

ABA Updates 2016

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New Standards Enforced, 2016-17

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- Standards 301(b) and 302. Learning Outcomes
- Standard 303. Curriculum
- Standard 304. Experiential Learning
- Standard 314. Assessment of Student Learning
- Standard 315. Evaluation of Program of Legal Education, Learning Outcomes, and Assessment Methods

Standard 303(a)(3)—Experiential Learning

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

Standard 303(a)(3) continued

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- (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.

Standard 304-Simulation Courses

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- **Simulation Course**

- Substantial experience not involving an actual client reasonably similar to 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
 - Direct supervision of performance by faculty member
 - Opportunities for performance, feedback from faculty member and self-evaluation
 - Classroom instructional component

Simulation Courses

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- **What portion must provide experience?**
 - Must be primarily experiential
 - Refers to experiential course; not course offering experiential experiences or opportunities
 - Experiential nature is organizing principle, not the doctrinal material
 - Inserting skills components in otherwise doctrinal courses not satisfactory

Standard 304-Simulation Courses

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- Can traditional writing course or seminar qualify?
 - ✦ Possible, but not likely
 - ✦ A writing course could satisfy if it requires the performance, feedback and self-evaluation requirements
- Can moot court, mock trial qualify?
 - ✦ Perhaps, depending upon meeting other requirements, including classroom component

Standard 304-Law Clinics

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- Substantial lawyering experience that involves one or more actual clients,
 - Advising or representing client
 - Direct supervision of the student's performance by a faculty member
 - Opportunities for performance, feedback from a faculty member, and self-evaluation
 - Classroom instructional component

State Bar Requirements

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- Some states proposing their own experiential learning requirements (NY and CA)
- We cannot control state bar requirements nor predict their application

Standards 314 & 315
Outcome Measures Committee (2007-2008)

- Consider “whether and how” output (outcome?) measures beyond bar pass and employment can be utilized in the accreditation process.
- Make specific recommendations about the “whether” [and the “what” and the “how”].

Outcome Measures Committee (2007-2008)

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Committee recommends re-examination of Standards and a “reframing” to reduce reliance on inputs and greater and more overt reliance on outcome measures.

Outcome Measures Committee (2007-2008)

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Committee says:

Do not lose focus on bar passage
as an outcome measure ...

Outcome Measures Committee (2007-2008)

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... but add focus on matters such as:

- program objectives
- curriculum
- academic standards
- employment outcomes

Council and Standards Review Committee

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- 2008: Council begins comprehensive review process
- 2009: Standards Review Committee statement on principles and goals to guide the review:

“Applying the lessons learned and practiced in other disciplines’ accreditation review processes, legal education programs and institutions should be measured both by essential program quality indicators ... and by the learning achieved by their students....”

“Accreditation review in law ... must move law schools toward articulation and assessment of student learning goals and achievement levels.”

Standard 301

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- (a) School shall maintain rigorous program that prepares students for admission to the bar and for effective, ethical and responsible participation in the profession
- (b) A law school shall establish and publish learning outcomes designed to achieve objectives
 - *On website and in publications where mission described*
 - *For certificates and specialty tracks where described*
 - *For courses, in syllabi*

Standard 302

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- Applicable to entire program of legal education
- Minimum knowledge, skills and values outlined in (a)-(d)
- Interpretation 302-1 lists some skills that may be identified
- Other knowledge, skills and values applicable depending upon the mission of the school

Standard 302—Learning Outcomes

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At a minimum, include competency in:

- Knowledge and understanding of substantive and procedural law;
- Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context
- Exercise of proper professional and ethical responsibilities to clients and the legal system; and
- Other professional skills needed for competent and ethical participation as a member of the legal profession
 - Interpretation 302-1 states that other professional skills are determined by the law school and may include a number of listed skills, including cultural competency

Standard 314--Assessments

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- Requires formative and summative assessment methods—must use both
- Assessment measures level of attainment
 - Interpretation 314-1 describes
 - Interpretation 314-2 states that multiple assessments not necessary for every course
- Identify methods and sources

Standard 315--Evaluation

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- Requires dean and faculty to conduct ongoing evaluation of program of legal education, learning outcomes and assessment methods
- Use results to determine attainment of competencies and make appropriate changes
- Interpretation 315-1 gives examples of methods

Other References in the Standards to Learning Outcomes and Assessments

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- Standard 305(f) Field Placements
 - Law school shall develop, publish, and communicate to students and site supervisors a statement describing educational objectives
- Standard 306 (d)(3) Distance Education
 - May award credit if learning outcomes consistent with Standard 302 (along with other requirements)

Getting Started on Learning Outcomes

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- Understand what the Standards require
- Connect to your school's mission
- Understand the transition period: not an invitation to delay, but an opportunity to develop your own local culture and approach

Getting Started

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- Buy-in of Dean and faculty leaders is critical
- Embrace/involve all faculty

What Is Not Required

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- Blizzard of paperwork
- Particular approach/template
- Particular number of outcomes
- Particular assessment scheme
- Considerable expense

Finding Your Way

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- It's your school's plan; no one-size-fits-all approach
- Where to start – program or course level?
- How many outcomes are enough?
- Take assessment/evaluation plan into account as outcomes are developed
- Continuously assess your planning process and tweak it as necessary

How This Will Work in the ABA Process

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- Ultimately, the responsibility rests with the Council and Accreditation Committee
- But staff will do its best to keep schools informed along the way
- At some point, some report on process/ progress may be required of all schools, not just those up for review
- In the early years, showing substantial and serious efforts is important

What Could Come From This Work?

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- Sharpen and increase the focus on student learning as the fundamental job of a law school J.D program
- More collaboration among the “community of teachers” on the program of legal education
- Progressivity in the curriculum

What Could Come From This Work?

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- Clearer messaging to students and applicants about the school's mission and programs
- Actual understanding about what's working, what isn't working, and how well it's working at your school
- Increased ability to work with bench and bar on bigger picture issues about the appropriate role of law school in the career-long education and professional development needs of legal professionals

Guidance Memoranda

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- Transition Memo (to be revised)
- Standard 509: Required Disclosures
- Standard 204: Self Study (to be revised)
- Standard 503: Admission Test
- Bachelor's Degree/J.D. Programs
- Standards 303 and 304: Experiential Learning
- Standard 510: Student Complaints
- Standards 301, 302, 314, 315: Learning Outcomes & Assessments
- Standard 504: Qualifications for Admission to the Bar
- Standard 102(e), 102(f), 509(e): Accreditation Status
- Interpretation 305-2: Regarding Reasonable Expenses Related to Field Placements

Possible Standards Revisions

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- **Standard 316—Bar Passage**
 - Move to Ultimate Passage Standard of 75% within 2 years
- **Standard 501**
 - Establishing presumption concerning attrition
- **Standard 503**
 - Potential test(s) beyond LSAT

Questions

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- **Contact Information**

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