Memorandum

To: The Council

From: The Standards Committee

Date: September 1, 2026

Re: Recommended Revisions for Notice and Comment:
Standards 402 and 403

Introduction

As part of the Council's Core Principles Review, the Advisory Committee discussed Standards 402 and 403 and, thereafter, a working group (consisting of Council members) recommended certain revisions to those Standards to the full Standards Committee. The Standards Committee has considered those revisions and is recommending that revisions to Standard 402, Interpretation 402-1 and 402-2, and Standard 403 be approved for Notice and Comment. The Standards Committee concludes that these changes are primarily organizational, and that any substantive changes are consistent with the Core Principles and Values, specifically maintaining a rigorous program of legal education, reflecting changes in law practice, reducing undue burden on law schools, and enabling innovation.

Standard 402:

Standard 402 would be revised to include two subparts (with corresponding revisions to Standard 403). The revisions in subsection (a) focus on how best to assess the number of a law school's fully-time faculty necessary to carry out its program of legal education, considering the full-time faculty's roles inside and outside the classroom.

The current version of Standard 402 provides that the number of full-time faculty necessary depends, in form, on three overall sets of considerations – (1) the size of the student body and the opportunity for students to meet individually with full-time faculty members; (2) the nature and scope of the program of legal education; and (3) opportunities for the full-time faculty to adequately fulfill its teaching obligations, conduct research, participate in law school governance, and provide service to the legal profession and the public.

Revised subsection (a) of Standard 402 would reduce those considerations to two sets, while maintaining most of the substance of the current Standard. The first set of considerations in (a)(1) would evaluate the full-time faculty's role outside of the classroom in consulting with students more broadly – not just meeting with them individually – as consultation encompasses other valuable engagement with students, including groups and online. The second set in (a)(2) would reference Standard 404(a) (Responsibilities of Full-Time Faculty) to make Standard 402 more

streamlined, as Standard 404(a) already integrates Standard 402's current responsibilities of conducting scholarly research, participating in law school governance, and providing service to the legal profession and the public. Similarly, the reference in Standard 402 to "the nature and scope of the program of legal education" has been deleted as the program of legal education is already included in the first clause of Standard 402 and would allow fact-finding during the site visits to be more focused with only two sets of considerations to examine.

Standard 403:

Current Standard 403(a) currently provides that full-time faculty "teach during the academic year either (1) more than half of all of the credit hours actually offered by the law school, or (2) two-thirds of the student contact hours generated by student enrollment at the law school." This provision would be moved to become new subsection (b) of Standard 402.

The requirement of current Standard 403(a) requiring full-time faculty "to teach substantially all of the first one-third of each student's coursework" would be eliminated to provide law schools with more flexibility in their course offerings and in its use of part-time faculty. This change would also potentially allow for greater use of adjunct faculty in teaching foundational courses.

With these revisions, revised Standard 403 would have only one requirement – that law schools ensure effective teaching by all persons providing instruction.

Interpretations 402-1 and 402-2:

The Standards Committee recommends that Interpretations 402-1 and 402-2 be stricken. Both Interpretations pertain to determining whether an individual is a full-time faculty member in light of their commitments to other institutions or businesses. The Standards Committee understood that the Interpretations were intended to ensure that a faculty member's time and focus would not be split between competing priorities. The Committee determined that striking these Interpretations would be consistent with the Council's Core Principles and Values, the focus of which includes ensuring that the Standards do not unnecessarily impose burdens or cost but rather allow sufficient flexibility to allow law schools to appropriately innovate, while still ensuring a baseline of quality. The Council concluded that law schools should be free to choose their own conflicts of commitment policy.

Revisions to Standard 402

STANDARD 402. SIZE OF FULL-TIME FACULTY

(a) A law school shall have a sufficient number of full-time faculty to enable the law school to ~~operate in compliance with the Standards and~~ carry out its program of legal education. The number of full-time faculty necessary depends on (~~a~~1) the size of the student body and the opportunity for students to ~~meet individually~~ consult with full-time faculty members outside of class; ~~(b) the nature and scope of the program of legal education;~~ and (~~c~~2) the opportunities for the full-time faculty to adequately fulfill their professional obligations as full-time faculty as defined by the law school and required by Standards 402(b) and 404(a).~~its teaching obligations, conduct scholarly research, participate effectively in the governance of the law school, and provide service to the legal profession and the public.~~

(b) The full-time faculty shall teach during the academic year either (1) more than half of all of the credit hours actually offered by the law school, or (2) two-thirds of the student contact hours generated by student enrollment at the law school.

~~***Interpretation 402-1***~~
~~*A full-time faculty member who is teaching an additional full-time load at another law school may not be considered as a full-time faculty member at either institution.*~~

~~***Interpretation 402-2***~~
~~*Regularly engaging in law practice or having an ongoing relationship with a law firm or other business creates a presumption that a faculty member is not a full-time faculty member under this Standard. This presumption may be rebutted if the law school is able to demonstrate that the individual has a full-time commitment to teaching, research, and public service, is available to students, and is able to participate in the governance of the law school to the same extent expected of full-time faculty.*~~

Revisions to Standard 403

STANDARD 403. INSTRUCTIONAL ROLE OF FACULTY

~~*Standards 204, 301, 302, 314, 315, and 403 related to Learning Outcomes have been revised. Implementation is required by the start of the 2026-2027 Academic Year. The revised Standards related to Learning Outcomes are here:*~~
https://www.americanbar.org/groups/legal_education/resources/standards/.

~~(a) The full-time faculty shall teach substantially all of the first one-third of each student's coursework. The full-time faculty shall also teach during the academic year either (1) more than half of all of the credit hours actually offered by the law school, or (2) two-thirds of the student contact hours generated by student enrollment at the law school.~~

~~(b)~~ A law school shall ensure effective teaching by all persons providing instruction to its students.

Interpretation 403-1

Efforts to ensure teaching effectiveness may include: orientation, guidance and mentoring for new faculty members; a faculty committee on effective teaching; class visits; critiques of videotaped teaching; institutional review of student course evaluations; colloquia on effective teaching; and recognition and use of creative scholarship in law school teaching methodology.