

MEMORANDUM D9697-59**TO: Deans of ABA Approved Law Schools****FROM: James P. White, Consultant on Legal Education to the American Bar Association****SUBJECT: Distance Education****DATE: May 6, 1997**

At the Accreditation Committee meeting held on April 25-26, 1997 the Committee approved the attached Temporary Distance Education Guidelines. The desire of the Committee was to deal with the issue of distance education in a prompt manner and to obtain information to guide the development of permanent standards and interpretations for this area of education. In addition, the Guidelines remove the necessity of obtaining a waiver or approval from the Accreditation Committee for courses of the sort that are described in the Guidelines, although it may be necessary to obtain prior approval from the Consultant's Office.

With regard to courses described in sections 1, 2 or 4 it is not necessary to obtain prior approval from the Accreditation Committee or the Consultant's Office. However, it is expected that each course will be conducted in such a fashion as to comply with the principles of the Guidelines, including sections 5 and 6.

With regard to experimental courses described in section 3, prior approval is necessary. While it will not be necessary to obtain a waiver or approval from the Accreditation Committee, it will be necessary to obtain prior approval from the Consultant's Office in accordance with these Guidelines. As part of the authorization for the experiment, the school will be expected to report on the course's successes and difficulties, including the reasons therefor. This information will be used by the Technology Committee, the Standards Review Committee and the Accreditation Committee to suggest permanent standards and interpretations.

If a school should have, or desire to establish, a course which is not described in these Guidelines, it will continue to be necessary for the school to obtain a waiver or approval of the course from the Accreditation Committee.

PRINCIPLES FOR DISTANCE EDUCATION

Educating a student for a Juris Doctor degree is professional education of a most distinct variety. It involves more than the mere delivery of information or simply learning facts, history or even logic. During a law school education a student is expected to participate in a learning community whereby he or she will ultimately learn, experience, and develop skills and knowledge that will advance the legal system, society and his or her career. This law school experience involves interaction with faculty not only in the classroom, but also in other places and at other times. Students also learn from each other by inquiry and challenge, review and study groups. In sum, law school is an educational process in which a student matures with the law and his or her ability to use and develop it.

As new methods of education develop, legal educators must be aware and ready to implement them in order to provide the best possible legal education to the greatest viable student body. In the last few years various methods of distance education have become available and, certainly, more will present themselves in the future. As legal educators we must consider which of these new methodologies provide appropriate legal education tools.

In a desire to gather information on distance learning for ultimate incorporation into the Standards, the Accreditation Committee of the Section on Legal Education and Admissions to the Bar has directed the Consultant's Office to consult with the law schools on the use of distance education in legal education. In addition it has authorized the Consultant to give permission to law schools to conduct experiments in legal education by the use of such methodologies, while keeping in mind the direction of Standard 304(g) that approved law schools may not grant credit for courses taken by correspondence study.

In the spirit of experimentation the Consultant's Office has developed the following guidelines and invites law schools to propose distance learning educational experiments. Such experiments may be authorized by the Consultant's Office only for an experimental period. The results of those experiments will be reported to a Committee on Technology which was recently appointed by the Chair of the Section. Ultimately that Committee will develop guidelines for the use of distance educational technology which will be submitted to the Standards Review Committee. The Standards Review Committee will consider the proposals and submit them for public debate and comment, and ultimately for adoption.

CONSULTANT'S TEMPORARY DISTANCE EDUCATION GUIDELINES

1. Site of reception — Experiments in which educational programs will be disseminated from one law school and received at another law school will generally comply with the principles of legal education as stated above. Also, if the locale at which the legal educational program is received has a law faculty of significant size, a student body of significant size and a library or information resource center of significant size, the program will generally comply with these principles of legal education. Thus, courses received at a law school

facility from non-law school sites or other educational institutions will generally comply with these principles. It is not necessarily true that a faculty member must be present in the classroom or other reception facility.

On the other hand delivery of course work to a person's home or office would generally not be in compliance with these principles. Similarly, delivery to a site which merely has technical personnel to operate and maintain educational or transmission equipment, but does not have a law faculty, is not in compliance with the above principles. Delivery to a secondary site at which a faculty, students and a library or information resource center are to be located may require approval in accordance with the Standard 105 and Interpretation 105-1(11) regarding the establishment of a branch campus. Also, because of the special developmental and interactive nature of first year courses, use of distance education for such course work will not usually be approved at the present time under these guidelines

2. Externships and clinical programs — The use of distance education may be particularly useful as a means of enhancing externships or clinical programs. Such externships and clinical programs may, for example, have classroom components which are difficult to deliver on campus at the law school site. The use of distance education technology in such cases may be designed to enhance a law student's education and provide greater efficiency. Thus, for example, externships which are physically located at some distance from the law school campus might employ distance delivery systems for the conduct of in-class sessions in a uniform and convenient fashion.

3. Limited exceptions — In the spirit of experimentation a limited exception may be granted for a course which is not in strict compliance with the requirements stated herein for faculty size, student size and/or a library or information resource facility. Such an exception will be granted on an ad hoc basis upon a showing of specific educational benefits to be provided by such a course while maintaining a minimum of the potential shortcomings noted in this document. However, a student may take only one such course (three credit hours) for the purpose of being applied toward the class hour and residence requirements of the Standards.

4. Level of program — Consideration will be given to the program for which the distance education is being offered. Thus, post J.D. programs such as LL.M. and S.J.D. programs may be considered differently from regular J.D. programs, since the maturation and educational process involved in a J.D. program have already occurred for the student.

5. Interactivity — As stated above, interaction between student and faculty is a crucial element to legal education. Thus, such interaction will be required.

6. Technology requirements — Technology of poor quality can be a serious hindrance to the delivery of a good educational program. All systems will be expected to operate in a manner which will enhance and not hinder education. To that end the law school will be expected, in its request for authorization to conduct an experiment, to describe the technology to be used, the type of facility from which the program will be delivered and the type of facility to which it will be delivered, the bandwidth and other technical information of any video delivery system, the nature of any computerized delivery system, and other related information.