

MEMORANDUM

To: Greg Murphy, Chair
Section of Legal Education and Admissions to the Bar

From: Pamela Lysaght, Chair
Standards Review Committee
Barry Currier, Managing Director
Section of Legal Education and Admission to the Bar

Date: July 25, 2017

Re: Invitational Roundtable

The Standards Review Committee (Committee or SRC) held an Invitational Roundtable as part of its July Retreat. This report provides an overview and summary of the Invitational Roundtable.

The idea of hosting the Invitational Roundtable evolved from discussions with the office about ways to seek greater input from legal education's constituencies. The Council annually requests suggestions and recommendations from interested parties, as required by Internal Operating Practice 8, regarding issues related to the *ABA Standards and Rules of Procedure for Approval of Law Schools*, but this practice yields only a limited number of suggestions. The recommendations received are rarely focused on the broader issues facing legal education. Similarly, the correspondence received throughout the Notice and Comment periods are related to very specific proposals. As such, there is little occasion to hear from a broad constituency about the issues facing legal education. Taking a page from past SRC events that successfully engaged a wider group on a variety of legal education issues, we proposed hosting an invitational roundtable. We are grateful for the Council leadership's support for, and participation in, this event.

We sent out 25 invitations to various interested parties and ABA entities, asking that they send a representative to the Friday afternoon session of the SRC's July retreat to discuss the following topic: In light of a number of current issues facing legal education, including cost, declining job opportunities, and declining bar passage, in what ways can the Standards encourage innovation or be revised to address these challenges?

The response to the invitation was positive, with 20 entities sending a representative. Each of the six roundtables had a blend of guests, SRC members, Council members, and staff. A list of attendees and table assignments is attached.

Discussion leaders focused on four questions:

1. What are the primary functions of accreditation in legal education?
2. What are the greatest challenges facing legal education?
3. In what ways do the Standards exacerbate the challenges or impede innovation?
4. Which Standards are critical to retain?

Each table was asked to reach a consensus on each of these questions. Alternatively, if the group was not able to reach consensus on any question, they were asked to identify why. Reporters provided a summary of answers for each table at the conclusion of the discussions. A number of themes stand out for each question posed.

1. What are the primary functions of accreditation in legal education?

- Protect law school applicant and consumer (students and the public)
- Define quality of the program of legal education
- Provide transparency so that students can make informed decisions
- Maintain professional standards
- Maintain self-governance
- Provide minimum standards for training students v. best practices
- Provide an opportunity for law schools to engage in self reflection and assessment through the sabbatical inspection process
- Set of baseline standards that allows law schools to give students the opportunity to pass a bar exam to meet state supreme court expectations
- Department of Education and Supreme Courts depend on ABA Council to set baseline
- Ensure that graduation from an ABA accredited law school remains the “gold standard” as the gateway; some courts are opening alternative doors

2. What are the greatest challenges facing legal education?

- Student debt and how that impacts public interest work and repayment options
- Lack of diversity of students in the law school
- Reductions in state funding to public law schools
- Job market
- *U.S. News & World Report's* rankings on legal education and the resultant use by law schools of their resources to improve rankings instead of helping students with more financial aid and academic support programs
- Impact of technology
- Declining numbers of applicants
- Decreasing resources, budget constriction, changing financial model for law schools
- Denial of the problems by many law schools and failure to take action
- Faculty not inclined to embrace change
- Societal view of the profession; no effort by the legal academy to speak out about the importance of law school and the rule of law
- Access to justice gap
- Public's unrestricted access to legal information; decreased willingness to pay for legal information that can be obtained for “free”
- Incentives of merit-based aid and demise of need-based aid; unrestrictive access to federal funding/student loans
- Possible rise of limited license professionals
- Lower bar passage scores

3. In what ways do the Standards exacerbate the challenges or impede innovation?

- Standard 503 – the requirement of an admissions test does not allow for a holistic approach to admissions
- Standard 106 – should not be changed in a way that would stifle innovation
- Standard 107 – variances; there needs to be more transparency and disclosure as to the variances granted
- Standard 316 – bar examination; whether a bright line is fair to law schools/states with higher cut scores; the specificity of Standard 316 is somewhat at odds with the diversity of admission standards
- Standard 306 – distance education: too restrictive
- Prescriptive standards impede innovation
- Not every attempt at innovation works; it has to be okay for things not to work so schools are willing to take risks
- Self study places too much emphasis on meeting each minimum Standard but should focus more on improvement as required in Standards 204 and 315
- Standards are too restrictive; don't allow for enough flexibility
- Standards make it difficult to keep pace with change (e.g., distance education)
- The Standards reinforce the status quo in direct and subtle ways, especially Chapter 4
- Library standards are too prescriptive
- The Standards add to the costs for law schools of administration, facilities, faculty, etc.
- Perception of lack of enforcement of Standards or Standards that appear to be weak (e.g., bar passage standard) is harmful to the reputation of legal education and dampens interest in enrollment
- ABA could help with innovation in legal education by actively and affirmatively working with the states to review/rethink outdated bar exams that were designed to assess competence for generalist legal practitioners that have largely disappeared over the last few decades

4. Which Standards are critical to retain?

- Standard 509 – consumer information; keeps law schools accountable; transparency very important to students/applicants
- Standard 501 – admissions; law schools must be accountable for the students they matriculate
- Standards 205 and 206 on diversity and inclusion
- Retain Standards that maintain autonomy of law schools within their universities
- Retain Standards that ensure quality
- Retain outcome Standards, which will permit fewer input Standards
- Retain Standards involving professional skills
- Retain Standards focusing on self assessment
- Retain generally Chapter 3, but changes are needed to Standard 316, as well as the bar examination itself
- One group focused on which Standards could be eliminated and listed Chapters 4, 6, and 7; another group listed Standards relating to full-time faculty as critical

- Review other professions to see what we can borrow from them
- There are political implications when determining which Standards to retain

All in all, we view the Invitational Roundtable as very successful. Going forward, we ask that the Council charge the SRC's proposed Global Review working group with reviewing the Standards from the perspective of the questions posed at the Invitational Roundtable as it considers the scope and timing of the next comprehensive review. We also hope to hold additional roundtables as part of that process.

Attachment

Standards Review Committee Meeting Invitational Roundtable Table Assignments

Table 1

- Bill Adams (*Deputy Managing Director*) – *Leader*
- Bob Cooper (*SRC*) – *Reporter*
- Wanda Temm (*ALWD*)
- Kyle McEntee (*Law School Transparency*)
- Theresa Kaiser-Jarvis (*Foreign Programs Subcommittee*)
- Skip Harsch/Paul Johnson (*ABA Commission on Sexual Orientation and Gender Identity*)
- Allison Dussias (*SRC*)

Table 2

- Doug Blaze (*SRC*) – *Leader*
- Tomea Mersmann (*SRC*) – *Reporter*
- David Mao (*AALL*)
- Elizabeth Pendo (*ABA Commission on Disability Rights*)
- Dave Morrow (*ABA Young Lawyers Division*)
- Anthony Caprio (*SRC*)
- Becky Stretch (*Accreditation Counsel*)

Table 3

- Sue Kay (*Accreditation*) – *Leader*
- Monica Ingram (*SRC*) – *Reporter*
- Dan Cotter (*NCBP*)
- Judy Gundersen (*NCBE*)
- Sammy Chang (*ABA Law Student Division*)
- Maureen O'Rourke (*Council*)
- Scott Norberg (*SRC*)

Table 4

- Jeff Lewis (*Council*) – *Leader*
- Stephanie Giggetts (*Accreditation Counsel*) – *Reporter*
- Claudio Angelos (*CLEA*)
- Christina Whitman (*LSAC*)
- Chris Chapman (*AccessLex*)
- Bethany Myles (*ABA Board of Governors*)
- Peter Joy (*SRC*)

Table 5

- Veryl Miles (*SRC*) – *Leader*
- Ed Butterfoss (*Accreditation Project Director*) – *Reporter*
- Alli Gerkman (*LAALS*)
- Theresa Gronkiewicz (*ABA Center for Professional Responsibility*)
- Jerry VandeWalle (*Conference of Chief Justices*)
- Scott Pagel (*SRC*)
- Peter McDonough (*SRC*)

Table 6

- Chris Pietruszkiewicz (*SRC*) – *Leader*
- Craig Boise (*SRC*) – *Reporter*
- Terry Brooks (*ABA Division for Legal Services*)
- Keya Koul (*ABA Council for Racial and Ethnic Diversity in the Educational Pipeline*)
- Denise Roy (*SALT*)
- Pam Lysaght (*SRC, Chair*)
- Len Strickman (*SRC*)