

Another look at the Sandy make-up schedule

Written by Staff

Wednesday, 07 November 2012 14:03

[On Monday we wrote about NY law schools and the ABA butting heads](#) over whether to require students affected by Post-Hurricane Sandy to complete the normal attendance requirement or to give them a waiver. The responses we got were less than agreeable. Here is, more or less, the argument in favor of not requiring make-up classes:

1. The scheduling is too burdensome and would require 6-day weeks.

2. Students are busy aiding in relief efforts.

2(a). Helping in relief efforts serves as a substitute for legal education.

3. Some students themselves are among those hardest hit (either still without power, or displaced from their homes).

And here's the case against allowing the waiver:

1. The hours requirement is there to ensure you receive adequate education and can provide competent representation to your future clients.

The pro-waiver arguments don't hold up. Avoiding a burdensome schedule doesn't excuse providing inadequate legal counsel; heck, as a lawyer you'll be routinely expected to pull 7-day weeks to do you job well. Being busy with relief efforts also doesn't excuse it. In the legal world

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natural disasters will get your court dates pushed back, but you'll never win a motion argument by saying "I was too busy delivering canned goods and cleaning up debris to research this issue." Same goes with being one of the relieved instead of one of the relievers. We should try to accommodate you the best that we can, *but you still have to do the work.*

If the ABA's position is "You must receive 58,000 minutes of legal education to be minimally competent," then it makes no sense to add a clause stipulating "unless your house flooded, in which case you only require 56,200 minutes of education."

Only argument 2(a) gets at the issue. Would 2 weeks of community service in disaster relief serve as an adequate substitute for legal education? We don't think so, for the same reason that we don't think working for three years as a social worker should qualify you to sit for the bar. It might make sense to have community service requirements on top of the education requirement, but not in lieu of it.

Aren't we just heartless assholes for making these students attend a grueling make-up schedule? Maybe. But let's look at another disaster that hit the legal community recently, a little thing known as The Recession. Many young lawyers were displaced after losing their jobs or failing to find them. They had to move across state lines for financial reasons, into states where they were not licensed. Do you know how many states said "Oof, this is a bad situation, let's waive the bar exam requirement"?

None.

Why? Because the bar exam requirement is there to protect your clients, same as the attendance requirement. Yes, it sucks, but we don't pass the suck on to the clients. As a member of a profession, you have to learn how to bear the costs of these things yourself.

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Before getting in to the last (and best) argument for waiving the attendance requirement, let's take a look at four more problems with the pro-waiver side.

First, going to 2 and 2(a), the waiver request did not come with a requirement that students aid in the relief effort. The waiver would apply equally to people sitting at home catching up on *The Walking Dead* and *Boardwalk Empire*.

Second, again dealing with 2(a), why should the waiver be Sandy specific? If we think this type of volunteer work is adequate replacement for legal education, why not allow it for all students everywhere? Georgetown and Boston College students should get a week off to come help out in New York. Emory students should get two weeks off to build houses in Africa. If you sincerely believe that helping in Sandy relief is as good preparation for being a lawyer as attending law school is, then you either have to give this waiver to everyone, or explain why Sandy has legal training characteristics and other volunteer work does not.

Third, going to argument 3, the waiver denial was just applied to the school generally. Individual students are still able to use their absences if they need to, and professors will be very lenient for students who really can't make it because they've lost their home to a flood or fire. ("[Finally, several of you have asked whether you will be penalized for not attending class. While we expect that those of you who can attend class will, we understand that many of you are still struggling to put your lives back in order or will have difficult or impossible commutes into TriBeCa. Accordingly, I have asked faculty members to excuse absences for those who are unable to attend class. However, please contact your professors, if possible, to alert them to your absence. We are working to have all classes automatically recorded for the next few weeks.](#)")

And if students need more time than they've been given, there's a procedure in place for that. You have to withdraw. No different than if you got severely sick and missed a month of class. At some point when you've missed too much class you've just missed too much class and the reason doesn't matter, you've failed to get the education you needed. You withdraw and have to come back for an extra semester. Hopefully the school will be kind enough to give you a full tuition waiver rather than none or just a pro-rated amount.

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And finally, going to argument 1, it's not that grueling. Here's what the NYLS blog post on the make-up schedule said:

[S]tudents will be attending regular and makeup classes nearly every day for the next three weeks, including weekends.

Sounds rough. [Here's the actual makeup schedule for upper-level daytime classes](#) :

- Friday, Nov. 9: Monday day classes will meet (same time and room)
- Sunday, Nov. 11: Tuesday 4:00 p.m. classes that were previously scheduled to be made up on Friday, Nov. 2 will meet (room & schedule tbd)
- Friday, Nov. 16: Tuesday day classes will meet (same time and room)
- Sunday, Nov. 18: Wednesday day classes will meet (same time and room)
- Friday, Nov. 30: Thursday day classes will meet (same time and room)

Students who are enrolled in a class that is already scheduled to meet on a Friday should attend their regularly scheduled Friday class and view the recorded make-up class.

Notice that most of the make-up times are on Friday. A weekday. A normal day for students to be in class. You might be in class longer that day, or it might be that you just lost two 3-day weekends you'd previously worked into your schedule by avoiding Friday classes, but this isn't that heavy of a load. All of us have had makeup classes schedules on days when we also had a regular schedule. It sucks, but you're only doing it three times. You'll live. And those weekend days? It's just two Sundays, and it's not like they're cramming Tuesday classes into Sunday morning and Wednesday classes into Sunday afternoons. It's just a regular schedule moved on to a different day. And if you find the schedule too demanding, use an absence or two to lighten the load.

Now we turn to the one good argument in favor of waiving the attendance requirement for schools hit by Sandy:

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Law school classes are pretty worthless and no one is going to be less well prepared to practice law for missing a week or two of class.

And of course, the snarky argument:

Very few NYLS students are going to become lawyers, so it's silly to apply the ABA standards at all.