

**American Bar Association
Section of Legal Education and Admissions to the Bar
Standards Review Committee**

DRAFT For July 2010 Meeting

CHAPTER 4 THE FACULTY

Standard 401. Qualifications

A law school shall have a faculty whose qualifications and experience are appropriate to the stated mission of the law school and to maintaining a program of legal education consistent with the requirements of Standards 301 [Objectives of Program of Legal Education] and 302 [Curriculum]. The faculty shall possess a high degree of competence, as demonstrated by its education, experience in teaching or practice, teaching effectiveness and scholarly research and writing.

Commentary: No changes are proposed. We tried several other versions, but in the end were content with this language.

Standard 402. Size of ~~Full-Time~~ Faculty

(a) A law school shall have a sufficient number of ~~full-time~~ faculty to fulfill the requirements of the Standards, ~~and~~ meet the goals of its educational program, and advance its mission. ~~The number of full-time faculty necessary depends on:~~

~~(1) the size of the student body and the opportunity for students to meet individually with and consult faculty members;~~

~~——— (2) the nature and scope of the educational program; and~~

~~(3) the opportunities for the faculty adequately to fulfill teaching obligations, conduct scholarly research, and participate effectively in the governance of the law school and in service to the legal profession and the public.~~

~~(b) A full-time faculty member is one whose primary professional employment is with the law school and who devotes substantially all working time during the academic year to the responsibilities described in Standard 404(a), and whose outside professional activities, if any, are limited to those that relate to major academic interests or enrich the faculty member's capacity as a scholar and teacher, are of service to the legal profession and the public generally, and do not unduly interfere with one's responsibility as a faculty member.~~

Commentary: This Standard is rather oddly limited to “full-time faculty”. The real concern is that there are enough teachers of all rank and terms of employment who can meet these goals. In contrast, though we considered deleting “full-time” altogether from this Chapter, Standards 403 and 404 are directed at institutional responsibilities beyond teaching and do refer to the full-time faculty – the “professional”, “core” or “permanent” faculty. We propose to delete subparagraphs (a) (1) - (3) because they are illustrations of how a school determines “sufficiency” of faculty and thus appear to be better encapsulated as an Interpretation. (See Interpretation 402-1, below) Subparagraph (b) belongs with the other definitions in Standard 106.

Interpretation 402-1: The number of full-time faculty necessary depends on the size of the student body and the opportunity for students to meet individually with and consult faculty members; the mission of the school; the nature and scope of the educational program; and the opportunities for the faculty adequately to fulfill their responsibilities. ~~teaching obligations, conduct scholarly research, and participate effectively in the governance of the law school and in service to the legal profession and the public.~~

Commentary: The source of these factors is Standard 402(a) (1)-(3). We propose to broaden the factors to include the school’s chosen mission. We propose to strike the elaboration of Subsection (a)(3) regarding faculty responsibilities because these responsibilities are the subject of Standard 404. We were also concerned that Subsection (a)(3) suggested that faculty members were required to carry uniform responsibilities.

Standard 106. Definitions

(8) “Full-time faculty member” means ~~(b) A full-time faculty member is one whose primary professional employment is with the law school and who devotes substantially all working time during the academic year to the responsibilities described in Standard 404(a), and whose outside professional activities, if any, are limited to those that relate to major academic interests or enrich the faculty member’s capacity as a scholar and teacher, are of service to the legal profession and the public generally, and do not unduly interfere with one’s responsibility as a faculty member.~~ A full-time faculty member is one whose primary professional employment is with the law school and who devotes substantially all working time during the academic year to the responsibilities described in Standard 404(a), and whose outside professional activities, if any, are limited to those that relate to major academic interests or enrich the faculty member’s capacity as a scholar and teacher, are of service to the legal profession and the public generally, and do not unduly interfere with one’s responsibility as a faculty member.

Commentary: The source of this definition is Standard 402(b). We thought the expression was not only verbose but also unreasonably restrictive. But note the Committee earlier deleted Interpretation 402-4 as part of the weeding out of provisions tied to faculty-student ratio calculations, which means that if this proposal is also adopted, a faculty member could engage in law practice, governmental work or other business, provided those activities do not interfere with his or her responsibilities under Standard 404.

Interpretation 402-2: It is impossible to specify numerical standards or student-faculty ratios that would apply to all law schools. The school should maintain a faculty sufficient to provide stability and ongoing quality improvement for the instructional programs offered and to fulfill the obligations of Standards 403 and 404.

Commentary: Because the full Committee earlier decided to delete current Interpretations 402-1 through 402-4 and any mention of faculty-student ratio requirements, we thought this mention might be helpful. The source for the proposed new Interpretation 402-2 is the Business School Accreditation Standard dealing with size.

Standard 403. Instructional Role of Faculty

(a) The full-time faculty shall teach ~~the major portion of the law school's curriculum, including~~ substantially all of the first one-third of each student's coursework and more than half of the upperclass credit hours or student contact hours.

(b) A law school shall ensure effective teaching by all persons providing instruction to students by providing them with orientation, guidance, monitoring, and evaluation.

~~(c) A law school should include experienced practicing lawyers and judges as teaching resources to enrich the educational program. Appropriate use of practicing lawyers and judges as faculty requires that a law school shall provide them with orientation, guidance, monitoring, and [periodic?] evaluation.~~

Commentary: "The major portion" of the law school's curriculum is ambiguous. We are informed that the Accreditation Committee interprets this phrase to mean half of the student credit hours or perhaps half of the student contact hours. We believe that the Standard should reflect this practice.

The source of Subparagraph (b) is current Subsection (c), second sentence. We propose to delete Subsection (c) altogether. Certainly the admonition doesn't belong in a Standard.. After some debate, we propose that it is unnecessary to tell schools that bringing practicing lawyers and judges to teach is a good idea.

Interpretation ~~403-2~~ 403-1.. Efforts to ensure teaching effectiveness may include: a faculty committee on effective teaching, class visitations, critiques of videotaped teaching, institutional review of student evaluation of teaching, colloquia on effective teaching and recognition of creative scholarship in law school teaching methodology. ~~A law school shall provide all new faculty members with orientation, guidance, mentoring, and periodic evaluation.~~

Commentary and Source: We thought about deleting this Interpretation altogether because to most of us, these are obvious means of improving teaching effectiveness. However, we ultimately decided that it was harmless and might be helpful for some institutions that are struggling with improvement. The last sentence has been moved to the text of the Standard. The source of this Interpretation is current 403-2.

Standard 404. Responsibilities of Full-Time Faculty

(a) A law school shall establish policies with respect to a full-time faculty member's

responsibilities in teaching, scholarship, service to the law school community, and professional activities outside the law school. The policies need not seek uniformity among faculty members but ~~shall~~ should address the School's expectations regarding:

- (1) ~~Faculty Teaching responsibilities, including carrying a fair share of the law school's course offerings, preparing for classes, being available for student consultation, participating in academic advising, and creating an atmosphere in which students and faculty may voice opinions and exchange ideas~~ and assessment of student learning;
- (2) Research and scholarship, and integrity in the conduct of scholarship, including appropriate use of student research assistants, acknowledgment of the contributions of others, and responsibility of faculty members to keep abreast of developments in their specialties;
- (3) Course and curricular development, including the preparation of students for emerging areas of practice and other professional innovations;
- (4) ~~(3) Service Obligations~~ to the law school and university community, including participation in the governance of the law school;
- (5) ~~(4) Obligations~~ Service to the profession, including working with the practicing bar and judiciary to improve the profession; ~~and~~
- (6) ~~(5) Obligations~~ Service to the public, including participation in pro bono activities; and
- (7) Any other contribution deemed essential by the law school for the achievement of its mission.

(b) A law school shall evaluate periodically the extent to which each faculty member discharges her or his responsibilities under policies adopted pursuant to Standard 404(a).

Commentary: Subsection (a) is a key provision. Because of our new emphasis on mission and self-direction, we propose this redraft that requires a school to reflect and promulgate policies concerning its own expectations for these six basic faculty roles. Note that this list is illustrative rather than exclusive. We propose to add curriculum design, course development and assessment of learning as key contributions. The Business Accreditation Standards were helpful in drafting as were the remarks of Michael Olivas in his interview in AALSNEWS (March 2010). Subsection (a) (a)(1) has been changed because we believed that it was aimed at fostering a free exchange of opinion in class – protection of students' academic freedom and first amendment rights. The academic freedom of faculty is already protected by Standard 405(b). The source of Subsection (b) is the current version of Standard 404(b). We propose to leave it in, even though our proposed new Standard 403(b) speaks to the same issue of universal, periodic monitoring.