Summary of actions of the section's Council at its public meeting May 15, 2020

The Council of the ABA Section of Legal Education and Admissions to the Bar met virtually on May 15 to consider recommendations, reports and other issues on its agenda. The Council took these key actions:

- Adopted the first formal steps, including a revision to Rule 2 of the ABA Standards and Rules of Procedures for the Approval of Law Schools, to permit the Council to take action to provide law schools appropriate and necessary relief from the requirements of the Standards in the event of disasters or emergencies. The Council’s Standards Review Subcommittee recommended the proposed change because of uncertainty surrounding the next academic year in light of the COVID-19 pandemic, and the absence of such authority in the current rules.

  Currently, Standard 107(a)(1) provides for a variance to a particular school for emergencies and disasters. That authority will continue, but the proposed change would permit the Council to provide temporary relief from a rule or the requirements of a standard to allow law schools to respond to a regional or national emergency, such as weather disasters and pandemics. The relief granted would be effective only for the duration of the extraordinary circumstance and only to the extent specifically provided. The proposed change will go out for Notice and Comment with the intent to submit it to the House of Delegates for its August 2020 meeting so that the Council will be in a position to address potential issues for the 2020-2021 academic year.

- Approved moving the Council’s review of distance education programs from the “variance” process to the “substantive change” process. It will be submitted to the House of Delegates for concurrence at the August Annual Meeting. The change is to the process for approval by the Council and does not change the current limits on providing distance education. The limits on the number of credits permitted and the definition of distance education are being moved to the Standards definitions section. Consideration of the change began in November 2019, and the change was made for consistency with Department of Education guidelines.

- Endorsed a plan by staff to send to ABA-approved law schools separate questionnaires seeking information regarding the steps taken this spring to move classes online because of COVID-19 as well as information related to plans and other issues for fall semester.

In other matters, the Council agreed to defer any discussion of the impact of the COVID-19 crisis on the application and enforcement of Standard 316 (Bar Passage) until outcomes from summer/fall bar exams are reported by schools in early 2021. Responding to a letter form the Society of American Law Teachers (SALT) urging a suspension of Standard 316 in light of the DOVID-19 crisis, Chair Diane Bosse pointed out that for this cycle the pandemic will have no effect because the two-year period to pass the bar exam for 2017 graduates who will determine compliance ended with the 2019 July administration of the bar exam. But she said that for the class of 2018 and beyond, the availability and timing of bar exams will be a factor for the Council to consider.

In closed session, the Council considered individual school matters. The outcomes of those matters that are not subject to the confidentiality provisions of Rules of Procedure 49-55 will be publicly reported after decisions are communicated by letter to the affected schools.

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