



# SYLLABUS

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

Winter 2011–12  
Volume 43 No. 2

## Cover Story

[Council Approves Changes in Collection of Placement Data](#)

## Featured Articles

[Why Many Law Schools are Better Prepared than Anticipated for the Proposed ABA Standards 302-305](#)

By Brenda D. Gibson

[Changes to Standards and Rules Approved by Section Council](#)

[Cynthia Nance to Receive ABA Award](#)

## News

[Call for 2012-2013 Council Nominations](#)

[Attend a Section Conference in 2012](#)

[Member News](#)

[Membership Updates](#)

[Litigation Section Invites Applicants to Judicial Intern Program](#)

[Call for 2012 Kutak Award Nominations](#)

# Council Approves Changes in Collection of Placement Data

At its meeting on December 3, 2011, the Council of the Section approved significant changes in the way the Section manages the collection and publication of graduate placement data provided by law schools. The changes expand the level of detail of graduate placement data that law schools must report, refine the definitions of the reporting categories, and accelerate the timetable on which the data will be published. The revisions are intended to provide placement data that is more accurate, timelier, more complete and more specific.

As part of the Standards for Approval of Law Schools, Standard 509 requires that law schools publish basic consumer information, including placement data. "The information shall be published in a fair and accurate manner reflective of actual practice." The ABA relies on law schools to provide fair and accurate information, which is then published for use by prospective students.

The Council approved recommendations from the Questionnaire Committee of the Section, which has worked diligently over the past year to develop a comprehensive revision of the Section's approach to the collection and publication of placement data. The Committee consulted with the National Association for Law Placement (NALP) in its work. NALP provided valuable suggestions and comments on the Committee's work, and has conformed its graduate placement survey to the ABA's.

## **Job placement information is reported directly to the ABA.**

Law schools are now required to report placement data (as of nine months after graduation), for each individual graduate, directly to the Section. This is a significant change from prior practice, and a significant undertaking for schools and the Section. In previous years, law schools reported placement data for their graduates only to NALP, a membership organization of law school career services offices and legal employers. NALP aggregated the data for individual graduates of each school, and sent a report to the schools. Schools then reported information given them by NALP to the Section as part of the mandatory Annual Questionnaire. The new procedure, requiring law schools to report data directly to the accrediting agency, is expected to help ensure the accuracy of the data, and permit its expedited publication. It also allows the Section to determine how and what data are collected, and how various survey terms are defined.

## **Information will be more readily available.**

The Section is significantly expediting the collection and reporting of placement data. In the past, there was a two-year delay of publication of employment data for a particular class. For example, placement data for the class of 2009 was published in the summer of 2011. Under the Section's new timetable for collecting and publishing data, they will now be reported online approximately one year (not two) after graduation. Thus, the placement data for the class of 2011 will be published during the summer of 2012, not the summer of 2013.

## **Information will be more detailed and complete.**

The Council's action expands and refines the placement data that are reported by schools and published by the Section. As for this past year, law schools must report for each graduate: employment status (employed, unemployed/seeking, unemployed/not seeking, pursuing graduate degree full-time, unknown); employment type (law firm, business/industry, government, public interest, clerkship, academia); employment location; whether a position is short term or long term; and whether a position is funded by the school itself. Further, going forward, schools will report on employment type: bar passage required, J.D. advantage, other professional, nonprofessional; and whether a position is full time or part time. On the Questionnaire Committee's recommendation, the Council has approved what it believes to be significantly improved definitions of these types of employment.

"The Section is fully committed to clarity and accuracy of law school placement data," says John O'Brien, chair of the Section and dean of New England School of Law. "As a result of these changes, future law students will be better informed about the prospects for employment than ever before."

# Law Schools are Better Prepared than Anticipated for the Proposed ABA Standards 302-305

By Brenda D. Gibson

## About the Author

*Brenda Gibson is an assistant professor and director of legal writing at North Carolina Central University School of Law in Durham. Professor Gibson received her bachelor of arts in political science from and her juris doctor cum laude from NCCU School of Law. She was previously employed at the North Carolina Court of Appeals as a staff attorney in the Office of Staff Counsel and law clerk to Judge Clifton E. Johnson (deceased) and Judge (now Justice) Patricia Timmons-Goodson. Professor Gibson's professional memberships include the N.C. State Bar, N.C. Bar Association, Tenth Judicial District Bar Association, and the Legal Writing Institute (LWI). She currently chairs the LWI's plagiarism committee. Professor Gibson is married to Adolph Simmons, Jr., and they have two sons, Adolph Drayton and Andrew Gabriel.*

This essay was born during the summer of 2011 as I struggled to fit this very fascinating information into an article that I was writing. The essay discusses a subject that many have ruminated about and written on; it is a subject that I became interested in after attending the 2010 Charlotte School of Law's Outcomes Conference – the maelstrom in the academy, better known as proposed Standards 302-305.[1] Ever the optimist, this essay is written from the viewpoint that many law schools are better positioned for the proposed standards than most people think. Indeed, this essay is written to relieve some of the angst felt by many professors, program directors like myself, and institutional administrators when they think about implementing the proposed Standards.

## A. Summary of the Proposed Standards

The proposed Standards were summarized by Steven C. Bahls, subcommittee chair, in a manuscript from the Charlotte School of Law's Outcomes Conference:[2]

1. Standard 302 provides that law schools identify desired learning outcomes. It provides substantial flexibility for law schools, consistent with each law school's mission.
2. Standard 303 provides that law schools offer a curriculum that is designed to produce graduates that have attained the identified learning outcomes. The proposed standard, with a few exceptions (e.g., a required course in professional responsibility), leaves it to each law school to determine what that curriculum will be.
3. Standard 304 provides that law schools apply a variety of formative and summative assessment methods across the curriculum to provide meaningful feedback to students. The determination of how to assess learning outcomes is left to the law schools. Schools are not required to measure the level of achievement of each student in each learning outcome.
4. Standard 305 provides that law schools review the pedagogical effectiveness of their curriculum and improve their curriculum with the goal that all students are likely to achieve proficiency in the identified learning outcomes.

In a nutshell, these proposed changes call for a movement away from "inputs measurements (such as numbers of books, faculty student ratios, etc.) to outcomes assessment,"[3] shifting the focus in legal education from teaching to learning.[4] The new standards will require that law schools know and articulate their goals and have in place some mechanism for measuring/assessing their effectiveness in achieving those goals.

I submit, however, that this is nothing new! Assessment has been around for quite some time.[5] Assessment is defined as "the gathering of data, usually quantitative in nature and based on testing, that provides the information for evaluation to be made." [6] A circuitous process, assessment involves setting goals, gathering evidence to determine if the goals are being met, interpreting the evidence, and making changes to the goals as the evidence shows is necessary.[7]

## B. Summary of the Assessment Process Under the Proposed Standards

To comply with the proposed Standards, institutions must set up the framework for assessment. First, an institution must construct its mission statement (for a department, its program goals), which summarizes its “core values.”[8] It must then define its “measurable student learning outcomes” (SLOs).[9] In his article, Gregory Munro defines student outcomes as “the stated abilities, knowledge base, skills, personal attributes, and perspectives on the role of law and lawyers in society that the school desires the students to exhibit on graduation.”[10] Significantly, broader institutional SLOs, which are oftentimes included in the larger institutional strategic plan (as opposed to those narrower SLOs included on a course syllabus), however, are probably better referred to as “institutional outcomes.” To be effective under the proposed Standards, these “institutional outcomes,” already drafted as a part of an institution’s strategic plan, will perhaps need to be fleshed out a bit more to be made more “measureable.”[11] Tomes of literature have been written on creating measureable outcomes.[12] Suffice it to say, that this is a time-consuming, but necessary, part of the process. Without a proper definition of what is being measured, a proper mechanism cannot be measured.

The next step requires that the success in achieving those goals or SLOs be measured. Presently, most law schools make this determination through their self-studies in preparation for site visits and strategic planning.[13] Under the new proposed Standards, additional interim mechanisms will need to be employed.[14] Tools such as rubrics, curriculum mapping,[15] focus groups, and surveys, to name a few, have been mentioned in many of the articles discussing assessment.[16]

## C. North Carolina Central University School of Law (NCCU)—A Position of Readiness

NCCU School of Law was “[f]ounded in 1939, to provide an opportunity for a legal education to African-Americans.”[17] Today, “the . . . provides this opportunity to a more diverse student body than any other in the nation, as it pertains to race and gender.”[18] The law school’s mission is “to provide a challenging and broad-based educational program designed to stimulate intellectual inquiry of the highest order, and to foster in each student a deep sense of professional responsibility and personal integrity so as to produce competent and socially responsible members of the legal profession.”[19] As noted on the law school’s webpage, “This environment of diversity better prepares our students to effect positive change in the broader society.”[20]

NCCU School of Law has for many years prided itself on producing “practice ready” attorneys, even before the ABA proposed its new standards. It has been necessary for its survival as a Historically Black College or University (HBCU)[21] and as a lower-tier law school.[22] Many like NCCU have also long-prided themselves on doing the same--perhaps for similar or maybe different reasons.

For a school like NCCU, which has a long-standing and clearly articulated mission to engender diversity and produce “practice-ready” attorneys, the shift in the academic paradigm will not be great. Indeed, the school’s mission statement is buttressed by its long-range strategic plan, which has “objectives,” “goals,” or “outcomes”—all acceptable language in the area of assessment[23]-- that track the mission. Further, during the last Southern Association of Colleges and Schools’ accreditation, each professor was instructed to include SLOs on course syllabi. Additionally, each professor teaching a first-year substantive course or a four-credit, upper level course is required, or strongly encouraged, to administer both mid-term and final examinations, i.e., formative and summative assessment. In fact, our first-year legal writing faculty utilizes numerous assessments— from the grammar diagnostics given during the first week of class, to the interim assessments that are graded during the semester, leading up to the final memo.[24] Moreover, many other professors are taking advantage of technology in the classroom, using clickers or Westlaw’s polling function, to engage in more informal methods of formative assessment. Finally, the long-range planning committee, a standing committee at the law school, meets periodically to determine if the school’s stated goals have been met or need to be revised.

## D. Conclusion

Without a doubt there is still some heavy lifting to be done at NCCU and other law schools, alike. The informal process of assessing student and institutional outcomes used in the past will need to be formalized under the proposed Standards. Most notably, the goals set forth in the institution’s long-range strategic plan will need to be reviewed to ensure their measurability. Finally, the institutions must take the final step of setting up regular, interim measurement (or collecting of evidence) to determine if “institutional and student objectives” are being met. I posit, however, that with collaboration between faculty, the bar, and administrators, the heavy lifting need not be overwhelming. Indeed, we are better positioned for change than many (including ourselves) think. In the words of the old British adage, “Keep calm and carry on.”

- [1] “The proposed changes to Chapter Three are being spearheaded by the Student Learning Outcomes Committee, a sub-committee of the ABA’s Section on Legal Education and Admission to the Bar’s Standards Review Committee.” Susan Hanley Duncan, *The New Accreditation Standards are Coming to a Law School Near You—What You Need to Know About Learning Outcomes & Assessment*, 16 *J. Legal Writing Inst.* 606, 608 (2010). As of the printing of Duncan’s article, the Student Learning Outcomes sub-committee had developed five drafts of the proposed changes to Chapter Three, based upon input from various sources (a special sub-committee on outcome measure’s report and many other interested parties).
- [2] Steven C. Bahls, *Assessment and Student Outcomes – Implications of Proposed ABA Standards on Student Learning Outcomes* (May 27, 2010) (unpublished manuscript) (on file with author).
- [3] David Thomson, *Outcomes & Assessment: A Golden Opportunity for LRW Professors, The Second Draft*, 4 (2010).
- [4] Duncan, *supra* note 1, at 609.
- [5] Sandy Cobb, *History of Assessment Practices in the United States* 1, 1 (Oct. 8, 2004) (unpublished manuscript), [http://learn.mid-southcc.edu/LearningObjects/facDev/history\\_of\\_assessment.pdf](http://learn.mid-southcc.edu/LearningObjects/facDev/history_of_assessment.pdf) (“Assessment practices began to spring up in the early 1900’s, and the government was a predominant driver.”).
- [6] Craig S. Shwery, *Reading, Writing, and Classroom Rubrics: Ways to Motivate Quality Learning*, in *Rubrics: A Handbook for Construction and Use* 95 (Germaine L. Taggart et al. eds., 1998) (citing J.E. Bertrand, *Student Assessment and Evaluation*, in *Assessment and Evaluation in Whole Language Programs* 19-35 (B. Harp ed., 1993).
- [7] Victoria L. VanZandt, *Creating Assessment Plans for Introductory Legal Research and Writing Courses*, 16 *J. Legal Writing Inst.* 319-20 (2010).
- [8] Duncan, *supra* note 1, at 612; Thomson, *supra* note 3; Gregory S. Munro, *How Do We Know if We Are Achieving Our Goals?: Strategies for Assessing the Outcome of Curricular Innovation*, 1 *J. Ass’n Legal Writing Directors* 229, 230 (2002) .
- [9] Thomson, *supra* note 3; Munro, *supra* note 8.
- [10] Munro, *supra* note 8, at 232.
- [11] Duncan, *supra* note 1, at 614. Assessment requires the use of some precise and sometimes formulaic terminology.
- [12] *Id.* (noting that constructing “effective” outcomes can be difficult and referring the reader to Bloom’s Taxonomy of Educational Objectives-Cognitive Domain and to Linda Suskie’s book, *Assessing Student Learning*, in which she lists several helpful tips).
- [13] *Id.* at 628.
- [14] See *id.* at 622-27 (discussing the methodology of measuring student, program, and institutional outcomes and goals).
- [15] “Curriculum mapping is a process of identifying where the intended learning outcomes fit within the curriculum.” at 619.
- [16] See *id.* at 617-20; 623-24 ; VanZandt, *supra* note 7, at 342-47.
- [17] NCCU School of Law, <http://www.nccu.edu/academics/sc/law> (last visited Aug. 13, 2011).
- [18] *Id.*
- [19] NCCU School of Law, <http://web.nccu.edu/law/about/mission.html> (last visited Aug. 13, 2011).
- [20] *Id.*
- [21] HBCUs are historically funded at a lower level in comparison to their Historically White counterparts. See Marybeth Gasman, *Comprehensive Funding Approaches for Historically Black Colleges and Universities* (2010), <http://www.gse.upenn.edu/pdf/gasman/FundingApproachesHBCUs.pdf>.
- [22] As a lower-tiered law school, NCCU relies on its reputation for affordability, having a good bar passage rate, and producing “practice-ready” attorneys, instead of the U.S. News & World Report’s rankings.
- [23] VanZandt, *supra* note 7, at 323.
- [24] All legal writing courses/seminars at NCCU are designed to include a minimum of three writing assignments, with at least one opportunity for a re-write.

---

Editor’s Note: The Standards numbers cited in this article are current as of the Standard Review Committee’s November 2011 meeting. They are subject to change. Please refer to the Standards Review Committee page for updates to the Comprehensive Review process.

# Changes to Standards and Rules Approved by Section Council

At its meeting on December 3, 2011, the Council of the Section approved the proposed changes to Rule 3, Rule 5(a), Rule 22, and new Interpretation 510-2. The changes have been sent to the ABA House of Delegates for concurrence at its February meeting in New Orleans.

The change to Rule 3 (Accreditation Committee Consideration) complies with U.S. Department of Education regulations by codifying the requirement that the Council undertake regular interim monitoring of schools to ensure compliance with the Standards between regular site visits. The change to Rule 3 provides a general framework for such monitoring. The primary focus of the interim monitoring will be on data provided in the Annual Questionnaire, which all schools already submit. While every school will undergo the interim monitoring, only in those instances where the monitoring raises significant questions about possible noncompliance with one or more of the Standards would a school be contacted.

New Interpretation 510-2 (Student Loan Programs) complies with Department of Education requirements concerning student loan default rates and compliance with Title IV of the High Education Act. It applies only to independent law schools.

The revisions to Rule 22 (Teach-out Plan and Agreement and Law School Closure) and Rule 5(a) (Jurisdiction of the Accreditation Committee) comply with Department of Education requirements for teach-out plans and teach-out agreements in the event of a closure of a school or branch.

[Proposed Revisions to Rule 3](#)

[New Interpretation 510-2](#)

[Proposed Revisions to Rule 22](#)

[Proposed Revisions to Rule 5\(a\)](#)

# Cynthia Nance to Receive ABA Spirit of Excellence Award



Cynthia Nance, the Nathan G. Gordon Professor of Law and former dean of the University of Arkansas School of Law-Fayetteville, will receive the 2012 ABA Spirit of Excellence Award at the ABA Midyear Meeting in New Orleans in February.

Sponsored by the Commission on Racial and Ethnic Diversity in the Profession, the award celebrates the accomplishments of lawyers who promote a more racially and ethnically diverse legal profession. In making the announcement, commission chair Reginald M. Turner, noted that “Nance is a trailblazer, becoming both the first female and first black female dean of a college or school in the history of the University of Arkansas”.

As dean of the law school from 2006 to 2011, Nance strengthened pro bono activities among the student body and helped the law school increase its minority enrollment to more than 20 percent. Throughout her career, she has served as a mentor to women. Her work to promote diversity in the legal profession has been recognized by the American Association for Affirmative Action, the University of Arkansas Black Alumni Society, and the Arkansas Black Democratic Caucus. Professor Nance is a recipient of a Northwest Arkansas Martin

Luther King Individual Achievement Award and the inaugural 2010 Judge Andree Layton Roaf Award.

Within the ABA, Nance serves on the Section’s Law School Administration Committee and has served as a co-chair of the Equal Opportunity in the Law Committee of the Section of Labor and Employment Law and as an at-large member of that Section’s Council.

# Nominations Sought for 2012–2013 Section Council Slate

The Section's Nominating Committee invites suggestions for nominations to the 2012-2013 Council of the Section of Legal Education and Admissions to the Bar. The Nominating Committee is accepting nominations of judges, practicing lawyers, academics, and public members. The slate of Section officers and Council members will be presented for election at the Section's August meeting in Chicago.

The deadline for nominations is April 15. All nominations must be submitted through the online [Council Nominations](#) process.

# Section Conferences Offer a Variety of Professional Development Opportunities

From facilities planning to fundraising to navigating the changing law school environment, the Section's 2012 conferences offer a variety of professional development opportunities.

- **Bricks, Bytes and Continuous Renovation:**  
Law School Facilities Conference  
Hotel Indigo San Diego  
San Diego, California  
March 10–13, 2012

Thomas Jefferson School of Law will host the 2012 conference, which features plenary sessions and more than 40 programs designed for law school deans, faculty, librarians, architects, and law school IT professionals who are designing or renovating law school space.

Visit the [Bricks and Bytes](#) conference site for program information and to register.

- **Law School Development**  
Return to Our Roots:  
Fundraising Fundamentals and Best Practices in Development  
Jackson Lake Lodge  
Grand Teton National Park, Wyoming  
May 29–June 1, 2012

Join law school deans and senior advancement professionals from across the country for the premier law school development conference. This program offers the opportunity to learn about strategies for successful fundraising in what remains a difficult economic climate and best practices for building and sustaining a successful law school advancement operation.

Visit the [Law School Development](#) conference site for program information and to register.

- **Associate Deans Conference**  
Boot Camp for Associate Deans: "Corps" Principles  
The Mirage  
Las Vegas, Nevada  
June 21–24, 2012

We are in a time of generational change with issues ranging from the increased pressures on law school faculty, staff, and students, to the increased pressures on the legal profession generally. It's time to go back to boot camp to figure out how to perform better in an atmosphere that is radically different from the one that existed when you went to law school. We'll discuss employment markets, the culture of legal employers and of law schools, tuition pressures, student debt loads, and encouraging a climate of professionalism at work. And we promise not to make you do sit-ups or march while carrying an 80-pound backpack.

Registration will open in mid-January.

# Member News

Kelly Lynn Anders, director of communications and diversity at Creighton University School of Law, is the author of [\*Advocacy to Zealousness: Learning Lawyering Skills from Classic Films\*](#). It will be published in January 2012 by Carolina Academic Press.

[\*Current Issues in Constitutional Litigation: A Context and Practice Casebook\*](#), written by Sarah Ricks and Evelyn Tenebaum, was featured on the American Constitution Society's website as part of its Book Talk feature. Sarah Ricks is clinical professor and co-director of the Pro Bono Research Project at the Rutgers School of Law-Camden. Evelyn Tenebaum is a professor at Albany Law School.

# Membership Updates

- Two new pages have been added to the Section's website.

[Student Loan Repayment and Forgiveness Resources](#) is a compilation of links to federal agencies and nonprofit organizations that offer student loan advice and repayment assistance. The page can be accessed from the Resources page under Law Students.

[Accreditation Archives](#) is a collection of accreditation-related reports and decisions. In conjunction with this page, the Section staff is working on a chronological history of the ABA Standards and Rules for Approval of Law Schools. This project is expected to be completed in April 2012. You can find the link to the archives page in the Law School Accreditation box on the Section's home page.

- Visit the [ABA's Career Center](#) to submit resumes, view job postings, post open positions, and find qualified legal candidates. The also posts articles on choosing a career path, tips for finding a job, industry news and trends, and advice for maintaining work/life balance.
- The ABA's Meetings and Travel Division is set to roll out the **E-Program**, a new web-based feature that allows you to access and search the Midyear and Annual Meeting programs from your mobile devices (iPhone, iPad, Android or BlackBerry) or computer and download events to your personal calendar. Changes to your selected events will automatically update. The My Events function will allow you to email your calendar to yourself and to print it out. The E-Program will be available in time for the Midyear Meeting in February. Watch the ABA's and the Section's home pages for the announcement.

# ABA Section of Litigation Accepting Applications for Summer 2012 Judicial Intern Opportunity Program

Law students are invited to apply for the summer Judicial Intern Program sponsored by the ABA Section of Litigation. The program is a full-time (32 hours per week), six-week minimum, summer internship program open to all first-or second-year minority and economically disadvantaged law students. Interns will receive an award of \$1,500.

Participating judges are from:

Illinois  
Los Angeles  
Miami  
Philadelphia  
Phoenix  
San Francisco  
Seattle  
Texas  
Washington, D.C.

Students may indicate geographic location preferences on their applications, but may **not** request particular judges or courts.

**Applications must be received by January 6, 2012.**

For detailed program information, frequently asked questions, and a copy of the application, visit the [Judicial Intern Opportunity Program](#).

# Nominations Sought for 2012 Robert J. Kutak Award

Established in 1985 by the Section and the national Kutak Rock law firm, the Kutak award honors an individual who has made significant contributions to the collaboration of the academy, the bench, and the bar. The award is in memory of Robert J. Kutak, a distinguished lawyer, champion of legal reform, and advocate for legal education.

Nominations can be mailed to:

Kutak Award Committee

Attention: Carl Brambrink

Director of Operations

American Bar Association

Section of Legal Education and Admissions to the Bar

M.S. 21.2

or sent via email to [carl.brambrink@americanbar.org](mailto:carl.brambrink@americanbar.org)

**The deadline for submitting nominations is March 31, 2012**

The 2012 Kutak Award will be presented at a reception in August at the ABA Annual Meeting in Chicago.

For more information about the award and the list of past recipients, visit the Kutak Award page.