MEMORANDUM

TO: Interested Persons and Entities

FROM: The Hon. Rebecca White Berch, Council Chairperson
Barry A. Currier, Managing Director of Accreditation and Legal Education

DATE: June 14, 2016

SUBJECT: ABA Standards for Approval of Law Schools Matters for Notice and Comment

At its meeting held on June 3-4, 2016, the Council of the Section of Legal Education and Admissions to the Bar approved for Notice and Comment the following proposed revisions to the ABA Standards and Rules of Procedure for Approval of Law Schools:

- Standard 204
- Standard 303
- Use of the term “Full-Time Faculty” in the Standards

The proposed revisions and accompanying explanations are attached and published on the Section’s website: http://www.americanbar.org/groups/legal_education/resources/notice_and_comment.html.

The Council previously circulated and continues to solicit written comments on the following proposed revisions, which are also posted on the above-mentioned website:

- Interpretation 303-1
- Standard 311
- Standard 316
- Standard 501

We solicit and encourage written comments on all of the proposed changes listed above by letter or e-mail. Written comments should be submitted no later than Friday, July 29, 2016.

A hearing on all of the proposed changes is scheduled for Saturday, August 6, 2016, at 12:30 p.m., during the ABA Annual Meeting in San Francisco, California. Additional details will be posted on the Section’s website prior to the Annual Meeting.

Please address written comments on the proposals and requests to speak at the hearing to JR Clark, jr.clark@americanbar.org, by Friday, July 29, 2016.
Standard 204

Following the changes made to Standard 204 during the comprehensive review, several law schools commented that the Standard was confusing in that some of the requests for information to be included in the self study were duplicative. The proposed change more closely tracks the Department of Education requirement that an accrediting body require a self study comprising information regarding the educational quality of the program and efforts to improve the program. In addition to the site evaluation questionnaire, the self study would include the following: a statement of the law school’s mission and of its educational objectives in support of that mission, an evaluation of the educational quality of the law school’s program, and a description of the school’s continuing efforts to improve the educational quality of its program. The Interpretation referring to the availability of funds is deleted as being duplicative of the information requested in Standard 202.

Redlined:

**Standard 204. SELF STUDY**

Before each site evaluation visit the law school shall prepare a self study comprising (a) a completed site evaluation questionnaire, and (b) a law school self assessment that includes (1) a statement of the law school’s mission and of its educational objectives in support of that mission, (2) an assessment evaluation of the educational quality of the law school’s program, and (3) an assessment description of the school’s continuing efforts to improve the educational quality of its program. The Interpretation referring to the availability of funds is deleted as being duplicative of the information requested in Standard 202.

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**Standard 204. SELF STUDY**

Before each site evaluation visit the law school shall prepare a self study comprising (a) a completed site evaluation questionnaire, and (b) a law school self assessment that includes (1) a statement of the law school’s mission and of its educational objectives in support of that mission, (2) an evaluation of the educational quality of the law school’s program, and (3) a description of the school’s continuing efforts to improve the educational quality of its program.
Standard 303

Standard 301 requires that a law school maintain a rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession. The Standards provide each law school with a great deal of discretion concerning which courses to include in its curriculum to meet these goals, and the Standards do not dictate the specific content of those courses. One exception to this approach is Standard 303(a)(1) and the required course in professional responsibility. This proposal reflects the fact that professional responsibility instruction in law schools has evolved to focus on the rules of professional conduct and the values and responsibilities of the legal profession. Understanding rules of professional conduct and the values and responsibilities of the legal profession and its members are essential to meet the objectives of Standard 301. On the other hand, requiring instruction in the history, goals, and structure of the legal profession is not as directly related to preparing students for admission to the bar and for them to be effective, ethical members of the legal profession. The change would provide guidance to site teams, some of which have asked law schools to explain how their courses in professional responsibility provide information on the history of the legal profession.

Redlined:

Standard 303. CURRICULUM

(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:

(1) one course of at least two credit hours in professional responsibility that includes substantial instruction in the history, goals, structure, rules of professional conduct, and the values, and responsibilities of the legal profession and its members;

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(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:

(1) one course of at least two credit hours in professional responsibility that includes substantial instruction in rules of professional conduct, and the values and responsibilities of the legal profession and its members;
Use of the Term “Full-Time Faculty”

The Standards provide a definition for “full-time faculty member.” However, the term is used inconsistently throughout the Standards and very often the term “faculty” is used when “full-time faculty” is more appropriate. It is proposed that, in the 15 Standards and Interpretations noted below where the word “faculty” appears, the phrase “full-time” be added. These instances deal largely with governance issues. So, for example, it is added in Standard 201(a) to make clear that the dean and full-time faculty have the primary responsibility for governance of the law school. On the other hand, in Standard 606(c)(4), which deals with the role of the library in meeting the needs of students and faculty and does not deal with governance, “full-time” is not added because the Standard applies to meeting the needs of all faculty, including adjunct faculty members.

- Standard 201(a)
- Standard 201(b) - twice
- Standard 201(c)
- Standard 203(b)
- Standard 203(c) - twice
- Interpretation 203-1
- Interpretation 203-2 - twice
- Standard 315
- Interpretation 405-1 (also delete the word “law”)
- Interpretation 405-3
- Interpretation 405-4 - twice
- Interpretation 405-5 - twice (also delete the word “law”)
- Interpretation 601(a)(3)
- Standard 602(b)
- Interpretation 602-1
Standard 201. LAW SCHOOL GOVERNANCE

(a) The dean and the full-time faculty shall have the primary responsibility and authority for planning, implementing, and administering the program of legal education of the law school, including curriculum, methods of instruction and evaluation, admissions policies and procedures, and academic standards.

(b) The dean and the full-time faculty shall recommend the selection, retention, promotion, and tenure (or granting of security of position) of members of the full-time faculty.

(c) The dean and the full-time faculty shall each have a significant role in determining educational policy.

Standard 203. DEAN

(b) Except in extraordinary circumstances, a dean shall also hold appointment as a member of the full-time faculty with tenure.

(c) The dean shall be selected by the university or the governing board of the law school, as appropriate, which shall have and follow a procedure for decanal appointment or reappointment that assures meaningful involvement by the full-time faculty or a representative body of the full-time faculty in the selection of a dean.

Interpretation 203-1
Except for good cause, a dean should not be appointed or reappointed to a new term over the stated objection of a substantial majority of the full-time faculty.

Interpretation 203-2
In the appointment of an interim or acting dean, the university or the governing board of the law school, as appropriate, should follow a procedure that assures meaningful consultation with the full-time faculty or a representative body of the full-time faculty.

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

The dean and the full-time faculty of a law school shall conduct ongoing evaluation of the law school’s program of legal education, learning outcomes, and assessment methods; and shall use the results of this evaluation to determine the degree of student attainment of competency in the learning outcomes and to make appropriate changes to improve the curriculum.

Standard 405. PROFESSIONAL ENVIRONMENT

Interpretation 405-1
A fixed limit on the percent of a law full-time faculty that may hold tenure under any circumstances violates the Standards.
Interpretation 405-3
A law school shall have a comprehensive system for evaluating candidates for promotion and tenure or other forms of security of position, including written criteria and procedures that are made available to the full-time faculty.

Interpretation 405-4
A law school not a part of a university in considering and deciding on appointment, termination, promotion, and tenure of full-time faculty members should have procedures that contain the same principles of fairness and due process that should be employed by a law school that is part of a university. If the dean and full-time faculty have made a recommendation that is unfavorable to a candidate, the candidate should be given an opportunity to appeal to the president, chairman, or governing board.

Interpretation 405-5
If the dean and full-time faculty have determined the question of responsibility for examination schedules and the schedule has been announced by the authority responsible for it, it is not a violation of academic freedom for a member of the law full-time faculty to be required to adhere to the schedule.

Standard 601. GENERAL PROVISIONS
(a) A law school shall maintain a law library that:

   ... 

   (3) working with the dean and full-time faculty, engages in a regular planning and assessment process, including written assessment of the effectiveness of the library in achieving its mission and realizing its established goals; and

Standard 602. ADMINISTRATION
(b) The director of the law library and the dean, in consultation with the full-time faculty, shall determine library policy.

Interpretation 602-1
This Standard envisions law library participation in university library decisions that may affect the law library. While it is preferred that the law school administer the law library, a law library may be administered as part of a university library system if the dean, the director of the law library, and the full-time faculty of the law school are responsible for the determination of basic law library policies, priorities, and funding requests.