Summary of Comments and Recommendations
ABA Standards, Rules of Procedure, and Internal Operating Practices 2020-2021

The Council of the Section of Legal Education and Admissions to the Bar (the “Council”) solicited ideas and suggestions regarding issues related to the ABA Standards and Rules of Procedure for Approval of Law Schools that the Council might consider during the 2020-2021 year on April 21, 2020. Below is a summary of the comments received. The submitted comments are attached. As always, there were thoughtful and timely suggestions.

The Standard Review Subcommittee’s goals for this year are to focus on lawyer well-being and professional responsibility; equity, diversity and inclusion, including bias, cultural competency, and concrete actions; and substantive matters related to distance education and consider how the Standards and Rules can be updated to address these issues.

The following SRS’s recommendations of items to take up from the comments received are consistent with the stated goals for this year’s SRS review.

Changes to Standards

Standard 104-Provision of Information by Law Schools to the Council. A comment was submitted by Barry Currier recommending that this Standard be revised to provide that law schools furnish “all questionnaires, the self study, and other information required by the Council,” to take into account new questionnaires and the fact that the SEQ has been replaced with the self study.

Recommendation: We recommend making this change to the Standard as a simple clarification that all questionnaires are covered by this Standard.

Standard 206-Diversity and Inclusion. Staff submitted a copy of concrete action steps published by Penn State Law recommending that the Council consider such action steps when determining compliance with this Standard. The action steps could also be discussed as part of the roundtable discussions.

Recommendation: We recommend considering these action steps as part of the roundtable discussions as it is consistent with the stated goals for this year for SRS to focus on bias and concrete action.
Standard 206-Diversity and Inclusion. A comment was submitted by the ABA Diversity and Inclusion Center noting that the group had reached consensus for changes to this standard that include adding equity to the title and requiring law schools to demonstrate by concrete action a commitment to diversity by having a student body, faculty and staff that are diverse with respect to gender identity, sexual orientation, and disability (in addition to the current language “gender, race, and ethnicity”).

Recommendation: We recommend that the Council revisit consideration of this Standard. In April 2018, the SRC considered changes to Standard 206, including the addition of categories to Standard 206(b). SRC recommended not changing Standard 206(b), but adding 206(c) and Interpretation 206-3, to respond to the calls for law schools to be welcoming to students in the categories listed. No action was taken at this time as there was not consensus among the ABA groups. The ABA Diversity and Inclusion Center has now reached consensus, and in accordance with the goals of the SRS, we think this is the appropriate time to reconsider this standard.

Standard 302-Learning Outcomes. We received a comment from the ABA Commission on Lawyer Assistance Programs, The National Task Force on Lawyer Well-Being, and the ABA Law Student Division, recommending that professional well-being be included as a learning outcome.

Recommendation: We recommend that the Council move forward with this matter as part of a roundtable discussion. This recommendation was submitted in 2019 and was planned to be part of the roundtable discussions that have been postponed until the fall due to COVID-19.

Standard 303-Curriculum. We received a comment from the ABA Commission on Lawyer Assistance Programs, The National Task Force on Lawyer Well-Being, and the ABA Law Student Division, recommending that an interpretation be added to Standard 303 that two hours in the Professional Responsibility course be dedicated to education on substance use and mental health.

Recommendation: We recommend that the Council move forward with this matter as part of a roundtable discussion. This recommendation was submitted in 2019 and was planned to be part of the roundtable discussions that have been postponed until the fall due to COVID-19.

Standard 303-Curriculum. We received a comment from the Clinical Legal Education Association recommending that the Council amend Standard 303(a)(3) to require every J.D. student to complete the equivalent of at least 15 credit hours of experiential coursework.

Recommendation: We recommend not taking this matter up at this time as it is beyond the scope of the SRS goals for the year.
**Standard 303-Curriculum.** We received a comment from the ABA Standing Committee on Professionalism recommending that the following language be added to Standard 303 (b):

(b) A law school shall provide substantial opportunities to students for:

(3) developing their professional identity [developing their professionalism] including integrating their personal values with their ethical responsibilities, and promoting the integrity of, and respect for, the legal profession.

The comment also provided suggested language on an interpretation to explain what the addition of professional identity is meant to achieve.

**Recommendation:** We recommend that the Council move forward with this matter as part of a roundtable discussion as it is consistent with the stated goals for this year for SRS to focus on professional responsibility.

**Standard 303-Curriculum.** We received a comment from Professor Norwood of Washington University School of Law recommending a mandatory course for all law students dealing with bias and cultural competency issues. Professor Norwood supplemented her comment with a letter signed by over 150 law school deans urging the Council to charge the Standards Review Subcommittee to study and consider enacting a requirement that every law school must provide training and education of its students with regard to bias, cultural awareness, and anti-racist practices.

**Recommendations:** We recommend that the Council move forward with this matter as part of a roundtable discussion as it is consistent with the stated goals for this year for SRS to focus on bias and cultural competency.

**Standard 304-Experiential Courses: Simulation Courses, Law Clinics, and Field Placements.** We received a comment from the Clinical Legal Education Association recommending that Standard 304 be amended to clarify that in field placements, both the faculty member and the site supervisor have an obligation to supervise and provide feedback to a student.

**Recommendation:** We recommend that the Council move forward with this matter as SRS believes it is important that students receive feedback from both the faculty member and the site supervisor.

**Standard 304-Experiential Courses: Simulation Courses, Law Clinics, and Field Placements.** We received a comment from the ABA Standing Committee on Professionalism recommending that the integration required in Standard 304(a)(1) for experiential courses (doctrine, theory, skills, and legal ethics) include “professional identity formation” or “professionalism.”

**Recommendation:** We recommend that the Council move forward with this matter as part of a roundtable discussion as it is consistent with the stated goals for this year for SRS to focus on professional responsibility.
**Standard 306-Distance Education.** As a result of the changes to the approval process for a distance education program, and as a result of most schools moving to online learning during the COVID-19 process, we received comments addressing substantive issues on distance education. We extended the notice and comment period for submitting comments on substantive issues related to distance education until July 24, 2020.

**Recommendation:** We recommend considering substantive issues related to distance education.

**Standard 311-Academic Program and Academic Calendar.** We received a comment from Dean Berg at Case Western Reserve University School of Law recommending that Standard 311 be amended to allow credit for courses taken before a student has matriculated in a law school’s J.D. program.

**Recommendation:** We recommend not taking this matter up at this time as it is beyond the scope of the SRS goals for this year.

**Standard 311-Academic Program and Academic Calendar.** We received a comment from Russell Kane, a law student, asking that Standard 311 be amended to specify that it includes classes on Zoom. He also suggested that a CLE be provided on Standard 311.

**Recommendation:** We believe that the current language in Standard 311, requiring 64 credit hours to be in courses that require attendance in regularly scheduled classroom sessions or direct faculty instruction, including Interpretation 311-1 that those credit hours may include credit hours earned through distance education, would include classes on Zoom and that no clarification is necessary. CLE is out of our jurisdiction.

**Standard 316-Bar Passage.** We received a comment from the Society of American Law Teachers recommending that Standard 316 be suspended in light of the COVID-19 disruptions to the 2020 bar examination.

**Recommendation:** The Council recognizes that COVID-19 has affected the administration of the July 2020 bar exam in jurisdictions across the nation. At this time, we recommend that the Council continue to monitor the situation and, if appropriate, take the potential impact of these disruptions into consideration when determining compliance.

**Standard 501-Admissions, and Interpretation 501-3.** A comment was submitted in 2019-2020 recommending that the Council add additional language to Interpretation 501-3 to address the type of evidence that a law school may proffer to rebut the presumption of non-compliance with Standard 501 if the law school has a cumulative non-transfer attrition rate above 20 percent for a class.

**Recommendation:** We recommend that the Council consider this matter to clarify the type of evidence a school may proffer to rebut the presumption. SRS agreed to take this up in 2019-2020 but was unable to complete its review due to COVID-19 demands.
**Standard 503-Admission Test.** In May 2018, the Council approved the removal of Standard 503 (the requirement of a valid and reliable admissions test). The Council also approved adding an admissions test as one of the factors relevant to determining whether a law school complies with Standard 501, Admissions. However, due to lack of support at the ABA House of Delegates meeting in August 2019, the matter was pulled from consideration.

**Recommendation:** We believe the Council should reconsider this matter and determine whether a standardized admission test is required by including it as part of a roundtable discussion.

**Standard 507-Student Loan Programs.** In August 2019, we received a comment from Chris Chapman, President and CEO of AccessLex, recommending a review of Standard 507. He stated that the focus of the Standard on default rates should be fully re-examined and supplemented or replaced.

**Recommendation:** Because this was an unsettled matter from last year, which we anticipated carrying over to this year, is the suggestion that the Council reconsider the objective of the standard, i.e., to encourage a certain set of inputs (reasonable efforts no matter the results) or to focus on outputs (defaults, repayment rates, debt to income ratios), or both. This is also a topic that will be taken up during the roundtable discussions this fall.

**Standard 508-Student Support Services.** We received a comment from the ABA Commission on Lawyer Assistance Programs, The National Task Force on Lawyer Well-Being, and the ABA Law Student Division, recommending that law school student services include the substance use and mental health counseling.

**Recommendation:** We recommend that the Council consider this matter as part of a roundtable discussion as it is consistent with the stated goals for this year for SRS to focus on lawyer well-being.

**Standard 509-Required Disclosures.** We received a comment from the Appalachian School of Law recommending that the deadline for employment reporting be moved to June 15th.

**Recommendation:** We recommend that this matter be referred to the Questionnaire Committee for consideration and for a recommendation on how to proceed.

**Other.** We also received a comment from the CLEA recommending that the Council increase transparency of decision-making by providing meaningful opportunities for affiliates to observe Standards Review Subcommittee meetings.

**Recommendation:** We believe that it would be hard to have open meetings of the SRS given the confidential discussions that take place regarding school matters while discussing changes and updates to the standards and rules. We propose increasing opportunities for affiliates to participate in our process through roundtable discussions.