



ISSUE BRIEF:

State Bar Character and Fitness Requirements and the Need for Increased Financial Education

All law students should be equipped with the necessary financial education and training to succeed in their chosen careers. Those who seek to practice law will have to demonstrate an ability to responsibly manage their personal finances, including student loan debt, as a sign that they can be entrusted to safeguard the money and property of potential clients in the future.

The Need for Financial Education

Most law students will rely on student loans to some extent to fund their studies.¹ Many will have sizeable outstanding student loan balances upon graduation, in addition to any debt from undergraduate or other graduate studies. Half of law students who graduated in 2016 borrowed \$70,000 or more for their graduate education, and the average cumulative debt amount per borrower was \$116,890.²

But the research on student loan borrowing and financial literacy points to a clear need for greater financial education. In one survey of student borrowers, nearly two-thirds (65%) of respondents reported that they misunderstood, or were surprised by, aspects of their student loans and the borrowing process.³ Additionally, several studies indicate that too often students do not accurately know how much they owe in student debt.⁴ Another issue to consider is that low-income students and students of color tend to accumulate more in student debt and struggle more with repayment than their peers.⁵

¹ U.S. Department of Education, National Center for Education Statistics, 2015-16 National Postsecondary Student Aid Study (NPSAS:16) via NCES PowerStats. <https://nces.ed.gov/surveys/npsas/>

² *Id.*

³ NERA Economic Consulting (Whitsett, Healey) and Young Invincibles (Mishory, Jen). 2012. *High Debt, Low Information: A Survey of Student Loan Borrowers.*

http://www.nera.com/content/dam/nera/publications/archive2/PUB_Student_Loans_0312.pdf

⁴ Steele, Patricia and Anderson, Chad. 2016. *Loan Counseling for Graduate and Professional Students.*

<https://www.accesslex.org/loan-counseling-graduate-and-professional-students>

⁵ *Id.*

In addition to student loans, law students may also carry credit card debt. In a survey given as part of the pilot for MAX by AccessLex, our innovative financial education program designed exclusively for law students, 40 percent of respondents expected to have a non-zero credit card balance by graduation and 7 percent expected that debt to be at least \$5,000.⁶ Consumer credit cards are common and can be a crucial source of convenient credit. However, this short-term source of credit can potentially be expensive for students. Aside from interest and fees, the “cost” of utilizing consumer credit will be greater if payments are made late. Generally, late payments appear on an individual’s credit report⁷, which can have implications for future attempts to secure credit and financing.

Adverse credit history can also have professional repercussions for law students seeking admission to the bar, which is discussed further in the next section. Therefore, law students must understand the impact of financial decisions and the information maintained by creditors. They should verify the accuracy of their credit reports. Notably, one in five consumers can have a meaningful error on their credit report.⁸

Researchers recommend financial education to improve individuals’ financial behavior and literacy, and more specifically to help students “minimize the costs incurred in managing debt, improve personal financial safety nets, and fortify both short-term and long-term financial stability...”⁹ As seen in a study of millennials with at least a college degree, this generational cohort is over-confident in their financial knowledge and capability—despite displaying low-levels of financial literacy.¹⁰ Of note, only 29 percent of the highly educated millennials in the study had ever received financial education through school or work.¹¹

Law students need, and thus should be provided, financial education so that they can skillfully budget their finances and manage their debt obligations after graduation. Law schools, and the legal field at large, also have a stake in improving law students’ financial capability so that the attorneys they produce and employ can effectively manage their clients’ money.

⁶ AccessLex Institute. 2017. *AccessLex Institute Financial Education Pilot: A Research-Based Approach to Building a Personal Finance Program*.

⁷ NerdWallet (El Issa, Erin). 2018. *2018 Consumer Credit Card Report*. <https://www.nerdwallet.com/blog/credit-card-data/consumer-credit-card-trends-study/>

⁸ Klein, Aaron. 2017. *The Real Problem with Credit Reports is the Astounding Number of Errors*. <https://www.brookings.edu/research/the-real-problem-with-credit-reports-is-the-astounding-number-of-errors/>

⁹ Scheresberg, Carlo et al. 2014. *College-Educated Millennials: An Overview of Their Personal Finances*. <https://www.tiaainstitute.org/publication/college-educated-millennials-overview-their>

¹⁰ *Id.*

¹¹ *Id.*

State Bar Character and Fitness Requirements

Financial education will prove essential to graduating law students as they pursue careers as lawyers. Of note, graduates who seek admission to the bar will have their financial standing assessed. In every jurisdiction, candidates for bar admission must demonstrate the requisite financial responsibility to potentially be entrusted with the money and property of clients.

Publicly available information on the details of the “Character and Fitness” investigations that applicants undergo reveal that virtually every jurisdiction maintains that “neglect of financial responsibility” is a criterion for further inquiry of applicants. For example, the Illinois Board of Admissions to the Bar states: “The revelation or discovery of [neglect of financial responsibilities] should be treated as cause for further detailed inquiry before a Committee decides whether the applicant possesses the requisite character and fitness to practice law...”¹²

More than half of jurisdictions ask about student loan debt—specifically whether an applicant is in default or delinquency. As detailed in a policy statement by Georgia’s Board to Determine Fitness of Bar Applicants: “Defaulted student loans...are of particular concern to the Board. If an applicant has defaulted student loans, the Board will table the application until the applicant has made [repayment] arrangements...and has provided proof of six current consecutive months of payments...”¹³

Nearly half of jurisdictions ask whether an applicant has “not dealt honestly with” or “defrauded” a creditor. Pennsylvania’s Board of Law Examiners explains that while they understand “law students sometimes have financial problems associated with the expense of law school”, they are “interested in whether applicants have dealt honestly and responsibly with their creditors, and whether they are doing so at the time of application.”¹⁴

Lastly, applicants in some jurisdictions are given notice that they will be subject to credit inquiry through review of their credit report. For example, as part of its character and fitness process, Connecticut’s Bar Examining Committee will pull a credit report of each applicant, and if negative items are found on the credit report, applicants are expected to address each negative item.¹⁵

¹² Illinois Supreme Court, Board of Admissions to the Bar. 2018. *Rules of Procedure for the Board of Admissions to the Bar and the Committees on Character and Fitness*. <https://www.ilbaradmissions.org/rules>

¹³ Supreme Court of Georgia, Office of Bar Admissions. 2015. *Policy Statement of The Board to Determine Fitness of Bar Applicants Regarding Character and Fitness Reviews*. <https://www.gabaradmissions.org/policy-statement>

¹⁴ Supreme Court of Pennsylvania, Board of Law Examiners. 2019. *Character and Fitness FAQ's*. http://www.pabarexam.org/c_and_f/cffaq/13.htm

¹⁵ State of Connecticut Judicial Branch, Connecticut Bar Examining Committee. 2019. *Instructions, Forms and Requirements*. <https://www.jud.ct.gov/cbec/instdmisap.htm#Forms>

Financial Education for Law Students

Given these expectations and legal requirements, law schools should seek to, as early as possible, prepare their graduates to effectively manage their financial obligations. The explicit focus by state bars on financial responsibility makes the case for implementing financial education that will improve graduates' future ability to serve clients. Again, all stakeholders have a role in increasing awareness among potential lawyers of these expectations. The consequences can be severe: there are several cases where states' supreme courts have disqualified applicants from practice because of their student debt.¹⁶

Financial education for law students can be implemented in a variety of ways.

- Law schools could require financial education and training as part of their J.D. curricula.
- State bars could offer, or support, financial literacy programming to be taken by prospective bar applicants.
- Congress could require annual loan counseling for graduate and professional students.
- Congress could commission a taskforce to draft policy recommendations aimed at assisting schools with providing comprehensive loan counseling and financial education to graduate and professional students.



Strategy changes everything.

Through its Center for Education and Financial Capability, AccessLex Institute offers MAX – free on-campus and online financial education programming and resources to help law students and graduates confidently manage their finances, as they strive for personal and professional success.

MAX combines in-person workshops, online and virtual programming, and one-on-one counseling to leverage the strengths of law students, address their weaknesses and fit into their demanding schedules.

¹⁶ Zulkey, John. 2011. *Character & Fitness & Credit History: Failing the Character and Fitness Review over Student Loan Debt*.

https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/20120213_tpl_21_1_.authcheckdam.pdf