

**Section of Legal Education and Admissions to the Bar**  
**American Bar Association**  
**Council Meeting, Open Session Minutes**  
**Friday, November 3, 2017**  
Boston, Massachusetts

**Council Members present:** Diane F. Bosse, Esq.; Mr. David Byers; Samuel Chang (Law Student Division Member); Dean and Professor Emeritus Roger J. Dennis; Dean Emeritus and Professor Antonio Garcia-Padilla; President Emeritus Robert Glidden; President and Dean Donald Guter; Professor Emeritus James M. Klein; Mathew Kerbis, (Section Liaison to the Young Lawyer Division); Dean Emeritus and Professor Jeffrey Lewis; Professor Leo Martinez; Gregory G. Murphy, Esq.; Dean Emeritus and Professor Cynthia Nance; the Honorable Jequita H. Napoli; the Honorable Solomon Oliver, Jr. (Section Delegate to the ABA House of Delegates); Dean Maureen O'Rourke, (Chair); Raymond C. Pierce, Esq.; the Honorable Mary R. Russell; the Honorable Phyllis Thompson; and Joseph K. West, Esq.

**Council Members absent:** E. Fitzgerald (Jerry) Parnell III (Section Liaison to the Board of Governors); James J. Hanks, Jr., Esq.; Associate Dean and Professor Joan Howland (Section Delegate to the ABA House of Delegates); President Mary Campbell McQueen; Vice Chancellor Charles Ray Nash.

**Volunteer leaders and staff present:** Honorable Scott Bales (Chair, Accreditation Committee); Professor Emeritus Pamela Lysaght (Chair, Standards Review Committee); Deputy Managing Director Bill Adams; Director of Operations Carl Brambrink; Manager JR Clark; Managing Director Barry Carrier; Accreditation Counsel Stephanie Giggetts; Deputy General Counsel Lauren Robinson; Section Director Erin Ruehrwein; and Accreditation Counsel Becky Stretch.

**Guests and Affiliates present:** Various guests and affiliates attended the Open Session.

**A. Minutes**

The minutes of the August 11, 2017 Open Session Council Meeting were unanimously approved.

**B. Employment Outcomes Reporting Form**

Standards Review Committee (SRC) Chair Pamela Lysaght reported on the SRC's recommendation for a proposed legend for the 2017 Employment Summary form. The proposed form includes a simple legend and moves to a one-page format, providing a link to the category definitions. The Committee overwhelmingly recommended this legend and one-page format. After discussion, the Council adopted the SRC recommendation.

The Council will receive a report and recommendation on the public report form for the class of 2018 at its next meeting in February.

### **C. ABA Young Lawyers Division Request**

Matthew Kerbis, YLD Liaison to the Council, presented a YLD resolution urging the Council to amend Section Bylaws to provide that at least two of the voting members-at-large of its Section Council shall be young lawyers who are not employed as a law school dean, faculty or staff member.

After much discussion, the Council (a) thanked the YLD for its interest in the Council's work; (b) agreed that having the perspective of young lawyers on the Council would be helpful and appropriate; and (c) while declining to adopt the YLD recommendation for amendment to the Section Bylaws, agreed to communicate to the Chair of the Section's Nominating Committee its desire that the committee directly reach out to the YLD when soliciting Council nominations and otherwise seek to recruit good young lawyers to the Council's work.

### **D. Internal Operating Procedures 14 and 15**

Stephanie Giggetts presented a recommendation to modify Internal Operating Practices 14 and 15 to be in harmony with the Section Bylaws relating to a complaint/grievance process in the Section. The council voted to approve the changes.

### **E. Affiliate Oral Reports**

Wanda Temm, Immediate Past President of the Association of Legal Writing Directors, reported on the Biennial Conference on Diversity and Inclusion, held in Minnesota in July, as well as the Association's strategic plan.

Kellye Testy, President of the Law School Admission Council, reported on the most recent applicant volume and other recent initiatives of her office and the LSAC Board.

Denise Roy, Co-President of the Society of American Law Teachers, reported on the work of its committees which include legal education, human rights and equality and access to justice. She also discussed their participation in the Standards Review Committee roundtables, their pipeline for faculty, and the teaching conference.

## F. Standards Review Committee

### Standards previously posted for notice and comment

Pamela Lysaght reported the recommendations of the SRC for final action on standards and rules matters that had been put out by the Council for notice and comment.

Standard 106 Separate Locations and Branch Campuses: The Committee unanimously recommends that the Council adopt the proposed changes to Standard 106, which resolves an inconsistency between Standard 106(b)(1) and Rule 30(b)(1) regarding acquiescence and branch campuses. **The Council voted to approve the changes.**

Standard 403 Instructional Role of Faculty: The Committee recommends that the Council adopt the proposed revisions, which would remove the requirement on the percentage of the overall curriculum that must be taught by full-time faculty in Standard 403(b). After considerable discussion, which included discussion of the comments received on the proposal as well as the SRC recommendation, the **Council declined to approve the proposed changes to this standard.**

Standard 503 Admissions Test: After discussion and review of the comments received, the Committee offered three options to the Council. **The Council declined to approve the proposed changes to this standard** that would have created, in effect, a national approval process for law school admissions tests. Instead, after review of the options presented by the SRC, **the Council agreed to put out Option 1 out for Notice and Comment. That option would (a) eliminate Standard 503; and (b) revise Standard 501 by moving Interpretation 501-1 (factors to consider in assessing compliance with Std. 501) into the black letter of the Standard.** The result of these changes would be that the requirement of a valid and reliable admissions test would be removed from the standards, but an admissions test would be one of the factors to be considered in determining whether a law school complied with Standard 501.

Standard 316: The Council considered how to proceed on the changes that it had approved to Standard 316 (Bar Passage), which had not been concurred in by the ABA House of Delegates. After much discussion, the Council took no action to modify or change the changes to the Standard that it had approved but did vote to defer sending the matter back to the ABA House of Delegates at the February 2018 ABA Midyear Meeting.

**SRC recommendations for revisions requiring notice and comment to Standards 205, 206, 303, 304, 306, and 601**

Standard 205 (Non-Discrimination and Equality of Opportunity) and Standard 206 (Diversity and Inclusion): The Committee unanimously recommended that the Council distribute for Notice and Comment the proposed changes to Standards 205 and 206. These revisions would: (a) include “gender identity” and “ethnicity” in lists of minority and underrepresented groups in both Standard 205 and Standard 206; (b) revise Standard 206 in several ways, including adding a new Standard 206(c) that requires a law school to provide an environment “that is inclusive with respect to race, color, ethnicity, religion, national origin, gender, gender identity, sexual orientation, age, and disability.” **The Council adopted the SRC’s recommendation and these proposed changes will be put out for notice and comment.**

Standard 303 Curriculum and Standard 304 regarding simulation courses, clinics, and field placements: The Committee unanimously recommends that the Council distribute for Notice and Comment proposed changes to Standards 303 and 304 and Interpretations 303-1, 304-1, and 305-1. The recommended changes are designed to provide greater clarity to the interplay between Standards 303 and 304, and to remove language previously duplicated in these two Standards. **The Council adopted the recommendation.**

Standard 306 Distance Education: The Committee recommends that the Council distribute for notice and comment proposed changes to Standard 306 that would allow a law school to grant credit to a student for up to 50% of the work needed to earn the J.D. degree. The Committee’s vote was unanimous, with one abstention. **The Council adopted the recommendation.**

Standard 601: The Committee unanimously recommends that the Council distribute for Notice and Comment the proposed change to Standard 601, which would clarify the form of assessment required under Standard 601(a)(3). **The Council adopted the recommendation.**

### **Proposed Changes in the Rules of Procedure**

The SRC recommended several proposed changes to the Rules of Procedure. The Council voted to approve those changes for notice and comment.

### **Rule 23: Council Consideration of Appeal from Accreditation Committee Decision**

Rule 23 currently provides that a law school may appeal a decision of the Accreditation Committee by filing a written appeal within 30 days after the date of the letter reporting the decision. If a law school does not file an appeal, the Committee’s decision becomes final after the expiration of the 30-day appeal period. The proposed amendment would

shorten the appeal period to 15 days so that the Council can comply with Department of Education requirements and IOP 4, requiring the Council to post a final decision to find a law school significantly out of compliance with one or more Standards under Rule 12(a)(4) no later than thirty days after the Committee reaches the decision. The Council voted to approve the proposed change to Rule 23.

### **Restructuring of the Council**

The ad hoc working group assigned to work on a proposal that would merge the Accreditation Committee (AC) and the Standards Review Committee (SRC) into the Council presented its work since the August Council Meeting when the Council voted to move forward with the merger project. The working group presented the proposed revised Standards and Rules of Procedure needed to implement the merger.

The working group recommended that the Council send out the proposal (concept and specifics) for Notice and Comment. After discussion, the Council voted to send out the proposal for Notice and Comment.

### **Section Director's Report**

Section Director Erin Ruehrwein reported on Section activities including membership, an upcoming webinar on law school diversity initiatives, the 2018 Law School Development Conference, the work of the Publications and Conferences and Programming Committees, the Fall 2017 issue of *Syllabus*, and provided an update on the new ABA website, expected to launch in March of 2018.

### **Law Student Division Report**

Law student Council member, Samuel Chang, reported on recent activities in the Law Student Division. He also noted that the Legal Ed student Council member now serves (ex officio) on Law Student Division's (LSD) Council.

### **Young Lawyers Division Report**

Young Lawyers Division (YLD) liaison, Matthew Kerbis, reported on the YLD's service project, Home Safe Home, and updated the Council on the various YLD resolutions.

### **House of Delegates Report**

Section Liaison to the House of Delegates, Solomon Oliver, Jr., noted that he and Liaison Joan Howland will represent the Section at the Midyear Meeting.

### **Managing Director's Report**

Managing Director, Barry Currier, reported on the various information items provided to the Council at this meeting, including particularly the Task Force on Lawyer Well-Being report.

### **Chairperson's Report**

Council Chair, Maureen O'Rourke, thanked the Council and staff for their hard work.

There being no further business to conduct in Open Session, Chair O'Rourke adjourned the Open Session of the Council at 5:15 p.m.