



5 June 2025

Chief Executive Officer
Legal Services Council
Level 3, Public Trustee Building,
19 O'Connell St,
Sydney NSW

Dear Colleague,

Proposed revisions to the Accreditation Standards for Australian Law Courses

I have had decades of experience in delivering law courses at the ANU Law School, including courses which contain Prescribed Areas of Knowledge (PAK) content. Since 2021 I have reviewed several law schools for reaccreditation on behalf of the Academic Course Appraisal Committee of the Victorian Legal Admissions Board. I am currently undertaking a further review.

I make this submission in my personal capacity and welcome the opportunity to provide my views in relation to the consultation questions. I address the consultation questions below but would be happy to meet with the committees to provide further input into the consultation if that assists the committees.

Consultation questions

1. Do you support the drafting of the proposed revisions set out in the Draft Revised Standards (Attachment A)? We are interested in the reasons for your view and suggestions for improved drafting.
2. Do you agree with the proposed transitional period for the revised standards? If not why not?
3. Do you have any other comments in relation to this work that you would like to provide to the committees?

Question 1 - The drafting of the proposed revisions

Overall comment

I refer to the Consultation Paper dated March 2025¹ (the Consultation Paper) and the Draft Revised Standards² (the Draft Revised Standards). After working with the LACC Standards³

¹ Legal Services Council and Law Admissions Consultative Committee, *Consultation paper on proposed revisions to the Accreditation Standards for Australian Law Courses*, March 2025.

² Law Admissions Consultative Committee, *Accreditation Standards for Australian Law Courses (with proposed amendments for public consultation)* 2025.

³ Law Admissions Consultative Committee, *Accreditation Standards for Australian Law Courses*, July 2018.

(Standards) for many years, I consider that the revisions significantly enhance the Standards and achieve an effective balance between recognising the innovation that is occurring in law schools and the need for the profession to be satisfied of the integrity of law school offerings. The revisions also appropriately recognise the role of other regulators such as TEQSA with respect to issues such as contract cheating and generative AI.

However, I have recommended on previous occasions that the bullet points be removed from the drafting of the Standards and replaced with alphanumeric numbering. This would enhance the functionality of the Standards. This was referred to in a previous consultation paper⁴ and I am still of the view that this form of drafting would assist law schools and the Admitting Authorities when referencing the Standards.

Particular Provisions of the Draft Revised Standards

With respect to particular provisions of the Draft Revised Standards I make the following comments.

Definitions

I am very supportive of the new definitions of ‘active learning’ and ‘direct interaction’. They are clear. Similarly, I agree that the definition of ‘face-to-face’ should be deleted. It has been superseded by the new definitions.

I am pleased that the definition of ‘active learning’ has been decoupled from ‘teaching method’ which occurs in the current drafting of the Standards at Standard 4.5(a)(iii). The definition of ‘active learning’ in the Draft Revised Standards retains the important elements of the current definition of ‘active learning’ in the current Standard 4.5, that is:

student engagement in critical analysis of the knowledge they acquire, application of that knowledge to factual situations or scenarios, producing solutions supported by legal arguments and reflection on the process followed.

I have used this touchstone definition many times to test evidence when undertaking a review and I am glad that it has been retained in the Draft Revised Standards and effectively repositioned to the definition of ‘active learning’.

Demarcating between delivery mode and teaching method is a constructive amendment to the Standards which actively differentiates between learning and teaching and therefore clarifies the respective activities that are being regulated. I note in particular that the definition of ‘teaching method’ distinguishes between the way in which a law school communicates and self-directed activities which means it is not only relatively straightforward to identify the relevant activities when undertaking a review of the law school units, but it also naturally differentiates between preparation by students and the actual delivery of content itself by the law school. The definition of ‘teaching method’ also overcomes a problem that arises when there is an overlap between an activity that might constitute a teaching or learning activity with assessment. The definition of ‘teaching method’ enables the Admitting Authority to be clear about the difference between

⁴ Legal Services Council and Law Admissions Consultative Committee, *Accreditation of Australian law courses and practical legal training- LACC guidance materials*, 2024, Attachment A page 8: ‘substitute the bullet points in the LACC accreditation standards with alphanumeric drafting (similar to legislative drafting so that it is easier to reference)’.

these two activities which are respectively regulated by Standards 4.6 and 4.7 in the Draft Revised Standards.

I note that the purposes of the standards have been amended at section 3(b)(i) so they refer to the delivery of the law course. This is clear and links to each of the Standards articulated at 4.1 to 4.5 of the Draft Revised Standards.

Standard 4.1 – The delivery of the law course

This is a new standard in the Draft Revised Standards which is titled ‘the delivery of the law course’. There has been a renumbering of the Standards so that the nature of the law course is now Standard 4.2.

The new Draft Revised Standard 4.1 provides the law school with opportunity to take pedagogical considerations into account when making decisions about the appropriate delivery mode but also allows the Admitting Authority to seek information about the delivery mode offered. I consider this is a good balance that provides flexibility to the law school but also enables Admitting Authorities to seek information as necessary. In my experience when a law school is providing content rigorously it is not onerous for it to provide the necessary evidence of its delivery mode to satisfy the 36 teaching hours requirement in Draft Revised Standard 4.5 and the 18 hours active learning requirement in Draft Revised Standard 4.6(b)(iii).

Standard 4.3 – The duration of the law course

I welcome the amendment to the Standard that recognises intensive units. I have recently been involved in the review of a law school that delivers the law course in block mode and consider that the re-drafting of the Standard sufficiently retains discretion in the Admitting Authorities to seek further information and data from the law school in relation to, for example, student attendance requirements, to establish whether the block delivery would enable students to acquire the appropriate level of understanding and competence in the PAKs and statutory interpretation. My experience indicates that this information can be readily provided by the law school to provide the requisite level of satisfaction for the Admitting Authorities.

Standard 4.4 - The learning outcomes for the law course

I have no comment about this Standard.

Standards 4.5 - Content of the law course and Standard 4.6 - Teaching the law course and active learning

I support the retention of the 36 total teaching hours in Draft Revised Standard 4.5(b)(iii) and consider that the re-drafting of the Standard provides significant clarity. I also note the additional bullet point that is included under Draft Revised Standard 4.6 that further clarifies that the Admitting Authority will consider whether the number of hours provided for active learning and/or direct interaction in a PAK when considering whether a law course will enable the student to acquire an adequate level of understanding and competence.

As stated above, the Draft Revised Standards have retained the touchstone definition of understanding and competence within the definition of ‘active learning’. Importantly, the Draft Revised Standards at 4.6(b)(iii) state that the design of the law course and its program of instruction provides for at least 18 hours of either or both of active learning and instruction and

learning involving direct interaction between a teacher and student whether in person or through synchronous online learning.

Regarding resources, Draft Revised Standard 4.6(b)(v) states as follows:

It would be relevant for an Admitting Authority to know whether the law school's library has been independently assessed by the CALD Standards Committee and has been independently determined to have met, in this respect, the CALD standards.

I understand that CALD no longer undertakes this assessment so this reference can be removed.⁵ In any case, it is now relatively straightforward for Admitting Authorities to assess a law school's library resources because the usual process involves reviewers being given general access to the university library and most resources can be checked either through the library itself or via the relevant PAK units.

Standard 4.7 - Assessing understanding and competence

I note that the Standards have been renumbered and so the numbering of this Standard is new.

I consider that the decision by the committees to require the law school to provide evidence that at least 50% of the assessment in the PAK units is conducted by invigilation represents a beneficial balance between the desire for law schools to innovate and the objective of the committees to provide 'an extra level of quality assurance to the grades awarded to students to ensure that they accurately reflect the level of acquired understanding and competence, particularly in an online learning environment'.⁶ By taking into account the initiatives undertaken by CALD and TEQSA the committees can 'align' the intended application of the Standards rather than duplicating the work of CALD and TEQSA.⁷

The definition of 'invigilation' is versatile and contemplates invigilation by online methods such as by proctoring software, so it enables these methods of invigilation without weighing into some of the controversies that they have engendered. My experience of online invigilation demonstrates that it can be rigorous when applied with sufficient safeguards, so it is appropriate that the definition contemplates online invigilation by technological or other means as well as in person. It is therefore sufficiently broad to capture innovations in invigilation (such as by AI) which are already occurring and progressing rapidly.

Question 2 – Transitional Period

The Consultation Paper refers to a two-year implementation period. I consider that this timeframe is fair. Universities usually impose long lead times when law schools seek to amend their courses or units. It commonly involves at least a year for the law school to plan ahead. The two-year timeframe enables this forward planning by the law schools by creating a two-step implementation period. I consider that the transitional period is appropriate.

⁵ See 'Australian Law School Standards' CALD Minutes dated 14 February 2024.

⁶ Standard 4.7, Draft Revised Standards, Explanatory note (a) 2nd paragraph.

⁷ Consultation Paper, page 9.

Question 3 – Any other comments

I have no further comments however I repeat the statement made above that the revisions have significantly enhanced the Standards, and I welcome the opportunity to speak with the committees should that be of assistance.

Sincerely,

Professor Emeritus Peta Spender