

Council of Legal Education Meeting Summary

November 3, 2017

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I. Employment Outcomes Reporting Form

Revisions to the reporting form were approved. A legend was included to reduce the form to one page. In addition, clarification was needed to avoid a law school from counting a student in more than one place on the form and for school-funded jobs.

II. ABA Young Lawyer's Division Request

The YLD Council requested the Council to modify its bylaws to mandate young lawyer representation on the council. Specifically, the YLD Council wanted two spots reserved for young lawyers. The discussion centered on two points: (1) if this was granted, what is to stop other groups from also demanding a specified number of positions on the board; and (2) whether any representative of the YLD had ever been nominated or encouraged to self-nominate, and then denied.

The Council denied the requests. At the same time, they encouraged the YLD representative to reach out to its membership about serving on the Council and to encourage nominations from the YLD, itself. Council members encouraged the YLD members to serve on its various committees and site visit teams before jumping to the Council.

III. Standards

A. Standard 106 Separate Locations and Branch Campuses: The Council adopted the proposed changes to resolve an inconsistency between Standard 106(b)(1) and Rule 30(b)(1) of the Department of Education regarding acquiescence and branch campuses. The approved change:

Rule 106

(b) In addition to the requirements of section (a), a branch campus must:

(1) Establish a reliable plan that demonstrates that the branch campus has achieved substantial compliance with the Standards and is reasonably likely to achieve full compliance with each of the Standards within three years of the effective date of acquiescence as required by Rule 30;

Deleted: be in substantial

B. Standard 403 Instructional Role of Faculty: The Standards Review Committee recommended a revision that would remove the requirement on the percentage of the overall upper-level curriculum that must be taught by full-time faculty. Instead, the only requirement related to upper-level curriculum teaching would be that a law school "ensure effective teaching by all persons providing instruction to its students."

Rule 403

- (a) The full-time faculty shall teach substantially all of the first one-third of each student's coursework.
- (b) A law school shall ensure effective teaching by all persons providing instruction to its students.

Deleted: The full-time faculty shall also teach during the academic year either (1) more than half of all of the credit hours actually offered by the law school, or (2) two-thirds of the student contact hours generated by student enrollment at the law school.

Law schools would then have the ability to staff courses with more adjuncts than full-time faculty. The potential result in the extreme would be the use of adjuncts for all upper-class courses.

The provision went out for notice and comment in July. Fifteen comments were received, including our own. We were joined with thirteen others voicing opposition to the revision. The only arguments in favor of the revision were the increased "flexibility" in hiring to allow for more "innovation." The Standards Review Committee approved moving the revision forward to the Council by a vote of six in favor and three opposed.

The Council on Legal Education continued its discussion in light of these comments. The revision did not receive the support of the Council majority. As a result, the current standard remains in effect.

C. Standard 504 Admissions Test

Rejected the proposal that had been circulated for notice and comment on Standard 503 to create a national certification process for law school admissions tests and to remove the ability of schools to develop and validate tests suitable for their school. Instead, the Council approved for notice and comment a proposal to remove the requirement of a law school admissions test from the Standards and to revise Standard 501 to move various factors related to a sound admissions policy that are outlined in Interpretation 501-2 into the black letter of the Standard 501.

The result of these changes would be that the requirement of a "valid and reliable" admissions test would be removed from the standards, but an admissions test would be one of the factors to be considered in determining whether a law school complied with Standard 501.

D. Standard 316 Bar Passage

Deferred action for now on taking the proposed change related to Standard 316 (bar passage) again to the House of Delegates. In February 2017, the House of Delegates rejected the Council's request to make Standard 316 more effective, in part by making it more straightforward and simple. The Council expressed no desire to modify any of the specific revisions that it had previously approved, but concluded that it should take more time and engage in more dialogue with those who expressed concerns about the revisions before deciding whether and how to move forward. The final decision on such a change rests with the Council.

E. Restructuring the Council and Committees

Moved ahead with a proposal for restructuring operations, including folding the work of the two major committees (Standards Review and Accreditation) into the Council. The change would also extend to ten years from seven the scheduled law school accreditation reviews. The proposed changes will also be put out for notice and comment.

F. Other actions

Put out for “notice and comment” several other changes to standards, including a change to Standard 306 that would modestly increase the percentage of course work a student could take through online courses without a variance.