



AMERICAN **BAR** ASSOCIATION

Legal Education and
Admissions to the Bar

Memorandum

To: Interested Persons and Entities

From: Scott Bales, Council Chair
William Adams, Managing Director of Accreditation and Legal Education

Date: March 1, 2021

Re: ABA Standards and Rules of Procedure – Matters for Notice and Comment – Standards 303 and 508 and Rules 2 and 13

At its meeting held on February 18-19, 2021, the Council of the Section of Legal Education and Admissions to the Bar approved for Notice and Comment proposed revisions to Standards 303 and 508 and Rules 2 and 13 of the *ABA Standards and Rules of Procedure for Approval of Law Schools*.

All proposed revisions and accompanying explanations are published on the Section's website at https://www.americanbar.org/groups/legal_education/resources/notice_and_comment/.

We solicit and encourage written comments on all the proposals listed above. **Due to COVID-19, there will not be an open hearing, only a written comment period.** Please address all written comments on the proposals to Scott Bales, Council Chair. Please send comments to Fernando Mariduena (Fernando.Mariduena@americanbar.org) by March 31, 2021. Written comments received after March 31, 2021, may not be included in the materials considered by the Council at its May 2021 meeting.

PROPOSED CHANGES TO STANDARDS 303 AND 508 AND RULES 2 AND 13

Explanation of Changes

Standard 303: Development of professional identity was added to this Standard since activities that help in the development of professional identity must take place at multiple points over the course of a student's time in law school, including as part of the law school curriculum. Interpretation 303-5 allows flexibility so that law schools can incorporate opportunities for student professional identity development into the curriculum, co-curricular activities, and professional development activities in meeting this part of the Standard while also defining "professional identity."

Standard 508: Recognizing concerns about mental health and substance abuse among law students, student well-being resources were added to the list of required student support services listed in Standard 508. The Standard has also been updated to define both “student well-being resources” and “reasonable access” so that these clearly define what is required by the Standard.

Rule 2: Due in part to the prevalence of remote work during the pandemic, Rule 2 is being amended to clearly allow for written correspondence from the Council and submissions to the Council to be sent electronically.

Rule 13: The U.S. Department of Education has extended the period of time to come into compliance with a Standard to four years with an extension of time possible for good cause. Currently, under Rule 13, if a law school is not in compliance with the Standards, it has two years to come into compliance. The Council is maintaining this two-year period to come into compliance but amending Rule 13 to specifically allow for an extension of time up to three more years for good cause if the applicable good cause policies are satisfied. Good cause policies are set out in a new IOP 18, which was approved by the Council at its February 2021 meeting. This amendment is in recognition of the fact that it may take longer for law schools to come into compliance with some Standards as opposed to others.

Redline of Standard 303

Standard 303. CURRICULUM

(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:

- (1) one course of at least two credit hours in professional responsibility that includes substantial instruction in rules of professional conduct, and the values and responsibilities of the legal profession and its members;
- (2) one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty supervised; and
- (3) one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or a field placement, as defined in Standard 304.

(b) A law school shall provide substantial opportunities to students for:

- (1) law clinics or field placement(s); ~~and~~
- (2) student participation in pro bono legal services, including law-related public service activities; and
- (3) the development of a professional identity.

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Interpretation 303-5

Professional identity includes, but is not limited to, the knowledge, skills, values and morals, goals, and personality traits considered foundational to successful legal practice. Students should have frequent opportunities to develop their professional identity during their time in law school, starting in the first year. These opportunities should not take place solely in one course but should be varied across the

curriculum as well as in co-curricular and professional development activities as the development of a professional identity requires student reflection and growth over time.

Redline of Standard 508

Standard 508. STUDENT SUPPORT SERVICES

A law school shall provide all its students, regardless of enrollment or scheduling option, with

- (a) Basic student services, including maintenance of accurate student records, academic advising and counseling, financial aid and debt counseling, and career counseling to assist students in making sound career choices and obtaining employment; and
- (b) Information on law student well-being resources.

If a law school does not provide these student services directly, it shall demonstrate that its students have reasonable access to such services from the university of which it is a part or from other sources.

Interpretation 508-1

Law student well-being resources include information or services related to substance abuse and mental health. They can include, but are not limited to, counseling services provided in-house by the law school, through the university of which the law school is a part, or by a bar association legal assistance program. Other law student well-being resources may include information for students in need of critical services such as food pantries or emergency financial assistance.

Interpretation 508-2

Reasonable access, at a minimum, involves informing law students and providing guidance regarding relevant information and services, including where the information and services can be found or accessed.

Redline of Proposed Changes to Rule 2

Rule 2: Council Responsibility and Authority

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(b) A determination by the Council shall be effective upon issuance and is not retroactive.

(c) The Council shall interpret “written” or “in writing” as used in these Rules to indicate that any notice, decision, or other notification from the Council or submission to the Council will be electronic when possible and practicable.

~~(d)~~ (d) The Council is authorized to adopt emergency policies and procedures in response to extraordinary circumstances in which compliance with the Standards would create or constitute extreme hardship for multiple law schools. These policies and procedures will be effective upon adoption by the Council for a term certain and limited to the duration of the extraordinary circumstance.

Redline of Proposed Changes to Rule 13

Rule 13: Actions on Determinations of Noncompliance with a Standard

- (a) Following a determination by the Council of non-compliance with a Standard in accordance with Rule 11(a)(4), the Council shall:
 - (1) Require the law school to bring itself into compliance and submit information by a specific date to demonstrate that it has come into compliance with the Standard; and
 - (2) Direct that representatives of the law school, including any person specifically designated by the Council, appear at a hearing to determine whether to impose sanctions and/or direct specific remedial action in connection with the law school's non-compliance with the Standard.
- (b) The period of time by which a law school is required to demonstrate compliance with a Standard shall not exceed two years from the date of determination of noncompliance, except as provided for in subsection (c).
- (c) For good cause, the Council may extend the date of compliance for up to three years if the requirements of IOP 18 are met.