

CHAPTER 2

Organization and Administration

Standard 201. RESOURCES FOR PROGRAM

- (a) The present and anticipated financial resources of a law school shall be adequate to sustain a sound program of legal education and accomplish its mission.
- (b) A law school shall be so organized and administered that its resources are used to provide a sound program of legal education and to accomplish its mission.

Interpretation 201-1

A law school does not comply with the Standards if its financial resources are so inadequate as to have a negative and material effect on the education students receive.

Interpretation 201-2

A law school may not base the compensation paid any person for service to the law school (other than compensation paid a student or associate for reading and correcting papers or similar activity) on the number of persons enrolled in the law school or in any class or on the number of persons applying for admission to or registering in the law school.

Standard 202. SELF STUDY

Before each site evaluation visit the dean and faculty of a law school shall develop a written self study, which shall include a mission statement. The self study shall describe the program of legal education, evaluate the strengths and weaknesses of the program in light of the school's mission, set goals to improve the program, and identify the means to accomplish the law school's unrealized goals.

Interpretation 202-1

A current self study shall be submitted by a law school seeking provisional approval, a provisionally approved law school before its annual site evaluation, and a fully approved law school before any regular or special site evaluation.

Standard 203. STRATEGIC PLANNING AND ASSESSMENT

In addition to the self study described in Standard 202, a law school shall demonstrate that it regularly identifies specific goals for improving the law school's program, identifies means to achieve the established goals, assesses its success in realizing the established goals and periodically re-examines and appropriately revises its established goals.

Standard 204. GOVERNING BOARD OF AN INDEPENDENT LAW SCHOOL

A law school that is not part of a university shall be governed by a governing board composed of individuals dedicated to the maintenance of a sound program of legal education.

Interpretation 204-1

The governing board of a law school that is not part of a university should authorize the dean to serve as chief executive, or chief academic officer of the law school, or both, and shall define the scope of the dean's authority in compliance with the Standards. The dean shall be responsible to the governing board. The dean may be a member of the board but should not serve as chairperson of the board.

Standard 205. GOVERNING BOARD AND LAW SCHOOL AUTHORITY

- (a) A governing board may establish general policies that are applicable to a law school if they are consistent with the Standards.
- (b) The dean and faculty shall formulate and administer the educational program of the law school, including curriculum; methods of instruction; admissions; and academic standards for retention, advancement, and graduation of students; and shall recommend the selection, retention, promotion, and tenure (or granting of security of position) of the faculty.

Interpretation 205-1

An action of a university committee may violate the Standards if it deprives the dean and faculty of a law school of their appropriate roles for recommending faculty promotion and tenure or security of position.

Interpretation 205-2

Admission of a student to a law school without the approval of the dean and faculty of the law school violates the Standards.

Standard 206. DEAN

- (a) A law school shall have a full-time dean, selected by the governing board or its designee, to whom the dean shall be responsible.
- (b) A law school shall provide the dean with the authority and support needed to discharge the responsibilities of the position and those contemplated by the Standards.
- (c) Except in extraordinary circumstances, a dean shall also hold appointment as a member of the faculty with tenure.
- (d) The faculty or a representative body of it shall advise, consult, and make recommendations to the appointing authority in the selection of a dean.

Interpretation 206-1

The faculty or a representative body of it should have substantial involvement in the selection of a dean. Except in circumstances demonstrating good cause, a dean should not be appointed or reappointed to a new term over the stated objection of a substantial majority of the faculty.

Standard 207. ALLOCATION OF AUTHORITY BETWEEN DEAN AND FACULTY

The allocation of authority between the dean and the law faculty is a matter for determination by each institution as long as both the dean and the faculty have a significant role in determining educational policy.

Standard 208. INVOLVEMENT OF ALUMNI, STUDENTS AND OTHERS

A law school may involve alumni, students, and others in a participatory or advisory capacity; but the dean and faculty shall retain control over matters affecting the educational program of the law school.

Standard 209. NON-UNIVERSITY AFFILIATED LAW SCHOOLS

If a law school is not part of a university or, although a part, is physically remote from the rest of the university, the law school should seek to provide its students and faculty with the benefits that usually result from a university connection, such as by enlarging its library collection to include materials generally found only in a university library and by developing working relationships with other educational institutions in the community.

Standard 210. LAW SCHOOL-UNIVERSITY RELATIONSHIP

- (a) If a law school is part of a university, that relationship shall serve to enhance the law school's program.
- (b) If a university's general policies do not adequately facilitate the recruitment and retention of competent law faculty, appropriate separate policies should be established for the law school.
- (c) The resources generated by a law school that is part of a university should be made available to the law school to maintain and enhance its program of legal education.
- (d) A law school shall be given the opportunity to present its recommendations on budgetary matters to the university administration before the budget for the law school is submitted to the governing board for adoption.

Interpretation 210-1

A law school does not comply with the Standards if the charges and costs assessed against the law school's revenue by the university leave the law school with financial resources so inadequate as to have a negative and material effect on the education students receive.

Interpretation 210-2

The resources generated by a law school that is part of a university should be made available to the law school to maintain and enhance its program of legal education. "Resources generated" includes law school tuition and fees, endowment restricted to the law school, gifts to the law school, and income from grants, contracts, and property of the law school. The university should provide the law school with a satisfactory explanation for any use of resources generated by the law school to support non-law school activities and central university services. In turn, the law school should benefit on a reasonable basis in the allocation of university resources.

Standard 211. NON-DISCRIMINATION AND EQUALITY OF OPPORTUNITY

- (a) A law school shall foster and maintain equality of opportunity in legal education, including employment of faculty and staff, without discrimination or segregation on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability.
- (b) A law school shall not use admission policies or take other action to preclude admission of applicants or retention of students on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability.
- (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 (i) notice of these policies has been given to applicants, students, faculty, and staff before their affiliation with the law school, and (ii) 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 shall 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, religion, national origin, gender, sexual orientation, age or disability. 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 opportunity to obtain employment.** A law school shall communicate to every employer to whom it furnishes assistance and facilities for interviewing and other placement functions 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, religion, national origin, gender, sexual orientation, age and disability in regard to hiring, promotion, retention and conditions of employment.

Interpretation 211-1

Schools 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 211-2

As long as a school complies with the requirements of Standard 211(c), the prohibition concerning sexual orientation does not require a religiously affiliated school to act inconsistently with the essential elements of its religious values and beliefs. For example, it does not require a school to recognize or fund organizations whose purposes or objectives with respect to sexual orientation conflict with the essential elements of the religious values and beliefs held by the school.

Interpretation 211-3

Standard 211(d) applies to all employers, including government agencies, 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 211-4

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

Interpretation 211-5

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

Standard 212. EQUAL OPPORTUNITY AND DIVERSITY

- (a) Consistent with sound legal education policy and the Standards, a law school shall demonstrate by concrete action a commitment to providing full opportunities for the study of law and entry into the profession by members of underrepresented groups, particularly racial and ethnic minorities, and a commitment to having a student body that is diverse with respect to gender, race, and ethnicity.**
- (b) Consistent with sound educational policy and the Standards, a law school shall demonstrate by concrete action a commitment to having a faculty and staff that are diverse with respect to gender, race and ethnicity.**

Interpretation 212-1

The requirement of a constitutional provision or statute that purports to prohibit consideration of gender, race, ethnicity or national origin in admissions or employment decisions is not a justification for a school's non-compliance with Standard 212. A law school that is subject to such constitutional or statutory provisions would have to demonstrate the commitment required by Standard 212 by means other than those prohibited by the applicable constitutional or statutory provisions.

Interpretation 212-2

Consistent with the U.S. Supreme Court's decision in Grutter v. Bollinger, 529 U.S. 306 (2003), a law school may use race and ethnicity in its admissions process to promote equal opportunity and diversity. Through its admissions policies and practices, a law school shall take concrete actions to enroll a diverse student body that promotes cross-cultural understanding, helps break down racial and ethnic stereotypes, and enables students to better understand persons of different races, ethnic groups and backgrounds.

Interpretation 212-3

This Standard does not specify the forms of concrete actions a law school must take to satisfy its equal opportunity and diversity obligations. The determination of a law school's satisfaction of such obligations is based on the totality of the law school's actions and the results achieved. The commitment to providing full educational opportunities for members of underrepresented groups typically includes a special concern for determining the potential of these applicants through the admission process, special recruitment efforts, and programs that assist in meeting the academic and financial needs of many of these students and that create a more favorable environment for students from underrepresented groups.

Standard 213. REASONABLE ACCOMMODATION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES

Assuring equality of opportunity for qualified individuals with disabilities, as required by Standard 211, may require a law school to provide such students, faculty and staff with reasonable accommodations.

Interpretation 213-1

For the purpose of this Standard and Standard 211, disability is defined as in Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, as further defined by the regulations on post secondary education, 45 C.F.R. Section 84.3(k)(3) and by the Americans with Disabilities Act, 42 U.S.C. Sections 12101 et seq.

Interpretation 213-2

As to those matters covered by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, neither this Standard nor Standard 211 imposes obligations upon law schools beyond those provided by those statutes.

Interpretation 213-3

Applicants and students shall be individually evaluated to determine whether they meet the academic standards requisite to admission and participation in the law school program. The use of the term “qualified” in the Standard requires a careful and thorough consideration of each applicant and each student’s qualifications in light of reasonable accommodations. Reasonable accommodations are those that are consistent with the fundamental nature of the school’s program of legal education, that can be provided without undue financial or administrative burden, and that can be provided while maintaining academic and other essential performance standards.