May 10, 2013

Dean Kent Syverud, Chair
ABA Council of the Section of Legal Education and Admissions to the Bar
Dean, Washington University School of Law
Campus Box 1120
One Brookings Drive
St. Louis, MO 63130

Re: Comments on Draft Chapter 6 – Library and Information Resources

Dear Dean Syverud and the Standards Review Committee:

Below I offer comments on selected portions of the draft of Chapter 6 – Library and Information Resources.

**Draft Standard 601(b) & Non-Autonomous Law Schools**

Draft standard 601(b) states:

>A law school shall provide on a consistent basis sufficient financial resources to the law library to enable it to fulfill its responsibilities of support to the law school and realize its established goals.

There are approximately 5 non-autonomous law libraries among the 202 accredited law schools. Though small in number, it’s very possible that this group will grow as financially strapped law schools faced with making difficult decisions view a closer relationship with the university library an acceptable middle ground. Even if the number of non-autonomous Law Libraries does not grow, it is essential that this group of law school libraries is acknowledged and that the standards reflect their existence. Without an acknowledgement, in some cases, non-autonomous law libraries are simply not in compliance with some of the draft standards.

Financial resources of autonomous law libraries are typically allocated by the Dean of the Law School. Therefore, it is reasonable to assume that there is a balance between the expectations of the law school and the budget to support those expectations. On the other hand, the financial resources of non-autonomous law libraries are provided in whole or in
part by non-law schools funds. Most commonly these non-law school funds are derived from the University Library’s budget. Because the non-autonomous library’s funding structure differs from the majority of autonomous law schools, the law school’s expectations of the law library may be overly burdensome in light of the sometimes-limitied financial resources made available from non-law school sources. A Dean cannot compel the University to increase funding. A Dean can advocate to accomplish this, can ignore the gap, or can bridge the gap in financial resources by providing additional funding through the law school. If a gap in financial resources is a reality, the language of draft standard 601(b) could potentially burden non-autonomous law libraries with unfunded mandates. Please consider the following re-written draft standard:

A law school shall provide on a consistent basis sufficient financial resources to the law library to enable it to fulfill its responsibilities of support to the law school and realize its established goals. A law school whose library budget is derived, in whole or in part, from non-law school funds, shall provide sufficient financial resources to bridge budgetary gaps between the law school’s expectations for the law library and the financial resources needed to meet those expectations.

Draft Standard 602

Draft standard 602(a) states:

A law school shall have sufficient administrative autonomy to direct the growth and development of the law library and to control the use of its resources.

A more accurate ideal 602(a) will acknowledge the role of the Director of the Law Library as both a steward of financial resources and as collaborator with the Dean and the faculty in this regard. A re-draft could be expressed this way:

A law school, through the stewardship of the Law Library Director, shall have sufficient administrative autonomy to direct the growth and development of the law library and to control the use of its resources.

Draft standard 602(b) states:

The director of the law library director and the dean, in consultation with the faculty, shall determine library policy.

Relatedly, draft Interpretation 602-1 states:

This Standard envisions law library participation in university library decisions that may affect the law library. While it is preferred that the law school administer the law library, a law library may be administered as part of a university library system if the dean, the director of the law library, and faculty of the law school are responsible for the determination of basic law library policies, priorities and funding requests.

The drafters must have intended to emphasize the importance of the director by changing the order of the list in 602(b) so that the law library director is listed first. However, in
draft interpretation 602-1, the dean is listed first. For the sake of parity, the order should be changed so that the list is in the same order as in the draft of 602(b). The bold text above is the list that should be rearranged. A re-draft of Interpretation 602-1 could be expressed this way:

This Standard envisions law library participation in university library decisions that may affect the law library. While it is preferred that the law school administer the law library, a law library may be administered as part of a university library system if the director of the law library, the dean, and the faculty of the law school are responsible for the determination of basic law library policies, priorities and funding requests.

Standard 602(c) states:

The director of the law library and the dean are responsible for the selection and retention of personnel, the provision of library services, and collection development and maintenance.

Many academic law librarians, whether employed in autonomous or non-autonomous libraries, are employees of the campus University Library system. In addition, some institutions have unions and a tenure or permanent appointment system that limits personnel retention decisions. For these reasons, draft Standard 602(c) cannot be a reality in some institutions.

In addition, there should be a sustained effort for continuous evaluation of library services and collections to ensure that law libraries are continuously adapting to the changing legal education arena. A re-draft that acknowledges these two points could be expressed this way:

The director of the law library and the dean are responsible for the selection and retention of personnel consistent with each institution’s structure, personnel policies, union rules, and/or promotion & tenure standards. They are also responsible for the provision, maintenance, and continuous evaluation of library services and collections.

Draft Standard 606

Standard 606(b)(8) states:

A law library core collection shall include the following:
(8) those tools necessary to identify primary and secondary legal information and update primary legal information.

As written, this ABA draft standard implies, by omission, that the use of outdated secondary sources is acceptable. A re-draft could be expressed this way:

A law library core collection shall include the following:
(8) those tools necessary to identify primary and secondary legal information and update them accordingly.
Standard 606(c)(2) & 606(c)(3) appear to be very similar and could be consolidated into one.

Interpretation 606-1 states:

*A collection that consists of a single format may violate Standard 606.*

This draft standard sets online law schools up for accreditation failure even if reliable access to electronic legal materials is provided. This part of 606-1 should be struck out because it is too restrictive.

Interpretation 606-3 states:

*Off-site storage for non-essential material does not violate the standards so long as the material is organized and readily accessible in a timely manner.*

If materials sent off-site were non-essential, libraries would not keep them in any facility. Instead of non-essential, materials sent to off-site storage are more appropriately characterized as low-use material. A re-draft could be expressed this way:

*Off-site storage for low-use material does not violate the standards so long as the material is organized and readily accessible in a timely manner.*

Thank you for your consideration of these comments.

Sincerely,

Beth Adelman

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