



**Issue 314 | September 14**

## **Debate Continues Over Test-Optional Law School Admission**

### **Public Comments Reveal Test-Optional Law School Admission Is a Divisive Issue, Both Sides Cite DEI Concerns**

Should all ABA-accredited law schools continue to require a "valid and reliable" standardized test (such as the LSAT or the GRE) as part of their admissions process? Under a proposed amendment to the ABA Section of Legal Education and Admissions to the Bar's Standard 503, law schools could choose to be test optional—and the public comment period that ended on September 1 yielded sharply divided opinions. Of the 116 comments submitted, 58 were in favor of the proposal and 53 opposed (the remaining five were either unrelated or neutral). Several of the comments in opposition carried multiple signatures; for example, two members of the Law School Admission Council's board of trustees listed 49 other names in their comment, and 60 law school deans joined together in another opposing comment. Those in favor include the California Association of Black Lawyers, representing more than 6,000 lawyers, judges, law professors and students. Many comments on either side cited the need to encourage diversity, equity and inclusion in legal education. [Law.com](#) has more information about this proposal, the people and organizations who commented, and the reasons they gave for their opinions.

### **New York State Bar Association, Lawmakers: Question on Character and Fitness Exam Unfair, May Be Illegal**

A question on New York state's character and fitness evaluation for admission to the bar may unfairly penalize applicants for juvenile cases or sealed or expunged convictions, some critics say—and it may also be against the law, according to the New York State Bar Association and others. This year, state lawmakers introduced a bill that would rewrite Question No. 26, a move that many say would foster diversity, equity and inclusion and signal support for rehabilitation. Others, however, caution that no longer requiring disclosure of arrests that did not reach convictions could let in some candidates who may have committed serious wrongdoing. [The New York Times](#) talks with some prospective bar admittees directly affected by Question No. 26, looks at the reasoning behind the proposal to rewrite it, and places this issue in the wider context of other recent questions about and changes to character and fitness evaluations.

### **U.S. Bureau of Labor Statistics: Legal Services Sector Loses Jobs in August After 5 Months of Gains**

According to preliminary figures from the U.S. Bureau of Labor Statistics, the legal services sector lost 8,900 jobs in August 2022 after five straight months of gains. However, this still represents an increase of 22,100 jobs compared with August 2021. This data, which is based on payroll jobs for lawyers and staff members working at firms providing legal services, can change in monthly revisions and in the annual look-back process. What kind of gains did the sector see in the months preceding August, and what was the low point during the pandemic? Find out at [ABA Journal](#).

### **Disciplinary Board of the Pennsylvania Supreme Court Seeks to Revive Professional Rule Against Discrimination,**

## Harassment by Lawyers

Last week, Pennsylvania's state attorney discipline board filed a brief urging the 3rd U.S. Circuit Court of Appeals in Philadelphia to help revive a professional rule prohibiting lawyers from discriminatory or harassing conduct. The rule was adopted in 2021 by the Pennsylvania Supreme Court, but in March 2022, U.S. District Judge Chad Kenney found that it violated First Amendment speech protections and was "unconstitutionally vague." The rule says a lawyer may not "knowingly engage in conduct constituting harassment or discrimination" based on grounds including race, sex, gender identity and religion. In her brief, appellate lawyer Lisa Blatt argued that the rule can be understood by any "reasonably intelligent" lawyer and noted that 40 other jurisdictions have similar restrictions for lawyers. Adam Schulman, a lawyer for attorney Zachary Greenberg, who is challenging the rule, said the district court's decision was "well reasoned" and that he looks forward to defending it. Learn more at [Reuters](#).



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