The Legal Writing Institute (LWI) is the second largest organization of law professors in the United States. Our nearly 3,000 members also include lawyers and judges, researchers, consultants, and undergraduate researchers.

LWI joins the Clinical Legal Education Association (CLEA), the Society of American Law Teachers (SALT), and other interested parties that have raised strong objections to the proposed revision to Standard 316. LWI is concerned about both the process surrounding the proposed change as well as the proposal itself. As other groups have noted, the Council of the ABA Section of Legal Education and Admissions to the Bar’s (the Council’s) decision-making over the past several years has lacked transparency in process as well as collaboration with affiliates and other constituencies. Additionally, LWI notes that the Council has been made aware of the “substantial negative impact on HBCU and other law schools with significant enrollment of people of color, including the law schools in Puerto Rico. . . .” See Letter from Chairs of ABA Goal III Entities (Jan. 2019) (extensive discussion of ABA data). The predicted disparate impact on law students of color is an important concern, which has not been adequately debated during open sessions of the Council.

Radical changes to Standard 316—without adequate input and attention to differences in the degree of difficulty of different states’ bar exams, investigation of the cause of declining bar passage rates, the impact on schools with the mission of admitting students with lower predictors of success, and existing, dramatically expanded academic success and bar preparation programs in law schools—will likely have an adverse impact on the legal writing community.

Enacting a more rigorous standard at a time when law schools are already struggling to comply with current Standard 316 will divert valuable resources to even more academic success and bar preparation programs—activities with which our community is often tasked without course relief, additional compensation, or adequate governance rights to give meaningful input at their own institutions. As CLEA has noted, it will also likely “shift legal education away from courses that integrate doctrine, theory, and skills and prepare students for the practice of law.” CLEA Statement to ABA House of Delegates, January 27, 2019, at 3. Because LWI believes these resources are better spent continuing to improve integrated skills teaching in the schools’ existing curriculum, the LWI Board has voted to support the efforts of both CLEA and SALT and joins the statements submitted by those organizations in opposition to the proposed revision. See, e.g., SALT letter to ABA House of Delegates, Jan. 21, 2019; CLEA, SALT Joint Memo to Council, Feb. 20, 2019.