

FOR THE STATE OF TEXAS, COUNTY OF DALLAS, I, the undersigned, Clerk of the County, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the County of Dallas, Texas.

occasional student, or the exceptional student, seeks the benefit of personal conference with his teachers.

(5) Effect on Scholarship and Public Service. The presupposition in legal education is that a teacher needs time to think, to write, and to serve the community. Law schools provide time for these necessary activities by observing limits on (i) the number of weeks a year in which a teacher teaches; (ii) the number of students in each teacher's courses; and (iii) each teachers' course-hour load. Scholarship in non-legal areas is particularly important in a school which does not have a university affiliation (Standard 210).

(6) Effect on Improvement in Teaching. A teacher should have time to think about teaching, prepare teaching materials (or, at least, reorganize the syllabus for someone else's materials), and devise, carry out, and monitor experiments in the way he or she teachers. One benefit of a favorable student/faculty ratio is that a teacher has time for this sort of thing--because at least one assigned class is a small one, or because three montns are available to work on courses in the summer, or because the law school occasionally allows a light teaching load. Improvement in teaching is in part a function of numbers. Interest in improvement is in part a function of teaching in specialized areas in one's own field, or teaching temporarily in a novel field. A sound law school program assures teachers the space and encouragement for this sort of improvement.

(7) Effect on Governance. Inquiries about the size of the full-time faculty should determine whether there is enough personnel for the required faculty participation in the governance of the law school (Standard 403). All law school programs should be constantly open to re-evaluation by faculties. Full-time faculty, especially, must have personal resources for study and planning. A faculty must find the time for extensive self-study if it is to assume, in the language of Standard 403, "the major burden of the educational program and the major responsibility for faculty participation in the governance of the law school."

(8) Effect on Examinations. Most law school programs tend to depend on stiff, end-of-course examinations. An inquiry into the adequacy of

the size of a full-time faculty should consider that it probably requires half an hour to grade a student in a three-hour course. This burden may become so great that a teacher is not likely to have time to reorganize, redraft, and, most importantly, re-think what is done in the preparation of an examination. An unreasonable grading burden on teachers is certain to accelerate entropy in the examination process. Teachers who are required to spend an unreasonable amount of time in grading cannot fail to reduce the attention they pay to teaching and scholarship.

On the basis of the foregoing, the Accreditation Committee has concluded that the relationship of the size of the full-time law faculty to the size of the full-time and full-time equivalent student body of the school has a major effect, in the context of the other factors, upon the establishment and maintenance of a program consistent with sound educational policies (Standard 103) and therefore upon compliance with Standards 201 and 401-405.

#### Interpretation

Therefore, in determining whether a school has established or maintained compliance with the foregoing Standards, the Committee will consider the ratio of the size of the full-time faculty of the school to its full-time and full-time equivalent student body as a significant factor.

A. Statement and Effect of Ratio. Ratios are indicative and useful, but in no case are they a sufficient guide to compliance with Standards 201 and 401-405. Based on the Committee's recent experience:

(1) A ratio of 20:1 or less is favorable, but the Committee and Council should inquire into the effects of faculty size, to make certain that the size and duties of the full-time faculty meet Standards 201 and 401-405.

(2) A ratio of 30:1 or more is not favorable; the Committee and Council should require schools with unfavorable ratios to demonstrate that their programs meet Standards 201 and 401-405.

B. Computation of Ratio. For purposes of the foregoing, in computing student/faculty ratio, the Committee will consider as full-time only those teachers who are (a) employed as full-time teachers; and (b) do

not hold administrative office or perform administrative duties beyond those normally performed by a full-time teacher. Students who are in a part-time program, as that is defined in Standard 305(a), as computed on a full-time equivalency basis, so that three part-time students are counted as two full-time students. The Committee takes into account that teaching administrators and librarians, and part-time teachers, may provide strength to a school which has an adequate full-time faculty. Teaching contributions from these sources are taken into account in assessing each of the educational effects which are considered in the Discussion of Educational Effect above. Council, June, 1978.

Interpretation of 402: The historic interpretation of Standard 402 by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association and its Accreditation Committee has been that the count of full-time faculty, under the provisions of Standard 402, does not include the dean, librarian, associate or assistant deans or other administrators holding academic appointment. The interpretation of Standard 402 by the Council and its Accreditation Committee continues to be that of not including the dean, librarian, associate or assistant deans or other administrators holding academic appointment, in any computation of full-time faculty, under the provisions of Standard 402. Council, August, 1976.

Interpretation 1 of 402(a): The intent of Standard 402(a) is that a single division law school in its first year of operation should have a minimum of six full-time faculty, in addition to a full-time dean and law librarian. A dual division law school or a law school offering instruction in more than one year must have additional full-time faculty in a satisfactory proportional ratio. Council and Accreditation Committee, August, 1976.

Interpretation 2 of 402(a): A law school having a f.t.e. student to full-time faculty ratio of 40:1, 39:1, or 38:1 is not in compliance with Standard 402(a) of the Standards for Approval of Law Schools by the American Bar Association. Council, June and August, 1977.

Interpretation 3 of 402(a): A law school needs experienced core faculty to fulfill the needs of its educational programs, to reduce teaching obligations and to provide reasonable opportunity for scholarly research and writing. Council, August, 1977.

Interpretation 4 of 402(a): A high student/faculty ratio and the consequent need for additional full-time faculty or the reduction of admissions are necessary to fulfill the requirements of the Standards and the needs of the law school's educational program. Accreditation Committee, November, 1977; Council, December, 1977.

Interpretation of 402(a)(iii): While the Standards for Approval of Law Schools by the American Bar Association do not specifically deal with the process of the selection and appointment of a dean, a long-established practice in law schools approved by the American Bar Association requires that the faculty have a substantial role in the process of the selection and appointment of a dean. Further, the practices of the American Bar Association mandate that a dean not be appointed over the objections of a majority of the faculty. While the legal authority for appointment of the dean and faculty rests with a university board of trustees, which acts upon the recommendations of the president of the institution, we believe it is the spirit and the intent of the Standards that no dean be appointed over the objection of a majority of the faculty. James P. White, March 28, 1977.

Interpretation 1 of 402(b): A full-time faculty member of an ABA approved law school who is teaching an additional full-time load at another ABA approved law school cannot be considered as full-time faculty for either institution. Council, February, 1977.

Interpretation 2 of 402(b): Faculty who are "of counsel" to a law firm may not be considered as full-time faculty within the definition of 402(b). Council, July, 1977.

Standard 403:

Standard 403 is previously cited above.

Interpretation: In the usual course of events, a prospective appointee as dean or a person serving as dean who has failed to acquire or has lost the confidence of the substantial majority of the faculty should not be appointed or have his appointment as dean continued. The appointment of a law school dean must be in both the spirit and the letter of ABA Standards and Regulations. Council, June, 1978.

Standard 405:

Standard 405 is previously cited above.

Interpretation 1: Any fixed limit on the percent of a law faculty that may hold tenure under any circumstances is in violation of the Standards, especially Standard 405. Resolution of the Council of the Section of Legal Education at Cleveland, Ohio, meeting in 1973.

Interpretation 2: Subsection (a) of Standard 405 must be read as one of the things to consider when determining whether the requirements of Section 405 "to establish and maintain conditions adequate to attract and retain a competent faculty" are met. The word "similar" does not exclude state supported schools, nor exclude national, as opposed to "regional" schools. James P. White.

Interpretation 3: The Council adopted the position in 1971 and reaffirmed it in July of 1975 that "a law faculty as a professional faculty should not be required to be a part of the general university bargaining unit." The Council further expressed the view that the inclusion of a law faculty in the general university bargaining unit would be inconsistent with the American Bar Association Standards for Approval of Law Schools. Council, July, 1975.

Interpretation 4: If law school merit salary raises are precluded and if "across-the-board" salary increases are limited to an amount substantially less than the annual increase in the cost of living a law school may not comply with Standard 405. Accreditation Committee; Council, August, 1977.

Interpretation 5: When faculty salaries are too low; there is an unfavorable f.t.e. student/full-time faculty ratio; there is no paid research assistant support for faculty research; and faculty tenure is limited by a percentage quota; the conditions with respect to the faculty do not conform to the requirements of Standard 405(a), (b) and (c). Accreditation Committee, May, 1978; Council, June, 1978.

Interpretation 6: Adequate research, travel, and secretarial support must be available to a faculty in order to enable it to develop academically and professionally. Accreditation Committee, May, 1978; Council, June, 1978.

Interpretation 7: A law school which appears to have no comprehensive system for evaluation for and granting of tenure is not in compliance with Standard 405. Council, August, 1978.

Interpretation 8: A university copyright policy which provides that the benefits of copyright accrue to the university and not to the individual faculty member may discourage and inhibit the production of scholarly material by the law faculty in violation of Standard 405. Accreditation Committee, July, 1978; Council, August, 1978.

Standard 502:

- 502 (a) The educational requirement for admission as a degree candidate is either a bachelor's degree from a qualified institution, or successful completion of three-fourths of the work acceptable for a bachelor's degree at a qualified institution. In the latter case, not more than ten percent of the credits necessary for admission may be in courses without substantial intellectual content, and the pre-legal average on all subjects undertaken and, in addition, on all courses with substantial intellectual content, whether passed or failed, must at least equal that required for graduation from the institution attended.
- (b) A qualified institution is one that is accredited or is a member of North Central Association of Colleges and Secondary Schools, New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, Northwest Association of Secondary and Higher Schools, Western Association of Schools and Colleges, or the Department of Education of the State of New York.
- (c) In exceptional cases, applicants not possessing the educational requirements of subsection (a) may be admitted as degree candidates upon a clear showing of ability and aptitude for law study. The admitting officer shall sign and place in the admittee's file a statement of the considerations that led to the decision to admit the applicant.

Interpretation: The issue is whether a photocopied transcript which accompanies the Law School Data Assembly Service Report is sufficient, or must the applicant also obtain an original official transcript. An official transcript means a transcript certified by the issuing school to the admitting school or delivered to the admitting school in a sealed envelope with seal intact. Copies, supplied by LSDAS are not official transcripts

and while adequate for preliminary determination as to eligibility for admission do not constitute official transcripts. An official transcript should be on file at the time a student registers in the law school or within a reasonable time thereafter. Council, February 24, 1974.

Standard 505:

505 Admission or re-admission may be granted a law student who has been previously disqualified for academic reasons, upon an affirmative showing that he possesses the requisite ability and that his prior disqualification does not indicate a lack of capacity to complete his studies at the admitting school. In the case of an admission to another law school, this showing shall normally be made by letters from the dean or faculty of the school previously attended. A previously disqualified student may also be admitted when two or more years have elapsed since his disqualification and the nature of his work, activity, or studies during the interim indicate a stronger potential for law study. In each case the admitting officer shall sign and place in the admittee's file a statement of the considerations that led to the decision to admit or re-admit the applicant.

Interpretation: The two year period would begin on the date of determination that the student was disqualified for academic reasons. Any review, appeals or requests for reconsideration of that decision are in the nature of post-decision remedies.

Interpretation 2: Law school credit for work taken in pre-admission is not in violation of the Standards for Approval of Law Schools by the American Bar Association.

Students enrolled in special pre-admission programs may not be considered as matriculated law students since their prospective admission to law school is conditional, among other matters, upon their successful completion to the pre-admission program.

Students not selected to enroll in the next semester/quarter of the law school should not be considered as having suffered academic disqualification under Standard 505. Council, February, 1973.

Standard 601:

601 The law school shall maintain and administer a library adequate for its program.

(a) In order to inform applicants for accreditation of procedures and important facets of law library operations relating to adequacy, the Consultant may prepare appropriate memoranda.

(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.

Interpretation 1: Scantiness of a library collection, the nature of its arrangement, deficiencies in shelf and seating space, the relative physical isolation from students and faculty, the hours of operation, the low salary levels of current library staff, the minimal size of the staff and a totally inadequate library budget violates Standard 601. Accreditation Committee, November, 1977; Council, December, 1977.

Interpretation 2: 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. Accreditation Committee, May, 1978; Council, June, 1978.

Standard 604:

604 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. The law school library shall have sufficient administrative autonomy to direct its growth, development and utilization to afford the best possible service to the law school.

(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 selec-

tion of acquisitions, arrangement of materials and provision of reader services.

(b) The budget for the law library shall be determined as part of, and administered in the same manner as, the law school budget.

(c) The selection and retention of the law librarian shall be by the dean and faculty of the law school.

Interpretation 1: The intent of this Standard is to recognize that substantial operating autonomy rests with the dean and faculty of a school of law with regard to the operation of the law school library. The accreditation standards do not preclude administration of the law library as part of the university library system. Rather, the Standards require that decisions with regard to the law library be 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. While the preferred structure for administration of a law school library is one of law school administration, a law school library may be administered as part of a general university library system if the dean, law librarian, and faculty are responsible for the determination of basic law library policies.

Interpretation 2: Inefficiencies created by centralized university library supervision of the law school library may place a law school in violation of Standard 604. Accreditation Committee, May, 1978; Council, June, 1978.

Interpretation 3: A law school in which the dean of the law school and the law librarian are not granted adequate administrative autonomy from the university library system, particularly with respect to budgeting, salaries, acquisitions and the employment of library personnel is in violation of Standard 604. Council, August, 1978.

Interpretation 4: A law library must have adequate staffing and physical housing of all of the collection of the library to permit its continued development and conformity with Standard 604. Accreditation Committee, July, 1978; Council, August, 1978.

Standard 701:

701 The law school shall have a physical plant that is adequate both for its current pro-

gram and for such growth in enrollment or program as should be anticipated in the immediate future.

Interpretation 1: Full approval will not be considered by the Council or its Accreditation Committee until a law school is conducting its operations in permanent and adequate facilities. The Accreditation Committee will not act on plans presented for building construction or if construction or remodeling is in process. This Standard does not contemplate leased or rented facilities for permanent facilities owned by the law school or its parent educational institution. This Standard requires that the adequate physical facilities must be completed and occupied before a law school can be granted full approval. Accreditation Committee, May 15, 1977, July, 1977; Council, August, 1977.

Interpretation 2: If satisfactory steps are not taken by an approved law school to correct the inadequacies of an existing physical plant, then the law school is not in compliance with Standard 701 and a proceeding for removal of approval should be begun. Council, August, 1977.

Interpretation 3: Where the issue of physical facilities has been before the Accreditation Committee and Council for more than two years, without progress toward compliance, a law school is not making appropriate progress toward meeting Standard 701 and may be grounds for removal of accreditation. Council, June, 1978.

Standard 703:

703 Each full-time member of the faculty shall have a private office. In addition, suitable office space shall be provided for the use of part-time faculty members.

Interpretation: An approved law school must provide appropriate office space for use of its part-time faculty. Council, August, 1976.

Standard 801:

801 Consistent with the Standards, the Council shall have authority to:

- (i) interpret the Standards,
- (ii) adopt rules implementing the Standards,

(iii) adopt procedural rules for the initial application by and approval of law schools and for the review and reinspection of approved schools, provided that until procedural rules are so adopted, the procedural rules in effect on the adoption of the Standards apply, and

(iv) amend any rules from time to time.

All interpretations and rules shall be published and shall be available to all interested persons.

Interpretation of 801(iii): Routine reinspection of fully approved law schools shall be held in the academic year in which they were scheduled. The Consultant may, in his discretion, postpone a routine reinspection of a fully approved law school until the next academic year if the law school will occupy new physical facilities during the coming academic year. Accreditation Committee, July, 1977; Council, August, 1977.

Standard 901:

901 (a) These Standards become effective upon their adoption by the House of Delegates. The Standards for Legal Education and the Factors Bearing on the Approval of Law Schools by the American Bar Association, heretofore in effect, are repealed.

(b) For a period of two years after these Standards become effective a law school that was provisionally or fully approved at the time these Standards became effective will not have its approval withdrawn if it either continues to be in compliance with the Standards heretofore in effect or complies with these Standards.

(c) Two years after these Standards become effective, all approved law schools must comply with them.

(d) After these Standards become effective, an unapproved law school will not be granted provisional approval and a provisionally approved law school will not be granted full approval unless it complies with these Standards.

Interpretation: In an action by the Committee on Standards, which was adopted by the Council of the Section of Legal Education and Admissions to the Bar on August 13, 1974, the following interpretation was proposed:

"Schools that were approved at the time the Standards were adopted are allowed until the start of the academic year commencing after February 1, 1975, to comply with the new Standards."

Therefore, Standard 901(b) and, by implication, Standard 901(c) are interpreted to provide that the two year period should not run from February, 1973 to February, 1975, but that schools should be required to be in compliance commencing with the start of the first academic year commencing after February 1, 1975, in other words, after the 1975-76 academic year. Committee on Standards.

Standard 902:

902 (a) The power to approve an amendment of the Standards is vested in the House of Delegates, but the House of Delegates will not act on any amendment until the Council, the Section, and the Board of Governors has been given a reasonable opportunity to consider the proposed amendment and report thereon to the House of Delegates.

(b) A member of the Section of Legal Education and Admissions to the Bar may propose an amendment of these Standards by submitting the proposed amendment and a statement of its purposes to the Secretary of the Section, who shall transmit the proposed amendment and the statement of purposes to the members of the Council. The Council shall consider such a proposed amendment at the next Council meeting held 30 or more days thereafter and may consider any other proposed amendment. By majority vote the Council shall submit to the Section at the annual meeting such proposed amendments of the Standards as it deems appropriate. If an amendment proposed by a member as described above is not submitted favorably by the Council to the Section, the amendment shall be submitted to the Section at the next following annual meeting if a petition signed by 100 or more Section members requesting its submission is filed with the Secretary

at least 30 days prior to the annual meeting at which the amendment is to be submitted to the Section. The Section may consider only those amendments of the Standards that are submitted to it by the procedures described above. If a majority of the members of the Section present at an annual meeting and voting approve, the amendment is adopted. The amendment becomes effective when it is approved by the House of Delegates after a report by the Board of Governors.

Interpretation: Standard 902(a) now provides that the House will not consider an amendment to the Standards until the Council of the Section of Legal Education and Admissions to the Bar, the Section of Legal Education and Admissions to the Bar, and the Board of Governors have been given a reasonable opportunity to consider any proposed amendment. In compliance with this change, the Consultant will notify deans of ABA approved law schools and other appropriate parties of any proposed changes in the ABA Standards in order to permit comment on any proposed change. The Council will then make a recommendation, based upon such comments, to the Board of Governors of the American Bar Association. James P. White, Consultant, September 16, 1975.

JPW/cs

# APPROVAL OF LAW SCHOOLS

American Bar Association  
Standards and Rules of Procedure

As Amended — 1979



# CONTENTS

## STANDARDS for the Approval of Law Schools

Foreword	.....	v
Chapter I	General Purposes and Procedures: Definitions .....	1
Chapter II	Organization and Administration .....	4
Chapter III	Educational Program .....	8
Chapter IV	Faculty .....	13
Chapter V	Admissions .....	16
Chapter VI	Library .....	19
Chapter VII	Physical Plant .....	22
Chapter VIII	Authority .....	24
Chapter IX	Adoption and Amendment .....	26
Annex I	Principles of Academic Freedom and Tenure ... ..	28
Annex II	Library Schedule A .....	32
Annex III	Library Schedule B .....	35

## RULES of Procedure for the Approval of Law Schools

Rule I	Accreditation Committee .....	36
Rule II	Procedure for Securing Approval .....	39
Rule III	Procedure for Assuring Continued Compliance .....	45
Rule IV	Removal from List of Approved Schools—Provisional, Full .....	47
Rule V	Changes in Structure or Operation .....	51
Rule VI	Appeal .....	53
Rule VII	Reinstatement .....	53
Rule VIII	List of Approved and Unapproved Schools .....	53

# FOREWORD

From its inception the American Bar Association has been devoted to the improvement of the legal profession through the improvement of the pre-legal and legal education of those who apply for admission to the Bar.<sup>1</sup> This objective is clearly stated in the By-laws of the Section of Legal Education and Admissions to the Bar<sup>2</sup> of the American Bar Association:

Article 1—Section 3. Purposes. The purposes of the Section shall be to consider, discuss, recommend to the Association, and effectuate measures for the improvement of the systems of pre-legal and legal education in the United States; methods for inculcating in law students the sincere regard for the ethics and morals of the profession necessary to its high calling; and means for the establishment and maintenance in the several states of adequate and proper standards of general education, legal training, and moral character of applicants for admission to the Bar, including the manner of testing their qualifications.

The By laws of the Section of Legal Education and Admissions to the Bar, in Article 1, Section 4, empower the Section, through its Council, subject to the approval of the House of Delegates:

(b) To recommend to the House of Delegates uniform standards and requirements to be met by

1. See, HARNO, LEGAL EDUCATION IN THE UNITED STATES (1953); Sullivan, *The Professional Associations and Legal Education*, 4 JOURNAL OF LEGAL EDUCATION 401 (1952).

2. As approved by the House of Delegates of the ABA, Feb. 1961.

law schools for approval, or retention of approval, either provisional or full, by the Association;

(c) To establish procedures and requirements to be met and observed by law schools in obtaining and retaining the approval of the Association; to receive and process applications of law schools for approval; and to make recommendations thereon to the House of Delegates;

(d) To prescribe procedures for changing the status of a law school from provisional to full approval, or from full to provisional approval, or for withdrawal of either provisional or full approval from law schools;

(e) To establish conditions and procedures for the inspection and re-inspection of the approved law schools, with power in the Council to make the same at the expense of the school or schools in question;

(f) To observe and determine the adherence of the approved law schools to the Standards for Legal Education of the Association, and, after investigation and hearing, and upon a finding of non-adherence in a given school, to recommend to the House of Delegates a change in the approval status of said law school.

All of the standards, requirements and procedures recommended by the Section and approved by the House of Delegates are printed and distributed to law schools, universities, libraries, boards of bar examiners, professional groups or associations, and others concerned with legal education.

Pursuant to these objectives and powers, the Section of Legal Education and Admissions to the Bar prepared the following Standards and Rules of Procedure for the Approval of Law Schools. A first draft was distributed for comment on December 8, 1971, to the chief appellate judge of each state, the bar examiners of all jurisdictions, the deans of all ABA approved law schools, and the members of the Section. In addition, the deans of over 100 law schools

discussed the draft at a meeting with the Section Council and the drafting committee held February 4, 1972. A second draft was prepared and circulated on April 10, 1972. Hearings were held in San Francisco on May 6, and in Chicago on May 13, 1972. Nearly 100 practitioners, judges, teachers and deans participated in the hearings. Thereafter, a final draft was prepared and adopted by the Section at its annual meeting on August 15, 1972. The House of Delegates approved and adopted the Standards and Rules of Procedure on February 12, 1973.

The Standards recognize the diversity in quality legal education and represent an important step in advancing the cause of quality legal education and the American Bar Association's concern therefor.

The Rules of Procedure were prepared to implement the Standards and also 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.

The Standards were amended by House of Delegates in August, 1974 [Standard 302 (a)(iii)], in August, 1975 [Standard 902 (a)], in August, 1976 [addition of Standard 308], in February, 1977 [Standards 601, 602, 603, 604, 605, 704 and 705], in August, 1978 [addition of Standard 212] and in August, 1979 [style changes to remove references to male gender and amendments to Standards 105, 303(a) and 308]. The Rules of Procedure were rewritten and so adopted in February, 1975, with further amendments adopted from time to time thereafter. This pamphlet contains all amendments through August, 1979.

# GENERAL PURPOSES AND PROCEDURES: DEFINITIONS

- 101 The American Bar Association is vitally and actively interested in ways and means of bringing about the improvement of the legal profession. These Standards for the Approval of Law Schools by the American Bar Association are promulgated in pursuance of that objective.
- 102 The American Bar Association believes that every candidate for admission to the bar should have graduated from a law school approved by the American Bar Association, that graduation from a law school should not alone confer the right of admission to the bar, and that every candidate for admission should be examined by public authority to determine fitness for admission.
- 103 In order to obtain or retain approval by the American Bar Association, a law school must demonstrate that its program is consistent with sound educational policies. It shall do so by establishing that it is being operated in accordance with the Standards.
- 104 The authority to grant and to withdraw approval is vested in the House of Delegates.
- (a) A law school will be granted provisional approval when it establishes that it substantially complies with the Standards and gives assurance that it will be in full compliance with the Standards within three years after receiving provisional approval.
- (b) A law school will be granted full approval when it establishes that it is in full compliance with the Standards and it has been provisionally approved for at least two years.

(c) A law school that is provisionally approved may have this approval withdrawn if it is determined that it is not substantially complying with the Standards, or if more than five years have elapsed since the law school was provisionally approved and it has not qualified for full approval and the Council has not extended the time within which full approval must be obtained.

(d) If it is determined that an approved school is no longer complying with the Standards its approval may be withdrawn. However, if the school gives assurance that the deficiencies will be corrected within a reasonable time, as fixed by the Council, the school may remain an approved school.

(e) The students at provisionally approved law schools and persons who graduate while a school is provisionally approved are entitled to the same recognition accorded to students and graduates of fully approved law schools.

(f) A person who matriculates at a law school that is then approved and who completes the course of study and graduates in the normal period of time required therefor, shall be deemed a graduate of an approved school, even though the school's approval was withdrawn while that person was enrolled therein.

105 An approved school shall seek to exceed the minimum requirements of the Standards.

106 As used in the Standards:

(a) "House" or "House of Delegates" means the House of Delegates of the American Bar Association.

(b) "Section" means the Section of Legal Education and Admissions to the Bar of the American Bar Association.

(c) "Council" means the Council of the Section.

(d) "First professional law degree" means the degree granted by the law school upon the satisfactory completion of an educational program that meets the requirements of Chapter III.

(e) "Governing Board" means the Board of Trustees or comparable body having the ultimate policymaking authority for the law school or the university of which it is a part.

# ORGANIZATION AND ADMINISTRATION

- 201 The law school shall have the resources necessary to provide a sound legal education and accomplish the objectives of its educational program, and shall be so organized and administered as to utilize fully those resources for those purposes.
- 202 The law school shall be organized as a non-profit educational institution and may not be operated for private profit.
- 203 The law school shall be governed by a Board whose members are dedicated to the maintenance of a sound educational institution, possess the capability of participating in the formulation and development of such an institution, and have no financial interest in the operation of the law school.
- 204 The Governing Board may establish general policies for the law school, provided they are consistent with a sound educational program and the Standards.
- 205 Within those general policies, the dean and faculty of the law school shall have the responsibility for formulating and administering the program of the school, including such matters as faculty selection, retention, promotion and tenure; curriculum; methods of instruction; admission policies; and academic standards for retention, advancement, and graduation of students.
- 206 The dean and faculty of the law school shall have the opportunity to present their recommendations on budgetary matters before the budget for the law school is submitted to the Governing Board.
- 207 The allocation of authority between the dean and the faculty is a matter for determination by each institution.

208 The law school may involve a Committee of Visitors or current students, or both, in a participatory or advisory capacity. The dean and faculty shall retain control over matters that are entrusted to them under the Standards.

209 The present and anticipated financial resources of the law school shall be adequate to sustain a sound educational program.

(a) If tuition is a substantial source of the law school's income, the school is faced with a potential conflict of interest whenever the exercise of sound judgment in the application of admission policies or academic standards and retention policies might reduce enrollment below the level necessary to support its program. The law school shall not permit financial considerations detrimentally to affect those policies and their administration.

(b) The law school may not base the compensation paid any person for service to the law school (other than compensation paid a student or associate for reading and correcting papers or similar activity) on the number of persons enrolled in the law school or in any class or on the number of persons applying for admission to or registering in the law school.

210 Affiliation between a law school and a University is desirable, but is not required for approval. If the law school is affiliated with or a part of a University, that relationship shall serve to enhance the program of the law school. If the law school is an independent institution, it shall endeavor to secure the advantages that would normally result from being part of a University.

(a) A University affiliation permits an educational program that extends beyond the traditional law school curriculum, the development of academic programs that involve other disciplines, and enables law students and faculty to enjoy the advantages of the University library and other facilities and to participate in the academic life of the University community.

(b) If a law school is separate, either because it is unaffiliated with a University, or although affiliated, is so located as to be physically remote from the rest of the University, it should take appropriate measures to supply the advantages of University affiliation, for example, by providing a more extensive library, particularly on non-legal subjects, and by developing a working relationship with other institutions of higher learning in the community.

(c) If the University's general policies relating to rank, advancement, tenure, and compensation do not provide adequately for the recruitment and retention of a qualified law faculty, separate policies should be established for the law school.

211

The law school shall maintain equality of opportunity in legal education without discrimination or segregation on the ground of race, color, religion, national origin, or sex.

(a) The denial by a law school of admission to a qualified applicant will be treated as made upon the ground of race, color, religion, national origin, or sex if the ground of denial relied upon is

(i) a state constitutional provision or statute that purports to forbid the admission of applicants to a school on the ground of race, color, religion, national origin, or sex; or

(ii) an admissions qualification of the school that is intended to prevent the admission of applicants on the ground of race, color, religion, national origin, or sex though not purporting to do so.

(b) The denial by a law school of employment to a qualified individual will be treated as made upon the ground of race, color, religion, national origin, or sex if the ground of denial relied upon is an employment policy of the school which is intended to prevent the employment of individuals on the ground of race, color, religion, national origin, or sex though not purporting to do so.

(c) Equality of opportunity in legal education includes equal opportunity to obtain employment.

Each school should communicate to every employer to whom it furnishes assistance and facilities for interviewing and other placement functions the school's firm expectation that the employer will observe the principle of equal opportunity and will avoid objectionable practices such as

(i) refusing to hire or promote members of the groups protected by this policy because of the prejudices of clients or of professional or official associates;

(ii) applying standards in the hiring and promoting of such individuals that are higher than those applied otherwise;

(iii) maintaining a starting or promotional salary scale as to such individuals that is lower than is applied otherwise; and

(iv) disregarding personal capabilities by assigning, in a predetermined or mechanical manner, such individuals to certain kinds of work or departments.

- 212 The law school should provide adequate staff, space and resources, in view of the size and program of the school, to maintain an active placement service to assist its graduates to make sound career choices.

# EDUCATIONAL PROGRAM

301 (a) The law school shall maintain an educational program that is designed to qualify its graduates for admission to the bar.

(b) A law school may offer an educational program designed to emphasize some aspects of the law or the legal profession and give less attention to others. If a school offers such a program, that program and its objectives shall be clearly stated in its publications, where appropriate.

(c) The educational program of the school shall be designed to prepare the students to deal with recognized problems of the present and anticipated problems of the future.

302 (a) The law school shall offer:

(i) instruction in those subjects generally regarded as the core of the law school curriculum,

(ii) training in professional skills, such as counseling, the drafting of legal documents and materials, and trial and appellate advocacy,

(iii) and shall provide and require for all student candidates for a professional degree, instruction in the duties and responsibilities of the legal profession. Such required instruction need not be limited to any pedagogical method as long as the history, goals, structure and responsibilities of the legal profession and its members, including the ABA Code of Professional Responsibility, are all covered. Each law school is encouraged to involve members of the bench and bar in such instruction.

(b) The law school may not offer to its students, for academic credit or as a condition to graduation, instruction that is designed as a bar examination review course.

- 303 (a) The educational program of the law school shall provide adequate opportunity for:
- (i) study in seminars or by directed research,
  - (ii) small classes for at least some portion of the total instructional program.
- (b) The law school may not allow credit for study by correspondence.
- 304 (a) The law school shall maintain and adhere to sound standards of legal scholarship, including clearly defined standards for good standing, advancement, and graduation.
- (b) The scholastic achievement of students shall be evaluated from the inception of their studies. As part of the testing of scholastic achievement, a written examination of suitable length and complexity shall be required in every course for which credit is given, except clinical work, courses involving extensive written work such as moot court, practice court, legal writing and drafting, and seminars and individual research projects.
- (c) A law school shall not, either by initial admission or subsequent retention, enroll or continue a person whose inability to do satisfactory work is sufficiently manifest that the person's continuation in school would inculcate false hopes, constitute economic exploitation, or deleteriously affect the education of other students.
- 305 (a) Subject to the qualifications and exceptions contained in this Chapter, the law school shall require, as a condition for graduation, the completion of a course of study in residence of not less than 1200 class hours, extending over a period of not less than ninety weeks for full-time students, or not less than one hundred and twenty weeks for part-time students.
- (i) *In residence* means attendance at classes in the law school.
  - (ii) *Class hours* means time spent in regularly scheduled class sessions in the law school, including time allotted for final examinations, not

exceeding ten percent of the total number of class session hours.

(iii) *Full-time student* means a student who devotes substantially all working hours to the study of law.

(b) To receive residence credit for an academic period, a full-time student must be enrolled in a schedule requiring a minimum of ten class hours a week and must receive credit for at least nine class hours and a part-time student must be enrolled in a schedule requiring a minimum of eight class hours a week and must receive credit for at least eight class hours. If a student is not enrolled in or fails to receive credit for the minimum number of hours specified in this subsection, the student may receive residence credit only in the ratio that the hours enrolled in or in which credit was received, as the case may be, bear to the minimum specified.

(c) Regular and punctual class attendance is necessary to satisfy residence and class hours requirements.

306

If the law school has a program that permits or requires student participation in studies or activities away from the law school or in a format that does not involve attendance at regularly scheduled class sessions, the time spent in such studies or activities may be included as satisfying the residence and class hours requirements, provided the conditions of this section are satisfied.

(a) The residence and class hours credit allowed must be commensurate with time and effort expended by and the educational benefits to the participating student.

(b) The studies or activities must be approved in advance, in accordance with the school's established procedures for curriculum approval and determination.

(c) Each such study or activity, and the participation of each student therein, must be conducted or periodically reviewed by a member of the faculty to

insure that in its actual operation it is achieving its educational objectives and that the credit allowed therefor is, in fact, commensurate with the time and effort expended by, and the educational benefits to, the participating student.

(d) At least 900 hours of the total time credited towards satisfying the "in residence" and "class hours" requirements of this Chapter shall be in actual attendance in regularly scheduled class sessions in the law school conferring the degree, or, in the case of a student receiving credit for studies at another law school, at the law school at which the credit was earned.

307 Upon request, the Council may authorize a fully approved law school to establish a course of study leading to a degree other than the first professional law degree. Programs in addition to the first professional law degree may not detract from the law school's ability to maintain a sound educational program leading to that degree. A law school shall not undertake a program in addition to the first professional law degree unless the quality of its program leading to the first professional law degree exceeds the requirements of the Standards.

308 The law school may admit with advanced standing and allow credit for studies at a law school outside the United States if the studies

(i) either were "in residence" as provided in Section 305, or qualify for credit under Section 306, and

(ii) the content of the studies was such that credit therefor would have been allowed towards satisfaction of degree requirements at the admitting school, and

(iii) the admitting school is satisfied that the quality of the educational program at the prior school was at least equal to that required for an approved school.

Advanced standing and credit allowed for foreign study shall not exceed one-third of the total re-

quired by the Standards for the first professional degree unless the foreign study related chiefly to a system of law basically followed in the jurisdiction in which the admitting school is located; and in no event shall the maximum advanced standing and credit allowed exceed two-thirds of the total required by the Standards for the first professional degree.

## FACULTY

401 The members of the faculty shall possess a high degree of competence, as demonstrated by education, classroom teaching ability, experience in teaching or practice, and scholarly research and writing.

402 (a) The law school shall have not fewer than six full-time faculty members, in addition to a full-time dean and a full-time law librarian. It shall have such additional members as are necessary to fulfill the requirements of this Chapter and the needs of its educational program, with due consideration for

(i) the size of the student body and the opportunity for students to meet with and consult faculty members on an individual basis.

(ii) the nature and scope of the educational program, and

(iii) adequate opportunity for effective participation by the faculty in the governance of the law school.

(b) A full-time faculty member is one who during the academic year devotes substantially all working time to teaching and legal scholarship, has no outside office or business activities and whose outside professional activities, if any, are limited to those which relate to major academic interests or enrich the faculty member's capacity as scholar and teacher, or are of service to the public generally, and do not unduly interfere with one's responsibilities as a faculty member.

403 The major burden of the educational program and the major responsibility for faculty participation in the governance of the law school rests upon the full-time faculty members.

(a) Students shall receive substantially all of their instruction in the first year of the full-time curriculum or the first two years of the part-time curriculum,

and a major proportion of their total instruction from full-time faculty members.

(b) The proper use of qualified practicing lawyers and judges as part-time faculty members is an appropriate means of enriching the educational program.

404

(a) To the extent that a faculty member is teaching only regularly scheduled class sessions over fixed periods of time, the faculty member shall teach not more than

(i) an average of eight scheduled class hours per week, counting repetitions during the same academic period as one-half for this purpose, or

(ii) an average of ten scheduled class hours per week, counting repetitions during the same academic period at full value.

(b) To the extent that a faculty member's teaching assignment is not limited to regularly scheduled class sessions over fixed periods of time, the total teaching responsibilities may not exceed a maximum comparable to that set forth in subsection (a).

(c) If the institutional responsibilities of a full-time faculty member include extensive participation in activities of the academic community, research, or public service, the maximum assignments permitted by this section shall be correspondingly adjusted.

405

The law school shall establish and maintain conditions adequate to attract and retain a competent faculty.

(a) The compensation paid faculty members should be sufficient to attract and retain persons of high ability and should be reasonably related to the prevailing compensation of comparably qualified private practitioners and government attorneys and of the judiciary. The compensation paid faculty members at a school seeking approval should be comparable with that paid faculty members at similar approved law schools in the same general geographical area.

- (b) The law school shall afford faculty members reasonable opportunity for leaves of absence and for scholarly research.
- (c) The law school shall afford faculty members reasonable secretarial and clerical assistance.
- (d) The law school shall have an established and announced policy with respect to academic freedom and tenure of which Annex I herein is an example but is not obligatory.

# ADMISSIONS

501 The admission policies of the law school shall be consistent with the objectives of its educational program and the resources available for implementing those objectives. The school may not admit applicants who do not appear capable of satisfactorily completing that program.

502 (a) The educational requirement for admission as a degree candidate is either a bachelor's degree from a qualified institution, or successful completion of three-fourths of the work acceptable for a bachelor's degree at a qualified institution. In the latter case, not more than ten percent of the credits necessary for admission may be in courses without substantial intellectual content, and the pre-legal average on all subjects undertaken and, in addition, on all courses with substantial intellectual content, whether passed or failed, must at least equal that required for graduation from the institution attended.

(b) A qualified institution is one that is accredited by or is a member of North Central Association of Colleges and Secondary Schools, New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, Southern Association of Colleges and Schools, Northwest Association of Secondary and Higher Schools, Western Association of Schools and Colleges, or the Department of Education of the State of New York.

(c) In exceptional cases, applicants not possessing the educational requirements of subsection (a) may be admitted as degree candidates upon a clear showing of ability and aptitude for law study. The admitting officer shall sign and place in the admit-

tee's file a statement of the considerations that led to the decision to admit the applicant.

- 503 All applicants, except those physically incapable of taking it, should be required to take an acceptable test for the purpose of determining apparent aptitude for law study. A law school that is not using the Law School Admission Test administered by Educational Testing Service should establish that it is using an acceptable test.
- 504 The law school shall advise each applicant to secure information regarding the character and other qualifications for admission to the bar in the state in which the applicant intends to practice. The law school may, to the extent it deems appropriate, adopt such tests, questionnaires, or required references as the proper admission authorities may find useful and relevant, in determining the character and fitness of the applicants to the law school. If the law school considers an applicant's character qualifications, it shall exercise care that the consideration is not used as a reason to deny admission to a qualified applicant because of political, social, or economic views which might be considered unorthodox.
- 505 Admission or re-admission may be granted a law student who has been previously disqualified for academic reasons, upon an affirmative showing that the student possesses the requisite ability and that the prior disqualification does not indicate a lack of capacity to complete the course of study at the admitting school. In the case of an admission to another law school this showing shall normally be made by letters from the dean or faculty of the school previously attended. A previously disqualified student may also be admitted when two or more years have elapsed since that disqualification and the nature of interim work, activity, or studies indicates a stronger potential for law study. In each case the admitting officer shall sign and place in the

admittee's file a statement of the considerations that led to the decision to admit or readmit the applicant.

506 Pursuant to an established policy, the law school, without requiring compliance with its admission standards and procedures, may permit the enrollment in a particular course or limited number of courses, as auditors, as non-degree candidates, or as candidates for a degree other than a law degree. of:

- (i) students enrolled in other colleges or universities or in other departments of the university of which the law school is a part, and
- (ii) members of the bar, graduates of other approved law schools, and other persons satisfying the requirements for admission set forth in section 502.

# LIBRARY

601 The law school shall maintain and administer a library adequate for its program.

(a) In order to inform applicants for accreditation of procedures and important facets of law library operations relating to adequacy, the Consultant may prepare appropriate memoranda.

(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.

602 (a) The law school library shall contain:

(i) all publications listed in Library Schedule A, attached as Annex II,

(ii) those other materials that are reasonably necessary for the proper conduct of its educational program,

(iii) all publications listed on Library Schedule B, attached as Annex III, except those that are readily accessible to and available for use by students and faculty in another library facility. All arrangements for such sharing of collections shall be adequate to insure ease of access and availability of the materials when and where needed.

(b) The Council is delegated the authority to revise the Library Schedules from time to time.

603 (a) All materials necessary to the program of the law school shall be current with respect to continuations, supplements, and replacements.

(b) All sets of materials necessary to the program of the law school shall be complete and unbroken except when early volumes of a set are either unavailable or are available only at an excessive price. A set is not complete unless it includes all supporting materials, including

indices, desk books, digests, finding tools, and creators published as a part of the set or generally available for use with the set.

(c) All periodical and other materials of long-term value shall be permanently bound as soon as practicable after their receipt. A reasonable binding program shall be required in order to keep materials in usable condition.

(d) If the library contains any materials in microform, tape, or similar form, it shall provide the necessary viewing and listening equipment in an area suitable for its use. If items in Schedule A are held exclusively in microform, adequate equipment shall be provided to make hard-copy printouts readily available.

(e) The library shall contain additional sets of more commonly used materials whenever necessary for efficient use by the faculty and students.

(f) The library shall be kept current with respect to new publications and new forms of publications.

(g) For purposes of this Section, all items in Library Schedules A and B shall be among those deemed necessary to the program of the law school.

604

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. The law school library shall have sufficient administrative autonomy to direct its growth, development and utilization to afford the best possible service to the law school.

(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.

(b) The budget for the law library shall be determined as part of, and administered in the same manner as, the law school budget.

(c) The selection and retention of the law librarian shall be by the dean and faculty of the law school.

605 The law library shall be administered by a full-time law librarian whose principal activities are the development and maintenance of the library and the furnishing of library assistance to faculty and students, and may include teaching courses in the law school.

(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.

(b) The law library shall have a competent staff, adequate to maintain library services, under the supervision of the law librarian.

# PHYSICAL PLANT

- 701 The law school shall have a physical plant that is adequate both for its current program and for such growth in enrollment or program as should be anticipated in the immediate future.
- 702 There shall be adequate classrooms and seminar rooms to permit reasonable scheduling of all courses and there shall be such additional rooms as may be necessary to provide adequately for all other aspects of the law school's program.
- (a) The physical facilities shall be under the exclusive control and reserved for the exclusive use of the law school. If the facilities are not under the exclusive control of the law school or are not reserved for its exclusive use, then the arrangements must permit proper scheduling of all law classes and other law school activities.
- (b) Adequate provision should be made for the conduct of moot court programs, both at the trial and appellate level, either by a separate courtroom, or one or more classrooms that can readily be adapted to such a program, or by reasonably available public courtroom facilities.
- 703 Each full-time member of the faculty shall have a private office. In addition, suitable office space shall be provided for the use of part-time faculty members.
- 704 Space for study purposes shall be provided in the law school library that is sufficient to accommodate at least the following percentage of the total enrollment: if the school is exclusively a day school, 50 percent; if the school is exclusively an evening school, 35 percent; if the school has both day and evening divisions, 50 percent of whichever division is the larger. In addition to the regular study area, there shall be one or more suitable conference

rooms under the control of the law school library in which students may gather in small groups for discussion.

- 705 There shall be adequate areas for secretarial, administrative and library personnel and for the maintenance of all necessary records. These areas shall be in close proximity to the persons, offices and library functions served thereby.

# AUTHORITY

801 The Council shall have authority to:

- (i) interpret the Standards,
- (ii) adopt rules implementing the Standards,
- (iii) adopt procedural rules for the initial application by and approval of law schools and for the review and reinspection of approved schools, provided that until procedural rules are so adopted, the procedural rules in effect on the adoption of the Standards apply, and
- (iv) amend any rules from time to time.

All interpretations and rules shall be published and shall be available to all interested persons.

802 A law school proposing to offer a program of legal education contrary to the terms of the Standards may apply to the Council for a variance. The variance may be granted if the Council finds that the proposal is consistent with the general purposes of the Standards. The Council may impose such conditions or qualifications as it deems appropriate.

803 The Council shall have the authority to consider any request for provisional or full approval. If the Council's decision is that approval should be granted, it shall so recommend to the House. If the Council's decision is that approval should not be granted, its action shall be communicated to the school which then has the right of appeal provided for in Article 5, Section 5.2 of the Constitution of the American Bar Association.

804 The House of Delegates will not act on any request for the withdrawal of approval until it has first received the advice and recommendations of the Council.

805 The Council shall, from time to time, publish the names of those law schools which have been approved and those schools which have not been approved and shall make these publications available to interested persons.

# ADOPTION AND AMENDMENT

- 901 (a) These Standards become effective upon their adoption by the House of Delegates. The Standards for Legal Education and the Factors Bearing on the Approval of Law Schools by the American Bar Association, heretofore in effect, are repealed.
- (b) For a period of two years after these Standards become effective a law school that was provisionally or fully approved at the time these Standards became effective will not have its approval withdrawn if it either continues to be in compliance with the Standards heretofore in effect or complies with these Standards.
- (c) Two years after these Standards become effective, all approved law schools must comply with them.
- (d) After these Standards become effective, an unapproved law school will not be granted a provisional approval and a provisionally approved law school will not be granted a full approval unless it complies with these Standards.
- 902 (a) The power to approve an amendment of the Standards is vested in the House of Delegates, but the House of Delegates will not act on any amendment until the Council, the Section, and the Board of Governors have been given a reasonable opportunity to consider the proposed amendment and report thereon to the House of Delegates.
- (b) A member of the Section of Legal Education and Admissions to the Bar may propose an amendment of these Standards by submitting the proposed amendment and a statement of its purposes to the Secretary of the Section, who shall transmit the proposed amendment and the statement of purposes to the

members of the Council. The Council shall consider such a proposed amendment at the next Council meeting held 30 or more days thereafter and may consider any other proposed amendment. The Council shall submit to the Section at the next annual meeting such proposed amendments of the Standards as it, by majority vote, deems appropriate. If an amendment proposed by a member as described above is not submitted favorably by the Council to the Section, the amendment shall be submitted to the Section at the next following annual meeting if a petition signed by 100 or more Section members requesting its submission is filed with the Secretary at least 30 days prior to the annual meeting at which the amendment is to be submitted to the Section. The Section may consider only those amendments of the Standards that are submitted to it by the procedures described above. If a majority of the members of the Section present at an annual meeting and voting approve, the amendment is adopted. The amendment becomes effective when it is approved by the House of Delegates after a report by the Board of Governors.

## **PRINCIPLES OF ACADEMIC FREEDOM AND TENURE**

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to assure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights.

Tenure is a means to certain ends; specifically: (1) freedom of teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

---

\*The text of the statement follows the "1940 Statement of Principles on Academic Freedom and Tenure" of the American Association of University Professors.

## Academic Freedom

The teacher<sup>1</sup> is entitled to full freedom in research and in the publication of the results, subject to the adequate performance of his other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

The teacher is entitled to freedom in the classroom in discussing his subject, but he should be careful not to introduce into his teaching controversial matter which has no relation to his subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.

The college or university teacher is a citizen, a member of a learned profession, and an officer of an educational institution. When he speaks or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations. As a man of learning and an educational officer, he should remember that the public may judge his profession and his institution by his utterances. Hence, he should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that he is not an institutional spokesman.

## Academic Tenure

After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.

---

<sup>1</sup>The word *teacher* as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties.

In the interpretation of this principle it is understood that the following represents acceptable academic practice:

(1) The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.

(2) Beginning with appointment to the rank of full-time instructor or a higher rank, the probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that when, after a term of probationary service of more than three years in one or more institutions, a teacher is called to another institution it may be agreed in writing that his new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years. Notice should be given at least one year prior to the expiration of the probationary period if the teacher is not to be continued in service after the expiration of that period.

(3) During the probationary period a teacher should have the academic freedom that all other members of the faculty have.

(4) Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges against him and should have the opportunity to be heard in his own defense by all bodies that pass judgment upon his case. He should be permitted to have with him an adviser of his own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of

teachers and other scholars, either from his own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.

(5) Termination of a continuous appointment because of financial exigency should be demonstrably bona fide.

*Annex II*

## **LIBRARY SCHEDULE A**

### **I. National Materials—General**

American Digest system  
Corpus Juris and Corpus Juris Secundum and  
American Jurisprudence, Second  
Shepard's Citations, U.S. and Federal  
Words and Phrases  
ALR Complete  
Restatements  
Uniform Laws Annotated, Master Edition

### **II. Federal Materials**

U.S. Reports, Supreme Court Reporter, United  
States Supreme Court Reports, Lawyers  
Edition  
Federal Reporter Complete  
Federal Supplement  
Federal Rules Decisions  
Tax Court Reports  
Federal Digest and Modern Federal Practice  
Digest and Federal Practice Digest, Second  
Statutes at Large, current from 1950  
U.S. Code, any annotated edition, with supple-  
mental service from 1950  
Code of Federal Regulations  
Administrative Agency Reports for at least those  
agencies whose work is relevant to courses in  
the school  
Attorney General Opinions

### **III. State in Which the School is Located**

Official State reports of the State and, for any  
period during which official reports were not  
published, one additional copy of the National  
Reporter System units containing the reports  
of that State

Specialized reports whose subject matter is particularly relevant to the educational program of the law school

Session law, complete

Latest code or other statutory compilation with the session law service, if any

Earlier state codes, if available

Attorney General Opinions

Administrative code or similar publication, if any

Local digests and encyclopedias, if any

Form and practice books

CLE materials

Shepard's Citations

#### **IV. Additional Materials**

National Reporter System, complete

Shepard's regional reporter citations

Reporters prior to the National Reporter System for 20 selected states whose case law is significant in the educational program of the school

#### **V. Specialized reports whose subject matter is particularly relevant to the educational program of the law school**

#### **VI. Texts, Treatises, Loose-leaf Services**

Generally recognized texts and treatises and loose-leaf services for subjects relevant to the educational program of the law school

#### **VII. Reviews and Journals**

Publications of the State Bar Association (or Associations) and continuing legal education programs conducted in the State

The American Bar Association Journal, complete, and the publications of the ABA sections, exclusive of newsletters, current from the date of application for approval

Publications of the American Bar Foundation, current from the date of application for approval

All publications by approved law schools in the State, complete

An additional twenty publications of recognized national significance, complete from at least 1950

Specialized journals whose subject matter is particularly relevant to the educational program of the school

Index to Legal Periodicals

Legal Newspaper, if published in the area

## **LIBRARY SCHEDULE B**

### **Federal Materials**

Federal Cases  
Board of Tax Appeals  
Federal Register

### **Other States**

Statutes, in current compilation, of those states  
whose statutory law is significant in the educa-  
tional program of the school

### **English**

Coverage of English case law from 1220 forward or  
from 1530 forward, in any of the following com-  
binations:

- (a) English Reports (full reprint) 1220-1865  
and Law Reports 1865 +
- (b) All England Law Reports Reprint 1558-1935  
and All England Law Reports 1936 +
- (c) All England Law Reports Reprint 1558-1935  
and Law Reports 1935 +

Halsbury's Laws of England  
Halsbury's Statutes of England  
English and Empire Digest

# **RULES OF PROCEDURE FOR THE APPROVAL OF LAW SCHOOLS**

## **Rule I.**

### **Accreditation Committee**

(1) The Council may appoint an Accreditation Committee, and delegate to this Committee, or to a subcommittee designated by the Chairperson of this Committee, tasks in connection with the accreditation of law schools.

(2) The Accreditation Committee will act on all matters relating to accreditation. A summary of the Accreditation Committee resolutions and determinations and a copy of each of the reports and of the material relevant to the accreditation matters to be considered at the next Council meeting, together with a brief description of the significant issues involved, will be sent to each of the Council members approximately two weeks prior to the Council meeting.

An institution adversely affected by an Accreditation Committee action may petition to the Accreditation Committee for a review of its action. Such request shall demonstrate that on rehearing the Committee would receive information or undertakings which have not been adequately communicated to the Committee. The Chairman of the Committee shall determine whether such showing has been made and in such case may afford to such representatives an opportunity to submit additional material.

Such petition for review shall be filed with the Consultant on Legal Education to the American Bar Association within fifteen days after receipt of the decision of the Accreditation Committee.

(3) The institution may appeal, as a matter of right, to the Council, the following matters:

(a) Any determination adverse to the institution relating to the granting of provisional or full approval;

(b) Determinations of Hearing Commissioners recommending removal of approval.

Such petition for appeal shall be filed with the Consultant on Legal Education to the American Bar Association within fifteen days after receipt of the decision of the Accreditation Committee.

In the absence of any such appeal, the Council shall act to recommend the resolution of the Accreditation Committee to the House of Delegates.

(4) The Council will act on other accreditation matters upon which the Standards or Rules require the Council to act.

In addition, the Council may, upon motion of no less than five members of the Council, review other accreditation matters.

(5) The Council will not consider material which was not presented to the Accreditation Committee unless a majority of the members of the Council present agree to consider the material.

(6) The Accreditation Committee normally will only consider reports submitted to the Consultant at least one month prior to its meeting. Exceptions will only be made in unusual circumstances.

(7) In accordance with the current practice, the Chairman of the Accreditation Committee will assign each member of the Accreditation Committee the responsibility for the critique of particular inspection matters. The Committee member will be responsible for presentation of the particular matter to the Accreditation Committee. The member to whom an individual report is assigned will draft a proposed resolution or alternative resolutions in advance of the Accreditation Committee meeting.

(8) A copy of the Accreditation Committee meeting agenda, the assignment list indicating the particular matters for which each Accreditation Committee member is responsible, and the reports and materials relevant to the Accreditation Committee meeting will be sent to each member of the Accreditation Committee prior to the meeting. In addition, each member who is assigned responsibility for a particular matter will also be sent a copy of the necessary background material at this time.

(9) In the ordinary case, when the Accreditation Committee is considering an application for provisional or full approval, a member of the inspection team will be asked to attend the meeting.

## Rule II.

### Procedure for Securing Approval

(1) Provisional and full approval of an applicant law school is granted by the House of Delegates of the American Bar Association upon the recommendation of the Council of the Section of Legal Education and Admissions to the Bar.

#### Provisional Approval

(2) The Accreditation Committee and Council will not consider an application for provisional approval until the applicant school has completed the first academic year of its program.

(3) A university, college, or other institution considering the establishment of a law school or a law school considering application for provisional approval may obtain information and advice from the American Bar Association upon request. Inquiries may be addressed to the American Bar Association, or to the Chairperson of the Section of Legal Education and Admissions to the Bar, or to the Consultant. The requesting school will be sent a copy of the Standards, Council Interpretations, Rules of Procedure, other pertinent data, and a copy of a questionnaire devised to permit the school and the Council to evaluate the status of the school in the light of the Standards as interpreted by the Council. Requests for additional information and advice will be honored.

(4) A university, college, or other institution contemplating the creation or acquisition of a law school should complete a comprehensive feasibility study, prior to commencement of a program of instruction. An existing institution making application for provisional approval should complete a comprehensive feasibility study prior to seeking provisional approval. This study should be submitted to the Council when

the law school requests provisional approval. The study should include the consideration of such matters as the character and goals for the proposed law school, the distance from other law schools in the area from which the proposed school might attract students, the number, characteristics, and interests of the students who might apply, the resources necessary to create and sustain the proposed law school (particularly if this relates to the resources of a parent institution), and the demand for legal education and the need for lawyers in the area in which the graduates of the proposed school might be expected to pursue their careers.

(5) The dean and faculty of a law school seeking provisional approval should also undertake a self-study of the institution prior to applying for provisional approval. This study should be submitted to the Council when the law school requests provisional approval.

(6) Experience has shown that a qualified consultant can be helpful. The institution should obtain the advice and assistance of a qualified consultant with experience in legal education and knowledge of the Standards and Rules of Procedure for approval.

(7) A school applying for provisional approval shall return the completed questionnaire and a copy of the feasibility study, a copy of the self-study, and request an inspection. A school seeking provisional approval shall also submit separate financial operating statements for the last three fiscal years (if the institution has been in existence for that period of time). If the applicant is a private institution, the statements shall be certified. The school shall also submit appropriate supporting documents detailing the cost of all facilities used solely for the support of the school. If the applicant institution is a private institution, the institution shall state the MAI appraised fair market value of facilities used solely for the support of the law school. The covering letter

shall state that the chief executive officer of the parent institution and the dean of the law school have read and carefully considered the Standards and Council Interpretations, have answered in detail the questions asked in the questionnaire, and by this letter give assurance to the Council that in their opinion the law school meets the requirements of these Standards for provisional approval. The Council and the Consultant welcome the opportunity to render assistance.

(8) When the school returns the completed questionnaire, the feasibility study, the self-study, and the assurances, a request for an inspection, at the school's expense, is in order. The school shall be charged a uniform fee payable to the American Bar Association. Thereafter, arrangements will be made for an inspection by qualified and objective persons selected by the Consultant. If there is a state agency or official with the responsibility to supervise or regulate legal education, the school shall inform the Consultant who shall invite the agency or official to observe the inspection. An inspection usually requires three days, as classes are visited, records and transcripts inspected, the library canvassed, information set forth in the questionnaire checked, the financial statements of the law school and the parent institution reviewed, and consultations held with the chief executive officer of the institution, the dean of the law school, members of the law school faculty, and the law students.

(9) The Council shall not consider any evidentiary or other matter which has not first been presented to the Accreditation Committee bearing on any fact relating to a matter concerning which the Accreditation Committee has recommended the adoption of a resolution.

(10) If an application or reapplication for provisional approval is not granted, another application by the law school for provisional approval will not be con-

sidered by the Council or the Accreditation Committee until at least ten months thereafter. The Council may allow an earlier reconsideration in exceptional circumstances.

(11) A provisionally approved school shall be reinspected each year during the period of provisional approval and shall be granted full approval when it complies with the requirements of the Standards for full approval. The school shall be charged a uniform fee payable to the American Bar Association for the annual inspections and shall reimburse the inspectors for their travel and living expenses.

### **Full Approval**

(12) A provisionally approved school will be considered for full approval by the House of Delegates when the Council finds, after inspection, that the school meets the Standards established by the American Bar Association as interpreted by the Council on a basis that assures continued compliance with the letter and the spirit of the Standards, with particular emphasis on a steady improvement in the quality of the educational program.

### **Inspection**

(13) Following an inspection for provisional approval or full approval, a written report based upon the inspection is sent to each member of the Accreditation Committee and the Council, and the application is placed on the agendas of the Accreditation Committee and the Council. The written report is submitted to the chief executive officer of the institution and the dean of the inspected school for confirmation of the accuracy of the facts stated in the report.

(14) The Accreditation Committee and the Council regularly meet immediately before the annual and the midyear meetings of the American Bar Association and may meet at other times. Applications for approval are considered by the Accreditation Com-

mittee and the Council, with the chairperson of the inspection, or an inspector designated by the chairperson, present, if requested by the Chairperson of the Accreditation Committee or the Chairperson of the Council. The travel and living expenses incurred by the inspector to attend the meetings of the Accreditation Committee and the Council shall be reimbursed by the law school applying for approval.

(15) The reports of inspections and reinspections are received in confidence by the inspectors, the Consultant, and the member of the Accreditation Committee and the Council and may be disclosed only with the approval of the Council. It is permissible to discuss the contents of the report with the faculty, the university administration and the governing board, but it is not consistent with American Bar Association policy to have the inspection report copied or otherwise publicly distributed. After notification of the Accreditation Committee's action, or the Council's action, as the case may be, to the school, the nature of the action on applications for provisional approval and for full approval may be disclosed to others than the dean of the law school and the chief executive officer of the parent institution. The staff may release the nature of the action to the public, with an explanation of the procedural steps for consideration of an application.

After consideration of the inspection report by the Council and Accreditation Committee of the Section of Legal Education and Admissions to the Bar, a resolution concerning the inspection report and the determination of the Accreditation Committee and/or Council will be transmitted by the Consultant on Legal Education to the American Bar Association to the dean and president of the institution. The policy of the American Bar Association regarding the Council and/or Accreditation Committee's resolution is that the school is free to make use of the resolution as contained in the Consultant's letter addressed to the president and dean. However, any release of the

Council and/or Accreditation Committee's resolution should be a full release, and not selected excerpts of the resolution. Additionally, the president and dean are free to make such use of information contained in the Consultant's letter that they may deem appropriate.

One year from the date of the initial transmission of the determinations of the Accreditation Committee, including specific findings of compliance or non-compliance with the Standards, resulting from a regular, special or sabbatical inspection of a provisionally or fully approved school, the remaining specific findings of non-compliance will be made available by the American Bar Association to any party upon request.

### **Approval Granted**

(16) If the school is recommended by the Council for approval, the recommendation is sent to the House of Delegates for action. If the House of Delegates grants provisional approval, the chief executive officer of the institution and the dean of the law school may be sent a written report commenting on the school's strengths and weaknesses and areas of Council concern and recommending means of improvement.

**Rule III.****Procedure for  
Assuring Continued  
Compliance**

(1) To the end that the American Bar Association Standards shall be maintained, to insure compliance and to advance the continued improvement of legal education, provisionally approved and fully approved schools will be expected to furnish to the Council such information as is requested by the Council and Accreditation Committee.

(2) All fully approved schools are subject to periodic reinspections. The school shall be charged a uniform fee payable to the American Bar Association, and shall reimburse the inspectors for their travel and living expenses. Additional reinspections at the school's expense may be ordered by the Council when special circumstances warrant. The school is expected to furnish information to the Council prior to the inspection, including the completion of a self-study undertaken by the dean and faculty and relating to the goals and objectives of the school.

(3) A provisionally approved or fully approved school is expected to maintain the qualitative level which justified its approval, and to demonstrate a genuine and continuous effort to improve the quality of its educational efforts.

(4) Written complaints from faculty or students at ABA approved schools are received by the Council of the Section of Legal Education and Admissions to the Bar. Upon receipt of a complaint, the Consultant on Legal Education to the American Bar Association acknowledges receipt of the complaint and makes a request for any additional information which is deemed necessary.

If evidence indicates conditions, practices, or actions in possible violation of the Standards for Approval of Law Schools, the Chairperson of the Council or Chairperson of the Accreditation Committee may appoint a Hearing Commissioner or members of a Hearing Commission to visit the institution to obtain additional information and to report to the Council and its Accreditation Committee. The aggrieved party may also be given an opportunity to meet with the Hearing Commissioner or members of the Hearing Commission.

The Council and its Accreditation Committee may then review the matter with notice to all concerned parties. If the Council finds that the school is in violation of the Standards, it may then take appropriate action under provisions of its Standards and Rules of Procedure for Approval of Law Schools for removal of the institution from the list of approved schools.

**Rule IV.****Removal from List of  
Approved Schools—  
Provisional; Full**

(1) The American Bar Association has delegated to the Council of the Section of Legal Education and Admissions to the Bar the responsibility for insuring continued compliance with the Standard as interpreted by the Council. The Rules of Procedure for Approval of Law Schools by the American Bar Association provide that the Accreditation Committee will act on all matters relating to accreditation. If the school fails to meet the requirements, approval may be withdrawn by action of the House of Delegates of the American Bar Association upon the recommendation of the Accreditation Committee and Council.

(2) Whenever the Accreditation Committee has reason to believe that an approved school has failed to maintain the Standards established by the American Bar Association as interpreted and administered by the Council, or has refused requests for information or reinspection, the Accreditation Committee may notify the school of its apparent deficiencies and that, if the matter is not resolved satisfactorily by routine procedures by a certain date, a notice for a hearing on certain date shall issue.

(3) The Chairperson of the Accreditation Committee may appoint one or more persons to serve as a Hearing Commissioner or members of a Hearing Commission to conduct a hearing. Expenses of the hearing, including expenses of the Hearing Commissioner or Hearing Commission, shall be borne by the school.

(4) The school shall be given at least 30 days notice of the hearing, and, upon request, it may be granted additional time not to exceed 30 days for good cause shown. Both the notice and the request for exten-

sion of time shall be in writing. The notice shall be addressed and sent to the chief executive officer of the law school by certified U.S. mail, return receipt requested, and shall be deemed given upon deposit of same in the U.S. mail.

(5) The purpose of the hearing shall be to report the facts and circumstances respecting current compliance by the school with the Standards.

(6) The written report of the inspection of the school held most recently prior to the hearing shall be considered as evidence. Additional material may be referred to the Hearing Commission by the Consultant on Legal Education to the American Bar Association, or his designee.

(7) The school shall be given an opportunity to appear at the hearing and to submit such evidence on the issues as it desires.

(8) The school shall submit to the Consultant, at least 15 days prior to the hearing, a written document specifying any inaccuracies it may allege to be present in the report of the inspection of the school held most recently prior to the hearing.

(9) The chairperson of the inspection of the school held most recently prior to the hearing or an inspector designated by the Consultant, shall be present at the hearing. The travel and living expenses incurred by the chairperson or designated inspector to attend the hearing shall be reimbursed by the school.

(10) The Hearing Commission shall submit to the Accreditation Committee a written report. A copy of the Hearing Commission report shall be forwarded to the school.

(11) After the hearing, the Accreditation Committee shall make a determination as to whether the school is in compliance, and, if not, what remedial action is

appropriate, including whether to recommend removal of the school from the list of approved law schools. The school and other parties shall have an opportunity to state their positions at the meeting of the Accreditation Committee which considers the question of whether to recommend its removal from the list of approved schools.

If the school is determined by the Accreditation Committee to be in compliance, the matter shall be concluded by proper resolution, a copy of which shall be transmitted by the Consultant to the school. If the school is determined not to be in compliance, the Accreditation Committee will place on the agenda of the next meeting of the Council its recommendation that the Council should recommend to the House of Delegates that the school be removed from the list of approved schools. A school may appear before the Council at the meeting where the Council acts upon the finding of the Accreditation Committee. The Chairperson or a member of the Hearing Commission may be requested to be present at the meeting of the Accreditation Committee and Council. The travel and living expenses incurred by the Hearing Commissioner to attend the meeting of the Accreditation Committee or Council shall be reimbursed by the school.

(12) If the Council adopts a finding of non-compliance, a recommendation for removal of the law school from the list of approved law schools shall be placed on the agenda of the next meeting of the House of Delegates. The Council's resolution will be communicated to the school and may be communicated to the Executive Committee of the Association of American Law Schools, the National Conference of Bar Examiners, the bar examining authority of the state in which the school is located, the highest administrative officer of the institution of which it is a part, and the appropriate regional institutional accrediting agency.

(13) If, before the House of Delegates acts on a recommendation of the Council that the school be removed

from the list of approved schools, the school corrects the deficiency and is found by the Council to be in compliance with the Standards, the Council shall take steps to recall its recommendation and to notify all persons who were notified of the school's apparent non-compliance of the school's current status, and the Council shall close the matter with a resolution in its Minutes setting forth the facts of compliance.

**Rule V.****Changes in  
Structure or Operation**

(1) Since a major change in structure or operation may raise questions as to a law school's continued compliance with the Standards, a provisionally approved or fully approved law school, prior to making the change, shall make a timely report on the proposed change to the Consultant, analyzing the effect of the proposed change on the school's ability to meet American Bar Association Standards. The Accreditation Committee or the Council may require an inspection of the school. Examples of changes that must be reported include:

- A. Instituting a new division (full-time or part-time);
- B. Shifting from a full-time to a part-time program, or from a part-time program to a full-time program;
- C. Establishing the school or a branch thereof in a new location;
- D. Offering a two-year undergraduate, four-year law school, or similar program
- E. Merging with another law school, whether approved or unapproved;
- F. Activating a program leading to any degree beyond the first degree in law; or
- G. Changing its relations with its parent institution or affiliating with a college or university.

(2) Before establishing a full-time or part-time program or a graduate division, before establishing the school or a branch thereof in a new location, and before concluding a merger, the law school shall obtain the Council's acquiescence to the action. When the Council acquiesces to a major change, it shall make its acquiescence subject to a reinspection no later than two years of the date of the change for the purpose of ascertaining whether the anticipated benefits to the law school and the other institution have been obtained.

(3) Approval of graduate degree programs at ABA-approved law schools shall be based upon minimum standards for such programs. The same approval criteria and process shall be used whether the graduate program is an "academic" program (e.g., S.J.D. degree) or a "professional" program (e.g., LL.M. in Taxation).

(4) The establishment of credit granting programs at off-campus locations requires that:

- (a) No such program shall be undertaken without notice to the Accreditation Committee and its prior approval by application of appropriate Standards;
- (b) Such programs will be included in any inspection, reinspection, and review process of the approved school conducting the same; and
- (c) Such programs presently operated by approved schools which are now within the inspection and review process of the Accreditation Committee are subject to this review.

**Rule VI.****Appeal**

Appeal from Council action is provided for in Article 5, Section 5.2 of the Constitution of the American Bar Association.

**Rule VII.****Reinstatement**

A law school that has been removed from the list of approved law schools may be reinstated by complying with the procedures for obtaining approval, as though it had never been approved.

**Rule VIII.****List of Approved and Unapproved Schools**

The Council of the Section of Legal Education and Admissions to the Bar shall publish from time to time the names of those law schools which comply with the Association's Standards and those which do not. A complete list of all approved law schools and as many unapproved law schools as are known shall be published annually in the Review of Legal Education, which is published by the Section and distributed upon request without charge.

HB

984

#13

(9)

# COMMITTEE REPORT

## HOUSE

3/31/80

FURTHER: Review

Date: \_\_\_\_\_

Mr. Speaker: ✓

The Committee on JUDICIARY has had HB 984

"An Act continuing the existence of the Alaska Bar Association and amending the statutes relating to the practice of law in the state; amending Alaska Bar Rules 2 and 7; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 107  same title  
 new title
- and recommends indicated
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

[Signature]

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

[Signature]

\_\_\_\_\_

CHAIRMAN

HB 984 file

HOUSE  
JOURNAL SUPPLEMENT

---

March 13, 1980

Thursday

No. 29

---

This House Journal Supplement contains all material submitted by committees for Sunset Review.

Guide Licensing and Control Board

Board of Barber Examiners

Board of Hairdressing and Beauty Culture Examiners

Alaska Public Utilities Commission

Board of Registration for Architects, Engineers and Land Surveyors

Real Estate Commission

Board of Public Accountancy

Board of Welding Examiners

Board of Marine Pilots

Board of Electrical Examiners

State Board of Parole

Alaska Bar Association

Collection Agency Board

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Resources Committee has had under consideration for "Sunset" review the Guide Licensing and Control Board pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with statutory requirements a public hearing was held on the review of this board at which testimony was taken from members of the board and of the profession as well as from the administrative agencies dealing with the operation and enforcement of Guide Board functions.

Directed, in part, by the report prepared by the Division of Legislative Audit the Committee took into consideration the factors required to be evaluated under AS 44.66.050(c).

Your Resources Committee thereby makes the following findings:

1. That the licensing of Guides is needed to protect the safety and welfare of the public and to protect the Resources of the State of Alaska.
2. That the licensing function as it applies to guides should be transferred from Occupational Licensing to Public Safety.
3. That the "Transporter Laws" should be repealed as unworkable.
4. That certain other statute changes primarily those listed in the audit report be included in the "Sunset" legislation to be introduced by this committee.
5. That the Guide Licensing and Control Board be continued for one year during which time...
  - a. the Department of Law is requested to perform a complete legal audit of the minutes and records of the Board to determine whether their procedures and actions have been in full compliance with the Alaska Constitution and all applicable statutes.

- b. a legislatively directed study can evaluate and recommend specific statutory changes under which rural residents can enter the guiding profession and receive the maximum benefits from local guiding activities.

Respectfully submitted,

Alvin Osterback

Rep. Alvin Osterback  
Co-Chairman  
House Resources Committee

Phil (Uncle) ...

...

...

Fred L. Sheroff

Blasius

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Barber Examiners pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board conducted by the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings: The Committee generally concurs in the eight findings and recommendations as they appear on pages 9 through 15 of the Performance Review of the Board of Barber Examiners dated March 31, 1979, which is hereby incorporated by reference as though fully set out herein.

However, the Committee feels that compliance with the recommendations of the Division of Legislative Audit would not fully address the problems of the Board of Barber Examiners. The Committee has decided that it would be in the best interests of the people of the state of Alaska to join the Board of Barber Examiners and the Board of Hairdressing and Beauty Culture Examiners into one combined board. The State of Oregon has already done this, and we are looking to their legislation as a possible model for our proposal. The Governor's Committee on Regulatory Reform has come to similar conclusions.

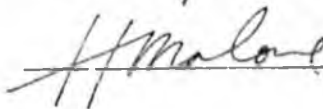
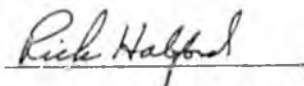
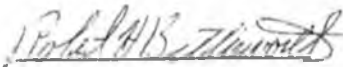
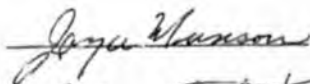
The Committee feels that it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that the Board of Barber Examiners in its present form be discontinued, and that its functions be assumed by the new board described above.

A bill will be introduced by the Commerce Committee facilitating the establishment of a new combined board of barbers and hairdressers.

Respectfully submitted,



Rep. Fred Brown  
Chairman  
House Commerce Committee



The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Hairdressing and Beauty Culture Examiners pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board conducted by the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

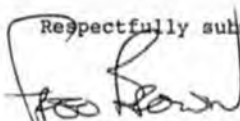
Your Commerce Committee thereby makes the following findings: The Committee generally concurs in the nine findings and recommendations as they appear on pages 10 through 15 of the Performance Review of the Board of Hairdressing and Beauty Culture Examiners dated June 11, 1979, which is hereby incorporated by reference as though fully set out herein.

However, the Committee feels that compliance with the recommendations of the Division of Legislative Audit would not fully address the problems of the Board of Hairdressing and Beauty Culture Examiners. The Committee has decided that it would be in the best interests of the people of the state of Alaska to join the Board of Hairdressing and Beauty Culture Examiners and the Board of Barber Examiners into one combined board. The State of Oregon has already done this, and we are looking to their legislation as a possible model for our proposal. The Governor's Committee on Regulatory Reform has come to similar conclusions.

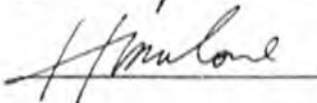
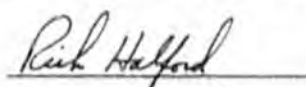
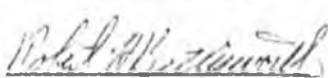
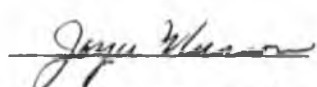
The Committee feels that it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that the Board of Hair-dressing and Beauty Culture Examiners in its present form be discontinued, and that its functions be assumed by the new board described above.

A bill will be introduced by the Commerce Committee facilitating the establishment of a new combined board of barbers and hairdressers.

Respectfully submitted,



Rep. Fred Brown  
Chairman  
House Commerce Committee



MINORITY REPORT CONCERNING SUNSET REVIEW OF  
THE BOARDS OF  
HAIRDRESSING AND BEAUTY CULTURE EXAMINERS  
AND  
BARBER EXAMINERS

The majority report concerning the disposition of the Board of Hairdressing and Beauty Culture Examiners and the Board of Barber Examiners proposes a course of action which in my opinion, substantially violates the intent of the Sunset legislation. The Legislature and the majority of Alaskans embraced the concept of Sunset Legislation as a vehicle to reduce governmental interference in our lives, not to further concentrate and accentuate it. Unfortunately, the latter would be the result of the implementation of the proposal put forth in the majority report of the House Commerce Committee.

I do not concur in the House Commerce Committee recommendations regarding these Boards. These boards, like all others which are granted monopoly status by the state, do a dis-service to consumers by reducing supply of services, restricting competition, raising costs and providing only the illusion of protection.

Government regulation continues to cost the public far in excess of the benefits received. This whole function can far more reasonably be handled to the degree necessary and desired by the profession and their consumers. To continue these boards and their attending regulatory schemes is to make a mockery of the intent of Sunset review. The recommendations of the Committee continue to involve the hairdressing profession in unnecessary red tape, regulation of our lives, and the squandering of tax dollars.

A far more proper course of action would be the transfer of as many of these duties and responsibilities as possible to the hairdressers and the public, and away from the bureaucracy. Were persons involved in the hairdressing profession allowed to form multiplicity of voluntary associations which set their own standards as to admittance and consumer insurance, consumers could choose the level of service that they would demand in this area of commerce. There should be no restraints against any hairdresser practicing their profession in Alaska. However, those practicing a particular profession should continue to be civilly liable for negligent or intentional torts and breach of contract committed during the course of their activities.



Richard L. Randolph

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Alaska Public Utilities Commission, pursuant to your referral under AS 44.66.010 and AS 44.66.050.

In accordance with the statutory requirements, a public hearing was held on the review of this commission. The hearing extended over a period of three days, during January 21, 22, 23, 1980 and included over eighteen hours of hearings and deliberations by the Committee. During that time, testimony was heard from the Deputy Commissioner of the Department of Commerce and Economic Development representing the Commissioner (in accordance with the statute), from two members of the Commission, including its Chairman and from interested individuals and from representatives of the private sector affected by the regulatory scheme, representing all aspects of Alaskan utilities. Extensive use was made of the legislative teleconferencing network, which allowed the participation by witnesses and observers at all sites covered by the teleconferencing network.

The Committee considered the proposed budget of the Alaska Public Utilities Commission for FY 1981, and particularly examined the Performance Review of the activities of the commission prepared by the Legislative Audit Division, dated August 1, 1979, which is hereby incorporated by reference as though fully set out herein. Representatives of the Legislative Audit Division were present at all hearings and participated in the considerations with the Committee and followed up inquiries that had begun during the audit.

Guided in part by the report prepared by the Legislative Audit Division, the Committee took into consideration the factors required under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings:

The Committee finds some merit in recommendation number one which recommends that the Alaska Public Utilities Commission, the Alaska Transportation Commission and the Alaska Pipeline Commission should be combined into a single regulatory commission. However, this will require considerable further study. The Committee finds it is not in the public's interest to do so at this time.

In recommendation number two, the Legislative Audit Division recommends that AS 42.05 should be amended to allow the Alaska Public Utilities Commission to cease all certification and regulation of cable television. The Committee does not concur. Cable systems in Alaska, particularly in the remote areas, do not serve a mere entertainment function. Cable television in some areas of Alaska is the only source of information and entertainment. It is felt that regulation should continue in these areas. In urban areas, where alternative forms of entertainment and information are available, the Committee agrees that certification and regulation may not be necessary. Recent legislation passed in the state of California provides a formula that the Committee believes will, with modification, provide for deregulation of the cable systems in major urban areas of Alaska while providing regulatory protection for Alaska's rural population.

Recommendation number three asks that AS 42.05 should be amended to allow the Alaska Public Utilities Commission to cease certification and regulation of those utilities furnishing collection and disposal service of garbage, refuse, trash and other waste materials. In both the Legislative Audit Report and the public hearing, the reason most often heard for this deregulation was that "We don't have the staff to do this." An assertion is made in the Performance Review that the refuse industry is not capital intensive and that competition in this industry would not be as detrimental to the public's interest as competition among more capital intensive industries.

However, it has also been argued to the Committee that there should be some limited activity by the Alaska Public Utilities Commission in this area. Contentions have been made in favor of the Commission having appellate authority over local government units which may assume the regulatory function; and it has also been argued that the APUC be allowed to have jurisdiction "by consent," when a municipality and a utility have both agreed to that jurisdiction. While the Committee tends to agree with the recommendations of the Legislative Auditor about deregulation in this area it will consider these arguments about very limited jurisdiction during the preparation of the Committee's legislation.

Recommendation number four asks that AS 42.05 be amended to allow nonprofit telephone and electric cooperatives to petition for withdrawal from APUC economic regulation. It further recommends that the membership of the cooperatives, by a vote of a majority of the members, be given an opportunity on a utility by utility basis to determine whether their cooperative should remain under APUC regulation. The Committee finds several problems in considering deregulation of the cooperatives. One, as pointed out by the Performance Review, is the large number of consumer complaints received by the APUC against cooperatives. The second, which was brought out in public hearing, is that the annual meetings of the cooperative associations have a less than representative number of members present. Before the Committee can consider deregulation of the utilities by vote of the membership, the Committee would have to be assured that the vote in fact represented a majority of the actual members as opposed to a majority of the members present at any given annual meeting, or that similar safeguards are provided.

With this modification, the Committee's legislation will reflect this recommendation.

The Committee in general concurs with recommendation number five that asks that AS 42.05 be amended to exempt from economic regulation all utilities with annual gross revenues not exceeding \$100,000. We agree with the Legislative Audit Division that the cost of regulation "on a percentage basis" to a small utility may outweigh the potential benefits. However, when considering regulation of a utility we must look not only to the cost factor but also to the factors of public safety that are involved. Many of these small utilities provide vital needs to communities, for instance, water utilities. The Committee while including deregulation for these utilities in its legislation, will attempt to include some triggering device that would submit the utility to regulation if serious consideration of public health and safety should warrant such action.

The Committee concurs with recommendation number six that the statutes and regulations governing the Alaska Public Utilities Commission should be revised, and will work with the Commission to accomplish this.

The Committee concurs with recommendation number seven that salary levels for the professional and technical support staff should be upgraded. If salaries are not competitive with private industry in Alaska, we cannot expect qualified personnel to work for the APUC on an extended basis. The Commission will only become a training ground for industry (it's close to this now).

The Committee concurs with recommendation number eight that the APUC should implement a time management system. We were informed during the public hearing that new concepts are being implemented by the Executive Director and the situation is improving. If this is accomplished within a reasonable length of time, no legislative action will be necessary.

Recommendations number nine, ten, and eleven address "housekeeping" functions of the APUC. It is our understanding, as a result of testimony by the Alaska Public Utilities Commission, that action is being taken on these recommendations. If this action proceeds in a timely manner, it is felt that no legislative action will be necessary in this area.

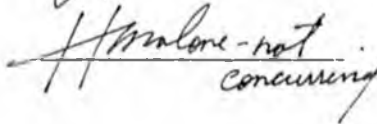
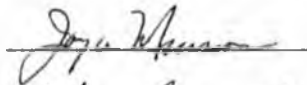
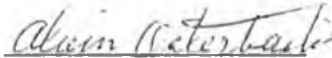
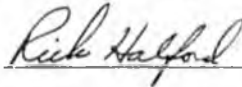
Recommendation number twelve urges that the Office of the Governor keep the appointment of the Chairman of the Alaska Public Utilities Commission current. Complaints that the Office of the Governor has been slow in making appointments to boards and commissions have appeared often in the Performance Reviews. It is hoped that the Governor's Office will make timely appointments to boards and commissions in the future.

Corresponding legislation will be introduced soon to accomplish the goals of this report.

Respectfully submitted,



Rep. Fred Brown  
Chairman  
House Commerce Committee



Although I concur with the Committee's recommendations, I would have preferred that the Committee further address the "informal" and off-the-record complaints about the APUC raised by several persons in private communications to members of the Committee. Something is seriously wrong with the regulatory scheme when members of the public do not feel free to express their views on the APUC at a public meeting, for fear of sanctions by the Commission against the utilities with which they are affiliated. I don't know whether those fears are well-founded, but they certainly are widespread.

  
Rep. Robert Bettisworth

MINORITY REPORT CONCERNING SUNSET REVIEW OF  
ALASKA PUBLIC UTILITIES COMMISSION

The majority report concerning the disposition of the Alaska Public Utilities Commission proposes a continued course of action which promotes the inefficient provision of utility services to consumers due to government interference in the market system. This interference further allows the opportunity for subjective determinations by politically appointed bureaucrats.

Furthermore, the existence of the politically oriented APUC gives consumers a false sense of protection from the claimed shortcomings of the free enterprise system. In fact, the APUC eliminates competition in the field of utilities and thereby insures that the incentive for technological advance, which might benefit consumers, will never occur. By governmentally setting rates on the basis of utility investments and expenditures, the APUC allows inefficient utilities to continue operating at a profit even though they don't deserve one.

Since utilities are used by most Alaskans, the placement of commissioners on the APUC has become politically strategic. This has caused these "god like" positions to become even more powerful than those politicians who appointed them.

In short, the APUC should be systematically dismantled, and the businesses which it rules should be deregulated. It is hard to imagine the justification for continuing a commission which claims to have the "public interest" as its objective, and yet has a difficult time defining the "public interest" when asked its meaning. The ingenuity of the American consumer would manage to find ways, through a competitive economy, to insure that they received utilities services far superior to those presently provided under the "benevolent" misallocation of resources insured by a dictatorial regulatory commission.

As an example of the political weight which these types of commissions are able to exert, it should be noted that the majority report apparently is unwilling to positively address two of the major problems under the current commission mode of operation. Great savings could be achieved by combining the APUC, ATC and APC, but of course this would also eliminate a number of commissioners' positions, and so is not politically practical. In theory, the staff of the APUC should be totally independent of the commissioners so that the research it provides would be based on objectivity rather than politics. No provisions to insure this separation have been implemented. This leaves the commissioners with much more freedom to make subjective decisions and back them up after the fact with directed justification. This practice is evidenced by the replacement of executive directors three times within the last year since that position was made partially exempt. As has been the case so far with Sunset legislation, the individual consumer becomes the loser.



Richard L. Randolph

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Couch V  
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Registration for Architects, Engineers and Land Surveyors pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board prepared by the Legislative Audit Division.

Guided, in part, by the report prepared by the Legislative Audit Division the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings: The Commerce Committee concurs in part in the findings made by the Division of Legislative Audit in considering the factors required for consideration under AS 44.66.050(c), as they appear on pages 9 through 14 of the Performance Review of the Board of Registration for Architects, Engineers and Land Surveyors prepared by the Division of Legislative Audit, dated May 11, 1979 which is hereby incorporated by reference as though fully set out herein.

In brief, we do not concur in recommendation number one that the board have lay representation. We feel the public is adequately represented by having three separate professions on the board, although some adjustment of membership allocation may be necessary.

We concur in recommendation number two that the board should revise its procedures for the Alaska portion of the land surveying examination, and concur in recommendation number three that the board should continue its efforts to make the statutes and regulations more relevant and workable.

We do not concur in recommendation number four requiring continuing education for architects, engineers and land surveyors, although the board should take such action as it can to encourage voluntary continuing education. With so many different professions included under this board, it would be too unwieldy for the board to promulgate specific regulations as to continuing education for each profession, particularly considering the current workload of the board. The marketplace will also assure professionalism in this area: in these highly technical and ever-changing fields, ongoing education is necessary for the economic survival of the architect, engineer or land surveyor.

We concur in recommendation number five that the board should develop reports and procedures that will enable the legislative and executive branches to evaluate its performance.

We concur in recommendation number six that the Division of Occupational Licensing should collect, record and maintain for five-year periods files and statistics of licensing and testing applicants and related workload of the licensing examiner.

We concur in recommendation number seven that the Division of Occupational Licensing should handle investigations in a more comprehensive and timely manner. We feel very strongly about this and have received testimony that the lack of speedy investigations has hampered all of the boards which we have had under "Sunset" review.

Therefore, pursuant to AS 44.66.050(d) the Committee on Commerce of the Alaska State House of Representatives offers the following summary and recommendations:

The Board of Registration for Architects, Engineers and Land Surveyors addresses a real need in protecting public safety and property rights. The nature of the professions involved is highly advanced and complex, and members of the lay public cannot easily judge basic competence in these fields. Therefore, we do not think it appropriate to eliminate this board.

We have found that this board has engaged to some degree in "turf protecting," that is limiting the entrance of applicants into at least one of these fields.

Specifically, we believe the experience (as an equivalent to formal education and experience) required to take the land surveyor's examination, set by the board at 12 years, is too long. We believe there should be a statutory requirement of eight years' experience with three years experience in charge of the work, and that other similar and related requirements should be addressed by statute, not regulation. We believe the net effect of limiting entry into the surveying field will increase costs and slow down the transfer of public lands to private ownership, at a time when the Legislature has specifically provided for transfer of land interests for various private uses.

We further find that the requirement for inclusion of a photograph with the application for licensure is unnecessary and could be used to discriminate against certain persons because of race, sex, etc. The board should remove this requirement.

Furthermore, it is the belief of this committee that a separate Alaska examination is not necessary for surveyors licensed in another state which has licensing requirements equivalent to those of the State of Alaska, and which has a "public lands" history similar to Alaska's. We feel these surveyors should be licensed by simple endorsement. In the engineering field, we believe that more specialties should be recognized. For instance, Alaska has a particular interest in the licensing of competent and professional petroleum engineers.

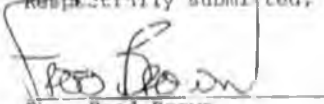
Statutory changes are needed to provide for licensing by endorsement for those engineering specialties for which the State of Alaska has no exams.

Therefore, the Committee feels that it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and offers several further recommendations.

The Commerce Committee recommends that with the changes stated in this report the Board of Registration for Architects, Engineers and Land Surveyors continue for another four years, that is, that the repealer with regard to the activities of that board be amended to read 1984.

A bill will be introduced by the Commerce Committee facilitating the changes and recommendations in this report.

Respectfully submitted,



Rep. Fred Brown  
Chairman  
House Commerce Committee

H. Malone  
 Rep. Hugh Malone  
 Subcommittee Co-Chairman  
 Board of Architects, Engineers  
 and Land Surveyors "Sunset"  
 Review

Rich Halgedal

Alvin Peterbaker

Paul W. Hutchinson

Joye Munson


MINORITY REPORT CONCERNING SUNSET REVIEW OF  
 BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND  
 SURVEYORS

The majority report concerning the disposition of the Board of Registration for Architects, Engineers and Land Surveyors proposes a course of action which in my opinion, substantially violates the intent of the Sunset legislation. The Legislature and the majority of Alaskans embraced the concept of Sunset Legislation as a vehicle to reduce governmental interference in our lives, not to further concentrate and accentuate it. Unfortunately, the latter would be the result of the implementation of the proposal put forth in the majority report of the House Commerce Committee.

I do not concur in the House Commerce Committee recommendations regarding the Board of Registration for Architects, Engineers and Land Surveyors. This board, like all others which are granted monopoly status by the state, does a disservice to consumers by reducing supply of services, restricting competition, raising costs and providing only the illusion of protection.

Government regulation continues to cost the public far in excess of the benefits received. This whole function can far more reasonably be handled to the degree necessary and desired by the profession and their consumers. To continue this board and its attending regulatory schemes is to make a mockery of the intent of Sunset review. The recommendations of the Committee continue to involve the engineering professions in unnecessary red tape, regulation of our lives, and the squandering of tax dollars.

A far more proper course of action would be the transfer of these duties and responsibilities to the architects, engineers and land surveyors, and the public, and away from the bureaucracy. Were persons involved in these professions allowed to form a multiplicity of voluntary associations which set their own standards as to admittance and consumer insurance, consumers could choose the level of service that they would demand in this area of commerce. There should be no restraints against any architect, engineer or land surveyor practicing their profession in Alaska. However, those practicing a particular profession should continue to be civilly liable for negligent or intentional torts and breach of contract committed during the course of their activities.



Richard L. Randolph

The Honorable Terry Gardiner  
Speaker of the house  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Real Estate Commission pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this commission, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the commission testified in person or by teleconference. The Committee considered the proposed budget of the commission for FY 1981 and particularly examined the performance audit of the activities of the commission conducted by the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings: The Committee concurs only in recommendation number two and does not concur in recommendations one, three, four, and five as they appear on pages 10 through 13 of the Performance Review of the Real Estate Commission dated May 7, 1979, which is hereby incorporated by reference as though fully set out herein.

The Committee has found that the Real Estate Commission, has been hampered in the performance of its functions by lack of investigative support provided by the Division of Occupational Licensing. We agree with testimony provided by members of the commission that the commission could do a better job if it had its own investigator or auditor, or both. Therefore, legislation will be introduced which will remove the Real Estate Commission from the umbrella of the Division of Occupational Licensing (except for minor and administrative support) allowing the commission a separate budget, including at least one full-time investigator or auditor. The Committee believes that minimum requirements for licensing of real estate brokers and real estate salesmen should be set by statute.

The Committee will also include in its legislation assignment to the Real Estate Commission of responsibility for determining monetary settlements from the Real Estate Surety Board. This latter recommendation is the same as recommendation number two in the Performance Review of the Real Estate Commission conducted by the Division of Legislative Audit.

The Committee feels that it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that with the changes stated in this report the Real Estate Commission be continued for another two years, that is, that the repealer with regard to the activities of the board be amended to read June 30, 1982.

We have recommended a two-year extension to allow review by the Legislature of this new structure before the unning of a full four-year "Sunset" term.

A bill will be introduced by the Commerce Committee facilitating the changes and recommendations in this report.

Respectfully submitted,



Rep. Fred Brown  
Chairman  
House Commerce Committee

*Rep. Robert Bettisworth*

Rep. Robert Bettisworth  
Subcommittee Chairman  
Real Estate Commission  
"Sunset" Review

*Joyce Whelan*

*Chairman (Bettisworth)*

*Rep. Paul Hoff*

*Rep. Rick Halford*

*Rep. Malone*

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Public Accountancy pursuant to your referral under AS 44.66.950 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board conducted by R. W. Pavitt and Associates, Inc. and Homan-McDowell Associates under contract to the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings: The Committee concurs in the eight findings and recommendations as they appear on pages 7 through 15 of the Performance Review of the Board of Public Accountancy dated October 1, 1979 which is hereby incorporated by reference as though fully set out herein.

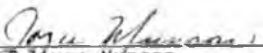
The Committee further recommends that the board use its powers in the granting of licenses, in acceptance of experience in the public and private sectors, and in cases involving reciprocity in a more judicious and even-handed manner.

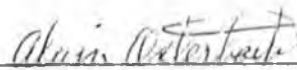
The Committee feels that it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that with the changes stated in this report the Board of Public Accountancy be continued for another four years, that is, that the repealer with regard to the activities of the board be amended to read June 30, 1984.

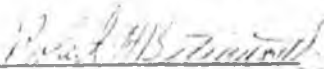
A bill will be introduced by the Commerce Committee facilitating the changes and recommendations in this report.

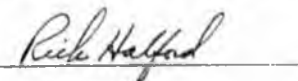
Respectfully submitted,

  
Rep. Fred Brown  
Chairman  
House Commerce Committee

  
Rep. Joyce Munson  
Subcommittee Chairman  
Board of Public Accountancy  
"Sunset" Review

  
Alvin Osterback

  
Paul H. Stewart

  
Rick Halford

  
H. Malone

MINORITY REPORT CONCERNING SUNSET REVIEW OF  
BOARD OF PUBLIC ACCOUNTANCY

The majority report concerning the disposition of the Board of Public Accountancy proposes a course of action which in my opinion, substantially violates the intent of the Sunset legislation. The Legislature and the majority of Alaskans embraced the concept of Sunset Legislation as a vehicle to reduce governmental interference in our lives, not to further concentrate and accentuate it. Unfortunately, the latter would be the result of the implementation of the proposal put forth in the majority report of the House Commerce Committee.

I do not concur in the House Commerce Committee recommendations regarding the Board of Public Accountancy. This board, like all others which are granted monopoly status by the state, does a dis-service to consumers by reducing supply of services, restricting competition, raising costs and providing only the illusion of protection.

Government regulation continues to cost the public far in excess of the benefits received. This whole function can far more reasonably be handled to the degree necessary and desired by the profession and their consumers. To continue this board and its attending regulatory schemes is to make a mockery of the intent of Sunset review. The recommendations of the Committee continue to involve the accounting profession in unnecessary red tape, regulation of our lives and the squandering of tax dollars.

A far more proper course of action would be the transfer of these duties and responsibilities to the accountants and the public, and away from the bureaucracy. Were persons involved in the accounting profession allowed to form a multiplicity of voluntary associations which set their own standards as to admittance and consumer insurance, consumers could choose the level of service that they would demand in this area of commerce. There should be no restraints against any accountants practicing their profession in Alaska. However, those practicing a particular profession should continue to be civilly liable for negligent or intentional torts and breach of contract committed during the course of their activities.



Richard L. Randolph

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Welding Examiners pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board conducted by the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

In considering the findings and recommendations of the Division of Legislative Audit as they appear on pages 8 through 15 of the Performance Review of the Board of Welding Examiners dated June 8, 1979, which is hereby incorporated by reference as though fully set out herein, the Committee makes the following recommendations:

The Committee finds that it would be in the best interests of the people of the state of Alaska for the board to be continued and disagrees with Legislative Audit recommendation number 1 which recommends that State licensing of welding personnel be discontinued.

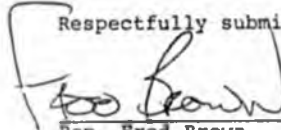
In general, we concur with findings 2 through 6. It appears that the Board of Welding Examiners will address these problems adequately through regulatory change. If it proceeds to do so, it will not be necessary for the Committee to address these problems by statute.

The Committee feels that it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that with the changes

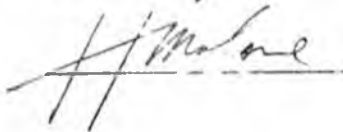
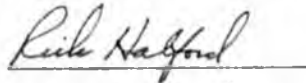
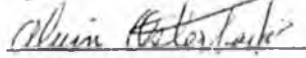
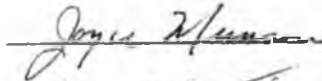
stated in this report the Board of Welding Examiners be continued for another four years, that is, that the repealer with regard to the activities of the board be amended to read June 30, 1984.

A bill will be introduced by the Commerce Committee to implement the recommendations in this report.

Respectfully submitted,



Rep. Fred Brown  
Chairman  
House Commerce Committee



MINORITY REPORT CONCERNING SUNSET REVIEW OF  
BOARD OF WELDING EXAMINERS

The majority report concerning the disposition of the Board of Welding Examiners proposes a course of action which in my opinion, substantially violates the intent of the Sunset legislation. The Legislature and the majority of Alaskans embraced the concept of Sunset Legislation as a vehicle to reduce governmental interference in our lives, not to further concentrate and accentuate it. Unfortunately, the latter would be the result of the implementation of the proposal put forth in the majority report of the House Commerce Committee.

I do not concur in the House Commerce Committee recommendations regarding the Board of Welding Examiners. This board, like all others which are granted monopoly status by the state, does a dis-service to consumers by reducing supply of services, restricting competition, raising costs and providing only the illusion of protection.

Government regulation continues to cost the public far in excess of the benefits received. This whole function can far more reasonably be handled to the degree necessary and desired by the profession and their consumers. To continue this board and its attending regulatory schemes is to make a mockery of the intent of Sunset review. The recommendations of the Committee continue to involve the welders profession in unnecessary red tape, regulation of our lives and the squandering of tax dollars.

A far more proper course of action would be the transfer of these duties and responsibilities to the welders and the public, and away from the bureaucracy. Were persons involved in the welding profession allowed to form a multiplicity of voluntary associations which set their own standards as to admittance and consumer insurance, consumers could choose the level of service that they would demand in this area of commerce. There should be no restraints against any welders practicing their profession in Alaska. However, those practicing a particular profession should continue to be civilly liable for negligent or intentional torts and breach of contract committed during the course of their activities.



Richard L. Rand, ph

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Marine Pilots pursuant to your referral under AS 44.66.050 and AS 08.03.010.

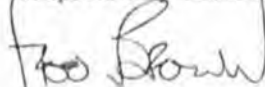
In accordance with the statutory requirements, a public hearing was held on the review of this board, members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board prepared by the Legislative Audit Division.

Guided, in part, by the report prepared by the Legislative Audit Division the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee recommends that the Board of Marine Pilots be terminated. We have found evidence of extreme "turf protecting" with this board.

A bill will be introduced by the Commerce Committee to implement the recommendations in this report.

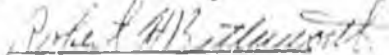
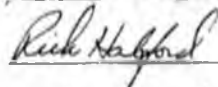
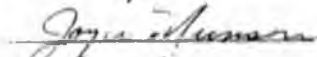
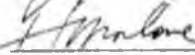
Respectfully submitted,



Rep. Fred Brown  
Chairman  
House Commerce Committee



Rep. Alvin Osterback  
Subcommittee Chairman  
Board of Marine Pilots "Sunset"  
Review

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Electrical Examiners pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board conducted by the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings: The Committee concurs in some and disagrees with others of the nine findings and recommendations as they appear on pages 9 through 14 of the Performance Review of the Board of Electrical Examiners dated May 2, 1979 which is hereby incorporated by reference as though fully set out herein.

As will be seen, the Committee agrees that the auditors have found serious problems with the current activities of the Board of Electrical Examiners, and some of those problems still were in existence at the time of our hearings and at the time that the Division of Legislative Audit provided us with a limited follow-up review of the board to determine the present status of the findings and recommendations of the earlier audit. That follow-up review was dated February 6, 1980.

However, while we agree with many of the criticisms of the ongoing functioning of the present Board of Electrical Examiners, we do not concur with the auditor that the Board of Electrical Examiners should be allowed to terminate.

It appears that the auditors may have confused the role played by each of the several parties doing electrical work from the design table to wiring in the field. The qualifications needed for electrical design are those addressed, for instance, by the State Board of Registration for Architects, Engineers, and Land Surveyors when they grant a certificate to a professional engineer endorsed with a specialty in electrical engineering. Similarly, the Board of Electrical Examiners should function to license an electrical administrator who is a contractor who should be competent beyond the level of a lineman, and able to deal easily and fully with the designer on the one hand and the electrician on the other. The electrician, who is issued a certificate of fitness by the Department of Labor, is required to know how to do "hands-on" work in accordance with minimum electrical standards established by statute.

The auditor listed as allegedly adequate to protect the public's health, safety, and welfare, and economic well-being, the State laws governing electrical safety under the Department of Labor (AS 18.60.580-660); laws requiring certificate of fitness issued by Department of Labor (AS 18.62); State laws governing construction contractors (AS 08.18); and inspection by State and local agencies. However, the State laws governing electrical safety largely deal with the inspection function and it is clear that an electrical administrator who is not adequately supervising a job could cause various violations that could be dangerous to life safety, but which could never be found by a State inspector without tearing the walls out of a finished building. All the State inspector can see are the portions of the electrical system that are exposed or easily available without destruction. Also, the unfortunate reality is that the State inspection program is very inadequate.

Of course, the requirement of a certificate of fitness addresses the competence of electricians who do the "hands-on" work. The role of the electrical administrator is a different one, as noted above.

The State laws about construction contractors provide little help to the public's health or safety or economic well being, in that those contractors are only required to post certain bonds. Collecting on a performance bond in a lawsuit after the loss of life resulting from incompetent actions by an electrical contractor is certainly not enough of a remedy or a protection of the general public. The other provisions in the laws on construction contracting require electrical contractors to have electrical administrators. Of course, doing away with the board would render this requirement meaningless.

Inspections by State and local agencies are few and far between, particularly with regard to private buildings. Also, inspections should not be solely relied upon for the reasons indicated above relating to the electrical safety laws administered by the Department of Labor.

However, having concluded that the Board of Electrical Examiners should not be terminated and that it should continue to license electrical administrators, the Committee has found that it is necessary to provide the board with a short extension and continuing audit monitoring, because it has not been responsive enough to criticisms by the Division of Legislative Audit, particularly even after a period of many months following the original audit report, as can be seen from the follow-up report of February 6, 1980.

For instance, in following up its recommendation number three, relating to a requirement for more uniformity and consistency in the enforcement of current laws by the board, the Legislative Auditor found that even since August, 1979, six of the seventeen electrical administrators who were licensed did not have a certificate of fitness required by present regulations. Also, in following up its recommendation number four regarding the establishment of uniform procedures for examinations, the auditor found some improvement on the conduct of the examination, but found that grading the examination still has the incredible inconsistencies noted in the original audit report.

For instance, as to this last recommendation, the February 6, 1980 report from the auditor notes that "some applicants are passed and others are failed, even though the same questions are missed." (Page two.)

Additionally, while the auditor notes that the problems on review and regrading examinations have been partially corrected, the reasons for changing a grade are still not stated, nor are there indications of follow-up to determine impact on all examinees. The auditor notes that this is directly in violation of a new regulation promulgated by the board on May 25, 1979. Other audit recommendations are yet to be discussed, but it can already be seen that the board has a long way to go to correct the problems originally indicated in the audit.

For these reasons, the Committee is of the view that the Board of Electrical Examiners should be extended for only another two years, rather than the usual four years anticipated by the Sunset legislation, and that the Legislative Budget and Audit Committee should be asked to request the Division of Legislative Audit to perform a more thorough follow-up review of the Board of Electrical Examiners for the intervening year before full Sunset review again occurs in 1982.

Other recommendations urged certain statutory changes (recommendation number two, five, six, and seven).

Briefly, the Committee wishes to address some of these statutory recommendations, but cautiously.

The auditors recommended (number two) that legislation exempt "communications electricians" from the electrical administrator's statutes. The board disagreed, and provided some graphic examples of life-threatening occurrences in the installation of home communications equipment (particularly MDS and cable television services). However, the Committee finds that it is very difficult to easily delineate what areas ought and ought not to be exempted, although some justification for exemption in certain areas seems appropriate.

To the extent possible, the Committee will attempt to provide language in its proposed legislation that will exempt some "communications electricians" from the requirements of the chapter, but which still can address some of the concerns of the board in this area. This will not be easy.

The Committee accepts part of the auditor's recommendation number five which urges statutory changes to allow licensure by endorsement or reciprocity. However, the Committee will attempt to include in its legislation provisions that may still allow the board to require examination of an outside electrical contractor who is fully qualified in his state, but only as to those areas of knowledge and skill required for work in the unique Alaskan environment and that specially relate to the usages of the trade in Alaska.

Pursuant to recommendation number six, the Committee will include in its legislation provisions requiring the board to establish continuing competency requirements for electrical administrators, which may be met by proof of attendance at relevant functions of the applicable trade association, approved on a case by case basis by the board. The board has agreed with recommendation number seven, to add public members to the board, and has suggested legislation along those lines: Such provisions will be included in the Committee's legislation.

The Committee feels that the current examination given by the board does not really meet the role indicated for an electrical administrator: That he be a competent interface between the design electrical engineer on the one hand, and the "hands on" properly certificated electrician on the other. The examination seems geared toward making sure that he understands what his electricians are doing, but not necessarily what the designer had in mind.

Admittedly, this criticism would not apply to much work done in the state of Alaska. For relatively small buildings, or relatively conventional office or public buildings, the experienced electrician who has seen many jobs might well be able to function. But in dealing with any specialized or unusual area of design, an electrical administrator whose qualifications tilt closer to that of the electrician may have some difficulty in carrying out the work under these circumstances. Therefore, the Committee is of the view that AS 08.40.120 should have additional requirements for the examination that will assure that the electrical administrator can better serve his role as an interface between the engineer and the electrician.

It appears from the testimony prepared by the Department of Commerce and Economic Development, from the oral testimony by experienced electrical contractors before the Committee and from the board's own proposed legislation, that there has been a serious problem of "borrowing" and "renting" of an electrical administrator's license. It is clear that the original statutory scheme intended that an electrical administrator would supervise a job at the job site. In the very least, if the job site is a remote one, it should not be closed off (or concealed by other steps of construction) before the electrical administrator who is so charged has actually personally inspected the work. Of course, it is far better practice if he be present to supervise all the work.

The Committee will propose statutory language to accomplish this end which may go beyond that proposed by the board in this area.

The Committee feels it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that with the changes stated in this report the Board of Electrical Examiners be continued for another two years, that is, that the repealer with regard to the activities of the board be amended to read June 30, 1982, and that an interim one-year performance audit of the board be requested of the Legislative Audit Division through the Legislative Budget and Audit Committee, so that the Legislature can monitor the response of this board to the problems raised in this report.

A bill will be introduced by the Commerce Committee facilitating the changes and recommendations in this report.

Respectfully submitted,



Rep. Fred Brown  
Chairman  
House Commerce Committee

H. Malone  
 Rep. Hugh Malone  
 Subcommittee Chairman  
 Board of Electrical  
 Examiners "Sunset"  
 Review

John Munn

Alvin Kosterlachs

Robert A. B. Stewart

Rich Halford

The Honorable Terry Gardiner  
 Speaker of the House  
 Alaska State Legislature  
 Pouch V  
 Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Electrical Examiners pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board conducted by the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings: The Committee concurs in some and disagrees with others of the nine findings and recommendations as they appear on pages 9 through 14 of the Performance Review of the Board of Electrical Examiners dated May 2, 1979 which is hereby incorporated by reference as though fully set out herein.

As will be seen, the Committee agrees that the auditors have found serious problems with the current activities of the Board of Electrical Examiners, and some of those problems still were in existence at the time of our hearings and at the time that the Division of Legislative Audit provided us with a limited follow-up review of the board to determine the present status of the findings and recommendations of the earlier audit. That follow-up review was dated February 6, 1980.

However, while we agree with many of the criticisms of the ongoing functioning of the present Board of Electrical Examiners, we do not concur with the auditor that the Board of Electrical Examiners should be allowed to terminate.

It appears that the auditors may have confused the role played by each of the several parties doing electrical work from the design table to wiring in the field. The qualifications needed for electrical design are those addressed, for instance, by the State Board of Registration for Architects, Engineers, and Land Surveyors when they grant a certificate to a professional engineer endorsed with a specialty in electrical engineering. Similarly, the Board of Electrical Examiners should function to license an electrical administrator who is a contractor who should be competent beyond the level of a lineman, and able to deal easily and fully with the designer on the one hand and the electrician on the other. The electrician, who is issued a certificate of fitness by the Department of Labor, is required to know how to do "hands-on" work in accordance with minimum electrical standards established by statute.

The auditor listed as allegedly adequate to protect the public's health, safety, and welfare, and economic well-being, the State laws governing electrical safety under the Department of Labor (AS 18.60.580-660); laws requiring certificate of fitness issued by Department of Labor (AS 18.62); State laws governing construction contractors (AS 08.18); and inspection by State and local agencies. However, the State laws governing electrical safety largely deal with the inspection function and it is clear that an electrical administrator who is not adequately supervising a job could cause various violations that could be dangerous to life safety, but which could never be found by a State inspector without tearing the walls out of a finished building. All the State inspector can see are the portions of the electrical system that are exposed or easily available without destruction. Also, the unfortunate reality is that the State inspection program is very inadequate.

Of course, the requirement of a certificate of fitness addresses the competence of electricians who do the "hands-on" work. The role of the electrical administrator is a different one, as noted above.

The State laws about construction contractors provide little help to the public's health or safety or economic well being, in that those contractors are only required to post certain bonds. Collecting on a performance bond in a lawsuit after the loss of life resulting from incompetent actions by an electrical contractor is certainly not enough of a remedy or a protection of the general public. The other provisions in the laws on construction contracting require electrical contractors to have electrical administrators. Of course, doing away with the board would render this requirement meaningless.

Inspections by State and local agencies are few and far between, particularly with regard to private buildings. Also, inspections should not be solely relied upon for the reasons indicated above relating to the electrical safety laws administered by the Department of Labor.

However, having concluded that the Board of Electrical Examiners should not be terminated and that it should continue to license electrical administrators, the Committee has found that it is necessary to provide the board with a short extension and continuing audit monitoring, because it has not been responsive enough to criticisms by the Division of Legislative Audit, particularly even after a period of many months following the original audit report, as can be seen from the follow-up report of February 6, 1980.

For instance, in following up its recommendation number three, relating to a requirement for more uniformity and consistency in the enforcement of current laws by the board, the Legislative Auditor found that even since August, 1979, six of the seventeen electrical administrators who were licensed did not have a certificate of fitness required by present regulations. Also, in following up its recommendation number four regarding the establishment of uniform procedures for examinations, the auditor found some improvement on the conduct of the examination, but found that grading the examination still has the incredible inconsistencies noted in the original audit report.

For instance, as to this last recommendation, the February 6, 1980 report from the auditor notes that "some applicants are passed and others are failed, even though the same questions are missed." (Page two.)

Additionally, while the auditor notes that the problems on review and regrading examinations have been partially corrected, the reasons for changing a grade are still not stated, nor are there indications of follow-up to determine impact on all examinees. The auditor notes that this is directly in violation of a new regulation promulgated by the board on May 25, 1979. Other audit recommendations are yet to be discussed, but it can already be seen that the board has a long way to go to correct the problems originally indicated in the audit.

For these reasons, the Committee is of the view that the Board of Electrical Examiners should be extended for only another two years, rather than the usual four years anticipated by the Sunset legislation, and that the Legislative Budget and Audit Committee should be asked to request the Division of Legislative Audit to perform a more thorough follow-up review of the Board of Electrical Examiners for the intervening year before full Sunset review again occurs in 1982.

Other recommendations urged certain statutory changes (recommendation number two, five, six, and seven).

Briefly, the Committee wishes to address some of these statutory recommendations, but cautiously.

The auditors recommended (number two) that legislation exempt "communications electricians" from the electrical administrator's statutes. The board disagreed, and provided some graphic examples of life-threatening occurrences in the installation of home communications equipment (particularly MDS and cable television services). However, the Committee finds that it is very difficult to easily delineate what areas ought and ought not to be exempted, although some justification for exemption in certain areas seems appropriate.

To the extent possible, the Committee will attempt to provide language in its proposed legislation that will exempt some "communications electricians" from the requirements of the chapter, but which still can address some of the concerns of the board in this area. This will not be easy.

The Committee accepts part of the auditor's recommendation number five which urges statutory changes to allow licensure by endorsement or reciprocity. However, the Committee will attempt to include in its legislation provisions that may still allow the board to require examination of an outside electrical contractor who is fully qualified in his state, but only as to those areas of knowledge and skill required for work in the unique Alaskan environment and that specially relate to the usages of the trade in Alaska.

Pursuant to recommendation number six, the Committee will include in its legislation provisions requiring the board to establish continuing competency requirements for electrical administrators, which may be met by proof of attendance at relevant functions of the applicable trade association, approved on a case by case basis by the board. The board has agreed with recommendation number seven, to add public members to the board, and has suggested legislation along those lines: Such provisions will be included in the Committee's legislation.

The Committee feels that the current examination given by the board does not really meet the role indicated for an electrical administrator: That he be a competent interface between the design electrical engineer on the one hand, and the "hands on" properly certificated electrician on the other. The examination seems geared toward making sure that he understands what his electricians are doing, but not necessarily what the designer had in mind.

Admittedly, this criticism would not apply to much work done in the state of Alaska. For relatively small buildings, or relatively conventional office or public buildings, the experienced electrician who has seen many jobs might well be able to function. But in dealing with any specialized or unusual area of design, an electrical administrator whose qualifications tilt closer to that of the electrician may have some difficulty in carrying out the work under these circumstances. Therefore, the Committee is of the view that AS 08.40.120 should have additional requirements for the examination that will assure that the electrical administrator can better serve his role as an interface between the engineer and the electrician.

It appears from the testimony prepared by the Department of Commerce and Economic Development, from the oral testimony by experienced electrical contractors before the Committee and from the board's own proposed legislation, that there has been a serious problem of "borrowing" and "renting" of an electrical administrator's license. It is clear that the original statutory scheme intended that an electrical administrator would supervise a job at the job site. In the very least, if the job site is a remote one, it should not be closed off (or concealed by other steps of construction) before the electrical administrator who is so charged has actually personally inspected the work. Of course, it is far better practice if he be present to supervise all the work.

The Committee will propose statutory language to accomplish this end which may go beyond that proposed by the board in this area.

The Committee feels it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that with the changes stated in this report the Board of Electrical Examiners be continued for another two years, that is, that the repealer with regard to the activities of the board be amended to read June 30, 1982, and that an interim one-year performance audit of the board be requested of the Legislative Audit Division through the Legislative Budget and Audit Committee, so that the Legislature can monitor the response of this board to the problems raised in this report.