

SYLLABUS

American Bar Association Section of Legal Education and Admissions to the Bar

Joint Working Group on Bar Admissions Established

The newly created Joint Working Group on legal education and bar admissions will soon facilitate strategies and ideas concerning the relationship between law schools and the bar admission process.

In recent years there has been much discussion about that important relationship, both at the national level and within individual jurisdictions. Discussions often touched on a

range of topics, including character and fitness matters, the appropriate topics for coverage in bar examinations, the process for setting a passing score in individual jurisdictions, the content of the information that bar admission authorities should share with law schools and examinees, and numerous other issues.

In order to foster the productive dialogue that has begun, four

organizations (the National Conference of Bar Examiners, the Association of American Law Schools, the Section of Legal Education and Admissions to the Bar of the ABA, and the Conference of Chief Justices) have agreed to establish a Joint Working Group on Legal Education and Bar Admissions. Dean Mary Kay Kane of the University of California, Hastings College of the Law, chairs the Joint Working Group.

The Joint Working Group will consider and recommend strategies for improvement of the working relationship among law schools, graduating law students, and bar admission authorities in the United States. In the process, the Joint Working Group may develop recommendations for

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Model Definition of the Practice of Law *ABA Task Force Addresses the Issue of Delivery of Legal Services by Non-Lawyers*

By Lish Whitson, chair of the Task Force

The ABA has created a Task Force on the Model Definition of the Practice of Law to address, on a national level, the increasing number of situations where non-lawyers provide services that are difficult to categorize under current statutes and case law as being, or not being, the delivery of legal services.

This growing gray area may be partially responsible for the spotty enforcement of unauthorized practice of law statutes across the nation and arguably an increasing number of attendant problems related to the delivery of services by non-lawyers.

The Task Force is seeking constructive written comments on the draft definition (published on page 19) and will host a public hearing in Seattle on February 7, 2003, during the ABA Midyear Meeting.

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From the CONSULTANT

By John A. Sebert, Consultant on Legal Education

As I write my column (on a plane), I am beginning to recuperate from the jet lag that has resulted from my many travels this past fall. Much of that travel resulted from my holding a series of ten “Deans’ Conversations” around the country—meetings with small groups of law school deans to discuss initiatives being undertaken and considered by the Section, and to talk about the challenges and opportunities facing law schools in an era of increasing applications and flat or declining resources. The



sessions were useful and productive, and I thank the ten deans who hosted the meetings (Nina Appel, Judy Areen, John Attanasio, Jeff Brand, Janice Griffith, Alex Johnson, David Leebron, John O’Brien, Kent Syverud, and Jon Varat), and the many deans who took the time to participate.

Grutter v. Bollinger

Early in December the Supreme Court granted certiorari in this case, which challenges the University of Michigan Law School’s use of race as a factor in admissions decisions. In May 2002, in a sharply divided *en banc* decision, the Court of Appeals for the Sixth Circuit had held that the Michigan admissions policies and practices passed constitutional muster under the principles established in *Bakke*. Upon the recommendation of the Council and

other ABA entities (particularly the Section on Individual Rights and Responsibilities), the ABA filed an amicus brief at the Sixth Circuit in support of the Law School, and I worked closely with IR&R in reviewing the ABA brief (which was prepared on a *pro bono* basis by leading Supreme Court advocates at Cravath). The ABA amicus committee has already approved filing an ABA amicus brief in the Supreme Court, and we will continue to work closely with IR&R and Cravath on that important brief. The court is expected to hear oral arguments in late winter or early spring 2003, and to render its decision(s) by June. The court also will hear and decide another case, involving University of Michigan undergraduate admission practices. That case, which was initially decided by the district court in the university’s favor, has been argued before but not decided by the Sixth Circuit, and the Supreme Court took the undergraduate case from the Sixth Circuit so that the Court could hear and decide both Michigan cases together.

Adopted Revisions to Standards, Interpretations and Rules of Procedure Related to Branch and Satellite Campuses and to Major Changes in Organizational Structure

At its meeting in December 2002, the Council gave final approval to revisions of the Standards, Interpretations and Rules of Procedure on Branch and Satellite campuses and on major changes in structure of an approved law school. Proposed revisions con-

cerning these matters had been circulated for comment since December 2001. The revisions will provide substantial guidance with respect to the establishment of Satellite campuses at which a school offers substantial portions of its first-year program and Satellite campuses where a school offers upper-class courses. The revisions, published on page 14, will become effective upon concurrence by the House of Delegates at the February 2003 Midyear meeting.

Proposed Revisions to the Standards, Interpretations and Rules of Procedure

Each year, the Standards Review Committee recommends to the Council a number of revisions to the Standards, Interpretations and Rules of Procedure. The Council reviews those recommendations in December, makes some revisions to the Committee’s recommendations, and authorizes wide distribution for comment of the revisions that the Council has tentatively approved. The provisions on which the Council is seeking comment are published on page 6 and have been circulated for comment to deans, university presidents and others interested in legal education. The Section strongly encourages comment, particularly in writing or by e-mail, and will hold three hearings on these matters during the winter and spring 2003. The Standards Review Committee considers all the comments at its meeting in May, when it develops its final recommendations to the Council, which usually takes final action on Standards matters at its June meeting. Of particular interest this year may be the proposed revisions to Standard 503, which are intended to make it clear that the Standards do not prescribe the weight that a school should place on an applicant’s LSAT

score in making an admissions decision and to emphasize that many factors in addition to LSAT score and undergraduate grade point average may be relevant to an admissions decision.

Task Force on Accreditation Processes

The Task Force on Accreditation Processes (chaired by Tom Sullivan, dean emeritus and professor at Minnesota and the current chair of the Council) this past summer made a number of recommendations for revision of the accreditation processes for fully approved law schools and post-J.D. programs, and other recommendations concerning the financing of the accreditation activities. The most significant of the recommendations is that the current seven-year cycle for site evaluations of fully approved law schools be replaced by a process that entails a full site evaluation every ten-years and a midcycle review at the five-year point. This would be significantly less comprehensive than the full site evaluation and would be intended primarily to identify major changes or significant problems that had arisen at the school since the last full site evaluation and to ascertain compliance with Standards that had been revised since the school's last full site evaluation. The Council has approved distributing those recommendations for comment, looking toward the possibility of taking final action on those matters in June or August 2003.

Task Force on Foreign Programs

This past summer the Task Force on Foreign Programs (chaired by Professor Laura Gasaway of the University of North Carolina) also made recommendations for changes in the system of oversight of foreign programs operated by ABA-approved law schools for

credit toward the J.D. degree. The most significant of the Task Force's recommendations is to extend from five to seven years the site evaluation cycle for foreign programs. The Council has also approved circulating the Foreign Program Task Force recommendations for comment. The Section anticipates the Council's taking final action on those recommendations at its February 2003 meeting.

Joint Working Group on Legal Education and Bar Admissions

As a result of AALS President Dale Whitman's efforts and the conversations that were begun at a joint meeting of chief justices and deans that the Section sponsored in January 2002, a Joint Working Group on Legal Education and Bar Admissions (chaired by Dean Mary Kay Kane of Hastings College of the Law) has been established by the AALS, the Section, the National Conference of Bar Examiners, and the Conference of Chief Justices. This is an important project, which is described on page one in this issue of *Syllabus*. I look forward to working closely with the Joint Working Group to assist it in carrying out its mission.

Adieu to Melissa Wilhelm

At the end of November, we bid farewell to one of our most excellent staff members, Melissa Wilhelm, meetings and events manager. We recruited Melissa from the ABA meetings and travel department when the Chicago office opened in 2000, as we wanted a meetings professional to handle all of our meetings. Melissa did an outstanding job for us in initially defining this new position and managing with skill and grace all of the complex meetings that the Section holds each year. The ABA meetings and travel department recruited Melissa back to a

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From the CHAIRPERSON

By E. Thomas Sullivan

Academic Self-Reflection

Members of the academy spend significant amounts of time educating, grading, and ranking students. We resist, however, doing the same regarding our own institutions. Why do we object to self-reflection, self-study, and institutional planning? Why do we applaud shared governance in theory, but disdain actual participation in strategic thinking and planning?

Virtually all-academic disciplines that are nationally accredited are required to undertake a periodic self-study process.

Experience suggests few self-studies

are done thoroughly or well. Few engage the full constituent base in the deliberative process—faculty, students, staff and alumni.

Many are simply drafted by administrators and perfunctorily passed on, sometimes only to the coffee table in the faculty lounge. What has happened to the institutional building through a collective discourse? Surely, we should be more than independent contractors within our own institutions.

Like other accrediting agencies, the ABA has an explicit standard governing self-study. It requires more than a report; it describes, importantly, a process of self-reflection. A descriptive report is inadequate. It is the process of critical examination that is central to the standard

and, I would urge, to the health and growth of the law school.

Standard 202 mandates that the dean and the faculty together develop and periodically revise a written self-study. It should be anchored in a comparative review of the school's history, mission, and budget priorities. It should evaluate candidly the school's strengths and weaknesses. It should describe accurately the state of affairs at a given point in time as well as to set forth the school's goals for improvement. It

should couple a vision of the school with realistic plans to accomplish its aspirations. At bottom, it should be a mature, nuance process that brings all the related constituencies together in an ongoing conversation about the school's progress, its set backs, and its aspirations.

Self-study should be a process that brings insight to the school's academic and professional uniqueness and to its dreams for the future. A well-defined and executed self-study process can bring colleagues together in a meaningful way that sets priorities for the future. The density and distinctiveness of each of our institutions is in our own hands. Critical self-reflection can make us more mindful of our strengths and weaknesses. It can define our future. ☪



Suggestions for Council Nominations Solicited

The Section's Nominating Committee, chaired by Diane C. Yu, Esq., invites suggestions of individuals whom it should consider for nomination for positions on the Council of the Section of Legal Education and Admissions to the Bar. Other Nominating Committee members include: Professor Margaret Martin Barry; Honorable Martha Craig Daughtrey; J. William Elwin, Jr., Esq.; Professor Timothy J. Heinsz; Dean Mary Kay Kane; Dorothy S. Ridings; Honorable Randall T. Shepard; Honorable Gerald W. VandeWalle; and Dean Robert K. Walsh.

The Nominating Committee nominates Section officers and Council members for election at the Section's August meeting in San Francisco, California. Among the positions that may be open for nominations are: vice-chairperson, secretary, a number of Council members-at-large (including some public members who are not employees of ABA-approved law schools and are not members of the ABA), and one Section delegate to the ABA House of Representatives. Council members-at-large serve three-year terms. Nominees should have extensive experience in legal education, bar admissions, or law school accreditation. Send nominee suggestions to one of the following persons:

Diane C. Yu, Esq., chief of staff and deputy to the president
New York University • 70 Washington Square South
New York, NY 10012 • E-mail: diane.yu@nyu.edu

Consultant John A. Sebert
American Bar Association • 750 N. Lake Shore Drive, 7th Floor
Chicago, IL 60611 • E-mail: Sebertj@staff.abanet.org

Recommendations must be received by March 15, 2003, and should describe the activities that especially qualify the person for membership on the Council.

Women in Legal Education

A Joint AALS and ABA Conference for Women in the Law



The Planning Committee for Joint AALS, ABA Commission on Women in the Profession and the ABA Section of Legal Education and Admissions to the Bar will host a conference on “Taking Stock: Women of All Colors in Law School,” in New York on June 16-17, 2003.

The conference will present new research regarding women’s experience in the law school class-

room, their impact on the curriculum and legal scholarship, and representation in popular culture. The discussions will explore whether women are being assimilated into traditional models of teaching and scholarship, forging new models, or finding their concerns marginalized even as their numbers increase.

The conference is designed to be interdisciplinary and inclusive, recognizing that there is no single account that characterizes the experiences of all women or any one method that captures their collective influence on the legal academy. The workshop reflects on where women have been, how far they have come, and where women would like to go.

In recent decades, women of all colors have made remarkable strides in gaining access to legal education. Women make up approximately half of the entering class at many law schools, and are present in more than

token numbers on the faculty. These demographic changes are hailed as a harbinger of transformation in the law, but research suggests that many challenges remain in addressing the role of gender in legal education.

The planning committee has set aside a segment of the program, “Emerging Voices: Scholarly Paper Submissions,” to review presentation papers related specifically to the topics of women, legal education, and the law or any topic found within law school curricula. Other topics include administrative law, constitutional law, corporate law, criminal law, education law, employment law, family law, tax law, and tort law.

On March 17, 2003, the AALS will post a notice on its Web site (www.aals.org) indicating the papers assigned to discussion groups. This will allow registrants attending the workshop to read the papers in advance and to select a discussion group.

Kutak Committee Seeks Nomination for 2003 Award

The Section’s Kutak Award Committee invites suggestions of individuals whom it should consider for the Kutak Award in 2003.

The annual Robert J. Kutak Award is given to an individual who has met the highest standards of professional responsibility and has demonstrated substantial achievement toward increased understanding between legal education and the active practice of law. New York Law Professor Anthony G. Amsterdam was the recipient of the award in 2002. The 2003 Kutak Award will be presented in August at the 2003 ABA Annual Meeting in San Francisco, California.

Even though the committee expects to receive suggestions about a number of highly qualified individuals, it can recommend only one name for recognition by the Council. Recommendations received for the 2003 award will be carried forward for consideration in future years.

Nominee suggestions must be received by April 11, 2003, to Chairman Professor Harry E. Groves, 3050 Military Road, N.W. Apt. 601, Washington, D.C. 20015. E-mail: hegroves@earthlink.net.

Past Kutak Award Winners

Anthony G. Amsterdam	2002
James P. White	2001
Henry Ramsey, Jr.	2000
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

Proposed Revisions to the Standards, Interpretations, and the Rules of Procedure for the Approval of Law Schools

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 for the Approval of Law Schools, the Interpretations of those Standards, and the Rules of Procedure for the Approval of Law Schools.

Comments on the following proposals should be submitted to:

Barry A. Currier, Deputy Consultant
on Legal Education
American Bar Association
750 N. Lake Shore Drive
Chicago, Illinois 60611
Email: currierb@staff.abanet.org

Public hearings will be held at the following locations:

- **ABA Midyear meeting:**
Thursday, February 6, 2003; 3:30–5:00 p.m.
Elliott Grand Hyatt Hotel, 721 Pine Street
Seattle, Washington
- **ALI meeting:**
Wednesday, May 14, 2003; 10:00–11:30 a.m.
Fairmont Hotel, 200 North Columbus Drive
Chicago, Illinois

These hearings will also provide an opportunity for comment on the proposals of the Accreditation Process Task Force and the Task Force on Foreign Programs. The Council has published the Task Force reports for notice and comment and are available on the Section's Web site at www.abanet.org/legaled/accreditation/acinfo.html.

The Standards Review Committee will review comments and make its final recommendations to the Council at its May 14th meeting. The Council will

consider these matters and the report of the Standards Review Committee at its June 7–8 meeting. Changes to the Standards, Interpretations and Rules of Procedure that are made as a result of this process will be referred to the ABA House of Delegates for its concurrence at the ABA Annual Meeting in August and will become effective at the conclusion of the meeting for the beginning of the 2003 fall semester.

At its December 7, 2002, meeting, the Council of the Section on Legal Education and Admissions to the Bar agreed to send out for notice and comment revisions to the following Standards, Interpretations, and Rules of Procedure:

A. Interpretations 102-5 and 102-6: proposed amendments to assure that provisionally approved schools and schools seeking provisional approval clearly disclose their status to applicants and others.

B. Interpretation 102-9: a proposed clarifying new Interpretation regarding the status of a student at a provisionally approved law school.

C. Interpretation 304-9: a proposed new Interpretation to state clearly that work done by students in certain upper-level courses counts in the 45,000 minutes of classroom instruction required by Standard 304(c).

D. Standard 503: proposed editorial changes to the Standard and two proposed Interpretations regarding the role of tests in the admissions process.

E. Interpretation 509-3: a proposed new Interpretation to state clearly a law school's obligation to report fair and accurate basic consumer information wherever such information is published.

F. Rule of Procedure 24: a proposed revised Rule 24 dealing with reports of schools allegedly operating out of compliance with the Standards.

Following is a separate report on each item.

Proposed Revisions to Interpretations 102-5 and 102-6

The Council proposes the following amendments to Interpretations 102-5 and 102-6:

Interpretation 102-5:

A provisionally approved law school shall state in all

of its printed and electronic materials generally describing the law school and its program and in any printed and electronic materials specifically targeted at prospective students ~~its bulletin and catalog~~ that it is a provisionally approved law school. Similarly, when it refers to its approval status in publicity releases and communications with all students, applicants or other interested parties, it shall state that it is a provisionally approved law school.

Interpretation 102-6:

An unapproved law school seeking provisional approval must include the following language in all of its printed and electronic materials generally describing the law school and its program and in any printed and electronic materials specifically targeted at prospective students in its bulletin:

The Dean is fully informed as to the Standards
The law school makes no representation....

Interpretations 102-5 and 102-6 require provisionally approved law schools and law schools that intend to apply for ABA approval to make certain statements in their printed materials related to their status and intentions. These disclosure statements aim to make clear to potential students and others that a law school that has engaged the accreditation process is something other than a fully approved school.

As these Interpretations now read, schools are directed to include the disclosures in their "bulletin" or "catalog." The Council agreed that Interpretations 102-5 and 102-6 should take into account the role that electronic publication and communications now play in the dissemination of information about a law school. Disclosure that a school is provisionally approved or is intending to apply for provisional approval should be conspicuous in all of the school's basic materials, whether printed or electronic.

Proposed New Interpretation 102-9

The Council recommends the adoption of the following new Interpretation to Standard 102:

Interpretation 102-9:

An individual who matriculates at a law school that is provisionally approved and who completes the course of study and graduates from that school within a typical and reasonable period of time is deemed a graduate of an approved school, even though the school loses its provisional approval status while the individual is enrolled in the school.

Interpretation 103-1 states that a student who enrolls at a law school that is approved and who completes his/her course of study in the normal period of time is considered a graduate of an ABA-approved law school, even if that school loses its approval during his/her enrollment. There is no similar provision in Standard 102, which deals with provisional approval.

It has long been understood that "approved" includes both provisionally and fully approved law schools. It has long been understood that students who are enrolled in a school when it becomes provisionally approved or who enroll in a school that is

provisionally approved are students in an approved law school.

In fact, the protection of Interpretation 103-1 extends to such students. Because, however, Interpretation 103-1 is contained within a Standard that deals with fully approved schools, the Council agreed that it would be appropriate to add a parallel provision under Standard 102. This would make the matter crystal clear and avoid confusion that often leads to unnecessary concerns, letters and phone calls to the Consultant's Office from students and administrators at provisionally approved schools.

Proposed New Interpretation 304-9

The Council recommends the adoption of the following new Interpretation to Standard 304:

Interpretation 304-9:

Minutes of "regularly scheduled class sessions" include the time assigned for students and instructor to meet together in a traditional classroom setting, so long as the normal practice and expectation is that the class will meet for that number of minutes. Minutes allocated to "regularly scheduled class sessions" may also include:

- (a) Minutes allocated for preparation of a substantial paper or project for a seminar or other upper-level course, if the time and effort required and anticipated educational benefit are commensurate with the credit awarded; and*
- (b) Minutes allocated for work required in a law school clinical course so long as (i) the clinical course includes a classroom instructional component, (ii) the clinical work is done under the direct supervision of a full-time member of the law school faculty or instructional staff, and (iii) the time and effort required and anticipated educational benefit are commensurate with the credit awarded.*

The burden is on the law school to establish that the minutes allocated as "regularly scheduled class sessions" for course work in other than a traditional classroom setting are commensurate with the time and effort required of, and anticipated educational benefit to, the student.

Standard 304(b) states that a law school shall require for a J.D. degree a course of study of not fewer than 56,000 minutes [these minutes equate to 80 credits (50 minutes/class x 14 meetings = 1 credit)], at least 45,000 minutes [approximately 65 credits] shall be "by attendance in regularly scheduled class session." It is not and has not been clear what can count as regularly scheduled classroom minutes. The Council's recommendation clarifies that matter,

at least with respect to two persistent questions.

The 45,000-minute requirement was located in Standard 305 until last year when it was transported into Standard 304 as part of the changes made to allow law schools to give some credit for distance education courses. No change was made in the operative language concerning the 45,000-minute requirement.

When the Council published last year proposals to change the Standards to allow a limited amount of distance education in a J.D. program, the Consultant's Office received comments, particularly from clinical law teachers, that the proposal, deliberately or inadvertently, undermined clinical legal education by inserting the word "classroom" at a particular point in the proposed new Standard 304(b) where that word had not been present in the language of then-current Standard 305, from which it had been taken. The word "classroom" had been inserted as follows:

A law school shall require ... successful completion of a course of study in residence of not fewer than 56,000 minutes of classroom instruction time.... At least 45,000 of those minutes shall be by attendance in regularly scheduled class sessions....

Some believed that this would change the way in which clinical legal education fits within the law school curriculum. Those commenting on this matter had operated on the assumption that clinical coursework, or at least a substantial portion of that work, had been includable as part of the 45,000-minute requirement. The proposed change might be taken as a statement that that practice was not (or was no longer) allowable.

There had been no intent to change the way in which clinical legal education counted or was treated by the Standards, but the discussion made clear the uncertainty about how certain courses, like clinical courses and seminars, that often do not have classroom sessions equal to 700 minutes for each credit awarded count in the 45,000 minutes fits within the regulatory framework.

The Standards Review Committee concluded that clinical courses and seminars are important and useful for students. Such experience, under certain conditions, should be included in the 45,000 minutes of "regularly scheduled class sessions" that a law school must require for a J.D. degree. The Council agreed with the Committee and approved for notice and comment the proposed new Interpretation set out above. The Council draws particular attention to the requirement that credit toward the 45,000-minute requirement for clinical courses may only be given if the course includes a classroom component and is done under the supervision of a full-time member of the law school faculty or instructional staff. These

are key distinctions between clinical courses and externships. Only a classroom instructional component of an externship program may count toward the 45,000-minute requirement.

Proposed Amendments to Standard 503 and New Interpretations 503-1 and 503-2

The Council recommends the following changes to the language of Standard 503 and the adoption of three new Interpretations to that Standard:

Standard 503. Admission Test.

A law school shall require each ~~all~~ applicants to take ~~an acceptable test for the purpose of a valid and reliable admission test to assist the school in assessing the applicant's' capability of satisfactorily completing the school's its educational program. A law school that is not using the Law School Admission Test sponsored by the Law School Admission Council shall establish that it is using an acceptable test.~~

Interpretation 503-1:

A law school that requires an admission test other than the Law School Admission Test sponsored by the Law School Admission Council shall establish that the test it requires is valid and reliable.

Interpretation 503-2:

This Standard does not prescribe the particular weight that a law school should give to an applicant's admission test score in deciding whether to admit or deny admission to the applicant. When taken into account with other relevant factors, this test score assists in assessing the capability of an applicant to satisfactorily complete the school's educational program, to be admitted to the bar, and to become a competent professional. Other relevant factors may include undergraduate course of study and grade point average, extracurricular activities, work experience, performance in other graduate or professional programs, relevant demonstrated skills, and obstacles overcome.

Interpretation 503-3:

A pre-admission program of coursework taught by members of the law school's full-time faculty and culminating in an examination or examinations, offered to some or all applicants prior to a decision to admit to the J.D. program, also may be useful in assessing the capability of an applicant to satisfactorily complete the school's educational program, to be admitted to the bar, and to become a competent professional.

Standard 503 currently provides that a law school must require all applicants to submit a score on the

LSAT or an acceptable alternative test as part of its admission process. The Council concluded that the mandate that a law school require an admission test is an appropriate adjunct to the requirement of Standard 501(b) that a law school not admit applicants who are not capable of completing its program and being admitted to the bar. The interest of the Standards, however, is that a law school requires an admission test that is valid and reliable, not in particular requiring the LSAT. For that reason, the Council approved for notice and comment a change to Standard 503 that removes from the black letter of the Standard the particular reference to the LSAT.

Proposed new Interpretation 503-1 recognizes the LSAT's role in the law school admissions process while maintaining the option for a law school to require a different admission test that is valid and reliable. The burden remains on the law school to demonstrate that a different test is, in fact, valid and reliable.

Standard 503 does not require the law school to accept applicants who have at least a certain score or to deny applicants who fail to achieve a certain score. The Standard does not prescribe the weight that must be given to a student's LSAT score or how a school must use the LSAT score in its admissions process.

The Council is aware of the current discussion in legal education about the degree of reliance that some schools place on the LSAT. The shortcomings of an admissions process that places undue weight on the LSAT is a problem that the LSAC itself discusses with deans, admissions professionals and others interested in legal education.

The LSAT is designed to predict academic performance in law school. LSAC regularly conducts validity studies that correlate LSAT scores and undergraduate grades to actual first-year law school grades. These studies confirm that the LSAT does have value in predicting first-year performance, particularly when combined with a student's undergraduate grade point average. These studies also suggest that these two measures alone do not account for all of the factors that contribute to an individual's actual performance. Consequently, following the recommendation of the Standards Review Committee, the Council agrees that Standard 503 would benefit from the addition of an Interpretation that communicates clearly the position that the LSAT is best used in combination with a number of other factors relevant to whether a person has the character and capacity to complete law school and be an effective member of the legal profession.

The Council is aware that some schools employ conditional admission programs. In many of these, the school invites applicants who have not been admitted to the law school to enroll in a program or

course of study aimed at testing more directly their aptitude for law study. Following the recommendation of the Standards Review Committee, the Council agrees that Standard 503 would benefit from the addition of an Interpretation recognizing that these programs can serve a valuable purpose in legal education.

Proposed New Interpretation 509-3

The Council recommends the adoption of the following new Interpretation to Standard 509:

Interpretation 509-3:

Standard 509 requires a law school to report fair and accurate basic consumer information whenever and wherever that information is reported or published. A law school's participation in the Council-designated publication referred to in Interpretation 509-2 and provision of fair and accurate information for that book does not excuse a school from the obligation to report fairly and accurately all basic consumer information published in other places or for other purposes.

Renumber 509-3 and 509-4

Standard 509 requires a law school to publish basic consumer information and Interpretation 509-2 allows a law school to comply with this Standard by providing information to a Council-designated publication. That publication is the *ABA-LSAC Official Guide to ABA-Approved Law Schools*.

While it may be implicit in the Standards, nothing specifically requires a law school to report consumer information accurately and fairly whenever and wherever it reports or publishes such information.

The Consultant's Office occasionally receives reports that a school is not reporting accurate consumer information to sources other than the Official Guide. This Interpretation will give the Accreditation Committee a clear basis for citing a school as operating out of compliance with the Standards if that Committee concludes that a school is not reporting accurate basic consumer information across the board or if it is not reporting other basic consumer information that is consistent with the data that are reported to the Consultant's Office.

Proposed Revised Rule of Procedure 24

The Council recommends the adoption of the following revised Rule 24 of the Rules of Procedure:

Rule 24. Reports Concerning Law School Non-compliance with the Standards.

(a) The United States Department of Education procedures and rules for the recognition of

accrediting agencies require a recognized accrediting agency to have a process for the reporting of complaints against accredited institutions that might be out of compliance with the agency's accreditation standards. 34 C.F.R. 602.23(c). This is the process for the Council of the Section on Legal Education and Admissions to the Bar and law schools with Juris Doctor programs approved by the Council.

(i) This process aims to bring to the attention of the Council, the Accreditation Committee, and the Consultant on Legal Education facts and allegations that may indicate that an approved law school is operating its program of legal education out of compliance with the Standards for the Approval of Law Schools.

(ii) This process is not available to serve as a mediating or dispute-resolving process for persons with complaints about the policies or actions of an approved law school. The Council, Accreditation Committee and the Consultant on Legal Education will not intervene with an approved law school on behalf of an individual with a complaint against or concern about action taken by a law school that adversely affects that individual. The outcome of this process will not be the ordering of any individual relief for any person or specific action by a law school with respect to any individual.

(b) Any person may file with the Consultant on Legal Education a written report alleging non-compliance with the Standards for the Approval of Law Schools by an approved law school.

(i) This report must be filed within one calendar year of the person's learning of the facts on which the allegation is based. Pursuit of other remedies does not toll this one-calendar-year limit.

(ii) Reports must be in writing.

(iii) Anonymous reports will not be considered.

(iv) A report that has been resolved will not be subject to further review or reconsideration unless subsequent reports about the school raise new issues or suggest a pattern of significant noncompliance with the Standards not evident from the consideration of the previously resolved report.

(c) The report should contain as much information and detail as possible about the circumstances that led to the report. The report should cite the relevant Standards and Interpretations that are implicated by the report.

(d) The report must include the following release language: "I authorize the Consultant on Legal Education to disclose this report and my identity to the law school discussed in the report." If the

person filing the report is not willing to sign such a release, the matter will be closed. If the Consultant or designee concludes that extraordinary circumstances so require, the name of the person filing the report may be withheld from the school.

(e) Process

(i) The Consultant or the Consultant's designee shall acknowledge receipt of the report within 14 days of its receipt.

(ii) The Consultant or designee shall determine whether the report alleges facts that raise issues relating to an approved law school's compliance with the Standards. This determination shall be made within six weeks of receiving the report. If the Consultant or designee concludes that the report does not raise issues relating to an approved school's compliance with the Standards, the matter will be closed.

(iii) If the Consultant or designee determines that the report does raise such issues, the report shall be sent to the school and a response requested. The Consultant or designee ordinarily will request the dean of the school to respond within 30 days.

(iv) If the school is asked for a response to the report, the Consultant or designee will review that response within 45 days of receiving it. If the response establishes that the school is not out of compliance with respect to the matters raised in the report, the Consultant or designee will close the matter.

(v) If the school's response does not establish that it is operating in compliance with the Standards on the matters raised by the report, the Consultant or designee, with the concurrence of the chairperson of the Accreditation Committee, will appoint a fact finder to visit the school to investigate the issues raised by the report and the school's response. The report, school response, and fact-finder's report shall be referred to the Accreditation Committee and considered in the same manner as reports and reviews that fall under Rule 11(a) of the Rules of Procedure.

(vi) The person making the report will be notified promptly whether the matter was concluded under (ii), (iv) or (v) above. The person filing the report will not be provided with a copy of the school's response, if any, and will not receive any further report on the matter.

(f) There is no appeal to the Council or the Accreditation Committee, or elsewhere in the American Bar Association, in connection with a conclusion by the Consultant or designee that a report does not raise issues under the Standards.

(g) To ensure the proper administration of the Standards and this report process, a subcommittee of the Accreditation Committee shall periodically review the written reports received in the Consultant's Office and their disposition. The subcommittee shall periodically report to the Committee on this process. The Consultant's Office shall keep a record of these reports for a period of ten years.

This is a substantial revision of the language and the process of current Rule 24 of the Rules of Procedure for the Approval of Law Schools. The current rule is available in the published Standards for the Approval book and on the Section's Web site at www.abanet.org/legaled. This Rule provides a process for the filing of complaints or reports alleging that an approved law school is operating out of compliance with the Standards. A process of this sort is required by the Department of Education accrediting agency recognition criteria.

Current Rule 24 is overly complex and cumbersome. It is difficult to explain to students, faculty, applicants to law school, and others who call the Consultant's Office to report on the conduct and policies of law schools. Despite the fact that current Rule 24(c) states that the complainant shall not be afforded individual relief, a substantial majority of

the calls seek the intervention of the Consultant's Office in resolving a dispute between a law school and the caller.

The Consultant's Office does not keep statistics on the number of calls. A reasonable estimate would be that it receives more than 300 calls per year. Of those, few result in a formal written complaint. The office has received in the range of 15 formal written complaints in 2002. Few of the complaints filed are found to raise issues related to the Standards and are forwarded to the schools for a response.

The Department of Education rules require a complaint process. It does not require that the process be one that provides individual relief for the complainant. The Council agrees that the Consultant's Office and the law school accreditation process are not appropriate forums for resolving disputes between law schools and individual complainants. The Consultant's Office does not have the resources to provide a process of that sort. There is no requirement that the process be elaborate and difficult to explain.

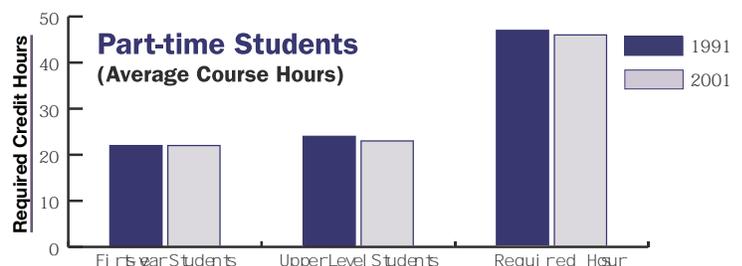
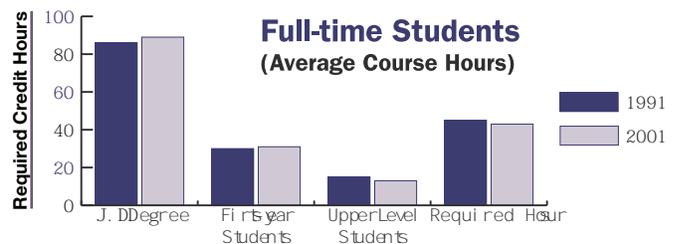
The Council agreed that a simpler and direct process would serve well the interests of persons who feel aggrieved by the actions of an approved school, the accreditation process, and the staff. It approved and agreed to send out for notice and comment the proposal to revise Rule 24 that the Standards Review Committee recommended. ☰

Statistical Digest: Mean Hours Required to Graduate 1991—2001

The following observations resulted from a comparison of J.D. program requirements from 1991 to 2001 in ABA-approved law schools. The statistics are based on answers to questions in part one of section two of the Annual Questionnaire.

Over the past ten years, the average number of credit hours required to complete a J.D. degree rose from 86 to 89. The average number of credit hours in required courses for first-year full-time students increased from 30 to 31, while the same number for upper level full-time students dropped from 15 to 13. Average total required credit hours for full-time students dropped from 45 to 43.

Requirements for part-time students either remained level or decreased during the same time period. Average first-year requirements were unchanged at 22 course hours, while average upper level requirements decreased from 24 to 23 course hours. Average total course hours decreased from 47 to 46.



National Conference on Professional Responsibility

Leading Experts to Talk about Trends and Developments in Legal Ethics and Professionalism

The American Bar Association will hold its 29th annual National Conference on Professional Responsibility in Chicago on May 29-31, 2003. The conference is the preeminent educational and networking opportunity in the field of ethics and professional responsibility. Over 325 private practitioners, bar counsel, judges and law school professors attended last year's conference.

The conference presents a means of enhancing the quality and exchange of information in this area of law. Attendees have the opportunity to collect information and discuss current

issues and problems in the area of professional responsibility with leading experts, scholars and practitioners. The interaction between the different constituencies is a significant attraction of the conference.

Conference faculty includes recognized experts on professional responsibility who provide written materials, present plenary discussions and direct panel workshops open to audience participation. The programs address recent trends and developments in legal ethics, professional discipline for lawyers, professionalism and practice issues. The programs are intended to be

informative and educational on a level appropriate to a group with considerable knowledge of and familiarity with the area of professional responsibility.

Topics include: defining lawyers' responsibilities in light of Enron/Arthur Andersen and the Sarbanes/Oxley Act, dealing with the mental competence of clients, and practicing law over the Internet.

The national conference is sponsored by the ABA Center for Professional Responsibility. To view up-to-date information and to register, visit www.abanet.org/cpr/prconf.html.

Panel Looks at the Role of Lawyers in the Aftermath of Corporate Scandals

The Section of Legal Education and Admissions to the Bar will co-sponsor the American Bar Foundation Fellows Research Seminar on "Corporate Governance and Professional Responsibility" on February 8. The seminar is in conjunction with the ABA Midyear meeting in Seattle, Washington.

The focus of the panel discussion will be the changing role of lawyers in a world after Enron, WorldCom,

and Andersen. Panelists include Tamar Frankel, professor of Law at Boston University; Thomas F. O'Neil III, partner at Piper Rudnick and former General Counsel for the MCI Group of WorldCom; Mark Harrison, partner at Bryan Cave specializing in ethics and malpractice; and Susan Shapiro, ABF Research Fellow and author of *Tangled Loyalties: Conflict of Interest in Legal Practice*.

Curriculum Committee Update

Plans to circulate a Web-based Curriculum Committee Survey early in 2003 continue to move along. The committee, chaired by Professor Catherine Carpenter, Southwestern School of Law, and assisted by Vice-Chair Professor Mary Anne Bobinski, University of Houston, has finished drafting questions for the survey. The committee

expects to survey law schools on its current curricula and changes in law school curricula over the past ten years since the introduction of the McCrate Report. Survey questions address first-year requirements, changes to the upper level curriculum, as well as the impact on the curriculum of such initiatives as distance education, in addition to other topics.

UPCOMING CONFERENCES

University Deans to Attend 32nd Annual Workshop

The 32nd annual Deans' Workshop will take place February 6-7 at the Elliott Grand Hyatt Hotel in Seattle, Washington. Dean Stuart L. Deutsch of Rutgers University-Newark School of Law and Dean Nancy B. Rapoport of the University of Houston Law Center will co-chair the workshop.

The Deans' Workshop is a candid and off-the-record exchange of the views and expressions among the deans of ABA-approved law schools. Between 100 and 150 of the 187 deans attend the annual workshop.

Conference Focus: Planning State-of-the-Art Law School Buildings

Save-the-date to attend the Law School Facilities Conference: Bricks & Bytes, and Continuous Renovation on March 19 - 22, 2003, at Suffolk University Law School in Boston, Massachusetts. Associate Dean John Deliso of Suffolk chairs the planning committee.

The conference is a collaboration of the newest technology in legal education, with current state-of-the-art thinking in design and construction of buildings. Discussions will be organized according to four tracks: (1) financial development, (2) building design and construction, (3) applied technology, and (4) library planning.

University administrators, development staff, faculty and building committee members are encouraged to attend the conference. View up-to-date program information and register online at www.abanet.org/legaled.

Law School Development Conference: Jackson Hole VII

The seventh annual conference for law school deans and senior development and alumni relations' officers is scheduled for May 27 - 30, 2003. The conference will take place at the Jackson Lake Lodge in Grand Teton National Park, Wyoming. Dean Patrick Hobbs of Seton Hall University School of Law and Senior Associate Dean Martin Shell of Stanford

University co-chair the planning committee.

This year's schedule offers concurrent sessions, speakers and panelists, not only from well-established programs at elite institutions, but also from a diverse group of schools. View additional program and registration information at www.abanet.org/legaled.

ABA to Host Seminar for New Law School Deans

The 10th annual seminar for law school deans will take place on May 30 - June 2, 2003, at the Jackson Lake Lodge in Jackson Hole, Wyoming, following the Law School Development Conference.

The invitational seminar helps new law school deans make a smooth transition into their positions. The program covers the day-in-the-life of a dean, relations with faculty, students, graduates, the university administration and the legal profession. Dean David E. Van Zandt of Northwestern University School of Law will chair the event.

Site Evaluators Workshop

The winter workshop on the site evaluation process is scheduled for February 22, 2003, at the Doubletree O'Hare Hotel, Rosemont, Illinois. The invitational workshop is primarily designed to assist representatives from schools that are scheduled for site visits in 2003-2004. The workshop also includes training for new site team members. The full-day program provides an overview of the accreditation process, guidance on preparing for a site visit (including information on the self-study process), addressing issues that arise during the course of the visit, the format of the site report, and the process that flows following the completion of the report. For more information on this program please contact Barry Currier, deputy consultant at (312) 988-6743 or Camille deJorna, associate consultant (312) 988-6742. Call (847) 292-9100 for a room reservation and ask for the "Legal Education Winter Site Evaluator's Workshop." The ABA is holding a block of rooms for \$79 until February 7, 2003.

Correction

The fall 2002 issue of *Syllabus* incorrectly identified Honorable Sidney S. Eagles, Jr., as the former North Carolina Bar Association president. Judge Eagles has served as one of several vice-presidents of the association. The error appeared in the biographic summary on page 21.

Additions and Revisions to Standards, Interpretations, and Rules of Procedure Related to Branch and Satellite Campuses and to Major Changes in the Organizational Structure of an Approved Law School

At its December 7, 2002 meeting, the Council approved the changes set out below regarding Branch and Satellite campuses and major changes in the organizational structure of an approved law school. These changes will accomplish a number of objectives.

The revisions clearly define a “Branch campus” as one where a student could take all of the credits needed for the J.D. degree. This continues the view currently found in the Rules that the establishment of a Branch campus is essentially the creation of a new law school. The revisions make clear that the establishment of a Branch campus is not the closing of the existing law school.

New Standard 106() defines “Branch campus.” Interpretation 105-2 is revised to place in the Interpretation the proposition now found only in Rule 19(c)(2) that establishing a Branch campus constitutes creating a different law school, to restate the substantive requirements for establishing a Branch campus, and to conform the requirements to recent revisions of Standard 701. Existing Rule 19(c)(2) is redesignated 19(c)(3) and otherwise revised only to use the term “Branch campus” rather than “branch.”

These changes make clear that a Branch campus must go through the provisional approval process. If the Branch campus is approved, the parent and Branch campus will carry different approval dates. Existing Rule 4(d) makes it clear that the branch may apply for provisional approval without waiting until after the first year of operation of the Branch campus. The approval of a Branch campus is a two-step process: first, the Council acquiesces in the approved school’s major change of establishing a Branch campus and, second, the Branch campus undergoes the regular approval process. [See language of proposed Interpretation 105-2 and Rule 19(c)(3)]

These changes also make clear that the Accreditation Committee may determine that a proposed major structural change constitutes the creation of a new law school and require the law school to apply for provisional approval of that new operation. [See the proposed last sentences of Rules 19(c)(1) and (4)]

Second, the recommended changes address explicitly the phenomenon of the establishment by a law school of a different location at which some courses are offered but which is not a full Branch campus. They divide these “additional location” situations into different categories.

If a student could take no more than 15 semester credit hours at the location, the establishment of the additional location is not a major change, no notification is required, and no action by the Council is necessary. Many schools have clinics situated at separate locations, and the purpose of this provision is to permit such separate locations to continue to be established without any involvement of the Council. Revised Interpretation 105-1(13) excludes such a separate location from the definition of a major change, and conforming revisions are made to Rule 19 (b)(6).

If a student could not earn all of the credits necessary for the J.D. at the separate location but could take 16 or more semester credit hours, the location is a “Satellite campus” and establishing such a Satellite campus is a major change. [See proposed Standard 106()] The definition makes clear that an approved Semester Abroad Program is not a Satellite campus. It further makes clear that a law school does not need acquiescence to open a new building or facility that may not be located on the law school’s main campus but which is close to the main law school building(s) where students otherwise take classes, receive student services, have access to library materials, and the like.

Proposed Interpretation 105-3 establishes minimum criteria that must be met by a Satellite campus at which no more than the first year of a school’s program (or the first three semesters of a part-time program) are offered.

Proposed Interpretation 105-4 deals with the situation in which the law school offers upper-class courses at the Satellite campus. It is much more complex for a school adequately to support an upper-class program than a first-year program at a Satellite campus because of the variety of courses and wider range of support services that upper-class students require. The possible upper-

class programs that a school might offer at a Satellite campus also differ widely. Thus the proposed Interpretation provides only general criteria, requiring that such programs provide adequate support for the educational programs that the school offers at the Satellite campus and that the resources and services offered at the Satellite campus be reasonably equivalent to those offered similarly situated students at the main campus. Since there has yet been no experience with a law school offering upper-class courses at a Satellite campus, the intention of the Interpretation is to leave the Accreditation Committee substantial latitude for common law development in this area.

Finally, proposed Interpretation 105-5 takes the position that at some point a Satellite campus will offer a sufficient number of courses that it should be treated as essentially a Branch campus—at least by applying to this type of Satellite the substantive requirements for a Branch contained in Interpretation 105-2. If the Satellite does not meet the full definition of a Branch, however, the opening of this type of Satellite would be only a major change, and not the creation of a different law school. The Accreditation Committee may determine that a proposed major structural change of this sort constitutes the creation of a new law school and require the law school to apply for provisional approval of that new operation. [See the proposed last sentences of Rules 19(c)(1) and (4)]

The remainder of the recommended changes relate to the impact of transferring a school's program or assets to another institution or undergoing a merger. Present Rule 19(c)(1) contains an absolute statement

that transferring the program or assets of a school to another institution constitutes a decision to close an approved school and establish a "different" school. In many situations, however, it is unrealistic to view such a transfer as the creation of a different law school, and such a transfer is more appropriately viewed as constituting a major change, which would still necessitate a site evaluation and Council acquiescence.

The proposed changes to Rule 19(c)(1) and (2) establish a process by which the Accreditation Committee, guided by the factors listed in (c)(2), makes an initial determination of whether the transfer or merger is only a major change or amounts to closure and the establishment of a different law school. If it seems reasonably clear that the transfer or merger will not result in sufficient change to be the establishment of a different school, the major change process would apply. If the Accreditation Committee believes that the Committee should consider whether the transfer or merger does constitute the establishment of a different school, proposed Rule 19(c)(1) provides for written notice to the school and an opportunity for a written response before the Committee makes a final decision. Proposed Rule 19(c)(2) contains a non-exclusive list of factors to be considered in determining whether the sale, transfer or merger amounts to the opening of a new law school. The school could appeal any Committee decision to the Council under established procedures.

Present Rule 20(b) is deleted. This provision is superfluous if the other revisions are adopted.

These changes will be forwarded to the ABA House of Delegates for review and concurrence at the ABA Midyear meeting in February, as required. If the House of Delegates concurs, these changes will become effective at the end of the House's meeting.

The changes that were approved are:

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:

...

(13) Opening of a ~~an~~ Branch campus or ~~an additional location~~ Satellite campus.

Interpretation 105-2:

The establishment of a ~~Branch~~ campus of an approved law school constitutes the creation of a different law school. Consequently, ~~requires that the a~~ ~~Branch~~ campus must have a permanent full-time faculty, an adequate working library, adequate support and administrative staff, and ~~an~~ adequate physical facilities and technological capacities facility, including plans for a permanent physical facility. A Branch campus shall apply for provisional approval under the provisions of Standard 102 and ~~Rule 4~~. A Branch campus shall apply for provisional approval under the provisions of Standard 102 and Rule 4. (February 1979; August 1996)

Interpretation 105-3:

The establishment of a Satellite campus at which a

law school offers no more than the first-year of its full-time program, or the first three semesters (or equivalent) of its part-time program, requires at least:

- (1) Full-time faculty of the law school who teach substantially all of the curriculum offered at the Satellite campus and who are reasonably available at the Satellite campus for consultation with students;*
- (2) Library resources and staff at the Satellite campus that are adequate to support the curriculum offered at the Satellite campus and that are reasonably accessible to students at the Satellite campus;*
- (3) Academic advising, career services and other student support services that are adequate to support the program offered at the Satellite campus, that are reasonably equivalent to such services offered to similarly situated students at the law school's main campus and that are offered in person at the Satellite campus or otherwise are reasonably accessible to students at the Satellite campus;*
- (4) That students attending the Satellite campus have access to the school's co-curricular activities and other educational benefits on a roughly proportional basis; and*
- (5) Physical facilities and technological capacities at the Satellite campus that are adequate to support the curriculum offered at and the students attending the Satellite campus.*

Interpretation 105-4:

A law school that seeks to establish a Satellite campus at which it will offer courses beyond its first-year program must show that it can adequately support its program at the Satellite campus. It must establish at least:

- (1) That students attending the Satellite campus have reasonable access to full-time faculty, library resources and staff, and academic advising, career services and other support services that are adequate to support the program that the law school offers at the Satellite campus and that are reasonably equivalent to the resources and services offered to similarly situated students at the law school's main campus;*
- (2) That students attending the Satellite campus have access to the school's co-curricular activities and other educational benefits on a roughly proportional basis; and*
- (3) That the physical facilities and technological capacities at the Satellite campus are adequate to support the curriculum offered at and the students attending the Satellite campus.*

Interpretation 105-5:

If a student would be able to take at a Satellite campus the equivalent of two-thirds or more of the credit hours that a law school requires for the award of the J.D. degree, all of the requirements set forth in Interpretation 105-2 apply to the establishment of such a Satellite campus except the requirement concerning provisional approval.

Standard 106. DEFINITIONS.

As used in the Standards and Interpretations:

...

ADDITIONAL PROPOSED DEFINITIONS, to be inserted in alpha order and other subsections renumbered:

(_) "Branch campus" means a separate location at which the law school offers sufficient courses that a student could earn at the separate location all of the credit hours that the law school requires for the J.D. degree.

(_) "Satellite campus" means a separate location (other than one approved under the Criteria for Approval of Semester Abroad Programs) which is not within reasonable proximity to the main law school campus and at which a student could take the equivalent of 16 or more semester credit hours toward the law school's J.D. degree but which does not constitute a Branch campus.

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

(a) A major change in the organizational structure of an approved law school raises concern about the school's continued compliance with the Standards. Before making a major change in its organizational structure, a provisionally or fully approved law school shall apply for and obtain acquiescence in the proposed change.

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

- (1) Materially modifying the law school's legal status or institutional relationship with a parent institution;
- (2) Merging or affiliating with one or more approved or unapproved law schools;
- (3) Acquiring another law school or educational institution;
- (4) 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;
- (5) Transferring all, or substantially all, of the academic program or assets of the approved law school to another law school or university;
 - (6) Opening of a ~~Branch campus or an additional location~~ Satellite campus at which the law school offers at least 20 percent of its educational program a student could take the equivalent of 16 or more semester credit hours toward the law school's J.D. degree;
 - (7) Merging or affiliating with one or more universities; or
 - (8) A change in the control of the school resulting from a change in the ownership of the school or a contractual arrangement.
- (c) For purposes of this Rule:
- (1) ~~The transfer of all or substantially all of the academic program or assets of an approved law school to a new institution, whether a university or freestanding institution, constitutes a decision to close the approved law school and open a different law school, merging or affiliating with one or more approved or unapproved law schools, or merging or affiliating with one or more universities may amount to the closure of an approved law school and the opening of a different law school. If the Accreditation Committee determines, after written notice and an opportunity for written response, that such a change does amount to the closure of an approved law school and the opening of a different law school, it shall so notify the law school(s). If the Accreditation Committee determines that any proposed structural change constitutes the creation of a different law school, it shall recommend to the Council that any acquiescence in the proposed structural change be accompanied by a requirement that the school apply for provisional approval under the provisions of Standard 102 and Rule 4.~~
 - (2) Factors that shall be considered in making the determination of whether the events listed in paragraph (1) above constitute the closure of an approved law school and the opening of a different law school include, without limitation, whether such events are likely to result in
 - (a) significant reduction in the financial resources available to the law school;
 - (b) significant change, present or planned, in the governance of the law school,
 - (c) significant change, present or planned, in the overall composition of the faculty and staff at the law school,
 - (d) significant change, present or planned, in the educational program offered by the law school; or
 - (e) significant change, present or planned, in the location or physical facilities of the law school.
 - (3) Opening of a Branch campus by an approved law school is treated as the creation of a different law school. A Branch campus shall apply for provisional approval under the provisions of Standard 102 and Rule 4. A law school seeking to establish a Branch campus shall submit to the Consultant, as part of its application, a business plan that contains the following information concerning the proposed Branch campus: a description of the educational program to be offered; projected revenues, expenditures and cash flow; and the operational, management and physical resources of the proposed Branch campus.
 - (4) After written notice and an opportunity for a written response, the Accreditation Committee shall determine whether any other proposed structural change constitutes the creation of a different law school. If the Accreditation Committee determines that any proposed structural change constitutes the creation of a different law school, it shall recommend to the Council that any acquiescence in the proposed structural change be accompanied by a requirement that the school apply for provisional approval under the provisions of Standard 102 and Rule 4.
- ...
- Rule 20. Closure of Law School.**
- (a) An approved law school and its parent institution, if any, agree to provide, in the event of closure or cessation of operation, an opportunity for currently enrolled students to complete their degrees under the terms of a closure plan that meets at least the conditions set out below and is found acceptable by the Accreditation Committee.
 - (b) ~~A transfer of substantially all the assets of a law school to another institution shall be deemed a decision to cease operation of an approved law school unless the Council acquiesces in the major change pursuant to Rule 18.~~
- Rules 20(c) through (f) will be redesignated to accommodate the deletion of (b)] ♠

JOINT WORKING GROUP

Continued from page 1

revision of the Code of Recommended Standards for Bar Examiners, which was adopted by the NCBE, the AALS and the ABA in 1987. The Joint Working Group plans to develop a statement of recommended policies and standards for law schools with respect to their involvement in the bar admission process.

One vehicle for promoting this national dialogue will be a national conference on legal education and bar admissions that the Joint Working Group will sponsor in 2004. The conference hopes to attract a wide audience so that there will be a broad representation of views concerning the issues to be discussed. After the conclusion of the conference, the Joint Working Group expects to make recommendations to the four organizations concerning the Code of Recommended Standards and other appropriate policy statements relevant to the relationship between legal education and bar admissions.

The Joint Working Group welcomes suggestions and comments concerning its work. Communications may be directed to Dean Mary Kay Kane at Hastings College of the Law, University of California-Hastings, 200 McAllister Street, San Francisco, CA 94102. The first meeting of the Joint Working Group will occur early in 2003. 🏠

MEMBERS OF THE JOINT WORKING GROUP ON LEGAL EDUCATION AND BAR ADMISSIONS

Dean Mary Kay Kane, chairperson

Hastings College of the Law
University of California-Hastings
San Francisco, CA

Diane F. Bosse

Volgenau and Bosse • Buffalo, NY

Marva Jones Brooks

Arnall, Golden and Gregory • Atlanta, GA

Professor Michael J. Churgin

University of Texas School of Law • Austin, TX

Professor Roberto L. Corrada

University of Denver College of Law • Denver, CO

Marcia J. Mengel, Clerk of Supreme Court

Board of Bar Examiners • Columbus, OH

Dean Richard J. Morgan

University of Nevada-Las Vegas

William S. Boyd School of Law • Las Vegas, NV

Chief Justice Randall T. Shepard

Supreme Court of the State of Indiana

Indianapolis, IN

Chief Justice Gerald W. VandeWalle

North Dakota Supreme Court

State Capitol Building • Bismarck, ND

LIAISONS FROM AFFILIATE ORGANIZATIONS

Erica Moeser, president and CEO

National Conference of Bar Examiners

Madison, WI

Carl C. Monk,

executive vice president and executive director

Association of American Law Schools

Washington, D.C.

John A. Sebert, consultant on Legal Education

American Bar Association • Chicago, IL

Professor Dale Whitman, AALS president (2002)

University of Missouri-Columbia, School of Law

Columbia, MO

FROM THE CONSULTANT

Continued from page 3

newly established position as housing registration and technology manager. In that role, Melissa will have primary responsibility for housing registration and technology in conjunction with ABA Annual and Midyear meetings. We wish Melissa the best in her new position, and while we will miss her greatly we also are comforted that she has not gone too far and

will be working with us on Section matters related to the mid-year and annual meetings. We are pleased to have recruited an excellent successor to Melissa. Kara Pliscott, who has extensive experience as a meetings manager for the ABA Judicial Division, joined our staff this past January. 🏠

MODEL DEFINITION

Continued from page 1

Definition of the Practice of Law

- (a) The practice of law shall be performed only by those authorized by the highest court of this jurisdiction.
- (b) Definitions:
- (1) The “practice of law” is the application of legal principles and judgment with regard to the circumstances or objectives of a person that require the knowledge and skill of a person trained in the law.
 - (2) “Person” includes the plural as well as the singular and denotes an individual or any legal or commercial entity.
 - (3) “Adjudicative body” includes a court, a mediator, an arbitrator or a legislative body, administrative agency or other body acting in an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party’s interests in a particular matter.
- (c) A person is presumed to be practicing law when engaging in any of the following conduct on behalf of another:
- (1) Giving advice or counsel to persons as to their legal rights or responsibilities or to those of others;
 - (2) Selecting, drafting, or completing legal documents or agreements that affect the legal rights of a person;
 - (3) Representing a person before an adjudicative body, including, but not limited to, preparing or filing documents or conducting discovery; or
 - (4) Negotiating legal rights or responsibilities on behalf of a person.
- (d) Exceptions and exclusions: Whether or not they constitute the practice of law, the following are permitted:
- (1) Practicing law authorized by a limited license to practice;
 - (2) Pro se representation;
 - (3) Serving as a mediator, arbitrator, conciliator or facilitator; and
 - (4) Providing services under the supervision of a lawyer in compliance with the Rules of Professional Conduct.
- (e) Any person engaged in the practice of law shall be held to the same standard of care and duty of loyalty to the client independent of whether the person is authorized to practice law in this jurisdiction. With regard to the exceptions and exclusions listed in paragraph (d), if the person providing the services is a non-lawyer, the person shall disclose that fact in writing. In the case of an entity engaged in the practice of law, the liability of the entity is unlimited and the liability of its constituent members is limited to those persons participating in such conduct and those persons who had knowledge of the conduct and failed to take remedial action immediately upon discovery of same.
- (f) If a person who is not authorized to practice law is engaged in the practice of law, that person shall be subject to the civil and criminal penalties of this jurisdiction.

Comment

- [1] The primary consideration in defining the practice of law is the protection of the public. Thus, for a person’s conduct to be considered the practice of law, there must be another person toward whom the benefit of that conduct is directed. That explains the exception for pro se representation. The conduct also must be targeted toward the circumstances or objectives of a specific person. Thus, courts have held that the publication of legal self-help books is not the practice of law.
- [2] The exception for pro se representation in paragraph (d)(2) contemplates not only self-representation by an individual but also representation of an entity by an authorized nonlawyer agent of the entity in those jurisdictions that permit such representation.

For up-to-date information on the Task Force on the Model Definition of the Practice of Law, visit www.abanet.org/cpr/model_def_home.html. 🏠

Section of Legal Education Co-sponsors the Section of Dispute Resolution Conference

The Section of Dispute Resolution Conference will be held in San Antonio on March 20–22, 2003, at the Henry B. Gonzalez Convention Center and Hilton Palacio Del Rio. The event features optional skills training by leading practitioners on the latest innovation in Dispute Resolution practice.

Calendar

FEBRUARY 2003

5-11	ABA Midyear Meeting	Seattle, WA
6-7	ABA Deans' Workshop	Seattle, WA
8-9	ABA Council Meeting	Seattle, WA
22	ABA Site Evaluators Workshop	Chicago, IL

MARCH 2003

19-22	ABA Facilities Conference: Bricks, Bytes, and Continuous Renovation	Boston, MA
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APRIL 2003

24-26	ABA Accreditation Committee Meeting	Chicago, IL
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MAY 2003

14	ABA Deans' Breakfast	Chicago, IL
14	ABA Standards Review Committee Public Hearing	Chicago, IL
14	ABA Standards Review Committee Meeting	Chicago, IL
27-30	ABA Law School Development Conference	Jackson Hole, WY
30-June 2	New Deans' Seminar	Jackson Hole, WY

JUNE 2003

7-8	ABA Council Meeting	Miami Beach, FL
27-28	ABA Accreditation Committee Meeting	San Diego, CA

AUGUST 2003

7-13	ABA Annual Meeting	San Francisco, CA
7-8	ABA Council Meeting	San Francisco, CA
8	ABA Kutak Reception	San Francisco, CA
9	ABA Section Programs	San Francisco, CA

Chairperson Seeks Nomination Suggestions

The chairperson of the Section of Legal Education and Admissions to the Bar is seeking suggestions for membership to the following Section committees. Committee appointments are to begin in 2003-2004 and often will be for two or three years.

- ◆ Bar Admissions
- ◆ Clinical and Skills Education
- ◆ Communications Skills
- ◆ Continuing Legal Education
- ◆ Curriculum
- ◆ Diversity
- ◆ Governmental Relations and Student Financial Aid
- ◆ Graduate Legal Education
- ◆ Law Libraries
- ◆ Law School Administration
- ◆ Law School Development
- ◆ Law School Facilities
- ◆ Pre-law
- ◆ Professionalism
- ◆ Questionnaire
- ◆ Technology and Education

The chairperson seeks committee membership from three components of the Section membership: legal educators, practicing lawyers and judges.

Send nominee suggestions by April 1, 2003, to Dean John A. Sebert or Chairperson Pauline A. Schneider, American Bar Association, 750 N. Lake Shore Drive, 7th floor, Chicago, IL. 60611, or e-mail to sebertj@staff.abanet.org.

SYLLABUS

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