

Revisions to the 2021-2022 ABA Standards and Rules of Procedure for Approval of Law Schools

Revisions Effective February 2022

Standard 205: Non-Discrimination and Equality of Opportunity

(a) A law school shall ~~not~~ adopt, publish, and adhere to a policy of non-discrimination that prohibits the use of admission policies or take other actions to preclude admission of applicants or retention of students on the basis of race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, or disability, or military status.

(b) A law school shall adopt, publish, and adhere to policies that foster and maintain equality of opportunity for students, faculty, and staff, without discrimination or segregation on the basis of race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, ~~or~~ disability, or military status.

(c) This Standard does not prevent a law school from having a religious affiliation or purpose and adopting and applying policies of admission of students and employment of faculty and staff that directly relate to this affiliation or purpose so long as (1) notice of these policies has been given to applicants, students, faculty, and staff before their affiliation with the law school, and (2) the religious affiliation, purpose, or policies do not contravene any other Standard, including Standard 405(b) concerning academic freedom. These policies may provide a preference for persons adhering to the religious affiliation or purpose of the law school, but may not be applied to use admission policies or take other action to preclude admission of applicants or retention of students on the basis of race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, ~~or~~ disability, or military status. This Standard permits religious affiliation or purpose policies as to admission, retention, and employment only to the extent that these policies are protected by the United States Constitution. It is administered as though the First Amendment of the United States Constitution governs its application.

(d) Non-discrimination and equality of opportunity in legal education includes equal employment opportunity. A law school shall communicate to every employer to whom it furnishes assistance and facilities for interviewing and other placement services the school's firm expectation that the employer will observe the principles of non-discrimination and equality of opportunity on the basis of race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, ~~and~~ disability, or military status in regard to hiring, promotion, retention, and conditions of employment.

Interpretation 205-1

A law school may not require applicants, students, faculty, or employees to disclose their sexual orientation, although they may provide opportunities for them to do so voluntarily.

Interpretation 205-2

So long as a school complies with Standard 205(c), the prohibition concerning sexual orientation and gender identity or expression does not require a religiously affiliated school to act inconsistently with the essential elements of its religious values and beliefs. For example, Standard 205(c) does not require a school to recognize or support organizations whose purposes or objectives with respect to sexual orientation or gender identity or expression conflict with the essential elements of the religious values and beliefs held by the school.

Interpretation 205-3

Standard 205(d) applies to all employers, including government agencies and religiously affiliated organizations, to which a school furnishes assistance and facilities for interviewing and other placement

services. However, this Standard does not require a law school to implement its terms by excluding any employer unless that employer discriminates unlawfully.

Interpretation 205-4

The denial by a law school of admission to a qualified applicant is treated as made upon the basis of race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, ~~or~~ disability, or military status if the basis of denial relied upon is an admission qualification of the school that is intended to prevent the admission of applicants on the basis of race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, ~~or~~ disability, or military status though not purporting to do so.

Interpretation 205-5

The denial by a law school of employment to a qualified individual is treated as made upon the basis of race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, ~~or~~ disability, or military status if the basis of denial relied upon is an employment policy of the school that is intended to prevent the employment of individuals on the basis of race, color, ethnicity, religion, national origin, gender, gender identity or expression, sexual orientation, age, ~~or~~ disability, or military status though not purporting to do so.

Interpretation 205-6

The requirements stated in Standards 205(a) and 205(b) that a law school adopt, publish, and adhere to policies regarding non-discrimination and equality of opportunity may be satisfied by adopting, publishing, and adhering to policies of a parent institution that comply with this Standard.

Standard 303: Curriculum

(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:

- (1) one course of at least two credit hours in professional responsibility that includes substantial instruction in rules of professional conduct, and the values and responsibilities of the legal profession and its members;
- (2) one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty supervised; and
- (3) one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or a field placement, as defined in Standard 304.

(b) A law school shall provide substantial opportunities to students for:

- (1) law clinics or field placement(s); ~~and~~
- (2) student participation in pro bono legal services, including law-related public service activities; and
- (3) the development of a professional identity.

(c) A law school shall provide education to law students on bias, cross-cultural competency, and racism:

- (1) at the start of the program of legal education, and

(2) at least once again before graduation.

For students engaged in law clinics or field placements, the second educational occasion will take place before, concurrently with, or as part of their enrollment in clinical or field placement courses.

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Interpretation 303-5

Professional identity focuses on what it means to be a lawyer and the special obligations lawyers have to their clients and society. The development of professional identity should involve an intentional exploration of the values, guiding principles, and well-being practices considered foundational to successful legal practice. Because developing a professional identity requires reflection and growth over time, students should have frequent opportunities for such development during each year of law school and in a variety of courses and co-curricular and professional development activities.

Interpretation 303-6

With respect to 303(a)(1), the importance of cross-cultural competency to professionally responsible representation and the obligation of lawyers to promote a justice system that provides equal access and eliminates bias, discrimination, and racism in the law should be among the values and responsibilities of the legal profession to which students are introduced.

Interpretation 303-7

Standard 303(c)'s requirement that law schools provide education on bias, cross-cultural competency, and racism may be satisfied by, among other things, the following:

- (1) Orientation sessions for incoming students;
- (2) Lectures on these topics;
- (3) Courses incorporating these topics; or
- (4) Other educational experiences incorporating these topics.

While law schools need not add a required upper-division course to satisfy this requirement, law schools must demonstrate that all law students are required to participate in a substantial activity designed to reinforce the skill of cultural competency and their obligation as future lawyers to work to eliminate racism in the legal profession.

Interpretation 303-8

Standard 303 does not prescribe the form or content of the education on bias, cross-cultural competency, and racism required by Standard 303(c).

Standard 507: Student Loan Programs

(a) A law school shall demonstrate reasonable steps to minimize student loan defaults, including provision of debt counseling at the inception of a student's loan obligations and again before graduation.

(b) A law school shall provide each admitted applicant information on resources related to financial aid and student loan debt and the availability of individual student loan counseling at the law school.

the university of which it is a part, or from third party sources. Such information shall also be posted on the law school's financial aid webpage.

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Interpretation 507-2

For a law school not affiliated with a university or not receiving access to Title IV through a university, the school's student loan cohort default rate is sufficient if it is not greater than 10% for any of the three most recently published annual cohort default rates. Failure to comply with Title IV of the Higher Education Act of 1965, as amended, or having a student loan cohort default rate greater than the rate permitted by Title IV is cause for review of a law school's compliance with the Standards. A school shall demonstrate that it has resolved all areas of deficiency identified in financial or compliance audits, program reviews, or other information provided by the United States Department of Education.

Standard 508: Student Support Services

A law school shall provide all its students, regardless of enrollment or scheduling option, with

(a) Basic student services, including maintenance of accurate student records, academic advising and counseling, financial aid and debt counseling, and career counseling to assist students in making sound career choices and obtaining employment; and -

(b) Information on law student well-being resources.

If a law school does not provide these student services in (a) directly, it shall demonstrate that its students have reasonable access to such services from the university of which it is a part or from other sources.

Interpretation 508-1

Law student well-being resources include information or services related to mental health, including substance use disorders. Other law student well-being resources may include information for students in need of critical services such as food pantries or emergency financial assistance. Such resources encompass counseling services provided in-house by the law school, through the university of which the law school is a part, or by a lawyer assistance program. Law schools should strive to mitigate barriers or stigma to accessing such services, whether within the law school or larger professional community.

Interpretation 508-2

Reasonable access, at a minimum, involves informing law students and providing guidance regarding relevant information and services, including assistance on where the information and services can be found or accessed.

Minor Punctuation Revisions Effective November 2021 (Notice and Comment Not Required)

Rule 24: Application for Acquiescence in a Substantive Change

(a) Substantive changes requiring application for acquiescence include:

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(12) The addition of courses or programs that represent a significant departure from existing offerings or method of delivery since the latest site evaluation including (i) instituting a new full-time or part-time division, (ii) instituting a Distance Education J.D. Program, or (iii) establishing a new or different program leading to a certificate or degree other than a J.D. degree;

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(i) The decision of the Council granting acquiescence in a substantive change to institute a Distance Education J.D. Program under Rule 24(a)(12)(ii) may be for a term certain and can be extended once, with the extension being for either a further term certain or indefinite, but subject to revocation

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Standard 105. Acquiescence for Substantive Change in Program or Structure

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

...

(12) The addition of courses or programs that represent a significant departure from existing offerings or method of delivery since the latest site evaluation including (i) instituting a new full-time or part-time division, (ii) instituting a Distance Education J.D. Program, or (iii) establishing a new or different program leading to a certificate or degree other than a J.D. degree;

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