

No. 09/8-02

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION  
ASSEMBLY**

**RESOLUTION  
SUGGESTED REPEAL OF INTERPRETATION 305-3 OF THE STANDARDS FOR  
APPROVAL OF LAW SCHOOLS**

**RECOMMENDATION**

**BE IT RESOLVED**, that the ABA Law Student Division encourages the ABA Section of Legal Education and Admissions to the Bar, including the Section Council and the Standards Review Committee, to repeal Interpretation 305-3 of Standard 305 of the *Standards and Rules of Procedure for Approval of Law Schools*, which reads in its entirety:

A law school may not grant credit to a student for participation in a field placement program for which the student receives compensation. This Interpretation does not preclude reimbursement of reasonable out-of-pocket expenses related to the field placement.

## REPORT

Law students are facing an unprecedented financial strain during this time of economic turmoil. The cost of legal education has been rising steadily throughout the extended expansion of the legal market during the last thirty years. Beginning in the 1980s, law school tuition has consistently risen at a rate more than two times the rate of inflation.<sup>1</sup> Since 2002, tuition has continued to rise anywhere from five to fifteen percent a year.<sup>2</sup> In 2007, the average tuition at a private law school was \$32,367, and at public law schools, \$15,455.<sup>3</sup> When one includes books and living expenses, the overall annual cost of attendance is \$50,000 or more. As a result, many law students graduate today with over \$100,000 in debt, regardless of the rank of the school they attend.<sup>4</sup>

Moreover, tuition will likely continue to rise as the effects of the financial crisis become fully apparent. Nearly every school in the country is facing a significant decline in revenue because of decreased funding from state sources, declining endowments, and a drop in fundraising.<sup>5</sup> While part of these deficits can be made up in budget cuts, many schools have no choice but to raise tuition by double digit amounts.<sup>6</sup>

To make matters worse, these increases are coming at a time when the availability of student loans is increasingly precarious as a result of the credit crisis. Many private student lenders had already stepped away from the market after the College Cost Reduction and Access Act of 2007 decreased the percentage of private loans guaranteed by the government. Since then, the credit market has frozen, forcing more lenders out of the market and making it difficult for those that remain to raise capital.<sup>7</sup> Although the federal government has agreed to finance more loans itself, and President Obama has proposed that the government cease subsidizing private loans altogether in favor of a public-financing system.<sup>8</sup> Nonetheless, there are no guarantees that the public sector will continue to stomach costly subsidies to the legal profession, and public control of law student loans may carry some unpleasant strings that serve to restrict access.

Even if loans continue to be readily available, however, only a small percentage of law school graduates are in a solid position to pay back their loans. In 2007 the median salary of new graduates was \$62,000,<sup>9</sup> a level at which servicing debt loads over \$100,000 is, at best,

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1. Maimon Schwarzschild, *The Ethics and Economics of American Legal Education Today*, 17 J. CONTEMP. LEGAL ISSUES 3, 5 (2008); see also THE ABA COMMISSION ON LOAN REPAYMENT AND FORGIVENESS, *LIFTING THE BURDEN: LAW STUDENT DEBT AS A BARRIER TO PUBLIC SERVICE* 16 (2003) [hereinafter *LIFTING THE BURDEN*].

2. ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, *LAW SCHOOL TUITION 1985–2007* (2007), available at <http://www.abanet.org/legaled/statistics/charts/stats%20-%205.pdf>.

3. *Id.*

4. Schwarzschild, *supra* note 1, at 6; see also *LIFTING THE BURDEN*, *supra* note 1, at 17 n.7 (reporting the median student debt upon graduation in 2002 to be as high as \$84,400).

5. Karen Sloan, *Law schools dealing with budget cuts*, NAT'L L.J., Jan. 19, 2009; see also Amanda Bronstad, *Law school fundraising tightens*, NAT'L L.J., Oct 27, 2008.

6. *Id.* (reporting that Florida State University College of Law has proposed a fifteen percent increase in tuition for next year).

7. Doug Lederman, *Obama's Budget Blockbuster*, INSIDE HIGHER ED, Feb. 27, 2009, <http://www.insidehighered.com/news/2009/02/27/budget>.

8. *Id.*

9. Press Release, Nat'l Ass'n for Law Placement, *Market for New Law Graduates Up—Topping 90% for First Time Since 2000* (July 25, 2007), available at <http://www.nalp.org/marketfornewlawgraduatesup>.

difficult. Salaries are likely to decline in the current job market, even as debt loads rise, so this situation will not likely improve. Finally, some schools are considering paring back financial aid programs in response to the recession.<sup>10</sup> All of these trends suggest that, at least in the short term, legal education will become increasingly unaffordable for many students.

In these conditions, it is vital that the ABA Section of Legal Education and Admissions to the Bar consider ways of making law school more affordable for students. This resolution proposes that the Section reconsider a requirement of the Standards for Approval of Law Schools that limits a student's ability to finance his education by working while in law school. While preventing students from raising funds for their education, this restriction serves only a limited pedagogical purpose.

Interpretation 305-3 of Standard 305 prevents law schools from granting credit for any work for which a student also receives pay. Little supports this requirement outside of a vague academic formalism that students should not be paid for work applied toward their degree. But there is no reason why the educational value of a field placement should be compromised by paying students for the same work. Doctoral students frequently receive credit toward their degree for serving as teaching assistants, while also receiving a stipend for their services.

Some might object that employers will not want to provide pay for students receiving credit. Many employers currently employ law students in summer jobs, however, and allowing students to earn credit will not change their willingness. A recent editorial by a corporate counsel suggests that the need to control legal costs may push private sector employers to offer credit-granting jobs to students during the school year.<sup>11</sup> Even if these opportunities do not exist in great numbers, there is no reason to prohibit law schools from making the option available.

Certainly, the option could be abused if students were to gravitate solely to field placements for which they could be paid. But law schools can enact their own regulations to govern such experiences. Because there are some circumstances in which allowing students to receive pay for degree work is appropriate, an absolute ban on the practice unnecessarily burdens students seeking to finance a legal education.

## FINANCIAL REPORT

The adoption of this resolution entails no financial expense for the ABA/LSD.

Respectfully submitted,

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<sup>10</sup> See Sloan, *supra* note 5.

<sup>11</sup> Al Driver, *Help Law Schools Turn Out A Better Product: Reduce Corporate Legal Costs*, METROPOLITAN CORPORATE COUNSEL, Feb. 2009, available at <http://www.metrocorpcounsel.com/pdf/2009/February/20.pdf>.