American Bar Association
Section of Legal Education and Admissions to the Bar
Standards Review Committee

Chapter 1 – General Purposes and Practices; Definitions

REDLINE -- DRAFT after July 2011 Meeting

Strike-outs and underlines show changes from the current standards.

Standard 101. BASIC REQUIREMENTS FOR APPROVAL

A law school approved by the Association or seeking approval by the Association shall demonstrate that its program is consistent with sound legal education principles. It does so by establishing that it is being operated in compliance with the Standards.

Interpretation 101-1
To enable the Accreditation Committee and Council to determine whether a law school has demonstrated that its program of legal education is consistent with sound legal education principles and is being operated in compliance with the Standards, a law school shall furnish an annual questionnaire, self-study, site evaluation questionnaire, and such other information as the Accreditation Committee and Council may require. These documents must be complete and accurate and submitted timely in the form specified. The information provided by these means not only informs the Council about the status of each law school but also enables the Council, in meeting its obligations with respect to legal education as a whole, to ascertain national norms of legal education, areas in which improvements are being made, and those where further attention is needed.

Interpretation 101-2
Accreditation or approval of a law school by the American Bar Association is not transferable. A transfer of all, or substantially all, of the academic programs or assets of (1) a law school or (2) a university or college of which the law school is a part does not include the transfer of the law school's accreditation status.

Standard 102. PROVISIONAL APPROVAL

(a) A law school shall be granted provisional approval ~~only~~ if <u>at the time it seeks approval</u> it establishes that it ~~is in~~ <u>has achieved</u> substantial compliance with each of the Standards and presents a reliable plan for bringing the law school into full compliance with the Standards within three years after receiving provisional approval. <u>A provisionally approved law school may apply for full approval no earlier than two years after receiving provisional approval and must obtain full approval within five years.</u>

(b) A law school that is provisionally approved may have its approval withdrawn if it is determined that the law school is ~~not~~ <u>no longer</u> in substantial compliance with the

Standards or that the law school is not making adequate progress toward ~~coming into~~ achieving full compliance with the Standards.

(c) If five years have elapsed since the law school was provisionally approved and it has not ~~qualified~~ been granted ~~for~~ full approval, provisional approval shall lapse and the law school shall automatically be removed from the list of approved law schools unless, prior to the end of the five **year period, in an extraordinary case and for good cause shown, the Council extends the time within which the law school must obtain full approval.**

~~(c) A law school shall confer the J.D. degree contemporaneously with the time academic requirements for the degree are completed.~~

(d) A provisionally approved school shall not offer a post-J.D. degree program, a summer or other program in a foreign country, or seek to establish a branch or satellite campus.

(e) A provisionally approved law school shall state that it is provisionally approved in all of its printed and electronic materials describing the law school and its program and in any other publication that references the law school's accreditation status.

(f) An unapproved law school seeking provisional approval shall make its status clear in any printed and electronic materials describing the law school and its program and in any other publication that references the law school's accreditation status. At a minimum, the law school shall state the following in such communications:

> **The Law School makes no representation to any applicant that it will receive accreditation from the American Bar Association prior to the graduation of any matriculating student.**

(g) A law school seeking provisional approval shall not delay conferring a J.D. upon a student in anticipation of obtaining approval; an approved law school may not retroactively grant a J.D. degree to a student who graduated from the institution prior to its approval.

Interpretation ~~102-2~~ 102-1

In order to establish that it has a reliable plan to come into full compliance with the Standards within three years after receiving provisional approval, a law school must clearly state the specific steps that it plans to take to bring itself into full compliance and must show that there is a reasonable probability that such steps will be successful.

Interpretation ~~102-1~~ 102-2

~~Substantial compliance must be achieved as to each of the Standards. Substantial compliance with each Standard is measured at the time a law school seeks provisional approval.~~ Plans for construction, financing, library improvement, and recruitment of faculty which are presented by a law school seeking provisional approval do not, in themselves, constitute evidence of substantial compliance.

~~***Interpretation 102-3***~~
~~*A law school seeking provisional approval may not offer a post-J.D. degree program. The primary focus of a school seeking provisional approval should be to do everything necessary to comply with the Standards for the J.D. degree program.*~~

~~***Interpretation 102-4***~~
~~*A student at a provisionally approved law school and an individual who graduates while the school is provisionally approved are to be entitled to the same recognition given to students and graduates of fully approved law schools.*~~

~~***Interpretation 102-5***~~
~~*An approved law school may not retroactively grant a J.D. degree to a graduate of its predecessor unapproved institution.*~~

~~***Interpretation 102-6***~~
~~*A provisionally approved law school shall state in all of its printed and electronic materials generally describing the law school and its program and in any printed and electronic materials specifically targeted at prospective students that it is a provisionally approved law school. Similarly, when it refers to its approval status in publicity releases and communications with all students, applicants or other interested parties, it shall state that it is a provisionally approved law school.*~~

~~***Interpretation 102-7***~~
~~*An unapproved law school seeking provisional approval must include the following language in all of its printed and electronic materials generally describing the law school and its program and in any printed and electronic materials specifically targeted at prospective students:*~~

> ~~*The Dean is fully informed as to the Standards and Rules of Procedure for the Approval of Law Schools by the American Bar Association. The Administration and the Dean are determined to devote all necessary resources and in other respects to take all necessary steps to present a program of legal education that will qualify for approval by the American Bar Association. The Law School makes no representation to any applicant that it will be approved by the American Bar Association prior to the graduation of any matriculating student.*~~

~~***Interpretation 102-8***~~
~~*In most jurisdictions an individual cannot sit for the bar examination unless he or she has graduated from a law school fully or provisionally approved by the American Bar Association. However, the determination of qualifications and fitness to sit for the bar examination is made by the jurisdiction's bar admission authorities.*~~

~~***Interpretation 102-9***~~
~~*A law school seeking provisional approval shall not delay conferring a J.D. degree upon a student in anticipation of obtaining American Bar Association approval.*~~

~~***Interpretation 102-10***~~

~~*An individual who matriculates at a law school that is provisionally approved or who is a student enrolled in a law school at the time it receives provisional approval and who completes the course of study and graduates from that school within a typical and reasonable period of time is deemed by the Council to be a graduate of an approved law school, even though the school loses its provisional approval status while the individual is enrolled in the school.*~~

Standard 103. FULL APPROVAL

(a) A law school is granted full approval if it establishes that it is in full compliance with each of the Standards. ~~and it has been provisionally approved for not fewer than two years.~~

(b) Within three years after being granted its initial full approval, a law school shall not seek to establish a branch or satellite campus.

~~(b)~~(c) Sanctions~~, including probation and removal from the list of law schools approved by the Association,~~ for failure to comply with the each of the Standards may be imposed upon a law school as provided by the Rules of Procedure. ~~in Rules 16 and 17 of the Rules.~~

~~***Interpretation 103-1***~~
~~*An individual who matriculates at a law school that is then approved and who completes the course of study and graduates in the normal period of time required therefore is deemed to be a graduate of an approved school, even though the school's approval was withdrawn while the individual was enrolled therein.*~~

~~***Interpretation 103-2***~~
~~*In the case of an approval required as the consequence of a major change in organizational structure, the minimum time period of two years stated in this Standard may be modified and/or conditioned pursuant to Rule 20 of the Rules of Procedure for Approval of Law Schools.*~~

Standard 104. [Reserved]

Standard 105. MAJOR CHANGE IN PROGRAM OR STRUCTURE
Before a law school makes a major change in its program of legal education or organizational structure it shall obtain the acquiescence of the Council for the change. ~~Subject to the additional requirements of subsections (1) and (2), a~~ Acquiescence shall be granted only if the law school establishes that the change will not detract from the law school's ability to remain in compliance or adversely affect the school's efforts to come into compliance ~~meet the requirements of~~ with each of the Standards.

~~(1) If the proposed major change is the establishment of a degree program other than the J.D. degree, the law school must also establish that it meets the requirements of Standard 308.~~

~~(2) If the proposed major change involves instituting a new full-time or part-time division, merging or affiliating with one or more approved or unapproved law schools, acquiring another law school or educational institution, or opening a Branch or Satellite campus, the law school~~

~~must also establish that the law school is in compliance with the Standards or that the proposed major change will substantially enhance the law school's ability to comply with the Standards.~~

[Interpretations 105-1 to 105-5 deleted and not shown here]

Interpretation 105-~~6~~ 1
The Council has delegated to the Accreditation Committee the authority to grant acquiescence in the types of major changes ~~listed in Interpretations 105-1 (4), (5), and (6)~~ identified in Rules of Procedure 20 and 21.

Standard 106 SEPARATE LOCATION

(a) A law school that offers courses for credit at a separate location (other than studies in a foreign country pursuant to Standard 311) which is not within reasonable proximity to the main law school campus and at which a student could take the equivalent of 16 or more but not more than two thirds of the semester credits toward a J.D. degree must provide the following at the separate location:

(1) Full-time faculty of the law school who teach the major portion of the curriculum, including substantially all of the first one third of each student's coursework, and who are reasonably available at the separate location for consultation with students;

(2) Library resources and staff that are adequate to support the curriculum offered at the separate location and that are reasonably accessible to students at the separate location;

(3) Academic advising, career services and other student support services that are adequate to support the program offered at the separate location and that are reasonably equivalent to such services offered to similarly situated students at the law school' s main campus;

(4) Access to co-curricular activities and other educational benefits that are reasonably equivalent to such activities and educational benefits offered to similarly situated students at the law school's main campus; and

(5) Physical facilities and technological capacities that are adequate to support the curriculum offered and the student body at the separate location.

(b) If a student could earn more than two thirds of the credit hours that a law school requires for the award of a J.D. degree at the separate location, the law shall meet the requirements of subsection (a) prior to acquiescence and apply for approval for the separate location under the provisions of Standard 102 and 103.

(c) A separate location that meets the criteria of subsection (a) of this Standard shall be known as a satellite campus; a separate location that meets the criteria of subsection (b) shall be known as a branch campus.

Interpretation 106-1
It is sufficient for a school with satellite or branch campuses to have one dean for all campuses.

Interpretation 106-2
For purposes of compliance with Standards 101 and 509, the following reporting is required of satellite and branch campuses:

a) Satellite campus reporting may be included in the main campus reports, provided distinctions are made sufficient to demonstrate compliance with Standard 106(a).

b) Branch campuses are required to report separately from the main campus, unless the branch campus is unified with the main campus. A branch is unified with the main campus if it meets the following criteria:

i. ***applicants apply for admission to the law school, not to an individual campus;***
ii. ***admitted applicants can freely elect the campus at which they wish to commence study; and***
iii. ***students can move back and forth between campuses from one semester to the next, or within the same semester if the campuses are close enough, without special permission.***

c) Every law school with a branch campus, whether unified or not, shall report data disaggregated by campus in the Annual Questionnaire on matters of curriculum, library resources, faculty, and compliance with Standard 211 and 212. Campuses that are unified under Interpretation 106-2(b) may aggregate data for all campuses for purposes of reporting in the Annual Questionnaire on admissions, enrollment, placement, and bar pass rates.

Interpretation 106-3
Neither satellite nor branch campuses are required to engage independently in the self-study, strategic planning and assessment required by the Standards. These processes may be managed in collaboration with the main campus and in keeping with mission or missions of the institution.

Standard 107: VARIANCES

A law school proposing to change its program of legal education or take any other action that is or may be inconsistent with one or more of the Standards may apply for a variance only on one of the following bases:

a) In response to extraordinary circumstances in which compliance with the relevant Standard or Standards would create or constitute extreme hardship for the law school and/or its students, the law school may apply for a variance. In such cases, the law school must clearly establish that: 1) the proposed variance is consistent with the general purposes and objectives of the overall Standards, and 2) the anticipated benefits of

granting the variance outweigh any anticipated harms to the law school's program and/or its students.

The variance, if granted, will be for a term certain and limited to the expected duration of the extraordinary circumstances on the basis of which it was granted. It may be extended once for a further term certain, but only if the extra ordinary circumstances persist and are beyond the control of the law school, its governing body or its parent university.

The decision granting a variance on this basis may require the law school to report to the Consultant, the Accreditation Committee or the Council regularly as specified in the decision.

b) In proposing new programs, changes in existing programs or other actions that are or may be inconsistent with one or more of the Standards, and that do not fall within the scope of subsection (a) above, the law school may apply for a variance. In such cases, the law school must clearly establish that: 1) the proposed variance is consistent with the general purposes and objectives of the overall Standards, 2) the proposed changes or actions that are the basis for the requested variance are experimental or innovative and have the potential to improve or advance the state of legal education, and 3) the anticipated benefits of granting the variance outweigh any anticipated harms to the law school's program and/or its students.

The variance, if granted, shall be for a term certain and can be extended once, with the extension being for either a further term certain or indefinite, but subject to revocation on the basis of *either* a change in the showing made by the law school when the variance was granted *or a change in circumstances*.

The decision granting a variance on this basis may require the law school to report to the Consultant, the Accreditation Committee or the Council regularly as specified in the decision.

Should the programs, changes or actions that are the subject of the application for a variance constitute or come to constitute a major change in programs or structure as defined in Standard 105 and 106, then the law school shall seek acquiescence in order to initiate or continue the programs, changes or actions.

Interpretation 107-1

A law school applying for a variance has the burden of clearly demonstrating that the variance should be granted. The application should include, at a minimum, the following:

a) A precise description of the program changes or other actions for which the variance is sought, and identification of the Standard or Standards with which they are or may be inconsistent;

b) An explanation of the bases and reasons that justify granting the variance; and

c) Any additional information and factual material needed to sustain the law school's burden of proof and support the granting of the application.

Interpretation 107-2

The chair of the Accreditation Committee or the Consultant may appoint one or more fact finders to elicit additional information and facts relevant and necessary to consideration of the application for a variance. An application for a variance, other than one based on extraordinary circumstances and extreme hardship, must be filed well in advance of the meeting dates of the Accreditation Committee and Council at which the application could be considered.

Interpretation 107-3

The Consultant, the Accreditation Committee or the Council may, from time to time, request additional written reports from a law school to which a variance has been granted.

Interpretation 107-4

Variances, when granted, are school-specific and are based on and limited to the facts and circumstances that existed at the law school that applied for the variance. They do not constitute precedent ~~*and cannot be cited or considered in connection with subsequent applications that may be filed by other law schools*~~.

~~**Standard 802. VARIANCE**~~

~~**A law school proposing to offer a program of legal education a portion of which is inconsistent with a Standard may apply for a variance. If the Council finds that the proposal is nevertheless consistent with the general purposes of the Standards, the Council may grant the variance, may impose conditions, and shall impose time limits it considers appropriate. Council may terminate a variance prior to the end of the stated time limit if the school fails to comply with any conditions imposed by the Council. As a general rule, the duration of a variance should not exceed three years.**~~

~~***Interpretation 802-1***~~
~~*Variances are generally limited to proposals based on one or more of the following:*~~

~~*(a) a response to extraordinary circumstances that would create extreme hardship for students or for an approved law school; or*~~

~~*(b) an experimental program based on all of the following:*~~

~~*(1) good reason to believe that there is a likelihood of success;*~~

~~*(2) high quality experimental design;*~~

~~*(3) clear and measurable criteria for assessing the success of the experimental program;*~~

~~*(4) strong reason to believe that the benefits of the experiment will be greater than its risks; and*~~

~~*(5) adequately informed participation by students involved in the experiment.*~~

~~***Interpretation 802-2***~~
~~*A school applying for a variance has the burden of demonstrating that the variance should be granted. The application should include, at a minimum, the following:*~~

~~*(a) a precise statement of the variance sought;*~~

~~*(b) an explanation of the bases and reasons for the variance; and*~~

~~*(c) additional information needed to support the application.*~~

~~***Interpretation 802-3***~~
~~*The Chair of the Accreditation Committee or the Consultant may appoint one or more fact finders to elicit facts relevant to consideration of the application for a variance. Thus an application for a variance must be filed well in advance of consideration of the application by the Accreditation Committee and the Council.*~~

~~***Interpretation 802-4***~~
~~*The Consultant, the Accreditation Committee or the Council may from time to time request written reports from the school concerning the variance.*~~

~~***Interpretation 802-5***~~
~~*Variances are school-specific and based on the circumstances existing at the law school filing the request.*~~

Standard ~~106~~ 108. DEFINITIONS
[Current Standards]
[The Standards Review Committee has not yet reviewed the Definitions.]

As used in the Standards and Interpretations:

(1) "Accreditation Committee" means the Accreditation Committee of the Section.

(2) "Approved law school" means a law school that appears on the list of law schools approved by the American Bar Association.

(3) "Association" means the American Bar Association.

(4) "Branch campus" means a separate location at which the law school offers sufficient courses that a student could earn at the separate location all of the credit hours that the law school requires for the J.D. degree.

(5) “Consultant” means the Consultant on Legal Education to the American Bar Association.

(6) “Council” means the Council of the Section.

(7) “Dean” includes an acting or interim dean.

(8) “Governing board” means a board of trustees, board of regents, or comparable body that has ultimate policy making authority for a law school or the university of which the law school is a part.

(9) “House” means the House of Delegates of the American Bar Association.

(10) “Interpretations” mean the Interpretations of the Standards for Approval of Law Schools.

(11) “J.D. degree” means the first professional degree in law granted by a law school.

(12) “President” includes the chief executive officer of a university or, if the university has more than one administratively independent unit, of the unit of which a law school is a part.

(13) “Probation” is a public status indicating that the law school is in substantial noncompliance with the Standards and is at risk of being removed from the list of approved law schools.

(14) “Rules” mean the Rules of Procedure for the Approval of Law Schools by the American Bar Association.

(15) “Satellite campus” means a separate location (other than one approved under the Criteria for Approval of Semester Abroad Programs) which is not within reasonable proximity to the main law school campus and at which a student could take the equivalent of 16 or more semester credit hours toward the law school’s J.D. degree but which does not constitute a Branch campus.

(16) “Section” means the Section of Legal Education and Admissions to the Bar of the American Bar Association.

(17) “Standards” mean the Standards for the Approval of Law Schools.

(18) “University” means a post secondary educational institution that confers a baccalaureate degree and may grant other degrees, whether it is called university, college, or other name.

Chapter 1 – General Purposes and Practices; Definitions

CLEAN COPY -- DRAFT after July 2011 Meeting

Standard 101. BASIC REQUIREMENTS FOR APPROVAL

A law school approved by the Association or seeking approval by the Association shall demonstrate that its program is consistent with sound legal education principles. It does so by establishing that it is being operated in compliance with the Standards.

Interpretation 101-1
To enable the Accreditation Committee and Council to determine whether a law school has demonstrated that its program of legal education is consistent with sound legal education principles and is being operated in compliance with the Standards, a law school shall furnish an annual questionnaire, self-study, site evaluation questionnaire, and such other information as the Accreditation Committee and Council may require. These documents must be complete and accurate and submitted timely in the form specified. The information provided by these means not only informs the Council about the status of each law school but also enables the Council, in meeting its obligations with respect to legal education as a whole, to ascertain national norms of legal education, areas in which improvements are being made, and those where further attention is needed.

Interpretation 101-2
Accreditation or approval of a law school by the American Bar Association is not transferable. A transfer of all, or substantially all, of the academic programs or assets of (1) a law school or (2) a university or college of which the law school is a part does not include the transfer of the law school's accreditation status.

Standard 102. PROVISIONAL APPROVAL

(a) A law school shall be granted provisional approval if at the time it seeks approval it establishes that it has achieved substantial compliance with each of the Standards and presents a reliable plan for bringing the law school into full compliance with the Standards within three years after receiving provisional approval. A provisionally approved law school may apply for full approval no earlier than two years after receiving provisional approval and must obtain full approval within five years.

(b) A law school that is provisionally approved may have its approval withdrawn if it is determined that the law school is no longer in substantial compliance with the Standards or that the law school is not making adequate progress toward achieving full compliance with the Standards.

(c) If five years have elapsed since the law school was provisionally approved and it has not been granted full approval, provisional approval shall lapse and the law school shall automatically be removed from the list of approved law schools unless, prior to the end of

the five year period, in an extraordinary case and for good cause shown, the Council extends the time within which the law school must obtain full approval.

(d) A provisionally approved school shall not offer a post-J.D. degree program, a summer or other program in a foreign country, or seek to establish a branch or satellite campus.

(e) A provisionally approved law school shall state that it is provisionally approved in all of its printed and electronic materials describing the law school and its program and in any other publication that references the law school's accreditation status.

(f) An unapproved law school seeking provisional approval shall make its status clear in any printed and electronic materials describing the law school and its program and in any other publication that references the law school's accreditation status. At a minimum, the law school shall state the following in such communications:

> **The Law School makes no representation to any applicant that it will receive accreditation from the American Bar Association prior to the graduation of any matriculating student.**

(g) A law school seeking provisional approval shall not delay conferring a J.D. upon a student in anticipation of obtaining approval; an approved law school may not retroactively grant a J.D. degree to a student who graduated from the institution prior to its approval.

Interpretation 102-1
In order to establish that it has a reliable plan to come into full compliance with the Standards within three years after receiving provisional approval, a law school must clearly state the specific steps that it plans to take to bring itself into full compliance and must show that there is a reasonable probability that such steps will be successful.

Interpretation 102-2
Plans for construction, financing, library improvement, and recruitment of faculty which are presented by a law school seeking provisional approval do not, in themselves, constitute evidence of substantial compliance.

Standard 103. FULL APPROVAL

(a) A law school is granted full approval if it establishes that it is in full compliance with each of the Standards.

(b) Within three years after being granted its initial full approval, a law school shall not seek to establish a branch or satellite campus.

(c) Sanctions for failure to comply with the each of the Standards may be imposed upon a law school as provided by the Rules of Procedure.

Standard 104. [Reserved]

Standard 105. MAJOR CHANGE IN PROGRAM OR STRUCTURE

Before a law school makes a major change in its program of legal education or organizational structure it shall obtain the acquiescence of the Council for the change. Acquiescence shall be granted only if the law school establishes that the change will not detract from the law school's ability to remain in compliance or adversely affect the school's efforts to come into compliance with each of the Standards.

Interpretation 105-1
The Council has delegated to the Accreditation Committee the authority to grant acquiescence in the types of major changes identified in Rules of Procedure 20 and 21.

Standard 106 SEPARATE LOCATION

(a) A law school that offers courses for credit at a separate location (other than studies in a foreign country pursuant to Standard 311) which is not within reasonable proximity to the main law school campus and at which a student could take the equivalent of 16 or more but not more than two thirds of the semester credits toward a J.D. degree must provide the following at the separate location:

(1) Full-time faculty of the law school who teach the major portion of the curriculum, including substantially all of the first one third of each student's coursework, and who are reasonably available at the separate location for consultation with students;

(2) Library resources and staff that are adequate to support the curriculum offered at the separate location and that are reasonably accessible to students at the separate location;

(3) Academic advising, career services and other student support services that are adequate to support the program offered at the separate location and that are reasonably equivalent to such services offered to similarly situated students at the law school' s main campus;

(4) Access to co-curricular activities and other educational benefits that are reasonably equivalent to such activities and educational benefits offered to similarly situated students at the law school's main campus; and

(5) Physical facilities and technological capacities that are adequate to support the curriculum offered and the student body at the separate location.

(b) If a student could earn more than two thirds of the credit hours that a law school requires for the award of a J.D. degree at the separate location, the law shall meet the requirements of subsection (a*)* prior to acquiescence and apply for approval for the separate location under the provisions of Standard 102 and 103.

(c) A separate location that meets the criteria of subsection (a) of this Standard shall be known as a satellite campus; a separate location that meets the criteria of subsection (b) shall be known as a branch campus.

Interpretation 106-1
It is sufficient for a school with satellite or branch campuses to have one dean for all campuses.

Interpretation 106-2
For purposes of compliance with Standards 101 and 509, the following reporting is required of satellite and branch campuses:

a) Satellite campus reporting may be included in the main campus reports, provided distinctions are made sufficient to demonstrate compliance with Standard 106(a).

b) Branch campuses are required to report separately from the main campus, unless the branch campus is unified with the main campus. A branch is unified with the main campus if it meets the following criteria:

iv. ***applicants apply for admission to the law school, not to an individual campus;***
v. ***admitted applicants can freely elect the campus at which they wish to commence study; and***
vi. ***students can move back and forth between campuses from one semester to the next, or within the same semester if the campuses are close enough, without special permission.***

c) Every law school with a branch campus, whether unified or not, shall report data disaggregated by campus in the Annual Questionnaire on matters of curriculum, library resources, faculty, and compliance with Standard 211 and 212. Campuses that are unified under Interpretation 106-2(b) may aggregate data for all campuses for purposes of reporting in the Annual Questionnaire on admissions, enrollment, placement, and bar pass rates.

Interpretation 106-3
Neither satellite nor branch campuses are required to engage independently in the self-study, strategic planning and assessment required by the Standards. These processes may be managed in collaboration with the main campus and in keeping with mission or missions of the institution.

Standard 107: VARIANCES

A law school proposing to change its program of legal education or take any other action that is or may be inconsistent with one or more of the Standards may apply for a variance only on one of the following bases:

a) In response to extraordinary circumstances in which compliance with the relevant Standard or Standards would create or constitute extreme hardship for the law school

and/or its students, the law school may apply for a variance. In such cases, the law school must clearly establish that: 1) the proposed variance is consistent with the general purposes and objectives of the overall Standards, and 2) the anticipated benefits of granting the variance outweigh any anticipated harms to the law school's program and/or its students.

The variance, if granted, will be for a term certain and limited to the expected duration of the extraordinary circumstances on the basis of which it was granted. It may be extended once for a further term certain, but only if the extra ordinary circumstances persist and are beyond the control of the law school, its governing body or its parent university.

The decision granting a variance on this basis may require the law school to report to the Consultant, the Accreditation Committee or the Council regularly as specified in the decision.

b) In proposing new programs, changes in existing programs or other actions that are or may be inconsistent with one or more of the Standards, and that do not fall within the scope of subsection (a) above, the law school may apply for a variance. In such cases, the law school must clearly establish that: 1) the proposed variance is consistent with the general purposes and objectives of the overall Standards, 2) the proposed changes or actions that are the basis for the requested variance are experimental or innovative and have the potential to improve or advance the state of legal education, and 3) the anticipated benefits of granting the variance outweigh any anticipated harms to the law school's program and/or its students.

The variance, if granted, shall be for a term certain and can be extended once, with the extension being for either a further term certain or indefinite, but subject to revocation on the basis of *either* a change in the showing made by the law school when the variance was granted *or a change in circumstances*.

The decision granting a variance on this basis may require the law school to report to the Consultant, the Accreditation Committee or the Council regularly as specified in the decision.

Should the programs, changes or actions that are the subject of the application for a variance constitute or come to constitute a major change in programs or structure as defined in Standard 105 and 106, then the law school shall seek acquiescence in order to initiate or continue the programs, changes or actions.

Interpretation 107-1
A law school applying for a variance has the burden of clearly demonstrating that the variance should be granted. The application should include, at a minimum, the following:

a) A precise description of the program changes or other actions for which the variance is sought, and identification of the Standard or Standards with which they are or may be inconsistent;

b) An explanation of the bases and reasons that justify granting the variance; and

c) Any additional information and factual material needed to sustain the law school's burden of proof and support the granting of the application.

Interpretation 107-2
The chair of the Accreditation Committee or the Consultant may appoint one or more fact finders to elicit additional information and facts relevant and necessary to consideration of the application for a variance. An application for a variance, other than one based on extraordinary circumstances and extreme hardship, must be filed well in advance of the meeting dates of the Accreditation Committee and Council at which the application could be considered.

Interpretation 107-3
The Consultant, the Accreditation Committee or the Council may, from time to time, request additional written reports from a law school to which a variance has been granted.

Interpretation 107-4
Variances, when granted, are school-specific and are based on and limited to the facts and circumstances that existed at the law school that applied for the variance. They do not constitute precedent.

Standard 108. DEFINITIONS
[Current Standards]
[The Standards Review Committee has not yet reviewed the Definitions.]

As used in the Standards and Interpretations:

(1) "Accreditation Committee" means the Accreditation Committee of the Section.

(2) "Approved law school" means a law school that appears on the list of law schools approved by the American Bar Association.

(3) "Association" means the American Bar Association.

(4) "Branch campus" means a separate location at which the law school offers sufficient courses that a student could earn at the separate location all of the credit hours that the law school requires for the J.D. degree.

(5) "Consultant" means the Consultant on Legal Education to the American Bar Association.

(6) "Council" means the Council of the Section.

(7) "Dean" includes an acting or interim dean.

(8) “Governing board” means a board of trustees, board of regents, or comparable body that has ultimate policy making authority for a law school or the university of which the law school is a part.

(9) “House” means the House of Delegates of the American Bar Association.

(10) “Interpretations” mean the Interpretations of the Standards for Approval of Law Schools.

(11) “J.D. degree” means the first professional degree in law granted by a law school.

(12) “President” includes the chief executive officer of a university or, if the university has more than one administratively independent unit, of the unit of which a law school is a part.

(13) “Probation” is a public status indicating that the law school is in substantial noncompliance with the Standards and is at risk of being removed from the list of approved law schools.

(14) “Rules” mean the Rules of Procedure for the Approval of Law Schools by the American Bar Association.

(15) “Satellite campus” means a separate location (other than one approved under the Criteria for Approval of Semester Abroad Programs) which is not within reasonable proximity to the main law school campus and at which a student could take the equivalent of 16 or more semester credit hours toward the law school’s J.D. degree but which does not constitute a Branch campus.

(16) “Section” means the Section of Legal Education and Admissions to the Bar of the American Bar Association.

(17) “Standards” mean the Standards for the Approval of Law Schools.

(18) “University” means a post secondary educational institution that confers a baccalaureate degree and may grant other degrees, whether it is called university, college, or other name.

Reporter's Notes

[N.B. These *Notes* reflect the SRC discussion through July 2011.]

The SRC recommends several changes to Chapter 1. The recommended changes attempt to clarify and tighten this Chapter through realigning Standards, Interpretations and applicable Rules. Additionally, the SRC attempts to clarify the rules regarding branch and satellite campuses and to add rules regarding their reporting requirements.

The SRC first recommends retaining Standard 101 and its Interpretations.

Regarding provisional approval, as set out in Standard 102 *Provisional Approval*, the SRC recommends modifying the language of the Standard in minor respects. First, the redrafted Standard 102(a) recommends that a school will be granted provisional approval once it has established that it "has achieved" substantial compliance with all of the Standards at the time of provisional approval and not at some time in the future. Further, a provisionally approved school may apply for full approval no earlier than two years after receiving provisional approval and must obtain full approval within five years thus setting time limits for full approval.

The SRC recommends clarifying language changes for Standard 102 (b) and recommends that subsection (b) be divided into two subsections and that a new subsection (c) be added. The recommended Standard 102 (b) states that a provisionally approved law school may have its approval withdrawn if the school is no longer in substantial compliance with the Standards and is not making adequate progress towards achieving full compliance.

The recommended Standard 102 (c), then, addresses the situation in which a provisionally approved school has not been granted full approval within five years from receiving provisional approval. The Standard notes that provisional approval shall lapse and the law school shall be removed from the list of approved schools unless the Council extends time within which the school must obtain full approval in "an extraordinary case and for good cause shown."

The SRC recommends the deletion of current Standards 102 (c) regarding the timing of the conferral of J.D. degrees, with the issues now dealt with in new Standard 102(g).

The SRC then recommends the addition of new Standards 102 (d) through 102 (g) which are intended to clarify the existing Standards and Interpretations.

Proposed Standard 102 (d) sets out the limitations imposed on provisionally approved law schools. They shall not offer post-J.D. degrees, summer programs, programs in foreign countries, or seek to establish a branch or a satellite campus. In part, this proposed Standard adopts prohibitions contained in current Interpretation 102-3.

Proposed Standard 102 (e) states that a provisionally approved school shall publicize its provisional status in its printed and electronic materials. This proposed Standard adopts much of the language in current Interpretation 102-6.

Similarly, proposed Standard 102 (f), addressing communications and regarding the status of unapproved law schools seeking provisional approval, adopts the language of current Interpretation 102-7. The proposed Standard states that a law school that is seeking provisional approval shall make its status clear in all printed and electronic materials that describe the school and its program. The Standard also requires minimum language in its communications that:

> *"The law school makes no representation to any applicant that it will receive accreditation from the American Bar Association prior to the graduation of any doubts regulating student."*

Finally, proposed Standard 102 (g) adopts the language of current Interpretation 102-5 and Interpretation 102-9. A school seeking provisional approval shall not delay conferring the J.D. degree in anticipation of obtaining approval. Nor, under the proposed Standard, may an approved law school retroactively grant the J.D. degree to a student who graduated from the institution prior to receiving ABA approval.

As a result of moving much of the language of the Interpretations into the Standards, the SRC recommends deleting many of the current Interpretations.

The SRC was of the opinion that the first sentence of current Interpretation 102-1, regarding compliance with the Standards, was unnecessary insofar as compliance is a mandatory part of achieving and maintaining either provisional or full approval. The second sentence was moved to become Interpretations 102-2.

The SRC then recommends making the current interpretation 102-2 into new Interpretation 102-1.

The SRC then recommends the deletion of all other Interpretations under Standard 102 many of which have been incorporated in the proposals as noted above.

The SRC proposes that Standard 103 *Full Approval* be modified. The language of Standard 103 (a) is clarified by noting that a law school will be granted full approval when it is in full compliance with each of the Standards. The SRC also recommends the addition of Standard 103 (b) which prohibits a law school from seeking to establish a branch or satellite campus within three years of being granted its initial full approval. The proposed Standard 103 (c) clarifies language regarding sanctions and states that sanctions "for failure to comply with each of the Standards" may be imposed according to the *Rules of Procedure for the Approval of Law Schools*.

The SRC recommends the deletion of current Interpretations 103-1 and 103-2 as unnecessary in light of the recommended proposals.

Standard 104 *[Reserved]* remains the same.

The SRC recommends streamlining current Standard 105 *Major Change in Program or*

Structure. First, the SRC maintains the requirement that before a law school is permitted to make a major change in its program or in its organizational structure it must obtain the acquiescence of the Council. Second, acquiescence shall be granted only if the school establishes that the change will not detract from the law school's ability to remain in compliance with each of the Standards. The SRC, then, recommends the deletion of the two current subsections in current Standard 105 and also recommends the deletion of Interpretations 105-1 through 105-5.

Current Interpretation 105-1 lists the types of activities that constitute a major change. The SRC recommends the adoption of new Interpretation 105-1 that refers law schools to Rules 20 and 21 regarding major changes.

Current Interpretations 105-2 through 105-d address branch and satellite campuses. The SRC proposes that branch and satellite campuses be addressed in new Standard 106.

The issue of branch and satellite campuses is currently addressed under the major change provisions of Standard 105 and its accompanying Interpretations. In an effort to clarify the existing Standards, the SRC proposes a new Standard 106 *Separate Location.* Standard 106 distinguishes between two types of separate locations depending on the number of credit hours offered to students.

Proposed Standard 106 (a), addresses satellite campuses, and borrows language from current Interpretation 105-3. This new Standard proposes that a law school which offers courses for credit at a separate location, not within reasonable proximity to the main law school campus, must provide certain resources and services such as those currently required for a satellite campus. Those resources and services now required, in part, under proposed Standard 106 (a), are those currently required under Interpretation 105-3 such as: (1) full-time faculty of law schools that teach the major portion of the curriculum and are reasonably available at the separate location for consultation; (2) library resources and staff adequate to support the curriculum; (3) academic advising, career support and other student support services adequate to support the program; (4) access to co-curricular activities and other educational benefits; and, (5) physical facilities and technological capacities adequate to support the curriculum at the separate location.

Proposed Standard 106 (b), addresses branch campuses, and states that if students have more than two-thirds of the credit hours required for the JD degree, then the law school must meet the requirements of Standard 106 (a) prior to acquiescence and must apply for approval for the separate location under the provisions set out in Standards 102 and 103.

Standard 106 (c) simply defines satellite campus as a separate locations which complies with Standard 106 (a) and defines a branch campus as a separate location which complies with Standard 106 (b).

Proposed Interpretation 106-1 states that a school with either a branch or a satellite campus may have a single dean.

Proposed Interpretation 106-2 sets out reporting requirements for both satellite and branch campuses. Under Interpretation 106-(2) (a) the required reports from satellite campuses may be included in the main campus reports as long as distinctions are made sufficient to demonstrate compliance with Standard 106 (a).

Under proposed Interpretation 106-2 (b), branch campuses are required to report separately from the main campus unless the branch campus is unified with the main campus. A "unified" branch campus is one in which:

(1) applicants apply for admission to the law school not to an individual campus;
(2) admitted applicants can elect the campus at which they wish to study; and,
(3) students can move back and forth between campuses from one semester to the next or within the same semester, if the campuses are close enough, without special permission.

Under proposed Interpretation 106-2 (c), every law school with a branch campus may report data that is disaggregated by campus in the Annual Questionnaire on matters of curriculum, library resources, faculty, and compliance with Standards 211 and 212. Campuses that are "unified" under this Standard, may aggregate data for purposes of reporting in the Annual Questionnaire on matters of admissions, enrollment, placement and bar passage rates.

Proposed Interpretation 106-3 states that neither satellite nor branch campuses are required to undertake independent self-studies, strategic planning or assessments as required by the Standards. These activities may be managed in collaboration with the main campus while keeping within the mission of the institution.

The SRC also proposes the addition of a new Standard 107 *Variances* which moves the requirements from current Standard 802 into Chapter 1.

Proposed Standard 107 allows a law school to change its program or take action that is inconsistent with the Standards by applying for a variance on one of two bases. Under proposed Standard 107 (a) a law school may apply for a variance from a specific Standard or Standards in cases of extraordinary circumstance which create an extreme hardship for the law school and/or its students. In order to obtain such a variance, the law school must establish that the variance is consistent with the general purposes of the Standards and must articulate that the anticipated benefits will outweigh anticipated harms. A variance can be limited in terms of duration and may be extended once if the extraordinary circumstances persist and are beyond the control of the law school, its governing body or its parent University. The variance process may also impose specific reporting requirements on the law school.

Under proposed Standard 107 (b), a law school may also seek a variance for proposing new programs or changes in existing programs or other actions that are inconsistent with one or more of the Standards and which do not fall under Standard 107 (a). Again, in such cases the law school must establish that the requested variance is consistent with the general purposes of the Standards; that the proposals are experimental or innovative and have the potential to improve legal education; and, that the anticipated benefits outweigh anticipated harms. This

variance shall be set for a certain term, can be extended once and may be revoked under changed circumstances. This variance also may require special reporting by the law school.

In either case, if the request for a variance constitutes a major change as defined in Standards 105 or 106, then the law school must seek acquiescence.

Proposed Interpretation 107-1 borrows the language of current Interpretation 802-2 and requires that an application for a variance include: (a) a precise description of the program and identification of standards with which it may be inconsistent; (b) an explanation of the basis and reasons that will justify the granting of variance; and (c) any additional information and factual material needed to sustain the school's burden of proof.

Proposed Interpretation 107-2 is new and notes that the Chair of the Accreditation Committee or the Consultant may appoint one or more fact finders to elicit additional information relevant to the consideration of variance. An application for a variance, other than one based on extraordinary circumstances and extreme hardship, must be filed well in advance of the meeting dates of the Accreditation Committee and the Council at which the application is considered.

Proposed Interpretation 107-3 is also new and states that the Consultant, the Accreditation Committee, or the Council may from time to time request additional written reports from the law school to which a variance been granted.

Proposed Interpretation 107-4 is also new and states that variances are school-specific, are based on limited facts and circumstances, and do not constitute precedent for other schools.

Coincident with the proposed Standard 107, the SRC recommends deletion of Standard 802 *Variance*.

The Standards Review Committee has not yet reviewed Standard 108 *Definitions*.