CURRIER EMAIL TO DEANS LISTSERV, JUNE 27, 2017

Deans,

We invite your cooperation in providing school-specific bar pass outcomes to the Council to inform its continuing work on Standard 316 (Bar Passage). This is voluntary, although we particularly encourage you to provide data if you have concerns about the impact of the proposed revisions to the standard on your school’s ability to operate in compliance with the accreditation standards.

Send the data on the form that is attached to this email to APSchoolResponses@americanbar.org. Please submit your data by September 1, 2017.

I understand that the Council intends to complete its review of this matter and to resubmit the standard to the ABA House of Delegates for a second time at the 2018 ABA Midyear meeting, although the information we are soliciting and the Council’s thinking on the matter might lead to a different result. This timeline requires the Council to finish its work and take action at its November 2-4, 2017 meeting in Boston. In advance of this meeting, the information that we gather will also be reviewed by the Standards Review Committee at its October 2017 meeting.

As you know, there were several revisions to Standard 316 adopted by the Council in October 2016 and reviewed by the House in February 2017. Basically, the revised standard requires a law school to report an ultimate bar pass rate of 75 percent of its graduates sitting for a bar exam within two years of graduation. Specifically, the revised standard:

- Shortens the measuring period for determining compliance from five years to two years.

  The Council had data showing that a very small number of bar takers persisted in taking a bar exam more than 4 times, which is roughly equivalent to the two-year measuring period approved by the Council. While individuals might continue to take the bar exam beyond two years, no school, this data shows, would be likely to improve its bar pass percentage for ABA compliance purposes in a meaningful way by a measuring period beyond two years.

- Eliminates the opportunity of a law school to comply based on a first-time pass rate that is within 15 percentage points of the first-time bar pass rate for ABA-approved law schools in the state, or the weighted average of the states for which a school reports results. (The other route to compliance in the present standard is an ultimate bar pass standard of 75 percent for three of the preceding five years.)

  The Council had data that supported this change. The data included the results of the LSAC Bar Passage Study (1998) and more recent studies in New York (2015), both of which found that no racial or ethnic group had an ultimate pass rate below 75 percent. From these data, the Council determined that the revised standard was consistent with the goal of having a more diverse profession. Finally, the Council was aware that the overall annual first-time bar pass rate for ABA-approved law school graduates nationally has generally exceeded 70 percent in the aggregate.
Although bar pass rates have declined in many states in recent years and passing rates and passing scores vary across the jurisdictions, the Council concluded that the aggregate first-time pass rates in recent years, data on persistence, and data on pass rates by racial and ethnic groups, support requiring a 75 percent ultimate pass rate in two years. Further, the Council concluded that the allowing a school to comply based on a first-time pass rate that was within 15 percentage points of a state passing rate was not consistent with its responsibility to students, the profession, and the public to assure that ABA-approved law schools have a rigorous program of legal education that prepares its students for admission to the bar (see Standard 301).

Much of the concern expressed in the discussions and formal debate on the revised standard at the ABA House of Delegates meeting in February 2017 focused on removing the opportunity to comply with the standard based on first-time pass rates that were within a certain differential from the state’s overall first-time ABA-approved law school graduates pass rate (currently 15 percentage points). These concerns were focused on (a) California, where first-time pass rates are low and the passing/cut score is high, and (b) historically minority-serving institutions, based largely on concerns about mission. Although some schools suggested that the revised standard establishing a fixed pass rate that must be met might be difficult for them to meet, they did not offer data about how their school would fare under the revised standard.

As you know, the ABA accreditation process does not currently and routinely collect “ultimate” bar pass information. Thus, the Council needs your cooperation to have this data in hand as it reviews the revisions that it previously adopted.

The two most recent cohorts who have had the two-year period that the revised standard uses to determine compliance are students who graduated in 2013 and 2014. That is the data we ask schools to gather and report. No doubt some of you already gather and maintain this data. Reporting whatever data you have is acceptable and helpful; but it is, of course, less helpful the larger the number of graduates for whom you have no information.

It is important to note that the Council’s responsibilities as an accreditor and approver of law school programs run not only to law schools, but, also and importantly, to students/graduates, the profession, the public, and the U.S. Department of Education.

Thank you for your assistance. If you have questions, you are welcome to call Bill Adams or me.

Regards,

Barry

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COPY OF SURVEY FORM SENT TO LAW SCHOOLS (JUNE 27, 2017)

SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR
AMERICAN BAR ASSOCIATION

Ultimate Bar Passage Survey, 2013-2014 Graduate Data

Please complete the following table for students who graduated from your law school in calendar years 2013 and 2014.

Report on Ultimate Bar Passage -- __________________________ (name of school)

<table>
<thead>
<tr>
<th>Calendar Year of graduation</th>
<th># of grads in calendar year</th>
<th>Grads who sat for a bar examination within two years of their date of graduation.</th>
<th># with no information</th>
<th># who did not take a bar within two years of graduation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td># of takers # who passed % that passed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
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</tbody>
</table>

For each year, the table is asking for:

A. Number of graduates in the calendar year
B. Number who sat for a bar examination within two years of their date of graduation
   Total number of takers
   Total number of passers
C. Number of graduates for that calendar year for whom no information is available
D. Number of graduates who did not take a bar examination within two years of their date of graduation

Note: The relevant opportunities to take the bar examination for different cohorts in a calendar year under the revised Standard 316 are:

Graduates in calendar year 2014:

Graduates in calendar year 2013:

Please submit no later than September 1, 2017. Send response to APSchoolResponses@americanbar.org