

Society of American Law Teachers (SALT) Comments on the
Interim Report of the Outcome Measures Committee
of the ABA Section of Legal Education and Admissions to the Bar
July 21, 2008

SALT is an independent, membership-based organization of law teachers, deans, law librarians, and legal education professionals working to make the profession more inclusive, to enhance the quality of legal education, and to extend the power of legal representation to under-served individuals and communities. SALT challenges faculty, staff, and students to develop legal institutions with greater equality, justice, and excellence; to promote core values of equality and justice; and to resist inequitable social policies. SALT submits these comments in response to the Interim Report of the Outcome Measures Committee.

I. At the outset, SALT commends the Committee for its thoughtful and comprehensive treatment of the subject of outcome measures, including the detailed and informative descriptions of the accreditation standards used by other professions. We strongly agree with the Committee's endorsement of the insights gleaned from the Carnegie Foundation Report and the Best Practices Report, which emphasize the necessity of incorporating knowledge, skills and values into the law school curriculum in a systematic and integrated manner. We fully support the Committee's determination to utilize the best thinking of US legal educators and the practices of accreditors in other fields to recommend a shift to an outcome-based approach to accreditation which evaluates a school's performance in light of its own stated mission.

Shifting to outcome measures necessitates the development of fair and reliable assessment tools and models. Some work has been undertaken to develop these tools but much more remains to be done. If an Outcome Measures approach to accreditation is to be meaningful, law schools, deans, and faculty must learn about various outcome measures models and must become engaged in the validation of various outcome measures approaches. SALT encourages the ABA to play a major role in supporting research and fostering the development of expertise in the creation of assessment tools and models and in the area of outcome measures of institutional quality. The transformation of the accreditation process cannot occur without research, training, and dissemination of the information gained through research.

II. SALT supports the Committee's recommendation to adopt accreditation standards that provide maximum flexibility to law schools. We agree that law schools should be permitted to develop their own outcomes so long as they are consistent with broad parameters set forth in the Standards that require outcomes that encompass knowledge, skills and values. We favor this approach because it gives law schools the freedom to define outcome measures in accordance with the school's individual mission. For example, if part of a school's mission is to diversify the bench and bar, its ability to achieve that goal should be a proper accreditation

consideration. If a school's mission is to develop civic and community leaders, that development should be part of the accreditation process. If a school seeks to produce interdisciplinary scholars, that would be an area that should be assessed during accreditation. In short, so long as a school's program incorporates the Carnegie/Best Practices ideals, the school should be free to define its own mission and the accreditation process should reflect the school's success in achieving its stated mission.

III. SALT strongly opposes retaining a bright line bar passage rate as an independent requirement of accreditation. Inasmuch as the bar exam falls far short of measuring the full range of lawyer competencies, it is an illegitimate measure of outcomes, particularly when used in a determinative fashion. As the Interim Report on Outcome Measures so ably documents, the best thinking of legal educators in this country and abroad and the best practices of accreditors in other professions undermine the legitimacy of a single measure that fails to adequately assess the substantive knowledge, skills, and values of the profession. Until such time as the professional licensing examination is refashioned to reflect the insights reflected in the Interim Report, a bright line passage rate should not serve as an independent accreditation requirement. Instead, bar passage may be considered as one piece of a comprehensive set of outcome measures.

IV. As the above comments reflect, SALT is enthusiastic about the Committee's recommendation to reduce the Accreditation Standards' reliance on input measures and adopt a greater and more overt reliance on outcome measures. We raise one cautionary note that relates to the importance of faculty governance in the development of curriculum and the need for full-time faculty to ensure quality control. As the Interim Report indicates at page 55, the shift to outcome measures will have fiscal repercussions that could lead schools to make greater use of adjunct resources. SALT believes it is critically important for full-time faculty to maintain responsibility and control over the teaching and assessment of all aspects of the law school curriculum. Also, the shift to outcome measures will place significantly more responsibility on the legal writing and clinical faculties whose status tends to be less secure than others in the academy.

The ABA has played an important role in this regard in the past. For example, as part of the continuing process of developing accreditation standards, the ABA, in the early 1990's, required law schools offering externships (then called out-house placements) to have a full time member of the faculty as program director, or otherwise guarantee that externships were designed, adopted, and staffed in the same way as other courses. One result of this requirement was that a group of formerly low status (part-time, year-to-year contract or adjunct) faculty gained job security. With that ABA-mandated change in status, they were able to interact with faculty as colleagues. They attended faculty meetings, discussed the pedagogy of field-based learning, and when administrators suggested changes to the externships that significantly reduced the academic value of the course, their more secure job status allowed

them to engage in meaningful dialogue about proposed changes. More recently, faculty involved with externships are aware of a significant change in faculty status, now that the ABA has revised the standard to allow for adjuncts and others to have primary responsibility for externships. Faculty/student ratios have increased, the requirement of classroom-based reflection has been eliminated, and most teachers responsible for externships no longer have the status that allows them to interact with colleagues as a member of a teaching faculty. Increased isolation of externship programs from the core teaching faculty is likely to be contrary to the goal of incorporating knowledge, skills, and values into the law school curriculum in a systematic and integrated manner.

Thus, although SALT wholeheartedly supports the move to outcome measures, we raise a cautionary note about its effect on security of position and status, issues that are addressed in more detail in SALT's comments regarding the report of the Special Committee on Security of Position.

Society of American Law Teachers—SALT
Public Advocacy Center, Room 223
Touro Law Center
225 Eastview Drive
Central Islip, NY 11722
631 650 2310
www.saltlaw.org

Hazel Weiser, Executive Director
hweiser@saltlaw.org