the period provided for filing notice of appeal under Rules of Procedure of the House;
- (ii) if the school files a timely notice of appeal and the House concurs in the decision of the Council, upon such concurrence;
- (iii) or, if a timely notice of appeal is filed, and the House refers the decision back to the Council, upon the decision of the Council following the final referral from the House. Review of decisions appealed to the House shall be conducted pursuant to the procedures set forth in the Rules of Procedure of the House and the Rules of Procedure for Approval of Law Schools.

**Rule 13. Action Concerning Possible Non-Compliance with Standards**

- (a) If the Committee has reason to believe that a

~~law school does not comply~~ has not demonstrated compliance with the Standards, the Committee shall inform the school of ~~its apparent non-compliance~~ that fact and request the school to furnish by a date certain further information ~~about the matter and about action taken to bring the school in~~ in order to demonstrate the school's compliance with the Standards. The school shall furnish the requested information to the Committee.

- (b) If, upon a review of the information furnished by the law school in response to the Committee's request and other relevant information, the Committee determines that the school ~~has not demonstrated~~ is not in compliance with the Standards, the school ~~may~~ shall be required to appear at a hearing before the Committee to be held at a specified time and place to show cause why the school should not be required to take appropriate remedial action, have sanctions imposed upon it or be placed on probation, or be removed from the list of law schools approved by the Association. After a determination under Rule 13(b) that a law school is not in compliance with the Standards, the school shall have a period of time as set by the Committee to come into compliance. That period of time shall not exceed two years. If the law school does not demonstrate compliance by the end of that period, the Committee shall recommend to the Council that the law school be removed from the list of approved law schools unless the Committee, or the Council, extends the period for demonstrating compliance for good cause shown.
- (c) If the Committee finds that a law school has failed to comply with the Standards by refusing to furnish information or to cooperate in a site evaluation, the school may be required to appear at a hearing before the Committee to be held at a specified time and place to show cause why the school should not be required to take appropriate remedial action, have sanctions imposed upon it, be placed on probation, or be removed from the list of law schools approved by the Association.
- (d) The Consultant shall give the law school at least thirty (30) days notice of the Committee hearing. The notice shall specify the apparent non-compliance with the Standards and state the time and place of the hearing. For good cause shown, the

chairperson of the Committee may grant the school additional time, not to exceed thirty (30) days. Both the notice and the request for extension of time must be in writing.

### **Rule 18. Compliance with Sanctions or with Remedial or Probationary Requirements**

- (a) ~~Upon communication to a determination under Rule 13(b) that a law school of a final decision that it is not in compliance with the Standards and informing it that it has been ordered to take remedial action or after a law school has been placed on probation pursuant to Rules 15 or Rule 16, the school shall have a period as set by the Committee or the Council to come into compliance. That period of time may not exceed two years unless such time is extended by the Committee or the Council, as the cause may be, for good cause shown. If the law school does not demonstrate compliance by the end of that period, the Committee shall recommend to the Council that the law school be removed from the list of approved law schools unless the Committee, or the Council, extends the period for demonstrating compliance for good cause shown.~~
- (b) The Committee shall monitor the law school's compliance with any sanctions imposed upon the school under Rules 16 or 17, with any requirements that the law school take remedial action, or with the requirements of the law school's probation. If the Committee concludes that the school is not complying with the sanctions that have been imposed, or not making adequate progress toward bringing itself into compliance with the Standards, or not fulfilling the requirements of its probation, the Committee may impose or recommend additional sanctions, including probation or removal from the list of approved law schools.
- (c) If a law school has been placed on probation and the Committee concludes that the school has not established that it has fulfilled the requirements of its probation by the end of the established period of probation, the Committee shall recommend to the Council that the school be removed from the list of approved law schools. If the Committee concludes that the school has fulfilled the requirements of its probation, it shall recommend to the Council

that the school be taken off probation. These recommendations shall be considered under the procedures set forth in Rule 17.

### **Rule 20. Major Change in the Organizational Structure of a Provisionally or Fully Approved Law School**

- (a) This Rule governs consideration of applications for acquiescence in a major change in the organizational structure of an approved law school, including, without limitation:
- (1) Materially modifying the law school's legal status or institutional relationship with a parent institution;
  - (2) Merging or affiliating with one or more approved or unapproved law schools;
  - (3) Acquiring another law school or educational institution;
  - (4) Acquiring or merging with another university by the parent university where it appears that there may be substantial impact on the operation of the law school;
  - (5) Transferring all, or substantially all, of the academic program or assets of the approved law school to another law school or university;
  - (6) Opening of a Branch campus or a Satellite campus at which a student could take the equivalent of 16 or more semester credit hours toward the law school's J.D. degree;
  - (7) Merging or affiliating with one or more universities;
  - (8) A change in the control of the school resulting from a change in the ownership of the school or a contractual arrangement; or
  - (9) A change in the location of the school that could result in substantial changes in the faculty, administration, student body or management of the school.
- (b) For the purposes of this Rule:
- (1) Any of the changes in organizational structure listed in Rule 20(a) may amount to the closure of an approved law school and the opening of a different law school. If the Accreditation Committee determines, after written notice and an opportunity for written response, that

such a change does amount to the closure of an approved law school and the opening of a different law school, it shall so notify the law school(s). If the Committee determines that any proposed structural change constitutes the creation of a different law school, it shall recommend to the Council that any acquiescence in the proposed structural change be accompanied by a requirement that the school apply for provisional approval under the provisions of Standard 102 and Rule 4.

(2) Factors that shall be considered in making the determination of whether the events listed in subsection (1) above constitute the closure of an approved law school and the opening of a different law school include, without limitation, whether such events are likely to result in:

- (a) significant reduction in the financial resources available to the law school;
- (b) significant change, present or planned, in the governance of the law school;
- (c) significant change, present or planned, in the overall composition of the faculty and staff at the law school;
- (d) significant change, present or planned, in the educational program offered by the law school; or
- (e) significant change, present or planned, in the location or physical facilities of the law school.

(3) Opening of a Branch campus by an approved law school is treated as the creation of a different law school. After the law school has obtained prior acquiescence of the Council in the major change caused by the opening of a Branch campus, the Branch campus also shall apply for provisional approval under the provisions of Standard 102 and Rule 4 no later than October 15 of the second academic year of operation of the Branch campus. A law school seeking to establish a Branch campus shall submit to the Consultant, as part of its application, a business plan that contains the following information concerning the proposed Branch campus: a description of the educational program to be offered; projected revenues, expendi-

tures and cash flow; and the operational, management and physical resources of the proposed Branch campus.

(4) After written notice and an opportunity for a written response, the Accreditation Committee shall determine whether any other proposed structural change constitutes the creation of a different law school. If the Accreditation Committee determines that any proposed structural change constitutes the creation of a different law school, it shall recommend to the Council that any acquiescence in the proposed structural change be accompanied by a requirement that the school apply for provisional approval under the provisions of Standard 102 and Rule 4.

(c) If a different school will be created as a result of the major structural change, the different school shall apply for approval pursuant to provisions of Rule 4. If the different school demonstrates that it is in full compliance with the Standards as provided in Standard 103, the Committee shall recommend that it be fully approved. Such recommendation may be conditioned upon further site evaluation visits or other requirements. If the different school is not in full compliance with the Standards, but it substantially complies with each of the Standards as provided in Standard 102, the Committee shall recommend that it be provisionally approved. The Committee may also recommend that the school will be allowed to seek full approval in a period of time shorter than that provided in Standard 103.

(d) Whether or not the Accreditation Committee determines that the proposed change will create a difference law school, the law school's request for acquiescence by the Council in the proposed major change in organizational structure shall be considered under the provisions of Rule 21.

#### **Rule 21. Major Change in the Program of Legal Education of a Provisionally or Fully Approved Law School.**

(a) This Rule governs consideration of applications for acquiescence in major changes in the program of legal education of a law school, including, without limitation:

- (1) Instituting a new full-time or part-time division;
  - (2) Changing from a full-time to a part-time program or from a part-time to a full-time program;
  - (3) Establishing a two-year undergraduate/four-year law school or similar program;
  - (4) Establishing a new or different program leading to a degree other than the J.D. degree;
  - (5) A change in program length measurement from clock hours to credit hours; and
  - (6) A substantial increase in the number of clock or credit hours that are required for graduation.
- (b) This Rule also governs consideration of applications for acquiescence in a change in organizational structure as provided in Rule 20~~(d)~~ (a).
- (c) An application governed by this Rule must contain:
- (1) A letter from the president and the dean of the law school stating that they have read and carefully considered the Standards, have answered in detail the questions asked in the accompanying major change questionnaire, and do certify that, in their respective opinions, the school meets the requirements of the Standards for the granting of acquiescence in the proposed major change. If a law school seeking acquiescence is not part of a university, the letter may be from only the dean;
  - (2) A completed major change questionnaire;
  - (3) A copy of the law school's most recent self-study;
  - (4) A description of the proposed change and a detailed analysis of the effect of the proposed change on the law school's compliance with the Standards;
  - (5) A request that the Consultant schedule any required site evaluation at the school's expense; and
  - (6) Payment to the Association of the application fee.
- (d) A site evaluation of the school must be conducted before the Accreditation Committee or the Council considers the application, unless the application seeks acquiescence in a major change described in Rule 21(a)(4), Rule 21(a)(5), or Rule 21(a)(6).
- (e) The site evaluation shall be conducted in accordance with the provisions of Rules 2 and 14. The site evaluators shall prepare a written report based on the site evaluation. The site evaluators shall report facts and observations that will enable the Accreditation Committee and the Council to determine whether the law school satisfies the requirements of the Standards for granting acquiescence in the proposed major change. The site evaluators shall not make any determination as to the school's compliance with the Standards.
- (f) The Accreditation Committee's consideration of any application for acquiescence shall be governed by the provisions of Rules, 3, 5 and 6. The Council's consideration of such applications shall be governed by the provisions of Rules 6 and 8.
- (g) After the Council meeting at which the application is considered, the Consultant shall inform the president and the dean of the law school in writing of the Council's decision. There is no appeal from the Council's decision on an application for acquiescence in a major change.
- (h) Following acquiescence in a major change, the Consultant shall arrange for a limited site evaluation of the school ~~no later than two years~~ not later than six months after the date of the acquiescence to determine whether the law school has realized the anticipated benefits and remains in compliance with the Standards. No site visit shall be required following acquiescence in a major change described in Rule 21(a)(5) or Rule 21(a)(6). The limited evaluation of a school granted acquiescence pursuant to ~~Rule 21(a)(4)~~ Rules 21(a)(1) – (4), or after acquiescence establishment of a Branch or Satellite campus under Rule 20(a)(6), shall be conducted in the first academic ~~year~~ term, subsequent to acquiescence in which students are enrolled in the new program or attending the Branch or Satellite campus. The Consultant may determine in each instance whether the evaluation pursuant to a major change under Rule 21(a)(4) requires an actual site visit or may be conducted through other means. ☰

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# CALENDAR

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## OCTOBER 2007

**12-13** Bar Admissions Committee Meeting  
Camelback Inn  
Scottsdale, Arizona

**25-27** Accreditation Committee Meeting  
Salt Lake City, Utah

## NOVEMBER 2007

**16-17** Standards Review Committee Meeting  
Las Vegas, Nevada

## DECEMBER 2007

**1-2** Council Meeting • Scottsdale, Arizona

## JANUARY 2008

**24-26** Accreditation Committee Meeting  
Tucson, Arizona

## FEBRUARY 2008

**6-12** ABA Midyear Meeting  
Los Angeles, California

**7-8** Deans Workshop  
Loews Santa Monica Hotel

**9-10** Council Meeting

**16** Site Evaluators Workshop  
Rosemont, Illinois

## MARCH 2008

**TBA** Bar Admissions Committee Meeting • TBA

## APRIL 2008

**17-19** Accreditation Committee Meeting  
Portland, Oregon

## MAY 2008

**19-21** ALI Annual Meeting • Washington, D.C.  
**21** Deans Breakfast  
Standards Review Committee Hearing  
Standards Review Committee Meeting  
Mayflower I

**22** Mayflower II

## JUNE 2008

**6-8** Council Meeting  
Fairmont Olympic  
Seattle, Washington

**12-15** Associate Deans Conference  
Englewood, Colorado

**26-29** Accreditation Committee Meeting • TBA

**TBA** New Deans Seminar • TBA

## AUGUST 2008

**7-12** ABA Annual Meeting  
New York, New York

**7** Chairperson's Dinner

**7-8** Council Meeting

**8** Kutak Award Reception

**9** Deans' Breakfast, Section Programs,  
Section Annual Meeting

**10** Incoming Chairperson's Breakfast

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