

SYLLABUS

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



Statement of Principles of Accreditation and Fundamental Goals of a Sound Program of Legal Education

By Donald J. Polden, Dean, Santa Clara University School of Law Chair, Standards Review Committee

In Summer 2008, the Standards Review Committee, at the request of the Council of the Section of Legal Education and Admissions to the Bar, initiated a comprehensive review of the Standards for Approval of Law Schools. This periodic re-evaluation of accreditation policies and procedures is required of all agencies approved by the United States Department of Education to perform program evaluations. Moreover, the comprehensive review was preceded by an intense national discussion of the overarching purposes of accreditation review of legal education that cumulated in the Report of Accreditation Policy Task Force. The Report attempted to identify and articulate the policies and practices that were helpful in reviewing law schools' programs

and those that were not and to set an agenda for future review of the accreditation policies in legal education.

As the Committee initiated its review of the Standards, Interpretations of Standards and Rules of Procedure, its members attempted to identify the fundamental principles served by accreditation of law schools and to articulate the fundamental goals of contemporary American legal education. The following statement describes the goals and principles identified by the Committee. It does not provide an exhaustive list of fundamental principles of accreditation and it does not purport to provide an exclusive list of the goals of legal education as practiced in the United States. However, the Committee intends to use

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Gerald Vande Walle to Receive 2009 Kutak Award

The Honorable Gerald W. Vande Walle, Chief Justice of the North Dakota Supreme Court, is the 2009 recipient of the Robert J. Kutak Award. In making the announcement,

Peter Winograd, chair of the Section's Kutak Award Committee, stated "the letters submitted in support of his nomination were extremely impressive..."



I look forward to introducing him at the award reception and to joining with you in celebrating his 50 years of service to the judiciary, the academy, and the legal profession."

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From the CONSULTANT

By Hulett H. Askew, Consultant on Legal Education

The Consultant's Office survived 29 snowstorms in Chicago this winter (but who's counting?) without having to go into hibernation. In fact, it has been a very active winter and early spring. One of the major topics of discussion and concern has been the effect of the economic downturn on legal education in terms of admissions,

student loans, and law-school budgets. As this is written in early April, the initial concern about applications and admissions has abated somewhat in that the Law School Admission Council (LSAC)

reports that 125 schools have experienced an increase in applications for the fall 2009 class. However, both the short-term and long-term effects of the economic "crisis" are still in the forefront of the issues faced by law school administrators.

At its December 2008 meeting, the Council of the Section decided to hold a retreat on these issues at the Council's June 2009 meeting. A subcommittee of the Council has organized a four-hour program titled "Rethinking Legal Education in Hard Times: The Impact of Diminished Finances on Access, the Curriculum, and the Job Market"

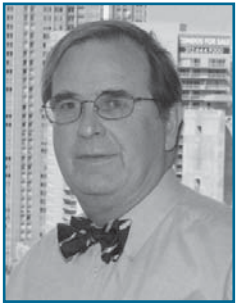
that will engage the Council, its affiliated organizations (AALS, LSAC, NCBE, SALT, AALL, CLEA and others) in a brainstorming session about what the Section can do to ameliorate the effects of the economy on schools. Several outside speakers, who will provide varying perspectives on these issues, have been recruited to participate.

Acting on requests that emerged at the Deans Workshop in January, Gail Agrawal, dean at the University of Kansas School of Law, volunteered to work with the Consultant's Office to organize a specially-called summer Deans Workshop to focus on challenges facing the legal academy in the current economic downturn and whether hard times might be used to create opportunities for long-term improvements. Dean Agrawal has recruited a committee and we are pleased to be able to report that the workshop will be held August 1-2, 2009 at the InterContinental O'Hare. The program is designed to include extensive question-and-answer and discussion sessions as well as separate breakouts for public and private law schools. The annual Deans Breakfast will be held Saturday morning at the InterContinental.

The Standards Review Committee of the Section has also been active, holding meetings in both January and March.

The Committee has launched the comprehensive review of the Standards (as required by the Department of Education regulations), and the process has gotten off to a very constructive start. We encourage you to follow developments with the comprehensive review by reviewing the Standards Review page on the Section Web site (www.abanet.org/legaled/committees/comstandards.html). One new feature of process is the submission of Chair's Notes, through which the committee chair, Don Polden, dean of Santa Clara University School of Law, provides updates on the Committee's work so far and its plan for future meetings. A report from Dean Polden also appears in this issue of *Syllabus*. Your comments are solicited and will be most welcome.

The re-authorization of the Higher Education Act, signed by President George Bush in October of 2008, mandates that the Government Accountability Office (GAO) "conduct a study of, and report to Congress on, the impact that law school accreditation requirements and other factors have on the costs of law school and student access to law school, including the impact of such requirements on racial and ethnic minorities." The GAO began this study in mid-March with a goal of reporting to Congress by mid-August. The Consultant's Office is assisting the GAO in its data gathering and other efforts, including providing historical information about the growth in per-student costs and the reasons therefor. It is also expected that the GAO will contact LSAC regarding application



and admissions information, and also will be interviewing some law school deans and other graduate education accreditors about their perspectives.

In this issue of *Syllabus* you will find the report of the Nominating Committee of the Section. The Committee solicited recommendations from the Section membership for nominees to serve in various capacities on

the Council beginning with the new academic year. The Committee met on April 7, 2009 and produced the slate of nominees reported in this issue. These nominations will be voted upon by the Section membership at the Section's business meeting on July 31, 2009 held in conjunction with the ABA Annual Meeting in Chicago. 🏠

Section Participates in Habitat for Humanity New Orleans Project

On April 16, members of the Accreditation Committee, Section staff, family, and friends picked up hammers, saws, and assorted power tools to help build a home in the New Orleans East neighborhood of the city's Ninth Ward. When the levees broke during the aftermath of Hurricane Katrina in 2005, the area was inundated by eight feet of water. Section volunteers joined others from around the country to cut out windows, build staircases, cut and install flashing, mark chalk lines, apply primer to beams, and install porch planks. The greatest team effort came in the late afternoon when two dozen roof trusses were delivered. In almost balletic fashion, choreographed by the indefatigable Habitat for Humanity field managers, volunteers lifted the trusses and carried them in and around the construction site to stack them safely in the home's backyard.

Thank you to everyone who was involved in this project, from inspiration to planning to building to being there in spirit. 🏠



The Section crew celebrates the end of the workday with their Habitat for Humanity field manager.

Top row: Dan Freehling, Martin Carpenter, Mary McNulty, Becky Stretch, Carl Brambrink

Middle row: Mary Macchiarola, Catherine Carpenter, Judith Reed, Camille deJorna, Jane Johnston

Front row: Lauren Robinson, Cathy Schrage, Nancy Kaye, Eric Trombly

SYLLABUS

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Fall 2008 Law School Enrollment Shows Increases in All Categories

The following is a comparison of Fall 2008 and Fall 2007 enrollment at ABA-approved law schools. The data is taken from Part 2 of the ABA Annual Questionnaires from 2007 and 2008. The comprehensive data show that the overall Fall 2008 J.D. enrollment increased to 142,922 students, compared to 141,719 students in the Fall 2007—an increase of 1,203 students.

Males comprise 53.1% of the J.D. enrollment for 2008 while females comprise 46.9%. Males comprise

52.6% of the first-year enrollment for 2008 while females comprise 47.4%. In 2007, males comprised 52.7% of the first-year enrollment while females comprised 47.3%.

In 2008, minorities comprise 21.9% of total J.D. enrollment compared with 21.6% in 2007. First-year enrollment among minorities is up slightly to 22.7% from 22.4% in 2007. Please note that the law schools in Puerto Rico were not included in the minority enrollment counts. 

	2008	2007	Net Change	Percent Change
Total Law School Enrollment	152,033	150,031	2,002	1.3%
Total J.D. Enrollment	142,922	141,719	1,203	0.8%
Total First Year Enrollment	49,914	49,082	832	1.7%

	2008	2007	Net Change	Percent Change
Total Male J.D. Enrollment	75,954	75,523	431	0.5%
Total Female J.D. Enrollment	66,968	66,196	772	1.2%
	2008	2007	Net Change	Percentage Change
Total Male 1st Year Enrollment	26,007	25,864	143	0.5%
Total Female 1st Year Enrollment	23,407	23,218	189	0.8%

	2008	2007	Net Change	Percent Change
Total Minority J.D. Enrollment	31,371	30,657	714	2.3%
Total Minority 1st Year Enrollment	11,323	11,016	307	2.8%

2009-2010 Council Slate Announced by Nominating Committee

The Nomination Committee has made its recommendations to Randy A. Hertz, Chair of the Section. All of the nominees have indicated their willingness to have their names placed in nomination. The election of Section officers and Council members will occur at the Section's Annual Business Meeting on Friday, July 31, 2009 at the Swissotel Chicago, 323 East Wacker Drive.

Chair

(automatic under the Bylaws)

Jerome C. Hafter is a partner in the Jackson, Mississippi, office of Phelps Dunbar, LLP, which has offices in Louisiana, Mississippi, Texas, Florida, and the United Kingdom. He practices in the areas of business, corporate, and commercial law with a particular emphasis on representing agri-business industries. Mr. Hafter has served as president of the Washington County Bar Association, is a member of the American Law Institute and the American Judicature Society, and a fellow of the Mississippi Bar Foundation. Since 1979 he has served as chairperson of the Mississippi Board of Bar Admissions; from 1989 to 2000 as a member of the Board of Managers of the National Conference of Bar Examiners and its chair from 1998 to 1999. Mr. Hafter received his undergraduate degree, *summa cum laude*, from Rice University where he was a member of Phi Beta Kappa and president of the student association. He attended Oxford University in England as

a Marshall Scholar, obtaining a B.A./M.A. with first class honors in modern history and attended law school at Yale University, where he served as associate editor of the *Yale Law Journal*. Mr. Hafter is the author of numerous published books and articles. He has served on the Accreditation Committee from 1998 to 2002 and the Council since 2000.

Chair-Elect Nominee

Honorable Christine Durham

has been on the Utah Supreme Court since 1982, and has served as chief justice and chair of the Utah Judicial Council since 2002. She previously served on the state trial court after a number of years in private practice. She received an A.B. with honors from Wellesley College and a J.D. from Duke University, where she is a member of the board of trustees. Currently she serves on the board of directors for the National Center for State Courts, is a member of the Council of the American Law Institute, and is a fellow of the American Bar Association. Past professional service includes the governing boards of the American Inns of Court Foundation, the Appellate Judges Conference of the ABA, the Rand Corporation's Institute for Civil Justice, the ABA's Commission on Women in the Profession, and the Federal Judicial Conference's Advisory Committee on the Rules of Civil Procedure. Justice Durham is a past president of the National Association of Women Judges, and was that organization's Honoree of

the Year in 1997. Active in judicial education, Justice Durham was a founder of the Leadership Institute in Judicial Education, helped to create and lead the Utah Coalition for Civic Character and Service Education, and serves on the Utah Commission on Civic Education. She was an adjunct professor for many years at the University of Utah College of Law, teaching state constitutional law, and served for 12 years on the Utah Constitutional Revision Commission. She has received honorary degrees from four Utah universities and has been recognized nationally for her work in judicial education and efforts to improve the administration of justice. In 2007 she received the William H. Rehnquist Award for Judicial Excellence.

Vice Chair Nominee

John F. O'Brien has been dean of New England Law School since 1988. A native of Staten Island, New York, he received a B.A. in 1973 from Manhattan College; a J.D. in 1977 from New England Law School, where he graduated first in his class; and an LL.M. in taxation in 1980 from Boston University School of Law. From 1977 to 1985, he was a senior attorney in the Office of the Chief Counsel of the Internal Revenue Service. In 1985, he joined the faculty of New England Law School, teaching constitutional law and federal income taxation. He served as associate dean for two years before being named dean. Dean O'Brien previously served as chair of both

the Accreditation Committee and the Independent Law Schools Forum of the Section. Before serving as chair of the Accreditation Committee, he was involved in the accreditation process, serving as special fact-finder and as both member and chair of law school evaluation teams. He is admitted to practice in Massachusetts, the United States District Court for the District of Massachusetts, the United States Tax Court, and the United States Supreme Court. He has received honorary doctor of laws degrees from New England Law School (1998) and from his undergraduate alma mater, Manhattan College (2006).

Secretary Nominee

Election to a two-year term

J. Martin Burke served as dean of the University of Montana School of Law from 1988 through 1993. Currently, Professor Burke teaches Federal Tax, Taxation of Property Transactions, Taxation of Business Organizations, Federal Estate and Gift Tax, and Exempt Organizations at Montana and has been a visiting faculty member in the graduate tax programs at New York University, the University of Florida, and the University of Washington. He holds a J.D. from the University of Montana School of Law and an LL.M. from New York University School of Law. Professor Burke is the author of two books: *Taxation of Individual Income* and *Modern Estate Planning*. His Section activities include serving on the Accreditation Committee from 1996 to 2002, serving as chair in 2001-2002; the Standards Review Committee from 2002 to 2005, serving as chair in 2004-2005; and on the Task Force on Accreditation Processes from 2001 to 2003. Professor Burke is a current member of the Section's Council.

Council Member Nominees

Re-election to a three-year term

Joan S. Howland is the Roger Noreen Professor of Law and associate dean for information and technology at the University of Minnesota Law School. Her scholarship focuses on American Indian law and culture, cyber law, business management, legal research methodologies, and law librarianship. She served on the Accreditation Committee from 2001 to 2006 and has served on the Council since 2006. Professor Howland was a member of the Section's Law Libraries Committee from 1992 through 1994 and co-chaired that committee from 1994 through 1996. Professor Howland is active in the Association of American Law Schools, the Law School Admission Council, the American Association of Law Libraries, and the American Indian Library Association. She is a member of the American Law Institute. In 2003, she received the Spirit of Law Librarianship Award for her volunteer work with American Indian populations and with indigenous communities in South America. Professor Howland earned a J.D. from Santa Clara University School of Law, master's degrees in history (University of Texas at Austin), library science (California State University), and business administration (University of Minnesota); and a B.A. from the University of California at Davis. Prior to joining the faculty at Minnesota, she held administrative positions in the law libraries at U.C. Berkeley, Harvard, and Stanford.

Re-election to a three-year term

Dennis O. Lynch is dean emeritus and professor of law at the University of Miami School of Law. He holds a B.A. from the University of Oregon, a J.D. from Harvard Law School, and J.S.D.

and LL.M. degrees from Yale Law School. Professor Lynch was a program advisor in law and urban affairs for the Ford Foundation in Bogotá, Colombia from 1969 to 1972. In 1974 he was appointed to the faculty of the University of Miami School of Law where he taught until 1990, having served as associate dean from 1983 to 1986. He served as dean and professor at University of Denver College of Law from 1990 to 1997, and then returned to the University of Miami School of Law as dean from 1999 to 2008. A nationally recognized authority on Latin American law, employment law, and labor arbitration, Dean Lynch has received several awards and grants, including a Fulbright Scholarship in economics in Venezuela (1965-1966), a Research Fellowship in Law and Modernization (Yale, 1972-1974), and an International Legal Center Research Grant (1974-1977) for the study of the Colombian legal profession. He is active in the Association of American Law Schools, served on the board of the Law School Admission Council, and the Section's Accreditation Committee from 2001 to 2005.

Re-election to a three-year term

Honorable Charles R. Wilson is a judge in the U.S. Court of Appeals in Tampa, Florida. In 1999, President Bill Clinton appointed him to the U.S. Court of Appeals for the 11th Circuit. He earned a B.A. from Notre Dame University and a J.D. from Notre Dame Law School. After a clerkship with Judge Joseph Hatchett of the U.S. Court of Appeals for the Fifth Circuit, Judge Wilson practiced law for five years in Tampa. Subsequently, he was a county judge in Florida, a U.S. magistrate judge in the Middle District in Florida, and a U.S. attorney for the Middle District in Florida.

Judge Wilson is a member of the Advisory Council of the University of Notre Dame Law School, the American Inns of Court, and the American Law Institute. He previously served on the Section's Accreditation Committee.

Nominated to a three-year term

Anthony Caprio, Ph.D., is the president of Western New England College, a post he has held since 1996. Previously he was provost and professor of language and literature at Oglethorpe University in Atlanta. Before joining Oglethorpe University, Dr. Caprio held administrative and faculty positions at American University, Cedar Crest College (Pennsylvania) and Lehman College of the City University of New York. He earned a bachelor's degree from Wesleyan University, where he was named to Phi Beta Kappa, a master's degree and a Ph.D. from Columbia University. Dr. Caprio has written extensively on language and literature and is a frequent speaker on diverse aspects of higher education. In addition to serving on the boards of numerous regional and national boards, Dr. Caprio serves on the National Association of Independent Colleges and Universities (NAICU) Higher Education Act Reauthorization Task Force and the NAICU Committee on Student Aid. From 2002 to 2008, Dr. Caprio served on the Section's Accreditation Committee, including two years (2006-2008)

as vice chair. Additional Section activities include chairing the Subcommittee on Foreign Study Programs from 2005 to 2008 and serving on numerous site evaluation teams.

Nominated to a three-year term

Tracy Allen Giles is a partner in the firm of Giles & Lambert, P.C. in Roanoke, Virginia, where he practices in the field of bankruptcy law. After receiving a bachelor of arts degree from the University of Virginia, Mr. Giles earned a J.D. degree from Mercer University, Walter F. George School of Law. He is admitted to practice in Virginia, the U.S. Court of Appeals 4th Circuit, and U.S. Bankruptcy Court Western District of Virginia. Mr. Giles has served on numerous American Bar Association committees including the Presidential Appointments Committee (2003-2004, 2004-2005), Standing Committee on Membership (2001-present), Standing Committee on Meetings and Travel (2004-present), and the Working Group on Strategic Planning (2004-present). From 1997 to 2000, he served on the ABA Board of Governors, the House of Delegates, and the Board of Governors Finance Committee. Mr. Giles is also active in the Virginia State Bar, currently serving on the executive committee of the Conference of Local Bars, and teaching at Virginia State Bar workshops and conferences. In 1996, the Virginia

State Bar named him the R. Edwin Burnett Jr. Young Lawyer of the Year. He has also received a National Public Service Award from the Federal Emergency Management Agency and the Platinum Key Award from the ABA's Law Student Division.

Nominated to a two-year term

Morgan T. Sammons, Ph.D., is the dean of the California School of Professional Psychology at Alliant International University in San Francisco, California. A fellow of the American Psychological Association and a diplomate of the American Board of Professional Psychology, Dr. Sammons currently serves as president of the National Register of Health Service Providers in Psychology and was specialty leader for U.S. Navy Clinical Psychology. He served as special assistant for mental health to the U.S. Navy's Surgeon General. Prior to that, he served as Director for Clinical Support for the United States Navy Bureau of Medicine and Surgery, directing policy implementation and service delivery for U.S. Navy shore-based military treatment facilities. A prolific author, Dr. Sammons has edited two volumes and published over 40 journal articles. He is an associate editor for the APA journal *Psychological Services*. Dr. Sammons received both his M.C. and Ph.D. from Arizona State University and completed a fellowship

VOLUNTEER OPPORTUNITIES

Site visits required by the *ABA Standards and 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:

Dan Freehling
Deputy Consultant
Phone: 312/988-6743
Email: freehld@staff.abanet.org

Camille deJorna
Associate Consultant
Phone: 312/988-6742
Email: dejornac@staff.abanet.org

in psychopharmacology at Walter Reed Army Medical Center from 1991 to 1994.

Nominated to a three-year term

Kent D. Syverud is the dean and Ethan A.H. Shepley University Professor at Washington University School of Law. Before coming to Washington University in 2006, Dean Syverud was the Garner Anthony Professor of Law at Vanderbilt University Law School for eight years, and spent 1987 to 1997 at the University of Michigan Law School, first as a professor and then as professor and associate dean for academic affairs. Prior to joining legal education, Dean Syverud was an attorney at Wilmer, Cutler & Pickering in Washington, D.C. and clerked for Justice Sandra Day O'Connor at the U.S. Supreme Court and Judge Louis F. Oberdorfer at the United States District Court for the District of Columbia. He is a member of numerous legal education organizations including the Law School Admission Council (chair of the board of trustees, 2005-2007; board member, 1999-2008), the American Law Institute, and was president of the American Law Deans Association from 2003 to 2005. From 1998 to 2004, Dean Syverud was editor of the *Journal of Legal Education*. He was also an expert witness on behalf of the University of Michigan in the case of *Gutter v. Bollinger et al.* before the U.S. Supreme Court. Dean Syverud earned a B.S., *magna cum laude* and Phi Beta Kappa, from the Georgetown University School of Foreign Service; a master's degree in economics from the University of Michigan Rackham School

of Graduate Studies; and a J.D. *magna cum laude* from the University of Michigan Law School where he was Order of the Coif and editor-in-chief of the *Michigan Law Review*. His previous Section activities include serving on the 2006-2007 Accreditation Policy Task Force, co-chairing the 2009 Deans Workshop Planning Committee, and participating on site evaluation teams, several times as chair.

Law Student Division Member Nominated to a One-Year Term

Daniel R. Thies is a third-year law student at Harvard Law School where he is the founder and president of the Harvard Law School Student Bar Association and deputy managing editor of the *Harvard Journal of Law and Public Policy*. He graduated *magna cum laude* and Phi Beta Kappa with a B.A. from Yale University. While at Yale, Mr. Thies headed the Yale Political Union and the Tory Party debating society, and was a volunteer music teacher. In his first year as Law Student Division liaison to the Section, Mr. Thies worked with staff to develop and implement a plan for communicating Section business to law students and to increase law student involvement in the Section activities.

House of Delegates Representative

Nominated to a Three-Year Term
Honorable Ruth V. McGregor is chief justice of the Arizona Supreme Court. She received her B.A. degree, *summa cum laude*, from the University of Iowa in 1964 followed by an M.A. in 1965. Justice McGregor received her J.D., *summa cum laude* from

the Arizona State University College of Law in 1974 after which she entered private practice with the Phoenix firm of Fennemore Craig. In 1981, she accepted a clerkship to Justice Sandra Day O'Connor, returning to Fennemore Craig in 1982, where she continued to practice in the areas of civil trial, administrative and appellate cases in both state and federal jurisdictions. She became a judge of the Arizona Court of Appeals in 1989, serving as vice chief judge from 1993 to 1995 and chief judge from 1995 to 1997; she was elevated to the Arizona Supreme Court in 1997. From 2006-2007, Justice McGregor was the chair of the Section's Council. She has also served on the Section's Standards Review Committee. ■

2008-2009 Nominating Committee

Chair: William R. Rakes, Esq.
Gentry Locke Rakes & Moore, LLP

Lisa Kloppenberg, Dean
University of Dayton School of Law

Leo Martinez, Professor
University of California-Hastings College of Law

Honorable Ruth V. McGregor
Arizona Supreme Court

Richard J. Morgan
Las Vegas, Nevada

Honorable Solomon Oliver, Jr.
United States District Court
Northern District of Ohio

Steven R. Smith, Dean
California Western School of Law

Edward N. Tucker, CPA/ABV
Ellin & Tucker, Chartered

Paulette J. Williams, Professor
University of Tennessee College of Law

For the latest Section news, events, publications and more,
visit the Section's Web site at: www.abanet.org/legaled

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

2009 Annual Meeting

Chicago, Illinois • July 30-August 4, 2009

Section Schedule At-A-Glance

Annual Meeting Headquarters for the Section

Swissotel Chicago, 323 E. Wacker Drive
312.565.0565

Thursday, July 30

7:00 a.m.-6:00 p.m.

Section Office
Lugano Boardroom, 2nd floor

7:30 a.m.-5:00 p.m.

Council Meeting Executive Session
Vevey Salon 1, 2nd floor

6:00 p.m.-9:30 p.m.

Chairperson's Dinner

Friday, July 31

7:30 a.m.-12:00 p.m.

Council Meeting Executive Session
Vevey Salon 1, 2nd floor

1:00 p.m.-5:00 p.m.

Council Meeting Open Session
Vevey Salon 1, 2nd floor

5:30 p.m.-6:00 p.m.

Annual Section Business Meeting
St. Gallen Salon 1, 2nd floor

6:30 p.m.-8:00 p.m.

Kutak Award Presentation and
Section Reception
St. Gallen Salon 2 & 3, 2nd floor

2009 Deans Workshop 2

InterContinental Chicago O'Hare,
5300 North River Road, Rosemont, Illinois
877.270.1390

Saturday, August 1

7:30 a.m.-9:00 a.m.

ABA/AALS/LSAC Deans Breakfast
Cassatt Ballroom D

9:15 a.m.-5:00 p.m.

2009 Deans Workshop 2
General Session and Breakouts
Cassatt Ballroom A, B, C; Pollock A

Sunday, August 2

8:00 a.m.-3:00 p.m.

2009 Deans Workshop 2
General Session and Breakouts
Cassatt Ballroom A, B, C; Pollock A

2009 Deans Workshop 2

The deans of ABA-approved law schools will hold a special follow-up session to their annual meeting to discuss challenges facing the legal academy in the current economic downturn and whether hard times might be used to create opportunities for long-term improvements. The program will feature panels on intracampus roles and budget negotiations; designing short- and long-term spending cuts to minimize adverse effects on core missions; fundraising and other strategic alliances in a down economy; external and internal messages about budgetary impacts; maintaining morale in lean times; and assisting students and alumni in a tight legal employment market. The program is designed to include extensive question-and-answer and discussion sessions as well as separate break-outs for public and private law schools.

Planning Committee

Chair: Gail Agrawal, *Dean, University of Kansas School of Law*
Larry Dessem, *Dean, University of Missouri School of Law*
Margaret Paris, *Dean, University of Oregon School of Law*

David Partlett, *Dean, Emory University School of Law*
Kellye Testy, *Dean, Seattle University School of Law*
Brad Toben, *Dean, Baylor University School of Law*

Expert, Reliable, and Timely Coverage of the Supreme Court: ABA PREVIEW of United States Supreme Court Cases

By Charles Williams and Catherine Hawke, *PREVIEW* Editors
ABA Division for Public Education

In 1965, the Association of American Law Schools' first executive director launched a nonprofit journal designed to help the public understand the role of the Supreme Court. Michael H. Cardozo dubbed his new journal *PREVIEW*. When he died in 1996, the *New York Times* noted that under Cardozo's guidance, *PREVIEW* often called on "distinguished legal scholars to contribute summaries of cases." These articles sought to provide expert analysis of many of the Warren Court's landmark decisions, and for the benefit of the public and press, they sought to do so in language that was easy to understand.

When the American Bar Association agreed to take over the project in 1972, it preserved Mr. Cardozo's editorial vision, and expanded the publication's mandate until, by the mid-1980s, *PREVIEW* was committed to covering every case argued at the Supreme Court rather than just a select few. By the mid-1990s, the ABA was offering articles on each case before oral argument rather than just prior to decision.

Today *PREVIEW* provides expert, plain-language analysis of all cases given plenary review by the Supreme Court. *PREVIEW* issues 1-7 precede the Court's argument sessions from October to April. Each of these issues devotes separate articles to each case slated for oral argument in the upcoming session. These articles, written by experts in the

given area of law, lay out the case facts and history, walk through the arguments on both sides, and discuss the significance of the possible outcomes. *PREVIEW* Issue 8 reviews the just-completed term using a combination of charts, statistics, case summaries, and essays.

Over the years, constitutional scholars have taken note. According to Pepperdine University Professor of Constitutional Law Douglas Kmiec, "*PREVIEW* is more than an outline of pending legal disputes; it is an informed, intelligent, and balanced appraisal of often complex legal argument written in an accessible and timely manner." Many of the nation's leading journalists have become fans as well. In 2009, Linda Greenhouse, Pulitzer Prize-winning reporter and journalist, called *PREVIEW* "an indispensable resource for journalists and other Supreme Court-watchers who need timely and reliable summaries of the facts and arguments in every granted case on the Court's docket."

The Supreme Court itself has concluded that *PREVIEW* furthers the Court's own efforts to inform the public about its work. Thus the Court's Public Information Office hands out free copies to journalists attending oral arguments at the Court, and the Clerk's Office has asked *PREVIEW* to host the Court's merits and amicus briefs on *PREVIEW*'s Web site at www.supremecourtpreview.org. Here viewers can

download free copies of any merits or amicus brief within 48 hours of the time it is filed with the Supreme Court. Other *PREVIEW* Web site features include decision summaries and *PREVIEW* author reactions to the completed oral arguments in select cases, as well as an archive of previous issues.

Subscribers receive an advance electronic copy of each issue by email in addition to the print journal, which is sent by first class mail. Moreover, the email address and telephone number of each expert author is included with every article. Subscribers are welcome to contact *PREVIEW*'s experts with questions, comments, or requests for further discussion.

Today, while a profusion of web-only Supreme Court "preview" services rely on small armies of student workers or law firm associates, the subscribers to ABA's *PREVIEW* of United States Supreme Court cases have made clear they would like us to continue matching subject-matter experts (typically law professors) with each and every case. It is a unique approach, but one that enables *PREVIEW* to continue in its role as a primary resource for constitutional scholars and court-watchers across the country. For information on how to subscribe, or to access *PREVIEW*'s free online resources, visit www.supremecourtpreview.org. 

STATEMENT OF PRINCIPLES

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this statement to guide its work in the comprehensive review of the Standards.

Preamble

Accreditation must serve the goals of the discipline being reviewed, evaluated and “accredited.” The core function of accreditation review is the notion that there are constituencies that rely on the accreditation process for accurate information about accredited programs and institutions, and that, from a consumer protection perspective, the results of accreditation review permit informed judgments to be made about the quality of the accredited institutions.* It is therefore important that we articulate shared notions of the fundamental principles of the process and purposes of accreditation review of law schools and identify the goals of legal education that are being advanced, supported and protected by accreditation review.

Principles of Accreditation Review

The following paragraphs articulate the fundamental principles that guide accreditation review.

Assuring educational quality. Accreditation review in law, as in other disciplines, has as one of its most fundamental goals, to provide assurances to various groups (especially, prospective students) as to the quality of the educational program of schools held out as meeting national accreditation standards. There are at least three aspects to this principle:

1. There is a consumer protection attribute whereby accreditation review provides assurances to potential consumers (e.g., prospective students, prospective employers of law graduates) that the program is credible.

2. The second aspect concerns the assurance of institutional integrity—that is, that the program meets appropriate professional standards for the education of lawyers for multiple employment opportunities and is a program of integrity. So, for example, state supreme courts, state boards of bar examiners, and the U.S. Department of Education rely on accreditation review by a national accreditation agency (for example, the ABA) to fully review, in a principled manner, all law schools whose graduates seek to sit for examination and admission for entry to the profession.

Accreditation must serve the goals of the discipline being reviewed, evaluated, and accredited.

3. Finally, accreditation, especially for new law schools, helps ensure that the law school and, when applicable, its university, is committed to providing a program of legal instruction into the future. In this respect, it is essential that programs and institutions participating in a regime of accreditation review and approval must, through institutional self-examination and planning, constantly improve the quality of education and professional preparedness of its graduates. It is similarly essential that accreditation agencies create appropriate incentives for programs and institutions to improve the quality of their programs.

* This overarching purpose of accreditation is reflected in U.S. Department of Education policies for accreditation agencies’ standards. Section 602.16 states that an agency (such as the ABA) must demonstrate that it has standards “that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits.” The regulation goes on to specify how an agency meets this requirement, including the agency’s publication and enforcement of accreditation standards that address the quality of the institution or program in the following areas:

- (i) Success with respect to student achievement in relation to the institution’s mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates.
- (ii) Curricula.
- (iii) Faculty.
- (iv) Facilities, equipment, and supplies.
- (v) Fiscal and administrative capacity as appropriate to the specified scale of operation.
- (vi) Student support services.
- (vii) Recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising.
- (viii) Measures of program length and objectives of the degrees or credentials offered.
- (ix) Record of student complaints received by, or available to, the agency.
- (x) Record of compliance with the institution’s program responsibilities under Title IV of the Act, based on the most recent student loan default rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and any other information that the Secretary may provide to the agency; ...

Advancing Core Mission of Legal Education.

Accreditation attempts to measure and evaluate the basic requirements and attributes of a fundamental and sound program in legal education that is shared by all law schools. Consistent and uniform evaluation according to appropriate discipline-specific standards is necessary so law schools (like other disciplines' educational institutions) can engage in useful and efficient interactions (e.g., facilitate transfers of students, information sharing and other collaborative enterprises between and among institutions). It also permits agencies, such as state supreme courts and bar admission committees, to approve graduates of those programs to gain admission to practice across the many jurisdictions. Accreditation processes must rely on a common set of basic educational and programmatic attributes shared by the approved schools. This does not mean that all schools should or must have the same mission and purposes, but rather that every school has met the core or essential qualities necessary to be held out as "approved" or "accredited." This balance between a "common" or "shared" mission and individual schools' pursuit of unique attributes or missions is reflected in other disciplines' accreditation processes.

In this regard, then, all accredited law schools share a common overarching mission that accreditation reviews attempt to measure, and, more importantly, to advance and promote. In American legal education, a commonly embraced and overarching mission would be stated something like this: To educate men and women for entry into and ethical participation in the legal profession. A somewhat more elegant, but equally pertinent, description was provided by a member of the committee: An approved law school must have a program of instruction which will develop the cognitive, performance, and professional identity competencies that the profession and the public expect of a lawyer and member of the legal profession.

In addition to a common or "core" mission shared by all law schools, individual law schools should be encouraged to create and provide programs advancing or pursuing other missions without undue interference from the accreditation agency. So, for example, schools should be permitted to advance their programs of interdisciplinary research or scholarly publication, or promotion of student engagement in social justice and public service careers, or to educate lawyers for "county seat" practices so long as the advancement and pursuit of these missions do not impair or impede the institution's ability to meet the fundamental or overarching shared mission of legal education.

Accountability. Accredited institutions have an obligation to be accountable for the funds they take from students and to perform the commitments made to those students and to any profession they serve. One of the most important accountability factors is having sufficient financial resources to meet, at a minimum, the fundamental goals of the educational enterprise and to provide students with the education and professional preparedness necessary for their entry into the profession and success in the careers they choose. Without sufficient resources a law school cannot provide educational programs and career opportunities sufficient to meet the minimum expectations of all legal education.

Moreover, law schools are accountable to their students and other constituencies (such as alumni, university administration, etc.) for the efficient and effective operation of the law school enterprise. Accreditation review can assist law schools in ensuring that sufficient financial resources are dedicated to support the educational missions of the schools and sharing "best practices" in the efficient administration of law school programs

Accreditation review should not unduly burden law schools by imposing costly and extraneous procedures and standards that hamper innovation in legal education or unnecessarily increase the cost of attending law school. Accreditation standards should be measured by, among other things, the costs they are likely to impose on the schools that seek accreditation review and approval.

Finally, accreditation agencies are accountable to the United States Department of Education, which appoints them to serve as the official agency for the discipline, and those agencies should establish and follow policies that ensure ongoing compliance with U.S. Department of Education policies.

Clarity and precision. Accreditation standards and requirements should be clearly stated so that subjectivity and uncertainty during program review are reduced to acceptable levels. Again, the policies and procedures should be carefully drawn to advance the fundamental goals of the discipline. Moreover, accreditation review cannot be unduly intrusive and should be carefully and precisely drawn so that all programs and institutions undergoing review know the meaning and purposes of the standards. Law school accreditation should consider and adopt, where appropriate, the best practices of other professional education accreditation programs and processes. Finally, accreditation standards and requirements should be enforced fairly and consistently.

Assessment of program quality and student learning. Applying the lessons learned and practiced in other disciplines' accreditation review processes, legal education programs and institutions should be measured both by essential program quality indicators (e.g., sufficiency of faculty and adequacy of facilities in light of mission and student body) and by the learning achieved by their students. In the past, most accreditation measurements have been on "input" factors and very little attention has been given to "output" factors. Accreditation review in law, like other disciplines, must move law schools toward articulation and assessment of student learning goals and achievement levels.

Fundamental Goals of a Sound Program of Legal Education

As described above, accreditation policies and procedures must serve to advance the goals of legal education. Therefore, an identification of fundamental goals of legal education will advance an understanding of the proper scope of accreditation review. The fundamental goal of legal education is to provide a sound program of legal education that prepares students for admission to the bar and effective and responsible participation in the legal profession. Constituent aspects of that fundamental goal include (in no particular order of importance):

- Articulate the essential skills and abilities that graduates need to possess to be competent professionals following graduation and to periodically measure the program's ability to impart those skills and abilities.
- Attract and retain a high quality faculty.
- Provide appropriate resources to support the educational mission of the school and support students seeking to qualify for admission to the practice of law and the legal profession.

- Articulate and advance protections to academic freedom of students and faculty.
- Because legal education serves a profession that is committed to inclusiveness and diversity, it must create and advance opportunities for groups underrepresented in the legal profession.
- Instill in students an appreciation for the roles and responsibilities played by lawyers and the legal profession in our society and for the importance of ethical behavior in their work.
- Contribute as an active participant in the processes of advancing the rule of law, strengthening the legal profession, and service to communities and the underserved in our society through pro bono provision of legal services. These contributions can be made by law schools through educational programs (such as internships and clinics), faculty and student scholarship advancing reform of law, and education of law students about their responsibilities as members of the legal profession.

The Standards Review Committee solicits other viewpoints on accreditation practices and principles and on the values advanced and goals served by contemporary legal education. 🏠

Comments should be sent to Charlotte Stretch, Assistant Consultant, ABA Section of Legal Education and Admissions to the Bar, stretchc@staff.abanet.org.

For more information about the Comprehensive Review, visit the Standards Review Committee page at www.abanet.org/legaled/committees/comstandards.html.

UPCOMING CONFERENCES



March 12–15, 2010

Brick, Bytes and Continuous Renovation
Philadelphia, Pennsylvania

May 30–June 1, 2010

New Deans Seminar
Jackson Hole, Wyoming

June 1–4, 2010

Law School Development Conference
Jackson Hole, Wyoming

VANDE WALLE TO RECEIVE 2009 KUTAK AWARD

Continued from page 1

Chief Justice Vande Walle was admitted to the practice of law in North Dakota in 1958 and accepted an appointment as Special Assistant Attorney General. He is also admitted to practice in the North Dakota Federal District Court, the United States Eighth Circuit Court of Appeals, and the United States Court of Appeals for the Armed Forces. In 1975, Justice Vande Walle was appointed First Assistant Attorney General and spent 20 years working in the Attorney General's office. During that time, he held several portfolios, including the education portfolio for elementary, secondary, and higher education. He also served as the legal advisor to the State Board of Education and many of the colleges and universities administered by the board.

Appointed by Governor Arthur Link to fill a vacancy on the North Dakota Supreme Court in August 1978, Justice Vande Walle was elected to a full term in November of that year and was appointed Chief Justice in January 1993. U.S. Supreme Court Chief Justice Rehnquist appointed him to the Federal-State Jurisdiction Committee of the Judicial Conference of the United States, a post he held from 1997 to 2004.

Justice Vande Walle has also served as president of the board of directors of the Conference of Chief Justices (CCJ), chaired the National Center for State Courts (2000-2001), the Federal-State Tribal Relations Committee of the CCJ (1996-1998) and was the first chair of the North Dakota Judicial Conference (1985-1987). He served as chair of the Section of Legal Education and Admissions to the Bar from 2001 to 2002 and co-chaired the Section's Bar Admissions Committee from 1991 to 1999.

Justice Vande Walle earned a bachelor of science degree with honors from the University of North Dakota and a J.D., *magna cum laude*, from the University of North Dakota School of Law, where he edited the *National Dakota Law Review* in his senior year.

Robert J. Kutak was a founding partner of the national law firm of Kutak Rock, LLP. Kutak, who passed away in 1983, dedicated his career to public

service and the improvement of legal education and the legal profession. The Section of Legal Education and Admissions to the Bar and Kutak Rock established the Robert J. Kutak Award in 1984. The award is given annually to an individual who has contributed significantly toward increased cooperation between legal education, the practicing bar, and the judiciary.

Justice Vande Walle will receive his award during the ABA Annual Meeting at the Kutak Award Reception on Friday, July 31, at 6:30 p.m. at the Swissotel in Chicago. <#>

2009 Kutak Committee

Chair: Peter A. Winograd
Professor Emeritus
University of New Mexico School of Law

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Robert MacCrate, Esq.
Sullivan & Cromwell LLP

Harold L. Rock, Esq.
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Honorable Randall T. Shepard
Supreme Court of Indiana

E. Thomas Sullivan
Provost
University of Minnesota

Robert K. Walsh
Professor
Wake Forest University School of Law

Diane Yu
Chief of Staff and Deputy to the President
New York University

CALENDAR



JUNE 2009

- 5-6** Council Meeting • Indianapolis, Indiana
25-26 Accreditation Committee Meeting
Montreal, Canada



JULY 2009

- 11** Site Evaluation Questionnaire Training
Rosemont, Illinois
13-14 Standards Review Committee Meeting
Chicago, Illinois
30-Aug 4 ABA Annual Meeting • Chicago, Illinois
30 Chairperson's Dinner
30-31 Council Meeting
31 Annual Business Meeting
Kutak Award Reception



AUGUST 2009

- 1** Dean's Breakfast • Rosemont, Illinois
1-2 Dean's Workshop • Rosemont, Illinois
8 Annual Questionnaire Training
Rosemont, Illinois



SEPTEMBER 2009

- 12** Site Team Chairs Workshop
Chicago, Illinois
25-27 Joint Council/Accreditation
Committee Retreat • Rosemont, Illinois



OCTOBER 2009

- 9-10** Standards Review Committee Meeting
Chicago, Illinois
22-25 Accreditation Committee
Aspen, Colorado



NOVEMBER 2009

- 14** Site Evaluators Workshop
Rosemont, Illinois



JANUARY 2010

- 21-23** Accreditation Committee Meeting • TBD



FEBRUARY 2010

- 3-9** ABA Midyear Meeting • Orlando, Florida



MARCH 2010

- 10-12** Bricks, Bytes and Continuous
Renovation • Philadelphia, Pennsylvania



APRIL 2010

- 16-17** Accreditation Committee • TBD



JUNE 2010

- 24-27** Associate Deans Conference
Minneapolis, Minnesota
25-27 Accreditation Committee • TBD

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