

# MEMORANDUM

To: Dean Maureen O'Rourke, Chair  
Council of the Section of Legal Education and Admissions to the Bar

From: Managing Director's Office

Date: April 26, 2018

Re: Comments Received on Items Circulated for Notice and Comment on  
Proposed Changes to the Standards for Reorganization

This Memorandum addresses recommendations regarding the proposed revisions to the *ABA Standards for Approval of Law Schools* approved by the Council for Notice and Comment during its meetings held in November 2017.

Changes to the Standards were approved for Notice and Comment at the Council's November 2017 meeting to accomplish the task of reorganization of the Council. The proposed changes approved for notice and comment are attached as Appendix B. The information on Notice and Comment can be found at [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_www.americanbar.org\\_content\\_dam\\_aba\\_administrative\\_legal-5Feducation-5Fand-5Fadmissions-5Fto-5Fthe-5Fbar\\_council-5Freports-5Fand-5Fresolutions\\_20171215-5Fnotice-5Fand-5Fcomment.pdf&d=DwMFAG&c=7ypwAowFJ8v-mw8AB-SdSueVQgSDL4HiSaLK01W8HA&r=mMb1jbyWLQMEhWw35lD0zA&m=EHG4PZsbvzZF3xm\]peV5AmIPHe5vCYCGVQ1YX\\_6w26c&s=9C7GjAazIBf5tQzEFT8o2eTm1iW\\_QdNGLVvnVzZ5N5U&e=.](https://urldefense.proofpoint.com/v2/url?u=https-3A_www.americanbar.org_content_dam_aba_administrative_legal-5Feducation-5Fand-5Fadmissions-5Fto-5Fthe-5Fbar_council-5Freports-5Fand-5Fresolutions_20171215-5Fnotice-5Fand-5Fcomment.pdf&d=DwMFAG&c=7ypwAowFJ8v-mw8AB-SdSueVQgSDL4HiSaLK01W8HA&r=mMb1jbyWLQMEhWw35lD0zA&m=EHG4PZsbvzZF3xm]peV5AmIPHe5vCYCGVQ1YX_6w26c&s=9C7GjAazIBf5tQzEFT8o2eTm1iW_QdNGLVvnVzZ5N5U&e=)

No comments were received during the Notice and Comment period, and no testimony was offered at the Committee's April 12, 2018 hearing.

**Recommendation:** The Managing Director's Office recommends adoption of the proposed changes.

# Definitions

As used in the Standards, Interpretations, and Rules of Procedure:

- ~~(1)~~ (1) **“Accreditation Committee” or “Committee” means the Accreditation Committee of the Section.**
  
- ~~(2)~~ (1) **“Approved law school” means a fully approved law school that the Council or Accreditation Committee has determined meets the requirements of Standard 103 or a provisionally approved law school that the Council or the Accreditation Committee has determined meets the requirements of Standard 102.**
  
- ~~(3)~~ (2) **“Association” means the American Bar Association.**
  
- ~~(4)~~ (3) **“Branch campus” means a type of separate location at which a student may earn more than two-thirds of the credit hours that the law school requires for the award of a J.D.**
  
- ~~(5)~~ (4) **“Council” means the Council of the Section.**
  
- ~~(6)~~ (5) **“Dean” means the chief administrative officer of a law school and includes an acting or interim dean.**
  
- ~~(7)~~ (6) **“Full-time faculty member” means an individual whose primary professional employment is with the law school, who is designated by the law school as a full-time faculty member, who devotes substantially all working time during the academic year to responsibilities described in Standard 404(a), and whose outside professional activities, other than those described in Standard 404(a), if any, do not unduly interfere with his or her responsibilities as a full-time faculty member.**
  
- ~~(8)~~ (7) **“Governing board” means a board of trustees, board of regents, or comparable body that has ultimate policy making authority for a law school or the university of which the law school is a part.**
  
- ~~(9)~~ (8) **“House” means the House of Delegates of the American Bar Association.**
  
- ~~(10)~~ (9) **“Interpretations” mean the Interpretations of the Standards for Approval of Law Schools.**
  
- ~~(11)~~ (10) **“J.D. degree” means the professional degree in law granted upon completion of a program of legal education that is governed by the Standards.**
  
- ~~(12)~~ (11) **“Managing Director” means the Managing Director of the Section of Legal Education and Admissions to the Bar of the American Bar Association.**

~~(13)~~**(12)** “President” means the chief executive officer of a university or, if the university has more than one administratively independent unit, of the independent unit. If a law school is not part of a university, “president” refers to the chief executive officer of any entity that owns the law school, if there is such a person, or else the Chair of the Board of Directors of the law school.

~~(14)~~**(13)** “Probation” is a public status indicating that a law school is not being operated in compliance with the Standards and is at risk of having its approval withdrawn.

~~(15)~~**(14)** “Rules” mean the Rules of Procedure for Approval of Law Schools.

~~(16)~~**(15)** “Section” means the Section of Legal Education and Admissions to the Bar of the American Bar Association.

~~(17)~~**(16)** “Separate location” means a physical location within the United States: (1) at which the law school offers J.D. degree courses, (2) where a student may earn more than sixteen credit hours of the school’s program of legal education, and (3) that is not in reasonable proximity to the law school’s main location.

~~(18)~~**(17)** “Standards” mean the Standards for Approval of Law Schools.

~~(19)~~**(18)** “University” means a post-secondary educational institution, whether referred to as a university, college, or by any other name, that confers a baccalaureate degree (and may grant other degrees).

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

A law school shall furnish a completed annual questionnaire, self-study, site evaluation questionnaire, and such other information as the ~~Accreditation Committee or~~ Council may require. This information must be complete, accurate, and not misleading, and must be submitted in the form, manner, and time frame specified by the Council.

## **Standard 107. VARIANCES**

- (a) A law school proposing to make any change that is or may be inconsistent with one or more of the Standards may apply to the Council for a variance only on one of the following bases:
- (1) A law school may apply for a variance in response to extraordinary circumstances in which compliance with the relevant Standard or Standards would create or constitute extreme hardship for the law school and/or its students. In such cases, the law school must demonstrate that: i) the proposed variance is consistent with the general purposes and objectives of the overall Standards, and ii) the anticipated benefits of granting the variance outweigh any anticipated harms to the law school’s program or its students.

The variance, if granted, will be for a term certain and limited to the expected

duration of the extraordinary circumstances on the basis of which it was granted. It may be extended once for a further term certain, but only if the extraordinary circumstances persist and are beyond the control of the law school.

The decision granting a variance on this basis may require the law school to report to the Managing Director, ~~the Accreditation Committee~~, or the Council regularly as specified in the decision.

- (2) In all variance applications that do not fall within subsection (a)(1), the law school must demonstrate that: i) the proposed variance is consistent with the general purposes and objectives of the overall Standards, ii) the proposed changes or actions that are the basis for the requested variance are experimental or innovative and have the potential to improve or advance the state of legal education, and iii) the anticipated benefits of granting the variance outweigh any anticipated harms to the law school's program or its students.

The variance, if granted, shall be for a term certain and can be extended once, with the extension being for either a further term certain or indefinite, but subject to revocation on the basis of either a change in the showing made by the law school when the variance was granted or a change in circumstances.

The decision granting a variance on this basis may require the law school to report to the Managing Director, ~~the Accreditation Committee~~ or the Council regularly as specified in the decision.

- (b) If the changes that are the subject of the application for a variance constitute or come to constitute a major change in programs or structure under Standard 105 or 106, then the law school shall seek acquiescence by the Council in order to initiate or continue the changes.
- (c) A variance, when granted, is school specific and shall be based on and limited to the facts and circumstances that existed at the law school at the time it applied for the variance.