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**Standard 505(f)**

I write to propose an amendment of Standard 505(f) as now drafted by the Standards Review Committee. I suggest that Standard 505(f) return to the more flexible approach that the standards once held towards the granting of advance standing and credits towards the JD for law studies undertaken abroad. I consider this to be one very critical issue that the current standards review process faces. I hereunder explain my views:

As we know, Standard 308 provided that:

**Advanced standing and credit allowed for foreign study shall not exceed one-third of the total required by the Standards for the first professional degree unless the foreign study related chiefly to a system of law basically followed in the jurisdiction in which the admitting school is located; and in no event shall the maximum advanced standing and credit allowed exceed two-thirds of the total required by the Standards for the first professional degree.**

As such, the Standard allowed schools to assess the profile of applicants coming from abroad and, upon such evaluation, tailor the course of study appropriate for completion of the ABA-regulated JD, provided that advance standing did not exceed two thirds of the requirements for such JD and that the studies undertaken abroad “related chiefly” to the system of law in which the admitting school operates. In my view, the more restrictive stance of current Standard 507(b), and proposed Standard
505(f), runs against the trends and demands of the times and leads to the growth and consolidation of the current inconsistencies in the ways to access the profession in the United States. In my view, it is time to put this matter back on the right track.

In its current form, Standard 507(b) establishes that:

**Advanced standing and credit hours granted for foreign study may not exceed one-third of the total required by an admitting school for its J.D. program.**

As anticipated, the adoption of the actual language of Standard 507(b) has led to the creation of an alternate entrance to the American profession: the non-ABA-regulated LLM. Since under Standard 507(b) schools are not allowed to grant advanced standing beyond one third of the credits required for graduation, a student with a foreign degree would be forced to spend two years in an ABA-approved school in order to get a bar-qualifying JD degree. But that same student could sit for the bar by spending only one year in an American law school if he or she chooses, instead, to register in a non-ABA-regulated LLM program. Not surprisingly, the LLM is today the academic credential used by many attorneys trained abroad to gain access to the profession in the United States. I do not think the actual structure is internally consistent and, consistencies aside, right.

Under Standard 507(b), an ABA-approved school would be precluded from granting advanced standing to a foreign graduate, beyond one third of its program, even if the school is convinced that the program taken abroad towards the foreign degree would make more than one third of the domestic program repetitive. For this, the rationale that comes to mind refers to the legal socialization value of a long in-residence experience – the cultural benefits of spending two years in an ABA-approved school. But then again, the system, as a matter of fact, negates such theory inasmuch as it now recognizes that one year in residence is satisfactory in terms of the professional socialization of the attorney-to-be if the student is pursuing an LLM rather than a JD. Hence, I see no value in making twice as difficult for each and every foreign-trained attorney to access the profession in an American jurisdiction through a JD than through an LLM.

The ABA accreditation system has the capacity to scrutinize the way in which approved schools exercise their discretion in granting advanced standing to foreign graduates. Schools should be compelled to show that they have acted rigorously in
assessing the overall quality of the foreign institution granting the applicant’s foreign law degree, the significance of the courses taken, the way the foreign program relates to the program offered by the receiving school, and the like. The system does not have the same tools – and should not look for developing them – regarding the LL.M. Actually, I think that the ABA stance should be that there is no need to recognize the LL.M. as a bar-qualifying degree, so far as the JD, properly regulated, provides enough flexibility to cover the access needs of good attorneys trained abroad.

Not only has Standard 507(b) led to the continuous growth of the LL.M. as a bar-oriented degree in prominent U.S. jurisdictions, but it has likewise led the ABA to explore ways to accredit schools abroad in order to make itself sensitive to the dynamics of a more integrated world: Another alternative to the JD unnecessary if enough flexibility is given to schools in assessing the profile of attorneys trained abroad.

Finally, now that we aim at encouraging experimentation in the approved programs, it is worth noting that under the two-thirds-maximum rule that Standard 308 once maintained, several interesting experiments were undertaken, under the realm of the JD, to meet the legal demands of markets coming closer every day. The stricter norm adopted under current Standard 507(b), forced some of these initiatives to operate as “exceptions.” Further experimentation with the JD, in this context, was sadly cut short. I think it is time to reopen the space we then closed.

Best regards.