Proposed Revisions to the ABA Standards for Approved Law Schools

Related to Learning Outcomes and Experiential Learning

The most recent Standards revision process has been ongoing since 2008. The Council of the Section of Legal Education and Admissions to the Bar approved the proposed Standards detailed below at their March 2014 meeting. The entire Standards revision packet will be presented to the ABA House of Delegates at the Annual Meeting in August 2014. The expectation is that the House will adopt the revisions although the House may either concur with the Council or refer the revisions back to the Council. Pursuant to the House Rules, the House may refer a decision by the Council back to the Council only twice. The decision by the Council following the second referral is final.

Below find those portions of the proposed Standards approved by the Council that directly relate to learning outcomes or experiential education.¹

**Standard 301. OBJECTIVES OF PROGRAM OF LEGAL EDUCATION**

(a) A law school shall maintain a rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession.

(b) A law school shall establish and publish learning outcomes designed to achieve these objectives.

**Standard 302. LEARNING OUTCOMES**

A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:

(a) Knowledge and understanding of substantive and procedural law;

(b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;

(c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and

(d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

*Interpretation 302-1* For the purposes of Standard 302(d), other professional skills are determined by the law school and may include skills such as, interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.

*Interpretation 302-2*

A law school may also identify any additional learning outcomes pertinent to its program of legal education.

¹ See American Bar Association Section of Legal Education and Admissions to the Bar, Proposed Standards and Explanations, , April 2014 SRC Meeting Materials

http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/201404_src_meeting_materials_proposed_standards.pdf
Standard 303. CURRICULUM
(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:

....

(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. To satisfy this requirement, a course must be primarily experiential in nature and must:

(i) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302;

(ii) develop the concepts underlying the professional skills being taught;

(iii) provide multiple opportunities for performance; and

(iv) provide opportunities for self-evaluation.

*Interpretation 303-1* A law school may not permit a student to use a course to satisfy more than one requirement under this Standard. For example, a course that includes a writing experience used to satisfy the upper-class writing requirement [see 303(a)(2)] cannot be counted as one of the experiential courses required in Standard 303(a)(3).

Standard 304. SIMULATION COURSES AND LAW CLINICS
(a) A simulation course provides substantial experience not involving an actual client, that (1) is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a set of facts and circumstances devised or adopted by a faculty member, and (2) includes the following:

(i) direct supervision of the student's performance by the faculty member;

(ii) opportunities for performance, feedback from a faculty member, and self-evaluation; and

(iii) a classroom instructional component.

(b) A law clinic provides substantial lawyering experience that (1) involves one or more actual clients, and (2) includes the following:

(i) advising or representing a client;

(ii) direct supervision of the student’s performance by a faculty member;

(iii) opportunities for performance, feedback from a faculty member, and self-evaluation; and

(iv) a classroom instructional component.

Standard 305. FIELD PLACEMENTS AND OTHER STUDY OUTSIDE THE CLASSROOM
....

(c) A field placement program shall include:

....

(5) for field placements that award three or more credit hours, regular contact between the faculty supervisor or law school administrator and the site supervisor to assure the quality of the student educational experience, including the appropriateness of the supervision and the student work;

(f) A law school that has a field placement program shall develop, publish, and communicate to students and site supervisors a statement that describes the educational objectives of the program.
Standard 314. ASSESSMENT OF STUDENT LEARNING
A law school shall utilize both formative and summative assessment methods in its curriculum to measure and improve student learning and provide meaningful feedback to students.

Interpretation 314-1 Formative assessment methods are measurements at different points during a particular course or at different points over the span of a student’s education that provide meaningful feedback to improve student learning. Summative assessment methods are measurements at the culmination of a particular course or at the culmination of any part of a student’s legal education that measure the degree of student learning.

Interpretation 314-2 A law school need not apply multiple assessment methods in any particular course. Assessment methods are likely to be different from school to school. Law schools are not required by Standard 314 to use any particular assessment method.

Standard 315. EVALUATION OF PROGRAM OF LEGAL EDUCATION, LEARNING OUTCOMES, AND ASSESSMENT METHODS
The dean and the faculty of a law school shall conduct ongoing evaluation of the law school's program of legal education, learning outcomes, and assessment methods; and shall use the results of this evaluation to determine the degree of student attainment of competency in the learning outcomes and to make appropriate changes to improve the curriculum.

Interpretation 315-1 Examples of methods that may be used to measure the degree to which students have attained competency in the school’s student learning outcomes include review of the records the law school maintains to measure individual student achievement pursuant to Standard 314; evaluation of student learning portfolios; student evaluation of the sufficiency of their education; student performance in capstone courses or other courses that appropriately assess a variety of skills and knowledge; bar exam passage rates; placement rates; surveys of attorneys, judges, and alumni; and assessment of student performance by judges, attorneys, or law professors from other schools. The methods used to measure the degree of student achievement of learning outcomes are likely to differ from school to school and law schools are not required by this standard to use any particular methods.
California’s New State Bar Pre-admission Requirements:

15 units of Experiential Education and 50 hours of Pro Bono

Linda Morton, California Western School of Law

June, 2014

Phase I – June, 2013: The California Task Force on Admissions Regulation Reform (Task Force) issued its report on the need for a pre-bar-admission competency training program. The Task Force’s reported recommendations are below. (The language in bold is my summary, with the actual language of the Task Force Report directly below each summary.)


TASK FORCE’S RECOMMENDATIONS, June 24, 2013 Phase I Final Report

1. 15 Units of practice-based experiential course work during law school, or a Bar–approved externship, clerkship, or apprenticeship during or following completion of law school sometime prior to Bar admission

Pre-admission: A competency training requirement fulfilled prior to admission to practice. There would be two routes for fulfillment of this pre-admission competency training requirement: (a) at any time in law school, a candidate for admission must have taken at least 15 units of practice-based, experiential course work that is designed to develop law practice competencies, and (b) in lieu of some or all of the 15 units of practice-based, experiential course work, a candidate for admission may opt to participate in a Bar-approved externship, clerkship or apprenticeship at any time during or following completion of law school;

2. 50 hours of pro bono/modest means legal services pre-Bar-admission or within first year of bar admission through Bar-certified Pro Bono/Modest Means Program or under the supervision of a Bar-certified Mentor.

Pre-admission or post-admission: An additional competency training requirement, fulfilled either at the pre- or post- admission stage, where 50 hours of legal services is specifically devoted to pro bono or modest means clients. Credit towards those hours would be available for “in-the-field” experience under the supervision and guidance of a licensed practitioner or a judicial officer; and,

3. 10 additional hours of MCLE credit within first year of practice, or participation in a Bar-certified voluntary mentoring program (current requirement is 25 hrs MCLE in 3 yrs)

Post-admission: 10 additional hours of Mandatory Continuing Legal Education (“MCLE”) courses for new lawyers, over and above the required MCLE hours for all active members of the Bar, specifically focused on law practice competency training. Alternatively, credit towards these hours would be available for participation in mentoring programs.
Three Innovations in Bar Admission Rules: New York (twice) and Arizona

Steve Ellmann, New York Law School


(a) Fifty-hour pro bono requirement. Every applicant admitted to the New York State bar on or after January 1, 2015, other than applicants for admission without examination pursuant to section 520.10 of this Part, shall complete at least 50 hours of qualifying pro bono service prior to filing an application for admission with the appropriate Appellate Division department of the Supreme Court.

(b) Pro bono service defined. For purposes of this section, pro bono service is supervised pre-admission law-related work that:

(1) assists in the provision of legal services without charge for
   (i) persons of limited means;
   (ii) not-for-profit organizations; or
   (iii) individuals, groups or organizations seeking to secure or promote access to justice, including, but not limited to, the protection of civil rights, civil liberties or public rights;

(2) assists in the provision of legal assistance in public service for a judicial, legislative, executive or other governmental entity; or

(3) provides legal services pursuant to subdivisions two and three of section 484 of the Judiciary Law, or pursuant to equivalent legal authority in the jurisdiction where the services are performed.

(c) Supervision required. All qualifying pre-admission pro bono work must be performed under the supervision of:

(1) a member of a law school faculty, including adjunct faculty, or an instructor employed by a law school;

(2) an attorney admitted to practice and in good standing in the jurisdiction where the work is performed; or

(3) in the case of a clerkship or externship in a court system, by a judge or attorney employed by the court system.

(d) Location of pro bono service. The 50 hours of pro bono service, or any portion thereof, may be completed in any state or territory of the United States, the District of Columbia, or any foreign country.

(e) Timing of pro bono service. The 50 hours of pro bono service may be performed at any time after the commencement of the applicant's legal studies and prior to filing an application for admission to the New York State bar.

(f) Proof required. Every applicant for admission shall file with the appropriate Appellate Division department an Affidavit of Compliance with the Pro Bono Requirement, describing the nature and dates of pro bono service and the number of hours completed. The Affidavit of Compliance shall include a certification by the supervising attorney or judge confirming the applicant's pro bono activities. For each position used to satisfy the 50-hour requirement, the applicant shall file a separate Affidavit of Compliance.

(g) Prohibition on political activities. An applicant may not satisfy any part of the 50-hour requirement by participating in partisan political activities.

2. Pro Bono Scholars Program: A Legal Education Initiative – Program Guide (at 1)
What is the Pro Bono Scholars Program?

THE PRO BONO SCHOLARS PROGRAM (PBSP) allows students in their final year of law school to devote their last semester of study to performing pro bono service for the poor through an approved externship program, law school clinic, legal services provider, law firm or corporation. If you are accepted for enrollment in the PBSP, you will spend 12 weeks working full time in a pro bono placement, during which you will also complete an academic component at your law school. For your work in the pro bono placement and the accompanying academic instruction, you will receive at least 12 academic credits. Your law school will determine the total credits awarded for your placement.

The PBSP will provide you with an exciting opportunity to learn vital practice skills during your final semester, while also exposing you to the importance of serving clients of limited means. As a benefit for participating in the program, you will be permitted to take the New York bar examination in February of your final year of study, before you graduate. Upon successful completion of the PBSP and any other graduation requirements of your law school, you will be awarded your Juris Doctor degree. You will then be admitted to practice as soon as practicable after graduation, presuming that you have passed the New York bar examination and submitted a complete bar admission application to the appropriate Appellate Division Department of the Supreme Court of New York.

3. Rule 34, Rules of the Supreme Court of Arizona, adopted Dec. 20, 2012, on an experimental basis, effective January 1, 2013 until December 31, 2015:

(b)2. An applicant may be allowed to sit for the Arizona uniform bar examination prior to the award of a juris doctor degree if the applicant:

A. is a currently enrolled student in good standing at a law school fully or provisionally approved by the American Bar Association;

B. is expected to graduate with a juris doctor degree within one hundred twenty (120) days of the first day or early exam administration;

C. has satisfied all requirements for graduation with a juris doctor except for not more than eight (8) semester hours or its equivalent in quarter hours at the time of early exam administration;

D. will not be enrolled in more than two (2) semester hours or its equivalent in quarter hours during the month of early bar examination testing and the immediately preceding month;

E. has been determined by their school to be academically prepared for early testing;

F. provides by the deadline to the Committee on Character and Fitness, on a form provided by the Committee, an affidavit attested to by the applicant and the law school that they meet the above criteria. The law school’s decision whether to certify that the student meets the criteria is final and shall not be subject to review by the Committee or the Court.