



Office of the Attorney General
Washington, D. C. 20530

February 28, 2025

David A. Brennen
Chairman
Council of the Section of Legal Education
and Admissions to the Bar
American Bar Association
321 North Clark Street
Chicago, Illinois 60654

Dear Chairman and members of the Council,

The prior administration allowed “pervasive and repugnant race-based preferences and other forms of racial discrimination” to spread “throughout every facet of academia” while “[p]roponents of these discriminatory practices” purported to justify them “under the banner of ‘diversity, equity, and inclusion’ (‘DEI’).”¹ President Trump has been clear: “[D]angerous, demeaning, and immoral race- and sex-based preferences under the guise of so-called ‘diversity, equity, and inclusion’” violate the civil rights laws of this country and will no longer be tolerated.² I am writing because, for years, the Council—the sole body charged with accrediting American law schools—has subjected law faculties and law students to unlawful race and sex discrimination under the guise of “diversity” mandates, and that policy must be repealed immediately.

Standard 206 of the Standards and Rules of Procedure for Approval of Law Schools explicitly requires schools to “demonstrate by concrete action a commitment to diversity and inclusion” including a commitment to “having a student body that is diverse with respect to gender, race, and ethnicity” and “having a faculty and staff that are diverse with respect to gender, race and ethnicity.”³ That requirement blatantly violates our nation’s civil rights laws and conflicts with the Supreme Court’s decision in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*.⁴ Yet for nearly eighteen months since that decision, the Council has knowingly put law schools to a choice between compliance with the law and compliance with the Council’s accreditation standards by shamefully threatening that “[t]he requirement of a constitutional provision or statute that purports to prohibit consideration of

¹ Letter from U.S. Dep’t of Education, Office for Civil Rights at 1-2 (Feb. 14, 2025) (“DOE Letter”).

² Executive Order 14173, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity (Jan. 21, 2025) (“EO 14173”).

³ Standard 206(a)-(b), 2024-25 Standards and Rules of Procedure for Approval of Law Schools, American Bar Association Section of Legal Education and Admissions to the Bar (“Standard 206” or “the Standard”).

⁴ 600 U.S. 181 (2023) (“*SFFA*”).

gender, race, ethnicity, or national origin in admissions or employment decisions *is not a justification for a school's non-compliance with Standard 206.*"⁵

Last Friday, the Council was scheduled to vote on a proposed amendment to Standard 206 that would have continued, at a minimum, to encourage unlawful discrimination by the very law schools the Council is tasked with accrediting. It was a welcome development that the Council instead voted to suspend all enforcement of Standard 206 and revisit the amendment process later this year. Unfortunately, "[t]he Council's commitment to ensuring access to legal education to all people, including those who have been historically excluded from the legal profession"—in other words, the Council's commitment to DEI—"has not changed."⁶ Thus, while I applaud the Council's suspension of enforcement, I am writing on behalf of the U.S. Department of Justice to make clear that when the Council revisits the issue, there is just one appropriate course: The Standard must be repealed in its entirety. And there is no reason to wait; the Council should repeal the Standard immediately.

Even without an explicit mandate requiring law schools to actually *have* diverse faculties and student bodies, any requirement that law schools demonstrate "a commitment to diversity" is deeply problematic. Consider the proposed amendment the Council declined to adopt on Friday. Aspects of the proposed amendment would have required schools to blatantly violate civil rights laws by, for example, intentionally "working to achieve a faculty and staff that are diverse with respect to race," "gender," and "gender identity."⁷ Race- and sex-based preferences are illegal, and as the Supreme Court explained in *SFFA*, "universities may not simply establish" the same through "other means."⁸

But consider the more general requirement that law schools "demonstrate by concrete actions, a commitment to" "diversity" and "inclusion" with special emphasis on "race," "gender," and "gender identity."⁹ How are schools supposed to comply with that directive? Most will default to the obvious: race- and sex-based preferences. The proposed guidance admits this when it tells schools that a demonstrated commitment to diversity "typically includes" measures like "recruitment efforts targeted at groups that have been disadvantaged in or excluded from the legal profession"¹⁰—*i.e.*, actions by schools that treat prospective students differently based on their race and sex. Such measures are unlawful. Put simply, "[i]f an educational institution treats a person of one race differently than it treats another person because of that person's race,

⁵ Standard 206, Interpretation 206-1 (emphasis added).

⁶ American Bar Association, *Statement Re: Standard 206* (Feb. 22, 2025), available at <https://www.americanbar.org/news/abanews/aba-news-archives/2025/02/aba-statement-re-standard-206/?login>.

⁷ David A. Brennan, *Memorandum regarding Matters for Notice and Comment: Standard 206* at 3 (Nov. 18, 2024), available at https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_t_o_the_bar/council_reports_and_resolutions/nov24/24-nov-notice-comment-memo-standard-206.pdf ("Brennen Memorandum").

⁸ *SFFA*, 600 U.S. at 230.

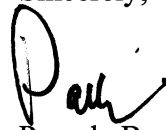
⁹ Brennan Memorandum at 3.

¹⁰ *Id.*

the educational institution violates the law.”¹¹ Thus, if diversity is defined in terms of race and sex outcomes, universities cannot lawfully pursue diversity by any means.

At a minimum, accreditation standards that require a “commitment to diversity” encourage compliance through unlawful means. The Council’s status as the sole accrediting body of American law schools is a privilege, and mandatory diversity objectives are an abuse of that privilege, which is subject to revocation. Even if it does not come to that, it is unclear how state bars can lawfully continue to require prospective lawyers to attend ABA-accredited law schools if the Council continues to abuse its privilege in this way. The Department of Justice stands ready to take every action necessary to prevent further abuse.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Bondi", with a stylized flourish at the end.

Pamela Bondi
Attorney General

¹¹ DOE Letter at 2.