



April 26, 2024

Mary Smith
President
American Bar Association
321 North Clark Street
Chicago, IL 60654

Dear President Smith,

We write regarding the impact of certain legal history disclosure requirements in state bar character and fitness examinations on survivors of domestic violence and sexual assault.

In many states, admission to the bar requires aspiring lawyers to provide information about any legal or administrative proceedings in which they have been a party. In some states, because of the broad wording used to try to capture any legal process to which the applicant may have been involved, survivors may have to disclose information about campus sexual misconduct complaints or protection orders related to their experiences of domestic violence or sexual assault.

If the state bar interprets the questions regarding the involvement in legal or administrative proceedings to include campus sexual misconduct complaints or protection orders sought by a survivor, disclosure would require survivors to re-engage with traumatic experiences from their past and make survivors disclose information they often had been told would remain private. In some states, the lack of clarity regarding which proceedings must be reported may create an additional source of uncertainty and stress at a critical transition period in survivors' professional lives. Even if disclosures do not ultimately prevent an applicant's bar admission, the need to report these proceedings—and the ambiguity around what information must be disclosed and how that information is used—creates a burden on survivors that seems likely to outweigh the plausible benefits to the bar of such disclosures.

Moreover, disclosing prior campus sexual misconduct complaints or other proceedings related to sexual assault has in some cases reportedly led to delays in survivors' bar admission. These delays can have negative professional consequences and endanger applicants' ability to earn a living.

The American Bar Association (ABA) plays a critical role in promoting inclusion and fairness within the legal profession. In the past, the ABA has advocated for important reforms to state bars' use of mental health inquiries for bar admissions.

We therefore write to ask the ABA to study the prevalence of legal history disclosure requirements and their impact on survivors. In particular, we encourage your research into the following:

1. What impact do state bar applications' mandatory disclosures of campus sexual misconduct complaints or protection orders related to sexual assault or domestic violence have on survivors?
2. What steps can state bars take to reduce burdens on survivors in their admissions processes? In particular:
 - a. Would limiting the information survivors are asked to disclose—and the types of legal and administrative proceedings that must be disclosed—reduce burdens on survivors?
 - b. Could rewriting application and disclosure forms to more clearly indicate what types of proceedings must be disclosed—in particular, stating explicitly whether complaints filed with an educational institution must be disclosed or conversely what proceedings do not need to be disclosed—improve application processes for survivors?
 - c. Should state bars issue clear policy statements that being a complainant in a proceeding related to sexual assault or domestic violence will not negatively impact an application?
3. Are there other best practices state bars should adopt to support survivors in the admissions process?

Thank you for your attention to this important matter.

Sincerely,



Richard Blumenthal
United States Senator



Christopher A. Coons
United States Senator



Mazie K. Hirono
United States Senator