

COUNCIL AUTHORITY, VARIANCES AND AMENDMENTS

Standard 801. COUNCIL AUTHORITY

(a) The Council shall have the authority to grant or deny a law school's application for provisional or full approval or to withdraw provisional or full approval from a law school. A decision of the Council to grant provisional or full approval is effective upon the action of the Council. A decision of the Council to deny or withdraw approval is effective as follows: (i) if no timely notice of appeal is filed, upon the expiration of the period provided for filing notice of appeal under Rules of Procedure of the House; (ii) if the school files a timely notice of appeal and the House concurs in the decision of the Council, upon such concurrence; (iii) or, if a timely notice of appeal is filed, and the House refers the decision back to the Council, upon decision of the Council following the final referral from the House. Review of decisions appealed to the House shall be conducted pursuant to the procedures set forth in the Rules of Procedure of the House and the Rules of Procedure for Approval of Law Schools.

(b) The Council shall have the authority to adopt, revise, amend or repeal the Standards, Interpretations and Rules. A decision of the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules shall not become effective until it has been reviewed by the House. Review of such decisions by the House shall be conducted pursuant to the procedures set forth in Standard 803 and the Rules of Procedure of the House.

Standard 802. VARIANCE

A law school proposing to offer a program of legal education a portion of which is inconsistent with a Standard may apply for a variance. If the Council finds that the proposal is nevertheless consistent with the general purposes of the Standards, the Council may grant the variance, may impose conditions, and shall impose time limits it considers appropriate. Council may terminate a variance prior to the end of the stated time limit if the school fails to comply with any conditions imposed by the Council. As a general rule, the duration of a variance should not exceed three years.

Interpretation 802-1

Variances are generally limited to proposals based on one or more of the following:

(a) a response to extraordinary circumstances that would create extreme hardship for students or for an approved law school; or

(b) an experimental program based on all of the following:

(1) good reason to believe that there is a likelihood of success;

(2) high quality experimental design;

(3) clear and measurable criteria for assessing the success of the experimental program;

(4) strong reason to believe that the benefits of the experiment will be greater than its risks; and

(5) adequately informed participation by students involved in the experiment.

Interpretation 802-2

A school applying for a variance has the burden of demonstrating that the variance should be granted. The application should include, at a minimum, the following:

(a) a precise statement of the variance sought;

(b) an explanation of the bases and reasons for the variance; and

(c) additional information needed to support the application.

Interpretation 802-3

The Chair of the Accreditation Committee or the Consultant may appoint one or more fact finders to elicit facts relevant to consideration of the application for a variance. Thus an application for a variance must be filed well in advance of consideration of the application by the Accreditation Committee and the Council.

Interpretation 802-4

The Consultant, the Accreditation Committee or the Council may from time to time request written reports from the school concerning the variance.

Interpretation 802-5

Variations are school-specific and based on the circumstances existing at the law school filing the request.

Standard 803. AMENDMENT OF STANDARDS, INTERPRETATIONS AND RULES

(a) A decision by the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules does not become effective until it has been reviewed by the House. After the meeting of the Council at which it decides to adopt, revise, amend or repeal the Standards, Interpretations or Rules, the Chairperson of the Council shall furnish a written statement of the Council action to the House.

(b) Once the action of the Council is placed on the calendar of a meeting of the House, the House shall at that meeting either agree with the Council's decision or refer the decision back to the Council for further consideration. If the House refers a decision back to the Council, the House shall provide the Council with a statement setting forth the reasons for its referral.

(c) A decision by the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules is subject to a maximum of two referrals back to the Council by the House. If the House refers a Council decision back to the Council twice, then the decision of the Council following the second referral will be final and will not be subject to further review by the House.

(d) Proposals for amendments to the Standards, Interpretations or Rules may be submitted to the Consultant, who shall refer the proposal to the Standards Review Committee or other appropriate committee. The committee to which any such proposal is referred shall report its recommendation concerning that proposal to the Council within twelve months after the proposal had been referred to the Committee.