

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

*Explanation of Changes*

**Definitions Section**

A new Definitions Section applies to both the Standards and the Rules of Procedure. In the current Standards, definitions are found in Standard 106, and under the current Rules, definitions are found in Rule 1. Almost all of the changes are clarifying amendments.

“Approved law school” is no longer defined as a school that appears on the list of law schools approved by the Council. An approved law school under the revised definitions is one that the Council has determined meets the requirements of the Standards.

Under the current definitions, a “Branch campus” is a separate location at which the law school offers sufficient courses to allow a student to earn at the separate location all of the credits required for the J.D. degree. Under the revised definitions, a branch campus is a type of separate location at which a student may earn more than two-thirds of the credit hours required for the J.D. degree. Under the revised definitions, the term “Satellite campus” is no longer used. The term “Separate location” in the revised definitions means any location within the United States at which the law school offers more than sixteen credit hours of the program of legal education and that is not in reasonable proximity to the law school’s main campus. A branch campus is a type of separate location.

The revised definition of “Full-time faculty member” has been moved from current Standard 402 to the new Definitions section. The definition adds a reference to faculty members who are designated by the law school as full-time faculty members and deletes the limitation that outside professional activities must be limited to those that relate to major academic interests, enrich the faculty member’s capacity as a scholar and teacher, or are of service to the legal profession and the public generally.

Under the revised definitions, “J.D. degree” is no longer defined as the first professional degree in law. The new definition states that the J.D. degree means the professional degree in law granted upon completion of a program of legal education that is governed by the Standards.

The revised definition of “President” includes a reference to law schools that are not part of a university.

**Chapter 1 – General Purposes and Practices**

**Standard 101. BASIC REQUIREMENTS FOR APPROVAL**

Revised Standard 101 clarifies the basic requirements for approval of a law school, focusing on the ability of a law school to operate in compliance with the Standards. The Standard clarifies that the approving entity is the Council of the Section of Legal Education and Admissions to the Bar.

Current Interpretation 101-2, which states that approval of a law school by the Council is not transferrable, has been moved into the Standards as revised Standard 101(b).

Current Interpretation 101-1, covering information that must be furnished to the Accreditation Committee and the Council, has been moved into revised Standard 104.

#### Standard 102. PROVISIONAL APPROVAL

The requirements for provisional approval are clarified and a number of restrictions are refocused on what a provisionally approved school can undertake prior to achieving full approval. All of the current Interpretations have been removed or moved into the Standard.

#### Standard 103. FULL APPROVAL

Revised Standard 103(a) clarifies that a law school must be in full compliance with each of the Standards in order to achieve full approval.

Revised Standard 103(b) provides that a law school retains approval unless approval is withdrawn by the Council.

#### Standard 104. PROVISION OF INFORMATION BY LAW SCHOOLS TO ACCREDITATION COMMITTEE AND COUNCIL

Current Interpretation 101-1, covering information that must be furnished to the Accreditation Committee and the Council, has been moved into revised Standard 104. Revised Standard 104 clearly states the requirement that the information furnished by a law school must be complete, accurate, and not misleading, and must be submitted in the form, manner, and time frame specified by the Council.

#### Standard 105. ACQUIESCENCE FOR MAJOR CHANGE IN PROGRAM OR STRUCTURE

The major change provision has been re-worked and divided into a Standard dealing with major changes in general, and a separate Standard, revised Standard 106, covering separate locations opened by a law school.

Current Interpretation 105-1, which lists the types of changes that require Council acquiescence, has been moved into Standard 105(a).

#### Standard 106. SEPARATE LOCATIONS AND BRANCH CAMPUSES

Revised Standard 106 is a new Standard on separate locations. It clarifies and expands upon several Interpretations that are in current Standard 105. A separate location at which more than 16 credits, but less than two-thirds of the credits required for graduation, are offered must provide certain full-time faculty and other resources on site. A separate location at which a student may earn more than two-thirds of the credits required for graduation is designated a branch campus and must provide additional resources and services.

Definitions of “Separate location” and “Branch campus” have been added to the Definitions section of the Standards. The term “Satellite campus” is no longer used.

### Standard 107. VARIANCES

The variances provision has been moved from Chapter 8 into Chapter 1. The Standard has been re-written to distinguish clearly between variances in an emergency or other exigent circumstances, and those sought to experiment with a new or innovative program or concept.

### DEFINITIONS

The definitions in the Standards are being moved from current Standard 106 to a separate Definitions Section.

## **Chapter 2 - ORGANIZATION AND ADMINISTRATION**

### Revised Standard 201. LAW SCHOOL GOVERNANCE

This is a reworking and consolidation of current Standard 204 (Governing Board of an Independent Law School), Standard 205 (Governing Board and Law School Authority), Standard 207 (Allocation of Authority between Dean and Faculty), and parts of Standard 210 (Law School-University Relationship).

The current language in Standard 205(b), that the dean and faculty “shall formulate and administer the educational program of the law school,” has been replaced with the requirement in revised Standard 201(a) that the dean and faculty “shall have primary responsibility and authority for planning, implementing and administering the program of legal education.”

The current language in Standard 205(b) that the dean and faculty “shall recommend the selection, retention, promotion, and tenure (or granting of security of position) of the faculty” is retained in revised Standard 201(b).

Current Standard 207 has been replaced by revised Standard 201(c), which requires that the dean and faculty shall each have “a significant role in determining educational policy.”

Revised Standard 201(d) replaces current Standard 210(b) and makes clear that where the law school is part of a university, either the policies applicable to the law school “shall be consistent with the Standards,” or the law school will need to promulgate separate policies “where necessary to ensure compliance with the Standards.”

Revised Standard 201(e) replaces current Standard 204 and makes clear that a law school that is not part of a university must be governed by a board with “responsibility and authority for ensuring operation of the law school in compliance with the Standards.”

### Revised Standard 202. RESOURCES FOR PROGRAMS

This Standard is a reworking and consolidation of current Standard 201 (Resources for Program) and parts of Standard 210 (Law School-University Relationship). Revised Standard 202(a) requires that the “current and anticipated financial resources available to the law school” be sufficient for it to operate in compliance with the Standards and carry out its program of legal education.

Revised Standard 202(c) makes clear that a law school is not in compliance with the Standards if either its current financial condition has, or its anticipated financial condition is reasonably expected to have, “a negative and material effect on the school's ability to operate in compliance with the Standards or carry out its program of legal education.”

Revised Standard 202(b) provides that a law school that is part of a university must obtain from its university (at least annually) an accounting for all charges and costs assessed against the “resources generated by the law school” and for any such resources used to “support non-law school activities and central university services.”

Revised Standard 202(e) retains the requirement in current Standard 210(d), which requires that the law school be given the opportunity to present its recommendations on budgetary matters to the university administration before the budget for the law school is submitted to the governing board for adoption. Current Interpretations 210-1 and 210-2 are essentially incorporated into revised Standard 202 in an appropriate and less intrusive form. Revised Interpretation 202-1 defines “resources generated” by the law school for purposes of the revised Standards. Current Interpretation 201-2 regarding compensation based on a number of persons enrolled in a law school has been eliminated.

#### Revised Standard 203. DEAN

This revised Standard is a reworking of current Standard 206 (Dean), the majority of which is retained in the proposal. It provides that a law school shall have a full-time dean, selected by the appropriate governing body, with the authority and support necessary to discharge the responsibilities of the position (explicated elsewhere in the Standards).

The Standards Review Committee had recommended that the language of current Standard 206(c), which states that “a dean shall also hold appointment as a member of the faculty with tenure,” be replaced in revised Standard 203(b) with the requirement that the dean “shall hold appointment as a member of the law faculty with the rights and protections accorded to other members of the full-time faculty under Standard 405.” Based on the Council’s decision to make no change to current Standard 405, this proposed change was also not approved.

Revised Standard 203(c) adds new language (reflected in part in current Interpretation 206-1) requiring that the decanal appointment procedure “assure meaningful involvement by the faculty or a representative body of the faculty.”

This Standard is buttressed by three revised Interpretations: 203-1 providing (as does current Interpretation 206-1) that in the absence of “good cause,” a dean “should not be appointed or reappointed for a new term over the stated objection of a substantial majority of the faculty”; 203-2 regarding the procedures for the appointment of an interim or acting dean that assures “meaningful consultation with the faculty or a representative body”; and 203-3 which defines the extension of the service of an interim or acting dean beyond two years as a regular decanal appointment or reappointment.

#### Revised Standard 204. SELF-STUDY

This revised Standard is a broadened delineation of the self-study required by current Standard 202. This broadened delineation is deemed necessary to make the product of the self-study more meaningful to the site evaluation process and the Accreditation Committee. The self-study now incorporates the sabbatical questionnaire, eliminating some of the duplication in the two prior requirements.

Current Standard 203 (Strategic Planning and Assessment) has been eliminated in light of revised Standard 315, which requires a law school to conduct ongoing evaluations of its program of legal education, learning outcomes, and assessment methods, and accordingly, to make changes necessary to the improvement of its curriculum.

#### Revised Standard 205. NON-DISCRIMINATION AND EQUAL OPPORTUNITY

Revised Standard 205 replaces current Standard 211. No significant changes are recommended. The change in revised Standard 205(b) clarifies that the Standard applies to students, faculty, and staff.

A suggestion to include “gender identity” in the list of non-discrimination categories was not adopted by the Council.

#### Revised Standard 206. DIVERSITY AND INCLUSION

Revised Standard 206 replaces current Standard 212. The title of the revised Standard has been changed from “Equal Opportunity and Diversity” in current Standard 212 to “Diversity and Inclusion” to emphasize the purpose of the Standard. The words “diversity and inclusion” have been added to revised Standards 206(a) and 206(b).

Revised Interpretation 206-2 deletes a specific reference to *Grutter v. Bollinger* and states that a law school may use race and ethnicity in its admissions process to promote diversity and inclusion “if consistent with applicable law.”

A suggestion to include “gender identity, sexual orientation, age, and disability” in the list of specifically identified underrepresented groups was not adopted by the Council.

#### Revised Standard 207. REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS WITH DISABILITIES

Revised Standard 207 replaces current Standard 213. The word “may” has been deleted in revised 207(a) and the words “consistent with applicable law” have been added to the Standard to clarify that schools must provide accommodations for qualified individuals with disabilities consistent with applicable law.

Revised Standard 207(b) is new and requires law schools to adopt, publish, and adhere to written policies and procedures for assessing and handling requests for reasonable accommodations made by qualified individuals with disabilities.

As a result of this change in Revised Standard 207(a), current Interpretations 213-1 and 213-2 have been deleted.

### Current Standard 208. INVOLVEMENT OF ALUMNI, STUDENTS AND OTHERS

This Standard has been deleted as extraneous and unnecessary in light of the inherent authority of law schools to involve others in its affairs, and the clearly delineated authority of the dean and faculty over the program of legal education of the law school in Revised Standard 201.

### Current Standard 209. NON-UNIVERSITY AFFILIATED LAW SCHOOLS

This Standard has been deleted as redundant and adequately covered by the general requirement that all law schools must satisfy each of the Standards.

## **Chapter 3 – PROGRAM OF LEGAL EDUCATION**

### Background

In 2007, the Council appointed an Outcome Measures Committee. This committee recommended changes in the current Standards to effect a reduction in reliance on input measures and to “adopt a greater and more overt reliance on outcome measures.” This shift was viewed as consistent with best practices in legal education and encouraged by the U.S. Department of Education guidelines.

The Outcome Measures Committee emphasized that outcome Standards should have the following characteristics:

1. Aside from the traditional curricular requirements found in the current Standards, the outcome Standards should provide law schools substantial flexibility in identifying outcomes that are consistent with their missions.
2. The outcomes Standards should not impose unnecessary costs on law schools. In particular, burdensome assessment regimes of individual student achievement for each learning outcome should not be required.
3. Law schools should have flexibility in determining what assessment methods to use across the curriculum.
4. A phase-in period for development of learning outcomes and assessment methods by law schools should be provided.

### Revised Standard 301. OBJECTIVES OF PROGRAM OF LEGAL EDUCATION

The requirement of a rigorous program of legal education is moved from current Interpretation 301-3 to revised Standard 301(a). The requirement of preparation for ethical participation in the legal profession, while found in various Standards and Interpretations, is placed upfront in Standard 301(a) pertaining to objectives of the program of legal education.

Revised Standard 301(b) is a new provision that introduces the requirement that law schools establish and publish learning outcomes to achieve the objectives of the program of legal education.

Current Standard 301(b), pertaining to comparable opportunities, is moved to Standard 312.

Current Interpretations 301-4 and 301-5 that address comparable opportunities have been deleted.

Current Interpretations 301-1 and 301-2 have been deleted as unnecessary.

Current Interpretation 301-6 on bar passage has been moved to become Standard 316.

#### Revised Standard 302. LEARNING OUTCOMES

Current Standard 302 [Curriculum] has been replaced with revised Standard 302 [Learning Outcomes] and revised Standard 303 [Curriculum].

Revised Standard 302 is a new Standard that outlines the minimum learning outcomes that must be established by a law school. The responsibility of a law school to assess student learning and to evaluate its program of legal education is found in revised Standards 314 and 315. The learning outcomes are broadly stated to give law schools maximum flexibility.

Interpretation 302-1 provides a non-exclusive listing of “other professional skills.”

Interpretation 302-2 provides that a law school “may also identify any additional learning outcomes pertinent to its program of legal education.”

#### Revised Standard 303. CURRICULUM

Current Standard 302(a) has a list of mandatory requirements for the law school curriculum. The current Standard does not prescribe any credit hour requirements for specific areas. Revised Standard 303 includes a requirement of two credit hours in professional responsibility.

In September 2013, the Council circulated for Notice and Comment revised Standard 303(a)(3), which included a new requirement of six credits of instruction in an experiential course or courses. To qualify, the experiential course or courses must be a simulation, law clinic, or field placement, all as defined in subsequent Standards. Four requirements for a qualifying experiential course are set out.

In December 2013, the Council circulated an alternative proposal for Standard 303(a)(3), which increases the new requirement from six to 15 credits of instruction in an experiential course or courses.

At its meeting on March 14 – 15, 2014, the Council approved the first alternative, requiring six credits of instruction in an experiential course or courses.

Revised Standard 303(b) is a revision of current Standard 302(b), which requires law schools to provide “substantial opportunities” for live-client or other real-life practice experiences; student participation in pro bono activities; and small group work. The proposal changes “live-client or other real-life practice experiences” to “law clinics or field placements” and eliminates “small group work” from the Standard. It also changes “pro bono activities” to “pro bono legal services, including law-related public service activities.” Current Interpretation 302-10 has been replaced

by revised Interpretations 303-2 and 303-3, which reference pro bono activities as defined in the ABA Model Rules of Professional Conduct and provide a description of law-related public service activities. The Council also added language to Interpretation 303-2 encouraging law schools to promote opportunities for law students to provide at least 50 hours of pro bono service during law school.

#### Revised Standard 304. SIMULATION COURSES AND LAW CLINICS

This is a new Standard that defines and sets out the requirements for two of the three experiential courses that qualify for the new experiential course requirement in revised Standard 303(a).

#### Revised Standard 305. FIELD PLACEMENTS AND OTHER STUDY OUTSIDE THE CLASSROOM

This is largely a restatement of current Standard 305. The title of the Standard has been changed from “Study Outside the Classroom” to “Field Placements and Other Study Outside the Classroom.”

The revised change in 305(a) is designed to clarify what is included in study outside the classroom. Interpretation 305-1 has been deleted and the explanation of what constitutes study outside the classroom has been moved to the text of 305(a). The reference that was in 305-1 regarding courses taken in parts of a college or university has been deleted as this subject is covered in Standard 311.

Revised Standard 305(e), which is largely the same as the current Standard, outlines the requirements for field placement courses, which are the third of the types of courses that will satisfy the new experiential course requirement of revised Standard 303.

Revised Standard 305(e)(5) reflects a strengthening of the current provision pertaining to supervision of the student experience. In revised Standards 305(e)(5) and 305(e)(7), the number of credits that require increased oversight by the law school has been decreased from four to three.

Current Interpretation 305-4(a) has been moved into the Standard as 305(f).

Unnecessary Interpretations have been eliminated.

#### Interpretation 305-2.

Current Interpretation 305-3 is unchanged and renumbered in the revised Standards as Interpretation 305-2. The Standards Review Committee recommended the deletion of current Interpretation 305-3. The Committee was not unanimous but a sizable majority of the members felt that the Standards should not have a blanket prohibition against receiving credit for a field placement where a student receives compensation. They felt that a blanket prohibition puts significant limits on the available field placement opportunities. While there was some concern about the pedagogical difficulties when students are paid and receive credit, the Committee noted that whether or not students are paid, schools must meet all of the requirements of Standard 305. The Council circulated the proposed deletion for Notice and Comment. After reviewing the

comments, which were largely opposed to the change, the Council decided not to delete the Interpretation.

#### Revised Standard 306. DISTANCE EDUCATION

A clearer and updated definition of a distance education course is provided in revised Standard 306(a). The definition clarifies that only courses in which more than one-third of the instruction consists of distance education are treated as distance education course. Current Interpretation 306-3, which addresses that issue, has been deleted.

The examples of technology found in current Standard 306(a) have been placed in new Interpretation 306-1. Current Interpretation 306-5, which uses mandatory language and pertains to a law school's capacity to provide distance education, has been moved to revised Standard 306(c). A new provision requiring that the learning outcomes for a distance education course must be consistent with Standard 302 is added as revised Standard 306(d)(3).

More generally, the language of the revised Standard is improved and updated and unnecessary Interpretations are eliminated.

#### Revised Standard 307. PARTICIPATION IN STUDIES OR ACTIVITIES IN A FOREIGN COUNTRY

The portion of current Interpretation 307-1 that relates to field placements in foreign countries has been moved into revised Standard 307(a)(2). This does not represent a change in substance.

Revised Standard 307(b) provides that the total credits permitted for activities and studies abroad is limited to one-third of the credits required for the J.D. degree. This limitation was previously found in the Criteria relating to foreign study.

#### Revised Standard 308. ACADEMIC STANDARDS

The revised Standard replaces current Standard 303 (Academic Standards and Achievements) and focuses on academic standards. Revised Standard 308(b) is a new provision pertaining to due process policies.

Current Standard 303(b) is deleted because the topic is covered by revised Standards 314 and 315.

Current Standard 303(c) is deleted due to the creation of revised Standard 309.

#### Revised Standard 309. ACADEMIC ADVISING AND SUPPORT

This is a new Standard that replaces current Interpretations 303-3 and 303-4 on academic advising and support.

#### Revised Standard 310. DETERMINATION OF CREDIT HOURS FOR COURSEWORK

This is a new Standard that utilizes the U.S. Department of Education definition of credit hours. More generally, this provision involves a shift from the use of minutes to the use of the concept of credit hours to describe the various requirements of the Standards.

### Revised Standard 311. ACADEMIC PROGRAM AND ACADEMIC CALENDAR

The revised Standard, which replaces current Standard 304, incorporates the new concept of a credit hour and defines the minimum academic year to include examination periods.

Revised Standard 311(a) clarifies that with the new definition of credit hours, examination periods can be included in the academic year.

Revised Standard 311(b) replaces “58,000 minutes of instruction time” found in current Standard 304(a) with “83 credit hours,” 64 of which must be in courses that require attendance in regularly scheduled classroom sessions or “direct faculty instruction.”

Revised Standard 311(c) retains the language of current Standard 304(c) and adds an “extraordinary circumstances” exception.

The 20 hour limit on student employment, contained in the current Standard 304(f), is eliminated on the ground that it has been unenforceable.

Revised Interpretation 311-2 is a restructuring of current Interpretation 304-3. It provides a complete list of credit hours that do qualify and do not qualify for the 311(b) requirement of 64 credits of regularly scheduled classroom sessions or direct faculty instruction. This clarification will eliminate current ambiguities and uncertainties.

Current Interpretation 304-5 is moved to revised Standard 311(e).

Revised Interpretation 311-3 provides guidance regarding the “extraordinary circumstances” exception in revised Standard 311(c).

Revised Interpretations 311-4 and 311-5 provide guidance to law schools regarding the operation of revised Standard 311(c) in certain circumstances.

Current Interpretation 304-7 has been moved to Standard 505(b).

Unnecessary Interpretations have been deleted.

### Revised Standard 312. REASONABLY COMPARABLE OPPORTUNITIES

This revised Standard is taken from current Standard 301(b) and it is redrafted to provide greater clarity.

### Revised Standard 313. DEGREE PROGRAMS IN ADDITION TO J.D.

This is a redrafting of current Standard 308. There is no change in substance.

Current Interpretation 308-2 is eliminated as unnecessary.

### Revised Standard 314. ASSESSMENT OF STUDENT LEARNING

This is a new Standard that introduces the obligation of law schools to use assessment methods in the curriculum to measure and improve student learning and to provide feedback to students.

Both formative and summative assessments are described in revised Interpretation 313-1.

Revised Interpretation 314-2 makes it clear that law schools have flexibility in implementing the assessment requirement.

Revised Standard 315. EVALUATION OF PROGRAM OF LEGAL EDUCATION, LEARNING OUTCOMES, AND ASSESSMENT METHODS

This is a new Standard. It requires the dean and faculty of the law school to engage in an ongoing evaluation of the program of legal education, learning outcomes, and assessment methods. It also requires that the results of the evaluations be used to make appropriate changes.

The Interpretation offers examples of methods that may be used in these evaluations.

Revised Standard 316. BAR PASSAGE

Current Interpretation 301-6 on bar passage has been moved to become Standard 316.

**Chapter 4 - THE FACULTY**

Standard 401. QUALIFICATIONS

Consistent with other changes in the Standards, revised Standard 401 clarifies that the law school must have a faculty whose qualifications and experience “enable the law school to operate in compliance with the Standards and carry out its program of legal education.”

As a factor in demonstrating whether the faculty possesses a high degree of competence, “scholarly research and writing” has been replaced by “scholarship.” A similar change is made in Standard 404.

Standard 402. SIZE OF FULL-TIME FACULTY

Revised Standard 402 is largely unchanged from current Standard 402(a).

Current Standard 402(b), which defines “full-time faculty member,” has been moved to the Definitions section of the Standards.

Current Interpretations 402-1 and 402-2 on student-faculty ratio have been removed from the Standards. In 2008, the same recommendation was made by the Standards Review Committee and was sent out for Notice and Comment by the Council. When the Comprehensive Review of the Standards began, the matter was postponed for later review.

In approving this change, the Council agreed with the explanation provided by the Standards Review Committee:

The Standards Review Committee concluded that the student-faculty ratio as derived under the current Interpretations to Standard 402 should be discontinued because the ratio does not account for all students enrolled in a law school and because it does not appropriately account for size of the faculty given the important changes in law school curriculum, teaching methodologies, and administrative structures in law schools since

adoption of these Interpretations many years ago. Furthermore, the Standards Review Committee concluded that the present student-faculty ratio is misleading because it does not provide a useful measure of the adequacy of the full-time faculty's size to address the totality of the faculty's obligations under Standard 404.

The Standard Review Committee concluded that the difficulties in developing a ratio that would fully and fairly measure the adequacy of the size of the full-time faculty to address all of the responsibilities of the full-time faculty under Standard 404 made calculation of a ratio practically unfeasible.

The Accreditation Committee, in determining whether a law school's faculty is large enough, looks at a number of factors including what portions of the first-year curriculum and upper-level curriculum in the day and evening divisions are taught by full-time and part-time faculty, what core subjects beyond the first-year courses are taught by full-time and part-time faculty, and the extent to which faculty members are meeting all of their obligations under Standard 404.

Law schools are required to report annually useful consumer information regarding teaching resources. Much of the data reports on full- and part-time faculty and students and provides other data such as the typical size of first-year classes, whether there are small section first-year classes beyond legal writing, the typical size of those other small section classes, number of courses offered beyond the first year of law school, the numbers of upper-level classes offered in various size ranges, number of seminars, and number of positions available and filled in seminars, simulation courses, and clinical courses. The student-faculty ratio, however, has not proven to be a useful or accurate indicator of what ranges of class size prospective students will experience in law school. The Standards Review Committee believes that Standard 509 ought to require disclosure of additional data on faculty, such as number of courses taught by adjuncts and full-time faculty, as a matter of consumer information related to the adequacy of the faculty to satisfy its core teaching responsibilities under 402(a)(1).

#### Standard 403. INSTRUCTIONAL ROLE OF FACULTY

Revised Standard 403(a) clarifies the current requirement by stating that full-time faculty shall teach "more than half of all of the credit hours actually offered by the school or two-thirds of the student contact hours generated by student enrollment at the school" rather than "the major portion of law school's curriculum." The revised Standard retains the direction that full-time faculty shall teach substantially all of the first one-third of each student's coursework.

Current Standard 403(c), regarding the use of practicing lawyers and judges, has been deleted. Law schools may, of course, use practicing lawyers and judges to deliver instruction, but are not obligated under the Standards to do so.

Current Interpretation 403-1 is also deleted because it is unnecessary and is addressed in the Standard itself.

Revised Interpretation 403-1 is a redraft of current Interpretation 403-2.

#### Standard 404. RESPONSIBILITIES OF FULL-TIME FACULTY

Revised Standard 404(a) clarifies that a law school must provide written policies with respect to the responsibilities of the full-time faculty as a whole. The areas of responsibility addressed in the revised Standard are generally the same as those in the current Standard with some clarifications. The responsibility of teaching in 404(a)(1) also addresses the responsibility to assess student performance and to remain current in the subjects being taught. Revised Standard 404(a)(3) clarifies that scholarship is defined by the law school. Revised Standard 404(a)(4) clarifies that the faculty are responsible for governance as well as curriculum development and other institutional responsibilities described in the Standards.

Revised Standard 404(b) requires a law school to periodically evaluate the extent to which the faculty discharges its core responsibilities as well as the contributions of each faculty member in meeting those responsibilities.

#### Standard 405. PROFESSIONAL ENVIRONMENT

One of the important goals of the Comprehensive Review of the Standards is to ensure that accreditation requirements are clear to law schools and can readily be interpreted by the Accreditation Committee. Therefore, interests of greater clarity and transparency require that the revised Standards explicitly state whether or not schools must provide tenure rights and, if so, for whom on the law faculty.

The Council distributed two alternatives for comment: Alternative 1 includes a requirement that law schools provide full-time faculty members with a form of security of position sufficient to ensure academic freedom and to attract and retain a competent full-time faculty; Alternative 2 does not include a provision regarding security of position.

The Council reviewed two other alternatives that had been prepared by the Standards Review Committee. One was intended to be a clarification of the current Standard and the other would have required all full-time faculty to have the same form of security of position. The Council determined that it would not send out the other two alternatives for Notice and Comment.

In four respects – on the issues of attracting and retaining a competent faculty, academic freedom, participation in governance, and due process – the alternatives are very similar. The main difference in the alternatives is the treatment of security of position.

#### Protection of academic freedom

Both alternatives explicitly articulate the obligation that schools have processes or programs that protect the academic freedom of their faculty members and possess the ability to attract and retain a qualified faculty. This is a significant change from the current language that requires only that approved schools have an “announced policy” concerning academic freedom protections. Moreover, the proposed Interpretations create a clearer statement of presumptions and burdens of proof in the accreditation process.

### Law school governance

Both alternatives require law schools to provide for the meaningful participation of all full-time faculty members in the governance of the law school.

### Conditions to attract and retain a competent full-time faculty

Both alternatives retain the current requirement that law schools must establish and maintain conditions that are adequate to attract and retain a competent full-time faculty.

### Due process

Both alternatives add into the Standard a due process provision similar to one that is currently found in Interpretation 405-3.

### Security of Position

Alternative 1 requires, in 405(d), that all full-time faculty have a form of security of position sufficient to ensure academic freedom and to attract and retain a competent full-time faculty. It does not require that all full-time faculty have the same form of security of position, and it does not require tenure.

Proposed Interpretations 405-1 and 405-2 provide that a tenure system is a safe harbor for satisfying the security of position required in Standard 405(d). For full-time faculty positions not covered by tenure, the law school must establish that its policies establish conditions sufficient to attract and retain a competent full-time faculty and protect academic freedom.

Alternative 2 requires a law school to maintain conditions adequate to attract and retain a competent full-time faculty sufficient to permit the law school to comply with the Standards. It requires policies to protect academic freedom of its faculty and provide for meaningful participation of full-time faculty in the governance of the school. Alternative 2 does not require tenure or security of position for any full-time faculty.

Proposed Interpretations 405-1 and 405-2 provide that a tenure system is a safe harbor for satisfying the attract and retain provision and the academic freedom provision of Alternative 2. For full-time faculty positions not covered by tenure, the law school must establish that its policies establish conditions sufficient to attract and retain a competent full-time faculty and protect academic freedom.

The proposed alternatives generated significant public comment. A majority of the Council expressed dissatisfaction with current Standard 405. However, neither of the alternative proposals that the Council had circulated for Notice and Comment were acceptable to a majority of the Council. Both of those proposals were loudly criticized by law school faculty during the comment period. Because no proposal for change garnered a majority of the Council, current Standard 405 was not amended.

## **Chapter 5 - ADMISSIONS AND STUDENT SERVICES**

### Revised Standard 501. ADMISSIONS

Revised Standards 501(a) and (b) are essentially reworkings of current language.

Revised Standard 501(c) is drawn from current Standard 505 (Previously Disqualified Applicant) and now speaks to both admission and readmission. The documentation requirement assigned to the law school has been simplified and clarified, and it is stated straightforwardly.

Current Interpretations 501-1 and 501-3 have been retained and are now numbered 501-2 and 501-1, respectively.

Interpretation 501-2 has been eliminated because it simply admonishes the law school to follow certain Standards.

Interpretation 501-4 has been eliminated because it is unnecessary. The underlying concept in the first sentence is addressed more pertinently in other Chapters, and the second sentence is a statement of the obvious.

### Revised Standard 502. EDUCATIONAL REQUIREMENTS

Revised Standard 502 sets forth with greater clarity the educational routes by which law schools may admit individual applicants. By splitting current Standard 502(a) into two parts—now 502(a) and (b)(1)—the language now avoids the collision of two concepts embodied in the current rule (that the school “shall require” a bachelor’s degree followed immediately by the lesser requirement of a percentage of credits toward such a degree). Further, revised Standard 502(b)(2) now addresses the issue of foreign law school graduates under the appropriate Standard.

Revised Standard 502(c) retains the substance of Standard 502(b).

Interpretation 502(1) has been retained and simplified.

### Revised Standard 503. ADMISSION TEST

The Standards Review Committee presented the Council with two alternatives for Standard 503. One alternative was to eliminate the Standard and the other was to make minor changes to the Standard.

The Council chose to circulate for comment only the alternative that retained the Standard. That proposal retains the language of the current Standard with a small stylistic change. Current Interpretation 503-1 has been retained because it is well settled that the LSAT has been validated as a predictor of first-year law school grades, and generally accepted that first-year grades are predictive of the student’s ultimate capability of completing the program. Current Interpretations 503-3 and 503-4 have been eliminated.

The memorandum from the Standards Review Committee to the Council explaining the two alternatives stated:

The Council is presented with the opportunity to resolve an issue that has divided the Committee over several years, with each of two positions prevailing at different times on straw votes.

The question presented is whether compelling law schools to use an admission test is appropriately an accreditation requirement.

One alternative is to eliminate Standard 503. The other alternative is to retain it as modified in revised Standard 503.

It is important that the Council understand that a decision to delete what, for shorthand purposes, will be termed the LSAT requirement, does not suggest, and indeed should not be taken to express a lack of confidence in that instrument or in the wisdom of using a fair and valid objective test as one key measure in winnowing a class of entering students from each school's applicant pool. The LSAT can and does provide a fair measure of first-year law school performance and correlates well with the final law school grade-point average, rank in class, and performance on bar examinations. It helps a law school identify promising performers. It also helps schools avoid the admission of those who are not capable of satisfactorily completing the law school program. Given the enormous investment of resources that individuals make in securing a legal education, the LSAT offers would-be students some predictability when they make such an important investment. In the future the LSAT probably will continue to be viewed by most law schools as an essential factor in the admissions equation since an LSAT score has consistent meaning across the applicant pool.

The issue here is not the wisdom of employing the LSAT as a valuable tool in calculating admissions decisions; rather, it is whether, as a matter of judging institutional quality, law school accrediting authorities should require the use of a valid and reliable test. It is our understanding that accreditation standards governing other professions are not so specific. It is also true that such entrance tests are still used in the admission process in other professional schools because they provide helpful evidence as well as added efficiency in the admissions context. Note that revised Interpretation 501-2 specifically cites "admission test scores" when describing "sound admission policies."

The removal of Standard 503 will heighten the importance of adding rigorous requirements about disclosure of admission criteria in both Standard 509 and in the questionnaires that law schools complete. Removal will also require effective sanctions for schools that are not accurate or transparent in disclosing their admission criteria, which should include the percentage of the entering class producing an LSAT score (as opposed to selective reporting of the number of students for whom an LSAT score was taken into consideration at the point of the admissions decision).

To the extent that Standard 503 is retained, the basis for substituting tests other than the LSAT should be well-documented and public, the burden for establishing the validity of any test should be properly documented using accepted methods of measurement, and all departures from use of the LSAT should be disclosed in Standard 509.

If Standard 503 is retained, the revised language of the Standard has been shortened to eliminate the final sentence of the current Standard for two reasons. First, current Interpretation 503-2 already grants permission to law schools to assign any weight it

chooses to an admission test score for any applicant. Second, since it is understood that some variances from use of law school admission test scores have been granted, thereby permitting the use of other tests to serve as surrogates, this sentence should be eliminated.

Current Interpretation 503-1 has been retained because it is well settled that the LSAT has been validated as a predictor of first-year law school grades, and generally accepted that first-year grades are predictive of the student's ultimate capability of completing the program.

#### Revised Interpretation 503-3.

At its March 2014 meeting, the Council reviewed a report and recommendation from the Accreditation Committee on 503 Variances. The new Interpretation is based on the recommendations in that report.

Revised Interpretation 503-3 describes a particular admissions program that meets the requirements of Standard 503. Such programs have been proposed by a number of law schools, and the Council has granted variances when the proposals have satisfied the criteria for a variance. The interpretation provides a safe harbor and clear guidance to schools on when and how such programs comply with Standard 503.

The Interpretation provides that a law school may admit no more than 10 percent of an entering class without requiring the LSAT from students in an undergraduate program of the same institution as the J.D. program; and/or students seeking the J.D. degree in combination with a degree in a different discipline. Applicants admitted must have scored at the 85th percentile nationally, or above, on a standardized college or graduate admissions test, specifically the ACT, SAT, GRE, or GMAT; and must have ranked in the top 10 percent of their undergraduate class through six semesters of academic work, or achieved a cumulative GPA of 3.5 or above through six semesters of academic work.

Outside these specific criteria Standard 503 continues to apply to the law school admissions process. The variance process is available to clarify when any other alternative test admissions programs may be employed on an experimental basis.

Schools that follow the admission process outlined in Interpretation 503-3 will be required to report annually on their admission programs and to follow the guidelines developed by the Council and the Managing Director's Office.

#### Background

Current Standard 503 Admission Test, prescribes that "a law school shall require each applicant for admission as a first-year J.D. student to take a valid and reliable admission test to assist the school and the applicant in assessing the applicant's capability of satisfactorily completing the school's educational program." Interpretation 503-1 specifies that "a law school that uses an admission test other than the Law School Admission Test sponsored by the Law School Admission Council shall establish that such other test is a valid and reliable test to assist the school in assessing an applicant's capability to satisfactorily complete the school's education program."

Current Standard 802 (Variance) states that “a law school proposing to offer a program of legal education, a portion of which is inconsistent with a Standard, may apply for a variance.” The authority to grant such a variance is reserved for the Council, which may impose conditions and shall impose time limits it considers appropriate. As provided in Interpretation 802-1, variances are generally limited to proposals based on a response to extraordinary circumstances that would create extreme hardship for students or a law school, or an experimental program that meets the requirements of the Standard. The Council may terminate a variance prior to the end of the stated time limit if the school fails to comply with any conditions imposed by the Council.

While a reading of Standard 503 could be that schools did not need a variance to operate an alternative-test admissions process, so long as they could subsequently prove to the satisfaction of the Accreditation Committee and the Council that its admissions process meets the requirement of the Standard that a school must require each beginning student to take a “valid and reliable” law school admissions test, in practice law schools have requested variances in advance of commencing such programs to assure themselves and the Council that their programs will meet the requirements of Standard 503.

In accordance with Standard 802, approximately 15 ABA-approved law schools have sought and been granted variances from Standard 503 by the Council in order to use other admission tests as alternatives to the LSAT. Generally, variances have been granted for two distinctly different purposes and types of alternative tests: (1) programs that aim primarily to recruit honors undergraduates from the law school’s own universities by excusing them from taking the LSAT and that use undergraduate admission tests such as the ACT or SAT; and (2) programs that use alternative tests for joint degree programs with business or other disciplines and that use graduate-level tests such as the GMAT or GRE. In these cases, excusing applicants from submitting LSAT scores relieves those applicants from taking two separate graduate-level admissions tests. In each case the Accreditation Committee and the Council had determined that the law school’s request for a variance was in accordance with Interpretation 802-1(b) of the Standards, which classifies the proposed admission programs as experimental.

For programs that have been in existence long enough for results to be known, special admission students have performed as well or better than regularly admitted students in graduating on time and passing the bar examination. It is important to recognize that the purpose of Standard 503 is “to assist the school and the applicant in assessing the applicant’s capability of satisfactorily completing the school’s education program.” From the data presented to the Accreditation Committee thus far, the alternative tests have been valid in terms of predicting academic success in law school.

#### Revised Standard 504. QUALIFICATIONS FOR ADMISSION TO THE BAR

Revised Standard 504(a) treats the matter of the notification that law schools provide to prospective applicants by setting forth explicit language of such notification to avoid uncertainty or ambiguity.

The balance of current Standard 504(a) is covered in revised Standard 504(b), which treats the matter of the law school’s obligation to students who have matriculated.

Current Standards 504(b) and (c) have been eliminated. The language of (b) is not a Standard; it is merely instructive, as an Interpretation might be. However, the processes and value judgments that bar examiners in different jurisdictions apply to bar admission applications renders current (b) of negligible value. As to (c), this too, appears to exist more as an admonishment than as a Standard.

#### Revised Standard 505. GRANTING OF J.D. CREDIT FOR PRIOR LAW STUDY

Revised Standard 505 seeks to consolidate in one Standard all the circumstances that lead to the granting of J.D. degree credit for prior study. Thus, it incorporates and simplifies material appearing in current Standards 506 (Applicants from Law Schools not Approved by the ABA) and 507 (Applicants from Foreign Law Schools), and Interpretation 304-7 regarding transfer of credits earned in an LL.M. program (generally by a graduate of a law school outside of the United States) into to a J.D. program. For the first time, the Standard also encompasses the student who transfers from another ABA-approved school.

This significantly streamlined Standard concludes with 505(e), which establishes a cap of one-third on credits that may be allowed by the admitting school on prior law study unless the study was undertaken as a J.D. degree student at another law school approved by the Council.

Under current practice, some law schools will allow a student who transfers into a J.D. program from an LL.M. program to receive up to one-third of the credits required for graduation from the law school outside the United States and to receive additional credits from the LL.M. program under current Interpretation 304-7. The Standard limits the total number of credits in such a situation to one-third of the credits required for graduation.

#### Revised Standard 506. ENROLLMENT OF NON-DEGREE CANDIDATES

Revised Standard 506 represents a rewording of current Standard 508 chiefly to parallel other language in the Standards.

#### Revised Standard 507. STUDENT LOAN PROGRAMS

Revised Standard 507 is a renumbering of current Standard 510. Language is intended to meet U.S. Department of Education requirements.

#### Revised Standard 508. STUDENT SUPPORT SERVICES

Revised Standard 508 is a renumbering of current Standard 511 and contains only minor edits. The only substantive change is the addition of debt counseling to the list of support services that a law school must provide.

#### Revised Standard 509. CONSUMER INFORMATION

Revised Standard 509 represents a reworking of a Standard that has received Council action recently. Given the work undertaken by the Committee to look deeply and thoroughly at the Standards, it was perhaps inevitable that additional articulations of what consumer information should be required would result.

The revised Standard 509 divides the information that the Standard requires a law school to publish on its website into two categories: (1) that for which the Council prescribes a particular form and manner of publication; and (2) that which the school must disclose in a readable and comprehensive manner. The revised Standard covers these two categories in 509(b) and 509(c), respectively. There are prescribed charts for employment and conditional scholarship information [509(b)(3) and (b)(7)], and the other items in 509(b) are included in a table that is generated by schools within the Annual Questionnaire. The items in 509(c) are not susceptible to a uniform format, and so are governed by the “readable and comprehensible” requirement. The revised Standard deletes “library resources” and “facilities” as consumer information items. The provisions in current Standard 509(d)(1), (2) and (4) are redundant and unnecessary once “form and manner designated by the Council” is added to 509(b).

#### Revised Standard 510. STUDENTS COMPLAINTS IMPLICATING COMPLIANCE WITH THE STANDARDS

Revised Standard 510 is a renumbering of current Standard 512. Language is intended to meet U.S. Department of Education requirements.

### **Chapter 6 - LIBRARY AND INFORMATION RESOURCES**

#### Revised Standard 601. GENERAL PROVISIONS

The opaque requirement that a law library be “an active and responsive force,” in the life of the law school has been replaced by the more specific requirement that the library provide support adequate to enable a law school to carry out its program of legal education. The only significant addition to the current Standard is that the library is required to engage in planning and assessment. While all other requirements remain the same, the revised Standard has been rewritten to eliminate Interpretations by moving the information into the Standard. The revised Standard now clearly states four basic requirements for the library (provide support, develop a responsive relationship with users, engage in planning and assessment, and implement technology when appropriate) and one requirement for the law school (provide sufficient financial resources for the library to fulfill its responsibilities).

#### Revised Standard 602. ADMINISTRATION

No significant changes are recommended. The revised Standard has been rewritten for greater clarity.

#### Current Standard 603. DIRECTOR OF THE LAW LIBRARY

Revised Standard 603(a) adds “providing information resources in appropriate formats to faculty and students” as one of the overall management responsibilities of the law library director.

In revised Standard 603(c), the requirement that the law library director must have specific degrees for the position has been replaced with a requirement that the director must have “appropriate academic qualifications.” As in other provisions in the revised Standards, the Committee added the requirement that the director’s knowledge and experience must be “sufficient to support the program of legal education and to enable the law school to operate in compliance with the Standards.”

Revised Interpretation 603-1 provides guidance for the Accreditation Committee by elaborating on how a law school could meet the Standard.

The Standards Review Committee had recommended that the language of current Standard 603(d), which states that “a law library director shall hold a law faculty appointment with security of faculty position,” be replaced in revised Standard 603(d) with the requirement that the law library director “shall hold appointment as a member of the law faculty with the rights and protections accorded to other members of the full-time faculty under Standard 405.” Based on the Council’s decision to make no change to current Standard 405, this revised change was also not approved.

#### Revised Standard 604. PERSONNEL

The current Standard has been changed slightly to require a staff with expertise that will support the goals of the library and law school.

#### Revised Standard 605. SERVICES

No changes are recommended to the current Standard. The current Interpretation has been rewritten to better state how those services can be provided.

#### Revised Standard 606. COLLECTION

The revisions to current Standard 606 reflect the change from an emphasis on ownership of materials to providing reliable access to legal information. The revised Standard also links the choices of format and means of access to the needs of the institution. Revised Interpretation 606-2 elaborates on the definition of “reliable access” by providing ways to meet the Standard through ongoing access to databases or participation in a formal resource-sharing arrangement with other libraries.

### **Chapter 7 - FACILITIES, EQUIPMENT, AND TECHNOLOGY**

#### Revised Standard 701. GENERAL REQUIREMENTS

Current Standard 701 is now revised Standard 701(a) and has been expanded to include equipment, technology, and technology support. The language of current Standard 701, that a law school must have “physical facilities” that are “adequate for both its current program of legal education and for growth anticipated in the immediate future,” and of current Interpretation 704-1, that “inadequate technological capacities are those that have a negative and material effect on the education students receive,” have been replaced with the requirement that a law school shall have “facilities, equipment, technology, and technology support” that “enable it to operate in compliance with the Standards and carry out its program of legal education.” This new language is used throughout the revised Standards to make the Standards more objective and provide greater clarity.

Current Standard 704 and current Interpretations 701-1 and 704-1 have been incorporated into revised Standard 701(b), explaining that in order to violate the requirements of the Standards, the facilities, equipment, technology, or technology support must “have a negative and material effect on the school’s ability . . . to operate in compliance with the Standards; or . . . carry out its

program of legal education.” The purpose is to highlight the mandatory nature of this requirement.

This language is parallel to revised Standard 202 on resources. During its work, the Standards Review Committee heard from the Accreditation Committee that the current Standard regarding the adequacy or inadequacy of facilities presented interpretation problems. This change should facilitate interpretation of this requirement.

In light of the rapid changes in technology and technology support, Revised Interpretation 701-1 (current Interpretation 704-2 on adequate technological capacity), has been rewritten to highlight factors to be considered rather than requirements to be met.

### Revised Standard 702. FACILITIES

Revised Standard 702 is a new Standard and is based on a number of provisions that are in current Interpretation 701-2. It also incorporates current Standards 702 (Library) and 703 (Research and Study Space). Again, the purpose of this change is to highlight the mandatory nature of the facilities required.

As in revised Standard 701, the term “physical” has been deleted from the current Standard as redundant.

The word “adequate” is deleted throughout the revised chapter. The terms “suitable” or “suitable and sufficient” are used to make the revised Standards more objective.

Current Interpretations 701-2(1) and (2) have been combined by adding “skills offerings” in revised Standard 702(a)(1).

Current Standard 702 (Law Library) has been incorporated into revised Standard 702(a)(2) on facilities and has been rewritten for greater clarity.

Current Interpretation 701-2(5) had been replaced with the new language in revised Standard 702(a)(3).

Current Interpretation 701-2(3) regarding faculty offices was amended and rewritten as revised Standard 702(a)(4) to incorporate the new language of “suitable and sufficient” space.

Revised Standard 702(a)(5) requires that the facilities and equipment meet all applicable health and safety codes.

Revised Standard 702(a)(6) replaces current Interpretation 701-2(6). Consistent with language elsewhere, the concept of sufficiency has been added for greater clarity.

Revised Standard 702(a)(7) replaces current Interpretation 701-2(2) and is more specific in identifying the facilities required for any “in-house clinical programs” as well as identifying the purposes that those facilities should serve, such as assuring the ability to allow a clinical program to be conducted for the “competent and ethical representation of clients and meaningful

instruction and supervision of students.” Clinical facilities, then, must allow for confidential client interviewing, work and meeting space, and security for client files.

Current Standard 703 has been moved into revised Standard 702(a)(8) and (9), and has been redrafted to conform in style with revised Standard 702. The recommended language links research and study space to fulfilling the requirements of the Standards and to carrying out the school’s educational program.

The second sentence of current Interpretation 701-1 has been moved into revised Standard 702(b) to make clear its mandatory nature and also to clarify the nature of the mandate; that is, that the law school must meet this requirement “consistent with applicable law.”

Current Interpretation 701-4 is now revised Interpretation 702-1 and has been rewritten to clarify the requirement and to address leasing, financing, renewal, termination, and foreclosure.

Current Interpretation 701-5 is now revised Interpretation 702-2. The change is made to clarify law school control of a law school’s facilities.

Revised Interpretation 702-3 is new and was added to clarify the requirements for class and seminar rooms.

## **Chapter 8**

Chapter 8 has been deleted and the provisions in Chapter 8 have been relocated to other sections in the Standards, Rules, Interpretations, or Internal Operating Practices.

### **Current Standard 801. COUNCIL AUTHORITY**

Current Standard 801, which describes the process for Council approval of amendments to Standards, Interpretations, and Rules, has been moved to Rule 56 in the revised Rules.

### **Current Standard 802. VARIANCE**

Current Standard 802 and Interpretation 802-1 have been moved to Standard 107 in the revised Standards.

Current Interpretations 802-2 to 802-4 have been moved to Rule 25 in the revised Rules.

### **Current Standard 803. AMENDMENT OF STANDARDS, INTERPRETATIONS AND RULES**

Current Standards 803(a), (b), and (c), which describes the process for review of proposed amendments by the ABA House of Delegates, have been moved to Rule 57 in the revised Rules.

Current Standard 803(d), which describes a process for submitting proposals for amendments to the Managing Director, has been moved to Rule 11 of the Internal Operating Practices (IOP). The revised IOP requires the Standards Review Committee to report its recommendations on any proposal to the Council but does not impose a time limit on its report.