Managing Director’s Guidance Memo

Standard 105(a)(12) – Part-time Enrollment Options and Acquiescence Requirements
July 2015

Standard 105. ACQUIESCENCE FOR MAJOR CHANGE IN PROGRAM OR STRUCTURE

(a) Before a law school makes a major change in its program of legal education or organizational structure, it shall obtain the acquiescence of the Council for the change. A major change in program or structure that requires application for acquiescence includes:

(12) The addition of courses or programs since the most recent AC period, such as ... instituting a new full-time or part-time division; or changing from a full-time to a part-time program or from a part-time to a full-time program...

Background and Issue

This memo provides guidance on compliance with the major change requirement of Standard 105(a)(12) when a law school that does not have a formal and approved part-time division or program wishes to offer and promote part-time enrollment opportunities for students.

The need for this guidance arises from questions asked of the Managing Director’s Office such as (a) whether a school must seek acquiescence to allow students to take a “part-time load,” particularly in the first year, if the school does not have an acquiesced in part-time program or division, and (b) whether a school that does allow students to take other than a full-time load, including in the first year, can advertise or promote its part-time enrollment opportunities and the flexibility that they offer to students. As these questions come to the Managing Director’s Office, there is also some concern about what schools can represent to the Law School Admissions Council (LSAC) about their enrollment options, absent acquiescence of the Council in a formal part-time “division,” “program,” or “enrollment option” at that school. Part of the confusion for schools is the fact that Standard 105(a)(12) uses both “division” and “program” in the same sentence.
What is a new part-time program or division that *would* require acquiescence under Standard 105(a)(12)?

Establishing a new part-time division or program that operates as an independent segment of the school’s J.D. program requires acquiescence. Characteristics of such an undertaking may include a specific and separate admissions process for that new division or program, separate and distinct “part-time” and “full-time” class schedules, registration priorities for course enrollments that are different based on whether the student is “part-time” or “full-time,” separate class rankings for the separate divisions, and the requirement of approval to transfer between the “full-time” and “part-time” divisions. This is not to say, of course, that the “full-time” program will not have any students who are attending part-time, and that the “part-time” program may not have 2L or 3L students who are taking a load that the school would define as full-time. Historically, the differences between separate programs was often driven more by whether students attended classes primarily in the evening or during the day. This distinction is increasingly not relevant.

What are examples of part-time enrollment opportunities that do not require acquiescence under Standard 105(a)(12)?

It is easier to give guidance on what clearly requires acquiescence than what does not. The reality is that the distinct differences between full-time and part-time study have blurred. The Standards no longer establish how many credits constitute “full-time” enrollment, although schools may establish such rules for themselves. No longer, for example, do the Standards limit employment for “full-time students,” although schools may establish rules in that regard. Students taking equal loads might be classified one way at one school but a different way at another school. Students, particularly after the first year, may take lighter or heavier loads and still graduate in the traditional six semesters of study.

Increasingly, schools offer class schedules that include short-courses, weekend classes, evening courses, intersession programs, and so on, in addition to the traditional time-block schedule where, for example three-credit classes would meet MWF 3:00 p.m. or TuTh 9:00-10:15. Students not enrolled in a deliberately and intentionally part-time division may not think of themselves as being in any particular division or program – they are simply law students.

The U.S. Department of Education criteria with which accrediting agencies such as the Council must comply do require that the Council have rules requiring acquiescence for substantive program changes that are (a) the addition of courses or programs that represent a significant departure from the existing offerings of educational programs, or method of delivery, from those that were offered when a school last had its comprehensive program review or (b) the addition of programs of study at a degree or credential level different from that which is included in the institutions current accreditation.

A school allowing the occasional student, or even a large number of students, to take a part-time load is not, *ipso facto*, either (a) or (b). However, as the focus shifts from how students may enroll to the program a school is creating, and that new undertaking is the addition of a significant number of courses or sections of courses that have not been offered previously that are specifically tailored and scheduled for a cohort of part-time students, then a school likely would be making “a significant departure” from its existing offerings or method of delivery. In that case, the law school
would be making a major change within the meaning of Standard 105(a)(12), and acquiescence would be required.

**GUIDANCE:**
A law school does not need acquiescence for a part-time course of study because it allows students it enrolls to attend, on either a “part-time” or “full-time” basis, however the school defines those terms. Schools allowing students this flexibility should take special care to accurately and fully disclose how its academic policies and standards and course offerings will operate for all students, if it allows this option.

**GUIDANCE:**
A law school that is adding capacity in terms of courses, sections of courses, faculty, or staff in order to support specifically the offering of a course of study aimed at a new substantial cohort of “part-time” students should contact the Managing Director’s Office and seek advice on whether it should file a request for acquiescence because its particular plan might constitute the establishment of a “part-time division” within an otherwise full-time program.

What may a law school say about a part-time enrollment, if it does not have acquiescence to offer a formal, part-time division or program?

Because allowing students to attend part-time is not, standing alone, the creation of a part-division or program that requires acquiescence, there is no restriction on a school publicizing that it welcomes students who wish to attend its program on a part-time basis, whether throughout the entire J.D. program or in an occasional term.

That said, schools that have not received formal acquiescence to operate a part-time division or program, however, should not at this point in time use the word “program” to describe the opportunities they offer. The use of terms such as “flexible enrollment” or “part-time enrollment option,” however, are appropriate and not misleading terms for schools that welcome part-time students to use in advertising and promoting what they offer, including in communications to the LSAC. Indeed, in many respects, this more modern approach to accommodating courses of study that work for students offers more flexibility for students than a structured “evening division.”

Schools should be mindful of the requirements of Standard 509(a) that any information distributed shall be complete, accurate, and not misleading. If a school’s practice is to allow part-time enrollment in only extraordinary instances, generally designing course schedules for full-time students and requiring them, then the school should be clear about that in its statements. If, on the other hand, a school operates a program that is willing to adapt to students’ work and personal schedules, then the school may promote the fact that both “full-time” and “part-time” students are welcome.

Obviously a school allowing considerable flexibility for students in their course loads does have to schedule required courses at certain times. The school must take special care to inform students who might choose to attend on a part-time basis that flexibility is not unlimited and there will be certain instances where they will need to arrange their schedules to attend certain required courses when the school schedules them, in order to meet graduation requirements. The requirements of
Standard 312 that a school provide access to its programs and services to all students, regardless of whether they are attending on a full-time or part-time basis, remains in place, of course, and schools must be mindful of this Standard as their programs evolve.

**GUIDANCE:**
A law school may indicate in its materials that it offers flexible, other-than-full-time enrollment for students. The school should take care to make clear that this flexibility must operate within the overall constraints of the law school’s resources, program, and graduation requirements, as is appropriate for whatever flexibility the school will offer. Schools should make certain that whatever representations they make are consistent with the requirement of Standard 509(a) that the “any information that a law school ... publicizes or distributes shall be complete, accurate, and not misleading to a reasonable law school student or applicant.”

The Managing Director’s Office will issue Guidance memoranda from time-to-time when new Standards or Interpretations have been adopted or when, in the course of the Office’s dealings with schools about compliance with the Standards, a number of schools are asking for clarification or direction regarding a particular Standard, Interpretation or reporting requirement. The Office does its best to provide helpful guidance, but we remind schools that we do not have the authority to bind either the Council or the Accreditation Committee. That said, the Council and the Accreditation Committee understand the necessity of providing guidance and will take that guidance into account in any determination about a school’s operating in compliance with the Standards.