

Republican Attorneys General Challenge ABA Diversity Standards for Law Schools



Efforts to revise diversity standards for law schools accredited by the American Bar Association (ABA) are facing significant pushback from attorneys general in Republican-controlled states. A recent letter, signed by 21 attorneys general, argues that proposed changes to Standard 206 could violate constitutional principles and perpetuate unlawful discrimination.

Background: ABA's Standard 206 and the Supreme Court Decision

The controversy centers on Standard 206, a rule that mandates law schools to actively demonstrate diversity among students, faculty, and staff, particularly in terms of gender, race, and ethnicity. This standard aims to foster inclusion in legal education and the broader profession. However, following the U.S. Supreme Court's 2023 decision in *Students for Fair Admissions v. President and Fellows of Harvard College*, which invalidated race-conscious admissions policies, the ABA Section of Legal Education and Admissions to the Bar initiated efforts to revise the standard to ensure compliance with the law.

The section first proposed a revision in August 2024, focusing on expanding access to legal education without explicitly mentioning diversity categories like gender or race. After receiving mixed feedback, a second revision was released in November 2024, restoring references to diversity and inclusion while attempting to align with legal obligations.

Key Points of the Proposed Revisions

First Revision: Focus on Access Over Diversity

The initial revision reframed the standard's title from "Diversity and Inclusion" to "Access to Legal Education and the Profession." It shifted the language to emphasize creating opportunities for historically disadvantaged groups without specifying characteristics like race or gender.

Second Revision: Balancing Diversity with Legal Compliance

Responding to criticism that the first draft overlooked essential aspects of diversity, the second revision reinstated references to inclusion and added a list of identity characteristics, including race, gender identity, sexual orientation, military status, and socioeconomic background. The proposal also emphasized creating a supportive learning environment that fosters professionalism, respect, and belonging.

Council member Carla D. Pratt clarified the intent of these changes, stating, "We wanted to make it clear that we were not seeking to abandon the values of diversity and inclusion."

Republican Attorneys General Push Back

In a January 6 letter to the ABA Section, attorneys general from 21 states expressed strong objections to the second proposal. They argued that the revisions impose race-based admissions and hiring practices, which could conflict with the Supreme Court's ruling and leave law schools uncertain about their legal obligations.

The letter states, "The proposed revision appears to perpetuate unlawful racial discrimination," and raises concerns that the ABA's approach could pressure law schools into adopting policies that may not withstand legal scrutiny.

Signatories include attorneys general from Alabama, Florida, Texas, and other Republican-led states.

Support for the Revisions

Despite criticism, the proposed revisions have received support from organizations like the ABA Center for Diversity, Equity, and Inclusion and the Law School Admission Council. Proponents argue that the changes strike a reasonable balance, promoting diversity within the framework of the law. The ABA Center described the second proposal as “a positive improvement,” while other commenters suggested further refinements, such as redefining diversity commitments to value individual experiences beyond immutable characteristics.

The Path Ahead for Standard 206

Jennifer Rosato Perea, managing director of ABA accreditation and legal education, emphasized that the council will carefully review all public comments, including those from the attorneys general, before making a final decision. “The council will consider the AGs’ letter and all other comments received on the proposed revisions to Standard 206 before it determines how to proceed,” she said.

As the only accrediting body for JD programs recognized by the U.S. Department of Education, the ABA’s decisions hold significant weight. Whether the revisions to Standard 206 will move forward or undergo further modifications remains uncertain.

Implications for Legal Education

The debate surrounding Standard 206 highlights the challenges of balancing diversity, inclusion, and legal compliance in a politically divided environment. The outcome of this process will likely influence how law schools approach admissions and hiring practices in the years to come, shaping the future of legal education in the United States.

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