

operations are included within the grasp and meaning of the term, I contend that the proposed Standards (I am referring to the January 11, 1995, proposed revision) do not comply with the DOE regulations as to the required documentation to justify the changes in the Standards or the *Final Judgment* of June 27, 1995, requiring the proposed Standards be submitted to the Board for review, followed by the Board filing its report with the United States District Court for the District of Columbia and the Justice Department for their review to determine whether to challenge any of the proposals. In Addition, under the *Final Judgment*, there is an antitrust compliance program that may not be in place. With these restrictions, (especially the *Final Judgment*), I contend that the proposed Standards (the January 11, 1995, revision or either the June 1995 or July 1995 revision) are not ripe for Council to submit its recommendation for action of the ABA House of Delegates at the August, 1995 Meeting. Within the time frames indicated in the June 27, 1995, *Final Judgment*, August 1996 would appear to me to be the earliest time under which the ABA House of Delegates could take any action relating to the proposed Library Standards. I do note that a *Final Judgment* has not been entered, but note in the *Stipulation* that the ABA agrees to be bound by the provisions of the *Final Judgment*. I view the agreement to be in force as of June 27, 1995.

As you may be aware, I have received ABA comprehensive library statistics and special statistics for selected schools for over ten years, including statistics based on Fall 1994 information. These statistics have been used to assess St. Thomas' growth and development, its operations and the Law Library plan of action, which is required under the 1986 Standards. Based on my assessments of these statistics, I have serious and considerable concern with the present methods of (a) collecting statistical information, (b) categories used in the collection document or vehicle (annual questionnaire), and (c) publishing and using the statistics in this present form.

As presently designed, the statistical information creates a very significant economic impact to the disadvantage of newer as well as smaller schools with less than 700 FTE students. There are approximately 63 schools with 700 FTE students or more and 115 schools with less than 700 FTE students. Note, however, the ABA does not include graduate students and special students in identifying the FTE student count used for analysis of library operations only full time and part time JD students are used. There are over 100 schools with graduate students, that are excluded from the analysis of library statistics. Important comparisons of book dollars per student and retrieval usage per student are overstated when graduate students are excluded; thus, in several instances, statistical information is somewhat, if not totally, skewed with misleading and incorrect information.

The elimination of students from the student side of the formula created in several instances a higher expense of book dollars per FTE student and higher retrieval usage

per student, resulting in a higher mean and median. The constant and continuing pressure through the accrediting process for schools to reach and exceed the mean or median of information for all schools is based upon an incorrect foundation of statistical information.

The 1986 Standards, as part of the core collection requirements, specifically recognized and added online services (and probably the CD-ROM and other electronic resources) as a basic category of collection and information resources which schools have to use to support the academic program. Other changes were made in the 1986 revision, which can be interpreted to reinforce this conclusion—the elimination of some of the Shepard's Citations requirements and state statutes requirements, existing in pre-1986 Standards. These changes and others would, I contend, lead to the conclusion that the Standards did eliminate the ownership/warehouse concept for all ABA approved libraries to support academic programs. The Accreditation Committee and Council have provided no written ground rules or other information relating to the use of electronic information as part of the core collection requirements, and, specifically, whether these electronic resources could be used in place of hard copy or microform resources. While the January 1995 revision of the Standards appears to provide some way to incorporate electronic sources as an integrated part of total collection resources, the language in the entire document is fuzzy and leads to considerable interpretation, resulting in little or no guidance for library operations or what should be in the written plan. This would lead to subjective fact finding through onsite inspections and written reports. (As earlier noted, I have not seen or reviewed the June or July revision of the Standards)

Even the ABA document provided to onsite inspectors to use as part of the questioning for and collecting of information from libraries has not been updated with the 1986 ABA Standards. I contend that the financial form which a library is required to complete as part of the inspection questionnaire, is based on pre-1986 Standards.

The ABA through its Accreditation Committee and Council has not accepted electronic resources as part of the basic and *only* foundation upon which the ABA statistics are collected, developed, made available to directors and others as well as published (selective information only) in the *Law Library Journal*. The ABA uses only hard copy and microform equivalents to identify the grouping and the size of the collection in terms of volume count.

Since 1986, the ABA has not provided any way to determine equivalent volumes of electronic resources. The formula used by the ABA to determine collection size specifically excludes electronic resources of any type, the very source of information the ABA added to the Standards in 1986. Thus, reliance and use of the existing ABA library statistics are totally off base, being unreliable and useless for comparative purposes for any reason.

The ABA continues this omission through publishing only hard copy and microform

equivalent counts in its *Review of Legal Education*; electronic resources, as best as I can determine from a review of the publication, are not included in any manner. The economic impact of the exclusion of electronic resources from statistical analysis of ABA information has adversely affected most, if not all, schools by resulting in increased costs to continue and maintain hard copy collections through publisher dominated lists of titles libraries must maintain to satisfy accreditation requirements.

The attempt of the June 1994 revision of the Standards was to, for all practical purposes, eliminate the consideration of electronic resources as part of the core information resources a library must use—the January 1995 revision, apparently, attempted to weaken this dark age approach for collection support of academic programs for accreditation purposes. I have not seen the June 1995 revision, which is to be discussed in Pittsburgh.

I am not sure, but would assume that work by the Standards Review Committee or others has not been done on the collection vehicle, the annual questionnaire, or the statistical format used to provide statistical analysis of the information collected through the annual questionnaire. The statistics are used in preparing on-site reports. The existing problems with the annual questionnaire and the statistical information produced there from would, I contend, lead to the conclusion that these have to be revised at the same time the Standards are revised. These, in most instances, were not updated and revised as a result of the revisions in the Standards made in 1986, resulting in subjective fact finding through the inspection process and procedure as well as faculty analysis by the Accreditation Committee and Council based upon the inspection reports. On this ground, I register a protest and complaint that the proposed Standards do not comply with the DOE regulations, (effective July 1994) and specifically contend that the attempt (at least as I presently understand the procedure) to obtain Council's recommendation for action by the August ABA House of Delegates violates the *Final Judgment* requirements, identified June 27, 1995.

I have not seen any documentation by the Standards Review Committee or others specifically relating to the proposed Standards, and especially relating to collection resource requirements. Choices have been made in setting accreditation requirements, but written documentation to justify the choices is lacking. On this ground, I register a protest and complaint that the proposed Standards do not comply with the DOE regulations (effective July 1994), and specifically contend that the proposed Standards have not satisfied the requirements of the *Final Judgment* of June 27, 1995, for Council action for a final recommendation for action by the August ABA House of Delegates.

The annual questionnaire and the ABA produced statistical information require urgent and mandatory revision. Unless and until volume equivalences are determined for electronic sources and information, volume counts have to be eliminated from the