

# SYLLABUS

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

## Message from the New Section Chairperson

By Honorable Elizabeth B. Lacy

Council tradition calls for a member of the judiciary to serve as Chairperson of the Council every third year. This year I am the beneficiary of that tradition.

Any qualifications I have to be caretaker of this position arise from what I have learned over the past ten years from my colleagues



on the Council, representatives of sister organizations, members of site teams, and those administrators, staff, professors, and students I have met in the law

schools. My immediate predecessors, Pauline Schneider, Tom Sullivan, and Chief Justice Jerry VandeWalle have provided examples of steady leadership, allowing the Council to focus on the matters at hand without distraction or rancor. I am grateful to all those who have contributed to my education and am hopeful that, a year from now, I will have earned a passing grade.

I view this post in terms of a "presiding officer" because in my

experience the Section has moved forward, not by force of any single person or officer, but through the continuous exchange of ideas, opinions, and experiences of all Section members in both formal and informal settings. The efforts of the Council members, the consultant, deputy consultants, the staff, and the committee members have combined to continue the mission of the Section to ensure the delivery of quality legal education.

Because the accreditation function is the most visible of the Section's activities, the work of the Accreditation and Standards Review Committees is the most obvious. As a result, the work of the Section's 26 other committees, with approximately 250 members, is sometimes overlooked or underplayed. These other committees, however, make significant contributions to the accreditation process and the quality of legal education.

One of the newest committees, the Joint Working Group, was established in 2003 in cooperation with the National Conference of Bar Examiners, the Association

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## Provisional Approval for Two Florida Schools

By Joe Puskarz

During the August ABA Annual Meeting in Atlanta, Georgia, the House of Delegates of the American Bar Association concurred with the action of the Council of the Section of Legal Education and Admissions to the Bar, in granting provisional approvals to Florida A&M University College of Law and Florida International University College of Law.

In the spring of 2002, the Florida legislature unanimously approved a bill creating and funding the **Florida International University College of Law**. In the fall of 2002, the school enrolled its first class of students of 113. The school enrolled 228 students in fall

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# Statistics Paint a Picture, But Do They Tell the Whole Story?

By Pauline A. Schneider

As I contemplated what to discuss in this, my last column as Chair of the Section of Legal Education and Admission to the Bar (the “Section”), it was not my intent to attempt to analyze a lot of statistics. I stumbled into it. The more I considered the numbers, however, they seemed to present a positive story. Let me explain.

Each year the American Bar Association, through a joint effort of the Section and the Law School Admission Council (LSAC), publishes the *ABA-LSAC Official Guide to ABA-Approved Law Schools*. This 850-page resource book is designed to provide prospective



law students with basic information that will be useful in the process of deciding whether and where to attend law school. In addition to describing such

things as what it means to be a lawyer, fields of study, the application and admission process, ways to finance a legal education, employment prospects and the ABA’s role in the accreditation process, there also are included several pages of information about each of the ABA-approved law schools. In addition, there are various charts that provide such interesting information as to the number of applications, acceptances and enrollees in ABA-approved law schools in each of the past 20 years, broken down by gender and ethnicity. There is current data on law school teachers

broken down by gender and ethnicity. Much of the statistical information in the *Official Guide* comes from the Annual Questionnaire that the Section requires from each of the ABA-approved law schools.

I picked up the *Official Guide* in search of an answer to a question of a colleague about how many ABA-approved law schools have minority deans. Although I did not find the answer to that question in the *Official Guide*, it caused me to explore more carefully some of the charts filled with data that in the past I had scanned only casually. In particular, I focused on data in chapter six: “Opportunities in Law For Minority Men and Women.” The results of my exploration were quite enlightening.

Based on information in the 2005 edition, there were 187 approved law schools offering the first degree in law (J.D.) with a total of 137,676 enrolled J.D. students in the fall of 2003. Of that total, 67,030 were women and 28,318 were minority students. Asian or Pacific Islanders were the largest group of minority law students, totaling 10,040, followed by African Americans who totaled 9,435. The data for Latino students are separated among Mexican American, Puerto Rican and other Hispanic Americans, and collectively, the Latino groups totaled 7,811. American Indians or Alaska Natives totaled 1,048. Altogether minorities represented 20.56 percent of law students in the fall of 2003.

Reflecting back on the U.S. Supreme Court’s analysis and

decision in the *Grutter* case, I began to think that the number of minority students in law school was pretty substantial, perhaps reaching that “critical mass” the Court spoke of, but I wondered how evenly those students were dispersed. I was somewhat surprised by what I found. The good news is that there were no ABA-approved law schools that had no minority students. There were, however, 30 law schools that had fewer than 10 percent minority students and there was one law school that had fewer than 5 percent. Two law schools report no African American students. The minority group, however, that appeared to be most consistently totally absent from law schools was Puerto Ricans. One hundred schools report no Puerto Rican students and 68 schools reported no Mexican Americans. Since many of the law schools that reported having no Puerto Rican or Mexican American students did enroll one or more students who were classified as Hispanic, the total absence of those groups may be misleading and likely is the result of how data are reported since only one law school reported no Latino students at all. It suggests that the Section might want to reconsider its classifications to ensure that data are being reported consistently among law schools.

Since having role models in and outside the classroom can affect how students view themselves and how well they perform, I looked at the ethnicity of faculty in ABA-approved law schools. Again, there was good news and there was cause for some concern.

Only four law schools reported having no minority faculty members in the fall of 2003. There was a total of 18,836 faculty (including full-time, skills, writing, administrative, library and IT faculty and staff) of whom 14.02 percent were members of minority groups. Twenty-nine law schools, however, had fewer than 5 percent and 54 law schools had fewer than 10 percent minority faculty members. There were no data that reported faculty by ethnicity by school so it was not possible to determine whether certain groups were not represented at a specific school, although this probably was the case given the small number of minority faculty at a number of law schools.

Next I looked at the number of deans who were persons of color at ABA-approved law schools to see how representative that group was in the fall of 2003. Of that group, there were two minority women and 15 minority men, representing a total of 17, or 9 percent of law school deans.

So, what conclusions can and should be drawn from this data. Compared to the 1984-85 academic year when there were 174 ABA-approved law schools, 119,847 J.D. students and 11,917, or 9.9 percent, minority students, there was an increase of more than 238 percent in the number of students of color enrolled in law school. There was a wide variance, however, in the percentage of students of color enrolled in law schools, ranging from 3.7 percent at one law school to 100 percent at two others.

It appears that the dispersion of faculty of color also is uneven among law schools with some law schools reporting no minority faculty. The total percentage of faculty of color, however, was approaching 15 percent and this suggests that today's crop of minority law students and lawyers

in practice might want to consider seriously careers in the academy, either teaching or serving as administrators in law schools.

At the top of the legal academic ladder, the deanship, if you exclude the deans at historically black institutions or at the Puerto Rican law schools, the number was 11. This suggests that not unlike other powerful American institutions such as corporations and law firms, breaking through the barriers to get to positions of leadership at the very top will take more time and be less yielding than enrolling in law schools or joining the law faculty.

What the data leads me to conclude, however, is that the pipeline is filling and progress is being made. The ultimate goals of inclusion and equitable participation in the legal profession for all who wish to participate is still elusive but is certainly closer today than ever before. In short, analysis of the data ultimately gave me cause for optimism as I concluded my year as Chair of the Section.

As the leadership of the Section passes to my very able successor, Justice Elizabeth Lacy, I want to thank all of the individuals in and out of legal education who contributed to making my year as Chair interesting, challenging, productive and, hopefully successful. In particular, I want to acknowledge the many volunteers who contribute countless hours to the work of the Section, the extraordinary staff who do the heavy lifting with skill, competence and professionalism, and my law firm colleagues who support my efforts and tolerate my absences from the office in support of legal education. It has been a grand year but I certainly am glad that it is over! 🏠

# SYLLABUS

Volume 36, Number 1 • September 2004  
Editor: Joseph Puskarz  
Designer: Sonya Taylor

The Section of Legal Education and Admissions to the Bar publishes *Syllabus* three times a year. 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.

The editor reviews all manuscripts, and those accepted become the property of the American Bar Association. Manuscripts or letters may be submitted to the editor, Joe Puskarz, American Bar Association, Legal Education and Admissions to the Bar, 321 N. Clark St., Chicago, IL 60610

Change of address should be sent to Member Services Division, American Bar Association, 321 N. Clark St., Chicago, IL 60610. Please include mailing label.

The price of an annual subscription to members of the Section of Legal Education and Admissions to the Bar is included in the dues. Subscriptions to nonmembers are \$15.  
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# From the CONSULTANT

By John A. Sebert, Consultant on Legal Education

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As I begin my fifth year as the ABA Consultant on Legal Education, I wish again to take this opportunity to inform the members of the Section, and others interested in legal education and bar admissions, about the activities of the Council, the Section, and the Consultant's Office this past year. Thanks to the leadership of the Council, the tremendous effort of the hundreds of volunteers who serve on our committees and site evaluation teams, and the work of a dedicated staff in the



Consultant's Office, 2003-04 was another productive year. Some of the highlights include making significant revisions to the *Standards and Rules of*

*Procedure for Approval of Law Schools*, revising and substantially shortening the Site Evaluation Questionnaire, and completing an important survey of law school curricula.

## Accreditation Activities

As of the beginning of the 2004-05 academic year, a total of 189 institutions are approved by the American Bar Association: 188 confer the first degree in law (the J.D. degree), while the other approved school is the U.S. Army Judge Advocate General's School. During this past year, two new schools were granted provisional approval: Florida A&M University College of Law, in Orlando,

Florida, and Florida International University College of Law, in Miami, Florida. Western State University College of Law, in Fullerton, California, relinquished its ABA approval as of August 8, 2004. Thus at present seven law schools are provisionally approved: Appalachian School of Law, Ave Maria School of Law, Barry University School of Law, the University of the District of Columbia School of Law, Florida A&M University College of Law, Florida International University College of Law, and the University of St. Thomas School of Law (Minneapolis, Minnesota).

Thirty-one site evaluation visits were undertaken during 2003-04, involving the service of 196 volunteers as site team members. Additional visits, involving 40 additional volunteers, were conducted in connection with the review of applications for acquiescence in major changes and the review of foreign programs.

## Continuing Revision of Standards and Interpretations

Under the leadership of Professor Michael Davis of the University of Kansas School of Law, the Standards Review Committee this year assisted the Council in the initial stages of a two- or three-year comprehensive review of the *Standards and Rules of Procedure for Approval of Law Schools* and its Interpretations. The work of the Committee and Council during 2003-04 focused on Chapter 3 of the Standards, the "Program of Legal Education." After providing a six-month period for notice and

comment, the Council in June adopted a number of important revisions to Chapter 3 and some revisions to the provisions on student support services in Chapter 5. The ABA House of Delegates concurred in all of those revisions at its August 2004 meeting, and those revisions are now effective. The revisions and the commentary concerning them begin on page 18 of this issue of *Syllabus*.

In June, the Council also extended the period for comment on proposed revisions to Standard 302 (governing the curriculum) and portions of Standard 305 (governing the regulation of externships). After reviewing the many comments received concerning these provisions since they were distributed for comment in December 2003, the Council in August adopted additional revisions to Standards 302 and 305. Those revisions will be submitted to the House of Delegates for concurrence in February 2005 and will not become effective until the House concurs. One of the most significant revisions is contained in new Standard 302(a)(4), which now will require that a law school require that each graduating student have received substantial instruction in "other professional skills generally regarded as necessary for effective and responsible participation in the legal profession."

Interpretation 302-2 makes it clear that the definition of "professional skills" is broad and includes far more than traditional litigation 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 (a)(4).*

New Interpretation 302-3 makes it clear that schools have considerable leeway as to how to provide that required professional skills instruction:

*A school may satisfy the requirement for substantial instruction in professional skills in various ways, including, for example, requiring students to take one or more courses having substantial professional skills components. To be “substantial,” instruction in professional skills must engage each student in skills performances that are assessed by the instructor.*

The required professional skills instruction may be provided in a variety of formats, including simulation courses, externships, and clinical courses. The required professional skills instruction may be provided in first-year or upper-class courses, and could be accomplished through a “skills” component of a larger classroom course (such as by having some students undertake a substantial planning and drafting exercise in conjunction with a Trusts & Estates course).

### **Revision of the Site Evaluation Questionnaire**

This year the Questionnaire Committee, chaired by President and Dean Allen Easley of William Mitchell School of Law, made major revisions to the Site Evaluation Questionnaire (SEQ), which is the questionnaire that each

school undergoing a site evaluation must complete. The revisions were based on two overarching principles: first, every item in the SEQ should be appropriate to and useful in the site evaluation process; and second, questions in the SEQ should be linked to existing Standards or Interpretations where possible, and where not possible, the question should be retained only if it provides information that will be useful to the site team. The result was a substantially shortened questionnaire that should be much easier for schools to complete and for site teams to use. The revised SEQ was approved by the Council in June 2004 and will be used during the 2004-05 academic year.

### **Curriculum Survey**

The Curriculum Committee completed a three-year project to produce a comprehensive survey of law school curricula at ABA-approved law schools, with special attention to changes, innovations, and trends in legal education that have occurred over the last ten years. The data were gathered primarily from two sources: 1) Annual Questionnaires from 1992-1993 and 2002-2003; and 2) the results from a Web-based survey produced jointly by the Curriculum Committee and the staff of the Consultant’s Office. One hundred and fifty-two of the 187 ABA-approved law schools completed the Curriculum Survey. Professor Catherine Carpenter of Southwestern University Law School, the chair of the Curriculum Committee, and Associate Consultant Camille deJorna presented the results of the survey during a program sponsored by the Section at the 2004 ABA Annual Meeting in Atlanta. The final report will be completed this fall of 2004 and distributed to all law schools, affiliates and interested parties.

### **Law Student Debt Issues**

The Council continues to focus on the matter of law student borrowing and high debt loads on graduation. Its Government Relations Committee, chaired by Associate Dean Peter Winograd of the University of New Mexico School of Law, worked with the ABA Commission on Loan Forgiveness and others on initiatives at the federal level to improve the borrowing opportunities of law students and the repayment options for law graduates. This work will continue through the process of the reauthorization of the Higher Education Act, and it now appears that the reauthorization bill will be taken up when the new Congress convenes in 2005.

### **Out-of-the-Box Committee**

The Section’s Out-of-the-Box Committee, co-chaired by Dean John Attanasio of Southern Methodist University School of Law and Diane Yu of New York University, this year sponsored a successful and thought-provoking conference, “Critical Choices: Educating the Next Generation of Lawyers,” in April 2004 at Southern Methodist University. Conference topics included perspectives on legal education by college and university presidents and provosts who are former law school deans; a preliminary report of data gathered in the ambitious “After the JD Study” of a national sample of law school graduates of the class of 2000 concerning their early careers; a discussion of modes of delivering legal education other than the current model of three or four years of residence education; and other important topics. Over the coming year the committee plans to produce articles reflecting some of the Committee’s work and will disseminate the proceedings of the April conference.

## Conferences, Workshops, and Special Events

The Council and its committees offered and supported a number of worthwhile conferences and programs during the past 12 months.

### *Workshop for Chairpersons of Site Evaluation Teams, Workshop for New Site Evaluators and Schools Undergoing a Site Evaluation.*

In September 2003 the Section conducted its annual workshop for Chairpersons of site visit teams for the 2003-04 year. In February 2004, the Section offered a workshop for first-time site evaluators and representatives of schools that will have a site evaluation within the next year or two.

### *Out-of-the Box Conference.*

“Critical Choices, Educating the Next Generation of Lawyers” was held on April 15-17 in Dallas, Texas. This program is described in the previous section on the Out-of-the-Box Committee.

*Deans’ Workshop.* The annual workshop for law school deans was held at the ABA Mid-year Meeting in San Antonio, Texas. This two-day meeting attracted 130 of the 187 deans of ABA-approved law schools. Dean N. William Hines of the University of Iowa College of Law and Dean Karen H. Rothenberg of the University of Maryland School of Law co-chaired the workshop.

### *Associate Deans’ Conference. The Law School Administration Committee sponsored this event in Colorado on June 3-6, 2004.*

This year’s theme was “Managing the Law School, Managing the Job.” The conference provided a basis for attendees to network and share administrative challenges and solutions with colleagues. The program attracted

140 associate and assistant deans from across the country.

Associate Dean Jack Pratt of Notre Dame University Law School chaired the program.

### *Seminar for New Law School Deans.*

The Section sponsored the 12th annual seminar for new deans of ABA-approved law schools on June 10-12 in Chicago. This year’s program attracted 19 new deans and interim deans. Dean David Van Zandt of Northwestern University School of Law chaired the program.

### *Annual Meeting Programs.*

The Section sponsored three programs on Saturday, August 7, at the ABA Annual Meeting in Atlanta, Georgia. “Ready from Day One: What Should Law Graduates Be Able to Do?” included a panel discussion about the content of legal education and its relationship to legal practice. “Teaching Professionalism in Law School” examined professionalism in the legal profession and ways to further professionalism instruction. “Comprehensive Study of Law School Curricula” presented survey findings of the Curriculum Committee regarding law school curricula.

## Section Publications

The best-known Section publication to the general public is the annual *Official Guide to ABA-Approved Law Schools*. The 850-page book offers detailed, easy-to-read information by which prospective law students, law school faculty and administrators, and others can compare statistics of all ABA-approved law schools. Produced in cooperation with the Law School Admission Council since 2001, the *Official Guide* includes admission data, tuition, fees, living costs, financial aid, enrollment data, graduation rates, composition and number of faculty and administrators,

curricular offerings, library resources, physical facilities, placement rates, bar passage data, post-J.D. programs, and more. In addition, a complete search of data contained in the book can be accessed via the Internet at <http://officialguide.lsac.org>.

Another widely referenced Section publication is the annual *Comprehensive Guide to Bar Admission Requirements*, co-published with the National Conference of Bar Examiners. This book sets out the rules and practices of all U.S. jurisdictions for admission to the bar by examination and on motion, including legal education and character and fitness requirements, bar examination information, requirements for special licenses, and similar information. The entire *Guide* can be viewed online at [www.abanet.org/legaled/baradmissions/bar.html](http://www.abanet.org/legaled/baradmissions/bar.html).

The Section’s Web site, found at [www.abanet.org/legaled](http://www.abanet.org/legaled), continues to be one of the most-viewed sites in the “abanet.org” domain, averaging between 20,000 and 30,000 visitors per month. Major Section publications and key legal education information are all available on the ABA Web site at [www.ababooks.org](http://www.ababooks.org).

## Staff Developments

The position of deputy consultant has been a rotating position since James White established it in the mid-1990s with the objective of bringing an experienced legal educator to the Consultant’s Office for a few years in order to ensure that the Section and the Office regularly have the benefit of new insights and perspectives. Legal education, the Section and the Office, and I personally, were extremely fortunate to have Barry Carrier as deputy for the past four years and to benefit from his talents, energy and wisdom. We wish

Barry and his wife, Marilyn, the best as Barry assumes his new responsibilities in Los Angeles as dean of Concord Law School.

We also welcome Stephen Yandle, long-time associate dean at Yale Law School, who joined the Office in mid-June as deputy consultant. Stephen already has been hard at work, and we know that his breadth of experience and thoughtful perspective will greatly aid the work of the Office and the Section.

Naomi Beeman, the accreditation assistant, joined the Office late last summer and has been a tremendous help in assisting Cathy Schrage, executive assistant for accreditation, in organizing the materials and agenda for the Accreditation Committee, processing Committee letters, assisting site evaluation teams in their work, and assisting schools in participating in the site evaluation process. Naomi left the Section this past summer to begin studies toward a Ph.D. in Comparative Literature at Emory University. We thank Naomi for her important contributions and wish her the best in her new venture.

### Concluding Comments

This has been a busy and challenging year for the Section, the Council, and the Consultant's Office. The central work of the Section, overseeing the accreditation of law schools and promulgating the Standards with which ABA-approved law schools must comply, as usual occupied much of the time of the Council, the Consultant's Office, and many of the Section's committees. The service functions of the Section are also very important, however, as the Section in particular attempts to assist law school deans and administrators to be more effective and more creative in their leadership of legal education in the United States. Programs such as the Conference for Associate and Assistant Deans, the Deans' Workshop, the New Deans' Seminar, and the Out-of-the-Box Conference all contributed toward these service objectives, and the forthcoming Curriculum Survey Report will be an invaluable resource for deans, associate deans, and curriculum committees for years to come.

The leadership of the Chair of the Council is always crucial to a

successful year, and this year we were very fortunate to have Pauline Schneider, of Hunton & Williams in Washington, D.C., in that key role. She provided strong leadership during a year that was more challenging than could have been anticipated, and that took much more of her time than is usual. Pauline led the Council with grace and skill, and she was an excellent collaborator and source of advice and assistance for my and my colleagues in the Consultant's Office. We thank Pauline for her efforts and are pleased that the Council will still have her active participation this year as Immediate Past-Chairperson.

We are pleased to welcome our 2004-05 Chair, Justice Elizabeth Lacy of the Supreme Court of Virginia. Justice Lacy has been involved with the activities of the Section for a number of years in a variety of roles. She has served on the Council since 1995, and as an officer of the Council since 2002. I know that Justice Lacy will be an energetic leader of the Council and the Section, and I greatly look forward to working with her this year. 🏠



Staff members of the Section and seminar attendees.

## Seminar for New ABA Law School Deans

The Section of Legal Education and Admissions to the Bar sponsored the 12th annual seminar for New ABA Law School Deans at Northwestern University School of Law on June 10-12, 2004. Dean David E. Van Zandt chaired the Planning Committee.

The seminar, which was attended by 19 new or interim deans, explored topics important to new law school deans, including relations with faculty, senior staff, central administration and the legislature, student services, law school finances and development and alumni relations.

# Statistical Digest:

## Annual Questionnaires Are Due By October 31, 2004

By David Rosenlieb, Data Specialist

The start of a new academic year also signifies the rapidly approaching deadline date for all law schools to submit their Annual Questionnaires to the Section Office by October 31, 2004. The upgrade to the ABACIS software and installation instructions is to be found on the Section's Web site at [www.abanet.org/legaled/questionnaire/questionnairedocuments.html](http://www.abanet.org/legaled/questionnaire/questionnairedocuments.html).

Version 8.0 incorporates all of the changes to the Annual Questionnaire as recommended by the



Section's Questionnaire Committee, which was approved by the Council in June 2004. The changes, while few, will have a profound impact on the data detail of the number of applications, offers, and matriculants. Also, the Section has changed what data is required for attrition by reducing the reasons for attrition and standardizing the reporting of ethnic and gender categories.

The Section has completed four training sessions for the upgraded software this past summer. A training session for the Site Evaluation Questionnaire was held in early July at the ABA headquarters in Chicago, and was attended by over 40 law school representatives. Training sessions for the Annual Questionnaire were held at California Western School of Law in San Diego, the ABA headquarters in Chicago, and at Suffolk University Law School in Boston. In all, over 50 law schools sent staff members to the in-depth sessions. I wish to thank the administration and staff at California Western School of Law and Suffolk University Law School for their graciousness in hosting the training sessions. The PowerPoint presentations from this past summer's training ses-

sions are available for download at the Section's Web site at [www.abanet.org/legaled](http://www.abanet.org/legaled).

If your school is going through a site visit during 2004-05, please remember that there have been extensive changes to the Site Evaluation Questionnaire. The Questionnaire Committee spent eight months reviewing and modifying that questionnaire. Some questions were reworded, some were deleted, and a few were added. The new Site Evaluation Questionnaire, along with all of the questionnaires, can be found on the Section's Web site at [www.abanet.org/legaled](http://www.abanet.org/legaled).

The Foreign Summer Program Annual Questionnaire has been removed from the ABACIS software and turned into a Web-based application, which will easily allow for law schools to complete the questionnaire, review past data, produce reports and save data via the Internet. The Web-based application will roll out in early fall 2004.

There are a number of projects that both the Questionnaire Committee and the Section will be working on in 2004-05. The Section also will be working on an extensive update to the Legal Education Statistics as reported on the Section Web site starting in early winter 2005. We plan to provide more information to our member base in an user-friendly format. Also, the Section continues to work on the Web-based take-off application with plans on having the initial site populated with data pertaining to the libraries by late spring 2005. We continue to plan on moving the Annual Questionnaire and Site Evaluation Questionnaire data entry section to a Web-based application in time for the 2005-06 academic years.

The Section will definitely have a very busy year ahead, but these changes will help improve the data gathering and reporting process. 🏠

### DEADLINE DATES

#### Annual Questionnaire

October 31, 2004

#### Study Abroad Questionnaires

Foreign Summer New Program Questionnaire

October 1, 2004

Foreign Summer Program Annual Questionnaire

December 1, 2004

Foreign Summer Program Site Visit Questionnaire

February 1, 2005

#### Cooperative Programs New and Site Visit Questionnaire

New programs due October 1, 2004

Site visit due October 15, 2004

#### Cooperative Programs Annual Questionnaire

October 1, 2004

#### Semester Abroad New and Site Visit Questionnaire

New programs due October 1, 2004

Site visit due October 15, 2004

#### Semester Abroad Annual Questionnaire

October 15, 2004

# UPCOMING CONFERENCES

## **JOINT WORKING GROUP CONFERENCE**

### ***Examining the Landscape of Legal Education and Bar Admissions***

October 1-2, 2004 • Chicago, IL

Time is still available to register for this national conference next month at the Inter-Continental Hotel in Chicago. Visit [www.abanet.org/legaled](http://www.abanet.org/legaled) for further information or contact Myra Hajny of the National Conference of Bar Examiners at 608-280-8550, ext. 229. Conference topics will focus on issues relating to design of examinations and assessment alternatives in both law school and licensing settings.

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## **LAW SCHOOL TECHNOLOGY CONFERENCE**

### ***Pedagogy to Practice: Maximizing Legal Learning with Technology***

October 15-16, 2004 • Newark, NJ

Registration is still open for the conference at Rutgers University in Newark, N.J. Visit [www.abanet.org/legaled](http://www.abanet.org/legaled) to register online. Designed for faculty, deans, librarians, and information services professionals, the program will explore: how today's students learn both with and without technology; what they expect; and what technological expertise law practice in the digital age demands. Speakers will address ways in which the legal academy and other disciplines can and are using technology to enhance teaching and learning.

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## **LAW SCHOOL DEVELOPMENT CONFERENCE: JACKSON HOLE**

May 31-June 3, 2005 • Jackson Lake Lodge, Jackson, WY

Save the date for the Section's eighth conference on law school development. This event, designed specifically for law school deans and senior law school development and alumni relations officers, will take place on May 31 through June 3 at the beautiful Jackson Lake Lodge located in Grand Teton National Park in Wyoming. Additional information will be forthcoming at the Section's Web site: [www.abanet.org/legaled](http://www.abanet.org/legaled). Dean Patrick Hobbs of Seton Hall University School of Law and Professor David Ibbeken of the University of Virginia School of Law co-chair the planning committee.

## U.S. Circuit Judge Harry Edwards Receives Kutak Award

The Honorable Harry T. Edwards, Circuit Judge on the United States Court of Appeals for the District of Columbia Circuit, received the 2004 Robert J. Kutak Award for his strong interest in legal education and in enhancing the relationship between the legal academy and the practice of law.

Talbot "Sandy" D'Alemberte, pro-

fessor and president-emeritus of Florida State University and chair of the Kutak Committee, presented the award to Judge Edwards at the August Annual Meeting in Atlanta, Georgia.

"Harry Edwards, a lawyer, author, educator and distinguished judge, has told many of his friends that his first love is legal education," said

D'Alemberte. He recognized Judge Edwards as a "judge who distinguished himself as the author of important decisions and participation in major cases, including *U.S. v. Microsoft*, an innovative chief judge who advanced the work of the Court of Appeals for the D.C. Circuit, one who built a new court facility and who improved communications with the bar."

"What makes this moment so special for me is that the Kutak Award recognizes achievement toward increased understanding between legal education and the active practice of law, something about which I care deeply," said Judge Edwards during his acceptance speech.

"If I have done anything to foster this goal, it is because I had the good fortune to be nurtured and inspired by some very special mentors, including my grandfather, John A. Ross, an outstanding lawyer, Professor Russell Smith, my patron saint at the Michigan Law School, Lee Shaw, the managing partner at the Chicago law firm at which I first practiced, and to William T. Coleman, Jr., who has demonstrated to me that lawyers must find ways to serve the public good."

Judge Edwards is one of the longest serving U.S. Court of Appeals judges in the country, having been appointed to the D.C. Circuit by President Jimmy Carter in 1980. He became chief judge of the Circuit in 1994 and served until 2001.

Judge Edwards has taught as a visiting lecturer at many of the leading law schools in the country since 1980. In 1992, he published an article, "The Growing Disjunction Between Legal Education and the Legal Profession," in the *Michigan Law Review* that is widely regarded as one of the most important discussions of the mutual responsibilities of the legal profession and those who prepare students for

### Excerpts from Judge Harry T. Edwards' Acceptance Speech

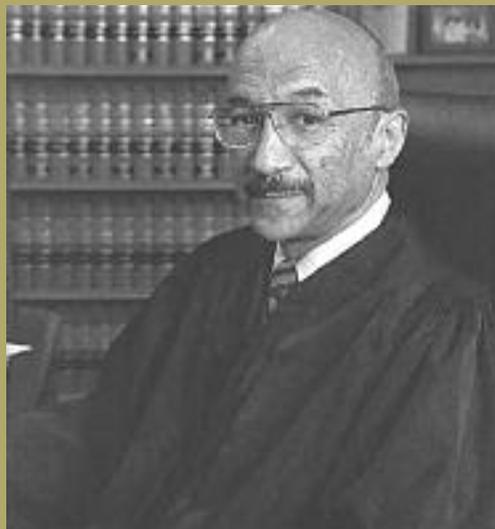
I would like to thank the ABA Section of Legal Education and Admissions to the Bar for selecting me as the 2004 recipient of the Robert J. Kutak Award. I was truly humbled and deeply honored when I saw the extraordinary list of prior award recipients, all of whom have given so much to improve every aspect of our profession.

What makes this moment so special for me is that the Kutak Award recognizes "achievement toward increased understanding between legal education and the active practice of law," something about which I care deeply.

In constructing a vision of legal education, I tend to agree with Professor J.B. White, who has written that, in order for legal academic work "to be of value to the law it is essential that the work in question express interest in, and respect for, the possibilities of what lawyers and judges do." Unfortunately, in my view, too many legal academics seem to forget that law schools are professional schools, not graduate schools. We grant JDs, not PhDs.

I do not mean to suggest that law schools are or should be "trade schools." Our law schools must nurture thoughtful lawyers who have first-rate legal minds and an understanding of and commitment to the broader public responsibilities that are at the heart of the profession. This requires law professors who address large questions of theory and policy, using modes of research and analysis that extend beyond the lines of inquiry common to the study of legal doctrine. Legal edu-

*Continued on page 12*



## MEETING WRAP-UP

entry into that profession.

As an African-American, Judge Edwards also has been a noteworthy role model for members of both minority and majority communities in America. He is an exacting jurist who demands superior written and oral advocacy from those who appear before his court, and he has been an effective mentor to newer judges in the federal judiciary.

“The practice of law will never disappear as a distinctive profession in American life, at least not if we answer our higher calling by maintaining an inexorable bridge between legal education and practice, while vigilantly defending the credibility, respect, and integrity of the profession,” said Judge Edwards.

“When all is said and done, I remain optimistic about the future, because there are so many good peo-

ple who are dedicated to the noble work of our profession. If legal education is nourished in the years ahead—with a serious focus on the needs of the profession—the practice of law will be enriched.”

Judge Edwards was born in New York City and had his undergraduate education at the Cornell University School of Industrial and Labor Relations, from which he received a B.S. degree in 1962. He attended the University of Michigan Law School, receiving his J.D. with distinction in 1965. At Michigan, he served as an editor of the *Michigan Law Review* and was elected to the Order of the Coif.

Upon graduation, Judge Edwards served as an associate with the Chicago law firm of Seyfarth, Shaw, Fairweather & Geraldson from 1965 until 1970, practicing primarily in the areas of labor and employment law. He

began his teaching career at the University of Michigan Law School, as an associate professor from 1970 until 1973 and as professor from 1973 to 1975. In 1975, Judge Edwards left Ann Arbor to join the Harvard Law School faculty, but he rejoined the Michigan law faculty in 1977, where he continued to teach until his elevation to the bench in 1980. During the decade of the 1970s, his teaching and writing concentrated in labor law and related areas, including collective bargaining, arbitration and negotiation, and public sector labor relations. He has co-authored four books and published numerous articles in these areas.

The Kutak Award is given annually by the American Bar Association Section of Legal Education and Admissions to the Bar.

— Joe Puskarz

## Panel Compares Legal Education to Legal Practice

The first of three programs presented at the Atlanta Annual Meeting by the Section on Legal Education and Admissions to the Bar was “Ready from Day One: What Should Law Graduates Be Able to Do?” Co-sponsors of the program were the Legal and Clinical Skills Education Committee and the Communication Skills Committee of the Section, and the Law Practice Management Section.

A panel, which included Professor Linda Edwards of the Mercer University Law School, Justice Randy Holland of the Delaware Supreme Court, Erica Moeser, president of the National Conference of Bar Examiners, and Professor Roy Stuckey of the University of South Carolina School of Law, examined questions regarding the content of legal education and its relationship to legal practice. What are the core competencies that a lawyer should possess prior to starting the practice of law? How can we reach consensus on what those competencies are and how do we impart them? Professor Molly O'Brien of the University of Akron School of Law served as moderator for the panel.

Professor Edwards reported on the comprehensive curriculum that has been instituted at Mercer University Law School to instruct students in core competencies necessary for the successful practice of law. The innovative program is

marked by a complete integration of instruction in doctrine and skills. Special emphasis has been placed on the effective use of technology in instruction, and the program has sought to expand both depth and breadth of course coverage.

Justice Holland described a new “clerkship” requirement that has been instituted in Delaware. In order to become a member of the bar a candidate must complete a five-month program under the supervision of a senior mentor in which the aspiring attorney must complete an extensive checklist of tasks designed to provide an introduction to the skills and values necessary for the successful practice of law.

President Moeser examined the issues raised in the program from the perspective of bar examination. What standards should be imposed and how should attainment of those standards be measured? She noted the continuing growth of skills testing as part of bar examination.

Professor Stuckey provided an update on the ongoing best practices project of the Clinical Legal Education Association. This comprehensive examination of successful practices both here and abroad is nearing completion. A conference is planned for next spring, and it is anticipated that the final report should be published in about a year.

—Deputy Consultant Stephen Yandle

## Teaching Professionalism in Law School

The Professionalism Committee of the Section of Legal Education and Admissions to the Bar presented the second of three programs on “Teaching Professionalism in Law School.”

In 1986, the American Bar Association reported that despite the fact that lawyers’ observance of the rules of ethics governing their conduct is sharply on the rise, lawyers’ professionalism, by contrast, may well be in steep decline. This program, moderated by Associate Dean James Elliott, Emory University School of Law, explored whether or not law schools and practitioners are experiencing a cultural shift regarding professionalism in education.

The presentation focused on a series of topics, including

what is new in legal education, new developments occurring in order to become a member of the bar, the acceptance of professionalism instruction by law students and by lawyers, and what are the “Best Practices” in professionalism instruction?

Speakers included: Professor Anita Bernstein, Emory University School of Law; Sally Lockwood, executive director, Georgia Supreme Court Committee on Professionalism; Professor Clark Cunningham, Georgia State University College of Law; Professor Patrick Longan, Mercer University Law School; Professor Amy Timmer, Thomas M. Cooley Law School.

—*Director of Operations Carl Brambrink*

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### JUDGE EDWARDS’ ACCEPTANCE SPEECH

*Continued from page 10*

education must therefore necessarily include significant elements of interdisciplinary study.

I used to think that there were not enough people in legal education that knew enough about interdisciplinary studies to make a difference. This is less of an issue today, because many law schools now attract faculty members who are well-versed in interdisciplinary study. We still face the problem, however, that too many legal scholars address material from other disciplines without situating it in a legal context. And, for many of these individuals, abstractions are greatly favored over prescriptions.

I am also distressed that, in recent years, a number of law schools have adopted hiring policies that require teaching candidates to have published major articles before seeking employment in the legal academy. These policies baffle me, for they preclude many bright young law graduates who prefer to focus on practice for a few years from subsequently entering the teaching profession. This means that the pool of talented law professors with significant practice experience is greatly diminished.

It is telling that the Kutak Award aims to promote “increased understanding between legal education and the active practice of law,” thus implicitly acknowledging the absence of a coherent bridge between the two. This disjunction is unfortunate, but not surprising. Over the years, many of my law clerks have told me that their legal educations did not give them good measures of practice. And modern law firms have disenchanted many young lawyers. Many see firms only as big money-making enterprises

involving unreasonable hours, tedious work, and sometimes questionable ethical decisions. Large numbers of graduates still seek employment in the major firms, for the money is good and it helps to pay off school debts. But a number of young lawyers leave big-firm practice after only a short stay. Often, some of the brightest young lawyers move from practice to law teaching as quickly as possible, with little practical knowledge or professional experience. Once they “escape” to the academy, many of these young faculty members have little interest in addressing the problems they saw in law practice. This results in a great loss to the profession.

In a recent article in the *Harvard Law Review*, Professor David Wilkins notes that “if the financial scandals of the first few years of the 21st century have taught us anything, it is that a world in which professionals are encouraged to bleach themselves of every commitment save the ruthless pursuit of profit is a prescription for disaster of near-biblical proportions. It will take much more . . . than moral exhortation to [cure the ills of law practice]. [We need] a normative commitment to seeing the crucial role that . . . lawyers play in the structure of our economic system.” I agree. And, in my view, academics should be among the architects and builders of the “normative commitment” of which Professor Wilkins writes.

Again, thank you so much for this wonderful honor. I will do my best in the years ahead to support the goals that are emblematic of the Kutak Award and of the man in whose honor the Award is given.

## Curriculum Survey Presentation

The final of three programs was presented to a group of deans, law school faculty, practitioners and others interested in current trends in U.S. legal education. The program reported the results of the 1992-2002 Survey of Law School Curricula. The report on the Survey is the result of a three-year project conducted by the Curriculum Committee of the Section on Legal Education and Admissions to the Bar. The goal was to produce a comprehensive survey of law school curricula at ABA-approved law schools.

The lively and informative presentation, delivered by Professor Catherine Carpenter, Irwin R. Buchalter Professor of Law at Southwestern University School of Law and chair of the Curriculum Committee, reported on the major findings of the Survey. Professor Carpenter reported on the nature of the committee's inquiry, how data were gathered, additional research sources, and provided participants with an overview of the results of the report.

The Survey collected and compared data from 1992

with data from 2002 on requirements for graduation, first year curriculum, upper division offerings, post-J.D., non-J.D., and certificate programs, and courses offered by distance education. Participants learned from Professor Carpenter that "over the past ten years, while most first year course offerings have remained basically the same, many law schools have reconfigured the unit allocation and timing of these courses in order to expand Legal Writing coverage and to accommodate other required courses and electives."

Professor Carpenter reported that the committee found that there's been an increased emphasis on skills and professionalism, significant growth in the upper division curriculum, fewer required courses for graduation and "that the small section experience outside of Legal Writing, has largely been eliminated from law schools' first year programs." The final report will be distributed to deans and others in fall 2004.

—Associate Consultant Camille deJorna

## 2004-05 Council Members Elected

At the Section's annual business meeting in August, the following members were elected or re-elected to serve on the 2004-05 Council of the Section of Legal Education and Admissions to the Bar.

**Honorable Elizabeth B. Lacy, Chairperson**, has been a Justice on the Supreme Court of Virginia since 1989. She holds a B.A. from Saint Mary's College of Notre Dame, Indiana, a J.D. from the University of Texas School of Law, and an LL.M. from the University of Virginia School of Law. Justice Lacy is a former deputy attorney general of Virginia and a former judge on the Virginia State Corporation Commission. She serves on the board of directors of the American Judicature Society and she is an adjunct professor at the University of Richmond, T.C. Williams School of Law. She has served on the Council since 1995.

**Dean and President Steven R. Smith, Chairperson-Elect**, is president, dean and professor of law at California Western School of Law in San Diego. Dean Smith received his J.D. and M.A. (economics) degrees from the University of Iowa. He has taught at the law schools at Cleveland State University and the University of Louisville, and is former dean of Cleveland State and former acting dean of the University of Louisville. Dean Smith has written widely in

the areas of law and ethics in medicine and mental health services. Special research interests include confidentiality and privilege, withholding treatment, malpractice, mental health care delivery and expert witnesses. He has served on a number of national and state boards, recently served as chair of the Association of American Law Schools Committee on Accreditation, and is a former member of the Ethics Committee on the American Psychological Association. Dean Smith has served on the Council since 1997, and was formerly a member of the Standards Review and Questionnaire Committees.

**William R. Rakes, Esq., Vice-Chairperson**, is a partner in the Roanoke, Virginia, law firm of Genrty Locke Rakes & Moore, LLP. His practice focuses on commercial litigation, banking and general corporate law. He holds both his B.A. and LL.B. from the University of Virginia. Mr. Rakes is a former president of the Virginia State Bar and the Roanoke Bar Association. During his tenure as president of the Virginia State Bar, he served as convener of two Virginia conclaves on legal education. He was a member of the Board of Governors of the American Bar Association from 1998-2001, during which period he served as Board of Governors Liaison to the Section of Legal Education and Admissions to

*Continued on page 29*

# D.C. Law Forum Introduces Legal Profession to Scholastic High School Seniors

By Joe Puskarz

Three hundred and fifty high school seniors from across America will get an intimate look at the legal profession when they congregate in Washington, D.C., next month to attend the National Youth Leadership Forum on Law (NYLF).

The NYLF is a nonprofit educational organization that sponsors career-oriented programs for high school students who demonstrate strong leadership skills. The law forum educates students on issues in law and presents a comprehensive introduction to constitutional law. Their educators, based on scholastic achievement and who have a strong desire to study or practice law, nominate students attending the event.

“In their final two years of high school, these students are at a critical point in terms of finding direction and focus,” said Gena Schoen, director of the National Youth Leadership Forum on Law. “By opening doors to educational and career opportunities within the legal profession, each student becomes better educated as to what he or she needs to study in the pursuit of a law degree, and enables students to explore the wide spectrum that the law covers.”

During the six-day, hands-on interactive curriculum, students will meet with judges, partners at law firms, legal scholars and practitioners, and visit federal courtrooms, including the United States Supreme Court, to see first-

hand the judicial process in action. The curriculum is based on actual events, which allow students to learn from the examples set by lawyers and court officials.

Students will participate in both a mock trial and Supreme Court simulation. During the student-led simulation activities, participants develop an understanding of the judicial process and develop critical reasoning, communication, public speaking and leadership skills. In addition, students also develop a sense of the personal ethics that guide lawyers on a daily basis.

The Washington forum was right in line with 17-year-old Robert Corradi’s future when he attended the event in February 2004. Corradi was a senior at Floral Park Memorial High School in New York when his business law teacher, Sandra Braun, nominated him to attend the NYLF on law.

“I was chosen based on my grades and participation in class, as well as the level of debate I had shown in mock trial practices and tournaments for our school’s Mock Trial Club,” said Corradi. “Even though the business law course was challenging and focused on contract and tort law, Mrs. Braun knew my interest lay in constitutional law, and reasoned that the NYLF would be a nice break from tort reform.”

This fall, Corradi will be majoring in Political Science at Purchase College State University of New York, while working towards a

B.M. in vocal performance. Although he hasn’t yet made formal inquiries toward law school, he is leaning toward Harvard, Stanford, Yale and Chicago.

“The law has always interested me because of its ability to reach across disciplines, and for its influence on the general public,” he said. “I’ve found that music has the same effect; the ability to appeal to a wide range of people with different levels of education.”

Students attending the law forum also engage in discussions and debates on legal issues, such as prayer, the death penalty and physician-assisted suicide—led by representatives from the legal community. While visiting advocacy organizations and federal agencies, students are given exposure to additional facets of legal work. In addition, students are required to attend a NYLF legal career seminar that will help them make well-informed career choices.

“These are highly interactive sessions and students tend to ask a lot of questions about not only the career, but also about law school and how to prepare to be a lawyer,” said Schoen. “The forum on law provides this exploration prior to investing in a college education, and it gives participants a head start on finding the legal career that’s right for them.”

Corradi said that his favorite part of the law forum was when he chose to attend the International Financial Law seminar, led by Harvard-trained lawyer

Joe Hurd. “Mr. Hurd was not only informative and entertaining, but was also generous with his time to speak with the students and offer excellent advice.”

The law forum also allows students to gain more insights into the legal community through interaction with admissions officers, law professors and law students, as well as get a sense of the law school experience.

George Mason School of Law, George Washington University Law School, Georgetown University School of Law, Howard University School of Law, University of Maryland School of Law and Washington College of Law are participants of the law forum.

“My colleagues and I at the Georgetown University Law Center enjoy participating in this program because of the students: their unbridled enthusiasm and their strong interest in the law,” said Professor Sherman Cohn who conducts a mock trial class during the program. “We assign a case, which they read. The discussion of the case is first-rate and it is a most refreshing reminder of the high quality of the next generation soon to be upon us.”

“My group attended the University of Maryland School of Law in which a professor did a mock class, complete with the Socratic Method, and we also watched the school’s top ranked debater during a mock trial between him and another third year student,” said Corradi. “The debate was incredibly fasci-

nating and entertaining.”

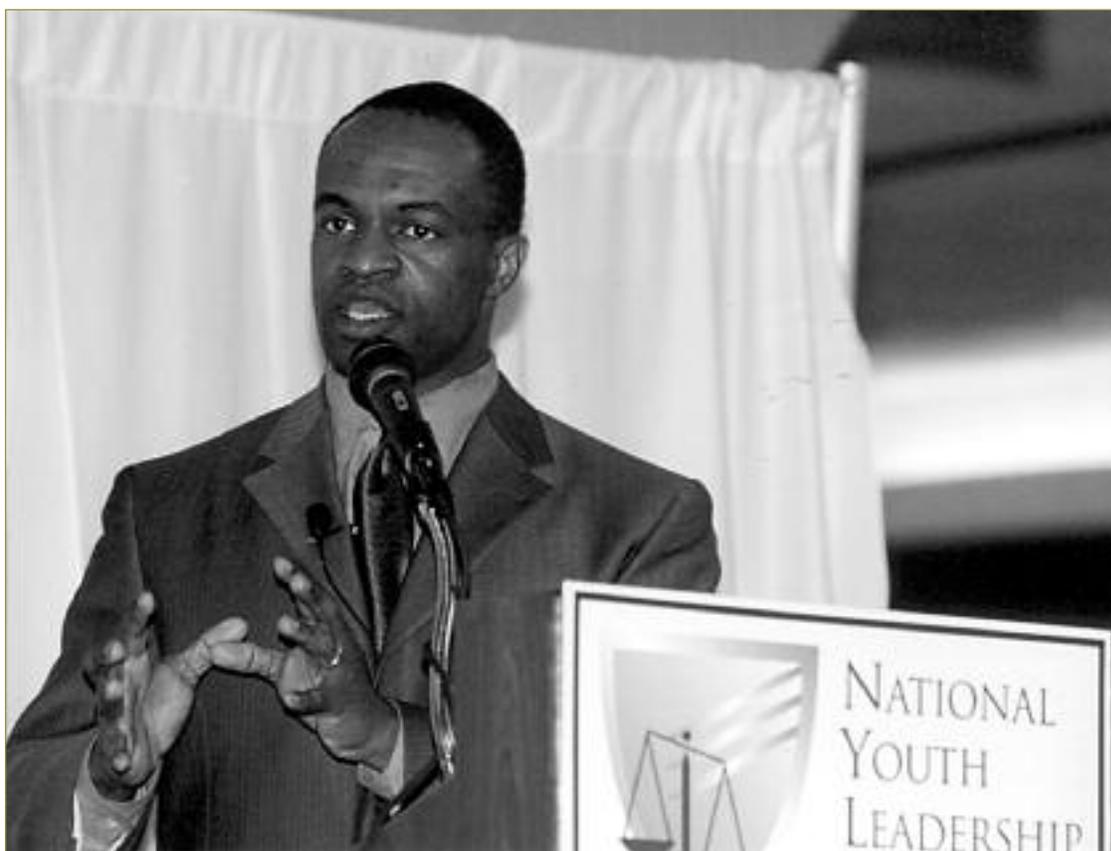
The Student Bar Association at the University of Maryland School of Law also made the NYLF/Law visit one of their projects in which law students take responsibility for organizing the event at the school, including recruiting other law students to participate and assigning a professor to conduct the mock first-year law class.

Other law forum session activities are broken into two basic components for students: JAM (Judicial Activities Meetings) sessions and interactive programs involving outside speakers. The JAM sessions involve 20 students who debate

same time, you travel with them, eat with them and argue with them for a week,” said Corradi.

Many of the students who attend the law forum not only find the program experience meaningful, but discover the important facts about preparing for law school and the commitment it takes to be a successful law student.

“I was fortunate enough to receive the Cox, Castle, and Nicholson LLP scholarship, which allowed me to attend the forum,” said Corradi. “I believe that NYLF is ushering a new era of legal professionals into the field by exposing them to the



legal ethics, specific case law and modern political issues.

“These groups are really the core of the NYLF program, and they allow students to have close, heated interaction with other students from all over the country, at the

experts already practicing in the field. Perhaps another John Marshall will come of this effort, or another individual will come through this program and go on to even greater things.” 🏛️

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Innovative  
**EDUCATION**  
*By Russell Lovell, Professor at Drake University Law School*

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Defense Counsel during jury trial at Drake University Law School's First-Year Trial Practicum.

### **The First-Year Trial Practicum Engages Students in Actual Jury Trial**

For the past seven years, experiential learning at Drake University Law School in Iowa has begun with the First-Year Trial Practicum (FYTP), a structured educational experience in which every student observes an actual jury trial in the spring semester of the first year at the Neal & Bea Smith Law Center courtroom on campus.

From jury selection through jury verdict, students are placed in an educational setting that includes daily post-trial small-group discussions led by seasoned attorneys, judges and clinical and classroom faculty. Lectures and practice panels focusing on the key legal and procedural issues set the stage and are interspersed during the trial week should there be an early adjournment.

Debriefing sessions are conducted after the conclusion of the trial. These have been a consistent highlight, with students questioning the lawyers who tried the case as to their strategies, and, following the verdict, questioning the jurors about the evidence, the rationale for their decision, and the effectiveness of the lawyers' presentations. Students have also enjoyed daily informal brown-bag luncheons with the presiding judge. The FYTP is the first leg of Drake Law School's experiential education pyramid: OBSERVATION – SIMULATION – PARTICIPATION.

The FYTP is not a moot court or mock trial experience. The case observed is an actual jury trial. It may be helpful to think of the FYTP as the laboratory component to the classroom. It is an unique academic enterprise in that it requires the collaboration of the academy and the judiciary. The Trial Practicum would be just

another law professor's idea gathering dust had Chief Judge Arthur Gamble and the judges of Iowa's 5th Judicial District been unable to envision its educational value or lacked confidence that the dignity and integrity of the trial, and court security, would be preserved. Although unique in the American law school world, the FYTP is not without precedent. The beginning course for future elementary and secondary teachers at many colleges of education is a practicum in which students are placed individually with and observe experienced classroom teachers.<sup>1</sup> During the first six months of the post-graduate pupillage program to become an English barrister, law school graduates observe actual trials.

The FYTP has featured four criminal cases and three civil cases. The state court system pioneered with us from the outset in 1998. Judge William Riley of the U.S. Court of Appeals for the 8th Circuit, sitting by special designation, tried our first federal case in 2003.

The week of the trial represents only the tip of the iceberg in terms of the preparation that goes into identifying the case and coordinating the week's programming. The greatest challenge is identifying cases that actually will go to trial, that can be tried within one week's time, that can be tried in the FYTP setting with the consent of the litigants and counsel, and that are educationally valuable (with a subject matter connection to the first-year courses). Case volume, or lack thereof, may preclude the FYTP at some law schools. Approximately 8,200 state court felony and civil case filings, on average, yield only 114 jury trials (.014) and 683 bench trials (.041) annually in Des Moines. We now screen 200 cases each year, in order to identify the case to be included and several

backup cases, and the courts have aided our efforts by “over-booking” trials the week of the FYTP.

While there is no question that the reality that a man’s liberty is at stake heightens students’ interest in the criminal trials, the FYTP creates an educational experience, not entertainment. Trials on Court TV, NBC’s “Crime & Punishment” and ABC News’ “In the Jury Room,” in contrast, are principally entertainment. Television selects cases because they are sensational or bizarre; the FYTP selects cases because they are typical. Hopefully, the televised cases will inform rather than titillate. However, the advent of these shows does not undercut the case for the FYTP as observation of snippets of a trial on television lacks the FYTP’s authenticity and educational depth, and cannot replicate the wonderful dialogue that occurs because of the students’ common FYTP immersion experience.

Dean David Walker captured the authenticity aspect of the experience when he wrote: “Students observe the behavior of the lawyers toward all participants in the process and consider aspects of civility . . . They understand, they *feel*, the respect owed the court and the judge. They can sense the sometimes competing notions of the lawyer as an officer of the court and the lawyer as advocate.”

Drake’s First-Year Trial Practicum captures the educational synergy that is law in action, a concept pioneered by Roscoe Pound. It has also proven to be responsive to the indictment, popularized in the movie “Patch Adams,” that the first year of professional school education often is too detached from the patients or clients whom the students hope to eventually serve.

The FYTP teaches students about the trial as a story, about the judicial process and one of our

most democratic institutions, the lay jury, about lawyers and effective advocacy, and much more. It introduces students to law in action in a way that no textbook can ever capture, to lawyers and lawyering, and to fundamental values of civility, professionalism, and public service. 🏛️

### Notes

1. The education school practicum is distinct from the familiar student-teaching experience (during the student’s final semester), an experience analogous to the clinical (participation) experience afforded law students in their second and third years.

“Innovative Education” is a column focusing on innovative law programs at ABA-approved law schools. If your school offers a unique law program that you would like to share and write for this column, please contact Editor Joe Puskarz at [puskarzj@staff.abanet.org](mailto:puskarzj@staff.abanet.org) for editorial consideration.

## Associate Deans’ Conference Wrap-up

One hundred and forty new and experienced associate deans attended the two-day Associate Deans’ Conference in Englewood, Colorado, on June 3-6, 2004. Associate Dean Jack Pratt of Notre Dame Law School chaired the conference, which focused on “Managing the Law School, Managing the Job.”

The Law School Administration Committee planned sessions that included topics on managing people and resources, working with faculty, students and deans, fostering student leadership, academic support and other job management issues.

Dean Kent Syverud of Vanderbilt School of Law was the keynote speaker and opened the conference with a speech on the “Ten Most Important Associate Dean/Senior Manager Lessons I Learned the Hard Way.” Those lessons included:

- 1 What you do really matters.
- 2 Show people you believe in your school and its people.
- 3 What the dean does also really matters, but it matters mostly outside the building.
- 4 Your job [as associate dean/senior manager]

is to guide the norms and expectations of faculty, staff and students in the day-to-day work of the school.

- 5 Most of your days will be consumed by matters you didn’t anticipate when you walked into the building.
- 6 You don’t know who the responsible adults are until you’re in management.
- 7 Practice non-avoidance.
- 8 Some people won’t hear what you say no matter how clearly and often you say it.
- 9 Don’t send critical e-mail messages.
- 10 What your law school does really matters.

The first Plenary Session on Friday, June 4, “Holding Difficult Conversations,” was presented by Professor Scott Peppet at the University of Colorado School of Law, and Assistant Professor Tracy McGaugh of South Texas presented the second Plenary Session on Saturday, June 5, “Students Today, Students Tomorrow: Who Are They? The Millennial Generation.”

# Commentary on the Changes to the Standards for the Approval of Law Schools and the Work of the Standards Review Committee 2003-2004

## INTRODUCTION

This document provides commentary on the changes to the American Bar Association Standards for the Approval of Law Schools (“Standards”) and the Interpretations of those Standards for the 2003-2004 year. It also reports any Standards Review Committee deliberations that ultimately did not result in changes to the Standards and Interpretations. The staff of the Office of the Consultant on Legal Education (“Consultant’s Office”) prepared this commentary.

The Council of the Section of Legal Education and Admissions to the Bar is undertaking a comprehensive review of the Standards for the Approval of Law Schools. This is, in part, preparation for the United States Department of Education’s regular review of the Council’s recognition as the accrediting authority for first-degree programs in law, which is scheduled to occur in 2005. The Standards Review Committee assists the Council in this process by making recommendations for revision of the Standards and receiving comment on the revisions that are circulated for comment.

The current Standards are available at [www.abanet.org/legaled](http://www.abanet.org/legaled), click on “Standards and Rules of Procedure.”

During the 2003-2004 year the Council focused on Chapters 3 and 4 of the Standards. These chapters concern two fundamental matters: a school’s program of legal education (Chapter 3) and faculty (Chapter 4). The Committee presented its report on Chapter 3 to the Council at the Council’s December 2003 meeting. Its report on Chapter 4 was presented at the Council meeting in February 2004 at the Mid-Year Meeting of the American Bar Association.

At its December 5-6 meeting, the Council of the Section of Legal Education and Admissions to the Bar approved for notice and comment substantial revisions to Chapter 3 (Program of Legal Education) and revisions to Standards 511 and 512 of the ABA Standards for Approval of Law Schools.

The Council authorized the publication of proposed changes to Chapter 4 following its February meeting. At the Council’s June 2004 meeting, however, the Standards Review Committee was asked to

continue to review this chapter and report back to the Council in 2004-05.

Comments on these revisions, by letter, e-mail or through appearances at the hearings were received by the Standards Review Committee during the first months of 2004. The Standards Review Committee held hearings on the proposed revisions at the AALS Annual Meeting, the ABA Mid-Year meeting, and the American Law Institute Annual Meeting.

The Committee met in mid-May to finalize its recommendations to the Council on these matters. Action was taken by the Council at its meeting on June 4-5, 2004, in Washington, D.C. A number of changes were approved and submitted for concurrence by the ABA House of Delegates at its August 2004 meeting. In light of the number of comments received from deans on the eve of the June meeting, the Council took no action in June on the changes recommended to Standard 302 and elements of the changes recommended to Standard 305(e)(5) and (7), and it extended the period for comment until July 23, 2004.

At its August meeting the Council accepted a change in Standard 304(e) at the recommendation of the Standards Review Committee. The change addressed an unintended consequence of the Standard change approved in June. The Council also took final action on the two standards for which the comment period was extended. Since these recommended changes will not be presented to the House of Delegates until its meeting in February 2005, commentary on these changes will be published at a later time.

The ABA House of Delegates at its session on August 10, 2004, concurred in the changes in the Standards and interpretations adopted by the Council. The revisions are effective immediately. Marked-up and restated versions of the revised standards are attached to this commentary.

## **Changes to Chapter 3 – Program of Legal Education**

***Standard 301.*** The Council continues to believe that Standard 301(a) succinctly states the primary objective

of a sound program of legal education. The Council approved re-drafting former Standard 301(c), which was only recently added to the Standards, because of confusion caused by the language “available to all students.” The new language, now in Standard 301(b), requires a school’s program to be available to all students on a “reasonably comparable basis.”

The Council also approved converting current Standards 301(b) and (d) to new Interpretations 301-1 and -2. The requirement of the Standard is articulated in Standard 301(a). Current subsections (b) and (d) are more appropriate as interpretations of that requirement than as freestanding Standards.

Prior Interpretation 301-1 became new Interpretation 301-3. It was modified to remove the reference to student attrition and career placement rates, which are not primary indicators of the strength of a school’s academic program but which are relevant to and mentioned in other Standards or Interpretations. The revision adds a statement that rigor of the academic program and student assessment are factors relevant to the strength of the academic program.

**Standard 303.** The Council adopted several new Interpretations to this Standard, as well as some revisions of the language of the Standard itself.

New Interpretation 303-2 requires schools to provide meaningful academic advising to students. New Interpretation 303-3 requires schools to provide appropriate academic support for students in the school. Most schools no doubt already comply with these proposed requirements. The Council believes that both academic advising and appropriate academic support are fundamental responsibilities of law schools and should be clearly required of all schools by the Standards.

An amendment to Interpretation 303-1 permits both oral examinations and projects as methods for evaluating academic achievement. The prior Interpretation has not been modified for many years. At this point in time the Council believes that there is no reason to prohibit schools from allowing oral examinations or projects to be used as evaluation techniques.

**Standard 304.** The Council made substantial changes Standard 304. These changes increased the minimum amount of study required for a J.D. degree, eliminated highly technical residence rules, and provided more flexibility in creating schedules and calendars. With respect to the latter two matters, the Council’s aim was to provide a more workable and realistic regulatory framework without taking away from the rigor of the program of legal

education that the Standards require.

The Council agreed that the Standards should continue to require schools to organize themselves around an academic year. The academic year must extend over eight months and have at least 130 days on which classes are regularly scheduled at the law school.

The revised Standard 302(b) increases the minutes of instruction required to 58,000 minutes from the current 56,000 minutes. Instructional time is stated in minutes to provide calendar and scheduling flexibility to schools. The previous 56,000 minute requirement equated to 80 traditional semester “credits” or “units” [700 minutes of instruction equals one semester credit or unit]. The change increases the requirement to approximately 83 traditional semester credits. The minimum amount of work required by the Standards for the J.D. degree has not changed in many years. With the increasing complexity of law and law practice, and with the awarding of academic credit for many activities that historically were not credit-earning (e.g., law review and moot court), it is appropriate to increase slightly the required minimum amount of work required for the degree. Currently almost all law schools require 83 semester credits or more for the degree, with most schools requiring between 86 and 90 semester credits for the J.D. degree. Council understands that the new higher requirement would apply only to new incoming students and that previously enrolled students could be permitted to graduate under the standard in existence at the time that they enrolled.

Other changes eliminate the previous concepts of “residence credit” as a requirement separate and distinct from “credits” for coursework [old Standards 304(c) and (d)], and provide more flexibility with respect to a school’s academic calendar.

The basic framework is that a school shall not allow a student to earn a J.D. degree in a period of less than 24 months or a period longer than 84 months after initial enrollment. [new Standard 304(c)]. The 24-month period does not reduce the amount of time from that within which it was previously possible to earn a J.D. degree, since schools offering three semesters in one calendar year can now provide a J.D. program that a student can complete within 24 months. The Council also concluded that it was appropriate to establish a maximum period within which the J.D. degree must be earned. At some point, prior study becomes dated and a student should have to begin again if she or he wishes to earn a J.D. degree. Maximum time requirements are also regular parts of most accreditation regimes.

To assure that students spread their studies out over the course of the program, Standard 304(e) would not allow a school to permit a student to be

enrolled at any one time in coursework that would exceed more than 20 percent of the school's requirements for graduation. For example, a law school that required 90 traditional semester credits for the J.D. degree could not allow a student to be enrolled at any one time in more than 18 credits of coursework.

Standards 304(d) and (f) essentially restate long-standing rules regarding attendance requirements and employment restrictions for students enrolled in more than 12 class hours.

Interpretation 304-4 provides additional guidance as to what type of educational experiences may be included in the minimum 45,000 minutes of "regularly scheduled class sessions" that continue to be required by Standard 304(b). This interpretation incorporates direction that was contained in recently adopted Interpretation 304-9 concerning what type of work in seminars and clinical courses may be included in the 45,000 minutes.

**Standard 305.** The Council made substantial changes to Standard 305, regarding study outside the classroom. Subsections (a) through (d) restate with little substantive change requirements that apply to any type of study outside the classroom. New Interpretation 305-1 clarifies the types of experiences to which the Standard applies.

Revised Standard 305(e) clarifies, simplifies and states in one coherent subsection those required elements of a field placement program that are deemed essential to program quality. Standard 305(e) combines elements of former Standard 305 (e) and (f), emphasizing the need for a school to articulate clearly methods for evaluating performance in a field placement program and for selecting, training, evaluating and communicating with field supervisors. It also stresses the importance of guided reflection in the field placement experience. Standard 305(e)(5) preserves the prior requirement of a field placement site visit by a faculty member if the credit for the fieldwork component of the program totals more than six academic credits. Standard 305(e)(7) requires that the seminar or guided reflection component of the field placement program be contemporaneous with the fieldwork if more than six

academic credits are awarded for the fieldwork.

Interpretation 305-3 modifies somewhat the restrictions imposed by former Interpretation 305-2 on reimbursement of expenses that a student incurs in a field placement program.

**Standard 306.** The Standard providing for Distance Education courses was recently adopted and only became effective in August 2002. The Council did not make revisions to this Standard.

**Standard 307.** The Council added new Interpretation 307-1. This Interpretation makes clear that, without having to obtain approval under one of the Foreign Program Criteria, schools may grant credit for externships in foreign countries that otherwise comply with Standard 305 and for studies or activities in a foreign country that are incidental to a course or program that takes place at the law school.

**Standard 308.** The Council deleted former Standard 308(b). That provision established minimum requirements for degree programs other than the J.D. program, but the Council only acquiesces in the creation of post- or non-J.D. programs and does not undertake to regulate the substance of those programs. The Council believes that the focus of Standard 308 and its Interpretations should be on assuring that the establishment of a post- or non-J.D. program does not detract from a school's ability to provide a J.D. program that meets the Standards.

#### **Changes to Standards 511 and 512**

The Council considered whether former Standard 512, which states that a law school "should provide" career services to its students, should be amended to state that a law school "shall provide" such services. Such a change is sensible in light of the fact that Standard 511, which was added to the Standards subsequent to the original adoption of Standard 512, requires a law school to provide basic student services, which surely include career services. The Council concluded that the better approach is to incorporate career services into the requirements of Standard 511 and to eliminate Standard 512.

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visit the Section's Web site at: [www.abanet.org/legaled](http://www.abanet.org/legaled).**

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## Chapter 3

# Program of Legal Education (marked-up)

### Standard 301. OBJECTIVES.

(a) A law school shall maintain an educational program that prepares its graduates students for admission to the bar and ~~to participate~~ effectively and responsibly participation in the legal profession.

~~(b) A law school shall maintain an educational program that prepares its graduates to deal with current and anticipated legal problems.~~

(eb) A law school shall ensure that all students have reasonably comparable opportunities to take advantage of the school's its educational program, co-curricular programs, and other educational benefits ~~are available to all students.~~

~~(d) A law school may offer an educational program designed to emphasize certain aspects of the law or the legal profession.~~

#### *Interpretation 301-1:*

*A law school shall maintain an educational program that prepares its students to address current and anticipated legal problems.*

#### *Interpretation 301-2:*

*A law school may offer an educational program designed to emphasize certain aspects of the law or the legal profession.*

#### *Interpretation 301-13:*

*Among the factors to be considered in assessing the extent to which a law school complies with this Standard are the rigor of its academic program, including its assessment of student performance, attrition rate of the school's students, and the bar passage and career placement rates of its graduates.*

#### *Interpretation 301-24:*

*Among the factors to consider in assessing compliance with Standard 301 (eb) are whether students have ~~the realistic~~ reasonably comparable opportunities to benefit from regular interaction with full-time faculty and other students, from such co-curricular programs as journals and competition teams, and from special events such as lecture series and short-time visitors.*

#### *Interpretation 301-35:*

*For schools ~~that have~~ providing more than one enrollment or scheduling option for students, the opportunities to take advantage of the school's educational program, co-curricular activities, and other educational benefits for students enrolled under one option shall be deemed reasonably comparable to the opportunities of students enrolled under other options if the opportunities are shall be available to all students on a basis roughly proportional based upon the relative number of students enrolled to the number of students in the various options.*

### Standard 302. CURRICULUM.

[The Council has approved revisions to Standard 302 but those revisions will not become effective until concurrence by the ABA House of Delegates, which is expected to occur in February 2005.]

### Standard 303. ~~SCHOLASTIC ACADEMIC STANDARDS AND ACHIEVEMENT; EVALUATION.~~

(a) A law school shall have and adhere to sound academic standards of scholastic achievement, including clearly defined standards for good standing, advancement, and graduation.

(b) ~~The scholastic achievements of A law school shall monitor students' academic progress and achievement shall be evaluated from the beginning of and periodically throughout the students' their studies.~~

(c) A law school shall not continue the enrollment of a student whose inability to do satisfactory work is sufficiently manifest so that the student's continuation in school would inculcate false hopes, constitute economic exploitation, or detrimentally affect the education of other students.

#### *Interpretation 303-1:*

*Scholastic achievement of students shall be evaluated by ~~written~~ examinations of suitable length and complexity, papers, projects, or other documents, ~~except that evaluation also may include~~ by assessment of performances of students in the role of lawyers.*

***Interpretation 303-2:***

*A law school shall provide academic advising to students to communicate effectively to them the school's academic standards and graduation requirements and guidance regarding course selection and sequencing. Academic advising should include assisting each student with planning a program of study consistent with that student's goals.*

***Interpretation 303-3:***

*A law school shall provide the academic support necessary to assure each student a satisfactory opportunity to complete the program, graduate, and become a member of the legal profession. This obligation may require a school to create and maintain a formal academic support program.*

**Standard 304. COURSE OF STUDY AND RESIDENCE CREDIT ACADEMIC CALENDAR.**

(a) A law school shall have ~~A~~an academic year ~~shall consist~~ of not fewer than 130 days on which classes are regularly scheduled in the law school, extending into not fewer than eight calendar months. ~~The law school shall provide adequate T~~time for reading periods, examinations, and ~~breaks or other activities,~~ but such time does ~~may not be counted for this purpose toward the 130-day academic year requirement.~~

(b) A law school shall require, as a condition for graduation, successful completion of a course of study in residence of not fewer than ~~56,000~~ 58,000 minutes of instruction time, except as otherwise provided. At least 45,000 of these minutes shall be by attendance in regularly scheduled class sessions at the law school ~~conferring the degree, or, in the case of a student receiving credit for studies at another law school, at the law school at which credit was earned. Law schools may, however, allow credit for distance education as provided in Standard 306. Law schools may also allow credit for study outside the classroom as provided in Standard 305.~~

(c) A law school shall require that the course of study for the J.D. degree be completed ~~no earlier than 24 months and no later than 84 months after a student has commenced law study at the law school or a law school from which the school has accepted transfer credit. To receive residence credit for an academic semester, a student shall be enrolled for not~~

~~fewer than eight credit hours. In order to graduate in six semesters a student shall be enrolled in each semester for not fewer than ten credit hours and must receive credit for nine credit hours. If a student fails to receive credit for the specified number of hours, the student may receive residence credit only in the ratio that the hours enrolled in or in which credit was received, as the case may be, bear to the minimum specified.~~

~~(d) Pro rata residence credit may be awarded for study during a summer session on a basis that fairly apportions a student's effort to the usual residence period. A law school shall require regular and punctual class attendance.~~

~~(e) Regular and punctual class attendance is necessary to satisfy residence credit and credit hour requirements. A law school shall not permit a student to be enrolled at any time in coursework that, if successfully completed, would exceed 20 percent of the total coursework required by that school for graduation (or proportionate number for schools on other academic schedules, such as a quarter system).~~

~~(f) A student may not engage in employment for be employed more than 20 hours per week in any semester week in which the student is enrolled in more than 12 twelve class hours.~~

***Interpretation 304-1:***

*This Standard establishes a minimum period of academic instruction as a condition for graduation. While the academic year is typically divided into two equal terms of at least thirteen weeks, that equal division is not required. The Standard accommodates deviations from a conventional semester system, including and quarter modes systems, trimesters, and mini- terms by permitting such arrangements as mini or interim terms.*

***Interpretation 304-2:***

*A law school may not count more than five class days each week toward the 130-day requirement.*

***Interpretation 304-3:***

*In a joint degree program between a law school and another school or college not fewer than 45,000 minutes of the total time credited toward the J.D. degree shall be in courses in residence at the law school. In calculating the 45,000 minutes of "regularly scheduled class sessions" for the purpose of Standard 304(b), the time may include:*

(a) coursework at a law school for which a student receives credit toward the J.D. degree by the law school, so long as that work itself meets the requirements of Standard 304;

(b) coursework for which a student receives credit toward the J.D. degree that is work done in a foreign study program that qualifies under Standard 307;

(c) law school coursework that meets the requirements of Standard 306(c);

(d) in a seminar or other upper-level course other than an independent research course, the minutes allocated for preparation of a substantial paper or project if the time and effort required and anticipated educational benefit are commensurate with the credit awarded; and

(e) in a law school clinical course, the minutes allocated for clinical work so long as (i) the clinical course includes a classroom instructional component, (ii) the clinical work is done under the direct supervision of a member of the law school faculty or instructional staff whose primary professional employment is with the law school, and (iii) the time and effort required and anticipated educational benefit are commensurate with the credit awarded.

A law school shall not include in the 45,000 minutes required to be by attendance in regularly scheduled class sessions at the law school any other coursework, including but not limited to (i) work qualifying for credit under Standard 305;(ii) coursework completed in another department, school or college of the university with which the law school is affiliated or at another institution of higher learning; and (iii) co-curricular activities such as law review, moot court, and trial competitions.

**Interpretation 304-54:**

Law schools may find the following examples useful. Law schools on a conventional semester system typically require 700 minutes of instruction time per "credit." A semester hour of credit requires not fewer than 700 minutes of instruction time, exclusive of time for an examination. A quarter hour of credit requires not fewer than 450 minutes of instruction time, exclusive of time for an examination. To achieve the required total of 586,000 minutes of instruction time, a law school must require at least 830 semester hours of credit, or 1294 quarter hours of credit.

Law schools that use semester hours of credit may find the following examples useful. If such a law school on a semester system offers classes in units of 50 minutes per credit, it can provide 700 minutes of instruction in 14 classes. If such a law school offers classes in units of 55 minutes per class, it can provide 700 minutes of instruction in 13 classes. If such a law school offers classes in units of 75 minutes per class, it can provide 700 minutes of instruction in 10 classes.

Law schools that use quarter hours of credit may find the following examples useful. If such a law school on a quarter system offers classes in units of 50 minutes per class, it can provide 450 minutes of instruction in 9 classes. If such a law school offers classes in units of 65 minutes per class, it can provide 450 minutes of instruction in 8 classes. If such a law school offers classes in units of 75 minutes per class, it can provide 450 minutes of instruction in 6 classes.

In all events, the 130-day requirement of Standard 304(a) and the 586,000-minute requirement of Standard 304(b) should be understood as separate and independent requirements.

**Interpretation 304-53:**

Credit for a J.D. degree shall only be given for course work taken after the student has matriculated in a law school. A law school may not grant credit toward the J.D. degree for work taken in a pre-admission program.

**Interpretation 304-4:**

A law school may permit students to graduate in fewer than six academic semesters by earning not more than one semester, or one quarter of residence credit for taking summer courses, if (i) the student meets the class minute requirements of this Standard; (ii) the student meets the employment limitations of this Standard; and (iii) the summer instructional programs in which the student enrolls total no fewer than 65 semester days, or 44 quarter days, over two or more summers during which classes are regularly scheduled in the law school.

**Interpretation 304-6:**

The number of class days in an academic year is the number of days on which classes are regularly scheduled throughout the day. Regardless of scheduling options that a school may offer to students other than full time students, a law school may not count more than five (5) class days each week toward the 130-day requirement. Days on which

classes are not regularly scheduled throughout the day are not a “class day” for full-time students.

**Interpretation 304-76:**

A law school shall demonstrate that it has adopted and enforces policies insuring that individual students satisfy the requirements of this Standard, including the implementation of policies relating to class scheduling, attendance, and limitation on employment, ~~and time devoted to job interviewing.~~ The law school also shall take steps to control absenteeism by students involved in placement interviewing.

**Interpretation 30487:**

Subject to the provisions of this Interpretation, a law school shall require a student who has completed work in an LL.M. or other post J.D. program to complete all of the work for which it will award the J.D. degree following the student’s regular enrollment in the school’s J.D. program. A law school may accept transfer credit as otherwise allowed by the Standards.

A law school may award credit toward a J.D. degree for work undertaken in a LL.M. or other post J.D. program offered by it or another law school if:

(a) that work was the successful completion of a J.D. course while the student was enrolled in a post-J.D. law program;

(b) the law school at which the course was taken has a grading system for LL.M. students in J.D. courses that is comparable to the grading system for J.D. students in the course, and

(c) the law school accepting the transfer credit will require that the student successfully complete a course of study that satisfies the requirements of Standards 302(a)-(c) ~~and 302(b)~~ and that meets all of the school’s requirement for the awarding of the J.D. degree.

**Interpretation 304-9:**

In calculating the 45,000 minutes of “regularly scheduled class sessions” for the purpose of Standard 304(b), the time may include:

(a) A seminar or other upper level course other than an independent research course, the minutes allocated for preparation of a substantial paper or project if the time and effort required and anticipated educational benefit are commensurate with the credit awarded; and

(b) A law school clinical course, the minutes allocated for clinical work so long as (i) the clinical

course includes a classroom instructional component, (ii) the clinical work is done under the direct supervision of a member of the law school faculty or instructional staff whose primary professional employment is with the law school, and (iii) the time and effort required and anticipated educational benefit are commensurate with the credit awarded.

**Standard 305. STUDY OUTSIDE THE CLASSROOM.**

(A) A law school may grant credit toward the J.D. degree for courses or a program that permits or requires student participation in studies or activities away from or outside the law school or in a format that does not involve attendance at regularly scheduled class sessions.

(B) ~~Residence and class hour e~~ Credit granted shall be commensurate with the time and effort ~~expended by required~~ and the anticipated quality of the educational experience of the student.

(C) Each student’s academic achievement shall be evaluated by a faculty member. For purposes of Standard 305 and its Interpretations, the term “faculty member” means a member of the full-time, or part-time ~~or adjunct~~ faculty. When appropriate a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program.

(D) The studies or activities shall be approved in advance and periodically reviewed following the school’s established procedures for approval of the curriculum.

(E) A field placement program shall be ~~approved and periodically reviewed utilizing the following factors include:~~

(1) the stated goals and methods of the program a clear statement of the goals and methods, and a demonstrated relationship between those goals and methods to the program in operation;

(2) the quality of the student’s educational experience in light of the academic credit awarded;

(3) the adequacy of instructional resources, including whether the faculty members teaching in and supervising the

program who devote the requisite time and attention to satisfy program goals and are sufficiently available to students;

~~(3) a clearly articulated method of evaluating each student's academic performance involving both a faculty member and the field placement supervisor;~~

~~(4) any classroom or tutorial component a method for selecting, training, evaluating, and communicating with field placement supervisors;~~

~~(5) any prerequisites for student participation on-site visits by a faculty member each academic term the program is offered if the field placement program awards more than six academic credits (or equivalent) for fieldwork in any academic term;~~

~~(6) the number of students participating a requirement that students have successfully completed one academic year of study prior to participation in the field placement program;~~

~~(7) the evaluation of student academic achievement; opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student can earn more than six academic credits (or equivalent) in the program for fieldwork, the seminar, tutorial, or other means of guided reflection must be provided contemporaneously.~~

~~(8) the qualifications and training of field instructors;~~

~~(9) the evaluation of field instructors;~~

~~(10) the visits to field placements or other comparable communication among faculty, students and field instructors.~~

**(f) Additional requirements shall apply to field placement programs:**

**(1) A student may not participate before successful completion of at least one academic year of study.**

**(2) Established and regularized communication shall occur among the faculty member, the student, and the field placement supervisor. The field placement supervisor**

~~should participate with the faculty member in the evaluation of a student's scholastic achievement.~~

~~(3) Periodic onsite visits by a faculty member are preferred. If the field placement program awards academic credit of more than six credits per academic term, an on-site visit by a faculty member is required each academic term the program is offered.~~

~~(4) A contemporaneous classroom or tutorial component taught by a faculty member is preferred. If the field placement program awards academic credit of more than six credits per semester, the classroom or tutorial component taught by a faculty member is required; if the classroom or tutorial component is not contemporaneous, the law school shall demonstrate the educational adequacy of its alternative (which could be a pre- or post field placement classroom component or tutorial).~~

***Interpretation 305-1:***

*Activities covered by Standard 305(a) include field placement, moot court, law review, and directed research programs or courses for which credit toward the J.D. degree is granted, as well as courses taken in parts of the college or university outside the law school for which credit toward the J.D. degree is granted.*

***Interpretation 305-12:***

*The nature of field placement programs presents special opportunities and unique challenges for the maintenance of educational quality. Field placement programs accordingly require particular attention from the law school and the Accreditation Committee.*

***Interpretation 305-23:***

*A law school may not grant credit to a student for participation in a field placement program for which the student receives compensation. This interpretation does not preclude reimbursement of incidental reasonable out-of-pocket expenses related to the field placement.*

***Interpretation 305-34:***

*(a) A law school that has a field placement program shall develop, publish and communicate to students and field instructors a statement that describes the educational objectives of the program. (b) In a field placement program, as the number of students involved or the number of credits awarded increases, the level of instructional resources devoted to the program should also increase.*

**Interpretation 305-45:**

Standard 305 by its own force does not allow credit for ~~d~~Distance ~~e~~Education courses.

**Standard 306. DISTANCE EDUCATION.**

[NO CHANGES WERE ADOPTED FOR THIS STANDARD]

**Standard 307. PARTICIPATION IN STUDIES OR ACTIVITIES IN A FOREIGN COUNTRY.**

A law school may grant credit for student participation in studies or activities in a foreign country only if the studies or activities are approved in accordance with the Rules of Procedure and Criteria as adopted by the Council.

**Interpretation 307-1:**

*In addition to studies or activities covered by Criteria adopted by the Council, a law school may grant credit for (a) studies or activities in a foreign country that meet the requirements of Standard 305 and (b) brief visits to a foreign country that are part of a law school course approved through the school's regular curriculum approval process.*

**Standard 308. DEGREE PROGRAMS IN ADDITION TO J.D.**

(a) A law school may not establish a degree program other than its J.D. degree program without obtaining the Council's prior acquiescence. A law school may not establish a degree program in addition to its J.D. degree program unless the school is fully approved. The additional degree program may not detract from a law school's ability to maintain a J.D. degree program that meets the requirements of the Standards.

~~(b) Without diverting teaching resources from the J.D. degree program, a program leading to an advanced law degree shall have sufficient resources to meet the objectives set by the law school offering the advanced degree program, including not fewer than one full-time faculty member or administrator who has primary responsibility for the advanced degree program. If an advanced degree program relates to a designated field of legal study or research, not fewer than one full-time faculty member or~~

~~administrator who is identified with the field should be among the program's instructors.~~

**Interpretation 308-1:**

Reasons for withholding acquiescence in the establishment of an advanced degree program include:

- (1) Lack of sufficient full-time faculty to conduct the J.D. degree program;
- (2) Lack of adequate physical facilities which has a negative and material effect on the education students receive;
- (3) Lack of an adequate law library to support both a J.D. and an advanced degree program; and
- (4) A J.D. degree curriculum lacking sufficient diversity and richness in course offerings.

**Interpretation 308-2:**

Acquiescence in a degree program other than the first degree in law is not an approval of the program itself, and, therefore, a school may not announce that the program is approved by the American Bar Association.

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**Revisions to Chapter 5 of the Standards**

**Standard 511. STUDENT SUPPORT SERVICES.**

~~Consistent with sound legal education principles,~~ A law school shall provide all its students, regardless of enrollment or scheduling option, with basic student services, including maintenance of accurate student records, academic advising and counseling, ~~and~~ financial aid counseling, ~~and an active career counseling service to assist students in making sound career choices and obtaining employment.~~ 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.

~~Standard 512. CAREER SERVICES.~~

~~A law school should provide adequate staff, space, and resources, in view of the size and program of the school, to maintain an active career counseling service to assist its students and graduates to make sound career choices and obtain employment.~~

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## MESSAGE FROM NEW CHAIRPERSON

*Continued from page 1*

of American Law Schools and the Conference of Chief Justices, to provide a continuous exchange between deans, judges, lawyers, and others on issues relating to legal education and admission to the bar. The Joint Working Group is holding its initial conference at the Inter-Continental Hotel in Chicago on October 1-2, which will explore the development and grading of assessments in the law schools and on the bar examination. The use of bar examination results or alternative measurements in the accreditation process is also the subject of a study underway in the Accreditation Committee.

Other committees plan and execute annual or semi-annual events that address unique aspects of law school administration, such as the annual conference for new law school deans and the semi-annual development conference. Just as the art of being a judge does not come with putting on a black robe, the title dean, or associate dean, does not infuse its holder with all the knowledge necessary to administer a law school. These seminars impart helpful instruction but also enhance the opportunity to share ideas and to network among colleagues.

Other committees undertake projects focusing on specific aspects of legal education. The Curriculum Committee's recently completed three-year study is the first comprehensive study in many years of the course offerings at law schools. This study identified trends in legal education including the growth in the upper division courses, the increase in skills, simulation, and live client offerings, and required pro bono activities by law students. This data have the potential to affect accreditation, standards, and admission to the bar.

The Out-of-the-Box Committee has produced a number of papers addressing potential shifts in law school education. Last spring, that committee held a two-day seminar exploring potential changes in the curriculum and the way in which legal education is delivered. The committee hopes to circulate the proceedings from this seminar in the upcoming year.

Another example of advancing the quality and delivery of legal education is the work of the Technology Committee. That committee will host a conference on October 15-16 at Rutgers University-Newark School of Law that will explore ways of improving the use of technology in the classroom.

The Clinical Education, Communications, Law Library, and Professionalism Committees are dedicated to defining and implementing best practices in their respective fields. Still other Section committees act as advocates of a sort in advancing the needs of the law schools and the law students in the greater community. The Government Relations/Student Financial Aid Committee has been tireless in addressing issues of student debt on the national level and within the ABA. The Bar Admissions Committee is continually monitoring the issues developing in the licensing arena, including the trends in multi-jurisdictional practice, a matter that can have significant ramifications for the future of law school accreditation. And finally, the continued work of the Diversity Committee to enhance diversity in the faculty and student body is critical to legal education and the legal profession.

While it is not my purpose to mention every committee of the Section, it is my purpose to remind us that every segment of the Section has an important contribution to make and that the mission of the Section will be best realized through widespread participation in and communication of the work of all parts. The platform provided by the Section through these committees is a unique opportunity for law school administrators, professors, practicing attorneys, and members of the bench to come together on a continuing basis to address the trends, issues, and challenges facing the academy and the profession. Such corroboration broadens the perspective of each segment of the profession. The result can be timely and effective initiatives that enhance the quality of legal education and ultimately, of the legal profession.

I encourage you to attend the Section offerings that will enhance your own professional performance and to bring along others who can be similarly benefited. I encourage you to volunteer to serve in areas that are engaged in pushing the envelope of legal education, to share your particular perspectives and listen to those of others. My role this year, as I see it, is to keep us on these paths of exploration, discovery, and education and wind up at least some steps ahead of where we began. With your help, that can happen. 🏠

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## PROVISIONAL APPROVAL

*Continued from page 1*



Florida International University College of Law



Florida A&M University College of Law

2003, and employed 17 full-time faculty members.

The college of law presents courses traditionally offered at other U.S. law schools. In addition, building on the parent university's distinction in its international programs, the law school's self-identified mission is to provide a law program focused on international and comparative law.

First-year students are required to take an introduction course in international and comparative law, and may choose from an array of upper level electives in international, transnational and comparative law. In the fall of 2004, the college of law will unveil its immigration and human rights, and criminal law clinics. Students must complete 90 hours of course work and satisfy a pro bono service requirement for graduation.

Florida International University opened in Miami in 1972 and has a diverse student body of 34,000 and 1,000 full-time faculty. The university offers 190 baccalaureate, masters and doctoral degree programs in 16 colleges and schools. The college of law is scheduled to open its 153,000-square-foot law building in 2006.

In the spring of 2000, the Florida legislature also unanimously approved a bill creating and funding the **Florida A&M University College of Law**. The law school is located in Orlando and enrolled 89 students in its first year of operation. As of fall 2003,

the school had a total enrollment of 202 students, and 19 full-time faculty members.

Students are required to take a one eight-hour clinical course in one semester or a four-credit hour bankruptcy clinic course in each of the two semesters. In-house clinics include a housing and community development program, mediation, civil litigation, family law, juvenile law and street law. FAMU College of Law views its clinical programs as part of its community outreach efforts.

FAMU is a historically black college and is the largest such single campus institution in the United States. The university is a comprehensive, public, coeducational land-grant university offering a broad range of instruction, research and service programs. The student population is 12,500. The law school will unveil its new 160,000-square-foot campus in downtown Orlando in 2005.

As of August 2004, a total of 188 institutions are approved by the American Bar Association to confer the first degree in law (the J.D. degree). Seven of the 188 law schools are provisionally approved: Appalachian School of Law, Ave Maria School of Law, Barry University School of Law, Florida A&M University College of Law, Florida International University College of Law, University of St. Thomas School of Law (Minnesota) and the University of the District of Columbia School of Law. 🏠

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## Registration Is Open

### Pedagogy to Practice: Maximizing Legal Learning with Technology Conference

**When:** October 15-16, 2004

**Where:** Rutgers University, Newark, NJ

**Fee:** \$300.00

**Register online:** [www.abanet.org/legaled](http://www.abanet.org/legaled)

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## 2004-05 COUNCIL MEMBERS ELECTED

*Continued from page 13*

the Bar. Mr. Rakes served as an elected member of the Council of the Section of Legal Education and Admissions to the Bar from 1995 until 1998 and from 2002 to 2004.

**Pauline A. Schneider, Esq., Immediate Past Chairperson**, is a partner in the Washington, D.C., office of the law firm of Hunton & Williams. Her practice is primarily transactional, focusing on public finance and real estate development. She holds a B.A. from Glassboro State College, a Master of Urban Studies from Howard University and J.D. from Yale Law School. Ms. Schneider was the 2003-04 chairperson of the Section of Legal Education and Admissions to the Bar, a former president of the District of Columbia Bar Association and is a member of the American Bar Association House of Delegates. She is chair of the ABA Committee on Election Law, a former chair of the Section's Accreditation Committee, a Fellow of the American Bar Foundation and a member of the American Law Institute. Ms. Schneider was a 1999 recipient of the Margaret Brent Women Lawyers of Achievement Award. She has served on the Council since 1999.

### NOMINEE AS SECTION DELEGATE TO ABA HOUSE OF DELEGATES

*Election to Non-voting two-year term*

**Sidney S. Eagles, Jr., Esq.**, is with the law firm of Smith Moore, LLP in North Carolina. He served for 21 years as judge, and later chief judge, of the North Carolina Court of Appeals until his retirement from the court at the end of 2003. Mr. Eagles received his J.D. from Wake Forest School of Law. Prior to his election to the court, he served in North Carolina as deputy attorney general, counsel to the House Speaker, and engaged in private practice with the firm Eagles, Hafer & Hall and as a solo practitioner. Mr. Eagles is a former vice president of the North Carolina Bar Association, former chair of the North Carolina Judicial Standards Commission, and the 1993-94 chair of the ABA Appellate Judges Conference. He has served as a member of the ABA House of Delegates since 1992. He served on the Section's Standards Review Committee from 1999-2002, and has served on the Council since 2002.

### AT-LARGE COUNCIL MEMBER NOMINEES

*Re-election to three-year term*

**Dean Judith C. Areen** is executive vice president

for law center affairs at Georgetown University and dean of the law center. Dean Areen is a graduate of Cornell University and the Yale Law School. She was appointed dean of the law center in 1989. Between 1977 and 1980 she served in the Office of Management and Budget as director of the federal legal representation project. She then became general counsel to President Carter's Reorganization Project. She served as special counsel to the White House Task Force on Regulatory Reform during the same period. Dean Areen, who is a member of the bar of the District of Columbia, is a Senior Research Fellow of the Kennedy Institute of Ethics and a member of the American Law Institute. She is also a member of the Board of Trustees of Cornell University and has served as a governor of the District of Columbia Bar. She has served on the Council since 2001.

*Re-election to one-year term*

**Diane Camper**, senior fellow of the Annie E. Casey Foundation in Baltimore, has 30 years' experience in journalism and has written about issues that impact families and children, including early childhood development, juvenile justice and child welfare. Ms. Camper joined the Foundation as public affairs manager in 1997 and in July 2003 was appointed senior fellow in the Measurement, Evaluation, Communication and Advocacy group. Ms. Camper is an experienced journalist and reporter, and was a member of the *New York Times* editorial board, and a Washington bureau correspondent for Newsweek magazine. She has written on issues that shaped American politics and policy, including the Watergate hearings and the John Hinckley trial. She has an undergraduate degree in journalism and political science from Syracuse University, and a Master of Studies in law from Yale University. Ms. Camper was appointed to a vacant position as a public member of the Council in December 2003 and has been nominated to fill the remaining one-year of that vacant term.

*Election to three-year terms*

**Becky Cain** was president of the League of Women Voters of the United States from 1992 through 1998, during which time she played an active role in the fight for the passage of the National Voter Registration Act. A former member of the West Virginia State Elections Commission, Ms. Cain is now the president of the Greater Kanawha Valley Foundation in Charleston, West Virginia, and is a

member of the Campaign Finance Institute Board of Trustees. She also serves on the national Committee on Legislation and Regulations for the Council on Foundations, and serves on the board of the West Virginia Nature Conservancy and the Charleston Chamber of Commerce. Ms. Cain has received Honorary Doctor of Law Degrees from Ripon College in Wisconsin and the University of Charleston, West Virginia.

**Professor Phoebe Haddon** is professor of law at Temple University, James E. Beasley School of Law. Her undergraduate degree is from Smith College and her law degree from Duquesne University School of Law. Professor Haddon was the law clerk to the Honorable Joseph F. Weis, United States Court of Appeals for the Third Circuit, following graduation from Duquesne. She then practiced with the law firm of Wilmer, Cutler & Pickering in Washington, D.C., until she joined the faculty at Temple University School of Law in the fall of 1981. She received her LL.M. at Yale Law School in 1985 and also served as deputy executive director of the redevelopment authority of the city of Philadelphia, and president of its low-income housing development subsidiary, the Philadelphia Development Mortgage Assistance Corporation, from 1987-1989. Professor Haddon currently serves as a trustee of the Law School Admission Council. She has previously served on the Executive Committee and the Professional Development Committee of the Association of American Law Schools. Professor Haddon teaches Constitutional Law, Torts, Products Liability and a seminar on Law, Justice and Morality. She is the co-author of two casebooks in Constitutional Law and Torts and has written numerous articles on equal protection, jury participation, academic freedom, and diversity.

**Chancellor & Dean Mary Kay Kane** is chancellor, dean and distinguished professor at the University of California, Hastings College of Law. She received her B.A. from the University of Michigan and her J.D. from the University of Michigan Law School. After graduation she became a research associate at the University of Michigan Law School, where she was the co-director of the National Science Foundation project on privacy, confidentiality and social science research data. She became an assistant professor in 1974 at the State University of New York at Buffalo Law School. In 1977 she joined the

faculty of California, Hastings, becoming associate academic dean in 1981 and dean of the law school in 1993. She served on the Executive Committee of the Association of American Law Schools from 1991-93 and from 2000 to 2002, and as AALS president during 2001. She is a member of the Council of the American Law Institute and had served as reporter on the ALI complex litigation project. She has written numerous law review articles and books, particularly in the area of civil procedure. Dean Kane currently serves on the Section's Questionnaire Committee.

#### *Election to Two-Year Term*

**Honorable Christine M. Durham** is Chief Justice of the Supreme Court of Utah. She has served on the Supreme Court of Utah since 1982 and became Chief Justice in 2002. Justice Durham received her law degree from Duke University and later practiced law in Durham, North Carolina, and was an instructor of legal medicine at Duke University Medical School. After moving to Utah, she served as a judge on the Utah District Court for four years until she was appointed to the Supreme Court. She is a trustee of Duke University, a member of the American Inns of Court Foundation Board of Trustees and of the Council of the American Law Institute. Justice Durham also is a past president of the National Association of Women Judges and a former member of the Federal Judicial Conference's Advisory Committee on the Rules of Civil Procedure. She also leads the Education for Justice Project, a partnership between public education, the judicial branch, and the legal profession to improve education about the justice system in Utah public schools, and she is a member of the Utah Constitutional Revision Commission.

#### **LAW STUDENT DIVISION MEMBER NOMINEE**

#### *Election to one-year term*

**Deborah V. Baker** is completing her second year of study at Stanford Law School and has a B.S. in Policy Analysis and Health Policy from Cornell University. While at Cornell, she served as a student representative on the Academic Policy Committee. At Stanford, she has served as co-president of the Student Bar Association and junior editor of the *Stanford Law and Public Policy Review*. During the summer of 2003, she was a law clerk in the Office of Trial Counsel of the State Bar of California.

# Calendar

## OCTOBER 2004

1-2	Conference on Bar Admissions and Legal Education (CABA, AALS, NCBE and Conference of Chief Justices)	Chicago, IL
7-8	Accreditation Committee Retreat	Chicago, IL
9-10	Council Retreat	Chicago, IL
15-16	Conference: Pedagogy to Practice: Maximizing Legal Learning with Technology	Newark, NJ
22-23	Bar Admissions Committee	TBA
28-30	Accreditation Committee Meeting	Little Rock, AR

## NOVEMBER 2004

12-13	Standards Review Committee Meeting	Chicago, IL
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## DECEMBER 2004

3-5	Council Meeting	Richmond, VA
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## JANUARY 2005

27-29	Accreditation Committee Meeting	TBA
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## FEBRUARY 2005

9-15	ABA Mid-year Meeting	Salt Lake City, UT
10-11	Deans' Workshop	Salt Lake City, UT
12-13	Council Meeting	Salt Lake City, UT
19	Site Evaluation Workshop	Chicago, IL

## APRIL 2005

TBA	Questionnaire Committee	TBA
28-30	Accreditation Committee Meeting	Chicago, IL

## MAY 2005

18	ABA Deans' Breakfast	Philadelphia, PA
18	Standards Review Committee Meeting	Philadelphia, PA
18	Mayflower I	Philadelphia, PA
19	Mayflower II	Philadelphia, PA
31- June 3	Development Conference	Jackson, WY

## JUNE 2005

3-5	New Deans' Seminar	Jackson, WY
17-19	Council Meeting	Santa Fe, NM
24-25	Accreditation Committee Meeting	Omaha, NE

## AUGUST 2005

3-9	ABA Annual Meeting	Chicago, IL
4-5	Council Meeting	Chicago, IL
5	Kutak Reception	Chicago, IL
6	ABA Deans' Breakfast	Chicago, IL
	Section Programs	
	Section Annual Business Meeting	

# Standards and Rules of Procedure for Approval of Law Schools • 2004–05 Edition

The 2004-05 edition of the Standards and Rules of Procedure for Approval of Law Schools is available for purchase. The publication sets forth the standards that law schools must meet to obtain ABA approval. The edition also reflects all changes and/or revisions made at the August 2004 Council/Annual Meeting.

**Request Product Code: 5290084(04ED)**

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- Rules of Procedure for Approval of Law Schools
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