



Law School Admission Council
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July 10, 2017

JR Clark
Council of the Section of Legal Education and Admissions to the Bar
American Bar Association
321 N. Clark Street
Chicago, IL 60654

Re: Comment on Proposed Revisions to Standard 503

Dear Mr. Clark:

The Law School Admission Council (LSAC) appreciates the opportunity to comment on the Council's proposed changes to Standard 503. Particularly in these times of economic pressure for law schools and a changing job market for graduates, LSAC appreciates the Council's recognition that the requirement of a law school admission test is consistent with Standard 501's directive that a "law school shall not admit an applicant who does not appear capable of satisfactorily completing its program of legal education and being admitted to the bar." LSAC supports all of the Council's proposed revisions to Standard 503. In addition, LSAC suggests a friendly amendment to the proposed standard that may assist the Council in fully meeting its goals in this revision. Finally, LSAC suggests an alternative approach to consider should the Council choose not to proceed with this proposed revision.

Background on LSAC mission and services

Since 1947, when it was founded by legal educators to promote quality and fairness in law school admissions, LSAC has provided law-school-specific, state-of-the-art products and services to ease the admission process for law schools and their candidates worldwide. Currently, 222 law schools in the United States, Canada, and Australia are members of LSAC and benefit from its services. All law schools approved by the American Bar Association are LSAC members, as are Canadian law schools recognized by a provincial or territorial law society or government agency. Many nonmember law schools also engage with and benefit from LSAC's services. Mindful of the unique and vital role of the legal profession in society, LSAC strives to provide the highest quality of products, services, and customer service for all its users. LSAC is greatly aided in its work by the commitment of hundreds of members of the law school community who volunteer their intellect, creativity, time, and effort to the values of quality,

diversity, and fairness in law school admissions.¹ While proud of its history, LSAC's goal is to serve as an innovative leader for legal education in supporting law schools as they navigate challenging and changing admission markets while also maintaining standards of excellence befitting the legal profession.

A nonprofit corporation organized under the laws of Delaware, LSAC is best known for developing and administering the Law School Admission Test (LSAT), with about 100,000 tests administered annually at testing centers worldwide. In addition, LSAC is a critical partner in many other ways to law schools and their applicants. To summarize, among its wide array of services, LSAC: processes academic credentials for an average of 60,000 law school applicants annually; develops and provides essential software that connects and supports admission offices and applicants; conducts educational conferences and other professional development opportunities for law school admission professionals and prelaw advisors; conducts and publishes research; serves as a national leader for diversity and inclusion in the legal profession, conducting a wide array of pipeline-building and other diversity programs; and publishes LSAT preparation books and law school guides, including partnering with the Khan Academy to provide free LSAT preparation opportunities. LSAC operates efficiently on a self-sustaining business model so that most of the services available to member law schools are provided at low to no cost. Furthermore, LSAC does not charge its members an annual fee.

The LSAT: Assuring quality, diversity and fairness in law school admissions

Law schools have relied on the LSAT for over half a century to provide an essential common standard to aid in the evaluation of candidates. Today's climate for legal education demands more commitment to the quality, diversity, and fairness the LSAT provides, not less. The test is based on solid research and is validated continuously. LSAC continuously monitors and improves the LSAT and advances test development, psychometrics, and legal education through its own research and the research it sponsors.

LSAC supports the proposed Standard 503 revision

LSAC appreciates the Council's support of high standards of quality and fairness in legal education and in the profession the academy serves. Today, many law schools are experiencing economic stress as they adjust to changes in admission and employment markets stemming from structural change in the profession as well as from continuing challenges to the rule of law in society. It is tempting during such times of stress to seek to reduce standards of quality, and often these reductions in standards come forward as arguments for innovation and deregulation. Let there be no misunderstanding: LSAC fully supports a regulatory balance that fosters innovation while also protecting prospective and current students, our profession, and society.

¹ [http://www.lsac.org/docs/default-source/governance-\(members\)/strategic-plan.pdf](http://www.lsac.org/docs/default-source/governance-(members)/strategic-plan.pdf)

The Council has achieved an appropriate regulatory balance by making it possible under the proposed revision of Standard 503 for schools to be innovative in using an alternative admission test other than the LSAT – the only one that has been developed for this very purpose and that exceeds all quality standards by any measure. But the Council also protects applicants and the public by making sure that any such test also be a valid and reliable test. If there is another test product able to achieve what the LSAT has achieved, then LSAC has no objection to schools using it as a means to innovate in their admission practices. LSAC does not seek a monopoly; rather, it seeks quality, diversity, and fairness for legal education and the profession.

Specifically, LSAC supports the Council’s recognition that the requirement of a law school admission test is important in achieving Standard 501’s fundamental directive that a “law school shall not admit an applicant who does not appear capable of satisfactorily completing its program of legal education and being admitted to the bar.” LSAC supports all of the proposed revisions to Standard 503. More specifically, LSAC supports the proposed revision to Standard 503(b) which establishes a process by which the Council shall determine whether law school admission tests other than the LSAT are valid and reliable.²

With respect to the wording of 503(b), LSAC suggests a friendly amendment that would provide the Council the authority to set a high standard for both validity and reliability in judging admission tests. Reliability and validity are not simple “on/off” switches, but instead are achieved in varying levels of quality. Any admission test qualified by the ABA should meet (or at least nearly meet) the high standards of reliability and validity achieved by the LSAT. To accept less will seriously undermine the quality of legal education and put both students and the society that our legal profession serves at risk. The ABA can achieve this important quality standard with a small modification to its proposed amendment. The Council could substitute the phrase “to meet the Council’s standards for reliability and validity” in the place of “to be a valid and reliable test” in 503(b). Thus, rather than:

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.

503(b)’s first sentence could read:

² Reliability is a measure of how consistently and accurately a test measures the skills it is intended to assess. The higher the reliability coefficient for a test, the more confident we can be in the precision and consistency of the scores. Validity refers to the appropriateness of a test for its intended purpose. The sole purpose of the LSAT is to support sound, fair, and equitable law school admission decisions. With this critical purpose in mind, all aspects of validity (i.e., content, construct, predictive, and consequential) are continually scrutinized.

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 meet the Council's standards for validity and reliability, pursuant to a process that the Council shall adopt and publish, and to which it shall adhere.

LSAC ensures that the LSAT meets the stringent reliability and validity criteria established by the Standards for Educational and Psychological Testing adopted by the American Educational Research Association (AERA), the American Psychological Association (APA), and the National Council on Measurement in Education (NCME), and encourages the Council to subject alternative tests to this same degree of scrutiny. Given the high-stakes nature of a law school admission test, the process for assessing the reliability and validity of tests other than the LSAT must be careful and comprehensive, and should meet these same professional standards.

Why the LSAT Matters

Since the inception of the LSAT, LSAC has sought to evaluate and ensure its validity for use in the law school admission process. The current test measures key skills that have been shown to be essential for the satisfactory completion of a program of legal studies: high-level critical reading comprehension and high-level deductive and nondeductive reasoning, as exemplified in the complex of abilities captured by the term “legal reasoning.” The content validity of the LSAT was re-affirmed with an extensive Skills Analysis study.³

The predictive validity of the LSAT, another important component in the overall evaluation of test validity, has been monitored nationwide by LSAC since the first operational LSAT administration in 1948. LSAC’s annual predictive validity studies, also called LSAT Correlation Studies, evaluate the effectiveness of LSAT score, undergraduate grade-point average (UGPA), and the combination of LSAT score and UGPA for predicting a student’s first-year average in law school. The results consistently indicate that, in comparison to UGPA, LSAT score is a better predictor of law school performance, and that the combination of LSAT score and UGPA continues to be the best predictor of first-year average.⁴

School-specific Correlation Studies are provided free-of-charge to participating institutions and provide schools with a customized tool to analyze the utility of the LSAT for their admission decisions. In addition, LSAC publishes a series of documents to advise law schools on appropriate score use and what can be appropriately inferred from a particular score. Included in this advice are indices of the reliability of LSAT scores.⁵ LSAC reports an internal consistency

³ [https://www.lsac.org/docs/default-source/research-\(lsac-resources\)/ct-02-02.pdf](https://www.lsac.org/docs/default-source/research-(lsac-resources)/ct-02-02.pdf)

⁴ [https://www.lsac.org/docs/default-source/research-\(lsac-resources\)/tr-16-01.pdf](https://www.lsac.org/docs/default-source/research-(lsac-resources)/tr-16-01.pdf)

⁵ [https://www.lsac.org/docs/default-source/admission-resources-\(members\)/ig-2016-2017.pdf](https://www.lsac.org/docs/default-source/admission-resources-(members)/ig-2016-2017.pdf)

measure of reliability for every test form. Reliability coefficients for LSAT forms have ranged from .92 to .94, indicating a very high degree of precision and consistency for these tests.

Finally, the quality and the dependability of the LSAT can be judged by looking at any of the many published LSAT operational tests that LSAC has disclosed in the past 25 years. Over 80 tests are available to scrutinize. This library of official LSAT forms is an invaluable resource for prospective test takers to gain an understanding of the test. Since the LSAT is developed to strict specifications that ensure future tests will be closely parallel to past tests, test takers can rely on LSAC to administer a test that will be predictable in the types of questions encountered. The wealth of information LSAC provides about the test makes the LSAT the most transparent of all high-stakes admission tests.

For the benefit of legal education and the legal profession, LSAC staff is willing to share with the Council its considerable expertise and experience with the LSAT as well as other admission tests. While this is a specialized field, LSAC is confident that the Council can establish a high quality process of assessing tests other than the LSAT because of the well-known and widely respected professional norms in this field.

An Alternative Pathway Should the Council's Proposed Revision Not be Adopted

While LSAC supports the Council's proposed revision, it also understands that a handful of law schools are asking the Council to forego requiring an admission test in order to enhance the opportunity for law school "innovation." LSAC respectfully disagrees with the proponents urging that the ABA not require any admission test, and urges the Council to reject that approach. Most proponents of this view are from either elite law schools who seek advantages that such an approach may provide to them (and not the majority of law schools) or from law schools that have already opted to accept an admission test not designed for legal education prior to engaging in the standards-revisions process. While LSAC generally supports calls for innovation in legal education, it believes this innovation should be focused on the content and delivery of legal education; applicants themselves should not be subject to experimentation in the admission process. The proponents have put forward no data demonstrating that the LSAT is insufficient to meet their admission goals nor any evidence that a better product exists.

While LSAC thus supports the Council's current approach, it offers an alternative pathway should the Council find it helpful in its deliberations. Should the Council seek a standard that provides law schools with more room to experiment in admissions, or a standard that avoids the necessity of the Council creating a process to assess the validity and reliability of tests other than the LSAT, then LSAC suggests a moderate approach that balances the need for consumer protection and fairness for applicants with room for law schools to try new admission strategies. A possible revision along these lines is included below:

Alternative Revision to Standard 503. ADMISSION TEST

(a) A law school shall require substantially all of its applicants for admission as a first-year J.D. degree student to take the Law School Admission Test (LSAT) to assist the school and the applicant in assessing the applicant's capability of satisfactorily completing the school's program of legal education. In making admission decisions, a law school shall use the test results in a manner that is consistent with the current guidelines regarding proper use of the test results provided by the Law School Admission Council (LSAC).

(b) A law school shall publish information disclosing the percentage of its applicants admitted on the basis of any alternative admission test and their level of academic attrition.

(c) For purposes of this section, "substantially all" shall mean at least 90% of applicants.

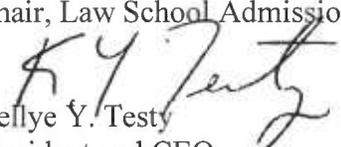
This alternative provides room for law schools to seek applications from some applicants who may not, for whatever reason, be able or willing to take the LSAT. By keeping the number of any such applicants modest, the alternative standard preserves quality and fairness in the law school admission market and recognizes that it is both convenient and economical for any applicant to take the LSAT. While some of the proponents of an alternative test have argued that the LSAT might be given more frequently to enhance convenience to applicants, it is now scheduled to be offered every other month and could be offered more frequently in the future if this is truly a barrier of concern to member schools. That said, LSAC notes that quality and security must be balanced against expediency in test design and delivery; testing formats that are more "on-demand" in style suffer from serious breaches in quality and security. LSAC believes that for the welfare of the legal profession and fairness to candidates, quality should not give way to expediency, particularly when quality can be achieved at a very high level of convenience to candidates.

Again, LSAC appreciates the opportunity to comment upon the proposed revisions to Standard 503 and stands ready to assist the Council in any way that may be helpful as this process moves forward.

Best regards,



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