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AALS Membership: What Does It Mean to a Law School?

By Dean Walter A. Rafalko

In 1981, the University of Baltimore School of Law was fully accredited by the American Bar Association (ABA). This year we were accepted for membership to the Association of American Law Schools (AALS). This achievement is the pinnacle of our academic success. There are approximately 175 law schools approved by the American Bar Association and 154 schools admitted into the AALS for membership. We are the 154th. It is indeed an honor to be selected by these two organizations as a recognized law school which ensures that its students will have the proper training necessary to serve the public upon their admission to the bar.

What is an accredited law school? The American Bar Association (ABA), the National Conference of Bar Examiners (NCBE), and the Association of American Law Schools (AALS) are the three constituted authorities vested with the responsibilities and duties to deal with the issues related to legal education, eligibility and admission to the practice of law.

I. AMERICAN BAR ASSOCIATION (ABA)

On August 21, 1878, the American Bar Association (ABA) adopted its Constitution as a professional organization for lawyers. At the very outset, the ABA was concerned with the quality of legal education in the country. One of the first committees it created was the Committee on Legal Education and Admissions to the Bar. In 1879, the Committee reported and recommended, *inter alia*, that a law school education be required as a condition precedent to taking a bar examination as

replacement for law office study which was currently in vogue. In 1897, the ABA recommended that the completion of the equivalent of a high school education be required for admission to law school. In 1918, the ABA approved the voluntarily minimum requirements imposed by many of the law schools in mandating two years of college as a condition precedent for admission to law school. The ABA resolutions were merely expressions of opinions and were not established standards for law schools to follow. This resulted in a proliferation of law schools — non-university or college related — conducted for the purpose of making commercial profit.

While the Section of Legal Education and Admissions to the Bar (SLEAB) of the American Bar Association was originally created in 1893, no standards for legal education or the accreditation of law schools were adopted until 1921. Thus, SLEAB was not created for the primary purpose of accrediting law schools. However, the first standards for legal education were adopted 28 years after the creation of the SLEAB through a Section Committee under the leadership of Elihu Root.

In 1921, the Committee reported and recommended specific standards for legal education and admission to the bar which were adopted by SLEAB and the ABA. One resolution authorized the SLEAB Council to call for a conference on legal education to consider the principles set forth in the Committee's report.

In 1922, the conference was held in Washington, D. C. It was well attended by judges, lawyers, professors and representa-

tives of local and state bar associations interested in legal education and admission to the bar, and who adopted the standards promulgated by the Committee. In 1923, the Council and Section of Legal Education and Admissions to the Bar officially assumed control over legal standards for legal education in America.

The Council of SLEAB has been most successful in upgrading the standards on admission to the bar:

1. The standards prohibited "law office study" as a method of preparation for admission to the bar.
2. The standards prohibited the "diploma privilege" and required that "every candidate should be subject to an examination by public authority to determine his/her fitness."
3. The standards required that every candidate for admission should be a graduate of a law school - with at least two years of college work - having taken at least three years of academic work as a full-time law student or the equivalent as a part-time law student.
4. The Council, in cooperation with the local bar association, endeavored to secure legal sanctions to enforce these standards in the bar admission rules of the states.

By 1988, the "diploma privilege" had been eliminated in all but two states, West Virginia and Wisconsin. In these states, the graduates of accredited in-state law schools are given the privilege to practice law without taking a written bar examination.

In 1952, the requirement of two years of college work was raised to three years of pre-law college work. We require four

years and a degree. By 1988, the three year college work standard had been adopted by all states with five exceptions - Arkansas, Guam, Maine, New Mexico and the Virgin Islands.

"Law office study" has now been abolished in all but four states, California, Vermont, Virginia and Washington. The states of Maine, New York and Wyoming permit a combination of law school and law office study as a substitute for law school graduation.

The Council has sponsored formal resolutions seeking to proscribe correspondence law schools as a way to prepare for admission to the bar. Graduation from a correspondence law school presently satisfies the rules of admission only in one state, California.

II. NATIONAL CONFERENCE OF BAR EXAMINERS (NCBE)

The National Conference of Bar Examiners (NCBE) became a formal organization in 1931. It was an outgrowth of one of the SLEAB Committees, the "Committee of Bar Examiners." Many of the state bar examiners attended the annual meetings of the SLEAB. The Council, SLEAB and NCBE have worked in harmony for the effective improvement of the standards governing admission to the bar. They hold at least one joint luncheon and joint meeting each year to resolve the problems governing the admission to the legal practice. As a result of their efforts, the American Bar Association, the National Conference of Bar Examiners and the Association of American Law Schools adopted in 1980 the "Code of Recommended Standards For Bar Examiners" with the hope that the Code "[would] lead toward uniformity of objectives and practices in bar admissions throughout the United States." Annually, the State Bar Examiners furnish the minimum requirements for admission to legal practice in the United States including the minimum amount of general education required before beginning the period of law study, duration of law school study, residency requirements for applicants, and admission requirements for out-of-state attorneys.

The NCBE administers and processes the Multistate Professional Responsibility Examination (MPRE) now in effect in approximately 30 states. Maryland is not such a state. The purpose of the MPRE is to measure the examinee's knowledge of established ethical standards of the legal profession. It is interesting to note that the only course that a law school is mandated to teach in its curriculum is a legal ethics course on the duties and responsibilities of the legal profession. The required instruc-

tion "need not be limited to any pedagogical method as long as history, goals, structure and responsibilities of the legal profession and its members, including the ABA Model Rules of Professional Conduct, are all covered." (Standard 302(a) iv.)

III. ASSOCIATION OF AMERICAN LAW SCHOOLS (AALS)

The Association of American Law Schools (AALS) had its inception from an initial meeting held on August 29, 1900, at Saratoga Springs, New York. Thirty-two law schools became charter members of the Association. Its purpose is "the improvement of the legal profession through legal education." It is an association of law schools and functions as the law professors' learned society. A law school is eligible for membership to this prestigious organization only after a school has graduated at least three annual classes. Each member school has one vote and designates a member of its faculty to represent it in the AALS House of Representatives at its annual meeting. In the interim between annual conventions, the Executive Committee conducts the affairs of the AALS. Committees and sections, where there is a common interest, provide such services and functions as the annual meeting, workshops, a faculty appointments register, faculty recruitment conferences, publications, etc.

Historically, the AALS was spun off from the SLEAB in 1900 with the expectation that the AALS would upgrade the quality of legal education. Unfortunately, this reality was not accomplished. It was through passage of the ABA Standards and the work of the Council and the SLEAB in 1921 - 21 years later - that any measurable success was achieved in improving legal education and bar admission standards. Today, the situation is quite different. The AALS standards for admissions to membership for law schools are higher than those seeking ABA approval or accreditation. For example, under the AALS rules and regulations, a law school is not eligible for membership until the law school has been in operation five years and has graduated three classes. In contrast, applications for provisional ABA approval are considered when a law school has completed the first academic year of its program. A law school which has been provisionally approved for two years will be considered for full approval by the House of Delegates of the American Bar Association upon a finding by the Council of the SLEAB that the law school fully meets the American Bar Association Standards and Rules of Procedure. Graduation from a provisionally or fully approv-

ed law school satisfies the legal requirements to take the bar examination in all jurisdictions in the United States, but graduation from law school does not guarantee admission to the Bar except for the "diploma privilege" states of West Virginia and Wisconsin.

The United States Department of Education recognizes the Council of the SLEAB officially as the "nationally recognized accrediting agency" for professional schools of law - not AALS. However, the Council on Post-secondary Accreditation recognizes both the program of law school approval of the Council of the SLEAB of the ABA and the AALS.

Since the adoption of the ABA standards in 1921, there has been a steady improvement in the quality of legal education and in the requirements for admission to the bar. The recent progress can be greatly attributed to the efforts of the Advisor to the Council of the SLEAB, Dean John G. Hervey, who retired in 1968 and who was instrumental in getting law schools to issue Juris Doctor (J.D.) in lieu of LL.B. degrees. He deserves special kudos from his law school colleagues who are still laboring in the vineyards to improve the harvest.

Even though the American Bar Association (through the Council and Section of Legal Education and Admissions to the Bar), National Conference of Bar Examiners, and the Association of American Law Schools are separate authorities, all have one thing in common — improving the standards for legal education and admission to the bar. Their recent progress has been remarkable and they are responsible for overseeing 175 first-rate law schools in America. Consequently, for our law school to be selected to be one of the ABA and the AALS members is an opportunity, a challenge and a distinguished honor to contribute to the future progress of legal education.

Dean Walter A. Rafalko, is the associate dean at the University of Baltimore School of Law. He received his L.L.B. from Boston University, L.L.M.'s at Georgetown University and New York University. He also possesses a Doctor of Jurisprudence from John Marshall University. He is the former dean of New York Law and has been involved in legal education for over thirty years. He presently serves on the Maryland Commission to revise the Maryland Annotated Code.