



1-1-2008

# Statement of Principles of Accreditation and Fundamental Goals of a Sound Program of Legal Education

Donald J. Polden

*Santa Clara University School of Law*, [dpolden@scu.edu](mailto:dpolden@scu.edu)

Follow this and additional works at: <http://digitalcommons.law.scu.edu/facpubs>

---

## Recommended Citation

40 Syllabus 1

This Article is brought to you for free and open access by the Faculty Scholarship at Santa Clara Law Digital Commons. It has been accepted for inclusion in Faculty Publications by an authorized administrator of Santa Clara Law Digital Commons. For more information, please contact [sculawlibrarian@gmail.com](mailto:sculawlibrarian@gmail.com).

# SYLLABUS

American Bar Association Section of Legal Education and Admissions to the Bar



## Statement of Principles of Accreditation and Fundamental Goals of a Sound Program of Legal Education

By Donald J. Polden, Dean, Santa Clara University School of Law Chair, Standards Review Committee

In Summer 2008, the Standards Review Committee, at the request of the Council of the Section of Legal Education and Admissions to the Bar, initiated a comprehensive review of the Standards for Approval of Law Schools. This periodic re-evaluation of accreditation policies and procedures is required of all agencies approved by the United States Department of Education to perform program evaluations. Moreover, the comprehensive review was preceded by an intense national discussion of the overarching purposes of accreditation review of legal education that cumulated in the Report of Accreditation Policy Task Force. The Report attempted to identify and articulate the policies and practices that were helpful in reviewing law schools' programs

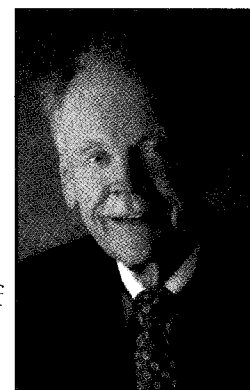
and those that were not and to set an agenda for future review of the accreditation policies in legal education.

As the Committee initiated its review of the Standards, Interpretations of Standards and Rules of Procedure, its members attempted to identify the fundamental principles served by accreditation of law schools and to articulate the fundamental goals of contemporary American legal education. The following statement describes the goals and principles identified by the Committee. It does not provide an exhaustive list of fundamental principles of accreditation and it does not purport to provide an exclusive list of the goals of legal education as practiced in the United States. However, the Committee intends to use

*Continued on page 11*

## Gerald Vande Walle to Receive 2009 Kutak Award

The Honorable Gerald W. Vande Walle, Chief Justice of the North Dakota Supreme Court, is the 2009 recipient of the Robert J. Kutak Award. In making the announcement, Peter Winograd, chair of the Section's Kutak Award Committee, stated "the letters submitted in support of his nomination were extremely impressive..."



I look forward to introducing him at the award reception and to joining with you in celebrating his 50 years of service to the judiciary, the academy, and the legal profession."

*Continued on page 14*

## INSIDE

- 4** Fall 2008 Enrollment Figures
- 5** 2009-2010 Council Nominees
- 9** Annual Meeting Schedule

---

## STATEMENT OF PRINCIPLES

*Continued from page 1*

this statement to guide its work in the comprehensive review of the Standards.

### Preamble

Accreditation must serve the goals of the discipline being reviewed, evaluated and “accredited.” The core function of accreditation review is the notion that there are constituencies that rely on the accreditation process for accurate information about accredited programs and institutions, and that, from a consumer protection perspective, the results of accreditation review permit informed judgments to be made about the quality of the accredited institutions.\* It is therefore important that we articulate shared notions of the fundamental principles of the process and purposes of accreditation review of law schools and identify the goals of legal education that are being advanced, supported and protected by accreditation review.

### Principles of Accreditation Review

The following paragraphs articulate the fundamental principles that guide accreditation review.

**Assuring educational quality.** Accreditation review in law, as in other disciplines, has as one of its most fundamental goals, to provide assurances to various groups (especially, prospective students) as to the quality of the educational program of schools held out as meeting national accreditation standards. There are at least three aspects to this principle:

1. There is a consumer protection attribute whereby accreditation review provides assurances to potential consumers (e.g., prospective students, prospective employers of law graduates) that the program is credible.

2. The second aspect concerns the assurance of institutional integrity—that is, that the program meets appropriate professional standards for the education of lawyers for multiple employment opportunities and is a program of integrity. So, for example, state supreme courts, state boards of bar examiners, and the U.S. Department of Education rely on accreditation review by a national accreditation agency (for example, the ABA) to fully review, in a principled manner, all law schools whose graduates seek to sit for examination and admission for entry to the profession.

---

## Accreditation must serve the goals of the discipline being reviewed, evaluated, and accredited.

---

3. Finally, accreditation, especially for new law schools, helps ensure that the law school and, when applicable, its university, is committed to providing a program of legal instruction into the future. In this respect, it is essential that programs and institutions participating in a regime of accreditation review and approval must, through institutional self-examination and planning, constantly improve the quality of education and professional preparedness of its graduates. It is similarly essential that accreditation agencies create appropriate incentives for programs and institutions to improve the quality of their programs.

---

\* This overarching purpose of accreditation is reflected in U.S. Department of Education policies for accreditation agencies’ standards. Section 602.16 states that an agency (such as the ABA) must demonstrate that it has standards “that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits.” The regulation goes on to specify how an agency meets this requirement, including the agency’s publication and enforcement of accreditation standards that address the quality of the institution or program in the following areas:

- (i) Success with respect to student achievement in relation to the institution’s mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates.
- (ii) Curricula.
- (iii) Faculty.
- (iv) Facilities, equipment, and supplies.
- (v) Fiscal and administrative capacity as appropriate to the specified scale of operation.
- (vi) Student support services.
- (vii) Recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising.
- (viii) Measures of program length and objectives of the degrees or credentials offered.
- (ix) Record of student complaints received by, or available to, the agency.
- (x) Record of compliance with the institution’s program responsibilities under Title IV of the Act, based on the most recent student loan default rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and any other information that the Secretary may provide to the agency; ...

### **Advancing Core Mission of Legal Education.**

Accreditation attempts to measure and evaluate the basic requirements and attributes of a fundamental and sound program in legal education that is shared by all law schools. Consistent and uniform evaluation according to appropriate discipline-specific standards is necessary so law schools (like other disciplines' educational institutions) can engage in useful and efficient interactions (e.g., facilitate transfers of students, information sharing and other collaborative enterprises between and among institutions). It also permits agencies, such as state supreme courts and bar admission committees, to approve graduates of those programs to gain admission to practice across the many jurisdictions. Accreditation processes must rely on a common set of basic educational and programmatic attributes shared by the approved schools. This does not mean that all schools should or must have the same mission and purposes, but rather that every school has met the core or essential qualities necessary to be held out as "approved" or "accredited." This balance between a "common" or "shared" mission and individual schools' pursuit of unique attributes or missions is reflected in other disciplines' accreditation processes.

In this regard, then, all accredited law schools share a common overarching mission that accreditation reviews attempt to measure, and, more importantly, to advance and promote. In American legal education, a commonly embraced and overarching mission would be stated something like this: To educate men and women for entry into and ethical participation in the legal profession. A somewhat more elegant, but equally pertinent, description was provided by a member of the committee: An approved law school must have a program of instruction which will develop the cognitive, performance, and professional identity competencies that the profession and the public expect of a lawyer and member of the legal profession.

In addition to a common or "core" mission shared by all law schools, individual law schools should be encouraged to create and provide programs advancing or pursuing other missions without undue interference from the accreditation agency. So, for example, schools should be permitted to advance their programs of interdisciplinary research or scholarly publication, or promotion of student engagement in social justice and public service careers, or to educate lawyers for "county seat" practices so long as the advancement and pursuit of these missions do not impair or impede the institution's ability to meet the fundamental or overarching shared mission of legal education.

**Accountability.** Accredited institutions have an obligation to be accountable for the funds they take from students and to perform the commitments made to those students and to any profession they serve. One of the most important accountability factors is having sufficient financial resources to meet, at a minimum, the fundamental goals of the educational enterprise and to provide students with the education and professional preparedness necessary for their entry into the profession and success in the careers they choose. Without sufficient resources a law school cannot provide educational programs and career opportunities sufficient to meet the minimum expectations of all legal education.

Moreover, law schools are accountable to their students and other constituencies (such as alumni, university administration, etc.) for the efficient and effective operation of the law school enterprise. Accreditation review can assist law schools in ensuring that sufficient financial resources are dedicated to support the educational missions of the schools and sharing "best practices" in the efficient administration of law school programs

Accreditation review should not unduly burden law schools by imposing costly and extraneous procedures and standards that hamper innovation in legal education or unnecessarily increase the cost of attending law school. Accreditation standards should be measured by, among other things, the costs they are likely to impose on the schools that seek accreditation review and approval.

Finally, accreditation agencies are accountable to the United States Department of Education, which appoints them to serve as the official agency for the discipline, and those agencies should establish and follow policies that ensure ongoing compliance with U.S. Department of Education policies.

**Clarity and precision.** Accreditation standards and requirements should be clearly stated so that subjectivity and uncertainty during program review are reduced to acceptable levels. Again, the policies and procedures should be carefully drawn to advance the fundamental goals of the discipline. Moreover, accreditation review cannot be unduly intrusive and should be carefully and precisely drawn so that all programs and institutions undergoing review know the meaning and purposes of the standards. Law school accreditation should consider and adopt, where appropriate, the best practices of other professional education accreditation programs and processes. Finally, accreditation standards and requirements should be enforced fairly and consistently.

**Assessment of program quality and student learning.** Applying the lessons learned and practiced in other disciplines' accreditation review processes, legal education programs and institutions should be measured both by essential program quality indicators (e.g., sufficiency of faculty and adequacy of facilities in light of mission and student body) and by the learning achieved by their students. In the past, most accreditation measurements have been on "input" factors and very little attention has been given to "output" factors. Accreditation review in law, like other disciplines, must move law schools toward articulation and assessment of student learning goals and achievement levels.

### Fundamental Goals of a Sound Program of Legal Education

As described above, accreditation policies and procedures must serve to advance the goals of legal education. Therefore, an identification of fundamental goals of legal education will advance an understanding of the proper scope of accreditation review. The fundamental goal of legal education is to provide a sound program of legal education that prepares students for admission to the bar and effective and responsible participation in the legal profession. Constituent aspects of that fundamental goal include (in no particular order of importance):

- Articulate the essential skills and abilities that graduates need to possess to be competent professionals following graduation and to periodically measure the program's ability to impart those skills and abilities.
- Attract and retain a high quality faculty.
- Provide appropriate resources to support the educational mission of the school and support students seeking to qualify for admission to the practice of law and the legal profession.

- Articulate and advance protections to academic freedom of students and faculty.
- Because legal education serves a profession that is committed to inclusiveness and diversity, it must create and advance opportunities for groups underrepresented in the legal profession.
- Instill in students an appreciation for the roles and responsibilities played by lawyers and the legal profession in our society and for the importance of ethical behavior in their work.
- Contribute as an active participant in the processes of advancing the rule of law, strengthening the legal profession, and service to communities and the underserved in our society through pro bono provision of legal services. These contributions can be made by law schools through educational programs (such as internships and clinics), faculty and student scholarship advancing reform of law, and education of law students about their responsibilities as members of the legal profession.

The Standards Review Committee solicits other viewpoints on accreditation practices and principles and on the values advanced and goals served by contemporary legal education. ☰

*Comments should be sent to Charlotte Stretch, Assistant Consultant, ABA Section of Legal Education and Admissions to the Bar, stretchc@staff.abanet.org.*

*For more information about the Comprehensive Review, visit the Standards Review Committee page at [www.abanet.org/legaled/committees/comstandards.html](http://www.abanet.org/legaled/committees/comstandards.html).*

---

## UPCOMING CONFERENCES



**March 12–15, 2010**  
**Brick, Bytes and Continuous Renovation**  
Philadelphia, Pennsylvania

**May 30–June 1, 2010**  
**New Deans Seminar**  
Jackson Hole, Wyoming

**June 1–4, 2010**  
**Law School Development Conference**  
Jackson Hole, Wyoming