

# ALWD

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## ASSOCIATION OF LEGAL WRITING DIRECTORS

July 8, 2011

Dean Donald J. Polden  
Chair, Standards Review Committee  
ABA Section of Legal Education &  
Admissions to the Bar  
Santa Clara Law  
500 El Camino Real  
Santa Clara, California 95053

Re: Accreditation Standards 211 and 212

Dear Dean Polden:

We write to urge the Standards Review Committee to consider revisions to Standards 211 and 212, which require ABA-accredited law schools to provide equal opportunity and achieve meaningful diversity. Specifically, the Association of Legal Writing Directors supports the following two amendments:

1. Amend Standard 211(a), (b), (c) and (d) (Non-Discrimination and Equality of Opportunity) to include gender identity.
2. Amend Standard 212(a) and (b) (Equal Opportunity and Diversity) to include sexual orientation and gender identity.

These two amendments would enhance the diversity of law schools; support LGBT members of law school communities, including students, faculty, and administrators; and increase the number of LGBT attorneys nationwide. ALWD finds compelling the statistics included in the June 3, 2011, letter from the Society of Law Teachers (SALT). Further, ALWD supports the existing language in Standard 211(a) that requires accredited law schools to “foster and maintain equality of opportunity in legal education, including employment of faculty . . . , without discrimination or segregation on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability.”

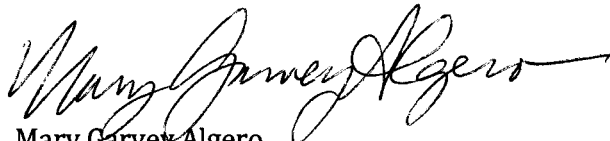
Amending Standards 211 and 212 would align them with the ABA’s stated goals and policies regarding sexual orientation and gender identity. The ABA supports sexual orientation and gender identity equality, as demonstrated by ABA Goals III and IX. The ABA has been a proponent of changing laws that discriminate on the basis of sexual orientation and gender identity: It has advocated for repeal of “Don’t Ask, Don’t Tell,” supported the elimination of laws that bar civil marriage between persons of the same sex, and supported the Employment and Non-Discrimination Act. The work of the ABA Center on Children and the Law, the ABA Commission on Sexual Orientation and Gender Identity, and the ABA Section on Family Law exemplifies the ABA’s support for equality based on sexual orientation and gender identity.

In ALWD's comments submitted to the Committee over the last several months, we have expressed concern about the need for strengthening the Council's commitment to ensure equal opportunity in employment for law faculty. Accordingly, we share SALT's concern that the accreditation standards reflect the ABA's longstanding commitment to equal employment opportunity (1) without respect to gender, race, sexual orientation, or gender identity, and (2) without respect to a faculty member's particular teaching expertise or scholarship focus.

As we have previously noted, data from our 2010 annual survey demonstrate that faculty who teach legal writing, analysis, and research courses include a disproportionately high number of women (70 percent) and a disproportionately low number of racial minorities (12.2 percent). Moreover, the most recent statistical data reported by the American Association of Law Schools (AALS) demonstrate that the great majority of faculty who enjoy job security (in the form of tenure or tenure-track appointments) are men.<sup>1</sup> In contrast, fewer than half those faculty hired on short-term or long-term contracts are men. Thus, to the extent the accreditation standards permit law schools to substantially vary the terms and conditions of employment among categorical groups of faculty, women and minority members suffer a disparate impact.

In conclusion, we urge you to include Standards 211 and 212 in the Committee's comprehensive review process. We look forward to participating in the discussion.

Respectfully,



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cc: Hulett H. (Bucky) Askew, Consultant  
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<sup>1</sup> 2008-2009 AALS Statistical Report on Law Faculty, Job Security, available at <http://www.aals.org/statistics/2009dlt/security.html>.