



Legal Education and
Admissions to the Bar

Memorandum

To: Interested Persons and Entities

From: Leo Martinez, Council Chair
William Adams, Managing Director of Accreditation and Legal Education

Date: December 16, 2021

Re: ABA Standards, Rules, and Definitions – Matters for Notice and Comment

- Revisions to Distance Education Definitions (7)-(8) and Standards 306 & 311(e)
- Revisions to Standard 206
- Revisions for Clarification: Rules 19 & 29 and Standards 311(c) & 405(b)

At its meeting held on November 18-19, 2021, the Council of the Section of Legal Education and Admissions to the Bar approved for Notice and Comment proposed revisions to Definitions (7)-(8); Standards 206, 306, 311(c) and (e), and 405(b); and Rules 19 and 29 of the *ABA Standards and Rules of Procedure for Approval of Law Schools*.

All proposed revisions and accompanying explanations are published on the Section's website at https://www.americanbar.org/groups/legal_education/resources/notice_and_comment/.

We solicit and encourage written comments on all the proposals listed above. **Due to the ongoing COVID-19 pandemic, there will not be an open hearing, only a written comment period.** Please address all written comments on the proposals to Leo Martinez, Council Chair. Please send comments to Fernando Mariduena (Fernando.Mariduena@americanbar.org) by January 21, 2022. Written comments received after January 21, 2022, may not be included in the materials considered by the Council at its February 2022 meeting.

Section 1: Revisions to Distance Education Definitions (7)-(8) and Standards 306 & 311(e)

The Managing Director's Office has received questions from law schools regarding what constitutes a distance education course and the credit hour limits on distance education. Also, the U.S. Department of Education (the "Department") now has in effect a revised definition of "Distance Education," which specifically defines what "substantive interaction" and "regular interaction" must include. *Note: These revisions do not contemplate changes to the existing distance education credit limits at this time.*

Revisions to Definition (7) – Distance Education Course

Explanation: The revisions to this definition clarify that a course will be a distance education course only if students are separated from all faculty members teaching the course to align with the Department’s “Distance Education” definition (that definition is attached as Appendix A) and remove the phrases “or each other” and “among students” so that the presence of one or more remote students in an otherwise in-person course will not “convert” the course to a distance education course for the students taking the course in-person. In particular, the phrase “or each other” is not in the Department’s definition and has caused confusion for law schools.

Redline: Definition (7) – Distance Education Course

(7) “Distance education course” means one in which students are separated from all the faculty members ~~or each other~~ for more than one-third of the instruction and the instruction involves the use of technology to support regular and substantive interaction ~~among students and~~ between the students and ~~the~~ all faculty members, either synchronously or asynchronously.

Revisions to Definition (8) – Distance Education J.D. Program

Explanation: The revisions add distance education credit limits currently found in Standard 311(e) related to the first one-third of a student’s program of legal education to this definition.

Redline: Definition (8) – Distance Education J.D. Program

(8) “Distance Education J.D. Program” means a program where a law school grants a student more than one-third of the credit hours required for the J.D. degree for distance education courses; or more than 10 credit hours during the first one-third of a student’s program of legal education.

Revisions to Standard 306: Distance Education

Explanation: The Department has now detailed what “regular interaction” and “substantive interaction” must include in terms of distance education courses. The revisions add this information to Standard 306, the former Standard on Distance Education as schools have sometimes been confused by Standard 306’s “reserved and deleted” language, and the Managing Director’s Office has been asked to clarify whether distance education credit limits have been moved or eliminated. Additionally, schools have asked about remote participation by students as an ADA accommodation or in exceptional circumstances and whether those courses count towards the distance education credit limits for that student, so this is addressed here.

Redline: Standard 306. DISTANCE EDUCATION –~~Reserved and Deleted August 2020~~

Distance Education law school courses for which credit is given towards the J.D. degree must provide regular and substantive interaction between the students and faculty teaching the course. Distance education credits may not be counted towards the J.D. degree if they exceed the credit hour limitations in Standard 311(e).

- (a) Regular interaction between a student and a faculty member in a distance education course shall include:
 - (1) providing the opportunity for substantive interactions with the student on a predictable and scheduled basis commensurate with the length of time and the amount of content in the course as defined by Standard 310(b);

- (2) monitoring the student's academic engagement and success; and
 - (3) ensuring that the faculty member is responsible for promptly and proactively engaging in substantive interaction with the student when needed on the basis of such monitoring, or upon request by the student.
- (b) Substantive interaction in a distance education course requires engaging students in teaching, learning, and assessment, consistent with the content under discussion, and includes at least two of the following:
- (1) providing direct instruction;
 - (2) assessing or providing feedback on a student's coursework;
 - (3) providing information or responding to questions about the content of a course; or
 - (4) facilitating a group discussion regarding the content of a course.
- (c) Remote participation in a non-distance education course by a student as an accommodation provided under law (such as the Americans with Disabilities Act) or under exceptional circumstances shall not cause the course to count towards the distance education credit limits in Standard 311(e) for that student. The law school shall document all instances in which it permits a student's remote participation in a non-distance education course for which the credits will not be counted towards the credit hour limits in Standard 311(e).

Revisions to Standard 311(e): Academic Program and Academic Calendar

Explanation: Current Standard 311(e) does not state that a law school may grant a student up to one-third of the credit hours required for the J.D. degree for distance education courses without applying for a substantive change under Standard 105(a)(12)(ii). As the Managing Director's Office has received questions about the distance education limits, where the limits are listed in the Standards, and whether the limits have been eliminated, the revisions clarify that a law school may grant a student up to one-third of the credit hours required for the J.D. degree for distance education courses in the text of Standard 311(e).

Redline: Standard 311. ACADEMIC PROGRAM AND ACADEMIC CALENDAR

(e) A law school that does not offer a J.D. degree via distance education under Standard 105(a)(12)(ii) may grant a student up to one-third of the credit hours required for the J.D. degree for distance education courses; up to 10 credit hours required for the J.D. degree for distance education courses of those credit hours may be granted during the first one-third of a student's program of legal education.

Section 2: Revisions to Standard 206

Revisions to Standard 206: Diversity and Inclusion

Explanation: Revised Standard 206 aims to achieve the effective educational use of diversity, the compelling state interest recognized in *Grutter v. Bollinger*, 539 U.S. 306 (2003), *Fisher v. University of Texas*, 570 U.S. 297 (2013) (*Fisher I*), and *Fisher v. University of Texas*, 136 S. Ct. 2198 (2016) (*Fisher II*). Subsection (a) outlines three things a law school must provide in service of this goal, related respectively to the student body, faculty and staff, and an inclusive and equitable environment.

Subsection (a)(1) requires a school to provide full access to the study of law and membership in the profession to all persons but focuses particularly on underrepresented groups related to race and ethnicity. This focus acknowledges the unique historical injustices and contemporary challenges faced by those

groups. Subsection (a)(2) requires a school to include members of underrepresented groups in its faculty and staff, but again requires a particular focus on underrepresented groups related to race and ethnicity. Subsection (a)(3) requires an inclusive and equitable environment for a larger list of groups.

Subsection (b) indicates that subsections (a)(1) and (2) will be enforced through analysis of data collected by the law school through the ABA Annual Questionnaire (AQ). However, the law school is required to publish the data already collected to ensure public scrutiny of its progress in meeting the Standard.

Subsection (c) focuses on the enforcement of Subsection (a)(3) by requiring an annual assessment of the inclusivity and equity of a law school's educational environment. The law school is required to provide the results of this assessment (which could be a law school climate survey, the Law School Survey of Student Engagement (LSSSE), or similar assessment mechanism) to the faculty and to the Council upon request and is required to take concrete actions to address any deficiencies.

Several interpretations are newly added or substantially revised. In Interpretation 206-1, "underrepresented groups" and "faculty" are defined. Interpretation 206-2 further explains the concept of "effective educational use of diversity." Interpretation 206-3 provides a non-exclusive list of concrete actions towards creating an inclusive and equitable environment. Interpretation 206-4 continues to provide that a religious school need not act inconsistently with the essential elements of its religious values and beliefs provided that its actions are protected by applicable law. Interpretation 206-5 clearly states that law schools in jurisdictions prohibiting the consideration of race or ethnicity in employment and admissions are not compelled by Standard 206 to consider race and ethnicity in those decisions. Interpretation 206-6 protects academic freedom by clarifying that schools need not prohibit or censure academic discussion of ideas that may be controversial or offensive to some.

The text of Standard 206 that previously went out for Notice and Comment in May 2021 is included here as Appendix B.

Redline: Standard 206. DIVERSITY, EQUITY, AND INCLUSION

~~(a) Consistent with sound legal education policy and the Standards, a law school shall demonstrate by concrete action a commitment to diversity and inclusion by providing full opportunities for the study of law and entry into the profession by members of underrepresented groups, particularly racial and ethnic minorities, and a commitment to having a student body that is diverse with respect to gender, race, and ethnicity.~~

(a) A law school shall ensure the effective educational use of diversity by providing:

- (1) Full access to the study of law and admission to the profession to all persons, particularly members of underrepresented groups related to race and ethnicity;
- (2) A faculty and staff that includes members of underrepresented groups, particularly those related to race and ethnicity; and
- (3) An inclusive and equitable environment for students, faculty, and staff with respect to race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, disability, and military status.

~~(b) Consistent with sound educational policy and the Standards, a law school shall demonstrate by concrete action a commitment to diversity and inclusion by having a faculty and staff that are diverse with respect to gender, race, and ethnicity.~~

- (b) A law school shall report in the Annual Questionnaire and publish in accordance with Standard 509(b) data that reflects the law school's performance in satisfying Standard 206(a)(1)-(2).
- (c) A law school shall annually assess the extent to which it has created an educational environment that is inclusive and equitable under Standard 206(a)(3). The law school shall provide the results of such annual assessment to the faculty. Upon request of the Council, a law school shall provide the results of such assessment and the concrete actions the school is taking to address any deficiencies in the educational environment as well as the actions taken to maintain an inclusive and equitable educational environment.

Interpretation 206-1

Underrepresented groups are groups related to race, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, disability, and military status that are underrepresented in the legal profession in the United States when compared to their representation in the general population of the United States. Faculty for purposes of Standard 206(a)(2) includes full-time and part-time tenured and tenure-track faculty, as well as contract faculty, research faculty, adjunct faculty, and any other faculty category.

Interpretation 206-1

The requirement of a constitutional provision or statute that purports to prohibit consideration of gender, race, ethnicity, or national origin in admissions or employment decisions is not a justification for a school's non-compliance with Standard 206. A law school that is subject to such constitutional or statutory provisions would have to demonstrate the commitment required by Standard 206 by means other than those prohibited by the applicable constitutional or statutory provisions.

Interpretation 206-2

To ensure the effective educational use of diversity, a law school should include among its faculty, staff, and students members of all underrepresented groups, but should be particularly focused on those groups that historically have been underrepresented in the legal profession because of race or ethnicity.

Interpretation 206-2

In addition to providing full opportunities for the study of law and the entry into the legal profession by members of underrepresented groups, the enrollment of a diverse student body promotes cross-cultural understanding, helps break down racial, ethnic, and gender stereotypes, and enables students to better understand persons of different backgrounds. The forms of concrete action required by a law school to satisfy the obligations of this Standard are not specified. If consistent with applicable law, a law school may use race and ethnicity in its admissions process to promote diversity and inclusion. The determination of a law school's satisfaction of such obligations is based on the totality of the law school's actions and the results achieved. The commitment to providing full educational opportunities for members of underrepresented groups typically includes a special concern for determining the potential of these applicants through the admission process, special recruitment efforts, and programs that assist in meeting the academic and financial needs of many of these students and that create a favorable environment for students from underrepresented groups.

Interpretation 206-3

Concrete actions towards creating an inclusive and equitable environment under Standard 206(a)(3) may include, but are not limited to:

- (1) Support of student affinity groups and the provision of student mentoring opportunities;

- (2) Diversity, equity, and inclusion education for faculty, staff, and students;
- (3) Provision of mentoring opportunities for junior faculty members with particular focus on promotion, tenure, and retention of faculty members from groups underrepresented in legal education;
- (4) Support of pro bono and externship opportunities that reflect a commitment to an inclusive and equitable environment; and
- (5) Continuing education for faculty members regarding the effective use of diversity in the classroom.

The determination of a law school's satisfaction of its obligations under Standard 206(c) is based on the totality of the law school's actions as well as the results achieved.

Interpretation 206-4

To the extent that Standard 206 requires a religiously affiliated law school to provide an environment that is inclusive and equitable with respect to sexual orientation and gender identity or expression, the school is not required to act inconsistently with the essential elements of its religious values and beliefs provided that its actions are protected by applicable law.

Interpretation 206-5

For law schools in jurisdictions that prohibit the consideration of race and ethnicity in employment and admissions decisions, Standard 206 does not compel the consideration of race and ethnicity in such decisions.

Interpretation 206-6

Consistent with academic freedom, the requirement of creating an inclusive and equitable environment does not require law schools to censure or prohibit academic discussion of ideas that may be controversial or offensive to some students, faculty, or staff.

Section 3: Revisions for Clarification: Rules 19 & 29; Standards 311(c) & 405(b)

Revisions to Rule 19: Attendance at Council Meetings and Hearings

Explanation: The revisions clarify that a law school does not have the right to be present for the Council's deliberations following a hearing; there is also no right to a hearing regarding a law school's application for acquiescence in a substantive change under Rule 24(a)(12)(iii) involving the establishment of a new or different program leading to a certificate or degree other than the J.D. degree.

Redline: Rule 19: Attendance at Council Meetings and Hearings

- (a) A law school has a right to have representatives of the law school, including legal counsel, appear before the Council at a hearing regarding
 - (1) ~~(i)~~ the law school's application for provisional approval,
 - (2) ~~(ii)~~ the law school's application for full approval,
 - (3) ~~(iii)~~ the law school's application for acquiescence in a substantive change under Rule 24(a)(1) – 24(a)(18) [excluding Rule 24(a)(12)(iii)], or
 - (4) ~~at a hearing to determine~~ whether to impose sanctions and/or direct specific remedial action on the part of the law school.

- (b) The Managing Director₂ in consultation with the Chair of the Council₂ may set reasonable limitations on the number of law school representatives that may appear and on the amount of time allotted for the appearance.
- (c) Except as permitted in subsection (a), a law school does not have a right to appear at a meeting of the Council or to observe the deliberations of the Council related to the law school's appearance at a hearing.
- (d) The Managing Director or designee and any additional staff designated by the Managing Director shall be present at Council meetings and hearings. Legal Counsel for the Section may also be present at Council meetings and hearings.

Revisions to Rule 29: Teach-Out Plan

Explanation: Three revisions were made to this Rule. In a few places, “Council” was replaced with “Council or its Executive Committee” so decisions related to teach-out plans, due to their time-sensitive nature, can be made by either the full Council or the Executive Committee depending on when the teach-out plan is submitted to the Managing Director’s Office. “Executive Committee” was replaced with “Council or its Executive Committee” in a few places for the same reason. Finally, the word “reject” now replaces the word “deny” regarding teach-out plans as this seems to be the more appropriate term.

Redline: Rule 29: Teach-Out Plan

- (c) A provisional or fully approved law school must submit a teach-out plan, and if practicable, teach-out agreements for approval upon occurrence of any of the following events:
 - (1) The law school notifies the Managing Director’s Office that it intends to close, suspend, or cease to operate its approved program of legal education at the law school or a branch campus;
 - (2) The Council acts to withdraw, terminate, or suspend the accreditation of the law school;
 - (3) The United States Secretary of Education notifies the Managing Director’s Office that the Secretary has placed the law school on the reimbursement payment method under 34 CFR 668.162(c) or heightened cash monitoring payment method, requiring the Secretary’s review of the law school’s supporting documentation under 34 CFR 668.162(d)(2);
 - (4) The United States Secretary of Education notifies the Managing Director’s Office that the Secretary has initiated an emergency action against an institution, in accordance with section 487(c)(1)(G) of the HEA, or an action to limit, suspend, or terminate an institution participating in any Title IV, HEA program, in accordance with Section 487(c)(1)(F) of the HEA, and that a teach-out plan is required;
 - (5) A state licensing or authorizing agency notifies the Managing Director’s Office that an institution’s license or legal authorization to provide an educational program has been or will be revoked;
 - (6) The Council or its Executive Committee ~~of the Council~~ determines that the law school is at risk of sudden closure, suspension, or ceasing of some or all of its operations because it is in financial distress, under governmental investigation, or facing other significant challenges.

...

- (f) The Council or its Executive Committee may require a law school to enter into a teach-out agreement as part of its teach-out plan if the law school will not be able to teach out its own students prior to its closure as a law school.
- (g) A law school must submit the “Teach-Out Plan Approval Form,” as adopted by the Council, and address each item in the form.
- (h) If the Council or its Executive Committee requires a law school to submit a teach-out agreement as part of a teach-out plan, the law school must submit the “Teach-Out Agreement Approval Form,” as adopted by the Council, and address each criterion in the form.
- (i) A law school is not permitted to serve as a teach-out law school if the law school is subject to the conditions of (b) or (c), or is under investigation, subject to an action, or being prosecuted for an issue related to academic quality, misrepresentation, fraud, or other severe matters by a law enforcement agency.
- (j) The Council or its Executive Committee may waive requirements regarding the percentage of credits that must be earned by a student at the law school awarding the J.D. if the student is completing a program through a written teach-out agreement or transfer.
- (k) The Council or its Executive Committee ~~of the Council~~ shall either approve or ~~deny~~ reject the teach-out plan submitted in accordance with (b) and (c).
 - (1) Approval of the teach-out plan may be conditioned on specified changes to the plan.
 - (2) If the teach-out plan is ~~denied~~ rejected, the law school must revise the plan to meet the deficiencies identified and resubmit the plan as directed, after receiving notice of the decision.

...

Revisions to Standard 311(c): Academic Program and Academic Calendar

Explanation: Law schools have frequently contacted the Managing Director’s Office regarding whether audited courses or joint degree courses count towards the 20 percent limit in Standard 311(c). This revision clarifies that any credits that count for the JD program are included in the 20 percent limitation.

Redline: Standard 311(c). ACADEMIC PROGRAM AND ACADEMIC CALENDAR

(c) A law school shall not permit a student to be enrolled at any time in coursework for credit in the J.D. program that exceeds 20 percent of the total credit hours required by that school for graduation.

Revisions to Standard 405(b): Professional Environment

Explanation: The current text of Standard 405(b) requires only “an established and announced policy with respect to academic freedom and tenure.” The revisions change the Standard to state that “a law school shall adopt, publish, and adhere to a policy with respect to academic freedom and tenure...”

Redline: Standard 405(b). PROFESSIONAL ENVIRONMENT

(b) A law school shall adopt, publish, and adhere to a ~~have an established and announced~~ policy with respect to academic freedom and tenure of which Appendix 1 herein is an example but is not obligatory.

Appendix A

U.S. Department of Education's Revised Distance Education Definition: CFR §600.2 (Effective 7/1/21)

Distance education:

- (1) Education that uses one or more of the technologies listed in paragraphs (2)(i) through (iv) of this definition to deliver instruction to students who are separated from the instructor or instructors and to support regular and substantive interaction between the students and the instructor or instructors, either synchronously or asynchronously.
- (2) The technologies that may be used to offer distance education include -
 - (i) The internet;
 - (ii) One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;
 - (iii) Audio conference; or
 - (iv) Other media used in a course in conjunction with any of the technologies listed in paragraphs (2)(i) through (iii) of this definition.
- (3) For purposes of this definition, an instructor is an individual responsible for delivering course content and who meets the qualifications for instruction established by an institution's accrediting agency.
- (4) For purposes of this definition, substantive interaction is engaging students in teaching, learning, and assessment, consistent with the content under discussion, and also includes at least two of the following -
 - (i) Providing direct instruction;
 - (ii) Assessing or providing feedback on a student's coursework;
 - (iii) Providing information or responding to questions about the content of a course or competency;
 - (iv) Facilitating a group discussion regarding the content of a course or competency; or
 - (v) Other instructional activities approved by the institution's or program's accrediting agency.
- (5) An institution ensures regular interaction between a student and an instructor or instructors by, prior to the student's completion of a course or competency -
 - (i) Providing the opportunity for substantive interactions with the student on a predictable and scheduled basis commensurate with the length of time and the amount of content in the course or competency; and
 - (ii) Monitoring the student's academic engagement and success and ensuring that an instructor is responsible for promptly and proactively engaging in substantive interaction with the student when needed on the basis of such monitoring, or upon request by the student.

Redline of Standard 206

Standard 206: Diversity, ~~and~~ Inclusion, and Equity

~~(a) Consistent with sound legal education policy and the Standards, a law school shall demonstrate by concrete action a commitment to diversity and inclusion by providing full opportunities for the study of law and entry into the profession by members of underrepresented groups, particularly racial and ethnic minorities, and a commitment to having a student body that is diverse with respect to gender, race, and ethnicity.~~

(a) A law school shall provide:

- (1) Full opportunities for the study of law and entry into the profession by members of underrepresented groups, particularly those related to race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, disability, and military status; and
- (2) An environment that is inclusive and equitable with respect to race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, disability, and military status.

~~(b) Consistent with sound educational policy and the Standards, a law school shall demonstrate by concrete action a commitment to diversity and inclusion by having a faculty and staff that are diverse with respect to gender, race, and ethnicity.~~

(b) A law school shall take effective actions that, in their totality, demonstrate progress in

- (1) Diversifying the student body, faculty, and staff; and
- (2) Creating an inclusive and equitable environment for students, faculty, and staff.

Interpretation 206-1

The requirement of a constitutional provision or statute that purports to prohibit consideration of ~~gender, race, ethnicity, or national origin~~ race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, disability, or military status in admissions or employment decisions is not a justification for a school's non-compliance with Standard 206. A law school that is subject to such constitutional or statutory provisions would have to demonstrate the ~~commitment~~ effective actions and progress required by Standard 206 by means other than those prohibited by the applicable constitutional or statutory provisions.

Interpretation 206-2

In addition to providing full opportunities for the study of law and the entry into the legal profession by members of underrepresented groups, the enrollment of a diverse student body has been proven to improve the quality of the educational environment of all students, and further prepares law students for competent practice by providing opportunities for cross-cultural understanding; dispelling stereotypes; and enabling students to better understand persons of different backgrounds. ~~promotes cross-cultural understanding, helps break down racial, ethnic, and gender stereotypes, and enables students to better understand persons of different backgrounds.~~ The forms of concrete action required by a law school to satisfy the obligations of this Standard are not specified. If consistent with applicable law, a law school may use race and ethnicity in its admissions process to promote diversity and inclusion. The determination of a law

school's satisfaction of such obligations is based on the totality of the law school's actions and the results achieved. The commitment to providing full educational opportunities for members of underrepresented groups typically includes a special concern for determining the potential of these applicants through the admissions process, special recruitment efforts, and programs that assist in meeting the academic and financial needs of many of these students and that create a favorable environment for students from underrepresented groups.

Interpretation 206-3

Effective actions and progress towards diversifying the student body may include, but are not limited to, the following activities:

- (1) Setting and publishing goals related to diversity and inclusion including threshold data disaggregated by race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, disability, or military status and tracking and reporting progress in meeting those goals over a period of years (i.e., three years);
- (2) Adopting and using pipeline programs to facilitate the recruitment, preparation, and enrollment of students from underrepresented groups;
- (3) Designing recruitment outreach for prospective students from underrepresented groups;
- (4) Initiatives designed to attract and matriculate students from underrepresented groups; and
- (5) Providing need-based or diversity scholarships to students.

The determination of a law school's satisfaction of such obligations is based on the totality of the law school's actions and results achieved.

Interpretation 206-4

Effective actions and progress towards diversifying the faculty (full-time and adjunct) and staff may include, but are not limited to:

- (1) Setting and publishing goals related to diversity and inclusion including threshold data disaggregated by race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, disability, or military status and tracking and reporting progress in meeting those goals over a period of years (i.e., three years);
- (2) Adopting and applying criteria for selection among candidates, using rubrics, targeting pool-building efforts designed to attract diverse pools, keeping pools open until they include a diverse group of qualified candidates, using standard questions to all candidates, and providing the same information to all candidates, including a full description of the hiring process.

The determination of a law school's satisfaction of such obligations is based on the totality of the law school's actions and results achieved.

Interpretation 206-5

Effective actions and progress towards creating an inclusive and equitable environment under this Standard may include, but are not limited to:

- (1) Periodic assessment of progress towards having an inclusive environment through quantitative and qualitative measures of campus climate and academic outcomes disaggregated by race, color,

ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, disability, or military status and reporting progress towards those goals;

- (2) The description of efforts towards inclusion and equity in outreach to potential students, faculty, and staff;
- (3) Support of affinity groups;
- (4) Diversity, equity, and inclusion training;
- (5) Provision of mentoring opportunities; and
- (6) Support of pro bono and externship opportunities that reflect a commitment to an inclusive and equitable environment.

The determination of a law school's satisfaction of such obligations is based on the totality of the law school's actions and results achieved.

Interpretation 206-6

To the extent that this Standard requires a religiously affiliated law school to provide an environment that is inclusive and equitable with respect to sexual orientation and gender identity or expression, the school is not required to act inconsistently with the essential elements of its religious values and beliefs provided that its actions are protected by the United States Constitution.