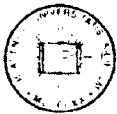


INDIANA UNIVERSITY
School of Law – Indianapolis



December 29, 2008

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**CONSULTANT EMERITUS ON
LEGAL EDUCATION TO THE
AMERICAN BAR ASSOCIATION**

MEMORANDUM

TO: Hullet H. Askew
FROM: James P. White
RE: Standards Review Committee Request for Comment –
Interpretations 402-1 and 402-2

I am writing with reference to the Standards Review Committee's request for comment with respect to proposed deletion of Interpretations 402-1 and 402-2 of the ABA Standards and Interpretations.

I became the ABA Consultant on Legal Education in January 1974. The Accreditation Committee was in its infancy and determined that it needed more statistical information about ABA approved law schools in order to determine compliance in the new 1973 Standards which became mandatory in 1975. Thus, in 1975-76 the Annual Questionnaire of the Section was revised to elicit more complete and detailed information about the resources available to individual ABA approved law schools.

Counting full time equivalent students and full time faculty, the Accreditation Committee found that the student/teacher ratio was as high as 110 to 1 in some law schools. The average student/teacher ratio was almost 38 to 1. The Accreditation Committee during a three year period, 1975-1978, found that a great many law schools undergoing their sabbatical review did not have enough full time faculty to teach, undertake research and public service and perform the mission of the law school.

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Thus by 1980 the Accreditation Committee and Council had adopted a number of interpretations to address the requirement that an ABA approved law school have a sufficient number of full-time faculty to comply with the Standards. I append the Interpretations as contained in the Standards publication for 1980-81 (Attachment)

Subsequent to 1980 and more since 1990 there have been additional interpretations with respect to fractional counting. The last of these were adopted at the time of the consent decree. My belief is that these later Interpretations have confused the issue.

The problem thirty years ago was the lack of sufficient full-time faculty to undertake the mission of the law school. I believe this issue has been resolved over the past several decades. I believe that Standard 402 currently gives sufficient guidance to both law schools and the Accreditation Committee and Council with respect to the necessity of full-time faculty to fulfill the mission of the law school. Hence, I support the deletion of Interpretations 402-1 and 402-2.

JPW/mb
Attachment
Cc: Randy Hertz

INTERPRETATIONS

Standard 402

Interpretation 1 of 402: The historic interpretation of Standard 402 by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association and its Accreditation Committee has been that the count of full-time faculty, under the provisions of Standard 402, does not include the dean, librarian, associate or assistant deans or other administrators holding academic appointment. The interpretation of Standard 402 by the Council and its Accreditation Committee continues to be that of not including the dean, librarian, associate or assistant deans or other administrators holding academic appointment, in any computation of full-time faculty, under the provisions of Standard 402. August, 1976.

Interpretation 2 of 402: A fte student/full-time faculty ratio at 37:1 does not comply with the Standards when there is resulting overloading of faculty worsened because the faculty must serve both a full-time and part-time division. November, 1980.

Interpretation 3 of 402: a fte student/full-time faculty ratio in excess of 30:1 is unfavorable. The dean and faculty of the school must demonstrate efforts to have the school's academic program comply with the Standards. November, 1980.

Interpretation 1 of 402(a): The intent of Standard 402(a) is that a single division law school in its first year of operation should have a minimum of six full-time faculty, in addition to a full-time dean and law librarian. A dual division law school or a law school offering instruction in more than one year must have additional full-time faculty in a satisfactory proportional ratio. August, 1976.

Interpretation 2 of 402(a): A law school having a fte student to full-time faculty ratio of 40:1, 39:1, 38:1 or 35:1 is not in compliance with Standard 402(a) of the Standards for Approval of Law Schools by the American Bar Association. August, 1977, May, 1980.

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Standard 402

Interpretation 1 of 402(b): A full-time faculty member of an ABA approved law school who is teaching an additional full-time load at another ABA approved law school cannot be considered as full-time faculty for either institution. February, 1977.

Interpretation 2 of 402(b): Faculty who are "of counsel" to a law firm, have a permanent and ongoing relationship to a law firm, having their names on a law firm letterhead, maintaining a separate law office or having a professional telephone listing may not be considered as full-time faculty within the definition of 402(b). July, 1977; May, 1980.