



July 7, 2017

Mr. JR Clark
American Bar Association
321 North Clark Street
Chicago, IL 60654

RE: Proposed Changes to ABA Standards 403(a) and 503

Dear Mr. Clark:

I am writing to express my strong support for the proposed change to ABA Standard 403(a), as well as my lack of support for the proposed change to Standard 503.

Proposed Change to Standard 403(a)

I commend the Committee for proposing this important change to Standard 403(a). The proposed revision will enable greater innovation by law schools at this crucial period in legal education, and I believe it will lead to material improvement in the career preparation many students receive in law school.

As you know, Standard 403 addresses the instructional role of faculty in law schools. The proposed revision to the Standard would retain the requirement that full-time faculty teach substantially all of the first-year curriculum, while eliminating the requirement that full-time faculty teach more than one-half of the total credit hours offered by the law school in a year. I urge the ABA to adopt this revision.

For the past few years, bar leaders throughout the country and in every corner of the profession have been discussing the extraordinary decline in demand for legal education. For much longer, many bar leaders, including many in the leadership of the ABA and of state bar associations, have argued that many if not most law schools need to better prepare students for practice. Whether this deficiency is related to the decline in law school enrollments – indeed, whatever the cause of that decline – it is virtually inarguable that law schools are at a crossroads, perhaps a series of crossroads, of unusual importance. We must think rigorously about even our core mission and our core assumptions about the methods we use and do not use in pursuit of our goals.

I believe this moment calls for bold innovation by many if not most law schools, including innovation in teaching methods and exploration of opportunities to prepare students for careers other than those at traditional law firms and the legal departments of corporate, nonprofit or governmental organizations. These innovations may well require law schools to rely more than we do today on instruction by practitioners, businesspeople, and scholars from other disciplines. Current Standard 403(a) is a significant impediment to the innovations that many law schools need to better serve their students and those students' clients and employers, and to adapt to the evolving legal marketplace.

To be clear, not all law schools need to or will choose to innovate in these ways. The proposed revision to Standard 403(a) provides flexibility rather than a constricting, one-size-fits-all regulation.

My observations above are based on my experience here at the Elisabeth Haub School of Law. We recently celebrated our 40th anniversary, and I am enormously proud of the accomplishments of our alumni and

their service to clients, communities and our profession. We believe our mission fills an important niche in legal education. We seek to deliver a more practical, rather than a more theoretical, education.

It goes without saying that our superb full-time faculty members are the heart of our Law School, and are essential to the quality of the education we deliver. At the same time, many of our best courses, and many of the courses most useful to our students, are taught by practitioners or other teachers who are not members of our full-time faculty, including many simulation courses, practicums, skills courses and field-placement courses. Indeed, we have expanded our offerings in these areas over the past few years, even as we have reduced the size of our law school overall. Still, current Standard 403(a) limits our ability to innovate more aggressively in the direction of skill-building and practice-informed instruction.

Again, I do not believe that every law school should or will follow our model or pursue a similar path. I do believe it is essential for legal education as a whole to include schools that do feature skill-building and practice-informed instruction. Current Standard 403(a) limits our ability and the ability of other schools to innovate more aggressively in that direction.

I should note explicitly that I write here as Dean of the Elisabeth Haub School of Law, and that I have not sought or obtained the endorsement of my faculty colleagues of the views expressed in this letter. I would anticipate that law school faculty members and law school administrators may approach the proposed revision to Standard 403(a) from different perspectives and may differ in their conclusions.

Thank you again for proposing this revision and for the opportunity to comment. I enthusiastically support the proposed revision to Standard 403(a).

Proposed Revision to Standard 503

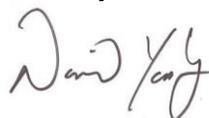
As you know, the proposed revision to Standard 503 would prohibit law schools from enrolling students who have not taken the LSAT, unless a similar admission test is deemed “a valid and reliable test” by LSAC. I urge the Committee to reject this proposed revision.

Whether or not this proposal is adopted, I expect that many, if not all law schools will continue to rely in part on the LSAT for evaluating the vast majority, if not all, applicants. An LSAT score, like all individual items of data, does not provide sufficient information to evaluate an applicant without other information, and LSAT scores are sometimes misleading. Nonetheless, I believe LSAT scores are a highly valuable source of information about applicants.

Moreover, it seems highly likely that for the foreseeable future, virtually all serious law school applicants will take the LSAT prior to, or in connection with, their application. Accordingly, current Standard 503 creates negligible risk that a significant number of students will begin their legal education without having taken the LSAT. And of course Bar Examinations are the safeguard against entry into the legal profession by unqualified practitioners. At worst, current Standard 503 permits the entry into law schools of students who are less likely to succeed in school than other students – but there is no risk that leaving current Standard 503 in place will allow unqualified individuals into the profession, and thus the proposed revision offers no benefit in terms of the quality of legal practitioners.

I urge you to reject the proposed revision to Standard 503.

Sincerely,

A handwritten signature in black ink, appearing to read "David Yassky". The signature is written in a cursive, flowing style.

David Yassky
Dean and Professor of Law