

SALT/CLEA Report on SRC meeting July 2011
By Claudia Angelos and Carol Chomsky

The ABA's Standards Review Committee continued its "comprehensive review" of the law school accreditation standards at its summer meeting in Minneapolis on July 8-9, 2011. As it completes its work on individual chapters of the standards, it will be sending them to the Council of Legal Education and Admissions to the Bar, which has the final authority to adopt the standards. At the July SRC meeting, the key issues were tenure/security of position, a proposal to increase the required bar pass rate, and the requirement that schools use the LSAT in admissions. Revisions to the chapters on student learning outcomes, admissions, and facilities were endorsed, though some will be revisited for final approval after additional sections of those chapters are completed. All the proposals discussed at the meeting can be seen on the Standards Review Committee website under the heading "Drafts for Consideration at Committee Meetings" July 9-10: http://www.americanbar.org/groups/legal_education/committees/standards_review.html. Several members of the Committee will not be returning to the 2011-12 Committee and the chair is now term-limited. The new Committee members and chair have not yet been announced.

Tenure/Security of Position/Faculty Responsibilities

In its discussions on tenure/security of position (Standard 405), the Committee agreed that the current standards on academic freedom and participation in governance should be strengthened, both to identify the nature of those rights and to articulate additional procedural protections for them. With respect to security of position for faculty, two different approaches were discussed, neither of which would require a law school to have tenured faculty: (1) entirely remove all requirements for security of position from the standards, or (2) mandate faculty security of position, providing at a minimum five-year presumptively renewable contracts for all full-time faculty (including clinical and legal writing faculty) after a probationary period, with exceptions for a limited number of fixed, short-term contracts and for fellowships and short-term visiting assistant professorships for faculty development, leaving to individual schools whether to provide tenure to any groups of faculty. Drafts articulating these two approaches were created after an initial discussion and then circulated for additional comment. The draft proposals are appended to this report.

An informal poll of Committee members revealed substantial support for the second alternative, providing for a minimum of long-term presumptively-renewable contracts for all full-time faculty. The Committee discussed but did not resolve whether, under the "five-year minimum" alternative, schools that have both tenured and long-term contract faculty could restrict voting rights of faculty on hiring and promotion according to those categories. The committee also discussed but did not resolve whether and how to define "presumptively renewable." One Committee member suggested that specifying acceptable grounds for non-renewal will be key to ensuring the plan will provide true security of position. Several members of the Committee suggested that both proposals

should, when finalized, be sent to the Council for its consideration. The subcommittee will further consider these issues and will offer revised versions of the drafts at its next meeting.

The Committee also discussed other standards governing law faculty. It endorsed a number of the provisions but identified additional work necessary to clarify the difference between the responsibilities of the full-time faculty and the responsibilities of the faculty as a whole and to specify more clearly how the Accreditation Committee should determine if a faculty is large enough to satisfy the standards.

Bar Passage

There were differences of opinion among Committee members about a proposal to increase the bar passage rate required for accreditation (Interpretation 305-1). Those who support the change stressed the importance of bar passage to student success and said that the higher standard will motivate schools to focus more attention on assisting their students to be admitted to the bar. Those opposing the change raised concerns about the impact on minority admissions, questioned whether there had been any demonstrated need to change a standard adopted only 3 years ago, and noted that even (or especially) schools with lower pass rates have already taken very seriously their obligations to provide additional and effective academic support. They also noted that the provision may interfere with accreditation changes designed to focus schools' attention to a broader array of student learning outcomes. It was suggested that, if the bar pass standard remains the same, the provisions governing academic support programs should be strengthened. The Committee will continue to discuss these issues.

LSAT

The Committee again considered whether to delete Standard 503, which mandates use of a "valid and reliable" admissions test for all applicants, in effect requiring use of the LSAT. After lengthy discussion, the Committee voted overwhelmingly to delete Standard 503, thus removing entirely the mandate that schools require applicants to take an admissions test.

Student Learning Outcomes

The Committee adopted all proposed changes to Chapter 3 on student learning outcomes, with a few minor amendments. Most significantly, proposed Standard 303(a)(3) was changed to specify that the upper-level course integrating doctrine, theory, skills, and legal ethics, mandated for each student, must engage students in performance of one or more professional skills the school identifies *other* than legal analysis and reasoning, critical thinking, legal research, problem solving, written and oral communication in a legal context, and the exercise of professional judgment. That change, urged by CLEA, ensures that the upper-level skills course each student takes will incorporate more than those cognitive and general skills. These provisions will come

back to the whole Committee for final approval when Interpretation 301-6 (bar passage) returns for consideration.