Consultant’s Memos

In its report to the Council in 2008, the Section’s Special Committee on Transparency recommended the following:

The Committee RECOMMENDS that, in appropriate circumstances, the Consultant’s Office prepare a “Consultant’s Memo” to assist schools in coming into compliance with the Standards.

The Accreditation Committee considered this recommendation and determined that it will, in appropriate circumstances, authorize the Consultant to issue Consultant’s Memos. The goal of the memos is to guide schools in their efforts to comply with the Standards and occasionally, to provide explanations about Accreditation Committee policies on issues of importance to schools.

CONSULTANT’S MEMO 1 (REVISED)
STANDARDS 503 & 802
AUGUST 2012

Background

The original Consultant’s Memo on Standards 503 and 802 was issued in August 2009. At its August 2012 meeting, the Council of the Section of Legal Education and Admissions to the Bar approved several changes to the requirements for variances from Standard 503 granted pursuant to Standard 802. This revised Consultant’s Memorandum covers these recent changes and replaces the earlier memorandum. This memorandum provides general guidance on the requirements for special admission programs that do not use the Law School Admission Test (LSAT).

Standard 503’s Requirement of a “Valid” and “Reliable” Test

Standard 503 states in relevant part: A law school shall require each applicant for admission as a first year J.D. student to take a valid and reliable admission test to assist the school and the applicant in assessing the applicant’s capability of satisfactorily completing the school’s educational program. Additionally, Interpretation 503-1 says: A law school that uses an admission test other than the Law School Admission Test sponsored by the Law School Admission Council shall establish that such other test is a valid and reliable test to assist the school in assessing an applicant’s capability to satisfactorily complete the school’s educational program.
Interpretation 503-1 makes it clear that the burden is on the law school to demonstrate the validity and reliability of any test or assessment methodology, other than the LSAT, that is used for law school admission purposes. “Validity” and “reliability” are terms of art in the world of testing. Validity asks if the scores reflect what the test or assessment method is intended to measure. Reliability asks if repeated applications of the test or assessment method will produce substantially the same results. The LSAT has been determined to be a valid and reliable test for law school admission purposes.

Tests Other than the LSAT and Standard 503

For law schools proposing to use a test other than the LSAT for admissions purposes, the Accreditation Committee has asked that the school provide certain information so that the Committee can determine if Standard 503 and Interpretation 503-1 are satisfied, and if not, whether a variance pursuant to Standard 802 is warranted. In each case where an admission program implicating the concerns of Standard 503 has been brought to the attention of the Committee, the school has been asked to answer the following questions:

Is the law school proposing to use a test other than the LSAT for admissions purposes; and if so, what evidence does the school have that the test is “… a valid and reliable test to assist the school in assessing the applicant’s capability to satisfactorily complete the school’s educational program”?

If Accreditation Committee determines that an admissions program that uses a test other than the LSAT does not satisfy Standard 503, will the school seek a variance of Standard 503 from the Council?

The basic issue for the Accreditation Committee to decide under Standard 503 is whether admission criteria to be employed by the special admission program are comparable to the admission criteria being applied under the standard admission program (i.e., the admission program under which most incoming J.D. students are admitted). The assessment methods used should be shown to be valid for the intended purpose (i.e., to assess “the applicant’s capability of satisfactorily completing the school’s educational program”), by demonstrating that the performance of students admitted under the special criteria is or will be, in general, about as good or better than that for students admitted under the standard criteria.

It has been the Committee’s practice to require a psychometric evaluation of the validity and reliability of the proposed admissions methodology, performed by an individual with suitable credentials, and that the individual performing the evaluation come from outside the law school community.

Seeking a Variances from Standard 503 Pursuant to Standard 802

Once the Committee has reviewed the proposed special admission program, it will make a determination as to compliance with Standard 503 and Interpretation 503-1. If the school satisfies the requirements, that ends the inquiry and the school can operate its program within the bounds of Standard 503. If the school is not able to demonstrate compliance through the documentation and evidence it submits, it can either abandon the program or seek a variance from Standard 503 pursuant to Standard 802.

Standard 802 provides: If the Council finds that the proposal is nevertheless consistent with the general purposes of the Standards, the Council may grant the variance, may impose conditions, and shall impose time limits it considers appropriate. The relevant part of Standard 802 is the one relating to experimental programs. Interpretation 802-1 permits the granting of a variance for an experimental program based on all of the following:
(1) Good reason to believe that there is a likelihood of success;
(2) High quality experimental design;
(3) Clear and measurable criteria for assessing the success of the experimental program;
(4) Strong reason to believe that the benefits of the experiment will be greater than its risks; and
(5) Adequately informed participation by students involved in the experiment.

Committee and Council Determinations to Date

There are currently seven schools with special admission programs that do not rely on the LSAT for admission purposes that have received variances from Standard 503.

Annual Reporting on Approved Standard 503 Variances

If a variance from Standard 503 is approved pursuant to Standard 802, the school will be required to report annually on the special admissions program. The Committee requires the following information to be reported annually by November 1:

(a) For each entering class, provide the number of “Special Admission” students who applied for admission under the program, the number of those students granted interviews, the number of those students admitted, and the number who matriculated. Provide also the total size of the entering class (Special Admission plus Regular Admission) for each class year.

(b) For each year of Special Admission students referred to in paragraph (a), provide, where applicable, the range, mean, median, and standard deviation of the following: ACT score, SAT score, LSAT score, GMAT score, and Undergraduate GPA. Provide the same information for enrolled students in the regular admissions program.

(c) Provide for each year of the Special Admission Program a report on the performance (including means, medians, and standard deviations) of students admitted under the Special Admission program, with respect to first semester Law School GPA, first year Law School GPA, cumulative GPA, attrition, and when available, graduation rate, bar passage, and employment; and a comparison of such data with corresponding data for students admitted under the Law School’s regular admission program.

(d) Provide a report on the impact of the Special Admission Program on the Law School’s obligation to comply with Standard 212(a), and a description of the actions undertaken by the Law School to assure compliance with Standard 212(a) in light of the implementation of the Special Admission Program.

(e) Show the information provided to applicants to the Law School under the Special Admission Program regarding the experimental character of the admissions aspects of the Program and regarding the need for such students to take the LSAT should they wish to apply to another law school as an incoming or transfer student. Identify also all places where this information may be found by applying students.

(f) Describe the means by which the Law School complies with Standard 509 concerning the publishing of basic consumer information regarding admissions, for students admitted to the Law School under the Special Admission Program. Indicate all places where such information can be found by applying students.

(g) Describe the benefits of each specific component or requirement of the Special Admissions Program to the Law School and to the students who are admitted and enroll in the Program. Note
any potential risks associated with the experimental character of the Program for the Law School or for the students who enroll.

Other Requirements of Standard 503 Variances

The Council has approved Standard 503 variances for five-year terms. It is anticipated that at the end of the five years, the special admission program will either be approved as meeting the requirements of Standard 503 or be discontinued.

A special admission program may not prohibit the taking of the LSAT as a condition of admission. Where a student is admitted under a special admission program that does not use the LSAT, but the student has taken the LSAT, the student’s LSAT score must be included in the school’s reporting of entering class credentials (unless the student took the LSAT under non-standard test conditions).

Summary

The Accreditation Committee urges any school that is considering implementing a special admission program not requiring the use of the LSAT to consider the analysis above, to give notice to the Consultant’s Office, and to be prepared to address all the issues identified and provide the documentation and evidence outlined above.