

SYLLABUS

American Bar Association Section of Legal Education and Admissions to the Bar • Volume XXXI, Numbers 3 & 4 • Summer/Fall 2000

The First Four Months

By John A. Sebert, Consultant on Legal Education

As I write this, I am beginning my fifth month as Consultant on Legal Education. They have been eventful months—times of both change and stability. The move to the new offices—on the seventh floor of the Bar Center at 750 N. Lake Shore Drive in Chicago—has gone very smoothly. When you are in the Chicago area, we cordially invite you to visit us, see the offices, and meet the excellent new members of our staff.

During the first four months we have undertaken a number of new initiatives and achieved some significant successes. I want to highlight those developments here. There is more information about some of these matters elsewhere in this issue of *Syllabus*. Others you will be hearing more about over the coming months.

Joint LSAC/ABA Guide to ABA Approved Law Schools. We are extremely pleased that the separate guides to law schools that have been published by LSAC and the ABA will be combined, beginning in the spring of 2001, into a single publication. The book will contain much useful general information about legal education, plus a four-page entry for each ABA approved law school. Two of those pages will contain the data about each law school that have previously appeared in the ABA publication; the other two

pages will have the narrative description of each law school and the admission grid that has been contained in the LSAC publication. Beginning in the summer of 2001, much of the data contained in the joint publication will also be available in electronic form, in a CD published by LSAC and on the web. The new publication will provide the most comprehensive information that is available about law schools, and it will be an extremely useful resource for those considering application to law school.

Department of Education Recognition. This year it was the turn of the Council of the Section of Legal Education and Admissions to the Bar to be reviewed by the Department of Education for continuation as the recognized accrediting agency for J.D. programs. The chair of the Council, Diane Yu, and I appeared in December before the DOE Advisory Committee on Institutional Quality and Integrity to discuss the Council's application. The Committee voted to endorse the staff recommendation,

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Council receives five-year renewal of recognition as official U.S. law school accrediting agency

On December 12, 2000, representatives of the Council of the Section appeared before the National Advisory Committee on Institutional Quality and Integrity (NACIQI) of the U.S. Department of Education (DOE) in connection with the Council's petition to be re-recognized as the nationally recognized accrediting agency for J.D. programs in the United States. The Committee endorsed the DOE staff recommendation that the Council be re-recognized for the maximum period of

five years. On January 12, 2001, Secretary of Education Richard W. Riley approved the staff and committee recommendation.

The Council's representatives at the NACIQI hearing consisted of Diane Yu, Chairperson of the Section, John Sebert, Consultant on Legal Education, and Harry Haynsworth, dean of William Mitchell College of Law and Chair of the Section's Independent Law Schools Committee. In preparing our petition for re-recogni-

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FIRST FOUR MONTHS

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which was that the Council's recognition be continued for the maximum five-year period, subject to our reporting back in December 2001 on four changes in Council regulations and procedures that are necessary to meet DOE recognition criteria. (The Council has already tentatively approved those changes, which have been circulated for comment and appear elsewhere in this issue of *Syllabus*.) Secretary of Education Riley approved the recommendations of the staff and the Advisory Committee shortly before he left office in January.

"Out-of-the-Box" Committee.

Diane Yu, Chair of the Council, this fall established and appointed an important new committee, the Out-of-the-Box Committee. The charge of the Committee is to assist law schools and legal educators to think creatively about the challenges and opportunities that face legal education over the next decade or so, and to assist them in developing "out-of-the-box" ideas as to how to respond to those challenges and opportunities. The Committee is cochaired by Deans John Attanasio of SMU and John Sexton of NYU. Other Committee members include Cory Amron of the D.C. bar; Professor Mary Daly of Fordham; Chief Judge Harry Edwards of the D.C. Circuit; Bryant Garth, Executive Director of the American Bar Foundation; Professor Peter Martin of Cornell; Professor Carrie Menkel-Meadow of Georgetown; Professor Cruz Reynoso of UCLA; Dean Harvey Rishikof of Roger Williams; and Provost Geoffrey Stone of Chicago. The group will be trying to develop not only new ideas but also new means for dialogue with the legal education community. A beginning of that dialogue will occur with a program that the Committee will conduct at the ABA Annual Meeting in Chicago on the afternoon of August 4.

Deans' Conversations. During my first months as Consultant, I have been traveling the country holding a series of "Deans' Conversations with the New Consultant." By the time you read this, I will have held ten of those Conversations, each hosted by a law school dean. The meetings have been very well attended, with between seven and eighteen deans at each meeting. Overall, I will have met in these four-hour sessions with over 120 deans of the 184 ABA approved law schools. The sessions have been wide-ranging in the topics that have been discussed. They have provided an excellent opportunity for me to hear candidly from one of our most important constituencies—law school CEOs—their views about the activities of the Section, our strengths and weaknesses, and how from their perspective we can better serve legal education. I think the meetings have also been a good opportunity for deans to hear the often differing views of their decanal colleagues.

Foreign Programs Task Force. It has been a while since we reviewed comprehensively the criteria for foreign programs. In light of the significant developments that have occurred over recent years with respect to international programs of ABA approved law schools, Diane Yu and I thought it appropriate to undertake a full review of our regulations concerning foreign programs this year. Diane has appointed a Foreign Programs Task Force to undertake that review: two members of the Council, Laura Gasaway of North Carolina (chair) and Nancy Neuman (a public member of the Council); two members of the Accreditation Committee: Dan Freehling of Boston University and John O'Brien of New England; and one member of the Standards Review Committee, former Deputy

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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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Consultant Richard Hurt of Indiana-Indianapolis. The Committee held its first meeting in early January and hopes to report its recommendations to the Council by August.

Strategic Planning Process of the Council. Diane Yu and I also wanted the Council to undertake a major strategic planning process this year. The Council focused at its October retreat on four questions that the Council is asking itself and the leadership of our committees, and that I am also asking the deans in the Deans' Conversations: What are the strengths of the Section? What are our weaknesses? What new or additional things should we be doing? Are there activities that we should cease or reduce? Under the leadership of Deans Tom Sullivan of Minnesota and Bob Walsh of Wake Forest, the Council will identify a limited number of strategic objectives that will receive major attention from the staff and volunteers of the Section over the next few years. We hope to be able this spring to circulate a draft version of those Strategic Objectives for comment from leaders of the legal education community.

While we have been working on these initiatives, the regular business of the office also has continued apace. The Council and the Accreditation Committee had retreats in October and regular meetings, with their typically full agendas, later in the fall. The Standards Review Committee has also had a very busy few months. You will see elsewhere in this issue of *Syllabus* a number of proposed revisions to the Standards, Interpretations and Rules of Procedure that the Committee and the Council have asked be circulated for comment prior to final action by the Council on these matters in June.

A number of important conferences and workshops are on tap for later this winter and spring. Deans Steve Smith and Judy Areen have planned an excellent Deans Work-

shop in conjunction with the ABA Midyear Meeting in San Diego. Our most popular regular conference, the Development Conference, revisits Jackson Hole, Wyoming, May 29–June 1. The Development Committee, led by Don Gifford of Maryland and Debra LaMorte of NYU, has put together another fine program, and we are anticipating a large attendance. Finally, the New Deans' Workshop will again be held in Winston-Salem, North Carolina, June 6–9. Dean David Shipley of Georgia and his committee have put

together an all-star cast to assist new deans as they undertake their leadership responsibilities.

As you can see, our plate is full. I am very grateful for the excellent cooperation and assistance that we have received from all of our volunteers, and from Jim White and his Indianapolis staff, during these initial months. With the continued assistance of all of them, and you, we hope to continue to improve the service that the Consultant's Office and the Section provide to the legal education community. □

RENEWAL

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tion and for the hearing itself, the Section also had outstanding support from outside counsel, Mark Pelesh and John Przypyszny of Drinker, Biddle & Reath, LL.P, and from James P. White, Advisor to the Consultant, Barry Currier, Deputy Consultant, and Darryl DePriest, ABA General Counsel.

The packed hearing began with presentations by DOE staff—Joyce Jones and Dr. Karen Kershenstein—both of whom asserted that the Council meets the DOE recognition criteria and should receive the five-year renewal. After a brief opening statement by Section Chairperson Diane Yu, Dean Haynsworth spoke on how the Standards and Council procedures accommodate many different and innovative avenues to legal education. Haynsworth indicated how three Minnesota law schools (University of Minnesota, Hamline, and William Mitchell) all adhere to the Standards and yet have different missions, types of students, and curricular approaches.

A question and answer period followed with discussions ranging from technical accreditation issues and the reasoning behind

some of the Standards, to the impact of the Standards on a typical law school and students. There were inquiries about part-time students, access to law school by minorities, and the cost of legal education

The Committee voted upon the conclusion of the testimony, 6-2, in favor of the staff recommendation to grant the Council the five-year renewal with the caveat that a few modifications to the Standards, Interpretations, Rules of Procedure and Bylaws be submitted on or before December 13, 2001. (The Council has already taken preliminary action on those matters, and the revisions necessary to comply fully with DOE requirements appear elsewhere in this issue of *Syllabus*.)

The ABA, through the Council of the Section of Legal Education and Admissions to the Bar and its Office of the Consultant on Legal Education, has been the nationally recognized accrediting agency of programs in legal education that lead to the first professional degree in law since 1952. The present renewal extends this charge through 2005. □



FROM THE CHAIR

“Back to the Future”

by Diane C. Yu

As of this writing in early December, with one-third of the 2000-2001 bar year behind us, I can say that it’s been an exhilarating several months. The confines of this column cannot even begin to capture how enthusiastic and amazed I am about the extraordinary breadth and depth of substantive work this Section has undertaken. Even more striking is learning about the achievements of so many hundreds of individuals whose ideas, insights, and energy are making a difference to improve our profession.

“If it sounds good, it is good.”

Duke Ellington

Out and About

One of the distinct pleasures of serving as Section Chair is getting more involved in a broad range of Section issues on an intensive basis. I’ve had the pleasure of participating in several Standing Committee meetings to date, such as the Bar Admissions Committee, Accreditation Committee, “Out of the Box” Committee, and the planning portion of the Professionalism Committee that is working on the joint August 2001 program with the National Conference of Bar Presidents and others. I also enjoyed speaking at the Midwest Clinical Teachers Conference in St. Louis.

In addition, I attended the outstanding “Action and Accountability: Diversity Imperatives for a New Century” conference in Denver, which

was chaired by Council member, University of Houston Law School Professor Michael Olivas. It was the follow-up to the excellent “Access 2000” Conference over a decade ago, and was organized by a committee composed of members of the original three sponsoring organizations—the Association of American Law Schools, Law School Admission Council, and the ABA Section of Legal Education and Admissions to the Bar. Thanks go out to Michael Olivas, Kent Lollis (LSAC staff person who was invaluable to the cause), James P. White, Jesse Choper, Mary Judkins, Carl Monk, Phil Shelton, Greg Williams, Rennard Strickland, Angela Davis, and Mark Tushnet for their Diversity Conference Planning Committee service.

The Conference keynoter was Attorney General Janet Reno. Distinguished panelists and skilled facilitators in break-out groups explored a number of substantive areas where new directives and strategies to increase minorities in the legal profession could be implemented, such as: (a) identification and recruitment; (b) testing and admissions; (c) financial aid; (d) student retention and academic assistance; (e) placement and employment; (f) bar examination; (g) faculty recruitment and retention. For more information, you may contact Prof. Olivas, or Kent Lollis at the LSAC.

Council Retreat and Business Meeting Report

As I mentioned in my prior “Chairperson’s Column,” strategic

planning is a key imperative this year. In October, the Council met and devoted a full day to discussing the top imperatives for the Section this year in the context of its year-long Strategic Planning initiative. Seattle University Law School Dean Rudy Hasl served as the facilitator. Council members reviewed the results of a survey that went to chairs of all standing committees, members of the Accreditation and Standards Review Committees, and its own ranks. The survey solicited input on the strengths of the Section, its weaknesses, matters to which the Section should devote more time, and those to which it should dedicate less time.

“We must look forward to the future as that is where most of us will be spending the rest of our lives.”

Charles F. Kettering

What came through loudly and clearly were a number of major themes: need for better communication about the Council’s role in law school accreditation, concern about Standards that allegedly micromanage a law school’s operations, importance of focusing more attention on nonaccreditation activities of the Section (especially bar admissions), desire to strengthen relationships with external bodies (such as state high courts, University presidents, and those with differing viewpoints on the direction of legal education/admissions), and our own Standing Committees, among others.

At its December 2-3 business meeting, the Council reviewed a summary of the discussion, provided some refinements to and set some priorities for the various items that had been discussed at the Retreat. Thereafter, the Long-Range Planning Committee, headed by Dean Tom Sullivan and Dean Robert Walsh,

will be seeking additional feedback from a wider range of interested parties and Section participants, such as deans, our “sister” organizations, and other groups. The Committee will incorporate that information as it formulates the Strategic Plan for the Section by the middle of 2001.

At the December Council meeting, the Section spent a fair amount of time on several important issues, particularly some modifications to the law school accreditation standards and the request for testimony from the ABA’s recently formed Multijurisdictional Practice Commission. On the former item, the recommendations from the Standards Review Committee, chaired by Beverly Tarpoley, were considered as to Standards and Interpretations 302, 405(C), and 405(d). Standards Review will hold three public hearings and make appropriate modifications to the Standards, with the Council acting upon them at its June 2001 meeting as a prerequisite to sending them to the House of Delegates.

As to Multijurisdictional Practice, the Council received valuable pre-meeting advice from the Section’s Bar Admissions Committee, which Margaret Fuller Corneille and Fred Parker cochair. Among the many issues raised in the Bar Admissions Committee’s background paper were: State Supreme Court jurisdiction, unaccredited law school graduates who are not recognized as eligible for admission in most states, differing bar examination standards for admission throughout the country, international law admissions considerations, and initiatives that are supported by the Committee regarding a model rule for admission on motion and UPL safe harbors for certain classes of attorneys, such as corporate in-house counsel.

What ensued was a very animated and expansive discussion of many MJP-related issues, including:

- UPL and how it is enforced around the country
- The likelihood of achieving uni-

form bar examination standards

- A national bar examination and gradual movement toward one with multiple NCBE products available now
 - The internationalization of law practice
 - The importance of ABA law school accreditation in the overall scheme
 - The impact of the Internet and other information technology on law practice
 - The role of many state legislatures in setting bar admissions policies (including permitting and protecting unaccredited law schools)
 - The reality that a number of State Supreme Courts currently accept unaccredited law school graduates as candidates for the bar in their states, and others are likely to join their ranks
 - The present LL.M. problem
 - Reciprocity, including the failed attempt in the 1980s to adopt a uniform reciprocity proposal
 - Corporate counsel—different ways to deal with their interests
 - Transactional lawyers—strong pressures to practice without regard to borders
 - International lawyers—lack of any recognized body like the ABA accrediting system to help develop a global reciprocity procedure
 - Restrictive bar admissions policies affecting law school faculty members
 - Other regulatory groups or professions that are experiencing similar challenges to state registration procedures
 - Public protection—touchstone of admissions regulation and accreditation
 - Lawyer competency.
- The Council determined that the Section has a great deal to offer to the debate, and needs to prepare thoughtful testimony for the upcoming public hearings scheduled by the ABA Commission on Multijurisdictional Practice at the Midyear Meeting. To that end, I appointed a

drafting team to prepare an articulation of core values and principles, together with supporting reasons, that should inform the MJP debate. The Section Chair-Elect, North Dakota Chief Justice Gerald Vandewalle, is the drafting team chair. He will present the testimony at the San Diego public hearings, since I am a member of the MJP Commission and cannot do so personally. The other members are former Section Chair Norman Redlich, Virginia Supreme Court Justice Elizabeth Lacy, former Accreditation Committee Chair Pauline Schneider, former Section Chair Jose Garcia-Pedrosa, and NYU Professor Randy Hertz.

The Section’s written testimony will emphasize the expertise and experience that the Section uniquely possesses, along these general lines: (1) the need for standards in admission; (2) the need for educational requirements for admission; (3) the need for accreditation of law schools for quality control and public protection; (4) the identification of admitting/licensing authorities and the guidelines for admission that they apply. While certain specific proposals mentioned in the ABA MJP Commission materials had some champions, the firm view was that there would be greater credibility to our testimony if we did not take a position on any one construct or specific MJP formulation or prohibition.

“The best way to have a good idea is to have a lot of ideas.”

Linus Pauling

“Out of the Box” Committee

This year, we’ve created a new Section Committee that builds on the successful “Out of the Box” Section program at the London Annual Meeting in July, where NYU Dean John Sexton delivered a provocative keynote address and an internation-

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“Reflections from the Past-Chairperson”

By Robert K. Walsh

SUCCESSION AND TRANSITION

Certainly, the greatest challenge during my year as chairperson of the Section was to preside during the search and preparation for a new Consultant for the first time in over a quarter of a century. When I received the gavel from Chief Justice Randy Shepard in early August of 1999, Jim White had just announced his plans to retire shortly after the end of my coming Section year, and we had set up a search committee to find a superbly qualified successor. Moreover, we had the challenge that the successor would move the Section office from Indianapolis to Chicago. The “succession” and “transition” rightly took a great deal of the Section leadership’s time during the year. It was time very well spent. We found a wonderful new Consultant in Dean John Sebert of the University of Baltimore School of Law, and the Chicago office is up and running well.

I know that everyone involved believed that the choice of Jim White’s successor was immensely important to the future of American legal education. As John Sebert would agree, it would be a gross understatement to say that he has extremely big shoes to fill. Jim White’s leadership for American legal education for more than a quarter of a century is one of the chief reasons that other countries view the United States as the legal education system they want to emulate.

We had a number of occasions to honor Jim White’s magnificent service during the year. On April 7 and

8, 2000, we had a wonderful conference entitled “Law Schools and the Legal Profession” in Indianapolis sponsored by the Section, together with the Indiana University School of Law-Indianapolis and its *Law Review*. This conference drew a couple of hundred lawyers, judges, and legal educators from all over the nation and a few from foreign countries. It honored Jim White and had thoughtful talks and dialogue about the past and future of legal education, focusing on the many improvements in American legal education since Jim White became Consultant on Legal Education to the ABA in 1974.

quarter century than the improvement of student/faculty ratios, providing smaller and more interactive classes, necessary particularly to simulation, problem-solving, clinical, and foundational courses. Certainly, Jim’s leadership for CEELI and the African Law Initiative has led the way of the increased globalization efforts of our law schools.

Jim White had a positive leadership effect on all of these areas. But his greatest influence has always been person to person. Both new and established law schools have benefitted from his personal counsel. Deans, university presidents,

“No greater improvement in the quality of legal education has occurred over this quarter century than the improvement of student/faculty ratios, providing smaller and more interactive classes...”

The progress in American legal education during Jim’s tenure as Consultant has been dramatic. During this quarter century, the percentage of women attending law school has increased 130 percent and minority enrollment has increased 150 percent. Jim has been a great leader in diversity and the implementation of both Standards 210 and 211. When Jim White became Consultant in 1974, clinical legal education was in its infancy. He has been a great force bringing it to adulthood and into the mainstream of American legal education. When Jim became Consultant, it was not unusual for American law schools to have student/faculty ratios as high as 30 to 1. I believe that no greater improvement in the quality of legal education has occurred over this

law school faculty, lawyers, and judges have sought his advice on old and new issues of legal education.

CONTINUING PROGRAMS AND NEW INITIATIVES

In addition to the work on the succession and transition, the regular work of the Section in accreditation and in working for the improvement of legal education went well. In addition to the many recurring programs that the Section does annually, we were able to have a number of special programs during the year. The first was on November 18-19, 1999, in Indianapolis, a conference on distance learning chaired by Professor Art Gaudio of the University of Wyoming. At this conference, we examined what is happening in the law schools under the great variety of

Robert K. Walsh was chairperson of the Council during the 1999-2000 year. He is currently serving on the Section’s Budget, Long Range Planning, New Deans’ Seminar, Special Planning and Post J.D. Program Committees. He is also dean and professor at Wake Forest University School of Law, Winston-Salem, N.C.

activities covered by the term “distance learning” and the Section’s temporary distance education guidelines.

The programs during the second half of the Section’s year had a theme of reviving interest in two of the great study reports issued in the 1990s by the Section, the MacCrate Report of 1992, more formally entitled “Legal Education and Professional Development—An Educational Continuum,” and the 1996 report of the Section’s Professionalism Committee: “Teaching and Learning Professionalism.”

On February 11, 2000, at the Midwinter meeting in Dallas, we had a special one-day joint meeting with the leaders in the National Conferences of Bar Presidents, Bar Executives, and Bar Foundations. Chaired by Dean John Feerick of Fordham, this program explored areas of further collaboration between law schools and the bar leaderships in the states with the thought of giving impetus for future state and local MacCrate conclaves. My two successors, Diane Yu and Chief Justice Gerry VandeWalle, are committed to further programs with these bar leaders toward this end.

As to the Professionalism Committee report, the Section cosponsored a program with California Western Law School at the end of February in San Diego on the important topic of “Lawyers as Creative Problem Solvers” and then at the New York segment of the Annual Meeting, Dean Harry Haynsworth of William Mitchell, reporter for the original Professionalism Committee report, organized a program to present concrete examples of what law schools are doing to teach professionalism, an illustrative best practices program.

Finally, as to special programs, we had the opportunity that comes along about every 15 years of ABA activities to have programs during the second portion of the Annual Meeting in London. The Section sponsored almost a full week of programs, including a Presidential Showcase Program looking at the

future of legal education worldwide and asking distinguished legal educators from various countries to think “out of the box” about the education of lawyers in the early part of the 21st century.

THE FUTURE

Jim White is serving this year as Advisor to our new Consultant. John Sebert is off to a fast start in organizing the Chicago office and going around the country to listen to deans and other constituents of the Section as to the best direction for the Sec-

tion’s future. Diane Yu has set up a new long-range planning process. Diane, Gerry VandeWalle, and Tom Sullivan will be great leaders of the Section over the next three years. Moreover, it has been my experience in the years that I have worked on Section committees and activities that we have 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. I am very optimistic about the Section’s future. □

ABA and LSAC Announce Joint Publication

A successful initiative of the Section during the last four years has been the publication of the *ABA Official Guide to ABA Approved Law Schools*, unofficially known as the “509 Publication.” This publication provides applicants, other members of the public and legal educators a great deal of statistical information about each ABA approved law school. It also provides a convenient way for law schools to meet their obligation under Department of Education and accreditation rules to publish basic consumer information.

Under a recent agreement between the ABA and the Law School Admission Council (LSAC) the two organizations will publish a joint book on legal education, *The Official Guide to ABA Approved Law Schools*. This joint publication will include the statistical data previously published in the ABA guide. It will also have admissions data and text provided by law schools that are currently included in the LSAC’s *Official Guide*. There will be four pages for each law school—two ABA statistical pages and two LSAC-produced school narrative pages.

The joint publication will be the most comprehensive compilation of information on law schools publicly available. It will be of great value to applicants to law schools, legal educators, lawyers and the public. Its comprehensive and official status will also contrast with commercially available publications that do not have reliable law school data, or seek to rank law schools.

Look for the new publication next spring. Information will also be available on the Section’s Web site later in the year.

—Steve Smith and Peter Winograd

Proposed Revisions to Standards, Interpretations, Rules of Procedure and Bylaws Being Circulated for Comment

MEMORANDUM

TO: Deans of ABA Approved Law Schools
University Presidents
Chief Justices of State Supreme Courts
Bar Admission Authorities
Deans of Unapproved Law Schools
Leaders of Other Organizations Interested in ABA Standards

FROM: John A. Sebert, Consultant on Legal Education
Beverly Tarpley, Chair, Standards Review Committee

SUBJECT: Proposed Revisions to Standards, Interpretations and Rules of Procedure, and of the Bylaws of the Section of Legal Education and Admissions to the Bar

DATE: December 19, 2000

At its meeting of December 2–3, the Council of the Section of Legal Education and Admissions to the Bar approved for circulation and comment a number of proposed revisions to the *Standards of Approval for Law Schools*, the Interpretations of those Standards, and the Rules of Procedure for Approval of Law Schools. Those proposed revisions are attached to this memorandum, with explanations of the rationale for each action. Also attached are proposed revisions of the Bylaws of the Section of Legal Education and Admissions to the Bar.

We solicit comment on these revisions, by letter, e-mail or through appearances at the hearings that will be conducted by the Standards Review Committee during

the first months of 2001. Letters and e-mails should be addressed to Dean Barry Currier, Deputy Consultant, at our Chicago office or at currierb@staff.abanet.org. All comments will be provided to and reviewed by the Standards Review Committee when it meets in mid-May to finalize its recommendations to the Council on these matters. We expect that final Council action on these matters will occur at the Council meeting scheduled for June 2-3, 2001.

The Standards Review Committee will hold hearings on these proposed revisions at the AALS Annual Meeting, the ABA Midyear meeting, and the American Law Institute Annual Meeting. The dates, times and locations of those hearings are as follows:

AALS Annual Meeting

Thursday, January 4, 2001
3:30–5:00 p.m.

Hotel Nikko

Carmel II, 3d floor
22 Mason Street
San Francisco, CA

ABA Midyear Meeting

Friday, February 16, 2001
4:30–6:00 p.m.

Hyatt Regency San Diego

Room: TBA
One Market Place
San Diego, CA

American Law Institute Annual Meeting

Wednesday, May 16, 2001
10:00 a.m.–12:00 noon

Renaissance Mayflower Hotel

Room: TBA
127 Connecticut Avenue, N.W.
Washington, DC

Standard 302: Curriculum

The proposed revision will require law schools to make certain that all students receive at least two rigorous writing experiences as part of the J.D. program. At least one of these must be in the first year and at least one must be outside the first year. There has been substantial agreement within the legal education community, including the Standards Review Committee and the Council, that law schools should require substantial legal writing as part of a J.D. program. The existing standard, which requires one rigorous writing experience, can be met by a law school's introductory research and writing course. Many schools require more, but we agree with others that it is important that the Standards' requirements in this area be increased.

There are, of course, a variety of ways to state an increased requirement. Some have suggested that the Standards simply require two writing experiences, rather than one. Many schools might suggest that they meet such a requirement by a two-semester first-year course. Others might suggest that two senior writing seminars would meet such a standard. Neither of those schemes is satisfactory. We believe that a substantial writing experience in the first year is fundamental, and we believe that students will benefit from a writing experience beyond the first year.

We believe that increasing the required number of writing experiences from one to two and insisting that one of those experiences be outside of the first year accomplishes the objective of ramping up what law schools must do and still leaves schools with an appropriate amount of flexibility to design programs that fit their student bodies and missions.

These revisions also reorganize the curricular requirements of Standard 302 to more clearly communicate what curricular requirements law schools must meet to comply with the Standards. The rewording of Standard 302(a) makes clear that law schools must have a program of legal education that provides for all students to receive instruction in the fundamentals—substantive law, values and skills (including writing)—that are essential for effective participation in the legal profession. Subsection (c) is restated to specifically address professional skills and clinical education. Law schools shall offer adequate opportunities to all students for “skills” instruction, but need not require all students to receive this instruction; and schools must offer live-client clinics and/or externship programs, though a law school need not be organized to provide this experience to every student. The provision in revised Standard 302(c)(2) concerning live-client and other real-life practice experiences has been in the Standards for a number of years and is not substantively altered in this proposed revision.

The proposed changes:

Standard 302. CURRICULUM

- (a) ~~A law school shall offer to all students in its J.D. program~~ All students in a J.D. program shall receive:
- (1) instruction in the substantive law, values and skills (including legal analysis and reasoning, legal research, problem solving and oral and written communication) generally regarded as necessary to effective and responsible participation in the legal profession; and
 - (2) at least one one rigorous writing experience substantial legal writing instruction, including at least one rigorous writing experience in the first year and at least one additional rigorous writing experience after the first year. ; and
 - ~~(3) adequate opportunities for instruction in professional skills.~~
- (b) Unchanged
- (c) ~~The educational program of a law school shall provide students with adequate opportunities for small group experiences in seminars, directed research, small classes, or by collaborative work. A law school shall offer in its J.D. program:~~
- (1) adequate opportunities to all students for instruction in professional skills; and
 - (2) live-client or other real-life practice experiences. This might be accomplished through clinics or externships. A law school need not offer this experience to all students.
- (d) ~~A law school shall offer live client or other real life practice experiences. This might be accomplished through clinics or externships. A law school need not offer this experience to all students.~~ The educational program of a law school shall provide students with adequate opportunities for small group work through seminars, directed research, small classes, or collaborative work.
- (e) Unchanged
- (f) Unchanged

Interpretation 302-1:

Instruction in professional skills need not be limited to any specific skill or list of skills. Each law school is encouraged to be creative in developing programs of instruction in professional skills related to the various responsibilities which lawyers are called upon to meet, using the strengths and resources available to the school. Trial and appellate advocacy, alternative methods of dispute resolution, counseling, interviewing, negotiating, problem solving, factual investigation, organization and management of legal work, and drafting are among the areas of instruction in professional skills that fulfill Standard 302(ac)(31).

Interpretations 302-2 and 302-3: Unchanged.

Standard 405(d): Security of Position for Legal Writing Instructors and Directors

The Council further considered the question whether Standard 405(d) should be changed to provide specific security of employment for legal writing directors and instructors. The revision that the Council has authorized for distribution and comment is as follows:

Standard 405. PROFESSIONAL ENVIRONMENT

...

~~(d) Under Standard 405(a), law schools employing full-time legal writing instructors or directors shall provide conditions sufficient to attract well-qualified legal writing instructors or directors.~~ A law school shall have an announced policy designed to afford legal writing teachers whatever security of position and other rights and privileges of faculty membership that may be necessary to (1) attract and retain a faculty that is well qualified to provide legal writing instruction as required by Standard 302(a)(2), and (2) safeguard academic freedom.

The Council further authorized the distribution for comment of a new interpretation to Standard 405:

Interpretation 405-9:

A law school may offer short-term or non-renewable contracts to full-time legal writing faculty provided that the use of such contracts does not have a negative and material effect on the quality of its legal writing program.

Many, perhaps most, law schools today choose to have their legal writing instruction delivered by full-time teachers and administered by a full-time director. Many law schools have taken the additional step of providing security of employment through long-term contracts or other means to legal writing directors and faculty. The Standards Review Committee did not conclude, however, that these employment arrangements should be mandated by the Standards as the exclusive way to offer a sound legal writing program..

Considerable discussion at the public hearings and in the written commentary focused on whether a law school's use of short-term or non-renewable contracts prevents a law school from offering a sound legal writing program. While such employment arrangements might disrupt or interfere with a law school's offering of a sound legal writing program, it was not possible to conclude that such employment arrangements would always have those effects. The new interpretation is designed to

focus on whether such contracts have a negative and material effect on the school's legal writing program.

Standard 405(c): Security of Position for Clinical Faculty

The Standards Review Committee considered the Council's reference to it of a question about the scope of the security of position for clinical faculty under Standard 405(c) and Interpretation 405-6. Responding to the sense of the Council at its meeting last summer, the Committee recommends a clarifying amendment to Interpretation 405-6.

This matter came to the Council from the Accreditation Committee. That committee requested guidance from the Council regarding whether a law school complies with Standard 405(c) by providing security of employment to a clinical law teacher only in the particular clinic or program in which that person works, rather than in the law school's clinical program as a whole.

The question arises because of an apparent inconsistency in Interpretation 405-6. The last sentence of the first paragraph of that Interpretation refers to "termination or material modification of the clinical program." The last sentence of paragraph two of the Interpretation refers to "termination or material modification of the professional skills program."

Based on its discussions and reviewing the legislative history of Standard 405(c), the Council concluded that the protections of Standard 405(c) extend to the law school's entire clinical program. Thus Interpretation 405-6 has been redrafted to make it clear that a person with clinical tenure, or in a long-term contract protected by Standard 405(c), may be terminated only for good cause, including termination or material modification of the school's entire clinical program. The Council approved that proposal for distribution and comment.

Interpretation 405-6:

A form of security of position reasonably similar to tenure includes a separate tenure track or a renewable long-term contract. Under a separate tenure track, a full-time clinical faculty member, after a probationary period reasonably similar to that for other full-time faculty, may be granted tenure. After tenure is granted, the faculty member may be terminated only for good cause, including termination or material modification of the entire clinical program.

A program of renewable long-term contracts should provide that, after a probationary period reasonably similar to that for other full-time faculty, the services of a faculty member in a clinical program may be either terminated or continued by the granting of a long-term contract that shall thereafter be renewable. During the initial long-

term contract or any renewal period, the contract may be terminated for good cause, including termination or material modification of the ~~professional skills~~ entire clinical program.

* * *

Revisions to Standards, Interpretations, Rules of Procedure and Bylaws Necessary to Comply with Requirements of the Department of Education

The Council also gave preliminary approval to and authorized for distribution and comment various changes to Standards, Interpretations, Rules of Procedure and Bylaws that the Department of Education staff concludes are necessary for the Council to comply fully with federal law and the recognition criteria of the Department of Education. On December 12, 2000, the DOE Advisory Committee on Institutional Quality endorsed the DOE staff recommendation that the Council be granted recognition for the maximum period of five years, on the condition that the Council report by December, 2001, the implementation of the changes identified by DOE staff. The changes requested by the Department of Education involve standards related to student services, the definitions of major changes in a law school's program or structure, and the criteria for being public members of the Council and the Accreditation Committee. Those changes are presented and discussed below.

One of the DOE staff criticisms was that the Council had no standard related to student services, and that such a standard is required by the recognition criteria. The DOE staff was particularly concerned that students at non-university affiliated law schools would not be assured the level of student services that students at university law schools accredited by regional associations would have. Rather than focus solely on non-university affiliated law schools, the Council approved distributing for comment the following new Standard 511 and associated Interpretations concerning student services:

Standard 511

A law school shall provide its students with basic student services.

Interpretation 511-1

Basic student services include maintaining student records, providing advising and counseling, offering co-curricular activities, and providing financial aid counseling and assistance. If a law school does not provide these types of student services directly, it must demonstrate that its students have reasonable access to such services from the university of which it is a part or from

other sources.

Interpretation 511-2

A law school or university should consider providing to law students access to such other services as extracurricular activities, health care, housing or housing assistance, childcare, bookstore, food service, and opportunities for student governance.

Revisions of Interpretation 105-1 and Rules of Procedure 18 and 19 Concerning the Definition of Major Change in Program or Structure

At its meeting of December 2–3, 2000, the Council gave preliminary approval to the following revisions of Interpretation 105-1 and Rules of Procedure 18 and 19. The revisions are intended to explicitly include within the definition of “major change” a change in program length from clock hours to credit hours, a substantial increase in the number of clock or credit hours required for graduation, and the opening of an additional location at which the school offers at least 20 percent of its educational program. Note that all ABA-approved law schools presently operate on a credit-hour basis; thus the requirement that a change from clock-hour to credit-hour be viewed as a major change should have no effect on presently approved ABA schools.

Standard 105. MAJOR CHANGE IN PROGRAM OR STRUCTURE.

Before a law school makes a major change in its program of legal education or organizational structure it shall obtain the acquiescence of the Council for the change.

Interpretation 105-1:

Major changes in the program of legal education or the organizational structure of a law school include:

- (1) Instituting a new full-time or part-time division;*
- (2) Changing from a full-time to a part-time program or from a part-time to a full-time program;*
- (3) Establishing a two-year undergraduate/four year law school or similar program;*
- (4) Establishing a new or different program leading to a degree in addition to the J.D. degree;*
- (5) A change in program length measurement from clock hours to credit hours;*
- (6) A substantial increase in the number of clock or credit hours that are required for graduation;*
- (5) (7) Merging or affiliating with one or more approved or unapproved law schools;*
- (6) (8) Merging or affiliating with one or more universities;*

(7) (9) Materially modifying the law school's legal status or institutional relationship with a parent institution;
~~(8)(10) Acquiring another law school or educational institution;~~
~~(9)(11) Acquiring or merging with another university by the parent university where it appears that there may be substantial impact on the operation of the law school;~~
~~(10) (12) Transferring all, or substantially all, of the academic program or assets of the approved law school to another law school or university; and~~
~~(11) (13) Opening of a branch or an additional location at which the law school offers at least 20 percent of its educational program. (August 1996; August 1997; August 1998)~~

Interpretation 105-2: (unchanged)

Rule 18. Major Change in the Program of Legal Education of a Provisionally or Fully Approved Law School.

(b) Major changes in the program of legal education of a law school which require Council acquiescence include:
 (1) Instituting a new full-time or part-time division;
 (2) Changing from a full-time to a part-time program or from a part-time to a full-time program;
 (3) Establishing a two-year undergraduate/four-year law school or similar program; ~~and~~
 (4) Establishing a new or different program leading to a degree in addition to the J.D. degree;
 (5) A change in program length measurement from clock hours to credit hours; and
 (6) A substantial increase in the number of clock or credit hours that are required for graduation.

(e) When a law school submits a completed application, the Consultant shall timely-arrange for a site evaluation visit by a team of qualified and objective persons unless no site visit is required because the application seeks approval of a major change described in Rule 18(b)(5) and Rule 18(b)(6). If there is a state agency or official that grants degree-conferring authority, the school shall inform the Consultant, who shall invite the agency or official to observe the site evaluation. The Consultant shall schedule the site evaluation of the law school at a time during the academic year when regular classes are being conducted.
 (f) A site evaluation of the school must be conducted before the Accreditation Committee or the Council considers the application, unless the application seeks

approval of a major change described in Rule 18(b)(5) or Rule 18(b)(6).

(u) Following Council acquiescence in a major change, the Consultant shall arrange for a limited site evaluation of the school no later than two years after the date of the acquiescence to determine whether the law school has realized the anticipated benefits and remains in compliance with the Standards. No site visit shall be required following Council acquiescence in a major change described in Rule 18(b)(5) or Rule 18(b)(6).

Rule 19. Major Change in the Organizational Structure of a Provisionally or Fully Approved Law School.

(b) A major change in the organizational structure of an approved law school which requires Council acquiescence means:

(6) Opening of a branch or an additional location at which the law school offers at last 20 percent of its educational program;

(d) An approved law school must inform the Consultant prior to implementing any proposed major structural change(s) so that a site evaluation visit may be promptly scheduled. In the event that the major change in organizational structure is the opening of a branch or an additional location, the site evaluation visit shall take place within six months of the start of classes at the branch or additional location.

Bylaw Revisions

The Council voted to recommend to the Section membership at its Annual Meeting in August 2001 the following additions to the definition of public members of the Council and the Accreditation Committee:

Addition to Article IV, Section 3, defining the composition of the Council:

A representative of the public means a person who is not a spouse, parent, child, or sibling of an individual who is a member of the American Bar Association or who is an employee, member of the governing board, owner, shareholder or consultant to a law school approved by the American Bar Association.

Addition to Article VIII, section 2.(a) defining the composition of the Accreditation Committee:

A representative of the public means a person who is not a spouse, parent, child, or sibling of an individual who is a member of the American Bar Association or who is an employee, member of the governing board,

owner, shareholder or consultant to a law school approved by the American Bar Association.

These changes are intended to comply with Department of Education requirements concerning the definition of public members of the Council and the Accreditation Committee.

Additional Proposed Revisions of Standards and Interpretations

MEMORANDUM

TO: Deans of ABA Approved Law Schools
University Presidents
Chief Justices of State Supreme Courts
Bar Admission Authorities
Deans of Unapproved Law Schools
Leaders of Other Organizations Interested in ABA Standards

FROM: Beverly Tarpley, Chair, Standards Review Committee
John A. Sebert, Consultant on Legal Education

SUBJECT: Additional Proposed Revisions to Standards and Interpretations for Approval of Law Schools

DATE: January 22, 2001

At its meeting of January 6, 2001, the Standards Review Committee recommended to the Council of the Section of Legal Education and Admissions to the Bar revisions to the Interpretations of Standard 701 and to Standard 502. The Committee also recommended that these proposed revisions be circulated immediately for hearing and comment, so that there would be sufficient opportunity for comment that the Council might be able to take final action on these revisions at its June 2001 meeting.

The officers of the Council of the Section of Legal Education and Admissions to the Bar have approved that request and authorized the immediate distribution of these proposed revisions for comment. It is emphasized that these proposed revisions have not yet been reviewed even in a preliminary fashion by the Council; they represent the recommendations of the Standards Review Com-

mittee to the Council.

This somewhat unusual procedure has been adopted this year, and only this year, primarily because the Standards Review Committee was not able to schedule two meetings in the fall of 2000, prior to the December 2000 meeting of the Council. Next year and in future years, it is our plan to hold two Standards Review Committee meetings in the fall, with the object of presenting to the Council in December essentially all of the revisions to the Standards and Interpretations that the Committee intends to propose during that academic year.

The proposed revisions to the interpretations of Standard 701, and to Standard 502, are attached to this memorandum, together with the Standards Review Committee's explanations of the rationales for the proposals.

We solicit comment on these revisions—by letter, e-mail or through appearances at the hearings that the

Standards Review Committee will conduct at the ABA Midyear Meeting and the Annual Meeting of the American Law Institute. Letters and e-mails should be addressed to Dean Barry Currier, Deputy Consultant, at our Chicago office or at currierb@staff.abanet.org. All comments will be provided to the Standards Review Committee when it meets in mid-May to finalize its recommendations to the Council on these matters. We expect that final action on these matters will occur at the Council meeting scheduled for June 2-3, 2001.

The dates, times and locations for the remaining hearings by the Standards Review Committee are as follows:

ABA Midyear Meeting

Friday, February 16, 2001

4:30–6:00 p.m.

Hyatt Regency San Diego

Room: TBA

One Market Place • San Diego, CA

American Law Institute Annual Meeting

Wednesday, May 16, 2001

10:00 a.m.–12:00 noon

Renaissance Mayflower Hotel

Room: TBA

127 Connecticut Avenue, N.W. • Washington, DC

Standards Review Committee, January 2001

The Standards Review Committee recommends that two additional revisions to the Standards and Interpretations, other than those contained in the Consultant's memorandum of December 19, 2000, be circulated for comment as soon as possible, with the potential of final action by the Council in June 2001. Those recommended revisions are set forth below.

Approving the Use of Leased Facilities by a Fully Approved Law School If Continuity of Occupancy Is Assured

Current Interpretation 701-3 provides that, for full approval, a law school must own its facility. A leased facility may suffice for provisional approval, but not for full approval. The question has arisen whether the prohibition against leased facilities for fully approved schools is consistent with economic realities. The Council asked the Standards Review Committee to consider this situation and make appropriate recommendations.

The Standards Review Committee has concluded that it is not necessary to require that a fully approved law school own its facility. A leased facility may suffice, as long as there is sufficient assurance of continuity of occupancy to carry out its program of legal education and the risk of disruption of the law school's operation as a result of actions related to the lease is minimal. The proposed new Interpretation 701-4 implements that conclusion.

The Committee considered including in the Interpretation specific requirements that a lease would have to meet in order adequately to ensure continuity of occupancy, such as a requirement that the lease have an effective initial term (including options exercisable solely at the discretion of the law school) of 25 years. Other specific requirements that the Committee considered included a requirement that the lease not be terminated without a specified minimum notice. Ultimately, the Committee concluded that it was not appropriate to be that prescriptive in the Interpretation. The key is a reasonable assur-

ance of continuity of occupancy to carry out the school's program of legal education, and schools should be left substantial flexibility as to how to provide that assurance. Thus the recommended Interpretation merely lists a number of factors that are relevant to the overall question whether the lease as a whole provides adequate assurance of continuity of occupancy.

Revised Interpretation 701-3 retains the requirement contained in the current version of that Interpretation that, for full approval, the facilities must be complete and occupied; plans or construction in progress do not suffice. The Committee believed that it was important to retain this Interpretation because issues regularly arise in which a school seeking full approval has not yet occupied completed facilities. The language has been changed slightly to express clearly the requirement of completion.

Interpretation 701-5 repeats without substantive change the provisions now in Interpretation 701-4 concerning the control and use of the law school's facilities.

Standard 701. GENERAL REQUIREMENTS.

A law school shall have physical facilities and technological capacities that are adequate both for its current program of legal education and for growth anticipated in the immediate future.

Interpretation 701-1:

Inadequate physical facilities are those which have a negative and material effect on the education students receive. (August 1996)

Interpretation 701-2:

Adequate physical facilities shall include:

(1) suitable class and seminar rooms in sufficient number and size to permit reasonable scheduling of all classes and seminars;

(2) suitable space for conducting its professional skills

courses and programs, including clinical, pretrial, trial, and appellate programs;

(3) an office for each full-time faculty member adequate for faculty study and for faculty-student conferences, and sufficient office space for part-time faculty members adequate for faculty-student conferences;

(4) space for cocurricular, as opposed to extra-curricular, activities as defined by the law school;

(5) suitable space for all staff; and

(6) suitable space for equipment and records in proximity to the individuals and offices served. (August 1996; July 2000)

Interpretation 701-3:

~~To obtain full approval, a law school shall conduct its program in an adequate and permanent facility owned by it or its parent institution. The facilities shall be completed and occupied by the law school. Completion is required; just plans or construction in progress is not enough. Leased facilities may be sufficient for provisional approval but not for full approval. (May 1977; July 1977; August 1977; August 1996.)~~

To obtain full approval, a law school's facilities shall be completed and occupied by the law school; plans or construction in progress are insufficient.

Interpretation 701-4:

An adequate facility for a fully approved law school may be either owned or leased. In either case the law school shall have sufficient continuity of occupancy to carry out its program of legal education. If the facilities are leased, factors relevant to the assurance of continuity of occupancy include overall lease terms, lease duration, renewal terms, termination provisions, and the security of the lessor's interest.

Interpretation 701-4 5:

A law school's physical facilities should be under the exclusive control and reserved for the exclusive use of the law school. If the facilities are not under the exclusive control of the law school or are not reserved for its exclusive use, the arrangements shall permit proper scheduling of all law classes and other law school activities. (August 1996)

Permitting Law Schools to Admit Persons with Bachelor's Degrees from Institutions Accredited by National Accrediting Agencies Recognized by the Department of Education

Present Standard 502(a) states that law schools shall require an applicant for admission to their J.D. programs

to present a bachelor's degree (or three-fourths of the work required for a bachelor's degree) from an institution accredited by a regional accrediting agency recognized by the Department of Education. Most baccalaureate-degree granting institutions are accredited by regional accrediting agencies, such as the North Central Association. But a small number of four-year degree granting institutions are accredited by national accrediting agencies recognized by the Department of Education. One such national accrediting agency is the American Academy of Liberal Education. That organization has asked that graduates of schools that it accredits be eligible for admission to ABA approved law schools.

The ABA's outside counsel for Department of Education matters, Mark Pelesh, informed the Committee that if a school is accredited by a national accrediting agency recognized by the Department of Education, the DOE recognition requirements mandate that the requirements for a bachelor's degree from such a school would have to conform to commonly accepted standards for a bachelor's degree. Thus the Committee concluded that the Standard should be revised.

Counsel also informed the Committee that at present the only DOE approved institutions that grant bachelor's degrees are those accredited by regional or national accrediting agencies. For simplicity of drafting, and to anticipate the possibility that DOE might develop a new category of accrediting agencies that accredit schools that grant bachelor's degrees, the Committee recommends that the revision be implemented merely by deleting the word "regional" in Standard 502(a).

Standard 502. EDUCATIONAL REQUIREMENTS.

(a) A law school shall require for admission to its J.D. degree program a bachelor's degree, or successful completion of three-fourths of the work acceptable for a bachelor's degree, from an institution that is accredited by an accrediting agency recognized by the Department of Education.

(b) In an extraordinary case, a law school may admit to its J.D. degree program an applicant who does not possess the educational requirements of subsection (a) if the applicant's experience, ability, and other characteristics clearly show an aptitude for the study of law. The admitting officer shall sign and place in the admittee's file a statement of the considerations that led to the decision to admit the applicant.

Upcoming Conferences

30th Annual Deans' Workshop

The Section will host the **30th Annual Deans' Workshop** on February 15-17 during the ABA Midyear Meeting in San Diego, California. The Deans' Workshop is designed to be a candid and off-the-record exchange of views and expressions among the deans of ABA approved law schools (the meetings are closed and no minutes are taken). *Only deans of ABA approved law schools and select officers of the Section and affiliate organizations are admitted. Deans may not send a representative in their absence.*

* * *

Seminar for New ABA Law School Deans

The Section will sponsor the eighth **Seminar for New ABA Law School Deans** at the Graylyn International Conference Center of Wake Forest University in Winston-Salem, North Carolina, on June 6-10, 2001. The seminar will examine a day-in-the-life-of-a-dean, relations with faculty, the personal side of a deanship, relations with the central administration, law school finances, relationships with outside constituencies, fundraising, leadership, emerging trends in legal education and the transition to a deanship.

"2001: A Development Odyssey"

A Conference on Law School Development for Deans and Administrators

We invite you to attend the Section's sixth conference on development, May 29-June 1, at the Jackson Lake Lodge located in the Grand Teton National Park, Wyoming. During the past decade, no other gathering has attracted more deans and development leaders. This year's schedule will continue to offer a variety of concurrent sessions from the basic "how to" of development to exploring sophisticated "cutting edge" technology issues. The conference committee chose speakers and panelists not only from well-established programs at elite institutions, but also from a more diverse group of schools. A variety of informal gatherings (including a rodeo!) are also planned, since much of the learning and networking occurs "outside the classroom."

* * *

CHANGE OF DATE:

ABA Conference on Foreign Legal Education

The date for the **ABA Conference on Foreign Legal Education** has been changed from March 15-16, 2001, to mid-October 2001. Specific dates TBA.

For complete conference information, visit the Sections's Web site at www.abanet.org/legaled or contact **Melissa Wilhelm, Events & Meetings Manager**, wilhelmm@staff.abanet.org or 312/988-6749.

TASK FORCE ON FOREIGN PROGRAMS

Chair of the Council, Diane Yu, has established a Task Force to examine foreign programs offered by ABA approved schools and to consider whether the current criteria for such programs are adequate in light of the rapidly developing educational environment and the internationalization of law practice. The ABA currently approves four types of foreign programs, each with its own set of criteria: Semester Abroad; Summer; Cooperative, and Individual Study Abroad. The Task Force on Foreign Programs (TFFP) is comprised of members of the Council of the Section of Legal Education and Admissions to the Bar, members of the Accreditation Committee Foreign Programs Subcommittee and the former Deputy Consultant.

The TFFP will consider issues such as

1. Whether the cycle for site visits for Summer, Cooperative and Semester-Abroad Programs should be revised,

2. How to deal with consortium programs and others that may not fit one of the current four models,
3. Whether more of the approval process could be handled based solely on the written record,
4. How to permit more flexibility for experimentation and how to evaluate the success of these efforts,
5. Whether increasing the number of staff at the Consultant's Office might permit more of the evaluation of such programs to become a staff function,
6. Should Cooperative Programs at the same foreign institution be evaluated at the same time, and
7. Do any of the four sets of criteria need revision at present.

The TFFP will be meeting over the next few months in order to report to the Council with its recommendations no later than August 2001. If you have questions for the Task Force, please send them to Chair or any member of the Task Force.

Laura N. Gasaway, Chair
University of North Carolina • laura_gasaway@unc.edu
Dan Freehling, Boston University

J. Richard Hurt, University of Indiana, Indianapolis
Nancy Newman, Public member, Council
John O'Brien, New England School of Law

Section officer to address MJP Commission

Editor's Note:

In August of 2000, ABA President Martha Barnett appointed an eleven-member Commission on Multijurisdictional Practice to examine and make recommendations on these issues. The new Commission began its work in September 2000. It expects to issue a preliminary draft report in March 2001, and by May 23, 2001, to have completed a report with recommendations for consideration by the American Bar Association House of Delegates in August 2001. The Commission will be holding public hearings around the country prior to March 2001, including ones on February 16 and 17, 2001, at the ABA Midyear Meeting in San Diego.

As of press time in late January, Honorable Gerald W. VandeWalle, chair-elect for the Section of Legal Education and Admissions to the Bar, is scheduled to address the Commission on behalf of the Section at the Midyear Meeting; following is Judge VandeWalle's planned testimony and resolution to be presented to the MJP Commission. This presentation is a result of efforts by the Section Council's MJP subcommittee which worked to synthesize the Council's views. Members of the subcommittee include: Chief Justice VandeWalle, Randy Hertz, Pauline Schneider, Justice Elizabeth Lacy, Norman Redlich and Jose Garcia-Pedrosa.

Diane Yu, Section chairperson, and Indiana Supreme Court Chief Justice Randall Shepard, former Section chairperson, are also on the MJP Commission; Erica Moeser, president of NCBE and a former Section chair, is a liaison member of the Commission.

Draft of Testimony to the Commission on Multijurisdictional Practice

My name is Gerald VandeWalle and I am the Chief Justice of the North Dakota Supreme Court and the current president of the Conference of Chief Justices. I am appearing before you today, however, in a different capacity, that of Chair-Elect of the American Bar Association's Section of Legal Education and Admissions to the Bar, to present a statement on behalf of the Section.

The Section has not as yet adopted a position on the specific issues concerning multijurisdictional practice that Chair Harriet E. Miers identified in her memorandum of November 1, 2000, to Bar Leaders. What the Section has done is to identify certain broad considerations that we believe to be essential to the resolution of the issues before this Commission. These considerations

are set forth in a one-page resolution that I would like to give the members of this Commission.

Before discussing these considerations, I would like to say a few words about the Section's background and its primary focus. A brief description of the Section's history will help to explain why we are concerned about the issues set forth in the resolution and also why we believe that we are particularly qualified to speak on these issues.

The Section traces its origins back to 1878 when the ABA formed the Committee on Legal Education and Admissions to the Bar, one of the ABA's first standing committees. That committee took the position very early that a law school diploma is an essential qualification for admission to the bar and that a law school curriculum should consist of a

rigorous three-year course of study. Throughout the Section's existence, it has sought through a variety of means to ensure that this country's systems of legal education and bar admission are designed to produce lawyers who have the requisite knowledge, skills and values to competently and ethically represent clients and to serve the systemic interests of justice, fairness and morality.

One of the Section's central functions is the accreditation of law schools. In the 1920s, former Secretary of State Elihu Root assumed the leadership of the Section and championed the development of a set of uniform standards for legal education. In words that unfortunately ring true still today, a committee chaired by Root acknowledged that despite the generally high quality of the practicing bar, "there are many cases [of] below average [practitioners]." At Root's urging, the ABA adopted a set of minimum criteria for law school programs, faculty, and facilities. That set of guiding principles, which has been refined and revised over the years to reflect the evolution of legal education and the conditions of practice, continues to serve as the Section's standards for accrediting law schools.

In 1952, the Council of the Section appeared on the first list of nationally recognized accrediting agencies published by the United States Commission of Education. In the half-century since that time, the Council has continued to serve as the officially designated accrediting agency for law schools. This past December, the Department of Education's National Advisory Committee on Institutional Quality and Integrity recommended to the Secretary of Education that the Council's status as the accrediting agency be renewed for another five-year term.

In its role as the nationally-recognized accrediting agency for J.D. pro-

grams, the Council has sought to accomplish the following goals, which are explicitly identified in the Accreditation Standards the Council adopted:

- (1) to ensure that legal education programs are of acceptable quality;
- (2) to improve the quality of legal education in the United States;
- (3) to promote, through legal education, high standards of professional competence, responsibility, and conduct;
- (4) to protect the integrity of legal education and preserve its independence from inappropriate interference in its educational activities;
- (5) to encourage equal opportunities for legal education and for access to membership in the legal profession to qualified persons, including those from groups who are or have been subjected to any form of discrimination; and
- (6) to assure bar admissions authorities that the quality of legal education provided by approved schools satisfies their legal education requirements for admission to the bar.

This history directly informs the Section's views on the subject of multijurisdictional practice. Whatever position this Commission ultimately adopts, the Section believes that this country's approach to multijurisdictional practice must provide for the continued, unimpeded maintenance of:

- A national system of accreditation of law schools that seeks to ensure that all law schools prepare new members of the profession for the practice of law by educating them about the theory and philosophy of law and its institutions, providing instruction in basic lawyering skills, and instilling an understanding of a lawyer's ethical responsibilities as a representative of clients, an officer of the legal system, and a public citizen with special responsibilities for the quality of justice. Whatever position the Commission ultimately adopts on the subject of multijurisdictional practice should be consistent with the Council's

safeguarding these interests by continuing to apply its accreditation standards in a rigorous manner.

- Standards for admission to practice that are designed and enforced in a manner that will protect consumers of legal services by ensuring that individuals who are licensed to practice law have the knowledge, skills and values to provide competent and ethical representation. If this Commission were to recommend the adoption of a system of national licensure or universal reciprocal admission, any such system would need to guard against the dilution of the admission standards that the states' highest courts have established under their respective constitutions or statutes in order to protect the public. Any recommendations the Commission makes should take into account that the states' highest appellate courts have shown, through their administration of admission standards, that they have both the expertise and the proven ability to establish and enforce standards of admission effectively.

- Standards and procedures, in

those jurisdictions that have chosen to adopt them, for continuing legal education or other mechanisms for ensuring that attorneys who have been admitted to practice expand their professional knowledge and refine their professional skills.

- Appropriate criteria, procedures and enforcement mechanisms for disciplining attorneys who violate standards of professional conduct.

This country's long experience with legal education and admissions to the bar demonstrates the importance of clear standards and regulatory bodies that are committed to and capable of administering those standards. We fear that at least some of the proposals concerning multijurisdictional practice could have the unintended consequence of undermining the clarity or efficacy of the accreditation, licensure, and disciplinary standards currently in effect. We urge this Commission to scrutinize proposals for potential hazards of this sort and to take appropriate steps to guard against them. The Council would be pleased to assist the Commission in this endeavor. □

Draft of Resolution That Will Be Presented to the Commission on Multijurisdictional Practice

As the division of the American Bar Association that is most directly concerned with legal education and bar admission and as the entity that has served since 1952 as the officially designated accrediting agency for law schools, the American Bar Association's Section on Legal Education and Admissions to the Bar urges the Commission on Multijurisdictional Practice to frame its final report and recommendations in a manner that provides for the continued, unimpeded maintenance of:

- A national system of accreditation of law schools that seeks to ensure that all law schools prepare new members of the profession for the practice of law by educating

them about the theory and philosophy of law and its institutions, providing instruction in basic lawyering skills, and instilling an understanding of a lawyer's ethical responsibilities as a representative of clients, an officer of the legal system, and a public citizen with special responsibilities for the quality of justice. Whatever position the Commission ultimately adopts on the subject of multijurisdictional practice should be consistent with the Council's safeguarding these interests by continuing to apply its accreditation standards in a rigorous manner.

- Standards for admission to practice that are designed and enforced in a manner that will protect con-

sumers of legal services by ensuring that individuals who are licensed to practice law have the knowledge, skills and values to provide competent and ethical representation. If this Commission were to recommend the adoption of a system of national licensure or universal reciprocal admission, any such system would need to guard against the dilution of the admission standards that the states' highest courts have established under their respective constitutions or statutes in order to protect the public. Any recommendations the Commission makes should take into account that the states' highest appellate courts have shown, through their administration of admission standards, that they have both the expertise and the proven ability to establish and enforce standards of admission effectively.

- Standards and procedures, in those jurisdictions that have chosen to adopt them, for continuing legal education or other mechanisms for ensuring that attorneys who have been admitted to practice expand their professional knowledge and refine their professional skills.

- Appropriate criteria, procedures and enforcement mechanisms for disciplining attorneys who violate standards of professional conduct. □

FROM THE CHAIR

Continued from page 19

al panel offered comments and reactions. Cochaired by Dean John Attanasio of SMU School of Law and Dean Sexton, the "Out of the Box" Committee's aims include encouraging unconventional, provocative, intriguing, futures-oriented thinking and ideas for legal educators and institutions. It will also explore trend lines in the practice of law and legal marketplace that influence what the academy does. While it may at first seem almost contradictory to institutionalize innovative thinking processes, in my view, providing a forum and resources from the Section for this forward-looking and strategic aspect of legal education will be eminently worthwhile to us all.

The OTB Committee will determine over the next few weeks whether its actual approach is to be more of a think tank or receptacle of the best ideas from a variety of sources, or whether it takes on a role of developing its own "out of the box" ideas, or becomes a hybrid. This is a high priority committee for the Section, and its membership is diverse and broad-based in its perspective: Chief Judge Harry Edwards of U.S. Court of Appeals District of Columbia Circuit; Geoffrey Stone, Provost and former law dean at the University of Chicago; Professor (and former California Supreme

Court Justice) Cruz Reynoso of UCLA; Cory Amron of the D.C. Bar; Professor Mary Daly of Fordham Law School; Dean Harvey Rishikoff of Roger Williams School of Law; Professor Peter Martin of Cornell; Bryant Garth, Executive Director of the American Bar Foundation; and Professor Carrie Menkel-Meadow of Georgetown. Consultant John Sebert and I are ex-officio members.

"Say what you have to say, and the first time you come to a sentence with a grammatical ending, sit down."

Sir Winston Churchill

Department of Education Hearings on Continued Accrediting Agency Recognition

On December 12, the DOE National Advisory Committee on Institutional Quality and Integrity voted to continue the Council's status as the recognized accrediting body for J.D. education. (See separate article on the hearing in this issue.)

I welcome your ideas and thoughts throughout the year. Feel free to contact me c/o the ABA office in Chicago, or by phone at 314-694-2220 or email at diane.c.yu@monsanto.com. □

For up-to-date information on events, proposed revisions to Standards, Committee listings, publications and more, check out the Section's Web page at:

www.abanet.org/legaled

Mark Your Calendar

FEBRUARY 2001

10	Site Evaluators' Workshop	Chicago, IL
14-20	Midyear Meeting	San Diego, CA
15-17	Workshop for Deans of Approved Law Schools	San Diego, CA
17-18	Section Council Meeting	San Diego, CA

APRIL 2001

20-21	Bar Admissions Committee Meeting	Las Vegas, NV
27-29	Accreditation Committee Meeting	Chicago, IL

MAY 2001

16	ABA/AALS/LSAC Deans' Meeting	Washington, DC
16	Standards Review Committee Meeting	Washington, DC
29-June 1	Law School Development Conference	Jackson Hole, WY

JUNE 2001

2-3	Council Meeting	Napa, CA
6-10	Seminar for New Law School Deans	Winston-Salem, NC
29-July 1	Accreditation Committee Meeting	Jackson Hole, WY

AUGUST 2001

2-3	Section Council Meeting	Chicago, IL
2-8	Annual Meeting	Chicago, IL
3	Kutak Award Reception	Chicago, IL
4	ABA/AALS/LSAC Breakfast Meeting for Deans of Approved Law Schools	Chicago, IL
4	Section Program	Chicago, IL
4	Section Annual Meeting	Chicago, IL

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Editor's note:

As you know, the Section underwent a major transition this past fall when it moved from its long-standing home in Indianapolis to ABA headquarters in Chicago. Many Section staff—including myself—are new to the Section. Although the transition was not without a few bumps (hence you're holding the combined Summer/Fall 2000 *Syllabus* in February 2001), *Syllabus* should be back on a regular publishing cycle in 2001.

Kudos to Kurt Snyder for his generous assistance and advice as I took over the reins of this newsletter, now in its 32nd volume. I am looking forward to working with Section members and welcome any comments or suggestions for future issues of *Syllabus*.

SYLLABUS

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