SEPTEMBER, 2014

Update Brief: New Law School Accreditation Standard and Interpretation on Pro Bono Activities

This brief reviews recent changes to the ABA law school accreditation standard dealing with pro bono activities which are offered by law schools to their students.

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The “ABA Standards and Rules of Procedure for Approval of Law Schools,” more commonly known as the “Accreditation Standards” are the rules that law schools must follow to maintain ABA-accredited status. Some Standards are accompanied by “Interpretations” which provide context and explanation for the Standards themselves.

The ABA body which oversees the Accreditation Standards is the Council of the Section of Legal Education and Admissions to the Bar (“Council”).

Summer 2014 Changes to the Pro Bono Accreditation Standard & Interpretation

Procedural Background

The Council referred to the ABA’s House of Delegates (which is the ABA’s policy-making body) proposed revisions to former Standard 302(b) and its accompanying Interpretation, 302-10. During the ABA’s 2014 Annual Meeting, the House of Delegates reviewed and concurred with these proposed revisions. With the House of Delegates’ concurrence, the revised language became legally effective on August 12, 2014, although “a transition and implementation plan” is in place, allowing schools time to make any appropriate changes.

The Revised Standard Language

- Former Standard 302(b)(2) read, in relevant part, “A law school shall offer substantial opportunities for...student participation in pro bono activities.” The proposed new language would move this to .....
- New Standard 303(b)(2) which replaces 302(b)(2). New Standard 303(b)(2) reads, in relevant part, “A law school shall provide substantial opportunities to students for...student participation in pro bono legal services, including law-related public service activities.”
Understanding the Revisions to the Standard and Accompanying Interpretation

The Council explains the changes to former Standard 302(b)(2) and former Interpretation 302-10 as follows:

Revised Standard 303(b) is a revision of current Standard 302(b), which requires law schools to provide “substantial opportunities” for student participation in pro bono activities. The proposal changes “pro bono activities” to “pro bono legal services, including law-related public service activities.” Current Interpretation 302-10 has been replaced by revised Interpretations 303-2 and 303-3, which reference pro bono activities as defined in the ABA Model Rules of Professional Conduct and provide a description of law-related public service activities. The Council also added language to Interpretation 303-2 encouraging law schools to promote opportunities for law students to provide at least 50 hours of pro bono service during law school.

The revision to the Standard itself is straightforward. The requirement that a school provide “substantial opportunities for student participation in pro bono activities” has become a requirement to provide “substantial opportunities to students for student participation in pro bono legal services, including law-related public service activities.”

The revision to the Interpretation, in which new Interpretation 303-3 replaces former Interpretation 302-10, is noteworthy.

- For the first time, the Interpretation language makes specific reference to Model Rule of Professional Conduct 6.1 (“Voluntary Pro Bono Publico Service). Interpretation 303-3 also explicitly mentions Model Rule 6.1’s emphasis on providing pro bono services to persons of limited means or to organizations that serve such persons.
- For the first time, the Interpretation language suggests a specific number of hours of pro bono service that may be performed: “[L]aw schools are encouraged to promote over their law school career at least 50 hours of pro bono service that complies with Standard 303(b)(2).” Fifty hours is the amount of pro bono service set forth in Model Rule of Professional Conduct 6.1 as an aspirational annual goal.
- Interpretation 303-3 maintains former Interpretation 302-10’s allowance that credit-bearing activities may be part of a law school’s “overall program of law-related pro bono opportunities so long as law-related non-credit bearing initiatives are also part of the program.”

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