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The History of the American Bar Association Accreditation Standards for Academic Law Libraries

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The History of the American Bar Association Accreditation Standards for Academic Law Libraries*

Theodora Belniak**

Using materials from the American Bar Association (ABA), such as annual reports and conference reports as well as other periodical materials, this article reviews the standards used to define academic law libraries from the formation of the ABA to the present and discusses the impact of the standards on the law library as an institution.

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* © Theodora Belniak, 2014. This article would not have been written without the patient and sympathetic eyes of Beth Adelman, Director of the Charles B. Sears Law Library. My thanks to Beth and to my collection development comrades-in-arms who inspired me to ask “Why?”

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Introduction

¶1 A national conversation about legal education has gripped law schools. The stakeholders are varied and have sometimes conflicting perspectives on the role of law schools, and all of them want to be heard and to contribute toward the future vision of legal education. The American Bar Association (ABA) is in the middle of this conversation. As the nationally recognized accrediting agency for law schools, it is responsible for the promulgation of standards used to determine a law school's status. The ABA is currently conducting one of its comprehensive reviews of accreditation standards, and this year's revisions have generated heated debate and discussion within academic law schools and their affiliated law libraries.

¶2 Much of the discussion is happening beyond library walls, but it will have very real impacts on how libraries function in the future. The most immediate impact of changing standards on law libraries is tied to what is now known as Chapter 6 in the ABA's standards.

¶3 Chapter 6, which defines the minimum standards required for a law school's library, has an interesting history. Its current iteration is the product of nearly a hundred years of reflection on the role of the law library in legal education, and its creation shaped the concept of an acceptable academic law library, codified metaphors still used to describe libraries, and fostered the growth of law librarian experts.

¶4 This article reviews the formation of the original library standard and follows its growth through the years. Through the publications of the ABA, it also reviews past expectations of libraries and how they defined parameters for future growth. It is hoped that this article will help put current conversations about library standards in context.

The Formative Years: 1878–1929

Late Nineteenth-Century Commentary on Law Libraries

[W]hile the profession might be taught by word of mouth, it cannot be practiced to advantage, in any large way, without the power and the opportunity to consult books, and many books. . . . The way to do anything easily is to do it often. The way to know how to handle a book is to handle a great many.¹

¶5 Simeon Baldwin was involved heavily in the standardization of legal education during the late 1800s and early 1900s. He was a founder and president of the American Bar Association, president of the Association of American Law Schools, a respected scholar, and an influential Yale Law School faculty member.² Baldwin had distinct ideas about how a law library should function and what should be on its shelves.

1. Simeon E. Baldwin, *Law School Libraries and How to Use Them*, 17 ANN. REP. A.B.A. 431 (1894).

2. *History of Business Law at Yale, Early Years, 1869–1916*, YALE LAW SCH., <http://www.law.yale.edu/cbl/3075.htm> (last visited Mar. 3, 2014).

¶6 The root of the law was to be found in books, and Baldwin's vision encouraged students to immerse themselves in those books. In his 1894 paper read to the ABA's Section on Legal Education, Baldwin defined a high-quality law library as having the following characteristics:

1. open stacks³ or (even better) a private library for personal use,⁴
2. unfettered access to volumes⁵ with the exception of rare books,⁶
3. multiple copies of high-use items,⁷
4. reprints of course materials,⁸
5. a variety of textbooks from different publishers,⁹
6. a reading room with a high-use collection,¹⁰
7. private storage space for each student,¹¹
8. a straightforward selection and maintenance plan that encompassed the following stages of collection:¹²
 - a. Purchase of the digests, reports, and statutes of the State in which the institution is located, then
 - b. Purchase of the Supreme Court of the United States reports, then
 - c. Purchase of the English common law reports, then
 - d. Purchase of the appropriate digests, then
 - e. Purchase of textbooks

If money remains, then the library should purchase:

 - a. Irish, Scottish, and Canadian reports,
 - b. Constitutional history and Roman law,
 - c. comparative jurisprudence
9. room for growth in the stacks,¹³
10. evening library hours,¹⁴ with oversight provided by a law student who receives a tuition waiver.¹⁵

3. Baldwin, *supra* note 1, at 432. "The ideal law library, then, in this point of view—is the library where there is the freest access to the shelves."

4. *Id.* "So far as the Law School library can be assimilated to one's own private library, in these respects, so much the better for every student."

5. *Id.* "The happy inability to provide a sufficient force of librarians and librarians' assistants, . . . left students generally free to rummage the shelves for themselves, each pursuing his reading by an alcove table, heaped, if he cared for them, with twenty books, to be exchanged in ten minutes, perhaps, by his own hand, for twenty others."

6. *Id.* at 435. "[W]ith the exception of a few rare volumes or editions, which are seldom consulted, like Chipman's Vermont Reports, or some ancient Elzevir."

7. *Id.* at 433. "Of certain books, several copies must, of course, be kept."

8. *Id.* at 434. "There are also, now, few of our schools in which cases are not given out for study, which have been printed and arranged especially for use in instruction."

9. *Id.* at 435. "Different editions of the leading text-books are, of course, still desirable . . ."

10. *Id.* "[T]he better knowledge we have come to have of the uses of a reading room near but separate from the main collections of the library. Here should be the reports of the Supreme Court of the United States and of the State in which the school is situated, with the leading digests and most-thumbed text-books."

11. *Id.* "[G]iving each [student] a desk or drawer of his own, under lock and key, will make him feel almost as much at home as if he were by his study table in his own room."

12. *Id.* at 437.

13. *Id.* at 438.

14. *Id.*

15. *Id.*

Interestingly, Baldwin pointed out that periodicals are “dangerous and misleading for the ordinary law student,”¹⁶ and excluded them from his collection plan outlined above.

¶7 Also in 1894, Henry Wade Rogers, chairman of the newly founded Section on Legal Education, provided an overview of some academic law libraries’ holdings.

Table 1
Law Library Holdings, 1894 Approximations

Law Library	Number of Volumes Held
Harvard	33,000
Columbia	25,000
Cornell	23,000
Chicago Law Institute (used by Chicago law schools)	25,000
Washington, D.C., Department of Justice Library (used by Washington, D.C. law schools)	22,000
Washington, D.C., Capitol law library (used by Washington, D.C. law schools)	50,000
University of Michigan	11,000
University of Pennsylvania	9,000
Yale	9,000

Source: Henry W. Rogers, Address of Henry Wade Rogers, LL. D., of Evanston, Illinois, as Chairman of the Section of Legal Education, 17 ANN. REP. A.B.A. 389, 405-06 (1894).

¶8 Rogers included a note about Albany Law School’s use of the New York State Law Library and Buffalo Law School’s use of the Eighth Judicial District of New York State’s library, but he did not include volume counts for those libraries.

¶9 Although only a snapshot of what was on the minds of 1890s ABA leadership, the emphasis placed on volume count cannot be ignored. Access, in lieu of ownership, was presented as an acceptable means by which law students could use law books; a physical location owned by the law school was not a priority. Also of note, neither Baldwin nor Rogers mentioned the need for staff or librarians to provide hands-on assistance to the law student.¹⁷ The law student was viewed as capable of navigating the library and its titles, and personal access to the collection was a central focus. These proposals were offered as suggestions, not as standards by which all law school libraries must abide.

16. *Id.* He says further: “His business is to learn what the law is, rather than what it is going to be; to learn it from the voice of authority and of time, rather than that of the anonymous reviewer or the passing comment of the month; to study the great works and the great cases, rather than the newest ones, or than what somebody says of them.”

17. Baldwin does indeed mention a librarian in his piece, but refers to the lack of one as a result of “happy inability” to provide funding for one. See *supra* note 5.

Formation of the American Association of Law Schools

¶10 Despite the ABA's silence on official standards for law schools until the 1920s, discussions surrounding law libraries and standards were ongoing in other arenas. Stemming from an informal invitation to all law schools in the country by the ABA's Section on Legal Education, fifty-four individuals representing law schools met in Saratoga, New York, in 1901. From this meeting, a separate organization, the Association of American Law Schools (AALS), was conceived.¹⁸

¶11 AALS adopted its Articles of Association at the 1901 meeting and began a conversation among its members about standards that should define law schools. A member institution of AALS was subject to the following requirement: "It shall own, or have convenient access to during all regular library hours, a library containing the reports of the State in which the School is located and of the United States Supreme Court."¹⁹

¶12 Two years later, AALS attempted to enforce its standards by "instruct[ing] [the Executive Committee] 'to investigate and report whether any members of the Association fall short of the requirements of article sixth of the Articles of Association.' . . . [This] meant that the schools in the Association were open to more than a paper check relative to their compliance with the standards of the Association; they were subject to inspections."²⁰ During this time, AALS was responsible for accrediting its member law schools and served as the standard bearer.²¹

¶13 In 1912, AALS amended its Articles to read as follows: "[A member law school] shall own a law library of not less than 5,000 volumes."²² This reflected a sharp move away from access toward ownership, and opened the door to the various issues associated with ownership, including funding, space, and stewardship. Again, the emphasis on volume count cannot be ignored, as it was used as proxy to determine fitness of a law school's library.

Application of Standards

The Association of American Law Schools and the American Bar Association for years, whoever may be to blame, have been playing at cross purposes. Now finally you have come together and it is a magnificent thing, in my opinion, a thing of great promise for the future of legal education.²³

18. ALBERT J. HARNO, *LEGAL EDUCATION IN THE UNITED STATES* 89 (1953).

19. *Articles of Association, 1900–1901 ASS'N AM. LAW SCH.* at [i], [ii] (1900–1901).

20. HARNO, *supra* note 18, at 94.

21. Betsy Levin, *The AALS Accreditation Process and Berkeley*, 41 J. LEGAL EDUC. 373, 374 (1991).

22. *Proceedings of the Twelfth Annual Meeting* (notes), 1912 ASS'N AM. LAW SCH. PROCEEDINGS OF THE ANNUAL MEETING 1, 37 (1912) (discussing the new standard's intent).

23. *Minutes of the Nineteenth Annual Meeting*, 1921 ASS'N AM. LAW SCH. PROCEEDINGS OF THE ANNUAL MEETING 48, 86 (1921) (comments of Alfred Z. Reed). Although not an attorney, Alfred Z. Reed played a critical role in the early 1900s in legal education. In 1910, an exhaustive report on medical education in the United States was published by the Carnegie Foundation for the Advancement of Teaching. ABRAHAM FLEXNER, *MEDICAL EDUCATION IN THE UNITED STATES AND CANADA: A REPORT TO THE CARNEGIE FOUNDATION FOR THE ADVANCEMENT OF TEACHING* (1910). The report attracted the attention of those in the ABA's Committee on Legal Education and Admission to the Bar, which worked to secure a similar report. In 1913, the committee reported that the Carnegie Foundation was committed to tackling a study of the legal education structure in the United States. As of 1918, the report had not yet been submitted, and, despite limited distribution of working copies, it wasn't until 1922 that the full report was presented to legal educators. See *Report of the Committee on Legal Education and Admission to the Bar*, 36 ANN. REP. A.B.A. 474 (1913), for an initial discussion of the importance of the report.

With a single list of approved law schools before him, a young man will perforce pay respect to influential opinion, whatever be the action that his individual circumstances compel him to take.²⁴

¶14 As methods of legal education became more established, the ABA and AALS became more reflective and deliberate. Larger conversations about legal education and the state of the legal profession were taking place, and those conversations informed the standards. The ABA's newly reorganized Section of Legal Education and Admissions to the Bar²⁵ gave recommendations for altered standards at the Association's annual meeting in 1921. These recommendations were approved on September 1 of the same year,²⁶ and included the following:

(1) The American Bar Association is of the opinion that every candidate for admission to the bar should give evidence of graduation from a law school complying with the following standards:

[(a)–(b) omitted]

(c) It shall provide an adequate library available for the use of the students.²⁷

¶15 This access-based standard was quite different from AALS's existing standard for ownership of a collection no less than 5,000 volumes, and was a potential source of confusion for students interested in pursuing a law degree at an accredited institution. An extract from a 1922 Carnegie Foundation annual report²⁸ reflected the confusion caused by two associations' classifying law schools by different standards,²⁹ and highlighted AALS's attempts to remove confusion by passage of a resolution during its 1921 meeting: "It has been moved that this Association do not undertake a classification of law schools, but that it heartily endorse the action of the American Bar Association directing a classification by the Council of Legal Education."³⁰

¶16 AALS ceded the classification of the U.S. law schools to the ABA, allowing the ABA's standards to define an accredited and an unaccredited list of law schools. The standards of the two associations were not reconciled, but the ABA was given the lead to define minimum standards for accredited legal educational institutions. After passage of the 1921 standards, the Section on Legal Education was charged

24. ALFRED Z. REED, *THE PROGRESS OF LEGAL EDUCATION: THE WASHINGTON CONFERENCE AND THE ASSOCIATION OF AMERICAN LAW SCHOOLS: LIST OF LAW SCHOOLS, CURRENT BAR ADMISSION REQUIREMENTS* 5 (1922).

25. 45 ANN. REP. A.B.A. 486 (1922). The section continues to be referred to as the Section on Legal Education, the name that is used throughout this article.

26. *Id.* at 482.

27. 44 ANN. REP. A.B.A. 656, 687 (1921).

28. REED, *supra* note 24, at 4.

29. Although beyond the scope of this article, this confusion stemmed from a long-running debate about the role and standardization of night law schools as well as mistrust between the two associations. For more on this topic, see *Minutes of the Nineteenth Annual Meeting*, *supra* note 23; SUSAN K. BOYD, *THE ABA'S FIRST SECTION: ASSURING A QUALIFIED BAR* 21–28 (1993); HARNO, *supra* note 18, at 102–12. See also William D. Lewis, *Proceedings of the Section of Legal Education and Admissions to the Bar: Improvement in Legal Education and the Work of the Council*, 51 ANN. REP. A.B.A. 620, 625 (1928); Michael Mazza, *The Rise and Fall of Part-Time Legal Education in Wisconsin: 1892–1924*, 81 MARQ. L. REV. 1049 (1997–1998); Orvill Snyder, *The Function of the Night Law School*, 7 AM. L. SCH. REV. 827 (1930–34).

30. *Minutes of the Nineteenth Annual Meeting*, *supra* note 23, at 86.

with the task of classifying law schools throughout the United States. In 1923, the first classification of approved schools was published by the ABA.³¹

Revision of the ABA Standards in the Late 1920s

A distinguished member of this Association from Richmond told me that in order to have their local law school approved they had to go through the expense of buying 7,500 books to put in their library, although the students had free access at all times to a public library of law across the way. . . . That is what I call an arbitrary ruling. Endowed day law schools no doubt can put in 100,000 books, but let me tell you, gentlemen, there is a great deal of humbug about the law library business.³²

¶17 In 1928, the ABA's Council on Legal Education and Admission to the Bar, the governing body of the Section on Legal Education, developed interpretations for the ABA's standards. These interpretations fleshed out the very slim standards and gave a clue as to what the council would be looking for during inspections.

¶18 The interpretation for law libraries moved away from the generic adequate access standard, with the council adding the following:

An adequate library shall consist of not less than seventy-five hundred well-selected, usable volumes, not counting obsolete material or broken sets of reports, kept up-to-date and owned and controlled by the law school or university with which it is connected.

A school shall be adequately supported and housed so as to make possible efficient work on the part of both students and faculty.³³

¶19 This interpretation was a dramatic alteration to the law school library standard. The previous standard required:

1. Access, and
2. An adequate library.

It consisted of broad strokes and was easily satisfied if the law school was located in a metropolis. Access to a neighboring library, as was common in Buffalo, Chicago, and other large cities, was acceptable, and adequacy was left open to interpretation.

¶20 The Council's new interpretation laid out the following requirements for law libraries:

1. At a minimum, seventy-five hundred volumes in good condition,
2. Updating services for those volumes,
3. Total ownership by the institution,
4. Adequate support,
5. Housed in a manner that was useful to faculty and students.

¶21 These interpretations had large implications for law schools and law libraries. A large print collection and updating services implied that a collection budget should exist. Adequate support and housing suggested that a steward of some sort

31. *Law Schools Meet Association Standards*, 9 A.B.A. J. 728 (1923).

32. 52 ANN. REP. A.B.A. 605, 617 (1929) (remarks of Edward T. Lee at the Section of Legal Education and Admissions to the Bar).

33. ALFRED Z. REED, REVIEW OF LEGAL EDUCATION IN THE UNITED STATES AND CANADA FOR THE YEAR 1928, at 48 (1929).

(such as a librarian) be employed and that the material be located in a building owned by the law school. Although the standard remained as it was written in 1921, the addition of the interpretations created quasi-requirements that were read and treated as extensions of the official standards. The council instructed law libraries, through its interpretations, on what the ABA would expect to see during a site visit.

¶22 The impact on law schools and legal education cannot be understated. The interpretations created a host of new issues for any law school that had been using another's library: funding, staffing, space, and maintenance had to be factored into the cost of running a law school. No longer could a small law school point to a neighboring institution to satisfy ABA standards. Compliance required a leap in the level of budgetary commitment devoted to the library, an amount of money to which small schools, part-time programs, and night schools might not have had access.

¶23 The interpretations were not welcomed by everyone in the Section. For example, Edward Lee of John Marshall in Illinois suggested that the standard be amended to read, "It shall provide an adequate library available for the use of the students, either owned by the school or made available to the use of the students in a public or other law library of the city."³⁴ He offered this alternative amendment because "all law students in Chicago had access to the library of the Chicago Law Institute, which had the required number of books."³⁵

1930–1960: The ABA, Re-Envisioned

The Reorganization of the ABA

¶24 The organizational structure of the nascent ABA influenced the development and application of its standards. "[T]he governing body consisted of the entire membership, operating through a quorum made up of the members present at any Annual Meeting."³⁶ Much of the activity and forward movement in the Association was accomplished via lively debate at the annual meetings, and the articulation of its standards was delegated to the Carnegie Foundation until 1935.³⁷

¶25 In 1936, the ABA underwent a massive reorganization, including the adoption of a new constitution³⁸ and new bylaws. The federalization of the ABA was

34. *Proceedings of the Section of Legal Education and Admissions to the Bar*, 51 ANN. REP. A.B.A. 620, 624 (1928).

35. BOYD, *supra* note 29, at 31. Lee continued to object to the interpretation at annual meetings: "[W]hile it is important for the specialist to have access to great libraries like the Gary and other libraries, the average student rarely goes into them except to study his own text books and case books. [A]fter being nearly four years in college I met a student in my class in the library one afternoon, and he said, 'How do you get out of this place?' In four years, he had not learned the exit. The case book system now has provided a library in one volume on each subject. The library is not the great future of the law school, it is the teacher." *Proceedings of the Section of Legal Education and Admission to the Bar*, 52 ANN. REP. A.B.A. 605, 617–18 (1929).

36. EDSON R. SUNDERLAND, *HISTORY OF THE AMERICAN BAR ASSOCIATION AND ITS WORK* 174 (1953). The quorum structure had its own problems, leading many to question the surge in attendance at the 1921 Annual Meeting as an attempt to skew the vote toward a particular outcome. See BOYD, *supra* note 29, at 35–36.

37. *Standards Archives*, AM. BAR ASS'N, http://www.americanbar.org/groups/legal_education/resources/standards/standards_archives.html (last visited Mar. 3, 2014).

38. For the full constitution of 1936, which delineates the entire structural shift and organization, see *Constitution and Bylaws, 1936–1937*, 61 ANN. REP. A.B.A. 963 (1936).

intended to provide “a means for enabling the Association to speak with an authoritative voice as the representative of the various organized units of the legal profession throughout the country”; in addition, “the cooperation of those units in a nation-wide organization was expected to increase their efficiency and give them a broader sense of professional solidarity and responsibility.”³⁹

¶26 The organizational changes relevant to the Section on Legal Education were as follows:

1. The House of Delegates was established and was “given all the powers necessary or incidental to the control and administration of the business and affairs of the Association and the determination of its policies and recommendations.”⁴⁰
2. A chain of command and of reporting was put into place: “The officers, Board of Governors, Sections, Committees, agents and employees of the Association, shall be subject to the supervision and direction of the House of Delegates.”⁴¹
3. The Board of Governors was created and was designated as the Association’s administrative hand, which would have “the power and authority to do and perform all acts and functions which the House of Delegates might do or perform.”⁴²
4. Sections were now responsible for reporting to the House of Delegates: “Each Section . . . shall . . . prepare and transmit to the House of Delegates, through the Board of Governors, its written report covering its work for such year and its recommendations, if any.”⁴³
5. Each section was still “a largely autonomous organization, with power to adopt and amend by-laws.”⁴⁴

¶27 Much of the work that had been accomplished in open sessions during the annual meeting was shifted to smaller section meetings throughout the year. Sections were charged with certain tasks, such as law school inspections and articulating approval standards, and were responsible for providing an annual report of their activities to the Board of Governors, which would then report to the House of Delegates. During this time period, the sections were subservient to the House, which retained power to supervise and direct their activities.

Library Standards, Articulated

The library is traditionally the center of scholarship. There are few if any crafts which use so many books as the law. Access to a neighboring law library has never been treated as adequate for a school.⁴⁵ Access is not the equivalent of exposure to books.⁴⁶

39. SUNDERLAND, *supra* note 36, at 173.

40. *Constitution and Bylaws*, *supra* note 38, at 973.

41. *Id.*

42. *Id.* at 974.

43. *Id.* at 979.

44. SUNDERLAND, *supra* note 36, at 182.

45. One has to wonder at the outrage from Dean Lee of John Marshall in 1929 about the change to the standards, if access was indeed never adequate for approval.

46. ANNUAL REVIEW OF LEGAL EDUCATION FOR 1936, at 8 (William Shafroth ed., 1936).

¶28 In 1935, the Section on Legal Education took over the publication of the ABA's standards. The Section used the 1936 publication to explain how the standard for law libraries was applied and to distance itself from its original standard. The Section's interpretations articulated its vision of a proper law library and introduced overarching tropes that echo still in current standards.

¶29 First, the Section discussed the need for appropriate space. The library should have "tables and chairs for use among or close to the books in number sufficient not only to meet student demand but to encourage it," "the librarian's quarters should be nearby," the library should be "clean, neat, lighted and accessible," and "books should be shelved and arranged so as to stimulate their use."⁴⁷ The interpretation left little doubt as to the vision of the library as a place of quiet study and as the physical seat within the metaphorical heart of the law school.

¶30 Second, the Section's interpretations of "Personnel Equipment of a Standard Law School" mentioned the desirability of a librarian: "The administrative personnel of a school should contemplate . . . a librarian who may, if desired, do teaching or perform other duties."⁴⁸ Although not in the official standards, it was suggested that "the requirement of 'an adequate library available for . . . use,' necessarily implies some person in charge of its books."⁴⁹

¶31 Third, a library should have the following items in its collection:

1. the complete National Reporter system,
2. the official opinions of the state where the school is located,
3. the standard digests and law encyclopaedias,
4. English reprints and current reports, and
5. some leading law reviews.⁵⁰

The Section concluded its list with an oddly contradictory statement: "This list designates less than half the contents of the minimum collection, the rest being largely optional."⁵¹ And, a few paragraphs later: "[The problematic annual expenditure toward a library] seems particularly so because the ordinary student can do pretty adequate work with two or three thousand books of the right selection."⁵²

¶32 The Section acknowledged that the ownership of more than half of the prescribed law library collection may be superfluous and that students can perform adequately without those additional titles. These statements reflect a conflict in the standard's application to law schools, which the Section reconciled through an appeal to the "tradition of scholarship":

The rather considerable requirement of the standards are justified by the needs of courses in bibliography, by the trend to publication of law reviews, provision for the student who

47. *Id.* at 7.

48. *Id.* at 9.

49. *Id.*

50. *Id.* at 8. Counter to Baldwin's advice in the early 1900s, law reviews gained traction in legal education by the 1930s. For a history of law reviews in America, see Michael I. Swygert & Jon W. Bruce, *The Historical Origins, Founding, and Early Development of Student-Edited Law Reviews*, 36 HASTINGS L.J. 739 (1984-1985).

51. ANNUAL REVIEW OF LEGAL EDUCATION FOR 1936, *supra* note 46, at 8.

52. *Id.*

elves, the stimulation of the faculty and general considerations. . . . Higher education without books is a contradiction. The possession of a store of books is some guarantee of permanency, dignity, scholarship and ambition in an educational institution.⁵³

This appeal to the scholarship tradition was not novel. Adopting a Langdellian approach of “library as laboratory,” Simeon Baldwin believed that students would learn the profession by being surrounded by books, and the emphasis on volume count in both the AALS and ABA standards suggests that this perspective was shared by others in the associations.⁵⁴ This approach to legal education dictated the tools required by faculty and students, and a “great many”⁵⁵ books were necessary to support the curious student or faculty member in need of stimulation.

¶33 It is in these interpretations that we see the origins of interrelated philosophies about a library’s role in a law school. First, collections should include materials beyond the basics to support a tradition of scholarship and to stimulate faculty and students. Second, collections and services should reflect the unique culture and needs of the law school. Third, the collection should be curated by a librarian, an acknowledgment of the expertise and skill sets unique to law librarians. Fourth, and finally, the library is not only the physical place for materials to be housed and discovered, but it is also the metaphorical heart of the law school.

The Beginnings of a Checklist

[T]he work of the Section continues to ramify and extend to new fields and[,] . . . while the advances made in the adoption of our standards in the last eighteen years have been phenomenal, our work must go on in that direction with unabated zeal if we are to properly protect the public against the admission of inadequately trained lawyers.⁵⁶

It is a basic principle of legal education that the library is the heart of a law school and is a most important factor in training law students and in providing faculty members with materials for research and study.⁵⁷

¶34 The danger of “inadequately trained lawyers” was an unformed threat that encouraged the section to establish itself as a primary commentator on “basic principles of legal education.” Recognizing that the Section’s past guidelines were more “quantitative than qualitative” and that “it was difficult to withhold approval where a school had made formal compliance with qualitative requirements,” the ABA adopted a 1938 standard that allowed for the Section to judge whether a school “possesse[d] reasonably adequate facilities and maintain[ed] a sound educational policy.”⁵⁸ Ostensibly, this new standard allowed the Section to withhold approval if an institution was following the letter but not the spirit of the ABA’s standards.⁵⁹

53. *Id.*

54. For an interesting counterpoint to the library as “the heart of the law school” metaphor that is eerily similar to more current conversations, see Roscoe Pound et al., *What Constitutes a Good Legal Education*, 7 AM. L. SCH. REV. 887 (1933).

55. Baldwin, *supra* note 1.

56. *Report of Section of Legal Education and Admissions to the Bar*, 65 ANN. REP. A.B.A. 342, 347–48 (1940).

57. AM. BAR ASS’N, STANDARDS OF THE AMERICAN BAR ASSOCIATION FOR LEGAL EDUCATION: FACTORS BEARING ON THE APPROVAL OF LAW SCHOOLS BY THE AMERICAN BAR ASSOCIATION 6 (1940).

58. *Id.* at 2.

59. For a discussion of why this measure was considered necessary, see H. Claude Horack, *The Small Law Library and the Librarian* 30 LAW LIBR. J. 6 (1937):

¶35 The Section reworked its guidelines, and “for its own guidance and that of schools applying for approval,” listed factors in a 1940 publication entitled *Standards of the American Bar Association for Legal Education: Factors Bearing on the Approval of Law Schools by the American Bar Association*. Factors organized under the heading “Library Content and Administration” represented a more definite shift away from the rudimentary standards of the early 1920s.

¶36 The Section reiterated the 1928 standards, and its interpretations added a requirement of “a five-year average expenditure of \$1,500.00 per year on library additions . . . with a minimum expenditure of \$1,000.00 in any one year.”⁶⁰ In lieu of dictating the collection’s contents, the Section recommended consulting an article that contained a book list written by a law librarian.⁶¹

¶37 After these prefatory comments, the Section listed factors used in the evaluation of a law library:

1. General nature of library and library connection.
2. Average amount expended annually in additions and repairs.
3. Full-time or part-time librarian.
4. Administration of library—
 - a. General administration policies.
 - b. Average amount expended annually for library administration.
 - c. Number of library staff—
 - i. Full-time.
 - ii. Part-time.
5. Student use of library.
6. Size, content, and usability of library.
7. Cataloging system.
8. Adequacy of physical space.
9. Autonomy of library.⁶²

¶38 The Section did not provide further information or guidance on these factors, but they represented the beginnings of a checklist that a library might use to self-evaluate in preparation for inspection.

¶39 The nascent philosophies underlying the 1930s standards took on a more definite shape in the 1940s through the list of factors. The book collection remained paramount: expenditure and volume requirements served as the base upon which all the remaining factors rested. The role of librarian as expert was acknowledged and underlined through deference to a law librarian publication for definition of the collection’s core contents.

¶40 For the next eighteen years, only minor changes were made to the interpretations of the library standard. In 1951, the expenditure requirement for libraries

In a number of cases, there was strong reason to believe that applicants borrowed books from friends of the school to meet the ordeal of inspection, and some bought up at bargain prices books of little or no value, and many schools had large quantities of worthless material which had been received as gifts.

Id. at 7.

60. AM. BAR ASS’N, *supra* note 57, at 6.

61. *Id.* at 6, n.*: “An article by Miss Helen Moylan of Iowa University Law School, entitled ‘Selected List of Books for the Small Law School Library,’ *Law Library Journal* for November, 1939, page 399, is recommended for consideration in the building of a small law library.”

62. *Id.* at 6–7.

doubled to \$3,000.⁶³ In 1957, the interpretations notified libraries of a need to increase to ten thousand volumes by 1958–59, to 12,500 volumes by 1960–61, and to 15,000 by the fall of 1963. Also in 1957, the expenditure was increased to \$4,000.⁶⁴

Law Library Autonomy

¶41 Although the list of factors outlined in 1940 mentions autonomy and staffing, neither were mentioned within the standards and interpretations. In 1959, the interpretations for the library standard incorporated the importance of an autonomous law library and its staff:

The law library should be administered by the law school as an autonomous unit, free of outside control. Exceptions are permissible only where there is a preponderance of affirmative evidence in a particular school, satisfactory to the Council of the Section, so that the advantages of autonomy can be preserved and economy in administration attained through centralizing the responsibility for acquisition, circulation, cataloguing, ordering, processing, or for payment of books ordered.⁶⁵

Those same interpretations tackled the reporting structure within a library: The law librarian should be appointed on recommendation of the dean after consultation with the law faculty. He should be directly responsible to the dean. When the law library is autonomous, the staff should be administratively and fiscally a part of the law school.⁶⁶

¶42 At the time these interpretations were included, the discussion of autonomy in law libraries was not new. At a roundtable held at the AALS annual meeting in 1936, John Wigmore discussed the perceived importance of almost-total autonomy of the law librarian: “I should be against any control of the librarian by any faculty committee even in a law library. . . .”⁶⁷ So did Judson Falknor: “[A] prime requisite for the development of a satisfactory law library is the autonomy of the library administration and the independence of the librarian of unreasonable faculty restrictions.”⁶⁸

¶43 Although the notion of autonomy for the librarian was not novel, the inclusion of autonomy of the library in the interpretations “engendered a good deal of heat and discussion, writing and some intense feelings.”⁶⁹ At the annual meeting of AALL in 1960, John Hervey, who was deeply involved with the law library portion of the ABA accreditation process, attempted to explain its inclusion.

63. AM. BAR ASS'N, *LAW SCHOOLS AND BAR ADMISSION REQUIREMENTS IN THE UNITED STATES: 1951 REVIEW OF LEGAL EDUCATION* 26 (1951).

64. AM. BAR ASS'N, *LAW SCHOOLS AND BAR ADMISSION REQUIREMENTS IN THE UNITED STATES: 1957 REVIEW OF LEGAL EDUCATION* 27 (1957).

65. AM. BAR ASS'N, *LAW SCHOOLS AND BAR ADMISSION REQUIREMENTS IN THE UNITED STATES: 1959 REVIEW OF LEGAL EDUCATION* 21 (1959).

66. *Id.*

67. John H. Wigmore, *The Duty of the Members of the Faculty to the Librarian and the Duty of the Librarian to the Members of the Faculty*, 30 *LAW LIBR. J.* 2, 4 (1937).

68. Judson F. Falknor, *The Function of the Law School Librarian*, 30 *LAW LIBR. J.* 13 (1937).

69. *Proceedings of the Fifty-Third Annual Meeting of the American Association of Law Libraries*, 53 *LAW LIBR. J.* 298, 449 (1960) (comments of William K. Selden) (hereinafter *Proceedings*). For more on this heated discussion, see, e.g., Miles O. Price, *The Place of the Law School Library in Library Administration*, 13 *J. LEGAL EDUC.* 230 (1960–1961), and Ervin H. Pollack, *Autonomy Versus Integration in Law Library Administration: A Reply to Dr. Price*, 14 *J. LEGAL EDUC.* 229 (1961–1962).

¶44 First, Hervey suggested that the autonomy interpretation took root when the ABA came “under attack from the newly created National Commission on Accrediting”⁷⁰ in the 1950s.⁷¹ The library standards “[were] and still [are] only an expression of official opinion by ABA of the minimum qualifications which should be exacted by those who seek admission to the bar. . . . The ABA did not then nor has it ever characterized itself as an accrediting association.”⁷² Second, according to Hervey, the National Commission on Accrediting assigned the label of accrediting agency to the ABA and, without the power to sanction, the Council of the Section on Legal Education decided to increase its scrutiny of member institutions.

¶45 During inspections of law schools, problems with law libraries’ autonomy came to light. Hervey quoted an unnamed vice-president of a university at a Council meeting in 1957: “[T]he law library continued to be administered by the director of libraries (naming him) to the dissatisfaction of the law dean and faculty. [The vice-president] had only recently issued a ‘directive’ to the director of libraries which he hoped would resolve all difficulties; but if [it] failed, the law school faculty would be given complete autonomy over the law library.”⁷³

¶46 At its next meeting in 1957, the Council learned that the directive was unsuccessful and “that inordinate delays have continued in that all continuation materials go to the main library; and that real injury to the law school continues.”⁷⁴ The Council responded in favor of autonomy:

sound educational policy requires that the dean and faculty of the law school at the University of . . . be given complete autonomy over the library of the school and that plenary powers in all matters and things respecting the library of the law school be thus vested and that the director of libraries be divested of all existing power and authority over the law library which will in any way interfere with the autonomy of the law school over said library.⁷⁵

After hearing from a second law school in similar straits, the Council decided that it would be simpler to “require complete autonomy over the law library in all approved schools” instead of “spending so much time in dealing with the schools individually.”⁷⁶

¶47 With simplicity of process in mind, law library autonomy was etched into the ABA standards. No small change, as a law school was now able to threaten the loss of accreditation status unless there were visible attempts to provide separation and autonomy from the parent institution. This change to the standards fostered an environment in which an affiliated law library could push for greater administrative autonomy and could fight for larger expenditures that would be invested in separate staff and collections.

70. *Proceedings, supra* note 69, at 456.

71. For more on the National Commission on Accrediting and accreditation discussions during the 1950s, see *THE INTEGRITY OF THE ACADEMIC DEGREE: STATEMENTS OF POLICY BY THE NATIONAL COMMISSION OF ACCREDITING AND THE AMERICAN COUNCIL ON EDUCATION* (1964); Fred O. Pinkham, *The Accreditation Problem*, 301 *ANNALS AM. ACAD. POL. & SOC. SCI.* 65 (1955).

72. *Proceedings, supra* note 69, at 454.

73. *Id.* at 457–58.

74. *Id.* at 458.

75. *Id.* The university in question remained unnamed in the Council minutes.

76. *Id.*

Consolidation: The 1970s and 1980s

A Comprehensive Revision, and Its Revisions

¶48 Public hearings and discussions were conducted over two years, and new standards and rules of procedure were published by the Section on Legal Education in 1973. The standards “were drafted to conform to the Criteria for Nationally Recognized Accrediting Agencies and Associations promulgated by the Office of Education, Department of Health, Education and Welfare.”⁷⁷ The ABA embraced its role as accrediting agency for law schools and reformulated its standards to conform with federal guidelines.

¶49 In comparison to the 1928 standards, the 1973 standards were comprehensive. The entire text of the standards was written anew and reflected the following major changes:

1. A definitive list of titles was included as Annex II and Annex III.
2. Library materials had to be current and complete.
3. Library autonomy or an approximation of autonomy had to be maintained so that “the best possible service is afforded the law school.”⁷⁸
4. The full-time director of the law library had to be selected by the dean and faculty of the law school.⁷⁹
5. The librarian had to possess “a sound knowledge of library administration in general and of the particular problems of a law library. If the librarian is not a law school graduate, he should have special training in the field of law library content, use, and administration.”⁸⁰
6. The library had to have adequately numbered and trained library staff who would be supervised by the director.⁸¹

¶50 The new standards absorbed the Section’s interpretations and translated them into prescriptive statements. Now there was no room for doubt about the strength and importance of the interpretations; law libraries had a clear picture of what would be evaluated during an inspection.

¶51 It is important to note that the same themes present in the 1940s iteration were re-envisioned for the 1973 standards; although expressed more definitively, the focus on personnel, services, autonomy, the collection, and the role of the law library director did not change. The 1973 standards strengthened those themes and bolstered the law library’s position within the law school by providing support for autonomy from a central university structure, including expansive language about the number of library staff needed to support the law school, and by acknowledging more completely the education and expertise of the law library director.

77. AM. BAR ASS’N, APPROVAL OF LAW SCHOOLS: AMERICAN BAR ASSOCIATION STANDARDS AND RULES OF PROCEDURE, at vii (1973).

78. *Id.* at 18.

79. *Id.*

80. *Id.*

81. *Id.*

¶52 The 1977 revision of the standards added requirements for a collection development policy,⁸² altered the educational background for the law library director,⁸³ expanded the administrative powers of the faculty,⁸⁴ and mentioned collaborative collections.⁸⁵

¶53 The revision also added potent language about the library's role in section 604, which discussed autonomy:

The law school library must be a responsive and active force within the educational life of the law school. Its effective support of the school's teaching and research programs requires a direct, continuing and informed relationship with the faculty and administration of the law school.⁸⁶

Although the language differs, the 1977 inclusion of the library's general role recalls the 1935 interpretations, which positioned the law library (and librarian) as steward to the law school's scholarly pursuits, and the 1940 interpretations, which labeled the law library as the heart of the law school. Through this revision the ABA attempted to characterize the law library's mission and to define its larger role within legal education.

The Section's Interpretations Return

¶54 The revisions from the 1970s generated stakeholder inquiries for interpretations from the Section on Legal Education. In 1978, a consultant on legal education to the ABA sent to the deans of all ABA-accredited law schools a compilation of interpretations generated since the 1973 publication of standards.⁸⁷ In 1981, the section's interpretations were once again included in the official publication of the standards.

¶55 Although the conversations leading to their inclusion have been lost to the passage of time, the interpretations of 1981 highlight the continuing struggles in law school and law library administration. Inadequate collections were still an issue,⁸⁸ and some law libraries felt they were not receiving proper financial support from either the law school or the university to address that inadequacy.⁸⁹

82. AM. BAR ASS'N, APPROVAL OF LAW SCHOOLS: AMERICAN BAR ASSOCIATION STANDARDS AND RULES OF PROCEDURE, AS AMENDED 1977, at 17 (1977). From Standard 601(b): "The Dean and the Law Librarian shall maintain a current written plan for implementation of law library support for the law school program as developed in its self-study."

83. *Id.* at 19. From Standard 605(a): "The law librarian should have a degree in law or library science and shall have a sound knowledge of library administration and of the particular problems of a law library."

84. *Id.* at 18. From Standard 604(a): "The dean, law librarian, and faculty of the law school shall be responsible for determining library policy, *including the selection and retention of personnel*, the selection of acquisitions, arrangement of materials and provision of reader services." (Italics indicate responsibilities added in 1977.)

85. *Id.* at 17. From Standard 602(a)(iii): "All arrangements for such sharing of collections shall be adequate to insure ease of access and availability of the materials when and where needed."

86. *Id.* at 18.

87. Memorandum from James P. White, Consultant on Legal Education, to Deans of ABA Approved Law Schools (Feb. 1, 1978), available at http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/standardsarchive/1978_standards.authcheckdam.pdf.

88. AM. BAR ASS'N, AMERICAN BAR ASSOCIATION STANDARDS AND RULES OF PROCEDURE FOR THE APPROVAL OF LAW SCHOOL AND INTERPRETATIONS 141 (1981) (Interpretation 1-3 of Standard 601).

89. *Id.* (Interpretation 2 of Standard 601: "A weakness of a law library collection must be addressed with the degree of financial support commensurate with the need, as required by Standard 601. May, 1978; June, 1978.").

¶56 However, the largest issue to reappear was the question of autonomy or “substantial operating autonomy.”⁹⁰ Obviously, the attempt by Hervey and his 1950s cohort to solve the problem of autonomy was not wholly successful; the interpretations offered in the 1981 standards helped clarify the Section’s definition of sufficient autonomy for the future.

¶57 Of the five interpretations of Standard 604, four touched on issues of autonomy:

1. Interpretation 1 clarified that a law library that was part of a centralized university system would be in compliance with ABA standards if “decisions with regard to the law library [were] enlightened by the interests and demands of the law school educational program and not simply made on the basis of rules governing uniform administration of the university library.”⁹¹
2. Interpretations 1 and 3 affirmed that “the dean, law librarian and faculty [were] responsible for the determination of basic law library policies”⁹² and that if a law school was “not granted adequate administrative autonomy from the university library system, particularly with respect to budgeting, salaries, acquisitions and the employment of library personnel,”⁹³ it would be in violation of the standard.
3. Interpretation 2 emphasized the need for administrative efficiencies despite “centralized university library supervision of the law school library.”⁹⁴ A law school that suffered administrative inefficiencies because of the central library system could be in violation of the standard.
4. Interpretation 4 reiterated that “[a] law library must have adequate staffing and physical housing of all of the collections of the library to permit its continued development and conformity” with the standard.⁹⁵

The 1990s: The ABA Responds to Outside Pressures

The Standards of 1995

¶58 In 1994, the Section on Legal Education was tasked with reviewing the accreditation standards, in tandem with the Commission to Study the Substance and Process of the American Bar Association’s Accreditation of American Law Schools.⁹⁶ The Section’s draft law library standards were sent out for comment, and public hearings on them were held.⁹⁷

¶59 At the ABA’s annual meeting in 1995, Jose Garcia-Pedrosa, a delegate of the Section on Legal Education, provided a brief introduction to the extensive proposed changes to the law library standards:

90. *Id.* at 145 (Interpretation 1 of Standard 604.)

91. *Id.*

92. *Id.* (Interpretation 1 of Standard 604).

93. *Id.* (Interpretation 3 of Standard 604).

94. *Id.* (Interpretation 2 of Standard 604).

95. *Id.* (Interpretation 4 of Standard 604).

96. *Report No. 2 of the Section of Legal Education and Admissions to the Bar*, 120 ANN. REP. A.B.A. No. 2, at 411, 423 (1995).

97. *Id.*

[T]he amended standards and interpretations are intended to incorporate into the law library standards the enormous changes that computerization and the electronic revolution have brought about in the manner in which lawyers and law students perform legal research and memorialize and communicate the product thereof, and to lessen the weight of the regulatory hand by requiring that a law library meet various needs of the programs, faculty and students of the law school that library serves, as opposed to being required to meet specific criteria applicable to all law libraries at all law schools.⁹⁸

This preface provided much-needed context for understanding the breadth of change implemented in 1995. Other factors influenced the retooling of the standards,⁹⁹ but the Section's official stance was that the standards needed to be changed to reflect the impact of electronic research and to allow for differentiation across law schools.

¶60 The law library standards were not subject to a complete rewrite, but were heavily revised and reordered. The substantive additions and revisions included the following:

1. Moving all of the requirements related to the law library director to Standard 603, including new language about faculty status: "The law library director shall hold a law faculty appointment."¹⁰⁰ Although the previous standards assumed a close and functional working relationship between the dean and the law library director, the new Section 603(d) ensured that the law library director would stand on an equal footing with the law faculty.
2. Changing the suggested law library director's educational background in Standard 603 from holding a "law degree or a library science degree" to a "law degree and a degree in library or information science,"¹⁰¹ emphasizing the importance of both degrees. However, this remained a suggestion, not a requirement.
3. Adding Standard 605: "A law library shall provide the appropriate range and depth of reference, bibliographic, and other services to meet the needs of the law school's teaching, research, and service programs."¹⁰² The standard's interpretation further defined the requirement: "Appropriate services include having adequate reference services, providing intellectual

98. *Fourth Session of the Annual Meeting*, 120 ANN. REP. A.B.A., No. 2, at 50, 53 (1995) (Section of Legal Education and Admissions to the Bar).

99. Although far beyond the scope of this article, a larger national conversation was happening in the mid-1990s about the role of the ABA as accrediting agency and the antitrust implications of its standards. After the denial of accreditation for the Massachusetts School of Law (MSL) in 1994, the ABA was sued under the Sherman Act. The rewritten standards of 1995 are a partial reflection of an antitrust suit settled with the Department of Justice. The literature on this topic is prolific. See, e.g., Andy Portinga, *ABA Accreditation of Law Schools: An Antitrust Analysis*, 29 U. MICH. J.L. REFORM 635 (1995–1996); Mathew D. Staver & Anita L. Staver, *Lifting the Veil: An Exposé on the American Bar Association's Arbitrary and Capricious Accreditation Process*, 49 WAYNE L. REV. 1 (2003–2004).

100. AM. BAR ASS'N, AMERICAN BAR ASSOCIATION STANDARDS FOR APPROVAL OF LAW SCHOOLS AND INTERPRETATIONS 48 (1995) [hereinafter 1995 STANDARDS]. See Barbara Bintliff & Steven Barkan, *ABA's Proposed Standard on Tenure for Law Library Directors*, SYLLABUS, Spring 1995, at 13, for a brief justification for the new standard of tenure.

101. 1995 STANDARDS, *supra* note 99, at x.

102. *Id.* at 49.

access (such as indexing, cataloging, and development of search terms and methodologies) to the library's collection and other information resources, offering interlibrary loan and other forms of document delivery, enhancing the research and bibliographic skills of students, producing library publications, and creating other services to further the law school's mission."¹⁰³ The previous version of the standards did not include comparable language. This addition recognized that an organizational structure imposed on legal information could provide substantial benefits to legal researchers. It also highlighted specific roles and expertise expected of library personnel.

4. Redefining the core collection and adding a clause that would allow for "ownership or reliable access" of the required materials¹⁰⁴ "depend[ing] on the needs of the library and its clientele."¹⁰⁵ Standard 602(b) of the 1994 standards mentioned sharing of services and publications, but only for "additional publications and information services reasonably necessary"¹⁰⁶ that were outside of the core collection.

¶61 The standards addressing physical aspects of the law library did not change drastically. But the addition of requirements focused on nontangible items such as services, teaching, and professional backgrounds of employees suggests that expectations for law libraries were shifting. The collection and physical plant were still important, but the attention given to the nontangibles reflects the integration of personnel and services into the ABA's vision of a law library worthy of accreditation.

The ABA's Structural Shift

¶62 Having embraced its role as an accrediting agency in the 1970s, the ABA was subject to periodic evaluations by the Department of Education (DOE). In 1999, the ABA's Board of Governors issued a report outlining the difficulties in adhering to DOE regulations, particularly the "requirement that a nationally recognized accrediting agency, . . . , that is part of a professional association, . . . , must be 'separate and independent' from the professional association."¹⁰⁷ To address the DOE's concerns, the following changes were made in the procedures surrounding accreditation and standards drafting:

1. The Council of the Section on Legal Education must notify the House of Delegates of any adoption or revision of a standard or rule by filing a report.¹⁰⁸
2. When the notice of an adoption or revision is placed on the House meeting calendar, "the House shall either agree with the action or refer it back to the Council for reconsideration based on reasons specified by the House."¹⁰⁹

103. *Id.*

104. *Id.* (Standard 606(b)).

105. *Id.* at 51 (Interpretation 2 of Standard 606(b)).

106. AM. BAR ASS'N, AMERICAN BAR ASSOCIATION STANDARDS FOR APPROVAL OF LAW SCHOOLS AND INTERPRETATIONS S602 (1994).

107. *Informational Report of the Board of Governors*, 124 ANN. REP. A.B.A., No. 1, at 35, 55 (1999).

108. *Id.* at 53.

109. *Id.*

3. The House may refer the issue back to the Council no more than two times.¹¹⁰
4. If the House uses its two referrals back to the council, the council decision after consideration of the second referral is final.¹¹¹

¶63 The changes were intended to “comply with the Higher Education Act and the DOE regulations while maintaining in some form the historic role the House has played in accreditation decisions.”¹¹² These changes bolstered a procedure for the creation of the standards that was far removed from the annual meeting quorums of 1900s, moving the ABA toward a streamlined process for changing the standards and rules related to accreditations.¹¹³ The Council became a quasi-independent organization within the ABA and was given control over the process of accreditation of law schools.

The Early 2000s: Status Quo

¶64 As with previous iterations, the 1995 Standards were subject to adjustment each succeeding year. In the 2004–05 Standard, the law faculty status of a director was qualified by an exception: if “extraordinary circumstances” existed, then the director did not have to hold faculty status.¹¹⁴ This same standard was further clarified in 2006–07: the law faculty appointment was to be held “with security of faculty position.”¹¹⁵

¶65 The other adjustments to the standards reflected much larger conversations taking place in the law librarian community. With the introduction of each new technology there arose confusion and uncertainty over collections and formatting. The availability of specialized databases and shared electronic resources meant that the bubble of information was no longer contained by a library’s square footage. The ABA tried to anticipate the changes wrought by technology by changing its standards language related to collections and format.

¶66 Language about ownership or access for the core collections was pared down to require only that the material be accessible in the law library,¹¹⁶ thus allowing libraries to subscribe to electronic materials in lieu of ownership. Interpretation 601-1 of the 2005–06 Standards asserted that cooperative agreements could be taken into account when assessing the collection, but that electronic-only access or access to other libraries did not satisfy the requirement.¹¹⁷

110. *Id.*

111. *Id.*

112. *Id.* at 56.

113. The impact of the changes is summed up well by the same report’s Attachment A, and its headings:

A. The Council Will Have Final Authority to Revise the Standards and Rules.

B. The Council Will Have Final Authority to Grant, Deny, or Withdraw Accreditation.

114. These extraordinary circumstances were not elucidated in the interpretations.

115. AM. BAR ASS’N, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 41 (2006) (Standard 603(d)).

116. AM. BAR ASS’N, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 43 (2005) (Standard 606(a)).

117. *Id.* at 41.

¶67 The Section on Legal Education seemed to struggle with interpretations that discussed a single-format library. In 1996, a new interpretation was added:

At present, no single medium (electronic, print, microform, or audio-visual) provides sufficient access to the breadth and depth of recorded knowledge and information needed to bring a law school into compliance with Standard 606. Consequently, a collection that consists of a single format may violate Standard 606.¹¹⁸

This interpretation was distilled and combined with an interpretation on format from 1996 in 2005–06: “The appropriate mixture of collection formats depends on the needs of the library and clientele. A collection that consists of a single format may violate Standard 606.”¹¹⁹

The Present and Future Standards

The 2013 Proposed Changes

¶68 The proposed 2013 changes to Chapter 6 reflect the ABA’s larger goals “to more concretely link library performance to the mission of the law school, to require measurements that are more outcome-related and focus on quality instead of quantity, and to alter the Standards to reflect the ways that legal information can be accessed or acquired in the 21st century.”¹²⁰

¶69 More specifically, the new standards reach for these goals by making the following substantive changes:

1. The language characterizing the law library as an “active and responsive force” has been replaced by more concrete recommendations for relationship building, services, planning and assessment, and integrating new technology and information where appropriate.
2. The importance of staff knowledge and experience is underscored by the removal of language requiring mere competency and the addition of a requirement of expertise in Standard 604. Expertise is also mentioned in Standard 601(a)(1).
3. The core collection requirements may now be satisfied by ownership or reliable access, and the core collection requirements have been moved out of interpretations to the standards. A definition of reliable access is provided by the new Interpretation 606-2.

118. AM. BAR ASS’N, STANDARDS FOR APPROVAL OF LAW SCHOOLS AND INTERPRETATIONS 54 (1996) (Interpretation 606-4).

119. AM. BAR ASS’N, *supra* note 114, at 43 (Interpretation 606-2).

120. Memorandum from Kent D. Syverud, Council Chairperson, & Barry A. Currier, Interim Consultant on Legal Educ., Section of Legal Educ. & Admissions to the Bar, to Interested Persons and Entities, Comprehensive Review of the ABA Standards for Approval of Law School Matters for Notice and Comment 2 (Feb. 22, 2013), available at http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/20130222_notice_and_comment_standards_chs_6_7.authcheckdam.pdf.

4. The law library director need not hold tenure and will “hold appointment as a member of the law faculty with the rights and protections accorded to other members of the full-time faculty under Standard 405.”¹²¹

Although it’s dangerous to comment on standards that are in flux, it is safe to say that the changes outlined above alter the standards’ overall impact in such a way as to provide very different possible futures for law libraries. Space, collections, staff expertise, and library administration are going to shift under these new standards, and each institution will need to evaluate itself under a new rubric.

Our Future

It is obvious that as a means for improving legal education the method of standardization has grave limitations. It operates to encourage not innovation, but imitation of what already exists. It tempts school authorities blindly to follow opinion, rather than to build up their institutions along lines which they sincerely believe are best suited to the conditions that confront them and the ideals that they cherish.¹²²

The ABA Standards for Approval of Law Schools are largely prescriptive. As such, they affect costs, although the degree to which they do so is disputed. Also disputed is how much the Standards constrain law schools from innovation and experimentation. . . . What is not reasonably disputable, however, is that the Standards do not encourage innovation, experimentation, and cost reduction on the part of law schools.¹²³

¶70 The prescient musings of the Carnegie Foundation in 1922 underlined the tension associated with promulgating standards. By their very nature, prescriptive standards tamp down on innovation and experimentation, and this issue resurfaced in 2013 in the draft reports of the ABA’s Task Force on Legal Education.

¶71 The development of the ABA’s library standards prescribed the growth and direction of the law library as an institution. The impacts were multiple, but at its most basic, standardization manufactured an ideal law library that was focused on a core collection, that fostered the growth of the law librarian profession, that positioned itself as the physical manifestation of the metaphorical heart of the law school, and that prioritized conformity over innovation. The standards created duplicate core libraries across the country, and limited variation within accredited institutions with respect to administrative organization and functionality. In respect to its iterations, each new version of the standards built upon previous interpretations and standards. Technology and external economic pressures interrupted that iterative process, beginning in the 1990s.

¶72 When considered in the context of its history, the proposed standards of Chapter 6 reflect a new generation of interruptions. External forces are exerting pressure on the architecture of higher education and on the traditional model of libraries. The proposed changes are the echoes of these tectonic shifts in the educational landscape.

121. Am. Bar Ass’n Section of Legal Educ. & Admissions to the Bar Program, Proposed Standards for Approval of Law Schools 53, available at <http://aals.org/am2014/materials/ABASStandards.docx> (last visited Mar. 3, 2014).

122. REED, *supra* note 24, at 9.

123. Am. Bar Ass’n Task Force on the Future of Legal Educ., Draft Report 11 (Sept. 20, 2013), http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/taskforce_comments/task_force_on_legaleducation_draft_report_september2013.authcheckdam.pdf.

¶73 Despite resistance, the ABA's new hybrid model of instituting minimum standards coupled with encouraging innovation represents an opportunity for law librarians and other stakeholders to engage in a dialogue that will shape the future of academic law libraries. At the height of law school standardization in the 1930s, "[t]he possession of a store of books [was evidence] of permanency, dignity, scholarship and ambition in an educational institution."¹²⁴ A more modern reading of this sentiment can now be interpreted against the backdrop of the ABA's hybrid model, which recognizes and possibly even celebrates the unique culture of each institution. Although rewarding conformity has been the norm throughout the history of law school standardization, the ABA is on the cusp of recognizing that it is in the best interests of each law school to leverage its unique resources. With the full acknowledgment of the expertise of law librarians, law libraries are positioned to be leaders in this move into uncharted territory.

124. ANNUAL REVIEW OF LEGAL EDUCATION FOR 1936, *supra* note 46, at 7.

