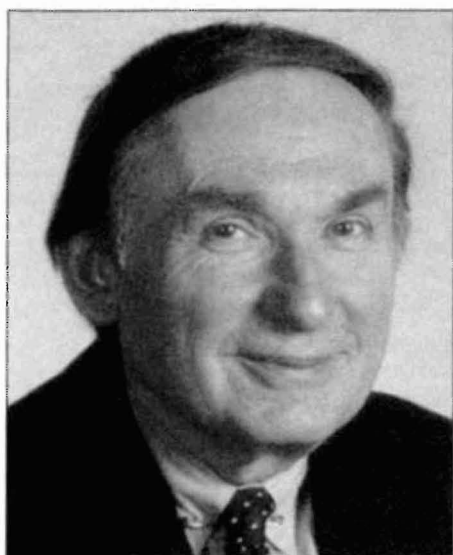


# SYLLABUS

American Bar Association Section of Legal Education and Admissions to the Bar • Volume XXX, Number 3 • Summer 1999

## Consultant Announces Retirement

by James P. White



**T**his past June I informed the Council of the Section that it was my intent to retire from my position as Consultant on Legal Education to the American Bar Association. The understanding is that I will step down as Consultant as of September 1, 2000, but will remain as an advisor to my successor until October 1, 2001. I will retain my office in Indianapolis at Indiana University. I intend to continue to be active in legal education following my ABA retirement.

The search for a successor will begin this fall by a Committee of the Section chaired by the immediate past chair of the Section, Chief Justice Randall T. Shepard. Sometime ago the leadership of the

American Bar Association determined that upon my retirement, the Office of the Consultant should be moved to Chicago to be located at the ABA headquarters. This move poses challenges for both the smooth transition of the office and to ensure the integrity of the office. I, of course, will use my best efforts to maintain the continuity of the activities of the office.

I have been privileged to serve as Consultant for the past twenty-five years, a period of significant transformation in American legal education. I have been honored to work with the Section officers, Council, Accreditation Committee, and other Committees during these twenty-five years. While we have been subject to litigation and various tribulations, the Council has stood firm in its mission and objectives, that of ensuring quality legal education at American law schools. My job would have been impossible were it not for the many members of the Section who so willingly serve in so many capacities. And, I have been blessed with a remarkable staff. Marilyn Shannon and Cathy Schrage have been with me from the beginning, and Mary Barron has been my secretary for seventeen years. We have created a truly remarkable staff dedicated to service. I have been fortunate to have a wonderful spouse who has tolerated my many absences from home and from many of her activities. I am grateful to Indiana University, which has provided significant support over the years without

financial cost to the ABA. My colleagues in AALS and LSAC have been wonderful as we cooperatively have sought improvement in legal education.

During the past twenty-five years, American legal education has witnessed great changes. The number of ABA approved law schools has

*Continued on page 2*

**A**t its August 5-6, 1999, meeting, the Council for the Section considered the proposed changes to Chapters 3 and 4 of the Standards for Approval of Law Schools as recommended by the Standards Review Committee. After careful consideration, the Council adopted the proposed changes, with modifications. The adopted changes became effective on August 10, 1999, when the ABA House of Delegates concurred with the Council's decision. For more information on the changes to the Standards, please turn to page 8.

As always, a current copy of the Standards can be viewed from the Section's Website. To purchase a copy of the Standards, please call the ABA Service Center at (800) 285-2221. Product Code: 5290084, \$12.00.

## CONSULTANT ANNOUNCES RETIREMENT

*Continued from page 1*

increased from 157 to 183. Total enrollment has increased, then declined somewhat, and is perhaps on the verge of again increasing. The composition of the law school student body has changed dramatically over the past twenty-five years. Women law students have increased from 20% of the J.D. class to over 45% and persons of color have increased from 7% to 21%. The composition of law faculties has also become more reflective of the composition of American Society.

In 1980 the Council proposed and the House of Delegates adopted a new Standard 212 (now 211), which stated:

Consistent with sound educational policy and the Standards, the law school shall demonstrate, or have carried out and maintained, by concrete action, a commitment to providing full opportunities for the study of law and entry into the profession by qualified members of groups (notably racial and ethnic minorities) which have been victims of discrimination in various forms.

Implementation of this Standard has done much to change the make-up of the law school student body.

Technology, foreign programs, post-J.D. programs, clinical legal education, smaller classes, various modes of instruction, and better physical facilities have been but a few of the other changes in American legal education during the past twenty-five years. These and other changes will continue in the future as we look at new technology, distance learning, and continued competition for the best and brightest as members of law school faculties and law school students.

The position of Consultant on Legal Education is one of challenge, opportunity, and commitment. I believe it to be the most exciting position in American legal education.

In my judgment it is critical that my successor be a legal educator, a

tenured member of a law school faculty. This is in the long tradition of the position and I believe is essential in order for the Consultant to have credibility with the legal education community.

I will do all in my power to ensure a smooth transition and continuation of the service required of the Consultant's Office. Be assured that the office will continue to be one of service and commitment. □

## Website

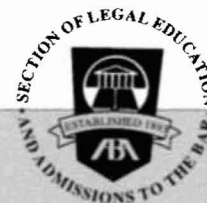
**F**or the past year, the Section's Website has had the most popular page among all Sections within the American Bar Association. The page that depicts the listing of approved law schools is consistently one of the most popular Webpages in the ABA. From this page you can link to any approved law school that maintains



a Website. Moreover, you can view the schools by state, alphabetically, public/private listing, or even geographically. When questioned, Kurt Snyder stated, "I'm not surprised about the popularity of the Website . . . The fact is our website is a great place to get information on legal education, study abroad, and bar admissions information." In addition, to those three items we have a lot of other information ranging from statistics on legal education to information pertaining to up-coming conferences and workshops.

The most exciting new aspect of our Website is the addition of the

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Officers of the Section of Legal Education and Admissions to the Bar: Robert K. Walsh, *Chairperson*; Diane C. Yu, *Chairperson-Elect*; Gerald W. VandeWalle, *Vice Chairperson*; Herma Hill Kay, *Secretary*; Randall T. Shepard, *Past-Chairperson*; and José García-Pedrosa and Norman Redlich, *Delegates to the House of Delegates*.

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The Section of Legal Education and Admissions to the Bar publishes *Syllabus* on a quarterly basis. It provides a forum for ideas concerning legal education and bar admissions. It informs members of the Section of the activities of the Section.

Opinions and positions stated in individual articles are those of the authors and not necessarily those of the American Bar Association or members of the Section of Legal Education and Admissions to the Bar.

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# FROM THE CHAIR

## The Year Ahead

by Bob Walsh

**T**he Section closes a great year of programs and accomplishments under Chief Justice Randy Shepard's leadership. His extraordinary skill as Chair of the Section was perhaps best exemplified by his successful work with many constituencies in fulfilling the Department of Education requirement that the Council be "separate and independent" of our professional association, while maintaining the accreditation function as a joint venture of bench, bar, and the law schools. As I receive the gavel from Randy, I am optimistic about the year ahead.

Certainly, our greatest challenge in the coming year is to search and prepare for a new Consultant for the first time in a quarter of a century. In separate articles in this issue of *Syllabus*, Jim White discusses his retirement plans, and Randy Shepard outlines the search process for Jim's successor that we hope will bring us a superbly qualified consultant-designate by this coming winter with the transition to follow. I cannot state emphatically enough how important to the future of legal education the choice of Jim White's successor is. It would be a gross understatement to say that Jim's successor will have extremely big shoes to fill. While we will have other occasions over the next year to go into detail concerning his quarter century of accomplishments, I believe that Jim White's leadership is one of the chief reasons that other countries view the United States's as the legal education system they want to emulate. I do want to announce now that we will have a program in Indianapolis on Friday and Saturday, April 7 and 8, 2000, to

celebrate Jim White's twenty-five years of service. The "Symposium on Law Schools and the Legal Profession" in Jim's honor will have an all-star cast of judges, bar leaders, and academics. I trust that as many of you as possible will be there.

In addition to many recurring programs that the Section does annually, we will have a number of special programs in the coming year that I believe are topical and exciting. The first will be on November 18-19 in Indianapolis, a conference on distance learning chaired by Professor Art Gaudio of the University of Wyoming. At this conference, we will examine what is happening in the law schools under the great variety of activities covered by the term "Distance Learning" and the Section's temporary distance education guidelines.

As a portion of the usual Deans' Workshop at the midwinter meeting in Dallas, we will have a special one-day joint meeting on Friday, February 11, 2000, with the lawyers in the national conferences of bar presidents, bar executives, and bar foundations. Chaired by Dean John Feerick of Fordham, this program will explore areas of further collaboration between law schools and the bar leadership in the states.

Two other special programs in the spring semester will be a cooperative program with California Western School of Law on February 27-28 in San Diego on the important topic of "Lawyers as Creative Problem Solvers." Then, on March 9-11, 2000, we will have another of our episodic programs on law school facilities, this one focusing on renovations, particularly those that upgrade technology infrastructure for the law school program.

We will bring down the curtain on the year's programs during the

bifurcated annual meeting in July in New York and London. In New York on July 8, Harry Haynsworth continues the momentum from the Section's wonderful Professionalism Committee Report: "Teaching and Learning Professionalism." Harry's program will present concrete examples of what law schools are doing to teach professionalism, an illustrative best practices program. In London, the Section program will be a presidential showcase program organized by Dean David Link entitled "Out of the Box." It is a summit of leading judges, practitioners, and scholars to discuss new proposed systems of legal education for the twenty-first century. Scholarly papers proposing new systems are now being solicited in preparation for this international summit of thinkers about the future of legal education.

While the Section's accreditation activities and programs usually receive more public attention, the most extensive work of the Section in working for the improvement of legal education is the work of its over thirty committees. I have met with this year's committee chairs and they have exciting plans. You will receive a committee directory soon, and I hope that you will communicate your ideas within their areas to the committee chairs. Now I particularly highlight the work of the Standards Review Committee in continuing our validity and reliability study of the Standards. This year, the Standards Review Committee and the Council will review Chapters 5 (Admissions), 6 (Library), and 7 (Facilities). It will also continue the review of Standard 405 (Professional Environment), including whether the Standards should require law schools to have tenure policies, in addition to policies to ensure academic freedom. While after Council review, drafts of any revisions in these Standards will be sent out to you for comments and hearings will be held around the country during the spring semester, it would be extremely helpful if you would send the Consultant's office your prelimi-

*Continued on page 14*



# Kutak Award, 1999

**A**t its June 5-6, 1999, meeting, the Council of the Section of Legal Education and Admissions to the Bar named Associate Dean Peter A. Winograd of the University of New Mexico School of Law as the 1999 recipient of the Robert J. Kutak Award. The Award is presented annually to a "candidate who meets the highest standard of professional responsibility and demonstrates substantial achievement toward increased understanding between legal education and the active practice of law." It honors the late Robert J. Kutak, a distinguished member of the Section's Council.

Dean Winograd's contributions to legal education are many. He holds an A.B. degree, summa cum laude, from Brown University; a J.D. degree from Harvard Law School; and an LL.M. degree from New York University. He served as president of the Law School Admission Council from 1989 to 1991, during which period the LSAC bar passage study was launched. He was vice-chairperson of the Section's Task Force on Law Schools and the Profession: Narrowing the Gap (The MacCrate Commission), which focused on legal education and professional development as parts of a single, educational continuum. He has chaired several committees of the Section, and has chaired or been a member of a number of site evaluation teams. He has volunteered countless hours to the work of the Section and the Consultant's Office.

He has also been active in New Mexico, playing an important role on the State Bar's Committee on Minorities in the Profession, and he received an Outstanding

## Kutak Award Winners:

**Peter A. Winograd, 1999**  
**Talbot D'Alemberte, 1998**  
**Harry Edward Groves, 1997**  
**Norman Redlich, 1996**  
**Robert MacCrate, 1995**  
**Rosalie E. Wahl, 1994**  
**Frank E.A. Sander, 1993**  
**Harold Gill Reuschlein, 1992**  
**Gordon D. Schaber, 1991**  
**Samuel D. Thurman, 1990**  
**Sharp Whitmore, 1989**  
**Millard H. Ruud, 1988**  
**Robert B. McKay, 1987**  
**Robert W. Meserve, 1986**  
**Richardson W. Nahstoll, 1985**  
**William J. Pincus, 1984**

Contribution Award from the New Mexico State Bar in 1993. He has been associate dean at the University of New Mexico School of Law since 1976, and previously was a senior administrator with the Educational Testing Service, responsible for management of the Law School Admission Test, Law School Data Assembly Service, and the Multistate Bar Examination. He was associate dean for administration and director of admissions at Georgetown University Law Center in 1971-72, and held a variety of positions including assistant dean and director of admissions at New York University School of Law from 1965 to 1971. □

# ABA Approved Law Schools

**T**he House of Delegates of the American Bar Association, at its August 9-10, 1999 meeting, concurred with the action of the Council of the Section of Legal Education and Admissions to the Bar, in granting provisional ABA approval to:

**Florida Coastal School of Law**  
**7555 Beach Boulevard**  
**Jacksonville, Florida 32216**

The House of Delegates of the American Bar Association, at its August 9-10, 1999 meeting, concurred with the action of the Council of the Section of Legal Education and Admissions to the Bar, in granting full ABA approval to:

**Texas Wesleyan University**  
**School of Law**  
**1515 Commerce Street**  
**Fort Worth, TX 76102**

As a result of these changes, as of October 15, 1999, a total of 183 institutions are approved by the American Bar Association: 182 confer the first degree in law (the J.D. degree); the other ABA approved school is the U.S. Army Judge Advocate General's School, which offers an officer's resident graduate course, a specialized program beyond the first degree in law. One of the 182 ABA approved law schools (Widener) also has a branch campus. Five of the 182 law schools are provisionally approved: Chapman University School of Law, Florida Coastal College of Law, Thomas Jefferson School of Law, University of the District of Columbia School of Law, and the Western State University College of Law. A current list of ABA Approved Law Schools can be obtained from the Section's website. □



# Remarks of Peter A. Winograd Kutak Award Reception

**T**hank you, Henry, for those very kind words, and let me also express my appreciation to the Kutak Nominating Committee and to the Council of the Section of Legal Education and Admissions to the Bar. I am greatly honored to be this year's recipient of the Robert J. Kutak Award—an award, to tell the truth, for which I never really considered myself a candidate. To some extent, this is because several prior Kutak recipients have been major role models for me—people whom I looked up to and whose accomplishments I have admired. In some instances, my path has crossed theirs and they have been mentors to me. And who could ever hope for better mentors than, for example . . .

— **Bob McKay**, who was Dean at New York University when I started my career there in the late 1960s, and whose dedication to public service through the ABA and other organizations greatly influenced me . . . or

— **Norman Redlich**, whom I also came to know well during my years at NYU, and who was never too busy to lend a hand to someone like myself just getting started . . . or

— **Millard Ruud**, whose mark is evident even today in not only the ABA, but also the AALS and the LSAC. Millard gave me my first LSAC committee assignment during his term as president of the organization, and we quickly developed a close relationship that I will always consider very special . . . or

— **Justice Rosalie Wahl**, who took a chance and asked me to serve as vice-chair of what became the MacCrate Task Force . . . and, of course, **Bob MacCrate** who then put up with me for three years as the Task Force went about its business, and who set the standard for a practitioner's effective involvement in legal education.

For my name to be associated with theirs, and with other distinguished Kutak Award recipients over the past fifteen years, is some-



Peter A. Winograd

thing I never anticipated and for which I am deeply appreciative.

I did not have the privilege of knowing Bob Kutak, although I certainly knew of him. In a profile appearing in the *American Bar Association Journal*, he referred to himself as living the "life of a lucky lawyer." His signature work as chair of the ABA's Special Commission on the Evaluation of Professional Standards was just the most visible of his many public service commitments. At the time of his premature death, the list of organizations that had benefited from his active and meaningful involvement was long indeed.

To some extent, most of us in this room have had careers that have been enriched, as his was, through pro bono service related to our primary work as practitioners, judges, or educators. In many instances, this service has been much more than just tangential to a career. In my case, through a twist of fate, it was actually a life-saver of sorts during a critical period.

Almost twenty-three years ago, soon after moving to New Mexico, I was diagnosed with a difficult form of cancer. To the inevitable question, "What are my chances?", the doctor first replied "maybe 50/50".



Former Kutak Award Winners: Norman Redlich, 1996; Bob MacCrate, 1995; Harry Groves, 1997; and Peter A. Winograd, 1999.

*Continued on page 15*

# Conference on Law School Development

## Santa Fe, New Mexico • May 25–28, 1999

by Kim Parker



Rita Hauser, Gus Hauser, and Scott Nichols.

**F**or the first time since its inception, the Section's biennial Conference on Law School Development for Deans and Administrators, held May 25–28 in Santa Fe, New Mexico, included major gift donors among its presenters. And the presence of these philanthropists gave law school representatives a unique opportunity to see themselves from the donor's point of view.

Why is the donor's point of view so important to fund-raisers? According to keynote speaker Rita Hauser, President of the Hauser Foundation and a major contributor, along with her husband, Gus, to Harvard Law School and New York University Law School, fund-raisers must connect with what donors understand and have passion for in order to build fruitful relationships for the benefit of the institutions they represent.

Two separate panels pursued donor perspectives more thorough-

ly. The first, entitled "A Donor's Perspective," featured Gus Hauser, Chairman of Hauser Communications, and James E. Rogers, President and CEO of Sunbelt Communications, whose \$130 million contribution to the University of Arizona is the largest single gift to a U.S. law school to date. Rogers pointed out that his donation should not be viewed as a "gift" to the law school, but rather a "partnership" with the school to develop its future. He encouraged participants to focus on in-person communication with alumni in order to engage these potential donors in similar partnerships with their institutions. Hauser discussed the issue of the donor's "burden of philanthropy" and pointed out that the philanthropic sector faces an enormous challenge in managing wealth and putting it to good use effectively. Both speakers touched upon the importance of trust and accountability for law school development.

Another presentation entitled "Volunteer Perspectives" explored the experiences of donors who volunteer in various law school development programs. Dean-Designate Kathleen M. Sullivan of Stanford Law School led a panel that included Ernesto Romero, Chair, National Board of Visitors, University of Minnesota Law School; Andrew G. Schultz, University of New Mexico School of Law; and Charles L. Saunders, Jr., University of Virginia, in a candid discussion with the audience on how to use volunteers more effectively. Panelists provided insights into their motivation to volunteer and offered specific suggestions for ways to improve relationships with volunteers.

Luncheon speaker Robert L. Payton, Professor of Philanthropic Studies at the Indiana University Center on Philanthropy, issued a challenge to conference participants. Touching on the success of the philanthropic instruments created by Rockefeller and Carnegie in



J. William Elwin.



**Rita Hauser and E. Thomas Sullivan.**

this century, Payton challenged development professionals to find ways to encourage the next generation of billionaires to institute similar innovations for future generations.

Anticipating an expanded audience for this year's conference, as well as a mix of new deans, development newcomers, and repeat attendees, conference organizers modified the event's format to maximize its substantive offerings. The program avoided plenary topics altogether and instead provided four concurrent sessions in each time slot. A wide array of speakers representing a variety of institutions and fund-raising programs presented 35 program topics in four core areas: major gifts, alumni giving, alumni relations, and ideas for new deans. This approach gave new deans and development professionals the opportunity to focus on broad issues such as "Managing Advancement Programs" and "Developing Priorities and Strategic Planning," while conference veterans could explore more narrowly focused issues. It also gave dean-development officer teams the chance to divide up and attend more sessions over the three-day period. Thirty-minute breaks between panels greatly facilitated the interaction among



**Lawrence K. Hellman, Don LeDuc, Frank K. Walwer, and Neil Cogan.**



**E. Thomas Sullivan and James P. White.**

participants for which this conference has become renowned.

Santa Fe proved to be an excellent departure from the conference's location in previous years in Jackson Hole, Wyoming. This year's participants remarked that the local Native American sights, plentiful shops and galleries, and surrounding Georgia O'Keefe country rivaled the attraction of the Grand Teton Mountains, Yellowstone National Park, and the roaming moose that made Jackson Hole such a popular setting for the conference in the past.

Special evening receptions hosted by West Publishing and St. Mary's University School of Law gave participants the chance to explore one of Santa Fe's famous art galleries one night and local Mexican hors d'oeuvres and margaritas another. Once again, the conference provided a perfect balance of expertise, entertainment, and interaction. □

*Kim Parker is the Vice-President for Development at the South Texas College of Law and a member of the ABA Law School Development Committee.*



# Final Commentary on Changes in Chapters Three and Four of the Standards for Approval of Law Schools, 1998–1999

## Preamble

Pursuant to the Section's Validity and Reliability Plan, the Standards Review Committee reviewed Chapters Three and Four of the Standards for Approval of Law Schools during the 1998-1999 academic year. The Committee met on the following dates: October 17, 1998; December 19-20, 1998; January 30, 1999; March 27, 1999; and June 9, 1999. At these meetings, the Committee reviewed the numerous written comments it received and the transcripts from the public hearings conducted, thus receiving input from various constituencies including: individual law school Deans, Faculty members, and Chief Justices; the American Law Deans Association (ALDA); the Clinical Legal Education Association (CLEA); the Legal Writing Institute; and the Association of Legal Writing Instructors.

Four public hearings were held on the proposed changes to Chapters Three and Four: the first on January 7, 1999, at the Annual Meeting of the Association of American Law Schools in New Orleans, Louisiana; the second on February 5, 1999 at the Mid-Year Meeting of the American Bar Association in Los Angeles, California; a third on February 27, 1999, following the Conference of Presidents, Provosts and Deans in Chicago, Illinois; and the fourth and final hearing was held in conjunction with the Annual Meeting of the American Law Institute on May 19, 1999, in San Francisco, California. Prior to these hearings, notice of the hearings and the text of proposed changes were distributed to: Chief

Justices of State Supreme Courts; Bar Examiners; University Presidents; Deans of ABA approved Law Schools; and other groups such as ALDA. Deans have been asked to share copies of the proposed changes with their faculties. Proposed changes were also published in *Syllabus*, the newsletter for the Section of Legal Education and Admissions to the Bar, which is distributed to approximately 8,000 individuals. In addition, the proposed changes have also been posted on the ABA Website making them available to the public for comment.

The Standards Review Committee is composed of practicing lawyers, judges, experienced teachers, university administrators, and bar examiners. The collective experiences of the Committee members formed the empirical basis upon which the Standards were reviewed. The Council of the Section, which has the ultimate authority for changing the Standards, is equally representative of the legal profession and the academy.

## Standards 301 and 302

The changes to Standard 301, while subtle, are extremely important. Both Standards 301(a) and 301(b) have been revised to focus on the results of an educational program rather than merely its design. Thus, Standard 301(a) has been changed to call for an educational mission that "qualifies its graduates for admission to the bar" and "prepares" them for their participation in the legal profession rather than merely a program that "is designed to" accomplish these objectives. Similarly, Standard 301(b) has been revised to call for the maintenance of an educational program that "pre-

pares" graduates for certain purposes rather than merely one that is "designed" to accomplish that objective. In Standard 301(a), the word "responsibly" has been added to the definition of the educational program's goal of "prepar[ing] [graduates] to participate effectively in the legal profession" in order to highlight the law school's obligation to prepare students to practice law in an ethical and responsible manner. The use of the term "graduates," in Standard 301, however, is not intended to imply an ongoing educational obligation to alumni such as providing continuing legal education opportunities for graduates.

The Committee consolidated Standards 302(a)(1) and 302(a)(2) in order to eliminate the vague concept of "the core of the law school curriculum" and, once again, to focus on the results of an educational program. Thus, the revised Standard 302(a)(1) calls for instruction in subjects that will prepare students for the intended outcome of effective and responsible participation in the legal profession. The Committee considered proposals from organizations and individuals to expand the list of subjects identified in revised Standard 302(a)(1) but ultimately decided to retain the list previously set out in Standard 302(a)(1). As the Standard makes clear, this list of subjects is merely illustrative and is not intended to be exclusive.

The Committee considered ALDA's proposal to eliminate Standard 302(d), which requires law schools to "offer live-client or other real-life practice experiences." This Standard, which was originally adopted after extensive discussion, reflects long-standing experience

with and study of the benefits of "real-life practice experiences" (as detailed in the MacCrate Task Force Report, the report of the AALS Committee on the Future of the In-House Clinic, and many law review articles). The Standard addresses concerns about the costly nature of in-house live-client clinics by allowing law schools to provide either "live-client or other real-life practice experiences" and by specifically stating that "[a] law school need not offer this experience to all students."

Standard 302(e), as revised and then further revised by the Committee in response to comments on the initial revisions, represents a stylistic rather than substantive change and certainly is not intended to weaken the original language of the Standard. The Committee's first proposed change to the language of the Standard provoked concern from the ABA Standing Committee on Pro Bono and Public Service that the new language signaled a retreat from the commitment to pro bono and public service. Comments received from ALDA took a similar view of the meaning of the proposed change, although ALDA supported a weakening of the law school's obligation under the Standard. Because instruction in the value of pro bono service is recognized to be central to the preparation of new members of the profession (as reflected in the Preamble to the ABA Standards for Approval of Law Schools, the ABA Model Rules of Professional Conduct, the Wahl Commission Report, and many other reports and articles), the Standards Review Committee has further revised the language to ensure that the original intent of the Standard is preserved.

ALDA also recommended the elimination of Standard 302(f), which allows a law school to offer a bar examination preparation course, but not to grant credit for the course or require it as a condition for graduation. ALDA expressed a concern about the lack of a definition of the term "bar examination preparation course." The experience of the Accreditation Committee, however, has been that the term is generally

understood and has not caused any difficulties in the administration and implementation of this Standard. The Standard, as originally drafted, furthers its intended purpose of permitting schools the freedom to offer courses of this type while ensuring that credit is not granted for instruction that is insufficiently analytical or theoretical or that is unnecessarily repetitive of other course offerings.

Because of the core nature of Standards 301 and 302, Interpretation 302-3 has been added to specify that a law school shall engage in an ongoing review of its academic program to measure its effectiveness.

### **Standard 303**

The redrafting of Interpretation 303-1 and the elimination of Interpretation 303-2 are designed to provide law schools greater flexibility in evaluating students' academic achievement. The Committee did not receive any comments on these proposed changes.

### **Standard 304**

The Committee has considered proposals questioning the need for the durational requirements set forth in Standard 304. Durational requirements, however, are typically included in accreditation standards. Indeed, the Department of Education requires all accreditation agencies that it recognizes as "reliable authorities" concerning educational quality, such as the Council, to establish durational requirements. Since July 1994, Department regulations have specifically required the Council to establish "standards that effectively address . . . academic calendars, . . . program length and . . . [m]easures of program length in clock hours or credit hours." 34 C.F.R. § 602.26(b)(6-8). See also 20 U.S.C. § 1099b(a)(5)(H) (Higher Education Act requires recognized agencies to establish "measures of program length").

The proposed change to Standard 304(a) reduces the number of days required for an academic year from 140 days to 130 days. The purpose of the proposal is to allow a law

school to conform its academic schedule with that of its parent institution. The total instructional time required has remained the same, although it is now reflected in actual minutes, not "class hours." Interpretation 304-5 has been changed to conform with this change and to emphasize that schools that elect to reduce the number of days in the academic year must still require the same amount of actual instructional time.

Proposed Standard 304(f) requires both full-time and part-time students to balance the demands of legal education with employment. Prior to these changes, the demarcation between full-time and part-time students was less than clear in terms of the number of hours a student could take in a given semester. The proposal separates the employment limitation from the issue of residency and now bases the 20-hour work restriction on how many academic credits a student is taking. The Committee initially drew the line between 11 and 12 credits, but comments received from law schools with both full-time and part-time programs overwhelmingly indicated that the appropriate delineation should be between 12 and 13. Only one school has argued for placing the 20-hour employment restriction exclusively on students taking more than 14 credits.

### **Standard 305**

In response to several comments about the excessive regulatory detail of Standard 305, the Committee set out to revise the Standard in a manner that would ensure the quality of field placement programs while still accommodating law schools' need for flexibility in structuring and administering such programs.

Several of the comments called for a modification of the rules concerning "full-time faculty" so as to permit greater involvement by adjunct and part-time faculty members in externships. For example, ALDA called for such a change in Interpretation 305-2(e); CLEA called for such a change in Interpretation 305-2(c). After considering the comments, the Committee revised the

rules and interpretations to permit adjunct and part-time faculty members to perform functions that previously had been reserved for "full-time faculty." This proposal also reflects experience of the Accreditation Committee, which has regularly granted exceptions under Interpretation 305-2(f), thus allowing law schools to utilize uniquely qualified adjunct faculty to fulfill externship responsibilities which otherwise would have to be done by a full-time faculty member. CLEA responded to the redraft by stating that some of the functions previously reserved for "full-time faculty" cannot be performed by adjuncts because they are not sufficiently available to students on a regular basis. Accordingly, the Committee has modified its revisions to specify that approval and periodic review of field placement programs shall include an analysis of "whether the faculty members teaching in and supervising the program devote the requisite time and attention to satisfy program goals and are sufficiently available to students." (Standard 305(f)(3).)

In its original set of revisions, the Committee deleted former Interpretation 305-2(e)(6), which had provided that "[t]eaching credit shall be commensurate with the instructional responsibilities of the full-time faculty member in relation to the number of students and the credit hours granted." The Committee had concluded that this Interpretation did not appropriately focus on the purposes, quality and results of the educational program. CLEA and various individuals responded to the Committee's revision by stating that former Interpretation 305-2(e)(6) is needed to ensure that faculty members who teach or oversee externships are not so overloaded with other responsibilities that they lack the time to provide adequate instruction in or oversight of externships. The Committee has responded to this concern by specifying in Standard 305(f)(3) that the approval and periodic review of field placement programs shall include an analysis of "whether the faculty members

teaching in and supervising the program devote the requisite time and attention to satisfy program goals and are sufficiently available to students."

With respect to the requirement of a classroom component for field placements awarding academic credit of more than six credit hours per semester, the Committee received a recommendation from ALDA that the requirement of a classroom component be abolished for all field placement programs and a recommendation from CLEA that the classroom component requirement be expanded to cover all field placement programs. After considering the various comments and the experience of the Accreditation Committee, the Standards Review Committee concluded that the drafters of the preexisting Standard had struck an appropriate balance with respect to the classroom component requirement and that this balance should be preserved.

The Committee received comments from some individuals recommending deletion or modification of former Interpretation 305-2(h)(3), which required that every field placement program that awards academic credit of more than six credit hours per semester receive "an on-site visit . . . by a full-time faculty member in the course of the field placement." The Committee has modified this rule to provide that the on-site visits need only be "periodic" and not in the course of every single field placement except in programs earning more than 6 hours, which require an on-site visit each academic term. On-site visits can be conducted by part-time or adjunct faculty. The Committee concluded that the rule, especially as modified to be less exacting, is not too much to demand of a school to ensure the quality of a field placement awarding more than six academic credits in a semester.

### **Standard 307**

This Standard has been changed to eliminate the need for a school that is not in full compliance with the Standards to obtain a variance under Standard 802 when acquies-

cence to offer a post-J.D. program is sought and the lack of compliance is unrelated to the new program. In such cases, the Accreditation Committee has routinely recommended, and the Council has approved, variances. No comments were received on this proposed change.

### **Standard 402**

Changes to Interpretation 402-1 were made to parallel the proposed changes to Standard 304, discussed above. The Standards Review Committee carefully considered ALDA's recommendation to delete both Interpretation 402-1 and 402-2, but ultimately deferred to the Accreditation Committee's experience that these quantitative measures (student/faculty ratios) are effective and necessary tools in assessing qualitative issues (sufficiency of course offerings, reasonableness of class size; adequacy of extra-classroom guidance and counseling). The weight to be given additional resources in calculating student/faculty ratios was also retained as it was added as part of the Consent Decree entered into with the United States Department of Justice.

### **Standard 403**

Interpretation 403-1, which related to the orientation, guidance, monitoring and evaluation of adjunct faculty, was moved into Standard 403 to highlight the law school's obligation to ensure the quality and support of this teaching resource. No comments were received on this proposed change.

### **Standard 404**

Standard 404(b) has been added to require a law school to monitor the productivity of its faculty as an output measure. The quality of the educational program relates directly to the productivity of faculty, therefore making such monitoring essential.

### **Standard 405**

In response to ALDA's observa-

*Continued on page 15*



# Law School Employment for Women and People of Color

**A** recent look at data from the National Association for Law Placement's *Employment Report and Salary Survey* (ERSS) for 1982, 1987, 1992, and 1997 yields information regarding the progress made by women and people of color in the realm of legal employment. Each year the National Association for Law Placement (NALP) collects data from accredited law school members on their graduating classes. The data are reported in the annual *Employment Report and Salary Survey* (ERSS) and is broken down by gender and majority/minority status.

The first thing to note is the percentages of women and people of color graduating from law schools in those classes. In 1982 the American Bar Association (ABA) reported a total of 34,846 law graduates from 172 ABA accredited law schools. Thirty-three percent were women. At this time the ABA was not reporting minority status so there are no percentages for minorities. In 1987, there were 175 ABA accredited schools that produced 35,478 graduates of which 45% were women and 10% minorities\*\*. Then in 1992, according to the ABA, there were 39,405 graduates of the 176 accredited law schools in the country with 43% female and 12.6% minorities. The Class of 1997 comprised 40,114 graduates from 178 schools with 44% women and 19% minorities. Thus during the fifteen-year period under focus, women increased from 33% of total graduates to 44%, and minorities from 10% in 1987 to 19% in 1997.

As to employment overall, majority men have represented the highest percentage employed as reported in the ERSS data for the years in question. Women and then minorities rank second and third, respectively. However, women and minorities have made steady

progress and the percentage differentials have shrunk from 1982 to 1997. The chart below is illustrative.

PERCENTAGE EMPLOYED WITHIN SIX MONTHS OF GRADUATION				
	1982	1987	1992	1997
ALL	87.9	92.3	83.5	89.2
MEN	89.8	93.4	84.9	90.1
WOMEN	83.9	90.5	81.7	88.0
MINORITIES	80.9	87.8	81.1	85.6

The ERSS is available from The National Association for Law Placement, Suite 325, 1666 Connecticut Avenue, Washington, DC 20009-1039

Minority includes Native Americans, Black, Asian/Pacific Islanders and Hispanics of any race.

The ERSS data also provide information on the types of jobs taken by graduates of reporting schools. The following charts compare women and men and minorities and nonminorities as to the types of initial jobs taken.

Compared to men, women have been more likely to take jobs in the public service: government, public interest and judicial clerkships. And they are historically less likely than men to enter private practice. Over the period of study, the percentage of women entering private practice has ranged from 5 to 7 points less than that for men.

Minorities, like women, tend to enter private practice less often than nonminorities. However, the percentage differential in 1997 of 7.4 points is smaller than the 15.9-, 10.1- and 12.4-point differences in 1982, 1987 and 1992. Minorities are more heavily represented in the category of government jobs, though as their percentages in private practice have increased over time, from 43.5% in 1982 to 49.3% in 1997, the percentages in government jobs have decreased from 21% in 1982 to 18% in 1997. However, even with

that decrease, minorities in 1997 entered government jobs by 5.1 percentage points more than nonmi-

norities. Of those minorities entering private practice, it is interesting to note that the percentages employed by small firms from two to ten members has decreased over time from 35.5% in 1982 to 25.5% in 1997 while the percentages in firms of 101 or more members have increased from 21.3% to 35.3%. These are much higher percentages than those for non-minorities entering private practice in large firms that were 14.5% in 1982 and 27% in 1997.

Thus, while parity between men and women has not been achieved either in law school enrollment or percentage employed within six months of graduation, the differences have become less over time and the time may come when they will be more nearly even. Likewise, while minorities are still underrepresented in law school enrollment, they have made solid gains in the realm of employment once leaving law school. With continued work on the part of educators and the profession, one can hope that the underrepresentation will be ameliorated and that employment gains will continue to close the gap. □

*Patricia W. Bass  
President, National Association  
for Law Placement  
Assistant Dean, Mercer  
University School of Law*

# LIBRARY HIGHLIGHTS

## Electronic Law Library

In a recent study, compiled at the urging of the chair of our law school's building committee, we discovered that if we got rid of every print volume that is on WESTLAW or LEXIS, the law library's collection would be 13 percent or 44,420 volumes smaller. If one print copy of all these "duplicated" legal materials would stay in the library's collection, our law library would get rid of 25,403 print volumes or 7 percent of the collection.

**E**verything in the print volumes is [not] completely duplicated online. .

It is important to look closely at the assumptions we make if we decide that print materials can be discarded because they are duplicated online. First assumption: everything in the print volumes is completely duplicated online. Not so. Tables of contents, statutory and case indexes, descriptive word indexes, law review mastheads, and prefatory material are often not included in the online databases. Italics are omitted from online versions of texts. Graphics from texts such as the *Federal Register* and *Code of Federal Regulations* are not included in the databases.

Second assumption: full-text access is just as convenient and easy as using the print. Many experienced legal researchers would disagree, especially when using hierarchically organized research tools like codes.

Third assumption: electronic access is equivalent to the print volume in terms of readability, economy, and portability. Again, many users of legal materials will argue that it is easier to read a book and that the print is more economical if many need access to the same case or article or series.

Fourth and fifth assumptions: everyone with an interest in legal research knows how to use the online systems and has access to them. Of course, neither of these assumptions is really safe. Every law school library serves the rest of the university community and many serve the public. And our LEXIS and WESTLAW educational contracts prohibit access to all except our own law students, faculty, and staff.

Sixth, seventh, and eighth assumptions: LEXIS, WESTLAW, or equivalent systems will still be in business in the future, will continue to include the titles we have discarded, and will be provided at a cost we can afford.

It makes sense to rely on WESTLAW and LEXIS-NEXIS for resources that academic law libraries would not otherwise have in their collections—for example, the vast array of non legal periodicals included in NEXIS. It also makes sense to reduce the duplication of materials in print collections in reliance on online "back-ups." And it may even make sense to find ways to convert some legal research tools, primarily case verification systems such as *Shepard's Citations*, to electronic-only access since the print tools can never be as current or as convenient to use.

But, realistically, I know of no law library that would get rid of every print copy of the primary

state and federal statutes, cases, and administrative rules and decisions that are available online. As my friend and colleague, George Grossman, said, "If legal information were available only in electronic form, someone would invent the book."

We cannot and should not give up the print unless we are convinced that we are not sacrificing access, functionality, or economy. We have a responsibility to uphold the rule of law in our society. We must evaluate and analyze our collections carefully and not be taken in by the technology hype. □

*Penny A. Hazelton is professor of law and Law Librarian of the Marian Gould Gallagher Law Library of the University of Washington School of Law.*

### 1999 Annual Meeting— London 2000

The ABA Annual Meeting will be in July this year due to the London 2000 program. The Section will host its regular Section activities, such as honoring the Robert J. Kutak Award recipient, in New York as part of the regular ABA Annual Meeting. In addition, Dean David Link is coordinating the Section's Presidential Showcase program for the London 2000 meeting on creating a new way of providing legal education. The Section's London activities will include a joint program with the law faculties of London University looking at legal education in the new millennium, a dinner at Middle Temple and a visit to Cambridge to meet with the Cambridge law faculty.

# ABE

## **T**he American Bar Endowment: Contributing Through Insurance

Giving back to the profession upon which your livelihood depends has personal as well as much broader rewards. The American Bar Endowment (ABE), a charitable affiliate of the ABA, provides a means for ABA members to contribute to the improvement of our system of justice through insurance products designed for lawyers.

ABE funds over 200 law-related public service and educational projects and more than 30 major research projects in the field of law

through the ABA's Fund for Justice and Education and the American Bar Foundation. We rely on member support for a large percentage of that funding. From national initiatives to community-based outreach programs, donors help uphold a public service program unmatched by any other profession.

ABE is not asking you to send a check. The ABE endorses much-needed insurance plans for ABA members, including Group Term Life Insurance, Disability Insurance and more. Participating members may opt to donate ABE insurance plan dividends and take an annual

charitable tax deduction for the contribution. These donations help provide long-term funding for crucial projects. Last year alone, about 90 percent of our members contributed their dividends, which were used to fund our grants. Since its charter in 1942, Endowment grants have totaled more than \$144 million.

As a legal professional, you are probably looking for an insurance plan that helps fulfill your basic needs. Dependable, quality insurance coverage from the ABE will not only provide financial protection for your family, it will also provide a means for you to improve our system of justice. Just look at some of the plan benefits:

- Group Term Life Insurance—one of our most popular plans, offering benefit amounts from \$20,000 to \$750,000 to help protect

## WEBSITE

*Continued from page 2*

bar admissions information. For the first time, the information provided in the *Comprehensive Guide to Bar Admission Requirements* is now available on our Website. The publication is a joint project between the Section and the National Conference of Bar Examiners. It sets out the rules and practices of all U.S. jurisdictions for admission to the bar by examination and on motion, that is, legal education, character and fitness, bar examinations, and special licenses. Supplemental information follows each chart. We also link to all the state boards of bar examiners for those that maintain a Website.

The Summer Abroad information has been particularly helpful and popular for law students wishing to partake in foreign study. In addition to providing the official ABA list of approved programs, the site also provides valuable information on the individual programs such as location, tuition, and start dates. We also provide information pertaining to the rules that students must follow to make sure that their education is in accordance with the ABA Standards.

The Office of the Consultant is working to enhance the Section of

Legal Education and Admissions to the Bar's presence on the World Wide Web. The URL for the site is <http://www.abanet.org/legaled>. Please visit the site and let us know your suggestions. You can contact Rick Morgan or Kurt Snyder with your suggestions for materials and links that would improve the usefulness of the site. They can be reached at (317) 264-8340. We are also starting to utilize listservs to improve communication among our constituencies. If you have a listserv idea, please let us know. Currently, our site contains the following:

1. Standards for Approved Law Schools
2. Approved law school listing (with links to law school Websites)
3. Pre-Law Statement
4. Foreign Study Programs
5. Upcoming Events
6. Bar Admissions
7. List of Council and Accreditation Committee Members
8. Mission Statement and Long-Range Plan for the Section
9. Section Bylaws
10. List of Section Publications □

# ABE

**AMERICAN BAR ENDOWMENT**

## Contributing Through Insurance

your family's financial security. Can be used as your primary coverage or used to supplement coverage you currently have.

- Disability Income Protection—another one of our more popular plans, providing up to \$9,500 in monthly income replacement dollars to help you maintain your current standard of living in the event of a disabling accident or injury. This plan can be vitally important to members who do not have a disability plan offered through their employer.

- Excess Major Medical—coverage that picks up where your basic health insurance leaves off, in the event of a catastrophic accident or illness, will pay up to \$2 MILLION in benefits.

*Continued on page 18*



# Consultant on Legal Education Search

by *Randall T. Shepard*

**T**he ABA's Consultant on Legal Education occupies one of the special positions in the American legal profession. We are about to undertake the search for a successor to remarkable James P. White, who has made the job what it is today and done much to fashion legal education in the United States over the past quarter century.

The importance of this decision to the bench, the bar, and the academy is hardly lost on those of us serving as volunteers and professionals in the ABA. The officers of the Section and the top leadership of the Association began discussions some eighteen months ago about the task ahead. We developed a plan for identifying Jim White's successor, a plan that is now being implemented.

Personnel decisions in the ABA are in the hands of the Association's Executive Director, Robert Stein. Fortunately for many reasons and especially for this purpose, Bob Stein was formerly dean of the University of Minnesota School of Law and formerly chair of our Section. He has made it clear that he places the highest importance on this selection and on close consultation with the Section and its constituencies.

A search committee of seven people has been carefully assembled to represent the constituencies with which the Section interacts. It consists of:

- Randall T. Shepard, Chief Justice of Indiana, Immediate Past Chair of the Section

- John L. Lahey, President of Quinnipiac College and member of the Accreditation Committee

- Henry Ramsey, former Dean at Howard, California trial judge and former chair of the Section

- John E. Sexton, Dean at New York University School of Law

- Beverly Tarpley, a former chair of the Section who has been active in bar admission circles

- Robert K. Walsh, Dean at Wake

Forest School of Law and chair of the Section – Diane C. Yu, chair-elect of the Section and counsel to Monsanto Corporation

The ABA has engaged the nationally recognized firm of Heidrick & Struggles to assist the search committee. Many will recognize the firm from its participation in numerous academic appointments in American universities and schools. One of the firm's principal officers, Eugene M. Rackley III, will lead the firm's work in the search.

Our committee will spend the fall and much of the winter identifying and recruiting leading candidates. When the committee has narrowed its likely choices to a limited number, the final candidates will be interviewed in executive session by the Council of the Section. We hope that this will occur at the Council's winter meeting in early February. Having the benefit of the Council's views, the search committee will then recommend a candidate for appointment.

Our hope is that the new Consultant can be retained by late winter. A prompt appointment is especially important because of the planned moving of the ABA's Indianapolis office to the Chicago headquarters during August 2000. Fortunately, Dean White will continue to serve the Section during the transition and will remain to assist the new Consultant through September 2001.

While the ABA's work in legal education touches thousands of people during a given year, it is difficult to overestimate the pivotal role played by the Consultant in every aspect of the Section's activities. Whether it is the development of standards for the accreditation of schools, the collection of data about legal education on which schools and others rely, seminars and meetings that afford training



**Robert K. Walsh and Randall T. Shepard**

or help launch new ideas, or facilitating the evolution of bar admissions, the ABA Consultant is at the center of the activity. Jim White has made it so.

Our task will be to find someone who can help us as volunteers and professionals build on the work we have done together.

If you have ideas about the search or about candidates, I urge you to write me in care of Ms. Nadine Nunley at the ABA, 750 North Lake Shore Drive, Chicago, IL 60611, or by e-mail: [rshepard@courts.state.in.us](mailto:rshepard@courts.state.in.us).

Those who wish to be candidates or to propose names may write Eugene Rackley at 227 West Trade Street, Suite 1600, Charlotte, NC 28202, or [EMR@h-s.com](mailto:EMR@h-s.com). □

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## FROM THE CHAIR

*Continued from page 3*

nary input now to be considered in the initial drafting process.

An old saying notes that: "If you ever see a turtle on top of a fence post, you know it didn't get there by itself." I am optimistic that we will continue to progress in the great work of the Section because it has been my experience in the years that I have worked on Section committees and activities that we have a great staff in the Consultant's office and the most wonderful and dedicated group of volunteers working together to improve what is already the best system of legal education and admissions to the bar in the world. This turtle is grateful, solicits your help, and looks forward to working with you this year. □

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## REMARKS OF PETER A. WINOGRAD

*Continued from page 5*

... but then he added a thought that made a big difference. "Odds don't mean much," he said. "It's really 100 percent or zero, and you want to assume that you are in the 100 percent group."

Over the next few years, when the outcome was not yet clear, I focused on being in the 100 percent group. And it was very helpful, in this respect, to keep busy. Under such circumstances, one does not want empty hours in which the mind can dwell on unpleasant possibilities. So I made sure those hours were filled by overcommitting myself to a variety of projects and organizations. By the time the immediate crisis had passed, I was hooked—those commitments had become an important part of my life. And I will be forever grateful that the four deans with whom I have worked at New Mexico have been steadfastly supportive of these endeavors. I am particularly pleased that one of them—Bob Desiderio—is here tonight.

One of the real joys for those of us in positions that bring us into regular contact with law students is the opportunity to observe—and assist—the ones who seek to pursue public interest work during, and particularly after, law school. They comprise the next generation of lawyers who are prepared to dedicate their careers to help deal with the problems faced by underrepresented people in this country. I have known many students at my school, and many graduates, with such goals, and I have met similar individuals at almost every law school I have inspected for the ABA. They are remarkable folks. They are passionate in their commitment. They know what path they wish to follow, but they often need help getting onto it. This is because, as we all know, the costs of a legal education—even at public schools with low tuitions—have escalated to the point that most graduates must deal with substantial debt, and those attending pri-

vate institutions often leave with loans that can only be described as staggering. Debt levels are now affecting decisions about whether to enroll in law school, decisions about which law school to attend, and placement decisions at the time of law school graduation.

Meaningful steps have been taken to ameliorate this problem, but to date they have opened opportunities for only a small proportion of those seeking to serve. Some schools have raised funds and contributed budgeted amounts for loan repayment assistance programs; some legal employers and foundations have underwritten postgraduate public interest fellowships. But more needs to be done if a real dent is to be made.

Those of us who earned our degrees in a different era and have since been fortunate in our careers—who through luck or otherwise have settled into positions that provide the flexibility necessary to enable us to become involved in pro bono activities that we consider useful to society—we have an obligation to help members of the next generation who want to follow in our footsteps and make contributions of their own. And "we," in this context, include members of the bench and bar, law schools, legal employers, bar associations, and, last but definitely not least, loan-originating organizations and those national legal education associations that have the resources to help make a difference.

I hope many of you will conclude, as I have, that this is important... that it demands our attention. To the extent that progress results in more loan repayment assistance, more fellowships, and more programs supporting public service activities—then, to that extent, there will be more new lawyers who will deem themselves "lucky" as Bob Kutak did some twenty years ago. And this, in turn, may help restore some of the luster that the legal profession seems to

have lost in the public's eyes over recent years.

Thank you very much for being here today... for listening to me... and, of course, for this honor for which I shall be forever grateful. □

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## STANDARDS FOR APPROVAL OF LAW SCHOOLS

*Continued from page 10*

tion that Standard 405(c)'s requirement of "a form of security of position reasonably similar to tenure" was inconsistent with the Standards' eschewal of any requirement that a law school have a tenure system at all, the Committee recommended restructuring all of Standard 405 to move away from the concept of tenure and to focus instead on the programmatic objectives that "security of position and other rights and privileges of faculty membership" are designed to achieve: ensuring that there is a faculty competent to fulfill the educational missions set forth in Chapter 3 of the Standards, and preserving academic freedom. The proposed Standards 405(a) and (b) called for whatever "security of position and other rights and privileges of faculty membership" were necessary to accomplish these objectives with regard to full-time nonclinical faculty, clinical faculty, and (in response to recommendations submitted by the ABA Communication Skills Committee and the Legal Writing Institute) legal writing faculty. Proposed Interpretation 405-1, which was addressed solely to "[a] law school that has a system of tenure," recognized the possibility that a law school may choose to forgo a tenure system altogether.

The Council chose to leave Standard 405 as it is currently written but requested that the Standards Review Committee continue to study this Standard, seeking additional input from its constituencies within legal education and the profession as a whole. □

# Review of the Standards

In February, 1996 the Council of the Section of Legal Education and Admissions to the Bar accepted a report that detailed a schedule for reviewing the Standards, Interpretations and Rules of Procedure for the purpose of assessing their validity and reliability. That schedule provided for a seven-year period of review and commenced with the 1996-97 academic year. During that initial year the Standards Review Committee made a detailed reconsideration of the Rules of Procedure and the Policies of the Council. Its proposals were discussed at public hearings, were reviewed and revised by the Council, and were ultimately adopted by the House of Delegates in August, 1997. According to the plan as initially adopted, the Standards and Interpretations were then to be reviewed during the period from 1997 to 2003.

Based upon various comments and suggestions, the Standards Review Committee recommended, and the Council of the Section adopted at its December, 1997 meeting, a revised schedule for the completion of the validity and reliability review of the Standards and Interpretations. The revised schedule now provides for the review of the Standards and Interpretations to be performed over a period of three years, commencing with the Fall of 1997. In particular, the schedule called for the review of Chapters 1, 2 and 8 of the Standards and Interpretations during the 1997-1998 academic year, Chapters 3 and 4 during the 1998-1999 academic year, and Chapters 5, 6 and 7 during the 1999-2000 academic year.

The plan for review is on schedule this year with consideration of Chapters 5, 6, and 7. Notice of this review has been posted on the Section of Legal Education web site since August. The Standards Review Committee is seeking comments from members of the practic-

ing bar, the judiciary, bar administrators, and the legal academy regarding these chapters. Additionally, the Council has requested that the Committee continue to study revisions to Standard 405 dealing with Professional Environment. The Committee considers it extremely important to receive input from as many constituents as possible. This input might include suggestions for change in one or more Standards or Interpretations, as well as expressions of opinion that a particular Standard or Interpretation is, or a collection of them are, valid as currently expressed. The Committee also understands that some of the recipients of this request, such as bar association presidents, may not be in a position to make official comments on behalf of their associations without an extended survey of their own constituents. Nevertheless, the Committee strongly encourages them to provide their own personal comments as attor-

neys in leadership positions.

After the Committee considers comments and issues concerning the validity and reliability of the Standards and Interpretations at its scheduled meetings, it will hold one or more public hearings at a time or times to be announced. These hearings will be provided to allow persons to make oral comments in addition to, or instead of, written comments.

To view the current Standards, please visit our website at <http://www.abanet.org/legaled>. In order to have your comments available to the Committee at its October meeting, please submit them to the Standards Review Committee at the Office of the Consultant on Legal Education at the following address ASAP.

**Standards Review Committee  
Office of the Consultant  
for Legal Education  
550 West North Street, Suite 349  
Indianapolis, Indiana 46202** □

## BRICKS, BYTES, AND CONTINUOUS RENOVATION

March will bring the return of the very successful Bricks & Books conference. The fourth ABA Facilities Conference will be held Thursday, March 9 through Saturday, March 11, 2000, in Washington, D.C. The program will address planning for new construction and/or major renovations, as well as focus on the challenge of "continuous renovation"—making incremental changes as needed to adapt to technology and other changing requirements of legal education. Professor Leah Wortham is coordinating this Section Conference.



# The Name Says It All: Access!

**A**fter a recent presentation to a group of law school deans, Access Group president Dan Lau was approached by Interim Dean David S. Favre, of Michigan State University, Detroit College of Law, who asked him some pertinent—not to say pointed—questions about the company. Since other law school faculty may be unfamiliar with our role in student lending, we've decided to answer those questions here.

1. *Why is a nonprofit, law school-supported/led organization necessary for our students to get loans? I would assume the private marketplace would provide loans as cheaply and efficiently as possible.*

As a nonprofit, law school-membership organization, we are not just another lender. The mission of the other lenders is to generate profits for their shareholders; ours is to provide students with access to affordable education funding. We were offering signature-only alternative loans to law students long before the big national banks got interested in the student loan marketplace, and we plan to be around as long as students need to borrow money to pay for their schooling—whereas our competitors could decide overnight that student loans aren't worthwhile investments and leave the market.

And we can assure you that without this company, our competitors in the private marketplace would not provide loans as cheaply as they now do. As a nonprofit organization, we have always set our rates to be as favorable as possible to students; the lending community must maintain similar rates in order to compete with us. We believe that the cost of alternative loan borrowing would go up significantly over time if we left the marketplace, because a substantial number of law school graduates

have a record of poor payment, and loan costs would rise to further compensate for the true riskiness of their loans.

We may not always offer the very lowest price in today's marketplace, where big national banks offer student loans as loss leaders for their more profitable products, such as mortgages, but our loans are always priced competitively, relative to the risk involved. More importantly, our role is to maintain access to legal education: anyone will give loans to students with stellar credit histories, but what about all the rest?

Approximately 90 percent of your students can qualify for our loans, either alone or with a cosigner, but fewer than half of all applicants qualify for some of our competitors' loans.

Also, as an organization whose voting members are the deans of the ABA-approved nonprofit law schools, we provide the law schools with a voice in the marketplace. We speak for the law school community and its students.

2. *What exactly do you do for the individual student? Write checks (if so, what are your capital sources) or arrange contacts with others that have money to lend? Do you have to comply with any banking regulations, if you give out loans? Why not?*

We contract with a lender to provide the funds for the loans we make to students. Access Group and the lender are required to comply with applicable banking regulations. We also work with servicers (that handle billing and collection once the borrower has graduated and started paying back the loan) and with various guaranty agencies, which commit to pay off the loans for those students who default. We negotiate terms with the bank and the guarantors to ensure that as

many students as possible will have access to affordable education loans. To ensure high-quality service, we also handle many of the functions involved in the loan transactions ourselves, such as credit checks for the privately guaranteed loans and the origination and disbursement of loan funds.

3. *Since the law schools do not guarantee any student loan, or cosign any loan, why should we care what is the national, or school-specific default rate? I know about the federal cutoff for schools with high default rates, but I do not suspect many ABA law schools have that to worry about. [Are default rates higher for students who do not graduate?]*

You'd be surprised by some schools' default rates. We offer loan programs to students at all of

**I**n some cases, defaults are related to students' unwillingness to pay, rather than their inability to pay. Deans can combat such irresponsibility by reminding their graduates that honorably paying their debts is an inseparable part of their personal and professional integrity and their responsibility to the legal profession.

the nonprofit ABA approved law schools, and some of them have student default rates on their private loans of over 20 percent based on total loan dollars.

You are correct in the assumption that law schools are not directly affected by student defaults, but there are serious indirect consequences. After having made enormous sacrifices to earn a law degree, many students today don't feel satisfied with the rewards they get. Some simply don't find good enough jobs to enable them to make their loan payments without seri-

ous lifestyle constraints (unable to buy a car or a house; still live with parents, etc.). In addition, the average earnings advantage among recent professional school graduates is only about one-third of what it typically may become later, so, paradoxically, their debt burden is hardest to manage in the earliest years of repayment. And yes, default rates are higher for students who don't complete their degree, especially if they have accrued large debts in the expectation of earnings that won't materialize.

The net result is that there are growing numbers of unemployed or underemployed law school graduates who feel like they've made a bad bargain. Their vocal bitterness may hurt their alma maters' future enrollment, and, while there has been no study of the effects of default on institutional giving, development officers do anticipate lower donations from these alumni in the years to come.

Furthermore, if default rates grow high enough, lenders may become unwilling to make loans to students at those schools, or funding may become so expensive that many students will simply be priced out of the market. Because student loans are made with no collateral, there is no way lenders can recoup their losses. ("You can't repossess an education.") And, once burned, twice shy: As default rates rise, lenders grow more reluctant to make such risky loans and raise the cost of borrowing to offset their anticipated losses.

4. *Assuming that access to cheap loan money is important to our students, what is it that the dean can do to help?*

You said that it made a difference if the dean got involved, but you never said what it was the dean was doing to be involved.

Deans can play an absolutely pivotal role in helping to prevent loan defaults, because they are in a position to fight for institutional cost containment measures. High defaults spring from high levels of borrowing, and high borrowing is caused by high school costs. It is now estimated that at least 85 per-

cent of the tuition revenue collected by all ABA-accredited law schools, both public and private, is generated by student borrowing. During the past twenty years, average law school tuition at private schools has gone from \$2,525 to \$16,441, an increase of 551%; at public schools, average tuition has grown from \$700 to \$4,795, an increase of 585%.

Also, your law school may have grown accustomed to giving up 20-40% of your students' tuition to support nonlaw activities, but such "tithes" don't have to go on forever, and law school deans can work to end them.

In some cases, defaults are related to students' unwillingness to pay, rather than their inability to pay. Deans can combat such irresponsibility by reminding their graduates that honorably paying their debts is an inseparable part of their personal and professional integrity and their responsibility to the legal profession.

Another thing deans can do is to support the financial aid office in carrying out debt-education initiatives. For example, many students don't have an accurate idea of how much they owe—not because they're careless, but because they have separate federal and private loans for each year of undergraduate and graduate school, involving multiple lenders and loan servicers. Financial aid administrators may try to give each student an annual debt profile, showing their current debt and eventual overall cost, including interest. But deans at some schools have forbidden these disclosures, fearing negative consequences for their enrollments.

The Access Group has been studying the problem of rising student loan defaults for the past several years and has taken steps to address it. We have adjusted our loan program terms to try to compensate for higher default rates by pioneering borrower-based pricing. We have hosted national seminars on default issues. We sponsor an ambitious national project to help law schools with high default rates find new ways to help their stu-

dents. But we are convinced that the time has come for innovations that can only come from within higher education institutions, in the form of broad policies, advocated by senior administrators who understand the issues. And that's where you come in—we hope. □

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## ABE

### *Continued from page 13*

- **Hospital Indemnity Protection**—supplemental coverage that pays up to \$250 in daily cash benefits for covered hospital stays in addition to any other insurance you may have.

- **Accidental Death & Dismemberment**—provides up to \$500,000 in benefits due to an accidental death or dismemberment.

- **Office Overhead Expense**—geared towards the solo practitioner and offices of five attorneys or less. This plan covers up to 100 percent of your office expenses up to \$10,000 per month to help ensure that your office can continue to operate if a disabling accident or illness keeps you from working.

Solid insurance protection is something each and every one of us needs—and the chance to "give something back" is something each and every one of us can feel good about. Therefore, we at the American Bar Endowment encourage you to find out more about ABE-sponsored insurance plans—and our dividend contribution program—today!

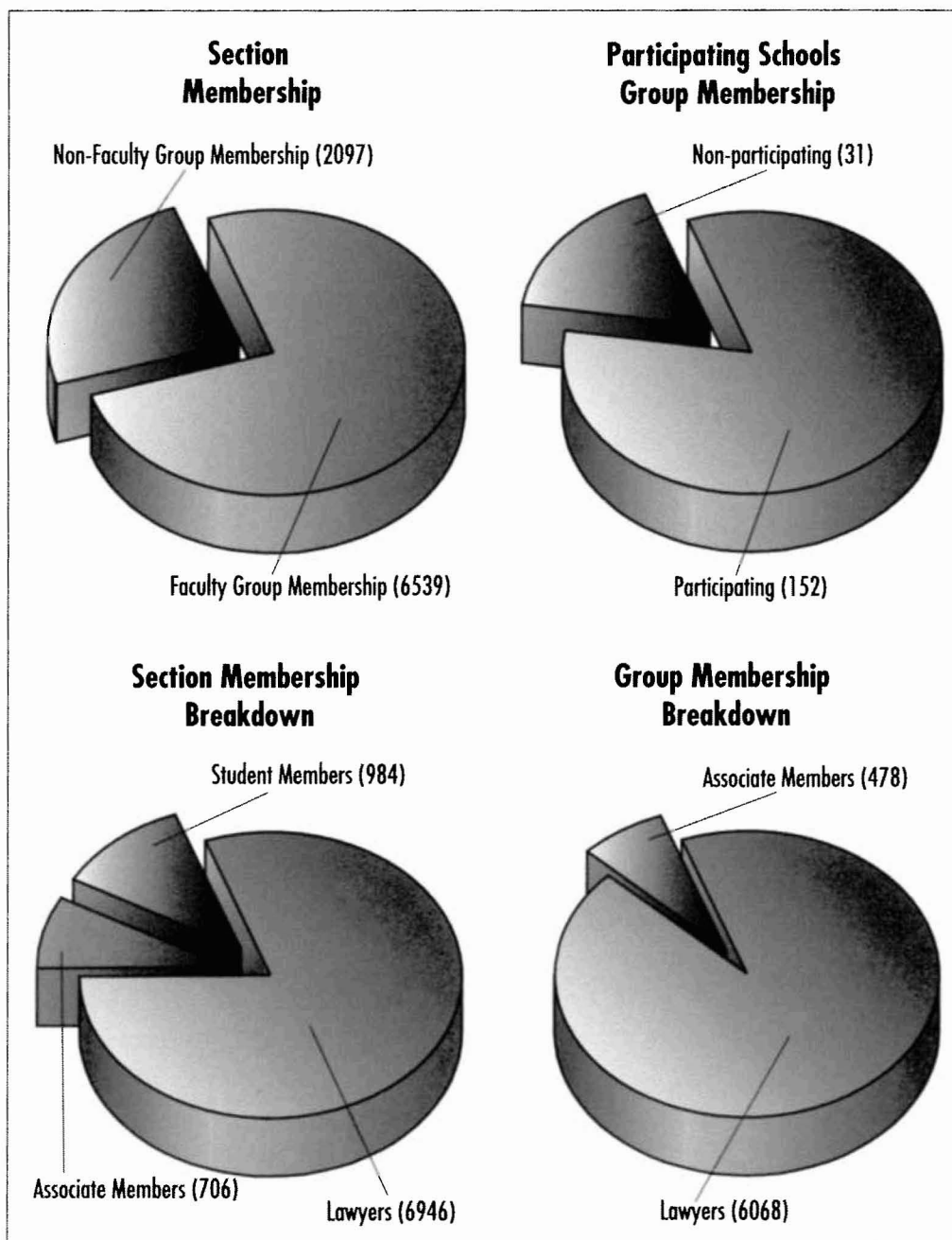
If you would like more information regarding the American Bar Endowment and how you can help improve our system of justice, please feel free to call us toll free at 1-800-621-8981. We can also be reached via e-mail at [ABEmailus@aol.com](mailto:ABEmailus@aol.com). If you would like to visit our website, we can be found at [www.abanet.org/abe](http://www.abanet.org/abe). □

# Section Membership and Bylaws

**S**ection membership is currently **8,636**, with **6,539** enrolled through the Faculty Group Membership Program. The breakdown of the total membership is as follows: **6,946** are lawyers, **706** are associate members, and **984** are student members. The Faculty Group Membership Program, which offers a substantial savings over individual membership to law school faculties, has been successful in involving law school faculty members in the Association and Section. Currently, **152** of the **183** ABA approved law schools (including Judge Advocate General School) participate in the Program. Of those who are members via the Faculty Group Member Program: **6,068** are lawyer members and **478** are associate members. The Section hosted a reception in conjunction with the AALS Annual Meeting on January 7, 1999, to honor participants in the Faculty Group Membership Program.

## Bylaws

At the June meeting of the Council of the Section, the Council voted to recommend proposed changes to the Section's Bylaws that were presented to the Membership during the Annual Business Meeting of the Section at the ABA Annual Meeting in Atlanta. Justice Shepard, the Chair of the Section, presided over the events. The Section members present at the voting adopted the recommendation of the Council and adopted the changes. The purpose of the are to strengthen the Council's compliance with Department of Education regulations. The General Counsel and outside counsel of the ABA both concurred on the appropriateness of the proposed changes. A red-lined copy of the Bylaws identifying the revisions can be viewed on the Secion's Website. □





## Mark Your Calendar

NOVEMBER 1999		
4-6	Accreditation Committee Meeting	New York, NY
19-20	Distance Learning Workshop	Indianapolis, IN
DECEMBER 1999		
4-5	Council Meeting	San Diego, CA
2000		
JANUARY 2000		
6	Standards Review Committee Hearing	Washington, DC
21-23	Accreditation Committee Meeting	Houston, TX
28-30	Bar Admissions Committee Meeting	San Antonio, TX
FEBRUARY 2000		
5	Workshop for Site Evaluators	Indianapolis, IN
9-15	ABA Midyear Meeting	Dallas, TX
10-12	Workshop for Deans of ABA Approved Law Schools	Dallas, TX
11	Standards Review Committee Hearing	Dallas, TX
12-13	Council Meeting	Dallas, TX
24-27	Conference: Lawyers As Creative Problem Solvers Law Schools	San Diego, CA
MARCH 2000		
9-11	Conference on Law School Facilities "Bricks, Bytes and Continuous Renovation"	Washington, DC
APRIL 2000		
7-8	Conference: Law Schools and the Profession-A Celebration Conference	Indianapolis, IN
27-30	Accreditation Committee Meeting	Indianapolis, IN
MAY 2000		
17	ABA/AALS/LSAC Deans Meeting	Washington, DC
17	Standards Review Committee Hearing	Washington, DC
17	Mayflower I Meeting	Washington, DC
18	Mayflower II Meeting	Washington, DC

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### Editor's note:

The Summer issue of Syllabus is finally here. I apologize for the delay but we really wanted to make sure we included the articles regarding the search for a new Consultant from James P. White, Robert K. Walsh, and Randall T. Shepard. In addition, the untimely but very welcomed birth of my first child, Summer Carly Snyder, made matters a little more hectic. Fortunately, the baby and her mother are both doing very well.

# SYLLABUS

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