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Planning for an Eventful Year

Greg Murphy
Billings, Montana
Council Chair

Another year for the Council begins with the Council’s retreat and first meeting this month. Among the duties of the chair is to plan the year with the approval of the Council. It looks to be an eventful year.

Elsewhere in this publication Barry Currier, our managing director, perceptively observes that our Standards and Rules of Procedures were built for a different time. The basic structure was conceived many years ago. As with form insurance policies and loan documents, many additions and amendments have been made to the Standards and Rules as issues have arisen and needs were perceived. The new Standards Review Committee, which combines the work and function of the old Standards Review and Data Policy and Collection committees has its hands full merging the operations of the previous committees and dealing with the proposals already on the table, and the usual tasks of the two former committees. Therefore, with the approval of the Council, I intend to appoint a new committee to think about what the Standards and Rules would look like if one were to start from scratch. It may well be that we reduce the length and complexity of the Standards and still fulfill the basic mission of helping to assure quality legal education in this country that gives reasonable assurance that students who invest large sums of money are admitted to the profession upon graduation.

Speaking of admission upon graduation, the Council will be considering a recommendation from Standards Review to amend Standard 316, the “bar passage standard,” to bring clarity and enforceability. There is no question a consensus has developed that the existing Standard is problematical. Some have voiced concern that the new proposed Standard—that a school must demonstrate that at least 75% of its graduates are admitted to a bar within two years of graduation—represents a significant change. In truth, 75% does not. When I served on the Accreditation Committee back in the first half of the last decade the practice was to require a school to report to the committee what it was doing to bring itself into compliance with the Standards when a school’s first-time bar passage rate fell below 75%. And, the existing Standard 316 contains 75% first-time bar passage as a safe harbor. There are those who have, and will, make credible arguments that 75% is too low, particularly if the measuring period for compliance is two years. This is a normative judgment the Council will make. The high
cost of education and the assumption of largely nondischargeable debt by large numbers of law students will be key factors affecting that judgment.

I also intend to ask the Council to consider a major restructuring of the accrediting bodies, the Accreditation Committee, the Council, and the Appeals Panel. Having participated in and observed the accreditation project for several years, I am struck by how long it takes for applications to be processed, reviews of schools to take place, and decisions to be made. I am convinced we can achieve better efficiencies, achieve substantial savings, and still provide a careful and thoughtful process.

We receive on a regular basis large amounts of data from schools, data that often drives accreditation decisions, but our technology for managing that data is woefully out-of-date. Investment in a better system is needed. With better data management the staff and the decision makers will be better equipped to focus attention and energy where they ought to be directed.

There are those who say legal education is in crisis. The hand wringing is overwrought. To be sure, the precipitous drop in the application pool, and the lack of a sustained rebound has brought challenges throughout legal education, and there are some schools that appear to be struggling. Yet, there are plenty of signs that schools are moving to adapt to a new environment. More importantly, we in the United States still enjoy the most robust legal education system in the world, a system that affords unparalleled opportunities to enter an ancient and honored profession. Onward and upward!
From the Managing Director: A Fresh Start?

Barry Currier
Managing Director

What if the ABA law school accreditation process were redesigned from scratch?

In the wake of the review of the Council’s application to obtain re-recognition of the ABA law school accreditation process by the United States Department of Education, this is a worthwhile question to ask. Members of NACIQI (the U.S. Department of Education’s advisory group on accreditation determinations) raised questions about why the ABA accreditation standards did not directly address matters such as student debt and the changing job market. The recent comprehensive review of the Standards accomplished important and fundamental improvements. They are, however, modifications to a set of rules and an approach that has served the legal profession and law schools well for many decades. The question is whether they are appropriate and optimal for the current environment.

We know that the ABA Standards, like the standards of many accreditors, historically focused more on institutional/programmatic inputs than outputs. The ABA Standards and process paid much more attention to student credentials and the size and structure of the faculty than they did on how well the program worked (learning accomplished, graduation and bar exam pass rates, and success in the profession).

New standards require schools to develop learning outcomes, implement a process to assess how programs are working, and make improvements on the basis of those program reviews. It will, however, take time for this shift to be fully realized. Cutting against these changes are calls for the process to continue conditioning accreditation on perhaps the primary input measure, entering class credentials. Given the cost of law school, this focus may be appropriate to guard against schools enrolling students who, based upon their credentials, have very little chance of success. But, input measures they are. We are still of two minds on the outputs/inputs question.

Outside of legal education, the role of accreditation is evolving. Accreditation will certainly step up its collection and public reporting of data about schools and programs. Beyond the gathering and reporting of data to facilitate the operation of the higher education market, many want accreditors to play a much more active and stronger role in managing that market, based on the data being collected. This is
justified in part on the reality that the federal government is the primary funder of higher education and wants assurance that it is getting its money’s worth.

It seems clear that a 21st century law school accreditation system needs to move with more dispatch and to be more flexible. It needs to find ways to encourage (rather than just making space for) innovation. And it needs to deal with a set of approved programs and institutions that have varied capacities and missions, which send graduates into substantially different parts of the legal services marketplace, one that is going through its own fundamental change.

Should the Standards address more directly the number of law schools (or seats in law schools), the cost of law school (or the allowable debt), and job placement rates? Would Standards on these topics be acceptable under existing law?

If a concern is creating “practice-ready” law school graduates, should a new set of Standards be much more prescriptive on the content of the academic program that schools must offer or require of their students? Currently, the Standards say very little in this regard, although there has been a move to require more skills training, including legal writing, in the last decade or two. On the other hand, many observers note that the Standards should be more, not less, flexible, to allow schools to pursue their different missions and serve their different markets. How should the Standards reconcile or accommodate these two fundamentally different points of view?

If a (or the) fundamental role of accreditation is to establish and enforce minimum standards for the protection of the public, what should be written on the blank sheet of paper for a new built –from-scratch law school accreditation process? Remembering that the ABA Standards play the role of establishing the education that a graduate from an ABA-approved law school must present to be eligible to sit for the bar examination in every admitting jurisdiction, what would be on your list of essential requirements for J.D. programs?
Section Spotlight: Are You Getting the Most from Your ABA Membership?
ABA Insurance, Complimentary Meeting Services, Free Career Advice, and More

Erin Ruehrwein
Section Director

While this column often focuses on the activities of the Section, I wanted to take some time to highlight the many ABA member benefits and programs that are currently available to you. The ABA has launched a number of new benefits this year including ABA Insurance, ABA Leverage, ABA Legal Career Central, 10 Questions Live, free membership for law students, and a growing list of companies in the ABA Advantage discount program. I hope you are able to benefit from some or all of these offerings.

ABA Insurance
www.ABAinsurance.com

The ABA has launched a new insurance program designed especially for ABA members and their families. It offers a suite of insurance products and financial solutions, as well as unique coverage options, competitive pricing, and exceptional service. In some cases, the savings cover or exceed the cost of your membership dues.

ABA Leverage – Complimentary Meeting Services & Contracting
www.ABAleverage.org

Now, your law school, firm, or legal association can use the ABA’s expertise and buying power to book your meetings. Use our leverage to negotiate special pricing, perks and upgrades while saving time and money.

Buying Power - With over $16 million in annual meeting spend, contracting 325 legal meetings a year and over 82,000 hotel rooms worldwide, the ABA can use its volume buying power to secure discounted hotel rates and added concessions for your next meeting.

Expertise - Every member of the ABA Leverage team has over 10 years of experience focused on serving the legal community.
Industry Connections - We have strong relationships with all the major hotel brands, independent properties, and convention centers.

Contract - We have a proprietary contract universally accepted by hotels, saving you time while minimizing your risk and exposure.

ABA Legal Career Central
www.abalcc.org/
ABA Legal Career Central delivers a reservoir of information and inspiration for pre-law, law students, lawyers, and legal professionals everywhere, dispensing advice through publications, postings and programming. Access the job board, career resources, and the free career advice series.

ABA Essentials
http://www.americanbar.org/cle/essentials.html
This new series offers introductory level programs covering the basics of core practice areas in an effort to help new and transitioning lawyers increase skill sets, expand opportunities and become stronger, well-rounded counselors.

ABA’s 10 Questions Live
https://www.americanbar.org/resources_for_lawyers/10-q-live.html
This new monthly Google Hangout features innovative lawyers whose careers follow unexpected paths.

You can follow 10 Questions Live each month in the ABA Journal and submit questions during registration, as well as live during the program. Past programs are posted on the website and you can now register for the November program.

FREE Law Student Membership
http://abaforlawstudents.com/why-join/
Law students can join the ABA, as well as up to 5 entities, for free. As an ABA member, students gain access to exclusive discounts; career guidance; access to specialized legal programming, online content, and in-person events; and valuable opportunities to connect with other law students, experienced attorneys, judges, and other legal professionals.

We encourage schools to enroll their students if they haven’t done so already, and urge law students to encourage their classmates to participate in this tremendous membership program. Contact the membership department at lawschoolinfo@americanbar.org to get started.

ABA Member Discounts and Offers
www.ambar.org/advantage
ABA Advantage companies offer discounts on a variety of products and services in the areas of hotel, travel, lifestyle, office, insurance, finance, technology, and legal education. Members can save on
products and services from companies such as Hertz, Hilton, Brooks Brothers, Bank of America, Office Depot, Lenovo, BARBRI, and more.

While this is a just a short list of the benefits you receive with your ABA membership, I encourage you to visit the ABA membership page to ensure you’re making the most of it.
Summary of September 2016 Standards Review Committee Actions

The Section’s Standards Review Committee met on Saturday, September 10 in Chicago. The committee reviewed a number of proposals for changes to the ABA Standards for Approval of Law School and Rules of Procedure that had been approved by the Council for notice and comment, including a proposal regarding Standard 316 relating to bar passage outcomes that a school must maintain to be in compliance with the Standard.

After discussion, the committee unanimously voted to recommend to the Council that it adopt the proposal on Standard 316. As the meeting materials detail, that proposal would accomplish several important reforms and improvements to assist the Council and its Accreditation Committee in assuring that schools are offering sound programs of legal education and operating sound admissions policies. The Council will consider the matter at its October 21-22 meeting.

Other matters reviewed and recommended for adoption by the Council included proposals for modification to Standards 204 (Self Study), 303 (Curriculum), 501 (Admissions).

Approximately two weeks prior to the October Council meeting, the open session agenda materials will be posted here. They will include a memorandum reporting these recommendations and providing background and discussion.
ABA Annual Meeting in San Francisco

In addition to conducting business at the ABA Annual Meeting each summer, the Section gathers to celebrate the accomplishments of the past year. At the Chair’s Dinner, outgoing Council member Josephine Bahn, Leo Brooks, Michael Davis, and Joan Howland were honored for their service and Rebecca Berch was thanked for her term as chair.

On Friday evening, Pauline Schneider was presented with the 2016 Robert J. Kutak Award. Pauline, who recently retired from private practice, chaired the Section from 2003 to 2004, served as both chair and member of the Accreditation Committee, and represented the Section in the House of Delegates. To read more about Pauline’s contributions to the legal community, visit the Kutak Award page.

Immediate Past Chair Joan Howland accepted her service award from Chair Rebecca Berch
Greg Murphy, chair-elect, presented Chair Rebecca Berch with an inscribed Louisville Slugger.

Kutak Committee Chair Jeffrey Lewis presented Pauline Schneider with a plaque commemorating her award.
Previous Kutak Award recipients celebrated with Pauline Schneider at the 2016 reception.

(left to right) Peter Winograd, Jim White, Jeff Lewis, Pauline Schneider, Gerry VandeWalle, Nina Appel, Erica Moeser, John O’Brien
Navigating the Waters of Student Debt

For the second year in a row, the Section cosponsored a program with the Law Student Division on managing debt. Titled "Navigating the Waters of Student Debt," the panel discussion addressed the current landscape of law school student debt, managing debt, loan consolidation and forgiveness, repayment options, and student loan resources and financing.

The panel members included Raul Velez, a student at Syracuse University College of Law; Rosanna L. Woods, director of financial aid at the University of San Francisco School of Law; Dan Macklin, co-founder and vice president at SoFi; and Alyssa L. Thaden, director of financial education for Access Group.
New Dean Appointments

Concordia University School of Law
Interim Dean Jilma Meneses

Judge Advocate General’s Legal Center and School
Randall Bagwell

Temple University James E. Beasley School of Law
Interim Dean Gregory Mandel

Texas Southern University Thurgood Marshall School of Law
Interim Dean James Douglas

Touro College Jacob D. Fuchsberg Law Center
Harry Ballan
Third Party Comments Invited for Law Schools Undergoing Accreditation Site Visits in Spring 2017

The law schools listed below are scheduled for sabbatical, provisional, or full approval site evaluation visits in Spring 2017. Any additional visits scheduled after this notice will be posted on the Section’s website.

Consistent with Internal Operating Practice 3(a), written comments related to current compliance with the Standards for the Approval of Law Schools may be submitted to the ABA Section of Legal Education and Admissions to the Bar. Comments on law schools with visits in Spring 2017 should be sent by January 15, 2017. Please click on the link to submit third party comments.

Law schools undergoing accreditation site visits in Spring 2017 are:

- American University (Sabbatical)
- University of Arkansas-Little Rock (Sabbatical)
- Boston University (Sabbatical)
- University of California-Los Angeles (Sabbatical)
- CUNY School of Law (Sabbatical)
- Florida International University (Sabbatical)
- University of Hawaii (Sabbatical)
- Lincoln Memorial University (Provisional Two-Year Interval)
- Louisiana State University (Sabbatical)
- University of Minnesota (Sabbatical)
- University of Montana (Sabbatical)
- New York University (Sabbatical)
- Northern Illinois University (Sabbatical)
- Nova Southeastern University (Sabbatical)
- University of Puerto Rico (Sabbatical)
- College of William & Mary (Sabbatical)
- Yeshiva University (Sabbatical)
Section Publishing Opportunities

The ABA Section of Legal Education and Admissions to the Bar publishes an array of books in fulfillment of its dual mission as the nationally recognized accrediting body for American law schools and as a creative national force for quality legal education.

The Section's publications program offers writing opportunities for both book and periodical publications. On the Syllabus home page, you will find guidelines for writing for the Section's newsletter. If you are interested in book publishing, visit the ABA Publishing site for author guidelines and the author book proposal form.