From the Chairperson and the ABA Consultant

By Randy Hertz, Incoming Section Chairperson, and Hulett H. Askew, ABA Consultant on Legal Education

It has been a very eventful summer for the Section of Legal Education and Admissions to the Bar—and, more broadly, for all who are concerned with legal education and bar admissions.

Enactment of the College Opportunity and Affordability Act of 2008

On August 14, President Bush signed into law the College Opportunity and Affordability Act of 2008 (HR 4137). The legislation was passed by Congress on July 31, 2008, on votes of 380 to 49 in the House of Representatives, and 83 to 8 in the Senate.

Of particular interest to legal educators, law students, and public interest law offices are provisions designed to ease the debt burden on legal services lawyers, public defenders, and prosecutors. Section 431, which is entitled “Loan Repayment for Civil Legal Assistance Attorneys” and has an expressly stated “purpose . . . to encourage qualified individuals to enter and continue employment as civil legal assistance attorneys,” amends Title IV of the Higher Education Act (Student Assistance Programs) to direct the U.S. Secretary of Education to “carry out a program of assuming the obligation to repay a student loan, by direct payments on behalf of a borrower to the holder of such loan,” for borrowers who “remain employed as a civil legal assistance attorney for a required period of service of not less than three years, unless involuntarily separated from that employment,” and who are “not in default on a loan for which the borrower seeks repayment.” Section 952, which is entitled “Loan Repayment for Prosecutors and Defenders” and has the expressly stated “purpose . . . to encourage qualified individuals to enter

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Charlotte School of Law and Elon University School of Law Receive Provisional Approval

At its June 7, 2008, meeting, the Council of the Section of Legal Education and Admissions to the Bar determined, upon the recommendation of the Accreditation Committee, to grant provisional approval to Charlotte School of Law and Elon University School of Law. This action brings the total number of ABA-approved law schools in the nation to 200.

Charlotte School of Law was founded in 2004 in Charlotte, North Carolina, and is a member institution of InfiLaw LLC, a consortium of independent law schools. Its mission is to provide a legal education that is student-centered; facilitates practice readiness;

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On August 14, 2008, the President signed into law P.L. 110-315, the Higher Education Opportunity Act. With the passage of this legislation come several programs promoted by the American Bar Association and its allies.

**The John R. Justice Prosecutors and Defenders Incentive Act (Section 951)**

This program, championed by Sen. Richard Durbin (D-Ill.), and joined last Congress and this by Sen. Arlen Specter (R-Pa.), and in the House by Rep. David Scott (D-Ga.), Rep. Bobby Scott (D-Va.) and Rep. Ted Poe (R-Tex.), provides student loan relief to prosecutors and public defenders including for juvenile delinquency proceedings, and those who provide education and training. The program provides up to $10,000 per year; in exchange for a one-time renewable three-year commitment, to a maximum $60,000. Given the recruitment purpose of the legislation, priority will be given to those with fewer than three years or fewer of service; and those least able to repay. Additional rules will be promulgated by the Department of Justice, including how the money will be distributed to ensure parity between prosecutors and public defenders, and among the state and local jurisdictions. The program will be authorized for just six years, at $25 million, plus such sums as necessary to carry out the program. The Inspector General will conduct a study at year three to report on the efficacy of the program.

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### Loan Forgiveness and Repayment Assistance Programs

Approved under H.R. 4137

<table>
<thead>
<tr>
<th>Provides</th>
<th>To Whom</th>
<th>For</th>
<th>Funding; Other</th>
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<tbody>
<tr>
<td><strong>The John R. Justice Prosecutors and Defenders Incentive Act (Section 951)</strong></td>
<td>Up to $10,000 per year to a maximum of $60,000.</td>
<td>Full-time state and local prosecutors and public defenders; federal defendants, their juvenile delinquency and tribal counterparts, and those who educate and train</td>
<td>A one-time renewable three-year commitment; priority to those with fewer than three years service.</td>
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<tr>
<td><strong>The Legal Assistance Loan Repayment Program (Section 431)</strong></td>
<td>Up to $6,000 per year to a maximum of $40,000.</td>
<td>Full-time Civil Legal Assistance lawyers and those who work with certain disability cases.</td>
<td>A renewable three-year commitment; priority for those with less than five years full-time experience, and fewer than three years in the office.</td>
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<tr>
<td><strong>428K Loan Forgiveness for Service in Service of National Need (Section 430)</strong></td>
<td>Up to $2,000 per year to a maximum of 5 years.</td>
<td>Public interest legal services (including prosecution, public defense, or legal advocacy in low-income communities at a non-profit organization</td>
<td>Full-time service in a qualifying position of national need.</td>
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<tr>
<td><strong>Perkins Loan Cancellation for Public Service (Section 465)</strong></td>
<td>Up to 100% cancellation of Perkins in 5 years</td>
<td>Federal public and community defenders</td>
<td>Full-time service</td>
</tr>
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The Legal Assistance Loan Repayment Program (Section 431)

This program, championed by Sen. Tom Harkin (D-Iowa), and joined in amending it to S.1642, the Senate counterpart to H.R. 4137, by Sen. Benjamin Cardin (D-Md.), provides civil legal assistance lawyers, including those who work with those with disabilities, loan repayment of up to $6,000 per year, in exchange for a renewable three-year commitment, to a maximum of $40,000. As a recruitment tool, the program gives priority to those with less than five years of civil legal assistance practice, and fewer than three years in the present office. The program is authorized indefinitely at $10 million per year. Language would prevent benefiting from both this program and related ones, e.g., the 428K forgiveness program for jobs of national need and the College Cost Reduction and Access Act program, the parameters of this, and additional regulations, to be promulgated by the Department of Education.

428K Loan Forgiveness for Service in Jobs of National Need (Section 430)

This program provides a lengthy list of jobs considered to be ones of “national need.” Among the list, it includes “Public Sector Employees,” which in turn includes “public interest legal services (including prosecution, public defense, or legal advocacy in low-income communities at a nonprofit organization).” This program would provide no more than $2,000 per year, and for no more than five years and $10,000. It will be administered by the Department of Education. Again, this program includes a prohibition on persons benefiting from it, and other loan forgiveness programs.

Perkins Loan Cancellation for Public Service (Section 465)

This program cancels a percentage of a borrower’s outstanding Perkins loan debt for performing certain kinds of public service jobs. In Conference Committee, language was added extending this program’s reach to “a full-time attorney employed in a defender organization established with section 3006A(g)(2) of Title 18,” i.e., (A) federal public defender, and (B) community defender. The program cancels 15% for the first or second year; 20% for the third or fourth year, and 30% for the fifth, or 100% forgiveness for 5 years service. In addition, Congress also increased the loan limits under the Perkins program for graduate and professional students to $8,000 per year, to a maximum of $60,000.


CORRECTION: The Spring 2008 issue of Syllabus incorrectly stated that Council member Martha Craig Daughtrey was the first woman appointed to the U.S. Court of Appeals for the 6th Circuit. (“Nominating Committee Announces 2008-2009 Slate,” p. 4-6). The article should have read “Martha Craig Daughtrey was appointed to the United States Court of Appeals for the 6th Circuit in 1993.” We regret the error.

Editor’s Note: Several readers wrote to say that the first woman appointed to the U.S. Court of Appeals for the 6th Circuit was Florence Ellingwood Allen. For a brief history of Judge Allen and her accomplishments, see page 8.
Proposed Deletion of Interpretations 402-1 and 402-2 of the ABA Standards and Rules of Procedure for the Approval of Law Schools

At its June 7, 2008, meeting, the Council considered the report of the Standards Review Committee regarding the calculation of student-faculty ratio. After discussion, the Council agreed to publish for notice and comment the Standard Review Committee's proposal to delete Interpretation 402-1 and 402-2. The proposed changes and a brief explanation are published here. The proposed changes and the complete explanation can be found on the Section's Web site, www.abanet.org/legaled.

We solicit comments on the proposal by letter, e-mail or through an appearance at a hearing that will be conducted by the Standards Review Committee in January 2009 during the annual Meeting of the American Association of Law Schools. Please address written comments on the proposal, and requests to speak at the hearing, to Becky Stretch, Assistant Consultant, at our Chicago office or at stretchc@staff.abanet.org.

Comments on this change in the Standards should be submitted no later than December 1, 2008. All comments will be provided to, and reviewed by, the Standards Review Committee when it meets following the hearing to finalize its recommendations to the Council on these matters. We expect that final Council action on these matters will occur at the Council meeting scheduled for February 2009 and will then be submitted to the House of Delegates of the ABA for concurrence at the August 2009 meeting of the House.

Revisions to Standards for the Approval of Law Schools

(Additions underlined; deletions struck through)

Standard 402. SIZE OF FULL-TIME FACULTY
(a) A law school shall have a sufficient number of full-time faculty to fulfill the requirements of the Standards and meet the goals of its educational program. The number of full-time faculty necessary depends on:

(1) the size of the student body and the opportunity for students to meet individually with and consult faculty members;

(2) the nature and scope of the educational program; and

(3) the opportunities for the faculty adequately to fulfill teaching obligations, conduct scholarly research, and participate effectively in the governance of the law school and in service to the legal profession and the public.

(b) A full-time faculty member is one whose primary professional employment is with the law school and who devotes substantially all working time during the academic year to the responsibilities described in Standard 404(a), and whose outside professional activities, if any, are limited to those that relate to major academic interests or enrich the faculty member's capacity as a scholar and teacher; are of service to the legal profession and the public generally; and do not unduly interfere with one's responsibility as a faculty member.

Interpretation 402-1
In determining whether a law school complies with the Standards, the ratio of the number of full-time equivalent students to the number of full-time equivalent faculty members is considered.

(1) In computing the student/faculty ratio, full-time equivalent teachers are those who are employed as full-time teachers on tenure track or its equivalent who shall be counted as one each plus those who constitute “additional teaching resources” as defined below. No limit is imposed on the total number of teachers that a school may employ as additional teaching resources, but these additional teaching resources shall be counted at a fraction of less than 1 and may constitute in the aggregate up to 20 percent of the full-time faculty for purposes of calculating the student/faculty ratio.
(A) Additional teaching resources and the proportional weight assigned to each category include:

(i) teachers on tenure track or its equivalent who have administrative duties beyond those normally performed by full-time faculty members: 0.5;

(ii) clinicians and legal writing instructors not on tenure track or its equivalent who teach a full load: 0.7; and

(iii) adjuncts, emeriti faculty who teach, non-tenure-track administrators who teach, librarians who teach, and teachers from other units of the university: 0.2.

(B) These norms have been selected to provide a workable framework to recognize the effective contributions of additional teaching resources. To the extent a law school has types or categories of teachers not specifically described above, they shall be counted as appropriate in accordance with the weights specified above. It is recognized that the designated proportional weights may not in all cases reflect the contributions to the law school of particular teachers. In exceptional cases, a school may seek to demonstrate to site evaluation teams and the Accreditation Committee that these proportional weights should be changed to weigh contributions of individual teachers.

(2) For the purpose of computing the student/faculty ratio, a student is considered full-time or part-time as determined by the school, provided that no student who is enrolled in fewer than ten credit hours in a term shall be considered a full-time student, and no student enrolled in more than 13 credit hours shall be considered a part-time student. A part-time student is counted as a two-thirds equivalent student.

(3) If there are graduate or non-degree students whose presence might result in a dilution of J.D. program resources, the circumstances of the individual school are considered to determine the adequacy of the teaching resources available for the J.D. program.

Interpretation 402-2
Student/faculty ratios are considered in determining a law school’s compliance with the Standards.

(1) A ratio of 20:1 or less presumptively indicates that a law school complies with the Standards. However, the educational effects shall be examined to determine whether the size and duties of the full-time faculty meet the Standards.

(2) A ratio of 30:1 or more presumptively indicates that a law school does not comply with the Standards.

(3) At a ratio of between 20:1 and 30:1 and to rebut the presumption created by a ratio of 30:1 or greater, the examination will take into account the effects of all teaching resources on the school’s educational program, including such matters as quality of teaching, class size, availability of small group classes and seminars, student/faculty contact, examinations and grading, scholarly contributions, public service, discharge of governance responsibilities, and the ability of the law school to carry out its announced mission.

Interpretation 402-3-1
A full-time faculty member who is teaching an additional full-time load at another law school may not be considered as a full-time faculty member at either institution.

Interpretation 402-4-2
Regularly engaging in law practice or having an ongoing relationship with a law firm or other business creates a presumption that a faculty member is not a full-time faculty member under this Standard. This presumption may be rebutted if the law school is able to demonstrate that the individual has a full-time commitment to teaching, research, and public service, is available to students, and is able to participate in the governance of the institution to the same extent expected of full-time faculty.

Rationale for Recommendation and Arguments Against
Cost vs. benefit. The argument against calculation of a student-faculty ratio is that in a cost-benefit analysis, the benefits of the ratio are negligible and the costs are considerable. The student-faculty ratio is not a useful number. When the guidelines in Interpretation 402-2 were first adopted creating presumptions regarding compliance with the provisions of Standard 402(a) concerning the size of the full-time faculty, the student-faculty ratio was calculated in a much more straightforward fashion. The ratio was based simply on a comparison of full-time faculty and student FTEs. Today’s ratio, as defined by Interpretation 402-1, takes into account full-time teachers on tenure track or its equivalent and up to 20% of additional teaching resources, including administrators who teach or hold faculty rank, full-time faculty not on tenure track or its equivalent, and part-time faculty. The incorporation into the student-faculty ratio of these additional teaching resources significantly lowered ratios across the board.

The Accreditation Committee, in looking at faculty size, looks to a number of factors to determine whether a law school’s faculty is large enough,
including what portion of the first year curriculum and upper-level curriculum in the day and evening divisions are taught by full-time and part-time faculty, what core subjects beyond the first year courses are taught by full-time and part-time faculty, and the extent to which faculty members are not meeting all of their obligations (teaching, scholarship, and service) because of overloads in one or more areas (e.g., high teaching or committee loads impacting scholarly productivity). The student-faculty ratio is never dispositive of questions concerning adequacy of faculty size, and is rarely even helpful as a trigger for further review, since the other markers of inadequate faculty size are by in large objective and easily ascertainable.

Even if the ratio were not helpful to the Accreditation Committee, it might be worth keeping if it were valuable consumer information. But it is not. Interpretation 509-1 does not identify the student-faculty ratio as basic consumer information that must be published by law schools. Instead it refers to composition and number of faculty and administrators. The ABA/LSAC Official Guide to ABA-Approved Law Schools, in the ABA data pages, nevertheless publishes the student-faculty ratio along with data on the number of full-time faculty members, other full-time faculty members, deans and administrators who teach, and part-time faculty. The Official Guide also publishes information, much of it broken down into full-time vs. part-time data, on the typical size of first year classes, whether there are small section first year classes, whether there are small section classes, number of courses offered beyond the first year of law school, the numbers of upper level classes offered in various size ranges, number of seminars, and number of positions available and filled in seminars, simulation courses and clinical courses. The student-faculty ratio is not a useful or accurate indicator of what ranges of class size prospective students will experience in law school and prospective law students already get other information that far more directly speaks to this question. In fact, the correlation between student-faculty ratio and typical first year section size in the full-time program, based on data from the 2008 Official Guide, is a very low 0.137.

There was a point in the history of the accreditation process when the student-faculty ratio served an important function in helping to move schools away from extremely large ratios and enormous class sizes. The 30:1 standard for presumptive noncompliance was based on a notion that the ideal upper-level class size should be 30 students or fewer. However, as noted above, students today have far better consumer information about what their class size experience might be like. Furthermore, the competitive market place and pedagogical advances, including clinical and other skills courses make it important for schools to continue to pay attention to class sizes. The student-faculty ratio is, in today’s environment, no longer useful. Indeed, from the consumer perspective it is positively misleading.

Nevertheless, there are obviously arguments in favor of continuing to produce a student-faculty ratio, as evidenced by the fact that three committee members voted to continue to calculate and publish a student-faculty ratio. First, schools may have put considerable effort and resources into improving the student-faculty ratio, so we ought not to eliminate the ratio without giving more careful thought to the different ways in which schools might be relying on the ratio. Second, even though the student-faculty ratio may not give us dispositive answers to the question whether a law school’s faculty is sufficiently large, it does provide a starting point for inquiry, and we ought not eliminate it until we have developed better output measures that we might use in lieu of this traditional input measure. Third, to the extent that Interpretation 402-1 encourages schools to give more faculty members (e.g., legal writing faculty) security of position so that they count in the ratio, that is a good thing. And fourth, we may invite a range of potential unintended consequences if we eliminate the student-faculty ratio as an isolated question without a full assessment of all of Chapter Four of the Standards.

How to eliminate the ratio. Assuming the student-faculty ratio is eliminated, the next question is how it should be eliminated. There are at least three different approaches that could be taken. First, since the language concerning the ratio is found in Interpretations 402-1 and 402-2, alone, those Interpretations could simply be deleted, leaving Standard 402 otherwise intact. Second, Interpretations 402-1 and 402-2 could be replaced with other language attempting to explain how compliance with the faculty size provisions of Standard 402(a) will be measured, now that the student-faculty ratio has been eliminated. Third, Standard 402(a) could be eliminated.

The least drastic method of getting rid of the
student-faculty ratio would seem to be eliminating Interpretations 402-1 and 402-2 while leaving Standard 402 intact. This approach does raise the question of how the sufficiency of a law school’s faculty size is to be determined under Standard 402(a), absent a student-faculty ratio. However, the Accreditation Committee has had years of experience applying the Standards to determine whether a law school’s full-time faculty is of sufficient size. There are a variety of factors it has looked to including the portion of credit hours taught in the full-time and part-time program by full-time faculty members, the portion of the first year curriculum and other core subjects taught by full-time faculty members, and the ability of the full-time faculty, collectively and individually, to fulfill its teaching, research and service obligations.

The second option would be to replace Interpretations 402-1 and 402-2 with a new Interpretation that describes how these factors are used in measuring adequacy of faculty size. However, writing a new Interpretation now, without more time for consultation with the Accreditation Committee, is not an easy task. More importantly, it may not be a necessary task, because there are already other Standards in place that address all the important questions. Standard 401 requires the law school to have a faculty whose qualifications and experience are appropriate to the school’s stated mission and to maintaining a program of legal education that meets the requirements of Standards 301 and 302. Standard 404 outlines the teaching, research and service obligations of the faculty and requires the law school to have policies and review mechanisms in place to enforce these responsibilities. Standard 403 requires that the full-time faculty teach a major portion of the curriculum in all divisions, including substantially all of the first year curriculum.

When a law school’s faculty is too small, it shows up in the inability of the school to meet its stated mission, in the kinds of courses being taught by adjunct faculty, the high portion of the curriculum being taught by adjunct faculty, or the inability of the full-time faculty to fulfill all of its responsibilities because it is overburdened in one or more areas. Each of these indicators of inadequate faculty size implicates other Standards. Indeed, Standard 402(a) does not simply say that a law school must have a sufficient number of full-time faculty, it says “A law school shall have a sufficient number of full-time faculty to fulfill the requirements of the Standards and meet the goals of its educational programs.” In other words, Standard 402(a) does not impose an independent requirement that a law school’s faculty be of a certain size. The requirement of adequate faculty size is tied entirely to other Standards. When the Accreditation Committee determines that those other Standards are not being met because the faculty is too small, it doesn’t need the hook of 402(a). The other Standards that are being violated are quite sufficient in and of themselves.

As a result, the subcommittee which initially looked at the student-faculty ratio concluded, also by a split vote, that Standard 402(a) was not necessary. However, a majority of the full Standards Review Committee concluded that Standard 402(a) contains important statements about the normative reasons a faculty of sufficient size is desirable that help to clarify and hold together the various Standards that directly or indirectly implicate faculty size. What is not helpful, and in some ways is affirmatively misleading, in attempting to make judgments about faculty size, is the student-faculty ratio.

**UPCOMING CONFERENCES**

**October 16-18, 2008**  
Bar Exam Passage Conference  
Outcome Measures and Student Achievement: How to Improve Bar Passage Rates within a Broader Set of Outcome Measures  
Renaissance Chicago O’Hare Suites Hotel

**January 25-27, 2009**  
Deans’ Workshop  
Conference of Chief Justices  
Scottsdale, Arizona

**March 12-14, 2009**  
Facilities Conference: Bricks, Bytes and Continuous Renovation  
Philadelphia, Pennsylvania

**May 26-29, 2009**  
Law School Development Conference  
Jackson Hole, Wyoming
In 1934, Florence Ellingwood Allen became the first woman to sit on an Article III federal court when President Franklin Delano Roosevelt appointed her to the Sixth Circuit of Appeals. This followed several other firsts, including the first woman to be elected to a judgeship (Court of Common Pleas, 1920) and the first woman to sit on a state supreme court (Ohio Supreme Court, 1922). Judge Allen was ultimately elevated to chief judge of the court, a position she held until her retirement.

Judge Allen did not set out to be a legal trailblazer. She graduated in 1904 from the College for Women at Case Western Reserve University with a degree in music and plans to be a concert pianist. Shortly thereafter, she lived in Berlin for two years with her mother and a sister studying music and working as a journalist. However, she suffered a nerve injury and was forced to abandon her musical ambitions. When Allen returned to the United States, she taught school in Cleveland and wrote music reviews for the Cleveland Plain Dealer. She also returned to Case Western to pursue a master’s degree in political science. It was there that the idea to attend law school arose. Allen first matriculated at the University of Chicago Law School in 1910 but after a year moved to New York to accept a job at the New York League for the Protection of Immigrants. She sought to continue her legal education at Columbia Law School but Columbia was not admitting women as permanent students. Instead, she entered New York University Law School, graduated second in her class in 1913, and passed the Ohio bar in 1914.

While Allen was studying at NYU, she became involved in the suffrage movement and served as assistant secretary to Maud Wood Park, head of the National College Women’s Equal Suffrage League. Once back in Cleveland, Allen established her own law office, volunteered at the Cleveland Legal Aid Clinic, and continued her advocacy for women’s right to vote. She challenged local laws that limited women’s participation in the political process and successfully argued before the Ohio Supreme Court for the right of women in East Cleveland to vote in municipal elections. Allen was also an advocate for women serving on juries.

Judge Allen ran several times for legislative office, albeit unsuccessfully. Attempts by her colleagues to secure her a seat on the United States Supreme Court were also unsuccessful. Judge Allen wrote two books on the law and, in 1965, published her autobiography, To Do Justly (Press of Western Reserve University). Her papers are housed at the Western Reserve Historical Society in Cleveland. Judge Allen died in 1966 of heart failure at the age of 82.

Ruth McGregor, Outgoing Council Members Honored

Outgoing Section Chair Ruth McGregor was honored at the annual Chairperson’s Dinner held on Thursday, August 7, at the University Club during the ABA Annual Meeting in New York. Consultant Bucky Askew and incoming Chair Randy Hertz joined the attendees in thanking Justice McGregor for her work for the Section.

William R. Rakes, Esq. (Immediate Past Chair); José R. Garcia-Pedrosa, Esq. (House of Delegates Representative); Diane Camper (Public Member), whose terms ended at the Annual Meeting, were also honored for their service on the Section Council.

Kenneth Williams, a five-year ABA veteran, joined the Section on July 3 as the new Data Specialist. Previously, Ken was the Manager of Technology for the Tort and Insurance Practice Section. A self-proclaimed “computer geek” Ken has extensive knowledge of SQL, Oracle, Cold Fusion, and Access databases and Windows XP operating systems. In addition to administering the annual questionnaires and site evaluation questionnaires to all ABA-approved law schools and producing statistical reports based on questionnaire data, Ken will develop ideas for the Section’s Web site; making it a greater resource for anyone seeking information on legal education.

Away from the office, Ken is the president/owner of Joceda Productions, which specializes in recording and engineering, sound effects, and musical scores for film, video and animated works.
Number of ABA-Approved Law Schools Reaches 200
Law Schools Reaches 200

On Wednesday, June 18, the Section staff marked the milestone of 200 ABA-approved law schools with a reception in the main lobby of the American Bar Association. ABA staff members were treated to cake and lemonade and received timelines of ABA-approved law schools as well as silver yo-yos embossed with the words “200 Law Schools.” In addition to celebrating the Section’s role over 86 years of accrediting law schools, it was an opportunity to educate other ABA Sections and Divisions about the accreditation project.

At the ABA Annual Meeting in New York in August, Consultant Bucky Askew, Assistant Consultant Becky Stretch, Emeritus Founding Dean Leary Davis (Elon University School of Law) and Dean Eugene Clark (Charlotte School of Law) attended the Law Student Assembly to further recognize this achievement with the ABA’s law student members. Out-going Law Student Division liaison Christine Brady and incoming liaison Daniel Thies were also in attendance.

The Consultant and staff of the Section of Legal Education and Admissions to the Bar sincerely thank the hundreds of volunteers who work tirelessly on the Council, on the Accreditation Committee, and on site teams to accomplish this important work and advance the Section’s mission to promote quality legal education.
At the Section’s annual business meeting in August, the following members were elected or re-elected to serve on the 2008-2009 Council of the Section of Legal Education and Admissions to the Bar.

**Chairperson (automatic under the Bylaws)**  
Randy A. Hertz, Professor  
New York University School of Law  
New York, New York

**Chairperson-Elect**  
Jerome C. Hafter, Esq.  
Phelps Dunbar, LLP  
Jackson, Mississippi

**Vice Chairperson**  
Honorable Christine Durham  
Chief Justice, Supreme Court of Utah  
Salt Lake City, Utah

**House of Delegates Representative**  
Pauline A. Schneider, Esq.  
Orrick, Herrington & Sutcliffe, LLP  
Washington, D.C.

**At-Large Council Members**  
(election or re-election to three-year terms)  
J. Martin Burke, Professor  
University of Montana School of Law  
Missoula, Montana

Honorable Martha Craig Daughtrey  
U.S. Court of Appeals, 6th Circuit  
Nashville, Tennessee

Robert D. Dinerstein, Professor  
American University, Washington College of Law  
Washington, D.C.

John F. O’Brien, Dean  
New England School of Law  
Boston, Massachusetts

Honorable Charles R. Wilson  
U.S. Court of Appeals, 11th Circuit  
Tampa, Florida

**Public Members**  
Marjorie Speers, President and CEO (three-year term)  
Association for the Accreditation of Human Research Protection Programs  
Washington, D.C.

Edward N. Tucker, CPA/ABV (two-year term)  
Ellin & Tucker, Chartered  
Baltimore, Maryland

**Law Student Division Member (one-year term)**  
Daniel R. Thies  
Harvard Law School  
Cambridge, Massachusetts

The following members are continuing on the Council:

**Immediate Past Chair**  
Honorable Ruth V. McGregor  
Chief Justice, Arizona Supreme Court  
Phoenix, Arizona

**Secretary**  
Peter A. Winograd, Professor Emeritus  
University of New Mexico  
Albuquerque, New Mexico

**House of Delegates Representative**  
Sidney S. Eagles, Jr., Esq.  
Smith Moore LLP  
Raleigh, North Carolina

**Board of Governors Liaison**  
Gary A. Munneke, Professor  
Pace University School of Law  
White Plains, New York

**At-Large Members**  
Joseph F. Baca, Esq.  
New Mexico Supreme Court (retired)

Phoebe A. Haddon, Professor  
Temple University, James E. Beasley School of Law  
Philadelphia, Pennsylvania

Joan S. Howland, Associate Dean  
University of Minnesota Law School  
Minneapolis, Minnesota

Mary Kay Kane, Professor  
University of California, Hastings-College of Law  
San Francisco, California

Dennis O. Lynch, Dean Emeritus and Professor  
University of Miami School of Law  
Coral Gables, Florida

Rennard Strickland, Professor Emeritus  
University of Oregon School of Law  
Eugene, Oregon

Barry Sullivan, Esq.  
Jenner & Block, LLP  
Chicago, Illinois

**Public Member**  
Dr. John L. Lahey, President  
Quinnipiac University  
Hamden, Connecticut

**Young Lawyers Division Member**  
Irving Freeman, Esq., Vice President  
Lake Erie College of Osteopathic Medicine  
Erie, Pennsylvania
Professor Strickland Receives 2008 Robert J. Kutak Award

Professor Rennard Strickland, recipient of the Section’s 2008 Robert J. Kutak Award, was honored at a reception on Friday, August 8 at the Intercontinental/Barclay Hotel in New York. Professor Strickland, Professor Emeritus of Law at the University of Oregon School of Law, is one of a handful of legal education leaders to have served on the governing groups of all three major legal education organizations: the ABA Section of Legal Education and Admissions to the Bar, the Law School Admission Council, and the Association of American Law Schools. From 1997 to 2002, Professor Strickland was dean of the University of Oregon School of Law and was the Phillip H. Knight Professor of Law and Wayne Morse Research Scholar. Previously, he served as dean and professor at the Oklahoma City University School of Law, and John W. Shleppey Research Professor of Law and History at the University of Tulsa.

A legal historian of Osage and Cherokee heritage, Strickland is considered a pioneer in introducing Indian law into university curriculum. From 1990 to 1995, he was the director of American Indian Law and Policy Center at the University of Oklahoma. Strickland has written and edited more than 35 books and is frequently cited by courts and scholars for his work as revision editor of the *Handbook of Federal Indian Law*.

Professor Strickland’s legacies are many and far-reaching. At the University of Oregon he was instrumental in the establishment of the Wayne Morse Center for Law and Politics and the Environment and Natural Resource Center. While at the University of Wisconsin, Strickland organized efforts to accomplish a public resolution of fishing rights controversies. After the bombing of the Alfred Murrah federal building in Oklahoma City, Professor Strickland spearheaded a community project to use model-trials to offset trauma in the city’s public schools. His contributions to the Osage and the Cherokee tribes include serving as the Chair and Arbitrator of the Osage Constitutional Commission and as the author of the major history of the Cherokee legal system.

Throughout his career, Professor Strickland has advocated for minority recruitment in legal education, mentoring young scholars in both their teaching and scholarship. Among his many honors, he has received the Society of American Law Teachers Award, the Spirit of Excellence Award of the ABA Commission on Opportunities for Minorities in the Profession, and the Hayward Burns Award from the Northeast Regional People of Color.

The Section of Legal Education and Admissions to the Bar and the national Kutak Rock law firm established the Robert J. Kutak Award in 1984. The award is in memory of Mr. Kutak, a distinguished Omaha lawyer, champion of legal reform, and advocate for legal education. Mr. Kutak was a member of the Section’s Council at the time of his death. The award is given annually to an individual who has contributed significantly toward increased cooperation between legal education, the practicing bar, and the judiciary. Most recipients have been members of the Section and active participants in its work.
Associate Deans Conference a Rousing Success

Jack Pratt, Veryl Miles, Beto Juárez, and Alex Glasshauser presented the Friday plenary session at the conference.

One hundred and thirty-nine participants from 97 law schools gathered at the Inverness Hotel and Conference Center in Englewood, Colorado, for the Associate Deans Conference in June. Over two and one-half days, conference participants had the opportunity to select from 30 program topics and to network with colleagues from across the country.

The keynote speaker was Joe Harbaugh, former dean at Nova Southeastern University, Shepard Broad Law Center, who provided a light-hearted parody of comedian Bob Newhart’s trademark telephone conversations with a segment called “The Unflappable Law School Telephone Receptionist.” The Friday plenary session presented a panel discussion, “How the Associate Dean’s Changing Roles Affect Relationships,” moderated by Jack Pratt, dean of the University of South Carolina School of Law, and featuring Alex Glasshauser, associate dean at Washburn University School of Law, José (Beto) Juárez, dean of the University of Denver Sturm College of Law, and Veryl V. Miles, dean of The Catholic University of America Columbus School of Law. The second plenary on Saturday was led by Judith Welch Wegner, professor and former dean at the University of North Carolina at Chapel Hill School of Law, who led a discussion on implementing and evaluating strategic change. Another program highlight was Dr. Jeff Ashby’s (Summit Performance Group) session on stress-relieving tactics.

On Saturday evening, Dean Juárez once again hosted a reception at the school’s LEED Gold certified-building. The reception featured Native American music and food and provided more opportunities to exchange ideas.

Kudos to the Law School Administration Committee for organizing a successful, well-received conference:

Chair: Darby Dickerson, President and Dean, Stetson University College of Law
Vice-Chair: Carol Q. O’Neil, Associate Dean, Georgetown University Law Center
Immediate Past Chair: Walter F. “Jack” Pratt, Jr., Dean, University of South Carolina School of Law
Jon Garon, Professor and Former Dean, Hamline University School of Law
Catherine Glaze, Associate Dean, Stanford Law School
Andrew R. Klein, Professor, Indiana University-Indianapolis, School of Law
George W. Prigge, Assistant Dean, Georgia State University College of Law
Sondra Tennessee, Associate Dean, University of Houston Law Center
Athornia Steele, Dean, Nova Southeastern University

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and continue employment as prosecutors and public defenders,” amends the Omnibus Crime Control and Safe Streets Act of 1968 to establish equivalent provisions for loan repayment assistance to attorneys who are “employed as a prosecutor or public defender” in criminal or juvenile delinquency cases “for a required period of service of not less than three years, unless involuntarily separated from that employment” and who are “not in default on a loan for which the borrower seeks forgiveness.” [Editor’s note: For detailed descriptions of the loan forgiveness and repayment assistance programs, see page 2.]

The Act also affects the timetable of the U.S. Department of Education’s review of the application by the Section’s Council for re-recognition as the national agency for the accreditation of programs leading to the first professional degree in law. The Council had been scheduled to appear in December 2008, before the National Advisory Committee on Institutional Quality and Integrity (NACIQI), a panel that advises the U.S. Secretary of Education on matters related to accreditation. However, a provision of the Act changes the constitution of NACIQI (switching from the current system of 15 members appointed by the President to a new system of 18 members, 6 of whom are appointed by the President, 6 of whom are appointed by the House of Representatives, and 6 of whom are appointed by the Senate), terminates the terms of current NACIQI members, specifies that new members may not be appointed until after January 31, 2009, and prohibits NACIQI from meeting before January 31, 2009. Because NACIQI customarily holds meetings twice a year—once in December and once in June—it appears that the Council’s appearance before NACIQI will take place in June, 2009, before a reconstituted panel. Under the applicable rules, the Council continues as the recognized accrediting agency pending further action on its application for re-recognition.

### Council Action on the Reports of the Three Special Committees

The Special Committee on Outcome Measures recommended that the Section re-examine the current ABA accreditation Standards and reframe them, as needed, to reduce their reliance on input measures and instead adopt a greater and more overt reliance on outcome measures. In support of this recommendation, the committee presented extensive information showing that such a shift towards outcome measures is consistent with the latest and best thinking of U.S. legal educators and legal educators in other countries and is also consistent with insights gleaned from legal practice and from accreditors in other fields of professional education. The Council adopted the committee’s recommendation and referred the matter to the Standards Review Committee with a specific directive to implement the committee’s recommendation.

The Special Committee on Transparency recommended a number of specific measures to enhance the transparency of the accreditation process. Acting on these recommendations, the Council (1) endorsed, and sent to the Standards Review Committee for implementation, the committee’s recommendation that unredacted accreditation decision letters and follow-up correspondence between a school and the Accreditation Committee be available prospectively on the Section’s Web site, password-protected, to deans of approved law schools and, as determined by each dean, to other faculty members for use in the accreditation process; (2) accepted the committee’s recommendation that the following documents should be posted on the Section’s Web site: (a) a memorandum, to be prepared by the ABA Consultant on Legal Education, that sets forth a description of the accreditation process from start to finish; (b) an Accreditation Issues Summary, highlighting particular Standards and Interpretations with which significant numbers of schools are having difficulty; and (c) a memo, to be prepared by the ABA Consultant on Legal Education, to assist schools in coming into compliance with the Standards; (3) adopted the committee’s recommendations that the Section consider various other mechanisms for enhancing transparency in the accreditation process, including (a) additional methods for sharing accreditation information with deans, law schools, and the public; (b) possible
preparation of memoranda on “best practices” in accreditation; (c) possible clarification of ABA Standards 202 and 203 (addressing, respectively, self studies and strategic planning and assessment); (d) possibly expanding consumer information on law schools’ bar passage rates; and (e) methods that might be developed to involve students more meaningfully in the accreditation process.

This fall, the Section will embark on a comprehensive review of the ABA Standards for the Approval of Law Schools.

The Special Committee on Security of Position was charged by Section Chair McGregor to consider two issues: (1) Assuming arguendo that the Council were to eliminate the current Standards and Interpretations on security of position and adopt other Standards and Interpretations to protect the interests that the current security of position provisions are designed to protect, what specific wording could be employed (in Standards or Interpretations or both) to protect these interests adequately; and (2) Will the new provisions proposed by the Special Committee serve the interests underlying the existing security of position provisions as effectively, more effectively, or less effectively than the existing provisions? The committee’s report addressed the first of these issues by proposing an alternative set of Standards and Interpretations to address the subjects of academic freedom, attracting and retaining a competent faculty, and faculty role in governance. The report described the nature and history of these systemic concerns, and explained the strengths and weaknesses of the proposed new provisions. With regard to the second issue in Section Chair McGregor’s charge, the committee stated that it is “not recommending either the alternative approach or the current relevant Standards and takes no position on which approach is ultimately preferable.” The Council referred the committee’s report to the Standards Review Committee for consideration.

Action by the Council and House of Delegates on Interpretation 302-7
At the Annual Meeting in August, the ABA House of Delegates concurred in the decision of the Council to delete Interpretation 302-7. The Interpretation had stated: “If a law school grants academic credit for a bar examination preparation course, such credit may not be counted toward the minimum requirements for graduation established in Standard 304. A law school may not require successful completion of a bar examination preparation course as a condition of graduation.”

Until 2004-05, a Standard (then-existing 302(f)) had provided that law schools may offer bar examination courses but “may not grant credit for the course or require it as a condition for graduation.” As part of a complete revision of Standard 302 in 2004-05, the requirement was changed (in the replacement Interpretation 302-7) to permit schools to offer bar examination courses for credit but to prohibit the counting of such credit “toward the minimum requirements for graduation” and to preserve the pre-existing prohibition on “requir[ing] successful completion of a bar examination preparation course as a condition of graduation.”

In June 2008, the Council adopted a recommendation by the Standards Review Committee to delete Interpretation 302-7. The experience with the Interpretation indicated that the provision was having an unintended consequence in that the students who most needed bar review courses were often the least likely to take such courses, and the Interpretation was standing in the way of law schools ensuring that these students receive the benefits of a bar review course. Moreover, the original rationale for adopting the Interpretation—a concern that law schools might use a graduation requirement to deny a student from graduating solely because the student had failed to complete a bar examination course—appeared to be groundless, given the post-2005 record of schools using bar examination courses properly to maximize their students’ chances of passing the bar examination. Accordingly, the Standards Review Committee and the Council concluded that this is not an appropriate area of regulation, and that the decision on how to use bar examination courses should be left to individual law schools. To effect this outcome, the Council decided—and the House concurred—that Interpretation 302-7 should be deleted.

Commencement of a Comprehensive Review of the Accreditation Standards
On August 15, the Council announced that the Section will embark on a comprehensive review of the ABA Standards for the Approval of Law Schools in September. The Council will rely on the work of its Standards Review Committee to complete this project, which we expect to take at least the next two academic years.
The Council monitors and regularly amends the Standards and Rules. However, it is appropriate to step back periodically from the day-to-day issues that arise to think comprehensively about whether the Standards are appropriate and accomplishing their objective of assuring a sound program of legal education that will prepare law school graduates to become effective members of the legal profession. The last comprehensive review commenced in September 2003 and was completed in 2006. This round of comprehensive review comes at a very appropriate time, given the ideas and momentum that have been generated by the above-described reports of the three special committees and the pre-existing Accreditation Policy Task Force.

We solicit your help with this project. If the Standards are to maintain legitimacy in the eyes of courts, the legal profession, bar admissions authorities, and the higher education community, then they must reflect the best current judgment about the minimum program of legal education. Comments and suggestions should be sent to Charlotte Stretch, Assistant Consultant, at stretchc@staff.abanet.org.

Conclusion

We believe that the coming year will bring important, exciting changes to the fields of legal education and bar admissions.

In legal education, the publication in 2007 of the Carnegie Foundation’s report on legal education and the “Best Practices for Legal Education” report by Roy Stuckey and CLEA’s Best Practices Project have stimulated thought and experimentation on curricular reform at law schools across the country. On August 9, at the ABA Annual Meeting, the Section hosted a panel discussion entitled “Curricular Reform: Re-imagining Law School Pedagogy and Programs.” led by Professor Catherine Carpenter, in which a packed room heard from Deans Lisa Kloppenberg, Raymond Pierce, Ed Rubin, and Rod Smolla, about new approaches that have proven successful at their schools. In the question-and-answer period that followed, several members of the audience described other innovations that have been implemented at their schools.

In bar admissions, a number of ideas that have been percolating for some time appear to be coming to fruition. The Section has been working closely with the National Conference of Bar Examiners (NCBE) to develop a bar exam passage reporting system (beginning hopefully with the July 2008 bar exam) that will both relieve the burden on law schools of collecting bar passage information on graduates and also ensure the collection of reliable and verified data on every graduate’s performance on a bar exam. We feel confident that the bar admissions authorities will participate in this new data gathering and reporting system. Bucky and two members of the Accreditation Committee (Diane Bosse and Jequita Napoli) spoke at the recent meeting of the Committee of Bar Admission Administrators about the importance of their cooperation in this effort.

In addition, the development of a Uniform Bar Exam (UBE) is gaining momentum and receiving a positive reception. The Section’s Bar Admissions Committee has worked on this concept for over two years, and NCBE has appointed a committee to move the idea forward. In July, Bucky and Erica Moeser, President and CEO of NCBE, appeared before a committee of the Conference of Chief Justices to explain and answer questions about the concept. Another presentation is planned for the January 2009 meeting of the chief justices. An article discussing the UBE will appear in the next issue of Syllabus.

Meaningful progress on these and many other important fronts will be possible only if legal educators, judges, bar examiners, practicing lawyers, and relevant sectors of the general public work together. We look forward to working with representatives of all of these groups in developing the best ways to move forward and to fulfill the promise of the exciting proposals currently in play.

Site visits required by the ABA Standards for Approval of Law Schools and the Rules of Procedure for the Approval of Law Schools are organized by the Office of the Consultant on Legal Education. These visits may be regular site visits for fully-approved law schools, which take place every seventh year; visits to provisionally-approved schools, which take place each year; visits to schools seeking provisional approval; and any special site visits that may be ordered by the Accreditation Committee or the Council in accordance with the Standards and Rules of Procedure. If you are interested in serving on a site evaluation team, please contact one of the following persons for more information:

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| 16-18 | Bar Exam Passage Conference  
        Rosemont, Illinois |
| 22-26 | Accreditation Committee Meeting  
       Napa Valley, California |
| **NOVEMBER 2008** |
| 1 | Bar Admissions Committee  
   Rosemont, Illinois |
| 14-15 | Site Evaluators Workshop  
      Rosemont, Illinois |
| 21-22 | Standards Review Committee  
      San Jose, California |
| **DECEMBER 2008** |
| 12-13 | Council Meeting  
      New Orleans, Louisiana |
| **JANUARY 2009** |
| 22-25 | Accreditation Committee Meeting  
      Los Angeles, California |
| 25-27 | Deans’ Workshop at Conference  
      of Chief Justices  
      • Scottsdale, Arizona |
| **FEBRUARY 2009** |
| 11-17 | ABA Midyear Meeting  
      Boston, Massachusetts |
| 13-14 | Council Meeting |
| **MARCH 2009** |
| 12-14 | Facilities Conference:  
       Bricks, Bytes & Continuous Renovation  
       Philadelphia, Pennsylvania |
| **APRIL 2009** |
| 23-25 | Accreditation Committee Meeting  
       New Orleans, Louisiana |
| **MAY 2009** |
| 18-19 | Standards Review Committee Meeting  
       Washington, D.C. |
| 26-29 | Law School Development Conference  
       Jackson Hole, Wyoming |
| **JUNE 2009** |
| 5-6 | Council Meeting  
     • Indianapolis, Indiana |
| 25-26 | Accreditation Committee Meeting  
       Montreal, Quebec, Canada |
| **JULY 2009** |
| 30-Aug. 4 | ABA Annual Meeting  
            Chicago, Illinois |
| 30 | Chairperson’s Dinner |
| 30-31 | Council Meeting |
| 31 | Kutak Award Reception |
| **AUGUST 2009** |
| 1 | Deans’ Breakfast  
   Annual Business Meeting  
   Section Programs |
and serves underserved communities, both in the provision of legal education and in serving the larger community. Charlotte School of Law opened its doors in August 2006 with 85 students and graduated its first class in May 2008. Both full-time and part-time programs are offered. Students are required to complete 20 hours of pro bono service and 10 hours of community services. More than 100 students participated in the Charlotte Law Pro Bono Program in 2007-2008 with 74 community sites or partners. Currently, the school has 290 students, 18 full-time faculty, 5 adjunct faculty, 5 deans, and 30 staff members. The school’s founding dean is Eugene Clark, who previously served as dean at the School of Law, Business and Arts at Charles Darwin University in Australia.

Elon University School of Law, situated in downtown Greensboro, North Carolina, enrolled 115 students in its charter class in the fall of 2006. Elon University was founded as Elon College by the United Church of Christ. In the 1950s, a new charter granted the school autonomy; in June 2001 the school became Elon University. The School of Law is home to the North Carolina Business Court and collaborates on research projects with the nearby American Judicature Society Institute of Forensic Science and Public Policy. Students elect to study extensively in one of four concentrations: litigation, business, public interest, and general practice. Completion of a Capstone Leadership Project is also required for graduation. Elon University School of Law currently has 325 students, 22 faculty and deans, and 20 administrators and staff. Emeritus Founding Dean Leary Davis also helped to found Campbell University’s Norman Adrian Wiggins School of Law and served as its dean until 1986. George R. Johnson, Jr., is serving as interim dean and previously was associate dean and professor of law at Howard University School of Law.
The 2008-09 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 reflects all changes and/or revisions made at the August 2008 Council/Annual Meeting.

Publication Chapters:
Standards for Approval of Law Schools
Rules of Procedure for Approval of Law Schools
Criteria for Approval of Foreign Summer Programs
Criteria for Student Study at a Foreign Institution
Criteria for Approval of Semester Abroad Programs
Statement of Ethical Practices in the Process of School Accreditation
Internal Operating Practices

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