

MSL has indicated that there is some opposition to the current standards from within the organization but has provided no evidence of large numbers of members opposing ABA standards at its meetings and being constantly frustrated in their efforts to change the standards by undemocratic procedures on the part of the Council. If there is in fact opposition to the Council's standards, it is Department staff's opinion that the Council appears to have in place the mechanisms that will allow those who seek change to be heard. The scheduled meeting of the law school deans early in 1995 is evidence that those in opposition to the standards have the ability to work from within and propose changes that they believe will strengthen the accreditation process.

Department staff further believes that the Council's standards have been subject to regular, systematic review by the profession and have been changed whenever the profession deemed necessary. It also appears to Department staff that any changes to the standards have been decided upon only after proper consultation with the membership and other relevant constituencies. Thus, from the Department's perspective, the Council has acted in accordance with the criteria for recognition as far as the review and subsequent revision of its standards is concerned. MSL points out that, as an unaccredited law school, it is not part of the membership, and therefore, does not have adequate opportunity for input into any changes to the standards. Department staff's response to this concern is that the Council

is not obliged by the requirements for Secretarial recognition to consult with non-members like MSL.

One other aspect of MSL's complaint against the Council is particularly relevant to the validity and reliability issue. MSL charges that the Council has throttled diversity among law schools by refusing to follow a written provision contained in its own standards that is intended to promote such diversity. As evidence to support its charge, MSL states that its requests for several variances have been repeatedly denied by the Council. Department staff believes that in general MSL's requests for variance were not accompanied by a compelling rationale for the request and that there is no evidence to suggest that, if they were accompanied by such rationale, they would not have been given fair consideration by the Council.

Other aspects of MSL's complaint against the Council have no direct bearing on the validity and reliability issue. Department staff has investigated them and found some of them to be without merit. For example, MSL charges that the Council regularly violates the requirements of due process but does not provide convincing evidence to support its charge.

Still other aspects of MSL's complaint relate to new requirements imposed on accrediting agencies as a result of the Higher Education Amendments of 1992 and the Department's regulations implementing those amendments. For example, MSL charges that the Council does not provide public notice of

when a law school will be considered for accreditation and does not provide an opportunity for public comment on the school's qualifications for accreditation. All agencies must come into compliance with this requirement and the other new requirements, but it takes time for them to develop and implement the requisite standards, policies, and procedures. Department staff believes that there is no evidence to suggest that the Council will not do so in a timely and appropriate manner.

It should be pointed out that MSL presented many aspects of its current complaint to a member of the National Advisory Committee when it reviewed the Council in 1992, yet the Advisory Committee was satisfied with the Council's overall performance at the time and recommended renewal of recognition for the maximum period of five years. Thus, it does not appear to Department staff that MSL has presented compelling new evidence to warrant a full review of the agency before its originally scheduled renewal date.

Note. One aspect of MSL's complaint against the Council that is totally outside of the Department's purview is the charge that the Council has violated federal anti-trust laws for the economic benefit of law professors, law deans, and law librarians but on the detriment of students. That matter is currently before the Justice Department.

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