



June 12, 2017

**David G. Payne**  
Vice President & COO  
Global Education

660 Rosedale Road  
Princeton, NJ 08541  
Phone: 609-683-2014

Email: [dpayne@ets.org](mailto:dpayne@ets.org)

JR Clark  
ABA Chicago Headquarters  
321 North Clark Street  
Chicago, IL 60654

**RE: Proposed Revisions to ABA Standard 503 (Admission Test)**

Dear American Bar Association,

Educational Testing Service (ETS) firmly supports revisions to American Bar Association (ABA) Standard 503 (Admission Test) that expand opportunities for prospective law school applicants and permit law schools to consider and admit applicants using valid and reliable methods. However, ETS has concerns that the revisions themselves do not address:

- (i) the standards that the ABA Council would use to determine that an admissions test is valid and reliable,
- (ii) the process that the ABA Council would use to make determinations of test validity and reliability, and
- (iii) the process by which the public, interested parties, or experts in test validity and reliability may contribute to how the ABA Council would make determinations of test validity and reliability.

In addition, ETS believes strongly that the revisions should indicate that the standards for validity and reliability apply to all law school admission tests, including those currently in use. Furthermore, for reasons described below ETS believes that the definition of the term "Council" in the proposed revisions should be clarified within Standard 503 itself.

As a non-profit organization committed to innovative standards-based educational assessment since its founding in 1947, ETS has pursued its mission to provide innovative and meaningful measurement solutions that improve teaching and learning, expand educational opportunities, and inform policy. As a leading innovator in educational assessment, ETS strongly supports law schools' desire to use valid and reliable tests that broaden the ways in which law schools may consider and admit applicants. We believe that the GRE General Test ("the GRE test") offers the opportunity to expand access to legal education, because each year more than 580,000 diverse individuals take the GRE test's separately-scored Verbal Reasoning, Quantitative Reasoning, and Analytical Writing sections year-round via computer in more than 1,000 test centers world-wide. Furthermore, for those law schools that seek to diversify the skills and interests of their admitted pools of students, the GRE test's Quantitative Reasoning subtest can serve as a way to attract and evaluate applicants with interests in burgeoning science and technology fields. In

fact, the deans of Harvard Law School and Northwestern University's Pritzker School of Law both have indicated publicly the value of diversifying admitted pools of students to include more individuals with science and technology interests. The GRE test already is widely accepted by STEM, social science, and humanities graduate school programs and business schools. Our comments on the revisions to ABA Standard 503 reflect our dedication to quality and fairness, including the expansion of opportunities for the many students who wish to consider multiple educational opportunities but simply cannot afford the financial cost or time to take more than one admissions test.

**I. The Standards for Determining Whether an Admissions Test is Valid and Reliable Should Be Applied Equally to All Tests**

Validity is the extent to which the interpretation and use of test scores is accurate, and reliability (a precondition for validity) is the extent to which a test measures people consistently (as opposed to randomly) when people have not truly changed in terms of what the test is trying to measure. As a way to safeguard the quality of tests, standards for validity and reliability protect many different stakeholders: test takers; applicants, accepted students, and matriculants; the schools that make decisions based on test scores; and the individuals, organizations, and communities that test takers may eventually serve. Lack of admission test quality facilitates the admission of less qualified students and the rejection of more qualified applicants. Therefore, standards regarding test validity and reliability should be applied equally to all admission tests. As the preeminent AERA-APA-NCME Standards for Educational and Psychological Testing (2014) state, the time period during which a test validation study is conducted can be critical to whether the study is relevant for determining the usefulness of a test in the future. The continuing, dramatic decline in law school application volumes over the past 15 years and the continuing changes in the kinds of students who apply to law school over that time period are well-documented trends. The validity and reliability of a test taken by individuals with a certain range of skills and motivation can differ from its validity and reliability when taken by individuals with a different range of skills and motivation. What was valid and reliable just a few years ago might not be valid and reliable today, or at least not to the same extent. Therefore, we ask what validity and reliability standards the Law School Admission Test (LSAT) must satisfy under Standard 503 and whether the standards for determining test validity and reliability will differ uniquely for the LSAT. As currently worded, the proposed revisions apply to every test proposed to be used in law school admissions except for the LSAT ("A law school shall not use an admission test other than the Law School Admission Test sponsored by the Law School Admission Council unless the test has been determined by the Council to be a valid and reliable test, pursuant to a process that the Council shall adopt and publish, and to which it shall adhere.")

**II. Given that Determining Test Validity and Reliability Is Highly Consequential and Involves Specialized Knowledge and Accumulated Experience, the Process that the ABA Council Would Use to Determine Test Validity and Reliability Should be Made More Transparent and Expressly Open to Transparent**

### **Contributions from the Public, Interested Parties, and Especially Experts in Test Validity and Reliability**

The proposed revisions state that “[t]he process adopted by the Council shall be the only method through which admission tests shall be determined to be valid and reliable . . . .” Determining test validity and reliability can be extremely complex. Often, it involves statistical and psychometric methods and models. The meaningful interpretation of validity and reliability findings requires a great deal of specialized knowledge and experience. Thousands of articles and books on test validity and reliability have been published by trained, experienced experts (usually with Ph.Ds. in psychometric and statistical fields). The AERA-APA-NCME Standards for Educational and Psychological Testing (2014) is the result of many years of discussion among doctorally-trained and seasoned validity experts and psychometricians. Its 230-page length indicates that test validity and reliability involves many complex issues. Therefore, the revisions should provide (i) specifics regarding the standards that the ABA Council would use to determine that an admissions test is valid and reliable, (ii) a description of the process that the ABA Council would use to make determinations of test validity and reliability, and (iii) a process by which the public, interested parties, and especially experts in test validity may contribute to how the ABA Council would make determinations of test validity and reliability.

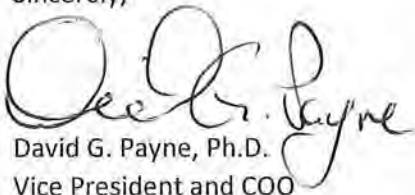
#### **III. The Definition of “Council” Should Be Clarified Within Standard 503 Itself**

While “Council” is defined in the definitions section of the ABA Standards as the Council for the American Bar Association’s Section of Legal Education and Admissions to the Bar (and not the Law School Admission Council), without first going to the separately located definitions section one might interpret “Council” in the proposed revisions to Standard 503 mistakenly as the Law School Admission Council. Therefore, we think that meaning of “Council” should be clarified within Standard 503 itself.

While ETS supports the revisions to Standard 503 with regard to increased opportunities for prospective law school applicants through valid and reliable assessment, it does not support any revisions that fail to address the quality of all law school admission tests (current and proposed), that are silent on how the validity and reliability of admission tests are to be determined, and that contain a potentially ambiguous term that could cause a reader to mistake the Law School Admission Council for the ABA’s Council.

Thank you for this opportunity to comment on the proposed revisions to ABA Standard 503.

Sincerely,



David G. Payne, Ph.D.  
Vice President and COO