Proposed S509 Reforms
Council Proposes Changes to Standard 509

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Changes Focus on Reporting of Law Graduate Employment Data

The Section’s Council unanimously voted to propose changes to Accreditation Standard 509 at its March meeting. Standard 509 addresses the content, quality and dissemination of consumer information published by law schools and imposes stronger sanctions for non-compliance. The proposed changes require law schools to publish more detailed data on their websites in a more prompt manner than previously mandated. The revised Standard will now be published for notice and comment, and a public hearing on it will be held, before final consideration and adoption by the Council and concurrence by the House of Delegates of the later this summer.

Specific changes to Standard 509, when finally adopted, will require that graduate employment data -- including employment status, employment type, whether employment is full or part-time, long or short term, whether funded by the law school or university and employment location — be displayed in a uniform chart provided by the Council and in accordance with instructions and definitions which the Council approves. [Placement Chart] The data must be gathered and published on each law school’s website by March 31 of each year for the last graduating class and must remain posted for at least three years. If the changes are finally adopted, prospective and current law students will have access to information about the most current graduating class in less than one year. Additionally, conditional merit scholarship retention data must also be published on a law school’s website in the form designated by the Council, and must also be distributed to all applicants being offered conditional scholarships at the time the scholarship offer is extended.

“These changes are designed to ensure that all law schools are reporting data in a uniform way that allows current and prospective law students an easy means of comparing law schools,” said New England Law/Boston Dean John O’Brien, Chair of the Section. “Accurate, detailed and transparent data is important consumer information and the Council is committed to ensuring that law schools collect and publish it.”

The Council specifically declined to require the collection and publication of salary data because fewer than 45% of law graduates contacted by their law schools report their salaries. The current collection of such data is unreliable and produces distorted information. Pursuant to the revised Standard 509, if adopted in its current form, schools may voluntarily choose to report salary data, but must now specify the number of respondents and the percentage of graduates the data represents.

Changes were also made to Rule 16 that would impose additional sanctions for providing incomplete, inaccurate or misleading consumer information in violation of Standard 509. The proposed sanctions may include, among others, significant monetary penalties, public censure and even the loss of accreditation, and enhanced sanctions of probation and removal from the list of approved law schools may be imposed even where a school is in compliance with the Standards at the time sanctions are imposed.

As required by the Department of Education, Revised Standard 509 and Rule 16 are now open for public comment on the Section’s website. Following a public hearing this summer, both the Revised Standard 509 and Rule 16, will become final upon adoption by the Council and concurrence by the House of Delegates of the ABA.
What Faculty and Staff Need to Know about the Cost of Legal Education

By Heather Jarvis

About the Author
Heather Jarvis graduated from Duke University School of Law cum laude and has practiced public interest law for more than a dozen years. Heather leads efforts to establish and expand student debt relief programs and to inform borrowers, schools, and employers about how to benefit from available debt relief programs. She has contributed to student debt relief policy for the House Education Committee and others in Congress. She is the founder of askheatherjarvis.com, dedicated to providing educational resources and training for student loan borrowers and the people who love them.

Legal education can be the foundation for an outstanding career; however a law degree represents a major investment. The price of legal education and the reality of the legal employment market presents today's law graduates with significant financial challenges extending many years post-graduation. Law graduates can successfully manage student debt and realize the promise of their educational investment, but they cannot do it without support from their law schools.

Law schools can help by increasing the availability of reliable student loan information and offering specific guidance geared toward the special needs of law students and graduates.

Why Students and Grads Need More Help
Nearl all of today's law students finance their legal education with borrowed money, committing considerable future income to repaying student loans. Fortunately, federal student loan programs include flexible repayment options and forgiveness provisions. Unfortunately, these options are excessively complicated, difficult to understand, and cumbersome to access.

Most people, whether or not they are employed by a law school, are not well versed in the student loan issues facing law graduates. Graduates are frustrated by trying to navigate the existing system of student loan repayment. Typical student loan borrowers encounter tricky decisions with significant effects on long-term costs, complex income tax considerations, and burdensome annual reporting requirements.

Increased Costs, Higher Student Debt, Fewer Jobs, and Lower Salaries
Increased educational costs, lower salaries, and fewer legal jobs have reduced the “return on investment” of a law degree. A typical graduate of a public law school borrows $68,827 for law school and a graduate of a private law school borrows $106,249. Two-thirds of undergraduates graduate with debt, owing an average of $24,500 in loans for their undergraduate education.

Law school tuition increased 317 percent from 1989 to 2009, and continues to rise. In 2009, the most recent year for which data is available, in-state tuition at public law schools averaged $18,472. Private law school tuition averaged $35,743 per year. Indirect costs such as books, room, board, and health insurance (which range between $12,500 and $25,000 for the academic year depending on the law school attended), the annual stated “cost of attendance” at the most expensive law schools approaches $75,000.

The employment rate for the law Class of 2010 was the lowest since 1996. James Leipold, executive director of NALP (the Association of Legal Career Professionals), said, “We have been watching this market deteriorate for several years now, but even I was surprised to see that the percentage of graduates employed in a full-time job requiring bar passage had dropped to 64.” Employment data show an unprecedented decline in the percentage of employed graduates who got their first job at a law firm. With the exception of large law firm salaries around $145,000 to $160,000, attorney starting salaries tend to cluster around the $40,000 to $65,000 range. A shift away from large law firm employment is reflected in lower average salaries; starting private practice salaries fell 20%. Government and public interest job median salaries remain stagnant--$52,000 for government jobs, and $42,900 for public interest jobs. More law graduates are working in one or more part-time or temporary jobs. Not including judicial clerkships, one in five jobs held by the Class of 2010 was temporary.
Trouble Paying Back Student Loans
The Institute for Higher Education Policy studied data on 8.7 million student loan borrowers and 27.5 million student loans, focusing on the 1.8 million borrowers who entered repayment in 2005. About 14% of the borrowers studied were graduate or professional students. The Institute for Higher Education Policy found that borrowers:

- Do not fully understand loan terms
- Are rarely familiar with all the repayment options
- Are often not aware of options that could have helped them manage their loans

Many more student loan borrowers are having difficulty repaying their student loans than is generally recognized. Student loan default rates only tell us so much. Deferment and forbearance allow borrowers to temporarily suspend repayment in times of financial stress and avoid delinquency and default. A borrower isn’t considered “delinquent” on his student loan until after his payment is 60 days late. A borrower faces “default” after another 270 days.

Although graduate and professional borrowers were less likely than other borrowers to have been delinquent or defaulted on their student loans, 42% of graduate and professional borrowers couldn’t manage to make timely payments without either postponing their payments, becoming delinquent, or defaulting on their student loans.

Of graduate and professional borrowers entering repayment in 2005:

- 19% faced delinquency or default
- 22% had to temporarily suspend their student loan payments using deferment or forbearance options
- Only 58% made timely payments without using deferment or forbearance options

Those who graduated with a degree fared better than those leaving school without attaining a degree: 68% of graduate and professional students who earned their degree were able to repay without delay but only 47% of those who left before attaining a degree did so.

Financial Aid Offices Have Their Hands Full Already
A borrower’s ability to deal with student loan repayment depends on getting good information. Unfortunately, students are getting less one-on-one assistance from their financial aid offices even as their financial aid professionals are working harder than ever.

In a recent National Association of Student Financial Aid Administrators’ survey, 90 percent of financial aid administrators report that they have fewer resources available to provide critical student services including student loan repayment counseling. Two in three financial aid administrators said their office was facing a “moderate” or “severe” resource shortage. Of those reporting shortages, nearly 90 percent said the shortage impacted their obligation to assist and counsel students. Approximately 80 percent of those facing shortages indicated that the shortages are not short term. A majority of survey respondents cited complex regulations and a greater compliance workload as a major cause of the resource shortage. Over the last decade, there has been a 40 percent increase (in word count) of the federal regulations governing the student aid programs, the National Association of Student Financial Aid Administrators’ reports.

Moving in the Right Direction
Awareness of the challenges facing student loan borrowers is growing within legal education. More and more law schools are committed to finding the resources needed to help their graduates understand and take advantage of the flexible student loan repayment options that are available.

Last year, the Law School Admission Council (LSAC) began offering seminars and one-on-one counseling opportunities about financial aid at each of their regional Law School Recruitment Forums.

An increasing number of law schools are working to deliver critically important support for their students and grads. The University of California, Hastings College of the Law instigated one-on-one student loan counseling. Washburn University School of Law has increased efforts to ensure that practical ways of reducing costs are communicated through a series of campus presentations. Michigan State University College of Law posted a Statement on Loan Indebtedness and undertook a faculty-led discussion on the topic of debt during the first week of classes.

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Other initiatives include offering special assistance to students entering law school with high student loan debt, encouraging work-study opportunities, and subscribing to online financial literacy training modules.

**Data Sources**

Law school tuition and average borrowing data:  
[American Bar Association Section on Legal Education and Admissions to the Bar.](https://www.abanet.org/education)

Undergraduate borrowing data:  
[Institute for College Access and Success.](https://www.ticas.org)

Employment and salary data:  
[NALP](https://www.nalp.org) (the Association of Legal Career Professionals).

Repayment data:  
[Institute for Higher Education Policy.](https://www.ihep.org)
Collection of 2011 Law School Graduate Employment Data Underway

On March 15, new law school graduate employment data for the class of 2011 was due to be reported by accredited law schools to the ABA’s Section of Legal Education and Admissions to the Bar. The newly revised questionnaires were distributed to accredited law schools in February 2012 seeking more detailed and comprehensive information than had previously been required. The data will be compiled and published on the Section’s website as early as June 2012.

The Section announced in December 2011 significant changes to its collection and publication of graduate placement data provided by accredited law schools. These changes enhance the accuracy, timeliness, completeness, and specificity of the employment data.

For the class of 2011, law schools must report directly to the Section for each graduate:

- Employment status (employed, unemployed/seeking, unemployed/not seeking, pursuing graduate degree full-time, unknown)
- Employment type (law firm, business, government, public interest, clerkship, academia)
- Employment location
- Whether a position is short- or long-term
- Whether a position is funded by the school itself
- Bar passage required
- J.D. advantage
- Other professional/nonprofessional
- Full-time or part-time

The data being reported will include the number of law graduates joining law firms by law firm size, and will report the number of students that responded to the surveys.

“There should be no doubt that the Section is fully committed to the clarity and accuracy of law school placement data,” said New England Law/Boston Dean John O’Brien, chair of the Section. “Current and prospective law students will now have more timely access to detailed information that will help them make important decisions about their futures.”
Facing Up to Facebook in the Classroom

By John G. Browning

About the Author
John Browning is a partner in the Dallas, Texas office of Lewis Brisbois Bisgaard & Smith, LLP. His book, The Lawyer’s Guide to Social Networking: Understanding Social Media’s Impact on the Law, was published in December 2010 by Thomson Reuters/West Publishing. He is the author of numerous articles on social media-related topics, and has been quoted as a national authority on the subject by The New York Times, TIME magazine, Salon.com, Inside Counsel magazine, Law 360, and other publications. Mr. Browning is an adjunct professor at Southern Methodist University Dedman School of Law and at Texas Wesleyan University School of Law. He is the author of the forthcoming Social Media Litigation Practice Guide (West Publishing) and Cases and Materials on Social Media and the Law (Carolina Academic Press).

The use of social networking platforms like Facebook, Twitter, and YouTube has washed over society like a tsunami, albeit one whose waters show no sign of receding. Facebook, founded in 2004, has over 850 million users worldwide. Twitter, started in 2006, now boasts over 300 million accounts. To put the near-exponential growth of such sites into perspective, consider this: in 2007, Twitter was processing about 5,000 “tweets” a day, yet by late 2011, the social networking/microblogging site was handling a staggering 144 million tweets daily. The power of social media is being harnessed by everyone from corporate to market products and communicate with consumers, to protest movements seeking regime change (witness the Arab Spring).

Not surprisingly, the legal profession itself has also been impacted by this emerging media revolution. Although 65% of all adult Americans have at least one social networking presence, according to a recent study, the figure is even higher among lawyers. A 2009 Martindale Hubbell Networks for Counsel survey revealed that 70% of lawyers belonged to at least one social network, a figure that was up 25% from the previous year. A 2011 ALM Legal Intelligence report showed that 85% of the law firms surveyed are using social networking platforms like Facebook, LinkedIn, and Twitter, with over 40% reporting that participating in social networking or blogging had resulted in new business or new client leads.

And beyond the effect that social networking is having on how lawyers and law firms market themselves, social media is transcending practice boundaries and influencing substantive areas of law as well as fundamental notions of concepts like jurisdiction and service of process. At least six countries have permitted parties to be served via social networking sites like Facebook, most recently two states in the United States. While the Internet and the e-commerce opportunities it presents have altered the legal landscape when it comes to jurisdiction, social networking platforms have given courts and the country new issues to wrestle with, as individuals and businesses tweeting and posting in one state may be subjecting themselves to the laws of another forum.

Virtually every area of law is confronting digital age issues. A 2010 study by the American Academy of Matrimonial Lawyers indicated that 81% of the family lawyers responding reported using social media evidence in their cases. Personal injury law has been awash in examples of parties being “foiled by Facebook” as incriminating photos and wall posts contradict the claims asserted in lawsuits. Employment law has seen a similar increase in evidence from social networking sites like Facebook, most recently two states in the United States. While the Internet and the e-commerce opportunities it presents have altered the legal landscape when it comes to jurisdiction, social networking platforms have given courts and the country new issues to wrestle with, as individuals and businesses tweeting and posting in one state may be subjecting themselves to the laws of another forum.

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Clearly, social media is having a transformative effect on the law and the legal profession. Examine the continuing legal education offerings in any state, and one will find no shortage of courses addressing some aspect of social media’s...
impact on the law. Litigators are confronting not just discoverability and evidentiary issues associated with content from social networking sites, but also the dangers of jurors’ social media activities. Mistrials and overturned verdicts have occurred nationwide as jurors tweet during deliberations, “friend” parties or witnesses, or engage in online “research” about the issues in a case. States and federal courts alike have responded by revising their jury instructions to specifically warn against such online misconduct. If one looks at virtually any “top 10” list of the most important, cutting-edge issues affecting the law today, the various uses—and misuses—of social media invariably appear prominent among them.

Why, then, do we essentially ignore the legal impact of social media in the modern law school curriculum? Sure, many law schools have an elective or two on Internet law or perhaps e-commerce, but such courses pay scant if any attention to the role of social media. At a time when journalists rely heavily on social media sources (whether for international news or a high-profile shooting) and issues like cyberbullying and online privacy crowd the headlines, law students have no similar point of reference in their own curriculum. Just as lawyers have for years bemoaned the fact that the law doesn’t keep pace with technological innovation, legal education now fails to keep up with the significant issues presented by the intersection of emerging media and the law. Law students today can watch a “cross-examination by Facebook” on an episode of the television legal drama The Good Wife or read about one in a courtroom thriller by Lincoln Lawyer author Michael Connelly, yet the odds are abysmal that they will actually learn the ins and outs of locating and ethically using social media evidence while in law school.

Addressing social media’s impact on the law and the legal profession is important for critical reasons that go beyond the indulgence of intellectual curiosity. Rule 1.1 of the ABA Model Rules of Professional Conduct requires lawyers to be competent in their representation of clients, with Comment 6 to that Rule mandating that lawyers “should keep abreast of changes in the law and its practice” (and the ABA Ethics 20/20 Committee’s recommendations go even further, proposing that Comment 6 be revised to encompass keeping abreast of “the benefits and risks associated with technology”). Model Rule 1.3 and its comments call for an attorney to act with diligence and zeal in advocating for his client. Yet in today’s digital age with the sheer pervasiveness of social media, it is hard to imagine a lawyer complying with these duties of competence and diligence while being unfamiliar or uncomfortable with social media. Courts around the country are starting to recognize this. A appellate court considering an admissibility issue concerning MySpace evidence observed that lawyers should be conversant in social media “as a matter of professional competence.” Courts in Indiana, Louisiana, and Florida have similarly recognized a duty to make effective use of online resources as a matter of professional diligence, and in 2010, the Missouri Supreme Court (in Johnson v. McCullough) imposed a similar responsibility on attorneys “[i]n light of advances in technology allowing greater access to information.”

The downside of the failure to educate future lawyers on the benefits and risks posed by social media is evident. Lawyers and judges in multiple jurisdictions have been disciplined for online missteps using Facebook, Twitter, YouTube, and other social networking platforms. In 2011, after a prominent Virginia personal injury lawyer directed his client in a wrongful death case to “clean up” his Facebook profile by deleting questionable photos, the court halved the $10.6 million jury verdict, and further sanctioned the lawyer and his client to the tune of over $700,000 (that lawyer has since resigned from the practice of law).

One solution to this problem is to fill the void that currently exists in law school curricula. As a civil litigator of over 22 years of experience, I had encountered firsthand critical evidence from social networking sites. I grew accustomed to fielding questions from other practitioners and even judges about social media, and began speaking at CLE conferences and writing articles about the use of social media evidence as well as the impact that emerging technologies were having on many areas of the law. I searched and found little in the way of reference works that could assist a law student, lawyer, or judge in this area (most thin volumes focused on attorneys’ use of social media to market their practices). Ultimately, I researched and wrote my own book, The Lawyer’s Guide to Social Networking: Understanding Social Media’s Impact on the Law (West Publishing 2010). Shortly before it came out, I approached Southern Methodist University Dedman School of Law about offering a course devoted to social media and the law, and was delighted when the administration agreed.

The course has since expanded to another law school (I now serve as an adjunct professor at both SMU Law and Texas Wesleyan University School of Law), and I’ve been contacted by other schools about implementing a similar elective course. The class itself uses my book as a basic text, supplemented by additional reading materials including cases, ethics opinions, and statutes from around the country. It is structured as a 14-week course, with units that primarily focus on social media’s effect on substantive areas of the law, such as family law, criminal law, tort law, employment law, and
constitutional law. Other class meetings focus on discovery and evidence issues, ethical questions posed by social media use, and emerging issues such as new crimes, causes of action, and defenses that have sprung up with the spread of social media. All kinds of topics are addressed, including drafting considerations (with social media risks in mind) and identifying emerging trends.

Even as an elective that is only offered as an evening course, “Social Media and the Law” has been a wildly popular class, with enrollment increasing each semester it is taught. The primary source of each law student’s grade is an independent research paper on a topic pertaining to social media and the law, in which the student analyzes recent decisions, legislation, or trends in a given area. Given the ever-evolving nature of this area of law, and the fact that most law students tend to be “digital natives” for whom regular use of social networking tools is second nature, the students’ level of classroom engagement tends to be high.

For me, making the intersection of social media and the law a focus of my scholarly work has been rewarding. I’ve authored several law review articles in areas including procedure, evidence, ethics, defamation, and international law, and I’ve been fortunate enough to speak at academic symposia on many of these issues. Yet, just as social media itself is based on the premise of sharing and connecting with others, this course ideally will inspire other law schools to find ways to address the paradigm shift in communications that social media represents and to prepare law students for how this shift is impacting virtually every area of practice as well as time-honored notions of duty and jurisdiction. Just as U.S. law schools in recent years made curriculum changes to better prepare law students to be global citizens practicing in a global economy, today’s climate of emerging technologies and the impact such innovation is having on the law and legal profession demands that law schools prepare their students to be digital citizens as well.
Plan to Attend an Upcoming Section Conference

- Law School Development
  Return to Our Roots:
  Fundraising Fundamentals and Best Practices in Development
  Jackson Lake Lodge
  Grand Teton National Park, Wyoming
  May 29–June 1, 2012

Join law school deans and senior advancement professionals from across the country for the premier law school development conference. This program offers the opportunity to learn about strategies for successful fundraising in what remains a difficult economic climate and best practices for building and sustaining a successful law school advancement operation.

Visit the Law School Development conference site for program, registration, and hotel information.

- Associate Deans Conference
  Boot Camp for Associate Deans: “Corps” Principles
  The Mirage
  Las Vegas, Nevada
  June 21–24, 2012

We are in a time of generational change with issues ranging from the increased pressures on law school faculty, staff, and students, to the increased pressures on the legal profession generally. It’s time to go back to boot camp to figure out how to perform better in an atmosphere that is radically different from the one that existed when you went to law school. We’ll discuss employment markets, the culture of legal employers and of law schools, tuition pressures, student debt loads, and encouraging a climate of professionalism at work. And we promise not to make you do sit-ups or march while carrying an 80-pound backpack.

Visit the Associate Deans conference site for program, registration, and hotel information.
Join Us at the 2012 ABA Annual Meeting in Chicago

SECTION HEADQUARTERS HOTEL
Swissotel
323 East Wacker Drive
Chicago, Illinois
312.565.0565

PRELIMINARY SECTION SCHEDULE

Thursday, August 2
Council Meeting
Chair’s Dinner

Friday, August 3
Council Meeting
Kutak Award Reception

Saturday, August 4
Deans Breakfast

Report on the Survey of Law School Curricula 2002-2010
This summer, A Survey of Curricula: 2002-2010 will debut. Serving as a follow up to its predecessor, A Survey of Curricula: 1992-2002, the 2010 Survey offers comprehensive empirical data on current law school curricula and provides comparative trends that emerged from both surveys. In addition to tracking curricular trends, the 2010 Survey results reveal a renewed commitment on the part of faculties to review and revise their curricula to produce practice-ready professionals. In this program, the Survey’s editor, Professor Catherine L. Carpenter of Southwestern Law School, will present the major findings of the Survey.

Annual Section Business Meeting
2012 Annual Meeting Registration and Housing
New Section Publications

2010-2011 Annual Report of the Consultant on Legal Education to the ABA

Recapping the activities and accomplishments of the Section from the previous Association year, the Annual Report also recognizes the Section’s volunteer leadership and presents statistical information on legal education.

2012 Comprehensive Guide to Bar Admission Requirements

Published annually in collaboration with the National Conference of Bar Examiners, the Comprehensive Guide outlines the rules and practices of all U.S. jurisdictions for admission to the bar by examination and on motion including legal education, character and fitness, bar examinations, and special licenses. The Guide is also available as a free download on the Publications page of the Section’s website.
Comments Invited for Upcoming Law School Site Visits

Written comments related to current compliance with the Standards for the Approval of Law Schools may be submitted to the Consultant's Office. The comments should be sent no later than eight weeks prior to the site visit's beginning date. View the site visit schedule.

Comments should be sent to the Deputy Consultant on Legal Education, American Bar Association, Section of Legal Education and Admissions to the Bar, 321 N. Clark Street, Chicago, IL 60654.
Thomas Jefferson School of Law Hosts 2012 Facilities Conference

Thomas Jefferson School of Law hosted more than 180 people at the 2012 Bricks and Bytes Conference from March 11 to 13. The conference was book-ended on Sunday and Tuesday with an interactive workshop designed to develop forward-thinking skills for planning, programming, and design meetings. Led by Lee Coyle from Cannon Design and architects from seven firms, the workshop featured group and breakout sessions in which participants worked collaboratively on a variety of building and renovating projects. In between, 26 different programs were offered ranging from Achieving Expectations in Renovation to Managing Expectations in Planning to Security Issues to Being Green and LEED Certification.

The law school provided a stunning venue for the conference. It was designed and constructed to meet the standards of the U.S. Green Building Council's LEED Gold Level Certification and features state-of-the-art cloud computing technology and outdoor terraces with lush landscaping.

Another highlight of the conference was the Tuesday night reception and dinner aboard the U.S.S. Midway. The longest-serving U.S. Navy carrier of the 20th century, the U.S.S. Midway was commissioned a week after the end of World War II and was the Persian Gulf flagship during Desert Storm. It was decommissioned in 1992.

Conference participants were able to visit the ship's enormous flight deck including James Faught, associate dean at Loyola University-Chicago, School of Law, and a member of the conference planning committee.

Visit the Bricks & Bytes Past Conferences page for agendas and program materials.