Memorandum

To: The Council

From: Pamela Lysaght, Chair, Standards Review Subcommittee
       Stephanie Giggetts, Accreditation Counsel

Re: Internal Operating Practices 9 Suggestions for Review

Date: August 19, 2019

This Memorandum addresses the recommendations that were submitted to the office as part of the annual Internal Operating Practices 9 request for suggestions for the Standards Review Subcommittee’s 2019-2020 Agenda. As always, there were thoughtful and timely suggestions. As reflected in our August 9, 2019 memorandum to the Council, the SRS has a robust agenda planned for this year, mostly due to the proposed changes to the Department of Education regulations that affect our Standards and Rules. Additionally, the SRS has proposed recommending changes to the Standards and Rules that the Council identified as part of the accreditation process. Consequently, we are only able to recommend taking up some of the suggestions offered. A summary of the suggestions is attached as an Appendix and the correspondence from the various entities and individuals are available at https://www.americanbar.org/groups/legal_education/about_us/leadership/council_meetings/.

Our preliminary recommendations are to address the following suggestions because they are consistent with the stated goals for this year’s SRS review or are particularly timely. We note that due to the sheer volume of agenda items that the SRS is tasked with this year, the SRS’s review of most of the suggestions listed below may well need to be carried over to the 2020-2021 year.

Issues relating to Lawyer Substance Abuse and Promoting Lawyer Well-being
We received four comments requesting that we address issues related to substance abuse, stress, well-being, and sufficient counseling. Two of the suggestions recommend changes to Standard 303-Curriculum and the other recommendations focus on changes to Standard 302-Learning Outcomes and Standard 508-Student Services. Our recommendation is to combine these suggestions and look at the issues of lawyer substance abuse and well-being from both perspectives—curricular and student services. Because of the complexity of these issues, coupled with the various ways the Council may wish to proceed, we would anticipate this agenda item to be a two-year process. This item may benefit from a roundtable discussion with a wider group of interested parties as the SRS works through various options.

Standard 501-Admissions, and Interpretation 501
This suggestion focuses on clarifying 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. We recommend adding this suggestion to our agenda for this year as it is consistent with our overall goal on providing greater transparency.

**Standard 507-Student Loan Programs**

We are also recommending adding to our agenda 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. As with the recommendation on issues related to lawyer substance abuse and well-being, we would anticipate this agenda item carrying over to 2020-2021 and that a roundtable with interested parties would be helpful to the SRS’s review.
Appendix-Summary of Comments
ABA Standards and Rules of Procedure
2019-20

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 2019-2020 year on July 23, 2019. Below is a summary of the comments received. The actual comments can be found at https://www.americanbar.org/groups/legal_education/about_us/leadership/council_meetings/. (except for the comment to Standard 205 and Standard 206 as the commenter asked that it not be posted).

**Standard 205-Non-Discrimination and Equality of Opportunity, and Standard 206-Diversity and Inclusion.** A comment was submitted recommending that veteran’s status be added to Standards 205 and 206.

**Standard 205-Non-Discrimination and Equality of Opportunity.** A comment was submitted recommending that if the Council finds a law school out of compliance with Standard 205(b) (specifically gender discrimination), then a special investigator/special master will be sent to visit the law school within 60 days of the law school’s response to the Council’s finding of non-compliance. The report of the special investigator/special master will be provided to the Council in making its final determination on compliance with the Standard. It is also suggested that the report be disclosed to the faculty at the law school.

**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.

**Standard 303-Curriculum.** Barry Currier submitted a comment flowing from a meeting with the Professionalism Committee of the Conference of Chief Justices recommending that the Council consider whether the Standards should be amended to include as a graduation requirement that law schools include coverage of substance abuse, stress, and well-being as it relates to law school and the legal profession in the required course in professional responsibility.

We also 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.
**Standard 306-Distance Education.** Professor William Byrnes of the Texas A&M University School of Law submitted a comment recommending that the Council consider developing model Standards for online law school programs.

**Standard 501-Admissions.** A comment was submitted recommending that the Council create uniform law school admissions standards regarding deadlines for application submission, decision notification, and commitment deadlines.

**Standard 501-Admissions, and Interpretation 501-3.** A comment was submitted 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.

**Standard 507-Student Loan Programs.** Chris Chapman, President and CEO of AccessLex, submitted a comment recommending a review of Standard 507. He states that the focus of the Standard 507 Interpretations on default rates should be fully re-examined and supplemented/replaced. He also believes the Council should 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.

**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.

We also received a comment from Hannah Jellinek, recommending the addition of a standard that would required a law school to have in place an effective system of personal counseling for its students that includes programs to promote their well-being and to facilitate their adjustment to the physical and emotional demands of a legal education (language similar to the standard used by the Liaison Committee on Medical Education). Vincent D. Rougeau, Dean at Boston College Law School submitted a comment in support of Ms. Jellinek’s proposal.