January 31, 2014

Barry A. Currier
Managing Director of Accreditation and Legal Education
Section of Legal Education and Admissions to the Bar
American Bar Association
321 N. Clark Street, 21st Floor
Chicago, IL 60654-7958

Re: Proposed changes to the ABA Standards and Rules of Procedure for Approval of Law Schools

Dear Standards Review Committee Members:

The American Association of Law Libraries (AALL) welcomes the opportunity to submit these comments on the proposed changes to the ABA Standards and Rules of Procedure for Approval of Law Schools. AALL has over 5,000 members from a wide range of institutions, including law schools, law firms, government agencies, and corporate law departments. More than 1,780 association members report that they serve in law school law libraries in the United States, and the association’s Academic Law Library Special Interest Section has over 1,300 members.

The Standards have long recognized the crucial and central role law libraries play at law schools and have specified requirements relating to the law library since their publication in the Review of Legal Education in 1926-1927. Today, the law library and law librarians remain a fundamental component of the American law school. The rapid growth of legal information online has only increased the need for law students, faculty, and practitioners to have experts guiding them in finding relevant material for research, learning, and the practice of law. Law schools rely on library directors and their staff to meet the complex and sophisticated needs of users by acquiring materials in appropriate formats, establishing and maintaining adequate platforms for discovery, and providing necessary instruction.

Comments on Standard 603. DIRECTOR OF THE LAW LIBRARY

The position of Law Library Director is unique in legal education. No other person in the law school so directly affects the learning and intellectual pursuits of all students and all faculty. The ability of students to learn the language of the law and of faculty to analyze and produce scholarship about the law depends on a law library that is an active and responsive force in the life of the law school. In the formative years of legal education, Christopher Columbus Langdell referred to the library as the laboratory of the law. With legal education in a state of flux, the innovation championed by law library directors makes this even truer today.
The proposed Standard 603(c) replaces the requirements for a J.D. and library science degree with language that the director must have “appropriate academic qualifications.” The Standard also requires that the director’s knowledge and experience must be “sufficient to support the program of legal education and to enable the law school to operate in compliance with the Standards.” At its meeting in October, 2013, the Standards Review Committee added Proposed Interpretation 603-1, which provides, “A requirement that the director of a law library have a law degree and a degree in library or information science can be an effective method of assuring that the individual has appropriate qualifications and knowledge of and experience in library administration sufficient to support the program of legal education and to enable the law school to operate in compliance with the Standards. A law school not having that requirement bears the burden of demonstrating that it is in compliance with Standard 603(c).”

AALL believes that language requiring specific degrees should be incorporated into the body of the standard, rather than referenced in an interpretation. The law library director’s unique role noted above calls for an individual with a thorough understanding of the information architecture of law libraries, most often acquired through specialized training in library and information science.

While a law school may desire to include among its faculty individuals who do not have a law degree, as allowed by Standard 401, the director of the law library will “enable the law school to operate in compliance with the Standards and carry out its academic program” only if the director has a combination of the formal training evidenced by degrees in law and library science, as well as substantial experience managing resources and personnel in a law library.

A library director without formal library education typically will not be prepared to understand the fundamental principles of organizing resources, making cost-effective purchasing decisions less likely. Such a director likely will not have a complete understanding of the challenges facing librarians as they work to provide the best service to the law school. This would disadvantage the school’s program of legal education.

Although the last sentence of proposed Interpretation 603-1 states that the law school “not having a director with these credentials bears the burden of demonstrating that it is in compliance with” the Standard, too close a reading of the Interpretation may encourage a school to try and “make do” with someone without the formal training implicit in the library science and law degrees. Filling the directorship with such an individual makes it more likely the school will experience a decrease in the quality of library services available to students and faculty. For these reasons we urge the Council to restore the specific degree requirements to the body of Standard 603(c).
Proposed Standard 603(d) states that the law library director “shall hold appointment as a member of the law faculty with the rights and protections accorded to other members of the full-time faculty under Standard 405.” Because the rights and protections for directors are tied to that Standard, AALL adds its voice to those who support at a minimum the adoption of Alternative 1 of Standard 405. PROFESSIONAL ENVIRONMENT. Academic freedom is important to a library director making decisions about which resources to purchase and which services to emphasize. A director must be able to make sound judgments about the programmatic needs of the law school without concern that those judgments might be questioned because they result in politically unpopular decisions. This is especially true at public law schools, where legislators and other elected officials who partially fund the school attempt to control the decisions of school administrators, including the director, based on their own political policies or preferences. Library directors must be free to base their decisions on sound professional judgment; they should not be subject to expedient political influence.

Historically tenure has been the primary means of ensuring academic freedom through security of position, and the association believes that security of position is the only way to ensure academic freedom for all faculty members, including library directors.

AALL supports the language in Proposed Standard 603(a) and (b).

**Comments on remainder of Standards Chapter 6. LIBRARY AND INFORMATION RESOURCES**

As noted in the second paragraph above, the demands on law libraries and legal education have changed significantly in recent years. Formats have shifted in the direction of online and other digital resources, and librarians are playing an increasingly important role in teaching skills to students and in providing nontraditional information resources, including education in the role of technology in the legal profession. We believe the language in Proposed Standards 601, 602, 604, 605, and 606, together with the revised Interpretations of those Standards, properly incorporate the needs of this changing environment.

Sincerely,

Steven P. Anderson
AALL President

Darcy Kirk
AALL Representative to the ABA Section on Legal Education and Admission to the Bar