

June 7, 2011

To: Section of Legal Education and Admission to the Bar, Standards Review Committee

From: William D Goren, J.D., LL.M.

Subject: Suggested Comments for ABA Standards and Rules of Procedure for Approval of Law School (Standard)

I have been honored to participate in the working group with the ABA Commission on Physical and Mental Disability Law with respect to the standards of approval of law schools and making them so that they demand accessibility for persons with disabilities. My interest in this is both professional and personal. On the personal side, I am a deaf attorney that functions entirely in the hearing world through the use of lip reading and advanced hearing aids. I also use for other reasons voice dictation technology. On the professional side, I have been involved with the ADA as an attorney since 1990 and have presented and published extensively on this law. My book, *Understanding the Americans with Disabilities Act* published by the general practice and solo section of the American Bar Association, is now in its third edition and can be found at <http://www.abanet.org/abastore/index.cfm?section=main&fm=Product.AddToCart&pid=5150440> . I am also in charge of ADA compliance at South Suburban College, where I am also a Professor and the Paralegal Program Coordinator. More information about me can be found at [www.williamgoren.com](http://www.williamgoren.com) .

I am in full support with two small caveats of the comments submitted by the Commission on Mental and Physical Disability Law. First, with respect to section IV(a)(i), I believe the very last sentence of that particular section should read, "there should be no need for a law school to look into an applicant's disability history when determining his or her character and fitness with respect to being able to attend law school." My concern is that it is not the law school's job to determine the character and fitness of a person applying to law school with respect to whether they can get admitted to a State Bar. As governmental entities, the licensing boards of the various states are responsible for that and themselves are subject to title II of the Americans with Disabilities Act (*See* 42 U.S.C.A. § 12132). Of course, a law school has the right to decide who is the best applicant for its law school (that is the purpose of the "otherwise qualified," language that the commission submitted), but by making that decision, the law school should not be evaluating character and fitness with respect to being able to be an attorney licensed to practice law.

Second, there is an error with respect to footnote 9. That is, the cite to, "28 C.F.R. 1630.2(m)" is not correct. That citation should be 29 C.F.R. § 1630.2 (m), (o)(4). Also, otherwise qualified is a term found in title II, which applies to non-federal governmental entities, of the Americans with Disabilities Act as well. *See* 28 C.F.R. § 35.104. Finally, while otherwise qualified is not a term you see in title III of the Americans with Disabilities Act, nevertheless the concept still plays a role. *See PGA Tour Inc. v. Martin*, 532 U.S. 661 (2001)

If I can be of further help, let me know.

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\*My comments are written on my own behalf and are not to be construed as representing South Suburban College.