

# ALWD

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## ASSOCIATION OF LEGAL WRITING DIRECTORS

July 12, 2012

Professor Jeffrey E. Lewis  
Dean Emeritus and Professor of Law  
Chair, Standards Review Committee  
ABA Section of Legal Education and Admissions to the Bar  
St. Louis University School of Law  
St. Louis, IL 63108

Mr. Hulett H. Askew  
Consultant  
Office of the Consultant on Legal Education  
ABA Section of Legal Education and Admissions to the Bar  
321 N. Clark Street, 21st floor  
Chicago, IL 60610

Dear Chairman Lewis and Mr. Askew:

We are writing to address the current proposal on Chapter 3 to be discussed at your July 13, 2012 meeting. Specifically, we want to address the change that removed “rigorous” from new Standards 304(a)(2) and 304(a)(3) and instead added it to new Standard 301 to modify “program of legal education.”

Although we laud your underlying goal in wanting a program that is rigorous overall, using the modifier “rigorous” in Standard 301 is confusing and potentially meaningless without providing any definition of the term. As currently drafted, the term will lead to varying results from different accreditation teams because there is no guidance defining what is or is not a rigorous program of legal education.

The current standards use and define the term “rigorous” in the context of writing experiences. Current Standard 302 includes a requirement that law schools provide instruction in “writing in a legal context, including at least one rigorous writing experience in the first year and at least one additional rigorous writing experience after the first year.” The interpretations to the standard clarify what it means to have a “rigorous writing experience”:

Factors to be considered in evaluating the rigor of writing instruction include: the number and nature of writing projects assigned to students; the opportunities a student has to meet with a writing instructor for purposes of individualized assessment of the student’s written products; the number of drafts that a student must produce of any

writing project; and the form of assessment used by the writing instructor. Interpretation 302-1.

This requirement of rigor makes sense in the context of legal writing, because students cannot learn how to write and do legal analysis without receiving significant feedback and assessment, meeting with the professor individually, and having multiple opportunities to practice writing, editing and rewriting. The drafters recognized that simply requiring a student to write a paper without these steps would be inadequate. The same is true for any experiential course, because students will learn a skill only when they have been given significant feedback and multiple opportunities to practice the skill.

We therefore propose the following alternatives.

1. Remove “rigorous” from proposed Standard 301 and include the modifier “rigorous” before “writing experience” in proposed Standard 304(a)(2) and before “experiential course” in proposed Standard 304(a)(3). Then modify proposed Interpretations 304-1 and 304-2 to define “rigor” or “rigorous”:
  - a. **Interpretation 304-1**  
Factors to be considered in evaluating the rigor of a writing experience include...
  - b. **Interpretation 304-2**  
For the course(s) described in Standard 304(a)(3) to be rigorous, they should have the following characteristics...

OR

2. Move “rigorous” from proposed Standard 301 to proposed Standard 304(a), and use it to modify “curriculum”: “A law school shall offer a rigorous curriculum that is designed...” Then modify proposed Interpretations 304-1 and 304-2 to define “rigor” or “rigorous”:
  - a. **Interpretation 304-1**  
Factors to be considered in evaluating the rigor of a writing experience include...
  - b. **Interpretation 304-2**  
For the course(s) described in Standard 304(a)(3) to be rigorous, they should have the following characteristics...

These proposals will clarify the term “rigorous” and make the standards much easier to apply. If the committee decides to keep the term “rigorous” in proposed Standard 301, the committee will have to take the onerous step in defining what that term means in each aspect of the program of legal instruction. Otherwise, the term is vague and will be unclear to future accreditation teams. Our proposal provides simple alternatives that satisfy the goals that you are trying to achieve in Chapter 3.

Thank you for your attention; we are glad to answer any questions you may have about these concerns.

Very truly yours,

A handwritten signature in cursive script, reading "J. Lyn Entrikin".

J. Lyn Entrikin  
ALWD President

A handwritten signature in cursive script, reading "Anthony Niedwiecki".

Anthony Niedwiecki  
ALWD President-Elect