RESOLUTION

RESOLVED, That the American Bar Association House of Delegates concurs in the action of the Council of the Section of Legal Education and Admissions to the Bar in making amendments dated February 2017 to Standard 316 (Bar Passage) of the ABA Standards and Rules of Procedure for Approval of Law Schools.
Standard 316. BAR PASSAGE

At least 75 percent of a law school’s graduates in a calendar year who sat for a bar examination must have passed a bar examination administered within two years of their date of graduation.

(a) A law school’s bar passage rate shall be sufficient, for purposes of Standard 301(a), if the school demonstrates that it meets any one of the following tests:

(i) That for students who graduated from the law school within the five most recently completed calendar years:
   (i) 75 percent or more of these graduates who sat for the bar passed a bar examination; or
   (ii) In at least three of these calendar years, 75 percent of the students graduating in those years and sitting for the bar have passed a bar examination.

In demonstrating compliance under sections (1)(i) and (ii), the school must report bar passage results from as many jurisdictions as necessary to account for at least 70 percent of its graduates each year, starting with the jurisdiction in which the highest number of graduates took the bar exam and proceeding in descending order of frequency.

(2) That in three or more of the five most recently completed calendar years, the school’s annual first-time bar passage rate in the jurisdictions reported by the school is no more than 15 points below the average first-time bar passage rates for graduates of ABA-approved law schools taking the bar exam in these same jurisdictions.

In demonstrating compliance under section (2), the school must report first time bar passage data from as many jurisdictions as necessary to account for at least 70 percent of its graduates each year, starting with the jurisdiction in which the highest number of graduates took the bar exam and proceeding in descending order of frequency. When more than one jurisdiction is reported, the weighted average of the results in each of the reported jurisdictions shall be used to determine compliance.

(b) A school shall be out of compliance with this Standard if it is unable to demonstrate that it meets the requirements of paragraph (a)(1) or (2).

(c) A school found out of compliance under paragraph (b) and that has not been able to come into compliance within the two year period specified in Rule 13(b) of the Rules of Procedure for Approval of Law Schools, may seek to demonstrate good cause for extending the period the law school has to demonstrate compliance by submitting evidence of:
(1) The law school’s trend in bar passage rates for both first-time and subsequent takers: a clear trend of improvement will be considered in the school’s favor, a declining or flat trend against it.

(2) The length of time the law school’s bar passage rates have been below the first-time and ultimate rates established in paragraph A: a shorter time period will be considered in the school’s favor, a longer period against it.

(3) Actions by the law school to address bar passage, particularly the law school’s academic rigor and the demonstrated value and effectiveness of its academic support and bar preparation programs; value added, effective, sustained and pervasive actions to address bar passage problems will be considered in the law school’s favor; ineffective or only marginally effective programs or limited action by the law school against it.

(4) Efforts by the law school to facilitate bar passage for its graduates who did not pass the bar on prior attempts: effective and sustained efforts by the law school will be considered in the school’s favor; ineffective or limited efforts by the law school against it.

(5) Efforts by the law school to provide broader access to legal education while maintaining academic rigor; sustained meaningful efforts will be viewed in the law school’s favor; intermittent or limited efforts by the law school against it.

(6) The demonstrated likelihood that the law school’s students who transfer to other ABA-approved schools will pass the bar examination: transfers by students with a strong likelihood of passing the bar will be considered in the school’s favor, providing the law school has undertaken counseling and other appropriate efforts to retain its well-performing students.

(7) Temporary circumstances beyond the control of the law school, but which the law school is addressing: for example, a natural disaster that disrupts operations or a significant increase in the standard for passing the relevant bar examination(s).

(8) Other factors, consistent with a law school’s demonstrated and sustained mission, which the school considers relevant in explaining its deficient bar passage results and in explaining the school’s efforts to improve them.