



Managing Director’s Guidance Memo

Emergencies and Disasters February 2020

Background

This memo provides guidance to law schools dealing with emergencies or disasters that may necessitate or make advisable some departure from the normal operation of the law school’s J.D. program. Some of these adjustments may implicate the law school’s continuing compliance with the ABA Standards.

In these situations, the Council, like law schools, seeks to avoid disruption to schools’ academic programs to the extent possible while safeguarding the health and safety of students, staff, faculty, and their families. In some cases, the disruption caused by a disaster or emergency cannot be reasonably accommodated without extraordinary action, such as the temporary closing of the school or altering the academic calendar.

Standard 107(a)(1) provides for variances from the requirements of the Standards “in extraordinary circumstances in which compliance ... would create or constitute extreme hardship for the law school and/or its students.” If a disaster or emergency requires a substantial disruption to the law school’s academic programs in a way that implicates compliance with the ABA Standards, the law school should seek a variance when possible. For example, in the wake of an emergency, a law school may conclude that it needs a variance for the time needed to return to normal operation.

However, by their very nature, many disasters and emergencies require quick decisions and action, and resort to such a process may not be possible. In those cases, a law school must rely on the good common sense of its leadership. While giving priority to the health and safety of the law school community, law schools must also recognize that the J.D. degrees that they award represent to the profession and the public that the graduate has completed a certain rigorous program of legal education. Thus, a law school should not unnecessarily alter its educational program in a way inconsistent with that representation.

Guidance on Standards Likely to be of Concern in a Disaster or Emergency

Basic academic requirements for the degree. The basic framework of the J.D. degree program should seldom be altered or accommodated because of an emergency or disaster. If a school proposes to alter any basic academic requirement, the accommodation should be minimal and taken after other options have been considered. This basic framework includes at least:

- the academic work required by Standard 303(a),
- the amount of work required for a “credit” [Standard 310],
- the credits required for graduation [Standard 311(a)],
- the credit hours of regularly scheduled classroom sessions or direct faculty instruction discussed in Int. 311-1 and 311-2, and
- the requirements of Standard 314 regarding assessment of student learning.

Changing degree requirements in response to an emergency. Standard 311(a) requires a minimum 83 credit -hours for the J.D. degree. To the extent a law school requires more than that minimum and may consider reducing the credits for the J.D. as part of a disaster or emergency response plan, it should do so only as a last resort. Similarly, a law school should modify the particular coursework it requires for the J.D. degree only as a last resort. Further, a law school should not, in response to an emergency that arises during a term, except as a last resort, simply reduce the number of credits for a course to equal the credits that represent the amount of work done when the emergency arises. Other options to consider include extending the term, extending the day, or having classes on weekend days when a regular schedule can be resumed.

Distance education (Standard 306). Distance learning often may be a good solution to emergencies or disasters that make the law school facilities unavailable or make it difficult or impossible for students to get to the law school. A law school that explores that way of delivering its J.D. program to accommodate students in response to an emergency or disaster must consider whether the distance learning is appropriate for that course, whether the course was designed for or can easily be adapted to that method of delivery, whether the faculty member has the experience and training needed to deliver a distance education course meeting the requirements of the Standards, whether the school has the technological capacity (in general and in the context of the disaster or emergency) to support that form of instruction, and whether students have or can be provided with the technology needed to access the course. Simply moving a classroom-based course to a video conference call or to a school’s learning management system that supports other courses may be relatively easy, but unless factors such as those set out above have been considered, may not be an appropriate accommodation compared to, for example, adding extra days to the term when a regular schedule can be resumed.

Library and information resources. If the disaster or emergency makes the library and library services, including access to materials, inaccessible or severely limited for other than a brief period, the law school should explore all feasible ways to provide them in other ways.

The Council, through the Managing Director's Office, will work with schools in the event of an emergency or a disaster. If it becomes evident that disruption of the normal operation of the law school will likely occur, the law school should promptly contact the Managing Director. While the Council's rules provide for it to act at regularly scheduled meetings, Article IV, section 5(c) of the Bylaws provides a process for an emergency meeting by telephone and email if necessary. If the law school cannot contact the Managing Director's Office in advance, it should do so as soon as feasible.

The Standards do not require a law school to have a plan for managing through emergencies and disasters. Many universities, however, do. As we are learning at the moment, the more advance planning that a school does, the better it will be for the students, faculty, and staff when the emergency or disaster arises.

The Managing Director's Office will issue Guidance memoranda from time-to-time when new Standards or Interpretations have been adopted or when, in the course of the Office's dealings with schools about compliance with the Standards, a number of schools are asking for clarification or direction regarding a particular Standard, Interpretation or reporting requirement. The Office does its best to provide helpful guidance, but we remind schools that we do not have the authority to bind the Council. That said, the Council understands the necessity of providing this guidance by the Managing Director's Office and will take that guidance into account in any determination about a law school's operating in compliance with the Standards.