

## CRITERIA FOR STUDENT STUDY AT A FOREIGN INSTITUTION

### Preamble

Standard 307 provides that a law school may not grant credit toward the J.D. degree for studies or activities in a foreign country unless those studies are approved in accordance with the Rules of Procedure and Criteria adopted by the American Bar Association's Council of the Section of Legal Education and Admissions to the Bar.

The three sets of Criteria approved by the Council provide a framework for law schools to grant students credit toward the J.D. degree for studies abroad. They seek to provide flexibility for a school to design programs and to permit study abroad consistent with the school's standards, culture and mission while maintaining a level of oversight of the school's program of legal education that is consistent with the role and scope of the Standards for the Approval of Law Schools.

These Criteria implicitly recognize that the primary responsibility for determining the quality of the educational experience that its students will receive during a study abroad experience rests on the faculty and administration of the law school.

The ABA's oversight role with regard to foreign study is important for at least two reasons. They provide assurance of a sound legal educational experience at a foreign institution that has not been reviewed for compliance with the Standards for the Approval of Law Schools, is distant from the student's home school, and operates in a legal culture quite different from our own. They also provide assurance of a sound educational experience in study abroad sponsored by approved law schools. This is significant because most law schools allow their students to enroll for credit toward the J.D. degree in a foreign summer or semester abroad program sponsored by other approved schools relying on the ABA review and approval process to assure the soundness of those programs.

### I. The Program

A. An ABA-approved law school may allow students to receive credit for law study at a foreign institution consistent with these Criteria.

1. A school that approves six or fewer students over a consecutive three-year period for study at a particular foreign institution shall file an annual report with the Consultant's Office identifying the students, institutions, courses taken, credit hours granted, grades received, and names of advisors at both the parent school and the foreign institution.
2. A school that approves 7 to 12 students over a consecutive three-year period for study at a particular foreign university, law school, institute or program shall:

- a. Have a formal written agreement with the foreign institution that details the number and qualifications of students and describes the selection process, academic and other advising (at both the parent school and the foreign institution), course selection, grading, evaluation, attendance, and other relevant matters;
  - b. File this report and amendments or renewals with the Consultant's Office; and
  - c. File an annual report with the Consultant's Office that identifies the students who participated in the program that year, courses taken, credit hours granted, grades received, and names of advisors at both the parent school and the foreign institution.
3. A school that approves more than 12 students over a consecutive three-year period for study at a particular foreign institution is engaged in a Cooperative Program and shall comply with the provisions of Section II below.
  4. The relevant three-year period is the three academic years prior to the current year. If a law school has exceeded the thresholds in subsections 1 and 2 above and wishes to send students to that foreign institution in the current year, then it must file the written agreement or apply for approval of a cooperative program by October 15 of the current academic year.
  5. The program or course of study approved for credit toward the J.D. degree must be related to the socio-legal environment of the country in which the foreign institution is located or have an international or comparative focus.
  6. A law school may not award credit for study at a foreign institution that does not comply with these Criteria.

#### B. The Parent School

1. The parent school must be a school that is approved by the American Bar Association.
2. Before approving any student's foreign study under these Criteria, the parent school shall develop and publish a statement that defines the educational objectives it seeks to achieve in allowing students to study abroad for credit toward the J.D. degree.
3. The parent school shall assume responsibility for approving course work and monitoring the study undertaken by any student who participates in a foreign study program. A faculty member or a law school administrator who has the training or experience to permit effective approval and monitoring of foreign study by law students may discharge this responsibility.

#### C. The Foreign Institution

1. The foreign institution will generally be one that is government sanctioned or recognized, if educational institutions are state regulated within the country; recognized or approved by an evaluation body, if such an agency exists within the country; or chartered to award first degrees in law by the appropriate authority within the country.
2. If the foreign institution does not award a first degree in law, then it shall provide assurances to the parent school that the quality of the educational experience that it can offer to a visiting student is at least equal to the experience that would be available to a student at such an institution in the country where that foreign institution is located. An institution that provides law training in a country to individuals who are graduates of institutions that award a first degree in law may be such an institution.
3. The foreign institution shall appoint an advisor for each student who shall effectively supervise and monitor the student's study at the institution. That advisor may be a faculty member at the foreign institution or a law school administrator at the foreign institution who has the training or experience to discharge this responsibility.
4. The foreign institution shall have faculty members who possess academic credentials and experience in the legal profession similar to those of faculty at the parent school.

#### D. Educational Program

1. Only students who have completed one year of full-time or part-time study and are in good standing at the parent school may participate in foreign study under these Criteria. The parent school may set additional academic requirements for foreign study under these Criteria.
2. The student's academic program must be approved in advance by the parent school. The student and the student's advisor shall develop a written plan to define the educational objectives a student seeks to achieve during a period of study abroad. That plan shall specify the methods to be used in evaluating the student's attainment of those objectives.
3. If the foreign study is not at an institution with which the parent school has a formal written agreement, then the parent school shall obtain written assurance from the foreign institution that the school's and the student's proposed educational objectives can be achieved at that institution.
4. The parent school shall review course materials and sufficient written work of the student to ensure that the program meets standards equivalent to those employed at the parent school.
5. The parent school shall assure that a student approved for foreign study under these Criteria is fluent in the language of instruction.

#### E. Academic Credit; Residency

1. Maximum credits toward the J.D. degree for all foreign study shall not exceed one third of the credits required for the J.D. degree at the parent school.
2. The granting of residency credit shall comply with the requirements of Standard 304.
3. An exception to the Standards relating to class minutes and length of program is inherent in these Criteria.
4. No credit shall be awarded for:
  - a. Activities such as visits to legal and government institutions except in instances in which the content of such activities is academic in nature and is related to the course in which the credit is awarded.
  - b. Externship placements (e.g., in a law firm, government office, or corporation).
  - c. Distance Education courses.

#### F. Fees

1. Any fee imposed by the parent school or the foreign institution shall be rationally related to the cost of administering the service for which the fee is charged.
2. The parent school shall make known to students any costs in addition to tuition that are charged by the foreign institution, including any fee that is charged for transferring or receiving credit earned at the foreign institution.

G. Upon receiving notification from the foreign institution of cancellation of a course in which a student had been approved to enroll under these Criteria, the parent school shall reexamine the student's study in light of the school's stated program for foreign study and the student's stated educational objectives for study abroad. The parent school shall determine whether the approved foreign study continues to satisfy those objectives.

H. Except as modified by these Criteria or by necessary implication, the ABA Standards for Approval of Law Schools, Council and Accreditation Committee Policies, and Rules of Procedure shall apply to study pursuant to these Criteria.

## **II. Cooperative Programs**

A. A law school that approves more than 12 students to study at a particular foreign institution in a three-year period as described in Section I.A.3. and 4. shall apply for approval of a Cooperative

Program in the current year prior to approving any additional students for foreign study at that institution.

B. Cooperative Program Agreement. The cooperative program shall be governed by a written agreement between the parent school and the foreign institution that is consistent with all sections of these Criteria.

C. Program Director

1. An on-site director who shall be responsible to both the parent school and the foreign institution shall direct the cooperative program at its foreign site. The director shall either be a member of the law faculty from either the parent school or the foreign institution or a full-time administrator at either the parent school or the foreign institution who has the training or experience necessary to discharge this responsibility effectively.

a. If the director is a faculty member or administrator from the foreign institution, the person shall have spent a substantial period of time in residence at an ABA-approved school and shall have visited the parent school and demonstrated familiarity with its academic program prior to application for approval of the cooperative program.

b. If the director is a faculty member or administrator from the parent school, that person shall have spent a substantial period of time in residence at the foreign institution prior to application for approval of the cooperative program.

c. If the director is a faculty member or administrator from the parent school, that person may not participate concurrently in another foreign program.

2. The director shall be provided with appropriate assistance including secretarial and student support services.

D. Cooperative programs shall include visits to legal institutions in the host country.

E. The foreign institution shall have library resources that are both accessible and adequate to meet the needs of students enrolled in the cooperative program. If course work to be undertaken by students in the program depends on access to U.S. legal materials, the parent school is responsible for making such materials available.

F. Students

1. Enrollment in the foreign segment of an approved cooperative program shall be limited to the parent school's own students. A cooperative program, however, may involve an exchange of students between the parent school and the foreign institution.

2. The number of students enrolled in the program shall not exceed the number appropriate to the academic content of the program, available facilities, the number and availability of faculty members, the administrative support structure, and any special educational programs or goals.

#### G. Physical Facilities

1. An administrative office or offices must be provided through which students may communicate effectively with staff and faculty.
2. Classrooms shall be adequate to provide meaningful communication and exchange between students and faculty.
3. Students shall be provided with adequate space for study.

#### H. Housing

1. If housing is made available by the program and it is significantly lower in quality, soundproofing, sanitation, or safety than housing normally used by law students in the U.S., the housing must be described and information must be provided regarding the cost of better quality housing in the same area.
2. If the cooperative program does not provide housing, information on the availability, approximate cost, and location of housing must be provided.

#### I. Cancellation, Termination, Material Change in a Cooperative Program

1. Upon receiving notification from the foreign institution of cancellation of a course in which a student had been approved to enroll under these Criteria, the parent school shall reexamine the student's study in light of the school's stated program for foreign study and the student's stated educational objectives for study abroad. The parent school shall determine whether the approved foreign study continues to satisfy those objectives.
2. If a cooperative program is subject to cancellation for insufficient enrollment or any other reason, the circumstance under which cancellation will occur must be disclosed in the application materials sent to prospective students. If the program is canceled, all money advanced by the student shall be refunded within twenty (20) days after the date of cancellation.

#### J. Disclosures

1. The following information must be published to each prospective registrant in a timely fashion, usually on a website for that purpose, in the initial announcement or brochure, or

in writing directly to prospective registrants, but, in any event, prior to the date when the student must commit or pay a nonrefundable deposit, whichever is earlier.

- a. Dates, location(s), description of the program and anticipated size of enrollment;
  - b. The nature of the relationship with the foreign institution other than the provision of facilities and minimal services;
  - c. The number of students who participated in the program the previous year and the number of visiting students from other U.S. law schools, if any;
  - d. If the foreign institution has visitors from non-U.S. law schools, the countries likely to be represented and the expected number of students from those countries;
  - e. Description of the curriculum available to the students and academic calendar of the foreign institution;
  - f. Requirements for student performance and grading methods;
  - g. Enrollment limitations, if any, on any courses offered and criteria for enrollment;
  - h. A statement that acceptance of any credit or grade for any course taken in the program is subject to determination by the parent school;
  - i. Descriptive biographies of the program director and the faculty of the foreign institution;
  - j. Name, address, telephone and fax number, if available, of an informed contact person at the parent school;
  - k. Complete statement of all tuition, fees, anticipated living costs, and other expected expenses;
  - l. The extent to which the country, city, and facilities are accessible to individuals with disabilities; and
  - m. Circumstances under which the program is subject to cancellation, what arrangements will be made in the event of cancellation and information regarding prior cancellations, if any.
2. If changes are made in any significant aspects of the cooperative program, those changes must be communicated promptly to any applicant who has paid a deposit or registered for the program, and an opportunity must be provided for that person to obtain a full refund of all fees paid.

## K. State Department and Travel Advisories

### 1. Consular Information Sheets

a. The parent school shall provide each student with the U.S. State Department Consular Information Sheet for any country in which the student will reside during study abroad; “Areas of Instability” must be included. If the Consular Information Sheet is revised during the program to announce an “Area of Instability” in the region in which the program is being conducted, the updated information must be distributed promptly to students.

b. If the program is held in an “Area of Instability” students must be permitted to withdraw upon learning that the site has been declared to be such an area. Students shall be refunded fees paid except for room and board payments utilized prior to the date the site was declared an “Area of Instability.”

### 2. Travel Warnings

a. If, prior to the commencement of a program, a U. S. State Department Travel Warning is issued for the country(ies) in which the program will be conducted, all registrants must be notified promptly of the warning and be given an opportunity to withdraw from the program. Students who withdraw shall receive a full refund of all monies advanced within twenty (20) days after withdrawal. In the event the program is canceled, students shall receive a full refund of all monies advanced within twenty (20) days after the cancellation.

b. If, during the course of a program, a U. S. State Department Travel Warning is issued for the country(ies) in which the program is being conducted, students must be notified promptly of the warning and given an opportunity to withdraw from the program. Students who withdraw must be refunded fees paid except for room and board payments utilized prior to the date of withdrawal. If the program is terminated, students shall be refunded fees paid except for room and board payments utilized prior to the date the Travel Warning is issued.

## **III. Procedures for Approval, Review and Monitoring of Cooperative Programs**

A. Established programs previously reviewed and approved by the Accreditation Committee will be reevaluated with a site visit every seven years.

### B. New Programs

1. A school or schools seeking to establish a new program must submit an application in the form required by the Consultant’s Office by October 1 of the year preceding the first

offering of the new program. The application shall contain the following information regarding the impact of the program on the sponsoring school:

- a. A statement of finances for the proposed program, including income and expenditures, and an assessment as to the degree to which funding for the program affects the program of the parent campus;
- b. The current accreditation status of the sponsoring school; and
- c. A statement of how the program relates to the academic program and mission of the sponsoring school.

2. On the basis of the written submission, the Accreditation Committee will determine whether to approve the program for its first year of operation.

3. If the Accreditation Committee grants approval, the program will be evaluated with a site visit during its first year of operation. The Accreditation Committee will then determine whether to approve the program for further operation on the basis of the site evaluation and written materials submitted by the school.

C. Approval after the first year, if granted, is effective for five years. If the program continues to be approved following that review, then the program will be subject to continuing review in accordance with paragraph A. above.

#### D. Monitoring of Approved Programs

If it is determined that a program is operating out of compliance with these Criteria, approval may be withdrawn by the Accreditation Committee.

1. To assist the Accreditation Committee in monitoring Cooperative Programs under
2. Section I.A.3. and Section II of these Criteria, a questionnaire shall be filed each year. New programs shall file a new program questionnaire by October 1. Approved programs shall file an annual questionnaire by October 1 and programs subject to a site visit shall file a site visit questionnaire by October 15.
3. The Accreditation Committee may ask for further information or direct a site visit of an approved program in any year where responses to the questionnaire suggest that the program is out of compliance with these Criteria or that the program has so substantially changed its focus or operation that its compliance with the Criteria cannot be determined without further information and, potentially, a site visit. Examples of actions or changes that might trigger this review include:
  - a. failure to timely file the annual questionnaire;

- b. submitting an incomplete questionnaire;
- c. number and nature of the concerns raised in the most recent review of the program;
- d. changes in the curriculum that significantly reduce the comparative or international focus of the program;
- e. continuing turnover in the administration of the program;
- f. significant change in the enrollment in the program; and
- g. a persistent pattern of complaints by students in the program regarding the quality of the educational experience or the administration of the program.