



Managing Director's Guidance Memo

Standards 301, 302, 314 and 315

June 2015

This is the first of a set of Guidance Memos on learning outcomes and assessment programs. Subsequent Guidance Memos will be responsive to the questions that are raised by law schools directly with the Managing Director's Office or come to the attention of the Office through proceedings of conferences, reports, and articles on these topics. These new and amended Standards are designed to assure that the outcome measures and assessment methodologies that schools develop will improve their legal education programs and better serve the needs of students during their legal educations and in their professional careers.

Relevant Standards and Interpretations

Standard 301. OBJECTIVES OF PROGRAM OF LEGAL EDUCATION

(a) A law school shall maintain a rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession.

(b) A law school shall establish and publish learning outcomes designed to achieve these objectives.

Standard 302. LEARNING OUTCOMES

A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:

(a) Knowledge and understanding of substantive and procedural law;

(b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;

(c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and

(d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

Interpretation 302-1

For the purposes of Standard 302(d), other professional skills are determined by the law school and may include skills such as, interviewing, counseling, negotiation, fact development and analysis, trial practice,

document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.

Interpretation 302-2

A law school may also identify any additional learning outcomes pertinent to its program of legal education.

Standard 314. ASSESSMENT OF STUDENT LEARNING

A law school shall utilize both formative and summative assessment methods in its curriculum to measure and improve student learning and provide meaningful feedback to students.

Interpretation 314-1

Formative assessment methods are measurements at different points during a particular course or at different points over the span of a student's education that provide meaningful feedback to improve student learning. Summative assessment methods are measurements at the culmination of a particular course or at the culmination of any part of a student's legal education that measure the degree of student learning.

Interpretation 314-2

A law school need not apply multiple assessment methods in any particular course. Assessment methods are likely to be different from school to school. Law schools are not required by Standard 314 to use any particular assessment method.

Standard 315. EVALUATION OF PROGRAM OF LEGAL EDUCATION, LEARNING OUTCOMES, AND ASSESSMENT METHODS

The dean and the faculty of a law school shall conduct ongoing evaluation of the law school's program of legal education, learning outcomes, and assessment methods; and shall use the results of this evaluation to determine the degree of student attainment of competency in the learning outcomes and to make appropriate changes to improve the curriculum.

Interpretation 315-1

Examples of methods that may be used to measure the degree to which students have attained competency in the school's student learning outcomes include review of the records the law school maintains to measure individual student achievement pursuant to Standard 314; evaluation of student learning portfolios; student evaluation of the sufficiency of their education; student performance in capstone courses or other courses that appropriately assess a variety of skills and knowledge; bar exam passage rates; placement rates; surveys of attorneys, judges, and alumni; and assessment of student performance by judges, attorneys, or law professors from other schools. The methods used to measure the degree of student achievement of learning outcomes are likely to differ from school to school and law schools are not required by this standard to use any particular methods.

Background

In October 2007, then Section Chair Justice Ruth McGregor appointed a *Special Committee on Output Measures*. The *Special Committee* was charged with determining whether and how output measures, other than bar passage and job placement, might be used in the accreditation process. In July 2008, the *Special Committee* released an extensive analysis of how outcomes measures are used by other accreditation bodies. It concluded that the Section of Legal Education and Admissions to the Bar should re-examine the current ABA accreditation standards and reframe them, as needed, to reduce their reliance on input measures and instead adopt a greater and more overt reliance on outcome measures. The report also noted that shifting towards outcome measures is consistent with the latest and best thinking of both the higher education and legal education communities. The Committee noted that all regional accreditation agencies focus on identification and measurement of student learning outcomes. In addition, the Committee reviewed the accreditation standards of ten other professional accrediting bodies. It found all ten applied standards based on outcome measures.

On the basis of this report, the Council directed the Standards Review Committee (SRC) to study the matter and make recommendations to the Council. The SRC appointed a Student Learning Outcomes Subcommittee. Its work provides some of the basis for the guidance in this memorandum.

Guiding Principles

The Student Learning Outcomes Subcommittee suggested that certain assumptions should guide the implementation of the changes in the Standards that would result from its recommendations. These include:

- The process of identifying, assessing and improving outcomes is more important than ensuring that every student achieve each outcome.
- Different types of faculty—doctrinal, clinical, legal writing and others—play important roles in identifying and assessing learning.
- Faculty should have the central role in identifying, assessing and improving learning outcomes.
- Outcomes will differ based upon law school missions.
- Although the traditional legal curriculum, which purports to teach students to “think like a lawyer,” will remain at the center of law schools’ J.D. programs, schools should measure how successful their students are in mastering that skill and in bridging the gap between it and other lawyering skills.
- Focusing on outcomes should serve as a catalyst for law schools to be intentional in curriculum development.
- The focus on outcomes should shift the emphasis from what is being taught to what is being learned by the students.

Guidance

Standard 301

Standard 301(b) states that the law school should publish its learning outcomes.

GUIDANCE:

Learning outcomes for the school's overall program of legal education must appear in those places on its website and in its publications where the law school describes its mission and its curriculum. Similarly, learning outcomes for certificates or specialty tracks within the JD program must be published in those places where such certificates or specialty tracks are described. Learning outcomes for individual courses must be published in the course syllabi.

Standard 302, Interpretations 302-1 and 302-2

Although graduation rates, job placement and bar passage are important outcomes, Standard 302 makes clear that law schools must also establish and measure other important outcomes for those who enroll in its program of legal education. Similarly, although not every law student plans to practice law, this Standard recognizes that a law school must have a program of legal education that includes outcomes encompassing competencies related to the practice of law. This is consistent with Standard 301(a) which mandates that a law school “maintain a rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession.”

GUIDANCE:

Learning outcomes must consist of clear and concise statements of knowledge that students are expected to acquire, skills students are expected to develop, and values that they are expected to understand and integrate into their professional lives. The outcomes should identify the desired knowledge, skills and values that a school believes that its students should master. Standard 302 outlines the minimum outcomes that a law school must identify for its program of legal education. Other outcomes will vary depending upon the stated mission of a law school. Therefore, a school that has a focus on a particular area of substantive law would normally have more robust expectations in regard to the substantive areas critical to its mission or for which it claims special expertise. Similarly, schools with a mission to produce trial lawyers or transactional lawyers would have learning outcomes identifying skills and values critical to the effective representation of clients in those roles. Interpretation 302-1 lists some of the professional skills that a school may identify as learning outcomes consistent with its mission.

Standard 314, Interpretations 314-1 and 314-2

Standard 314 mandates that both formative and summative assessments must be utilized by law schools. Interpretation 314-1 provides definitions for the two different types of assessments. Interpretation 314-2 explains that the review of assessment methodology permits some flexibility to allow variation of assessment programs from school to school.

GUIDANCE:

Schools must be engaged in meaningful assessment of their progress in helping students achieve outcome goals. The Standards create considerable space for schools to develop their own assessment schemes that fit their program and their culture. However, each school must use both formative and summative assessments. Interpretation 314-2 makes clear that multiple assessment methods are not required in every course. Nevertheless, Standard 314, as the Accreditation Committee is likely to apply it, will require that formative assessment be integrated into the law school's program to, as Interpretation 314-1 states, "provide meaningful feedback to improve student learning" in the law school's overall program. The flexibility allowed in this Standard and these Interpretations is meant to permit schools to experiment and to reflect the diversity law schools' missions and programs. Nonetheless, the amount and variety of assessments utilized by each school should demonstrate that it is seriously measuring its success in meeting the outcomes that it has identified as appropriate to its mission.

Learning outcomes clarify what students are expected to learn or master. Assessment should measure the level of attainment of those learning outcomes being achieved by students. This requires schools to collect evidence that demonstrates the level of attainment. In planning for this collection, schools should identify both the methods of assessment as well as the sources for making those assessments. The assessment of how certain outcomes are being met by students may include consideration of co- and extra-curricular activities. Because determining the level of attainment requires some subjective judgments, multiple methods of assessment will more likely produce an accurate portrayal. As noted in Interpretation 315-1, the sources of this evidence may encompass different constituencies, including students, alumni, attorneys and judges in addition to faculty.

It is not the goal of assessing the level of attainment, and probably not realistic to expect, that each student will achieve the same level of mastery for every outcome. Some students will master some outcomes in a more proficient manner than others. Further, to the extent that learning outcomes are developed for certificate and specialty areas, learning outcomes within those areas will not be relevant for all students.

Standard 315 and Interpretation 315-1

Standard 315 requires that the dean and faculty evaluate its program of legal education, learning outcomes and assessment methods on an ongoing basis. The school is to use the results to determine the degree of student attainment of competency and make changes as appropriate.

GUIDANCE:

One of the primary goals of an assessment of student learning program is to require schools to evaluate whether they are successfully helping their students achieve mastery of the competencies that the school has identified as important for its graduates to obtain. This requirement is responsive to the recommendation of the Output Measures Committee that the emphasis on outcomes reflects a shift in focus from what is being taught in law schools to what is being learned by students. Schools are to evaluate the results obtained from the various

assessments to determine to what extent they are assisting their students to achieve the desired outcomes. This evaluation is to be conducted by the dean and faculty. Although some schools may appoint a faculty member or an administrator to oversee the development of outcomes and assessment, it is clear that the establishment and evaluation of outcomes and assessments cannot be the province of a single individual. Although the dean and faculty are to conduct the evaluation, Interpretation 315-1 makes clear that the evaluation may utilize evidence obtained from surveys and assessments by individuals outside of the school such as alumni, attorneys and judges.

Timeline

The Guidance Memorandum from the Managing Director's Office titled "Transition to and Implementation of the New Standards and Rules of Procedure for Approval of Law Schools" dated August 13, 2014, stated that the application of these Standards would begin with the 2016-17 academic year.

GUIDANCE:

Site teams visiting schools in the 2016-17 academic year and thereafter will be asked to report on the progress schools are making in establishing learning outcomes and in developing an assessment plan. Schools will be expected to show steady work and progress toward the adoption of a full set of learning outcomes. Those outcomes should be in place by the end of the 2017-2018 year. Schools must have adopted an assessment plan and be able to demonstrate that they are implementing it by the end of the 2018-2019 academic year. This schedule is consistent with the timeline recommended by the SRC's Learning Outcomes Subcommittee.

While they do not become operational until the Fall of the 2016-2017 academic year, schools with 2015-2016 site visit should be prepared to report on how they are working to come into compliance with what the Standards discussed in this memo require. Schools that cannot show that they are seriously engaged in the work that is necessary to develop and adopt learning outcomes and to develop and adopt an assessment program can expect that the Accreditation Committee will ask for a report back that demonstrates that appropriate progress is being made.

Conclusion

The process of developing, adopting, and implementing learning outcomes and an assessment program takes time. There is no one-size-fits-all set of outcomes or assessment program. While the Council, the Accreditation Committee, and the Managing Director's Office want to be helpful to schools, it would be a mistake to publish templates or specific statements of what will be sufficient to meet the Standards. Additional guidance will be provided over the next several years as the Council and the Accreditation Committee have experience in applying the Standards that can usefully be reported to schools.

The Standards direct schools to continuously engage in a process of establishing outcomes, assessing the school's performance, and reviewing/revising outcomes. This process will help demonstrate that the school has a "rigorous program of legal education that prepares its students, upon graduation, for

admission to the bar and for effective, ethical, and responsible participation as members of the legal profession,” as required by Standard 301(a).

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.