Fw: 2020-2021 standards process - 104

Giggetts, Stephanie <Stephanie.Giggetts@americanbar.org>
Mon 5/4/2020 12:31 PM
To: Kearin, Mary <Mary.Kearin@americanbar.org>
Mary,

Please add to folder for comments for the year.

Thanks,

Stephanie

From: Currier, Barry <Barry.Currier@americanbar.org>
Sent: Monday, May 4, 2020 12:23 PM
To: Gigges, Stephanie <Stephanie.Gigges@americanbar.org>
Cc: Adams, William <William.Adams@americanbar.org>; Pamela Lysaght <lysaghtp@gmail.com>
Subject: 2020-2021 standards process - 104

Stephanie,

Please think about whether a rewrite of Standard 104 would be appropriate, as you work on standards for the coming year.

Seems to me that it should be rewritten to take into account the other questionnaires we now have and to recognize that there is no SEQ anymore, really, just the self-study.

It might say:

A law school shall complete and submit all questionnaires, the self-study, and other information required by the Council. The information shall be complete, accurate and not misleading. The information shall by in the form, manner and time frame specified by the Council.

There may be a need to think about some additional language somewhere here, rather than back in Chapter 5 requiring that the law school shall assure that any information that it publishes is accurate, etc. - a sort of consumer protection provision. Right now, that obligation is sort of a combination of 104 - which, narrowly, only refers to questionnaires, and 509 - which relates to information not being misleading to an applicant.

What we probably really need is something that requires that any information published by the law school about the law school's JD program - which would include admissions, faculty, outcomes (graduation, but also career services, etc.), and student data (e.g., borrowing) - be accurate, complete and not misleading - generally - not just to applicants or potential applicants.

I'm thinking here about the reports we hear every year about misleading or false data being submitted to US News, stuff on the school website that is general advertising - not necessarily specifically targeted to admissions.

As we become more of a consumer protection agency, which we are, might be good to think through what obligations we want to impose on schools and make clear our claim of authority to play this role.
Thanks. This has been on a to-think-about list for a long time..... At least the first piece - clarifying 104 is probably a good thing to think about doing soon.

Barry

__________________
Barry A. Currier I Managing Director Emeritus
ABA Section of Legal Education and Admissions to the Bar
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Message to the Penn State Law community on concrete action steps to make progress in advancing our commitment to an inclusive, welcoming environment and to actively working on antiracism and on addressing racist violence, police brutality, and racial profiling.

Dear Members of the Penn State Law Community,

I am grateful for the leadership of BLSA and SBA, and for our Black students, faculty, staff, and alumni sharing their experiences, concerns, and insights. We have been listening and hearing with the goal of allyship and amplifying voices.

The BLSA and SBA leadership, Dean Ferguson, Dean Purvis, Professor Wadhia, the Diversity Committee, and other student, faculty, staff, and alumni leaders have helped us translate that listening into concrete action steps (below). We have already begun moving forward on all of them, and are committed to making progress.

We welcome feedback and will continue to listen and refine these action steps over time. We are committed to an inclusive, welcoming environment and to actively working on antiracism and on addressing racist violence, police brutality, and racial profiling.

Best,

Hari

Messaging and Communication

• Improving Penn State Law Website: Reworking PSL webpage on Diversity, Equity and
Inclusion to include information and resources; creating a prominent link to those pages on the PSL website front page; updating News and Events; listing diversity scholarships on Admitted Students page. Also, adding information to Facebook pages

• Developing an open letter that can be signed by students, faculty, staff, and alumni, and also exploring a faculty resolution

Training, Transparency and Accountability

• Following up on concerns raised about faculty, classroom behavior, and incidents in classes

• Exploring possibilities for greater transparency about discrimination complaints. I have heard the concern and am exploring with the university what, if anything, is possible given the legal and confidentiality constraints.

• Reworking orientation for the fall—shifting speakers based on feedback, adding implicit bias training, and creating a feedback process

• Developing and delivering survey for faculty, staff, and students to measure belonging in addition to climate surveys

• Developing and implementing bias training for faculty, staff, and students. We have received suggestions of potential trainers and are figuring out how it should be structured.

• Continuing to work on our processes around faculty and staff hiring to ensure equal opportunity and foster diversity

Curriculum

• Adding new courses and adding to existing courses opportunities for meaningful engagement with the interface of law, race, and social justice

• Creating a privilege simulation in collaboration with the College of Education using the Restorative Justice Initiative’s reentry simulation as a model

• Establishing a course and/or workshop that creates opportunities for pro bono work to
assist efforts by NGOs and others to address racial violence, police brutality, and racial profiling. We are collaborating to develop a new multi-law-school clinic/center on police accountability, and also to exploring other course/workshop opportunities at Penn State Law.

• Developing a Concentration in Race, Law, and Equity (currently before Curriculum Committee)

Student Inclusion & Support

• Establishing a George Floyd Memorial Scholarship. With gratitude to Dean Engle for committing to a gift to launch this scholarship, I am also committing to contribute to this scholarship and actively fundraise to build it. We are developing the details and will have more information in coming days.

• Expanding our faculty Diversity Committee (which will be headed by our Assoc Dean for Diversity, Equity, and Inclusion) to include staff and students. Three rotating student representatives – including all affinity group leaders over the course of the academic year – will participate. Ad hoc meetings will be scheduled as needs arise.

• Establishing a monthly check in process with affinity group leaders with the Associate Dean for Diversity, Equity, and Inclusion
I think the best thing Penn State Law can do is to reshape our understanding of the Graham Standard. I believe grand juries and trial juries are equating reasonable officer with reasonable person. Everyone focuses on the reasonable part. I think we should be focusing on the officer part of "reasonable officer."

We should be litigating based on the amount of training officers get on excessive force. An of
Dear Bill and Mary,

Not sure if it’s necessary, but per the recent call for input on issues related to the ABA Standards and Rules of Procedure for Approval of Law Schools that the Council might consider during the 2020-2021 year, I am resubmitting the joint letter (see attached) that the ABA Diversity and Inclusion Center and its constituent Goal III entities submitted on February 21, 2020 (see email attached).

The joint letter respectfully requests that the Council consider revising the language of Standard 206 to ensure that it is fully inclusive of all the diversity categories set forth in the ABA’s Goal III. Please let us know if you have any questions. Thank you, Pedro

Pedro Juan Windsor Jr., Esq.
Managing Director

ABA Center for Diversity and Inclusion in the Profession
American Bar Association | 321 North Clark Street | Chicago, IL  60654
T: 312.988.5279 | M: 312.841.6900
www.americanbar.org

MEMORANDUM

DATE: April 6, 2020

TO: Interested Persons and Entities
FROM: Diane F. Bosse, Council Chair
Scott Bales, Council Chair-Elect
William E. Adams, Jr., Managing Director of Accreditation and Legal Education

RE: Standards Review 2020-2021 Agenda

The Council welcomes ideas and suggestions regarding issues related to the ABA Standards and Rules of Procedure for Approval of Law Schools that the Council might consider during the 2020-2021 year.

The Standards Review Subcommittee of the Council will submit a memorandum to the Council in July with its suggestions for matters the Council might address.
The Council will consider all recommendations at its August 2020 meeting and will set the 2020-2021 agenda.

Please submit your suggestions to Mary Kearin, mary.kearin@americanbar.org by Friday, May 1, 2020.

Thank you.

__________________

William E. Adams, Jr. | Managing Director, Accreditation and Legal Education
ABA Section of Legal Education and Admissions to the Bar
321 N. Clark St., 21st Floor | Chicago, IL 60654 312.988.5103
william.adams@americanbar.org
Dear Chair Bosse,

On behalf of Pat Lee, ABA Diversity and Inclusion Center Chair, and the Chairs of its constituent Goal III entities, please find attached our joint letter respectfully and collectively requesting that the Council of the Section on Legal Education and Admissions to the Bar consider revising the language of Standard 206 of the ABA’s Standards and Rules of Procedures for Approval of Law Schools to ensure that it is fully inclusive of all the diversity categories set forth in the ABA’s Goal III. Best, Pedro

Pedro Juan Windsor Jr., Esq.
Managing Director

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February 21, 2020

Diane Bosse
Special Counsel
Hurwitz & Fine, P.C.
424 Main St. #1300
Buffalo, NY 14202

Re: Standards Review 2019-2020 Agenda (Standard 206)

Dear Chair Bosse,

On August 16, 2019, the ABA Diversity and Inclusion Center (Diversity Center) and its constituent Goal III entities—the Coalition on Racial and Ethnic Justice; Commission on Disability Rights; Commission on Hispanic Legal Rights and Responsibilities; Commission on Racial and Ethnic Diversity in the Profession; Commission on Sexual Orientation and Gender Identity; Council for Diversity in the Educational Pipeline; and Commission on Women in the Profession—respectfully requested that the Council of the Section on Legal Education and Admissions to the Bar take up again revising the language of Standard 206 of the ABA’s Standards and Rules of Procedures for Approval of Law Schools to ensure that it is fully inclusive of all the diversity categories set forth in the ABA’s Goal III.

Currently, Standard 206 speaks to a law school’s commitment to diversity and inclusion by having a student body, faculty, and staff that are “diverse with respect to gender, race, and ethnicity.” This language excludes sexual orientation, gender identity, and disability—underrepresented diversity groups that are the focus of the Commission on Sexual Orientation and Gender Identity’s and the Commission on Disability Rights’ diversity and inclusion work.

Following the August 16 request, the Diversity and Inclusion Center and each of its constituent Goal III entities, at their respective Fall 2019 business meetings, discussed and reached a consensus on the following proposed and recommended revisions to the Standard’s language:

**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, gender identity, sexual orientation, and disability.
(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, gender identity, sexual orientation, and disability.

We welcome your thoughts regarding our proposed revisions to Standard 206 and look forward to a dialogue regarding the Council’s review of these proposals. Please feel free to contact Patricia D. Lee, Chair, ABA Diversity and Inclusion Center at pdlee1121@gmail.com, or Pedro Windsor at pedro.windsor@americanbar.org should you have any questions or need further information from the Goal III entities.

Sincerely,

Patricia D. Lee, Chair, ABA Diversity and Inclusion Center

Matthew Archer-Beck, Chair
Council for Diversity in the Educational Pipeline

Denise R. Avant, Chair
Commission on Disability Rights

Helen Kim, Chair
Commission on Racial and Ethnic Diversity in the Profession

Victor Marquez, Chair
Commission on Sexual Orientation & Gender Identity

Lillian Moy, Chair
Coalition on Racial and Ethnic Justice

Richard Pena, Chair
Commission on Hispanic Legal Rights & Responsibilities

Stephanie Scharf, Chair
Commission on Women in the Profession

cc: Barry Currier, Managing Director, ABA Section of Legal Education and Admissions to the Bar; Alpha M. Brady, Senior Associate Executive Director and Chief Governance Officer.
June 30, 2020

Diane F. Bosse, Council Chair
Scott Bales, Council Chair-Elect
William E. Adams, Jr., Managing Director of Accreditation and Legal Education
Council of the Section of Legal Education and Admissions to the Bar
ABA Section of Legal Education and Admissions to the Bar
321 N. Clark Street, 21st Floor
Chicago, IL 60654
Via email: mary.kearin@americanbar.org

Dear Ms. Bosse, Mr. Bales, and Mr. Adams:

On behalf of the ABA Commission on Lawyer Assistance Programs, The National Task Force on Lawyer Well-Being, and the ABA Law Student Division, we write in response to your invitation requesting suggestions for the Standards Review Committee’s (SRC) consideration for its 2020-2021 agenda regarding issues relating to the ABA Standards and Rules of Procedure for Approval of Law Schools (the Standards). We thank you for the opportunity to make these recommendations. For the reasons outlined in this letter, we are requesting that your memorandum to the Section’s Council address the issues we raise and include our recommended revisions to the ABA Standards on Legal Education.

Background:

Law students are experiencing significant challenges in the areas of substance use (including alcohol) and mental health. These needs were confirmed with the publication of Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns (the “Law Student Survey”) by Jerome Organ, David Jaffe and Kate Bender in the Journal of Legal Education (2016). In the same year, a separate study documented the similar challenges that attorneys, and particularly young attorneys, were confronting in the profession.¹ The data from the study, attached to this letter, shows that only 15% of law students could recall alcohol and other drug education and a lower average of mental health topics. Throughout this time period, national media coverage of some high-profile deaths from suicide has continued to dramatize the urgent and compelling need for action.

¹ The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys (the “Hazelden Study”) (P.R. Krill, R. Johnson, & L. Albert, 10 J. Addiction Med. 46 (2016).
In response to these serious and well-documented trends, a national task force of relevant stake-holders convened to discuss next steps. Those deliberations resulted in *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* (August, 2017). This comprehensive report, available at [www.lawyerwellbeing.net](http://www.lawyerwellbeing.net), outlines an ambitious agenda for institutional changes throughout the legal profession.

ABA policy supports the goal of reducing mental health and substance use disorders and improving the well-being of lawyers, judges and law students. At the 2018 ABA Midyear Meeting, the House of Delegates adopted Resolution 105, urging stakeholders to consider the recommendations of the National Task Force Report. These recommendations include the following proposals directed to law schools:

**30. INCLUDE WELL-BEING TOPICS IN COURSES ON PROFESSIONAL RESPONSIBILITY.**

Mental health and substance use should play a more prominent role in courses on professional responsibility, legal ethics, or professionalism. A minimum of one class session should be dedicated to the topic of substance use and mental health issues, during which bar examiners and professional responsibility professors or their designee (such as a lawyer assistance program representative) appear side-by-side to address the issues. Until students learn from those assessing them that seeking assistance will not hurt their bar admission prospects, they will not get the help they need.

**31. COMMIT RESOURCES FOR ONSITE PROFESSIONAL COUNSELORS.**

Law schools should have, at a minimum, a part-time, onsite professional counselor. An onsite counselor provides easier access to students in need and sends a message to the law school community that seeking help is supported and should not be stigmatized. Although the value of such a resource to students should justify the necessary budget, law schools also could explore inexpensive or no-cost assistance from lawyer assistance programs. Other possible resources may be available from the university or private sector.

The idea of mandatory law school education on substance use and mental health is not a new concept. The Ohio Lawyer Assistance Program, together with the Ohio Supreme Court’s Board of Commissioners on Character & Fitness, Office of Disciplinary Counsel and the Law Dean’s Conference, enacted Ohio Gov. Bar R. I Sec. 3(E)(2). This rule requires that the Dean’s Certificate for each applicant include a specific certification the applicant has completed at least one hour of education on substance use. Specifically, the rule requires:

(E) At least thirty days before the date fixed for the examination, the applicant shall submit all of the following:

(1) A certificate signed by the dean or associate dean of the applicant’s law school certifying that the applicant has received a law degree, has sufficient knowledge and ability to discharge the duties of an attorney at law, and has successfully completed a course of not fewer than ten classroom hours of instruction in legal ethics;
(2) A certificate from a law school or a continuing legal education sponsor, certifying that the applicant has received at least one hour of instruction on substance abuse, including causes, prevention, detection, and treatment alternatives. Substance abuse instruction that is provided by a continuing legal education sponsor qualifies under this section only if it has been accredited by the Commission on Continuing Legal Education as an approved activity under Gov. Bar R. X. ²

The Ohio LAP worked with the Ohio Supreme Court’s Board of Commissioners on Character and Fitness, Office of Disciplinary Counsel, and the Law Dean’s Conference, to get this rule enacted. The Ohio LAP provides about 90% of the presentations on this subject matter in the professional responsibility classes in all Ohio law schools. Ohio’s LAP includes the mental health aspects in their trainings. We understand that the training has been very effective as the LAP “usually get two or three inquiries from students within the first week” or so after the presentations. This anecdotal data supports our contention that introducing substance use and mental health education to law students can result in appropriate interventions during law school and create a foundation for accessing needed resources in law school and in later professional life.

Proposal:

This is the third time in three years that we write to the Council requesting an explicit recognition of the priority of substance use and mental health education in all American law schools. Our plea is only more urgent in light of the changed reality of the COVID pandemic. We know that our law students, already demonstrating significant issues with depression and anxiety, are only more vulnerable at this time. The Center for Disease Control and Prevention notes that “fear and anxiety about a disease can be overwhelming.” ³ Providing resources and tools for understanding substance use and mental health challenges and developing skills for resilience and mindfulness are critical at this time for all students and future lawyers. We ask that the Council recognize the primacy of these issues and articulate them in the ABA Standards.

Specifically, we respectfully request that the Council of the Section of Legal Education and Admission to the Bar the following proposals:

(1) Amend Standard 302 to articulate professional well-being as a fundamental learning outcome;
(2) Urge by an Interpretation to Standard 303 that two hours in the Professional Responsibility course be dedicated to education on substance use and mental health;
(3) Ensure that law school student services as defined in Standard 508 include the substance use and mental health counseling desperately needed on every campus in this era.

The Commission on Lawyer Assistance Programs works with state and local lawyer assistance programs around the country whose mission is to serve lawyers, judges, and law students who are struggling with alcoholism, substance and mental health challenges. Many LAPs around the country are already working closely with law schools to provide needed education and counseling. Many law

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² See, http://www.supremecourt.ohio.gov/LegalResources/Rules/govbar/govbar.pdf#Rule1

schools are working closely with central University Counseling Centers to provide on-campus services, and in some instances have hired dedicated staff to provide on-site services. These revisions require that every law school have a plan to address these needs but would not necessarily require the expenditure of additional funds.

We believe it is essential that this course coverage be mandatory for two reasons:

(1) Law students typically shun these types of courses for fear of the stigma attached, or that attendance will impact upon their grades, ability to sit for the bar, or their future career prospects. Students also avoid this type of class for fear that others will infer from their attendance that they “have a problem.” Mandating as part of the professional responsibility class coverage of mental health and substance use disorder education will remove any such stigma and ensure that law students become more mindful about their own personal well-being, advocate for the wellness of their colleagues, understand the factors involved and possess the resources to know when and where to seek assistance, and ensure that as they become lawyers, they remain mentally, physically, and emotionally competent to serve their clients and our system of justice; and,

(2) Well-being has been linked to improved academic performance, including higher scores on standardized testing, improvement of study habits, homework submission, better grades, higher bar pass rates, and long term academic success. A requirement that all students have basic training on these subjects will help law students increase their overall performance and satisfaction during their academic and professional careers.\(^4\)

Task Force members, working with multiple sections of the American Bar Association and the Conference of Chief Justices, continue to advocate for institutional change on many fronts, including the bar admission process, continuing legal education requirements, law firm leave policies, and burdens faced by the judiciary. At a time when the entire profession is moving forward on this national agenda for Lawyer Well-Being, we urge the Council to take action on these proposed revisions.

Sincerely,

Bree Buchanan, Chair
ABA Commission on Lawyer Assistance Programs/National Task Force on Lawyer Well-Being

Tish Vincent, Chair-Elect
ABA Commission on Lawyer Assistance Program

Johnnie Nguyen, Chair
ABA Law Student Division
University of Colorado Law School

Ayat Nizam, Chair-Elect
ABA Law Student Division
University of Detroit Mercy Law School

Proposed Changes to the ABA Standards for Approval of Law Schools
Submitted on Behalf of the ABA Commission on Lawyer Assistance Programs,
the National Task Force on Lawyer Well-Being, and the ABA Law Student Division

Standard 302. LEARNING OUTCOMES
A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:
(a) Knowledge and understanding of substantive and procedural law;
(b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;
(c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and
(d) Other professional skills needed for competent and ethical participation as a member of the legal profession including the tools needed to promote personal and professional well-being.

Standard 303. CURRICULUM
(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:
   (1) one course of at least two credit hours in professional responsibility that includes substantial instruction in rules of professional conduct, and the values and responsibilities of the legal profession and its members;
   (2) one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty supervised; and
   (3) one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or a field placement as defined in Standard 304.

Interpretation 303-5

Mental health and substance use should play a more prominent role in the required course on professional responsibility. A minimum of two hours should be dedicated to the topic of substance use and mental health issues, during which professional responsibility professors collaborate with lawyer assistance program representatives, bar examiners or other qualified bar representatives to address the issues.

Standard 508. STUDENT SUPPORT SERVICES
A law school shall provide all its students, regardless of enrollment or scheduling option, with basic student services, including maintenance of accurate student records, academic advising and counseling, financial aid and debt counseling, substance use and mental health counseling, and career counseling to assist students in making sound career choices and obtaining employment. If a law school does not provide these student services directly, it shall demonstrate that its students have reasonable access to such services from the university of which it is a part or from other sources.
To: Scott Bales, Chair, Council of the American Bar Association’s Section of Legal Education and Admissions to the Bar  
William E. Adams, Jr., Managing Director of Accreditation and Legal Education  
From: Clinical Legal Education Association  
Re: Standards Review 2020-2021 Agenda  
Date: June 30, 2020

The Clinical Legal Education Association (“CLEA”), the nation’s largest association of law professors, submits to the Council of the American Bar Association’s Section of Legal Education and Admissions to the Bar (“the Council”) the following proposals for consideration by the Standards Review Subcommittee during the 2020-2021 year.

Proposal #1: Increase transparency of decision-making by providing meaningful opportunities for affiliates to observe Standards Review Subcommittee meetings.

CLEA urges the Council, once again, to increase the transparency of the deliberations of the Council and its Standards Review Subcommittee. As we enter the third year of the consolidated Council structure, we want to note that the Council’s open sessions have grown exceedingly perfunctory, suggesting that all real deliberations occur in previously-held closed sessions. In addition, the Council’s affiliates continue to be shut out of all Standards Review Subcommittee deliberations. If affiliates are to serve their function and collaborate effectively with the Council as it reviews and revises the Standards, these sessions must not take place exclusively behind closed doors.

In a joint statement submitted to the Council in February 2019, CLEA and the Society of American Law Teachers (SALT) shared their concerns about the lack of transparency and collaboration with affiliates in the Council’s decision-making process. As described in that joint statement, a lack of transparency existed even before the Standards Review Committee was consolidated into the Council. Prior to consolidation, open sessions were limited, but since the reorganization, no open sessions of the Standards Review Subcommittee have occurred.

While we appreciate that the Council intends to invite affiliates to participate in roundtable discussions on several potential Standards changes, these conversations cannot take the place of the ability to observe the Standards Review process. We have been told by Council members that most of the work of the Standards Review Subcommittee is conducted by telephone and email, prior to the short open sessions of Council meetings. Since the onset of the COVID 19 crisis, we all have come to rely on remote forms of communication, such as the zoom videoconferencing used by the Council during its May 2020 meeting. At a minimum, affiliates could join such sessions as silent observers.

We urge the Council to conduct more of its deliberations in open session. More specifically, we encourage the Standards Review Subcommittee to incorporate open sessions into its agenda. Only in this way can affiliates participate in any meaningful way in the work of the Council.
Proposal #2: Amend Standard 304 to clarify that in field placement courses both faculty members and site supervisors have obligations to supervise and to provide feedback to students.

CLEA believes two aspects of Standard 304 should be revised, for the purpose of conveying the principle that both faculty members and site supervisors are responsible for (1) student supervision and (2) providing feedback to students.

304(a)(4) currently states that experiential courses must “provide opportunities for student performance, self-evaluation, and feedback from a faculty member, or, for a field placement, a site supervisor....” (Emphasis added.)

CLEA proposes that this language be changed to “or, for a field placement, a faculty member and, for work performed at the placement, a site supervisor.”

304(d) currently states: “A field placement course provides substantial lawyering experience ... under the supervision of a licensed attorney or an individual otherwise qualified to supervise...” (Emphasis added.)

CLEA proposes that this language be changed to “under the supervision of a faculty member and, at the placement, under the supervision of a licensed attorney or an individual otherwise qualified to supervise...”

The proposed language more accurately reflects the true nature of the relationships among students, faculty members, and site supervisors in field placements. The supervision and feedback that the faculty member offers the student is distinct from that provided by the site supervisor, but it is nevertheless a critical component of the faculty member’s role.

In 2018, when the Council was in the process of streamlining Standards 303 and 304, CLEA proposed that Standard 304 include the following language: “A field placement course provides direct supervision of the student’s performance by a faculty member and site supervisor.” CLEA noted at that time that including the requirement of direct supervision of student performance by a faculty member would emphasize the need for instruction, supervision, and feedback on student performance from faculty.

Moreover, other portions of Standard 304 reflect the recognition that both site supervisors and faculty members have obligations related to feedback and supervision. In particular, Standard 304(d)(i) provides that each field placement must include “a written understanding among the student, faculty member, and a person in authority at the field placement that describes both (A) the substantial lawyering experience and opportunities for performance, feedback and self-evaluation; and (B) the respective roles of faculty and any site supervisor in supervising the student and in assuring the educational quality of the experience for the student, including a clearly articulated method of evaluating the student’s academic performance...” Modifying the language in 304(a)(4) and 304(d), as CLEA has proposed, will ensure consistency.
Proposal #3: Amend Standard 303(a)(3) to require every J.D. student to complete the equivalent of at least 15 credit hours of experiential coursework.

For many years now, CLEA has continually supported a 15 credit hour requirement for experiential courses, defined as law clinics, field placements, and simulation courses. As we have noted previously, every other profession requires that at least one quarter, and up to one half, of a graduate’s pre-licensing education be in role in supervised professional practice, and a majority further require a period of post-professional school apprenticeship before licensing. The professional education training and licensing of lawyers falls far behind other professions. Judged by comparison, fifteen credits of law school education, which amounts to about one sixth of a law student's total credit hours, is a modest requirement.

This proposal to increase the experiential coursework requirement to 15 credit hours comes at crucial time, a time like no other in the history of the legal profession. CLEA recognizes that the coronavirus pandemic has changed the course of legal work, perhaps for good. Court hearings, client meetings, and practice group meetings are being held remotely. Attorneys now more than ever need to hone their technological skills, as well as their skills for working collaboratively and effectively remotely. If law students are not exposed to this new world of remote legal work, they will not be prepared to hit the ground running after passing the bar.

In addition, the pandemic is causing gross economic problems in many communities and the need for legal services, especially free legal services, is growing every day. This period of time presents a unique opportunity for law students in externships and clinic to fill the growing need for legal services in underserved communities, while being trained in all the new aspects of legal work.

Finally, the growing movement to defund the police and other antiracist reforms in our justice system in reaction to the police murder of George Floyd and many other murders of unarmed black people across the country demands a different approach to legal education. If institutions of legal education do not respond quickly and effectively, we are complicit in the continuation of systemic oppression in our system. Now more than ever is the time to enable students to perform legal work on behalf of Black clients, low income clients, and community groups working for justice on behalf of marginalized groups. Expanding the experiential credit hours requirement will increase opportunities for law students to be exposed to these issues and encourage students to jump in and use their legal skills to effectuate change.
To: Diane F. Bosse, Council Chair  
Scott Bales, Council Chair-Elect  
William E. Adams, Jr., Managing Director of Accreditation and Legal Education  

From: Josh Camson, Chair  
ABSA Standing Committee on Professionalism  

CC: ABA Standing Committee on Professionalism  
Theresa Gronkiewicz, Professionalism Counsel  

Date: June 23, 2020  

Re: Standards Review Committee (SRC) 2020-2021 Agenda  

As Chair of the ABA Standing Committee on Professionalism (Professionalism Committee), I am writing in response to your invitation requesting suggestions for the Standards Review Committee’s consideration for its 2020-2021 agenda regarding the ABA Standards and Rules of Procedure for Approval of Law Schools (the Standards). Thank you for your important work and for the opportunity to make these recommendations.

The Professionalism Committee’s mission is to “promote principles of professionalism, including integrity, competence, fairness, independence, courage, respect for the legal system and a devotion to public service” within the entire legal community, including law schools. Many authors refer to these qualities and skills as a lawyer’s professional identity.¹ Over 20 years ago, the Conference of Chief Justices recognized in its 1999 landmark report that:

Professionalism is a much broader concept than legal ethics...professionalism includes not only civility among members of the bench and bar, but also competence, integrity, respect for the rule of law, participation in pro bono and community service, and conduct by members of the legal profession that exceeds minimum requirements.²

At the core of our Committee’s mission is the reality that these professionalism qualities and skills which make up a lawyer’s professional identity can be taught and built upon through experiential learning. Although incivility and a lack of professionalism in the legal system have multifactorial causes, it is vital that law school curriculums include content that focuses on, and nourishes, the formation and development of the lawyer’s professional identity. A failure to do so helps contribute to the dissatisfaction that plagues our profession. Incivility is considered to be one of

² A NATIONAL ACTION PLAN ON LAWYER CONDUCT AND PROFESSIONALISM (adopted January 21, 1999 by the Conference of Chief Justices).
the largest reasons for dissatisfaction within the profession. Incivility and disenchantment with the legal profession contributes to the high incidence of substance abuse, mental health issues and early career changes. Disenchantment with the profession may have roots within our law schools. Research suggests that law students are among the most dissatisfied, demoralized and depressed of any graduate student population. We have learned more about the importance of professionalism. An extraordinary amount of work and development of key resources have occurred recently, and most prominently by the ABA, that reveals the close relationship between professionalism and attorney well-being. As set forth in The Path to Lawyer Well-Being, Practice Recommendations for Positive Change, law schools are a key stakeholder in developing solutions:

We recommend that all stakeholders develop and enforce standards of collegiality and respectful engagement. Judges, regulators, practicing lawyers, law students, and professors continually interact with each other, clients, opposing parties, staff, and many others. Those interactions can either foment a toxic culture that contributes to poor health or can foster a respectful culture that supports well-being. Chronic incivility is corrosive. It depletes energy and motivation, increases burnout, and inflicts emotional and physiological damage. It diminishes productivity, performance, creativity, and helping behaviors.

With our Committee’s mission in mind, and the profession’s increased understanding of the important role of professionalism, we respectfully request that the Council of the Section of Legal Education and Admissions to the Bar consider the two proposals set forth below regarding Standards 303 and 304.

1. **Standard 303(b)(3)**

(b) A law school shall provide substantial opportunities to students for:

(3) developing their professional identity [developing their professionalism] including integrating their personal values with their ethical responsibilities, and promoting the integrity of, and respect for, the legal profession.

The Professionalism Committee has advocated for inclusion of the term “professional identity” to the SRC for the Standards in previous years. Although we believe the term succinctly embraces the qualities and skills referenced above, we provide the alternative of “developing their professionalism” set forth in brackets if the SRC believes the former term to be ambiguous.

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4 THE PATH, supra at 35.

5 THE PATH, supra at 15.
2. **Standard 304(a)(1)**

(a) Experiential courses satisfying Standard 303(a) are simulation courses, law clinics, and field placements that must be primarily experiential in nature and must:

(1) Integrate doctrine, theory, skills, legal ethics, and professional identity formation [professionalism], and engage students in performance of one or more of the professional skills identified in Standard 302;

As with our recommendation on Standard 303, we submit the concept is best conveyed by “professional identity formation,” but provide the substitute of “professionalism” if the SRC deems the former term to be ambiguous.

Standard 302 already recognizes that professionalism and ethics are not the same:

(c) Exercise of proper professional and ethical responsibilities to clients and the legal system;

(d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

Professionalism principles, qualities and skills should be taught and integrated throughout law school curricula and extra-curricular activities, not just relegated to ethics courses centered on teaching the Rules of Professional Conduct. Experiential learning as set forth in Standards 303 and 304 is the appropriate setting to allow students to more fully develop their practical legal skills within the formation of a professional identity to help confront and resolve the many professional dilemmas they will face with opposing counsel, the courts, clients, and the public.

Many scholarly writings and extensive empirical research demonstrate that the integration of personal and professional values into a well-formed and thoroughly internalized identity is critical to a lawyer’s exercise of professional judgment and professional responsibility. In outlining the third apprenticeship, “professional identity” as a necessary and important component of a legal education, the Carnegie Report concluded that legal education “needs to combine the elements of legal professionalism-conceptual knowledge, skill and moral discernment-into the capacity for judgment guided by a sense of professional responsibility.”\(^6\) The National Organization of Bar Counsel (NOBC) *Law School Professionalism Initiative Report*, in addressing the Carnegie’s third apprenticeship, determined that “all law schools should develop professionalism plans reflecting their specific criteria and measurements for instilling professional values in their students.”\(^7\)

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Beginning the process of developing the lawyer’s professional identity in law school is key to help minimize dissatisfaction later in a lawyer’s career. In the 2015 study conducted by Krieger and Sheldon, What Makes Lawyers Happy? A Data-Driven Prescription to Redefine Professional Success, the authors state:

These thousands of lawyers, in other words, on average had only a very slightly positive sense of their peers and the legal system that provides their livelihood.

These results suggest that there is much room for improvement in the professionalism of judges and lawyers.

But fundamentally, this large sample of professionals has a positive view of neither the justice in the justice system nor the professional behavior of professionals in the system – a very troubling finding and a call to action for legal educators and bar leaders.  

If the Council believes that an interpretation would be helpful to explain what the addition of “professional identity” or “professionalism” in Standard 303 is meant to achieve, the Professionalism Committee suggests the following proposed interpretation:

**Interpretation 303-5**

Law students are guided in the development of their future professional identity as lawyers by assuming the role of a lawyer in actual and/or simulated experiences. These experiences should be designed to assist students to integrate their personal values and judgment with the professional rules of conduct and the practice of law, and conform their conduct not only to the ethical rules, but also the personal values they embrace. Professionalism includes qualities and skills such as integrity, competence, civility, fairness, independent judgment, courage, respect for the legal system, recognizing the importance of diversity and equity in promoting a just society and a devotion to public service.

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Dear Ms. Kearin, Mr. Adams, and Ms. Giggetts:

I sent you an email yesterday requesting that the Standards Review Subcommittee consider my request for the appointment of a committee to look into what the ABA can do to ensure that law school curriculums include bias and cultural competency training. I reread my email this morning and see that it contained a few typographical and editing errors. I have corrected and am hereby resubmitting my request.

Please accept this email as a replacement for the one I sent you yesterday. Please share this one with your committee.

Thank you.

REVISED EMAIL:

Dear Ms. Kearin:

My name is Kimberly Norwood and I teach at Washington University School of Law. I am also a Commissioner on the ABA Commission on Racial and Ethnic Diversity in the Profession. I am writing you today to seek guidance on establishing a task force that would explore the possibility of a mandatory course for all law students dealing with bias and cultural competency issues. As you know, the ABA has recently been very vigilant in the bias area. We now have Resolution 113 encouraging law firms to include lawyers of color on projects that will advance the economic development of the lawyers; we have a Resolution supporting bias instructions to jurors; we require diversity on ABA panels; we recently revised Model Rule 8.4 to include ethical accountability for bias conduct; we have passed a Resolution asking states that have mandatory CLE requirements to include a bias component to those programs. We have taken great steps to begin the work of bias and culture exposure, education
and accountability with our lawyers. But we have overlooked our law students and our law schools.

This matter of how lawyers should engage with each other, other officers of the court, judges, their clients, parties and trial witnesses, jurors, how they hire and recruit, evaluate and promote, decide which cases to take, what arguments to make, and more all include important ethical issues that need to be discussed and explored. We should no longer wait until the law student becomes a lawyer and then hope they get an hour of CLE training in bias. Issues of harmful implicit biases and cultural competence are issues we need to be talking about before one becomes a lawyer. It should be part and parcel of what it means to be an officer of the court and a public servant.

Part of the professional training to become a lawyer, then, must include exposure to bias issues that are pervasive in every single facet of our lives. We can no longer pretend that the law is simply the law; that justice is blind. We absolutely know that is not the case. We do a disservice to our profession and to society by pretending that race, ethnicity, gender, gender identity, sexual orientation, age, disability, and socioeconomic status do not matter as to who is recruited, hired, mentored, taken on as clients, believed on a witness stand, and how law is ultimately shaped in given cases and ultimately in systems and institutions.

In addition to a mandatory course that every law school student would have to take, I also believe that part of the task force’s purview might be to consider a standard that would strongly encourage law professors to weave relevant bias related issues in their pedagogical course coverage. Boston University recently held a conference on the importance of this very issue. See: http://www.bu.edu/law/2019/12/12/racial-bias-disparities-and-oppression-in-the-1l-curriculum/. It was powerful! Imagine, for example, property classes that simply do not discuss the most earliest form of property ownership in our country—chattel slavery; or torts classes that do not explore the difference in damage awards based on lost wages & discussing the racial inequities fueling the vastly different amounts that might be awarded to a White male 5 year old v. a Black male 5 year old; or criminal law courses that do not mention the
issues surrounding how communities are policed, school to prison pipelines, and mass incarceration. Take a look at the link above. It provides an example of the ways in which race and other relevant-to-outcome qualities are either removed from course discussion or simply ignored, maybe just not discussed because not known. Law faculty do harm to students, albeit unconsciously in many cases, by not including these important issues to the discussion. They absolutely influence “the law.” We know this. Yet we continue to advance the narrative that justice is blind. We do harm teaching our students that message.

Please advise of the process I would need to follow to properly request that a task force be appointed to study this issue. I would happily serve on that committee. I have taught an Implicit Bias course in my law school now for about 4 years. The course is widely popular, and students have shared in their evaluations the necessity of this material being brought to the front burner and made an integral and important component of legal training. And yet, only a handful of law schools offer this course. None make it mandatory. I am told that seventy five percent of medical schools require bias training/exposure in their medical school curriculums. We are nowhere near this.

We, the legal profession, often lag behind other professions in accepting science and in advancing innovative concepts that can improve our standing in the community and our advocacy and service as officers of the court. We have recognized the importance of bias exposure for lawyers. We have finally accepted the reality that biases are real and that they can unknowingly interfere with judgment and decision making. This makes instruction in law school on these issues vital to how we think about facts, cases, research, opinions, and conclusions. Bias exposure and training are crucial to the proper development of the legal professional. We must get involved at the education level and not simply wait until the person has already become the public servant before engaging in the conversation. This is a matter of values.

What do we value? I ask law firms in my bias work this question regularly. Are grades all that matter? Why? Why isn’t diversity also highly valued? We see this discussion around neighborhoods and schools. Studies of people looking
for great neighborhoods and great schools almost never list diversity as a component of greatness. It just doesn’t make the cut. Why? These are common mistakes that result from a void in our value system. By definition, if you are a member of a diverse society, then nothing should be considered great if it is not diverse. Same for law schools. We are not doing a great job when we ignore important matters on diversity and inclusion as if they somehow have nothing to do with the law.

We have begun some good work with lawyers. I strongly believe it is now time to turn our attention to law students and law schools. I hope you agree.

Thank you for your time. Excited to hear your thoughts.

KIM
Hoping this email finds you and your family safe and in good health.

“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.” Margaret Mead

Kimberly Norwood (she, her, hers)
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Check out my books Color Matters: Skin Tone Bias & the Myth of a Postracial America and Ferguson’s Fault Lines: The RaceQuake That Rocked A Nation.

From: Giggetts, Stephanie <Stephanie.Giggetts@americanbar.org>
Sent: Tuesday, June 30, 2020 2:07 PM
To: Norwood, Kimberly <norwood@wustl.edu>; Kearin, Mary <Mary.Kearin@americanbar.org>; Adams, William <William.Adams@americanbar.org>
Subject: Re: Bias/Cultural competence course

Professor Norwood,

You have followed the proper process and do not need to submit your request to anyone else in the Section. The Standards Review Subcommittee will be reviewing the submissions that were due today in the next couple of weeks.
Best,

Stephanie
FW: SUPPLEMENT TO MY JUNE 30 proposal; 154 law school Deans and others in support of ABA Anti-Bias Initiative Letter Submitted to the Council of the ABA Section of Legal Education and Admissions to the Bar

Norwood, Kimberly <norwood@wustl.edu>
Wed 7/29/2020 9:39 PM
To: Giggetts, Stephanie <Stephanie.Giggetts@americanbar.org>

1 attachments (164 KB)
ABA Bias, Cultural Awareness, and Anti-Racist Practices Education and Training Letter 7.29.20 FINAL.pdf;

Ms. Giggetts:

I sure hope this email finds you and your family safe and sound. Would you please supplement my proposal with this email and attachment. I was able to get over 150 Deans of ABA accredited law schools on board with my suggestion. Many agree that we don’t even need a task force per se. Of course, your committee could study these issues on its own and make recommendations to the Council. Many of the Deans and I are happy to supplement the record to the extent you deem necessary or beneficial.

Thank you for your time and energy.

Happy Annual!!!!!!!!! I bet the virtual experience will be wonderful! I have attended several large events virtually this year and they have been wonderful. Who knew!

Be well.

“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.” Margaret Mead

HOPING THIS EMAIL FINDS YOU & YOUR FAMILY SAFE AND HEALTHY!

Kimberly Norwood (she, her, hers)

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Check out my books Color Matters: Skin Tone Bias & the Myth of a Postracial America & Ferguson’s Fault Lines: The RaceQuake That Rocked A Nation.

https://outlook.office.com/mail/AAMkAGYyYmEyZjYzLTAiOGYxNDBzMi1hYjg1LWRhNDkxMzQwODc1MyUAAAADAVs18CkzUYSqw0PKb8GgKQpB...
From: Onwuachi-Willig, Angela <aow@bu.edu>
Sent: Wednesday, July 29, 2020 8:55 PM
To: Adams, William <William.Adams@americanbar.org>
Cc: Camille Nelson <canelson@wcl.american.edu>; Erwin Chemerinsky <echemerinsky@LAW.BERKELEY.EDU>; Norwood, Kimberly <norwood@wustl.edu>; Onwuachi-Willig, Angela <aow@bu.edu>
Subject: ABA Anti-Bias Initiative Letter Submitted to the Council of the ABA Section of Legal Education and Admissions to the Bar
Importance: High

Dear Bill,

We are writing to submit this letter on behalf of 154 signatories, including ourselves, the deans and a dean designate of 146 other law schools, an additional 3 dean designates among these 146 law schools, a dean emerita, and the National Bar Association through its President Alfreda Robinson. Many thanks for your time and attention to this matter. Please let us know if you have any questions or concerns.

Sincerely,
Deans Camille Nelson, Angela Onwuachi-Willig, and Erwin Chemerinsky

SUBMITTED LETTER (ALSO ATTACHED)

Dear Members of the Council of the ABA Section of Legal Education and Admissions to the Bar:

Preparing law students to be lawyers requires that they should be educated with respect to bias, cultural awareness, and anti-racism. Such skills are essential parts of professional competence, legal practice, and being a lawyer. We believe that every law school should develop such training and education for its students.

The American Bar Association mandates the minimum requirements that every law school must meet, though often it is left to individual law schools to decide how to implement these obligations. We believe that the ABA should require, or at least consider requiring, that every law school provide training and education around bias, cultural competence, and anti-racism. That said, we do not believe that the specific content of such training and education should be mandated by the American Bar Association; instead, we believe such work should be left to each law school to decide for its students.

We therefore collectively urge the Council to charge the Standards Review Subcommittee to study and consider enacting a requirement that every law school must provide training and education of its students with regard to bias, cultural awareness, and anti-racist practices. We are in a unique moment in our history to confront racism that is deeply embedded in our institutions, including in the legal profession, and we hope that the Council will take this important first step.

Sincerely,
Alicia Ouellette
President and Dean
Albany Law School

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Outgoing Dean and Professor of Law
American University Washington College of Law &
Dean Designate and Professor of Law
University of Hawai’i William S. Richardson School of Law

Robert D. Dinerstein
Professor of Law and Acting Dean
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Justice (ret.) Elizabeth A. McClanahan
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Dean and Arnold H. Leon Professor of Law  
University of Virginia School of Law

Mario L. Barnes  
Toni Rembe Dean and Professor of Law  
University of Washington School of Law

Margaret Raymond  
Dean  
University of Wisconsin Law School

Chris Guthrie  
Dean and John Wade-Kent Syverud Professor of Law  
Vanderbilt Law School

Thomas McHenry  
President and Dean  
Vermont Law School

Mark C. Alexander  
Arthur J. Kania Dean and Professor of Law  
Villanova University Charles Widger School of Law
Jane, H. Aiken  
Dean and Professor of Law  
Wake Forest Law School  

Carla Pratt  
Dean and Professor of Law  
Washburn University School of Law  

Brant T. Hellwig  
Dean of the School of Law  
Washington and Lee University  

Nancy Staudt  
Dean and Howard & Caroline Cayne Distinguished Professor of Law  
Washington University School of Law-St. Louis  

Richard A. Bierschbach  
Dean and Professor of Law  
Wayne State University Law School  

John E. Taylor  
Interim Dean and Jackson Kelly Professor  
West Virginia University College of Law  

Sudha Setty  
Dean and Professor of Law  
Western New England University School of Law  

Allen K Easley  
Dean and Professor of Law  
Western State College of Law at Westcliff University  

James McGrath  
President and Dean & Professor of Law  
Western Michigan University Thomas M. Cooley Law School  

A. Benjamin Spencer  
Dean and Chancellor Professor  
William & Mary Law School  

Brian Gallini  
Dean and Professor of Law  
Willamette University College of Law  

Heather K. Gerken  
Dean and  
Sol & Lillian Goldman Professor of Law  
Yale Law School  

National Bar Association  
President Dean Alfreda Robinson
Angela Onwuachi-Willig  
Dean and Professor of Law  
Boston University School of Law  
Room 1102E  
765 Commonwealth Ave., Boston, MA 02215

Boston University School of Law
From: Russell Kane <rkane964@aol.com>
Sent: Friday, April 24, 2020 8:02 AM
To: ABA Service Reply <reply@americanbar.org>
Subject: Fwd: Standards Review 2020-2021 Agenda Recommendation

There needs to be some CLE webinars on Standard 311.

Russell Kane

-----Original Message-----
From: Russell Kane <rkane964@aol.com>
To: mary.kearin@americanbar.org <mary.kearin@americanbar.org>
Sent: Fri, Apr 24, 2020 8:17 am
Subject: Fwd: Standards Review 2020-2021 Agenda Recommendation

D. Redline of Recommended Changes to Standard 311 Standard 311. ACADEMIC PROGRAM AND ACADEMIC CALENDAR (a) A law school shall require, as a condition for graduation, successful completion of a course of study of not fewer than 83 credit hours. At least 64 of these credit hours shall be in courses that require attendance in regularly scheduled classroom sessions or direct faculty instruction.

***MY TAKE: THIS SAYS "DIRECT FACULTY INSTRUCTION." WHY CAN'T THAT INCLUDE ZOOM? Goes without saying. Will this be a reasonable accommodation under ADA for medically-at-risk law students?

Russell Kane

-----Original Message-----
From: Russell Kane <rkane964@aol.com>
To: Mary.Kearin@americanbar.org <Mary.Kearin@americanbar.org>
Sent: Fri, Apr 24, 2020 8:00 am
Subject: Re: Standards Review 2020-2021 Agenda Recommendation

I wanted to ask the ABA to consider a variance for those who want to go to law school, but are unable to do so in person during this coronavirus pandemic due to medical conditions that are beyond their control. For instance, I'm a type one diabetic with severe asthma. If a law school opens up its campus to in-person classes, I will effectively be shut out unless the ABA allows that law school to provide remote classroom viewing until a vaccine is administered, rendering me safe to go out in public again. There are many people like me among students, faculty, and staff. Please seriously consider this.
Thank you,

Russell Kane

-----Original Message-----
From: Kearin, Mary <Mary.Kearin@americanbar.org>
To: Russell Kane <rkane964@aol.com>
Sent: Fri, Apr 17, 2020 12:46 pm
Subject: Re: Standards Review 2020-2021 Agenda Recommendation

Mr. Kane,

Thank you also for the blog link (prawfsblawg) concerning a call for a virtual summit on online legal education. It will be taken into consideration.

Sincerely,
Mary

Mary E. Kearin
Administrative Assistant
American Bar Association
Section of Legal Education
& Admissions to the Bar
321 N. Clark St., 19th Floor
Chicago, IL 60654
T: (312) 988.5084
E-mail: mary.kearin@americanbar.org
Visit us on the web: www.americanbar.org/legaled

From: Russell Kane <rkane964@aol.com>
Sent: Wednesday, April 15, 2020 2:08 PM
To: Kearin, Mary <Mary.Kearin@americanbar.org>
Subject: Re: Standards Review 2020-2021 Agenda Recommendation
https://prawfsblawg.blogs.com/prawfsblawg/2020/04/a-call-for-a-virtual-summit-on-online-legal-education.html

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On Monday, April 13, 2020, Kearin, Mary <Mary.Kearin@americanbar.org> wrote:

Mr. Kane,
Thank you for submitting your suggestion to our attention for consideration.

My regards,
Mary

Mary E. Kearin
Administrative Assistant
American Bar Association
Section of Legal Education & Admissions to the Bar
321 N. Clark St., 19th Floor
Chicago, IL 60654
T: (312) 988.5084
E-mail: mary.kearin@americanbar.org
Visit us on the web: www.americanbar.org/legaled

From: Holmes, Beverly <Beverly.Holmes@americanbar.org>
Sent: Monday, April 13, 2020 8:54 AM
To: Kearin, Mary <Mary.Kearin@americanbar.org>
Subject: Standards Review 2020-2021 Agenda Recommendation

Good Morning,
Here is a recommendation related to the ABA Standards and Rules of Procedure for Approval of Law Schools the Council might consider during the 2020-2021 year.

Beverly R. Holmes
Section of Legal Education
And Admissions to the Bar
321 N. Clark Street
Chicago, IL 60654-7598
T. 312-988-6738
www.americanbar.org/legaled

-----Original Message-----
From: no-reply@americanbar.org <no-reply@americanbar.org>
Sent: Sunday, April 12, 2020 11:24 AM
To: ABA Member Service <service@americanbar.org>
Subject: Distance learning#

First Name: Russ
Last Name: Kane
Company: null
Email: Rkane964@aol.com
Phone Number:
Message: You need to loosen up your regulations about online JD programs whether they be fully online or 70/30. This is the future after COVID-19. Please catch up.
Thanks.
Dear Mary,

I respectfully ask the Council to reconsider the prohibition on counting any coursework taken prior to enrolling in a JD degree, towards a JD degree. It would be nice if a student who takes classes at the graduate level (not undergraduate) could "try out" law classes before enrolling in a JD. This might be a student enrolled in one of a Law School's MA programs, or could just be a non-degree student taking classes part time while deciding whether to enroll in the full degree program. While schools might put various limitations in place and to which courses would count, it would be nice to have this option available.

Thank you,
Jessica

On Mon, Apr 6, 2020 at 12:59 PM Clark, JR <JR.Clark@americanbar.org> wrote:

MEMORANDUM

DATE: April 6, 2020
TO: Interested Persons and Entities
FROM: Diane F. Bosse, Council Chair
Scott Bales Council Chair-Elect
William E. Adams, Jr., Managing Director of Accreditation and Legal Education
RE: Standards Review 2020-2021 Agenda

The Council welcomes ideas and suggestions regarding issues related to the ABA Standards and Rules of Procedure for Approval of Law Schools that the Council might consider during the 2020-2021 year.

The Standards Review Subcommittee of the Council will submit a memorandum to the Council in July with its suggestions for matters the Council might address.

The Council will consider all recommendations at its August 2020 meeting and will set the
2020-2021 agenda.

Please submit your suggestions Mary Kearin, mary.kearin@americanbar.org by Friday, May 1, 2020.

Thank you.

__________________
William E. Adams, Jr. | Managing Director, Accreditation and Legal Education
ABA Section of Legal Education and Admissions to the Bar
321 N. Clark St., 21st Floor | Chicago, IL 60654 312.988.5103
william.adams@americanbar.org

Thank you for your continued interest in this list. To unsubscribe, email LEAP-DEANS-UNSUBSCRIBE-request@mail.americanbar.org. If you have any issues, contact the ABA staff list owner(s) via email: LEAP-DEANS-request@mail.americanbar.org.

The purpose of this discussion is to enable individuals to share and exchange their personal views on topics and issues of importance to the legal profession. All comments that appear are solely those of the individual, and do not reflect ABA positions or policy. The ABA endorses no comments made herein.

--
Jessica Berg, JD, MPH
Dean, School of Law
Tom J.E. and Bette Lou Walker Professor of Law
Professor of Bioethics & Public Health
Case Western Reserve University
School of Law
11075 E. Blvd
Cleveland, Ohio 44106
216-368-6363
Fax -2086
From: Russell Kane
To: Kearin, Mary
Subject: Fwd: Standards Review 2020-2021 Agenda Recommendation
Date: Friday, April 24, 2020 7:17:49 AM

D. Redline of Recommended Changes to Standard 311 Standard 311. ACADEMIC PROGRAM AND ACADEMIC CALENDAR (a) A law school shall require, as a condition for graduation, successful completion of a course of study of not fewer than 83 credit hours. At least 64 of these credit hours shall be in courses that require attendance in regularly scheduled classroom sessions or direct faculty instruction.

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Mary

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Administrative Assistant
American Bar Association
Section of Legal Education & Admissions to the Bar
321 N. Clark St., 19th Floor
Chicago, IL 60654
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Sent: Sunday, April 12, 2020 11:24 AM  
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First Name: Russ  
Last Name: Kane  
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Email: Rkane964@aol.com  
Phone Number:  
Message: You need to loosen up your regulations about online JD programs whether they be fully online or 70/30. This is the future after COVID-19. Please catch up. Thanks.
RE: Call to Suspend ABA Standard 316, Bar Passage

Dear Ms. Bosse and Members of the Council:

We write on behalf of the Society of American Law Teachers [SALT] to encourage the Council to suspend ABA Standard 316, Bar Passage, in light of the COVID-19 disruptions to the 2020 bar exam nationwide.

ABA Standard 316 requires “at least 75 percent of a law school’s graduates in a calendar year who sat for a bar examination must have passed a bar examination administered within two years of their date of graduation.” As a graduate’s bar passage from any state applies towards that school’s ultimate bar passage rate, Standard 316 presumes as well as relies upon stable, predictable, and regular administrations of the bar exam in all jurisdictions.

The COVID-19 global pandemic has caused significant disruption to the administration of the bar exam nearly everywhere. Approximately one-half of the jurisdictions have announced cancellations or alterations to their regularly scheduled bar exam dates for 2020 and/or to its format. Some jurisdictions have also created new rules prioritizing exam takers based upon the geographic location of their law schools or their state of residency or domicile. Yet others instituted first-come first-served rules, which penalize test takers hoping to adapt to the sudden impact of being de-prioritized by applying to a new jurisdiction for the exam at this late date in the cycle.

The National Conference of Bar Examiners (NCBE) reflects the same level of disruption. On April 3, 2020, the NCBE announced making additional sets of exam materials available for two alternative bar exam dates in September 2020, as well as the previously scheduled July exam date, for states who delayed their July exams or decided to offer an additional administration in the fall in the event they must limit seating for the July exam. Based upon the significant number of jurisdictions canceling their summer exams, many jurisdictions were awaiting confirmation by the NCBE regarding the true availability of a July exam before making any final decisions in individual states. On May 5, 2020, the NCBE announced the plan to make its exam materials, MBE, MEE, and MPT, available to those jurisdictions that choose to administer an exam in July 2020.
At the time of the NCBE’s announcement, 19 jurisdictions had announced their intention to cancel or postpone the July bar exam. Other jurisdictions either plan to go ahead with the July exam or have not yet made a decision. Even for jurisdictions that decided to move forward with a July exam relying on the NCBE’s recent announcement have also announced changes to test site locations, test site conditions and requirements. Some require that out-of-state applicants traveling from out-of-state for the exam self-quarantine for 14-days prior to the start of the examination.

Because COVID-19 has created an uncertain environment for nearly every test taker of the 2020 bar exam across the United States, suspension of Standard 316 is a reasonable accommodation and should be adopted. Inevitably every law school will have graduates adversely impacted by the pandemic which, based on no individual fault, endangers their bar passage. Law graduates will have faced unprecedented challenges in the months leading up to the exam, whether the impacts be medical, financial, or otherwise. In this climate, overall bar passage rates will bear no relation to the quality of the graduates or their respective law schools. The rates will reflect the impact that COVID-19 disruptions had on the bar takers personally. These impacts are also more acute in regions particularly hard hit by the virus, such as Washington, New York, California, and Illinois. Additionally, the pandemic data has shown that COVID-19 has affected certain racial groups disproportionately and more severely than others. Thus, law schools with high percentages of graduates disproportionately impacted for whatever reason would be unfairly measured by Standard 316 without a suspension of the rule.

Suspension of Standard 316 is consistent with the determination made by many law school faculties throughout the country that adjusted their traditional grading rules this Spring 2020 due to the pandemic. One school articulated: “During a time of pandemic, the need to differentiate students’ accomplishments and aptitude remains important; however, at the same time, there are valid concerns that grades this semester would serve to differentiate students not on their exam performance but on the extent their lives have been affected by the COVID-19.” Another law school stated: “Although all of our students will be under pressure, some students will feel it more intensely. Students from disadvantaged backgrounds are likely to have the hardest time . . . and thus would be at a special disadvantage during exams. . . . Some will have obligations to family and distractions . . . . Some will face anxiety about the wellbeing or even survival of loved ones.” The varied burdens and impacts associated with taking the bar exam during the pandemic eliminates any meaning the passage rate would normally have.

The bar passage scores for 2020 will not measure the quality of the academic institutions of those bar takers and thus should not limit the accreditation for any law school. For these reasons, SALT calls on the Council to suspend rule 316.

Submitted on behalf of the Society of American Law Teachers by

Catherine M. Grosso
Co-President
José R. (Beto) Juárez Jr.
Co-President

cc: William E. Adams, Managing Director
Move the employment reporting status date to June 15.

Currently, law school employment statistics are reported to the ABA and NALP based on graduates’ employment status on March 15 for students who graduated during the prior academic year. Presumably, this date is intended to record employment status for traditional graduates from the prior May who will have had one chance to sit for a bar and subsequently find employment. The date is nearly, but not quite, far enough into the next year to also record the status of graduates who sit for a February bar exam.

The March 15 date is inconsistent with the implied reasoning of Standard 316 because it only records employment of graduates resulting from passing one administration of the bar exam. Graduates passing and obtaining employment following the second attempt will not be recorded. Standard 316 recognizes that law schools are successful when some graduates require more than one administration of the bar exam to pass. Because revised Standard 316 allows graduates to sit for and pass a bar exam within a time period that traditionally covers four administrations, it seems logical that the census date for employment reporting should allow for at least two administrations of the exam. To accomplish this, we simply propose extending the reporting date by three months.

While it is understandable that employment data should not be so far removed from graduation as to lose its relevance or meaning, it is equally or more important that it also reflect accurately the employment outcomes of graduates. Limiting reporting to first time passers reduces the extent to which the statistics accurately reflect outcomes and is otherwise inconsistent with revised Standard 316. Indeed, publication of already-obsolete statistics that do not reflect the actual employment situation of graduates is misleading.

Further, because of the “snapshot” approach of ABA and NALP employment reporting, no further changes to employment statistics are made after the initial census date. This means that students who require more than one administration of the bar exam to pass are never counted. Law schools with a higher percentage of students passing on their second administration have fixed and unrepresentative employment statistics forever attached to a given group of graduates. Naturally, it would be impractical to constantly update employment data, but an extension of the census date by a few months to minimize the problem is both practical and reasonable.