This memo addresses four rather technical Standards about which the Accreditation Committee believes law schools can benefit from guidance regarding compliance. The goal is to explain the requirements and the nuances and give examples of what will comply and what will not.

1. **Standard 302(a)(4) – Other Professional Skills**
   
   (a) A law school shall require that each student receive substantial instruction in:
   
   (4) other professional skills generally regarded as necessary for effective and responsible participation in the legal profession; and
   
   **Interpretation 302-2**
   
   Each law school is encouraged to be creative in developing programs of instruction in professional skills related to the various responsibilities which lawyers are called upon to meet, using the strengths and resources available to the school. Trial and appellate advocacy, alternative methods of dispute resolution, counseling, interviewing, negotiating, problem solving, factual investigation, organization and management of legal work, and drafting are among the areas of instruction in professional skills that fulfill Standard 302 (a)(4).

   **Interpretation 302-3**
   
   A school may satisfy the requirement for substantial instruction in professional skills in various ways, including, for example, requiring students to take one or more courses having substantial professional skills components. To be “substantial,” instruction in professional skills must engage each student in skills performances that are assessed by the instructor.

   **GUIDANCE:** Standard 302(a)(4) has several components that must be met:

   1) Every student must be required to receive substantial instruction in other professional skills generally regarded as necessary for effective and responsible participation in the legal profession. Thus, the fact that 98% of the student body takes a skills course is not sufficient; every student, as a requirement of graduation, must receive substantial skills instruction.

   2) What is “substantial instruction” in other professional skills? Interpretation 302-3 includes a helpful explanation here: to be “substantial,” instruction in (other) professional skills must engage each student in skills performances that are assessed by the instructor. Thus, merely reading about and taking an exam on counseling and negotiation will not suffice; engaging in counseling and negotiation sessions by each student that are then assessed by the professor.
may. At least one solid credit (or the equivalent) of skills training is necessary. This can be accomplished through a class devoted specifically to skills (e.g., trial advocacy, advanced legal research, live client clinic) or a substantive course that includes substantial skills instruction (e.g., a corporations class where each student is required to draft substantial legal documents that are assessed by the instructor). Note that merely adding a few sessions (i.e., less than the equivalent of one or more credit hours) to what is otherwise a non-skills course is not sufficient.

3) No “double dipping,” e.g., a seminar paper used to satisfy the upper-class writing requirement [see 302(a)(3)] cannot also be used to satisfy the other professional skills requirement of 302(a) (4). The Accreditation Committee has interpreted “other” professional skills to mean in addition to the skills requirements set out in Standard 302(a). Thus, the typical first-year research and writing program will not satisfy 302(a)(4); however, the typical first-year research and writing program, with the addition of a substantial counseling and negotiation module, may satisfy 302(a)(4) through the additional module.

4) Schools have flexibility in determining what skills instruction to provide and are encouraged to be creative in developing programs of instruction in professional skills. (See Interpretation 302-2 for some examples.) What is required are skills that are generally regarded as necessary for effective participation in the profession, that can be “performed” by students and “assessed” by the instructor; so the options for schools are reasonably broad. Note that any one of the skills listed in 302-2 would suffice (assuming no double dipping). Interpretation 302-2 does not require instruction in each of the skills listed.

5) Schools have adopted a variety of formats to require substantial skills instruction, including: (1) a “cafeteria” plan—a list of courses that meet the skills requirement of 302(a)(4) and require each student to take at least one of the courses; or (2) requiring each student to take a specific skills course (or courses). To make certain students are on notice, schools should consider adding this to the posted list of graduation requirements.

2. Standard 304. COURSE OF STUDY AND ACADEMIC CALENDAR

(d) A law school shall require regular and punctual class attendance.

(e) A law school shall not permit a student to be enrolled at any time in coursework that, if successfully completed, would exceed 20 percent of the total coursework required by that school for graduation (or a proportionate number for schools on other academic schedules, such as a quarter system).

(f) A student may not be employed more than 20 hours per week in any week in which the student is enrolled in more than twelve class hours.

Interpretation 304-6
A law school shall demonstrate that it has adopted and enforces policies insuring that individual students satisfy the requirements of this Standard, including the implementation of policies relating to class scheduling, attendance, and limitation on employment.
GUIDANCE: There are three distinct areas covered in Standard 304 — class attendance, credit hour enrollment limitations and limitations on student employment — that schools sometimes fail to address sufficiently and therefore may fall short of compliance with the Standard. Note that with each of these items, the School must demonstrate that it has adopted policies AND must provide evidence of their enforcement. (Interpretation 304-6.)

Standard 304(d). Schools establish minimum attendance requirements and generally publish them in the student academic handbook or similar publication. Enforcement of regular and punctual class attendance can be accomplished in a variety of ways such as sign-in sheets or seating charts (which the professor checks) or leaving it up to individual faculty to establish enforcement rules as long as these rules are communicated to students in the class and the rules are not inconsistent with the requirement of regular and punctual attendance. The burden is on the school to provide an attendance policy and demonstrate enforcement by some appropriate means. Site teams are instructed to report on both the school’s attendance policies and how they are enforced.

Standard 304(e) is sometimes referred to as the “20 percent rule.” Basically, what this Standard requires is that in any semester a student cannot enroll in coursework that, if successfully completed, would exceed 20 percent of the total coursework required for graduation. Thus, if a school required 85 hours of course credit for graduation, a student could not enroll in more than 17 course hours (20%) in any semester. As with attendance, the burden is on the school to demonstrate that it properly enforces the 20 percent rule.

IMPORTANT NOTE: The Accreditation Committee has interpreted this as a strict limit; thus if a school required 88 course hours for graduation, 20 percent is 17.6 hours not 18 hours. In other words, “rounding up” is not permitted so, functionally, the limit in this example would be 17 credit hours per semester. Also, some schools have policies that meet the Standard. (e.g., “Students cannot enroll in more than 20 percent of the course hours needed for graduation…” ) but then include a statement such as “… except as authorized by the associate dean.” This exception, even under extraordinary circumstances, is treated by the Accreditation Committee as a violation of Standard 304(e).

Standard 304(f) limits student employment to no more than 20 hours per week for full-time students. Schools must demonstrate that they have adopted policies and enforcement mechanisms to limit employment as required by the Standard. Schools frequently accomplish this by asking full-time students to sign a statement (often as part of the registration process) attesting that they will not work more than 20 hours per week and by scheduling classes throughout the day, Monday through Friday. (Note that this requirement applies to full-time students only.)

3. 3. Standard 504. CHARACTER AND FITNESS

(a) A law school shall advise each applicant that there are character, fitness and other qualifications for admission to the bar and encourage the applicant, prior to matriculation, to determine what those requirements are in the state(s) in which the applicant intends to
practice. The law school should, as soon after matriculation as is practicable, take additional steps to apprise entering students of the importance of determining the applicable character, fitness and other qualifications.

GUIDANCE

Standard 504 requires that law schools advise each applicant that there are character and fitness qualifications for admission to the bar. There are five key components of the notice requirement: 1) who the schools must notify; 2) the timing of the notification; 3) the nature and content of the notification; 4) method of notification; and 5) clarification that it is the applicant’s duty to determine the character and fitness requirements of the jurisdictions in which they may seek a law license.

The first component concerns who the schools must notify. Since the Standard requires notifying each applicant, notifying only admitted students or each matriculant is not sufficient.

The second component addresses timing. Schools must encourage every applicant, prior to matriculation, to determine the fitness requirements in the jurisdiction(s) in which the applicant intends to practice. Waiting until applicants have already completed several law school courses to first advise of character and fitness requirements is not useful in that applicants must be fully aware of these requirements before they invest the time and financial resources necessary to begin their law school studies.

The third component concerns the nature and content of the notice. The notice by its nature must give applicants a clear understanding that character and fitness reporting requires truthful, accurate, and complete disclosure of all requested information related to past conduct that may be relevant to one’s fitness to practice law. It should be noted, however, that while bar admission boards require a complete disclosure of requested information, in many instances relevant conduct, particularly if isolated and/or not recent, has not resulted in denial or delay of admission to the bar in a particular jurisdiction of interest. A failure to truthfully, accurately and completely respond to a character and fitness inquiry, however, is commonly deemed a character and fitness violation in and of itself, and may be more detrimental to bar admission prospects than the undisclosed or incorrectly disclosed underlying conduct. As the National Conference of Bar Examiners has cautioned:

Application forms can be lengthy. Be sure to allow sufficient time well in advance of filing deadlines to complete the application and gather accompanying materials. The application must be filled out completely, as failure to provide information may delay the process and require more time and effort at an inopportune time. Answer all questions honestly, as failure to do so may result in sanctions. Failure to disclose information often yields a more serious outcome than the matter itself would have produced had it been revealed by the applicant. (Emphasis added.)

National Conference of Bar Examiners, website, Nov 8, 2012, Character and Fitness Services, FAQ page.
The content portion of this component is critical. Although Standard 504 does not mandate specific language to be used by law schools in providing required notice to applicants, this memorandum suggests “Safe Harbor” language below. As that suggested language reflects, the content component of Standard 504 does require that law schools provide notice of categories of information that jurisdictions commonly consider when reviewing a character and fitness application, such as criminal and litigation histories, educational discipline, substance abuse, debt management, and any acts of fraud, dishonesty or lack of candor. This list is not meant to be exhaustive, but does reflect many of the general areas of interest to bar examiners when a law student or graduate submits to a character and fitness review.

The fourth component is how that communication is made. This component should include, at minimum, prominent posting of the required notice on the law school’s website, and communication of the notice, with an appropriate webpage link, by a medium ordinarily used by the school, whether email or postal mail, for important and essential communications to applicants.

The fifth component of Standard 504 notice focuses on the fact that it is the applicant’s obligation to determine applicable character and fitness requirements in that jurisdiction or jurisdictions in which they may seek a law license. This component is important for several reasons. Notably, every American jurisdiction has specific character and fitness requirements. While some apply across the board, each jurisdiction is somewhat different, and it would be an unreasonable burden for the law schools to research, interpret and then explain the distinctions to applicants. Therefore, while a primary purpose of Standard 504 is to protect the applicant’s interest in bar admission process information, it also serves the important purpose of clarifying that it is the applicant’s responsibility to determine the unique character and fitness requirements of the jurisdictions in which they may seek a law license.

The following suggested “Safe Harbor” notice language shall be deemed sufficient to meet the requirements of the first sentence of Standard 504(a), relating to notice to law school applicants. While other forms of notice also may be sufficient to satisfy the standards, the following will comply with the spirit, intent and requirements of the first sentence of Standard 504(a):

> Every American jurisdiction in which you may practice law after graduation from law school requires each applicant for admission to the bar to meet character and fitness requirements as a condition of eligibility for admission. A character and fitness review will require truthful, accurate and complete reporting of all requested information related to past conduct that bar examiners may deem relevant to one’s fitness to practice law, in most jurisdictions including (but not limited to) all criminal arrests, charges, plea agreements, convictions, or instances of being taken into custody, as a juvenile or adult; all traffic violations except minor parking citations; involvement as a party to civil litigation; acts of fraud, dishonesty or lack of candor; educational discipline or misconduct; failure to pay financial obligations; and substance abuse. Many jurisdictions require disclosure of all criminal arrests, charges, plea agreements or convictions, as a juvenile or adult, even where the record has been expunged.
It should be noted, however, that while bar admission boards require a complete
disclosure of requested information, in many instances past relevant conduct,
particularly if isolated and/or not recent, has not resulted in denial or delay of
admission to the bar in a particular jurisdiction of interest. (This is not to suggest
or predict how any jurisdiction’s bar admissions board would respond to any
applicant’s particular conduct disclosures going forward.)

A failure to truthfully, accurately and completely respond to a character and
fitness inquiry, however, is commonly deemed a character and fitness violation in
and of itself, and may be more detrimental to bar admission prospects that the
undisclosed or incorrectly disclosed underlying conduct.

You are encouraged, as you go through the law school application process and before you
enter law school, to determine the character and fitness requirements of the jurisdiction(s)
where you intend to practice law. If you are uncertain where you will practice law, you
may wish to review the Standard NCBE Character and Fitness Application, titled Request
for Preparation of a Character Report, of the National Conference of Bar Examiners, which
is used by a number of jurisdictions’ bar admission authorities. Addresses for all relevant
agencies are available at www.ncbex.org.

Law schools have done a variety of things to address the second sentence of Standard 504(a)
(relating to notice to new matriculants), including having a judge, bar admissions professional, or
volunteer talk to 1L students. Those programs are helpful in a variety of ways and should be
continued. For purposes of compliance with the requirements of the second sentence of Standard
504(a), a notice to law students is sufficient when provided in the following form:

Every American jurisdiction in which you may practice law after graduation from
law school requires each applicant for admission to the bar to meet character and
fitness requirements as a condition of eligibility for admission. A character and
fitness review will require truthful, accurate and complete reporting of all
requested information related to past conduct that bar examiners may deem
relevant to one’s fitness to practice law, in most jurisdictions including (but not
limited to) all criminal arrests, charges, plea agreements, convictions, or instances
of being taken into custody, as a juvenile or adult; all traffic violations except minor
parking citations; involvement as a party to civil litigation; acts of fraud,
dishonesty or lack of candor; educational discipline or misconduct; failure to pay
financial obligations; and substance abuse. Many jurisdictions require disclosure of
all criminal arrests, charges, plea agreements or convictions, as a juvenile or
adult, even where the record has been expunged.

It should be noted, however, that while bar admission boards require a complete
disclosure of requested information, in many instances past relevant conduct,
particularly if isolated and/or not recent, has not resulted in denial or delay of
admission to the bar in a particular jurisdiction of interest. (This is not to suggest
or predict how any jurisdiction’s bar admissions board would respond to any applicant’s particular conduct disclosures going forward.)

A failure to truthfully, accurately and completely respond to a character and fitness inquiry, however, is commonly deemed a character and fitness violation in and of itself, and may be more detrimental to bar admission prospects that the undisclosed or incorrectly disclosed underlying conduct.

You are encouraged to determine the character and fitness requirements of the jurisdiction(s) where you intend to practice law. If you are uncertain where you will practice law, you may wish to review the Standard NCBE Character and Fitness Application, titled Request for Preparation of a Character Report, of the National Conference of Bar Examiners, which is used by a number of jurisdictions’ bar admission authorities. Addresses for all relevant agencies are available at www.ncbex.org.

4. **Standard 509. REQUIRED DISCLOSURES**

(a) All information that a law school reports, publicizes or distributes shall be complete, accurate and not misleading to a reasonable law school student or applicant. Schools shall use due diligence in obtaining and verifying such information. Violations of these obligations may result in sanctions under Rule 16 of the Rules of Procedure for Approval of Law Schools.

**GUIDANCE:** Schools are advised to check their websites and other areas where they list course offerings on a regular basis and remove listed courses that are not to be offered in the current year and have not been offered in the previous two academic year. Site teams are to report on the number of courses listed by the school and indicate how many of those (if any) are not being offered in the current year and have not been offered in either of the previous two years.