



July 6, 2026

Daniel R. Thies  
Chair  
Council of the Section of Legal Education and Admissions to the Bar  
American Bar Association

**Re: Comment on the Council’s May 20, 2026, Notice and Comment Memorandum Proposing Repeal of Standard 303(c) (closing July 6, 2026)**

Via email to: NoticeandComment@americanbar.org

Dear Chair Thies and Members of the Council:

This comment is submitted in response to the Council’s call for public comments regarding the proposed repeal of Standard 303(c), which mandates “education to law students” on “bias, cross-cultural competency, and racism.”<sup>1</sup> Defending Education is a national grassroots organization that exists to eliminate the politicization of education at all levels of study, including in graduate and professional schools.

We write to support the long-overdue repeal of Standard 303(c) as a standalone curricular mandate, while also alerting the Council to several concerns about the replacement language the Council has signaled it intends to fold into Standard 302, which governs learning outcomes. How that language is ultimately drafted will determine whether the repeal of Standard 303(c) effectuates actual change in law school accreditation mandates. The recommendations at the close of this comment are offered with that distinction in mind.

### **I. Standard 303(c) Functioned as a Vehicle for Mandated Ideological Instruction**

From the outset, Standard 303(c) was ill-conceived and legally suspect, converting a private trade association’s accreditation power into a vehicle for compelling ideologically slanted curricular content.<sup>2</sup> That content inculcated perspectives aligned with a particular worldview on matters concerning “diversity, equity, and inclusion.”

The ABA has stated that its commitment to diversity, equity, and inclusion “permeates everything we do internally and externally,” a commitment reinforced by its dedicated Diversity, Equity, and Inclusion

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<sup>1</sup>*Memorandum re Matters for Notice and Comment: Revisions to Standards for Approval of Law Schools*, ABA (May 20, 2026), [perma.cc/YB9U-5EJD](https://perma.cc/YB9U-5EJD).

<sup>2</sup> That power carries the force of law only by virtue of the U.S. Department of Education’s recognition of the ABA as the federal gatekeeper for law-school approval, and thus for federal-aid eligibility and bar admission in most jurisdictions. *See* 20 U.S.C. § 1099b; 34 C.F.R. pt. 602.

Center.<sup>3</sup> As written, Standard 303(c) permits the ABA to require law schools to impose that commitment on students through ideologically laden instruction on “bias, cross-cultural competency, and racism.”<sup>4</sup> And schools that decline risk loss of accreditation. That institutional power is significant, and the context in which it was exercised matters. Standard 303(c) was a mechanism connecting the ABA’s ideological priorities to actual classroom requirements at every ABA-accredited law school, regardless of whether a given school, its faculty, or its students wanted that approach.

The downstream impacts of Standard 303(c) on law school curriculum illustrate the point. To satisfy its obligations under 303(c), for example, the UC Berkeley School of Law requires students to complete “one or more race-and-law course(s) totaling at least two units.”<sup>5</sup> Per Berkeley’s own description, those courses “focus on” the ideologically charged notion that “laws and legal institutions shape and are shaped by racism and other forms of systemic inequality.”<sup>6</sup>

Rutgers Law School similarly imposes a “Racial Equity Requirement” under which all J.D. students must complete at least one elective course that “includes content relating to structural inequality, discrimination, culture context, and cultural competency.”<sup>7</sup> Again, Rutgers’ courses promote particular viewpoints on issues of race and equity, including the ideas that “law is shaped by race-based assumptions about justice, rights and morality” and that “law historically influences and has been influenced by power, privilege, and biases based on race, ethnicity, and/or the intersections of race and national origin.”<sup>8</sup> But completing such courses is a graduation requirement—a condition a student must satisfy to earn their degree.

Because Standard 303(c) does not prescribe specific content, schools face little oversight as to what satisfies it. The result is that the standard could be met by exercises that bear no resemblance to the skills and information foundational to the practice of law. By way of illustration, at the University of Wisconsin–Madison, a mandatory session for first-year law students (which a university spokesperson confirmed was conducted to satisfy Standard 303(c)) included a “Tell the Truth” worksheet that asked students to identify their own personal “racist” beliefs and behaviors.<sup>9</sup>

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<sup>3</sup>*ABA Mission and Goals*, ABA (last visited July 3, 2026), [bit.ly/44bvPwl](https://bit.ly/44bvPwl); *Diversity, Equity, and Inclusion Center*, ABA (last visited July 3, 2026), [bit.ly/44axnXy](https://bit.ly/44axnXy); *Member Diversity, Equity, and Inclusion Plan*, ABA (archived July 3, 2026), [perma.cc/R7JD-TVAH](https://perma.cc/R7JD-TVAH); see also *American Bar Association: A Report by Defending Education*, DE, at 6 (April 16, 2026), [perma.cc/7F8X-RPMM](https://perma.cc/7F8X-RPMM) (discussing the ABA’s focus on DEI activism).

<sup>4</sup> *2025-2026 Standards and Rules of Procedure for Approval of Law Schools*, ABA, at 23 (archived July 3, 2026), [perma.cc/K7U8-T8RF](https://perma.cc/K7U8-T8RF).

<sup>5</sup> *American Bar Association: A Report by Defending Education*, DE, at 3 (April 16, 2026), [perma.cc/7F8X-RPMM](https://perma.cc/7F8X-RPMM); see also Cohen, *Faculty Approves Race and Law Course Requirement*, UC Berkeley Law (Feb. 18, 2022), [perma.cc/286T-M66V](https://perma.cc/286T-M66V).

<sup>6</sup> *American Bar Association: A Report by Defending Education*, DE, at 3 (April 16, 2026), [perma.cc/7F8X-RPMM](https://perma.cc/7F8X-RPMM).

<sup>7</sup> *Rutgers Law School Academic Requirements and Information*, Rutgers Law School, at App. G (archived July 3, 2026), [perma.cc/8SDX-C6KY](https://perma.cc/8SDX-C6KY); see also *Upperclass Years*, Rutgers Law School (archived July 3, 2026), [perma.cc/S39G-YMWN](https://perma.cc/S39G-YMWN); *American Bar Association: A Report by Defending Education*, DE, at 3 (April 16, 2026), [perma.cc/7F8X-RPMM](https://perma.cc/7F8X-RPMM).

<sup>8</sup> *Rutgers Law School Academic Requirements and Information*, Rutgers Law School, at App. G (archived July 3, 2026), [perma.cc/8SDX-C6KY](https://perma.cc/8SDX-C6KY).

<sup>9</sup> Kittle, *‘Re-Orientation’ Asks UW Law Students to Share Racial Slurs and Confess ‘How Deep Racism Goes in My Life’*, *The Federalist* (Jan. 23, 2024), [perma.cc/5GKQ-RJUA](https://perma.cc/5GKQ-RJUA); see also *American Bar Association: A Report by Defending Education*, DE, at 8 (April 16, 2026), [perma.cc/7F8X-RPMM](https://perma.cc/7F8X-RPMM).

That example is the crux of Defending Education’s concern with Standard 303(c). A standard broad enough to be satisfied by a mandatory self-disclosure exercise is not a functioning measure of the quality of legal education. Instead, it is a delivery mechanism for so-called “critical race theory” and other ideologies that predominate among law school administrators and “progressive legal scholars.”<sup>10</sup> The defect is structural, not incidental: a requirement that mandates instruction on an ideologically charged topic while declining to define the scope of required content will inevitably be filled in by the institutional preferences of those who administer it.

A content mandate that “provide[s]” no “explicit standards” invites such tilted applications.<sup>11</sup> And the dictation of the subject matter schools must teach raises serious compelled-speech and academic-freedom concerns.<sup>12</sup> In other words, when a private entity wields governmental power to compel the teaching of contested normative content, as Standard 303(c) does, it is on shaky legal footing.<sup>13</sup>

Compounding the problem, Standard 303(c) takes curricular authority away from the States and individual faculties. Public education has long been treated as a matter of state and local control.<sup>14</sup> Within each institution, the design of the course of study is the province of the faculty, an interest the Supreme Court has recognized as central to academic freedom.<sup>15</sup> In short, Standard 303(c) has, from the beginning, arrogated policymaking functions, deciding which viewpoint-laden content every American law school student must be taught. That function, however, rightly belongs to the schools themselves, who are answerable to their own faculties, boards, and state authorities

## II. Repeal Is Necessary, But Insufficient on Its Own

For the foregoing reasons, we support repealing Standard 303(c) as a standalone curricular mandate. Repeal removes a federally leveraged mechanism that turned one accreditor’s institutional preferences into a nationwide requirement and returns to individual schools the discretion over curriculum that the Council should not have displaced in the first place.

Repeal alone, however, does not resolve the underlying concern. Indeed, the Council’s memorandum signals an intent to replace Standard 303(c) by instead folding instruction about “[c]ommunicating effectively with a wide range of individuals across differences” into Standard 302 “as a required learning outcome.”<sup>16</sup> That replacement language has not yet been published and is not part of the current comment

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<sup>10</sup> E.g., George, *A Lesson on Critical Race Theory*, ABA Human Rights Magazine (Jan. 11, 2021), [bit.ly/4xZ1Q8F](https://bit.ly/4xZ1Q8F).

<sup>11</sup> *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972); see also *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012).

<sup>12</sup> See *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943); *Nat’l Inst. of Fam. & Life Advocs. v. Becerra*, 585 U.S. 755, 766–68 (2018).

<sup>13</sup> See *Carter v. Carter Coal Co.*, 298 U.S. 238, 311 (1936); *Dep’t of Transp. v. Ass’n of Am. R.Rs.*, 575 U.S. 43, 51–56 (2015).

<sup>14</sup> See *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Milliken v. Bradley*, 418 U.S. 717, 741–42 (1974); *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 49–50 (1973).

<sup>15</sup> See *Sweezy v. New Hampshire*, 354 U.S. 234, 263 (1957) (Frankfurter, J., concurring); *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).

<sup>16</sup> *Memorandum re Matters for Notice and Comment: Revisions to Standards for Approval of Law Schools*, ABA, at 2 (May 20, 2026), [perma.cc/YB9U-5EJD](https://perma.cc/YB9U-5EJD).

period. But the precise drafting of that future revision (and not simply a 303(c) repeal) will determine whether this reform delivers genuine change or simply relocates the same institutional obligation under a new label.

Whatever form the Council's proposed learning-outcomes replacement takes, it must be paired with clear limits. The ABA must not, as a condition of accreditation, mandate that students adopt or be instructed in specific viewpoints or ideologies. Flexibility as to the method of instruction is meaningful only if unaccompanied by prescription as to belief.

### **III. Recommendations for Any Future Standard 302 Language**

Accordingly, we respectfully urge the Council to observe the following principles in drafting any revision to Standard 302:

1. **Do not reintroduce race-based or ideologically prescriptive frameworks under new terminology.** A requirement that would have been objectionable as Standard 303(c) does not become acceptable by being renamed and placed within Standard 302.
2. **Leave the substance of any communication-related training fully to each school's discretion.** No accreditation pressure should be tied to specific viewpoints or content. Schools should remain free to determine the substance, framing, and necessity of any such instruction.
3. **Publish any proposed Standard 302 language for its own full notice-and-comment period before adoption.** Because the replacement language is where the substantive choices will be made, it warrants the same transparency and public input as the repeal now under consideration.

We appreciate the Council's willingness to revisit Standard 303(c) and its decision to open this question to public comment. Repealing it is a constructive step. We would welcome the opportunity to remain engaged as the Council develops the replacement language for Standard 302 and respectfully urge that any such language be circulated for full notice-and-comment before adoption.

Sincerely,



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Vice President  
Defending Education