

**American Bar Association
Section of Legal Education and Admissions to the Bar**

MEMORANDUM

TO: Interested Persons and Entities

FROM: The Hon. Solomon Oliver, Jr., Council Chairperson
Barry A. Currier, Managing Director of Accreditation and Legal Education

DATE: March 25, 2014

SUBJECT: Comprehensive Review of the ABA Standards for Approval of Law Schools
Matters for Notice and Comment

At its meeting held on March 14-15, 2014, the Council of the Section of Legal Education and Admissions to the Bar approved for Notice and Comment the following proposed revisions to the *ABA Standards and Rules of Procedure for Approval of Law Schools*:

- Interpretation 305-3 (Study Outside the Classroom)
- Interpretation 503-3 (Admission Test)
- Standard 505 (Granting of J.D. Degree Credit for Prior Law Study)
- Chapter 8 (Council Authority, Variances, and Amendments)
- Definitions
- Rules of Procedure

The Standards Review Committee of the Section has been conducting a comprehensive review of the Standards. As part of that review, the Committee considered multiple drafts and received informal comments from many interested persons and entities.

The proposed revisions and accompanying explanations are attached and published on the Section's website:

http://www.americanbar.org/groups/legal_education/resources/notice_and_comment.html.

We solicit and encourage written comments on the proposed changes by letter or e-mail. Written comments should be submitted no later than Friday, April 18, 2014.

A hearing on these proposed changes is scheduled for Friday, April 25, 2014, from 9 to 10 a.m. The hearing will be held at The Ritz Carlton, St. Louis (100 Carondelet Plaza, St. Louis, Missouri).

Please address written comments on the proposals and requests to speak at the hearing to JR Clark, jr.clark@americanbar.org, by Friday, April 18, 2014.

**American Bar Association
Section of Legal Education and Admissions to the Bar**

***Interpretation 305-3
Explanation of Changes***

The Standards Review Committee recommends the deletion of current Interpretation 305-3 [Interpretation 305-2 in the proposed Standards]. The Committee was not unanimous but a sizable majority of the members felt that the Standards should not have a blanket prohibition against receiving credit for a field placement where a student receives compensation. They felt that a blanket prohibition puts significant limits on the available field placement opportunities. While there was some concern about the pedagogical difficulties when students are paid and receive credit, the Committee noted that whether or not students are paid schools must meet all of the requirements of Standard 305.

**American Bar Association
Section of Legal Education and Admissions to the Bar**

Interpretation 305-3

REDLINE DRAFT

Strike-outs and underlines show changes from the current Standards.

Interpretation 305-3

A law school may not grant credit to a student for participation in a field placement program for which the student receives compensation. This Interpretation does not preclude reimbursement of reasonable out-of-pocket expenses related to the field placement.

**American Bar Association
Section of Legal Education and Admissions to the Bar**

***Interpretation 503-3
Explanation of Changes***

At its meeting on March 14 – 15, 2014, the Council reviewed a report and recommendation from the Accreditation Committee on 503 Variances. Based on the recommendations in that report, the Council has proposed a new Interpretation to Standard 503 Admission Test.

Proposed Interpretation 503-3 describes a particular admissions program that meets the requirements of Standard 503. Such programs have been proposed by a number of law schools, and the Council has granted variances when the proposals have satisfied the criteria for a variance. The proposed interpretation would provide a safe harbor and clear guidance to schools on when and how such programs comply with Standard 503.

The proposed Interpretation provides that a law school may admit no more than 10% of an entering class without requiring the LSAT from students in an undergraduate program of the same institution as the J.D. program; and/or students seeking the J.D. degree in combination with a degree in a different discipline. Applicants admitted must have scored at the 85th percentile nationally, or above, on a standardized college or graduate admissions test, specifically the ACT, SAT, GRE, or GMAT; and must have ranked in the top 10% of their undergraduate class through six semesters of academic work, or achieved a cumulative GPA of 3.5 or above through six semesters of academic work.

Outside these specific criteria Standard 503 continues to apply to the law school admissions process. The variance process is available to clarify when any other alternative test admissions programs may be employed on an experimental basis.

Schools that follow the admission process outlined in Interpretation 503-3 will be required to report annually on their admission programs and to follow the guidelines developed by the Council and the Managing Director's Office.

Background

Current Standard 503 Admission Test, prescribes that “a law school shall require each applicant for admission as a first-year J.D. student to take a valid and reliable admission test to assist the school and the applicant in assessing the applicant’s capability of satisfactorily completing the school’s educational program.” Interpretation 503-1 specifies that “a law school that uses an admission test other than the Law School Admission Test sponsored by the Law School Admission Council shall establish that such other test is a valid and reliable test to assist the school in assessing an applicant’s capability to satisfactorily complete the school’s education program.”

Current Standard 802 Variance, states that “a law school proposing to offer a program of legal education, a portion of which is inconsistent with a Standard, may apply for a variance.” The authority to grant such a variance is reserved for the Council, which may impose conditions and shall impose time limits it considers appropriate. As provided in Interpretation 802-1, variances are generally limited to proposals based on a response to extraordinary circumstances that would create extreme hardship for students or a law school, or an experimental program that meets the requirements of the Standard. The Council may terminate a variance prior to the end of the stated time limit if the school fails to comply with any conditions imposed by the Council.

While a reading of Standard 503 could be that schools did not need a variance to operate an alternative-test admissions process, so long as they could subsequently prove to the satisfaction of the Accreditation Committee and the Council that its admissions process meets the requirement of the Standard that a school must require each beginning student to take a “valid and reliable” law school admissions test, in practice law schools have requested variances in advance of commencing such programs to assure themselves and the Council that their programs will meet the requirements of Standard 503.

In accordance with Standard 802, approximately 15 ABA-approved law schools have sought and been granted variances from Standard 503 by the Council in order to use other admission tests as alternatives to the LSAT. Generally, variances have been granted for two distinctly different purposes and types of alternative tests: (1) programs that aim primarily to recruit honors undergraduates from the law school’s own universities by excusing them from taking the LSAT and that use undergraduate admission tests such as the ACT or SAT; and (2) programs that use alternative tests for joint degree programs with business or other disciplines and that use graduate-level tests such as the GMAT or GRE. In these cases, excusing applicants from submitting LSAT scores relieves those applicants from taking two separate graduate-level admissions tests. In each case the Accreditation Committee and the Council had determined that the law school’s request for a variance was in accordance with Interpretation 802-1(b) of the Standards, which classifies the proposed admission programs as experimental.

For programs that have been in existence long enough for results to be known, special admission students have performed as well or better than regularly admitted students in graduating on time and passing the bar examination. It is important to recognize that the purpose of Standard 503 is “to assist the school and the applicant in assessing the applicant’s capability of satisfactorily completing the school’s education program.” From the data presented to the Accreditation Committee thus far, the alternative tests have been valid in terms of predicting academic success in law school.

**American Bar Association
Section of Legal Education and Admissions to the Bar**

Interpretation 503-3

REDLINE DRAFT

Strike-outs and underlines show changes from the current Standards.

Interpretation 503-3

(a) It is not a violation of this Standard for a law school to admit no more than 10% of an entering class without requiring the LSAT from:

(1) Students in an undergraduate program of the same institution as the J.D. program;
and/or

(2) Students seeking the J.D. degree in combination with a degree in a different discipline.

(b) Applicants admitted under subsection (a) must meet the following conditions:

(1) Scored at the 85th percentile nationally, or above, on a standardized college or graduate admissions test, specifically the ACT, SAT, GRE, or GMAT; and

(2) Ranked in the top 10% of their undergraduate class through six semesters of academic work, or achieved a cumulative GPA of 3.5 or above through six semesters of academic work.

**American Bar Association
Section of Legal Education and Admissions to the Bar**

***Standard 505
Explanation of Changes***

Proposed Standard 505. GRANTING OF J.D. CREDIT FOR PRIOR LAW STUDY

At its meeting on March 14 – 15, 2014, the Council decided to send this proposed Standard for notice and comment a second time. The Council received very few comments on this proposed Standard even though the proposed changes represent a significant departure from current practices in some law schools.

Proposed Standard 505 seeks to consolidate in one Standard all the circumstances that lead to the granting of J.D. degree credit for prior study. Thus, it incorporates and simplifies material appearing in current Standards 506 (Applicants from Law Schools not Approved by the ABA) and 507 (Applicants from Foreign Law Schools), and Interpretation 304-7 regarding transfer of credits earned in an LL.M. program (generally by a graduate of a law school outside of the United States) into to a J.D. program. For the first time, the proposed Standard also encompasses the student who transfers from another ABA-approved school.

This significantly streamlined proposed Standard concludes with 505(e), which establishes a cap of one-third on credits that may be allowed by the admitting school on prior law study unless the study was undertaken as a J.D. degree student at another law school approved by the Council.

Under current practice, some law schools will allow a student who transfers into a J.D. program from an LL.M. program to receive up to one-third of the credits required for graduation from the law school outside the United States and to receive additional credits from the LL.M. program under current Interpretation 304-7. The proposal would limit the total number of credits in such a situation to one-third of the credits required for graduation.

American Bar Association
Section of Legal Education and Admissions to the Bar

Standard 505

REDLINE DRAFT

Strike-outs and underlines show changes from the current Standards.

Standard 505. GRANTING OF J.D. DEGREE CREDIT FOR PRIOR LAW STUDY

(a) A law school may admit a student and grant credit for courses completed at another law school approved by the Council if the courses were undertaken as a J.D. degree student.

(b) A law school may admit a student and grant credit for courses completed at a law school in the United States that is not approved by the Council if graduates of the law school are permitted to sit for the bar examination in the jurisdiction in which the school is located, provided that:

(1) the courses were undertaken as a J.D. degree student; and

(2) the law school would have granted credit toward satisfaction of J.D. degree requirements if earned at the admitting school.

(c) A law school may admit a student and grant credit for courses completed at a law school outside the United States if the admitting law school would have granted credit towards satisfaction of J.D. degree requirements if earned at the admitting school.

(d) A law school may grant credit toward a J.D. degree to a graduate of a law school in a country outside the United States for credit hours earned in an LL.M. or other post-J.D. program it offers if:

(1) that study led to successful completion of a J.D. degree course or courses while the student was enrolled in a post-J.D. degree law program; and

(2) the law school has a grading system for LL.M. students in J.D. courses that is comparable to the grading system for J.D. degree students in the course.

(e) A law school that grants credit as provided in Standard 505(a) through (d) may award a J.D. degree to a student who successfully completes a course of study that satisfies the requirements of Standard 311 and that meets all of the school's requirements for the awarding of the J.D. degree.

(f) Credit hours granted pursuant to subsection (b) through (d) shall not, individually or in combination, exceed one-third of the total required by the admitting school for its J.D. degree.

**American Bar Association
Section of Legal Education and Admissions to the Bar**

*Chapter 8
Explanation of Changes*

The Standards Review Committee proposed the deletion of Chapter 8 of the *ABA Standards for Approval of Law Schools* and relocation of the provisions to other sections in the Standards, Rules, Interpretations, or Internal Operating Practices.

Current Standard 801. COUNCIL AUTHORITY

Current Standard 801, which describes the process for Council approval of amendments to Standards, Interpretations, and Rules, has been moved to Rule 56 in the proposed Rules.

Current Standard 802. VARIANCE

Current Standard 802 and Interpretation 802-1 have been moved to Standard 107 in the proposed Standards.

Current Interpretations 802-2 to 802-4 have been moved to Rule 25 in the proposed Rules.

Current Standard 803. AMENDMENT OF STANDARDS, INTERPRETATIONS AND RULES

Current Standards 803(a), (b), and (c), which describe the process for review of proposed amendments by the ABA House of Delegates, have been moved to Rule 57 in the proposed Rules.

Current Standard 803(d), which describes a process for submitting proposals for amendments to the Managing Director, has been moved to Rule 11 of the Internal Operating Practices. The revised IOP requires the Standards Review Committee to report its recommendations on any proposal to the Council but does not impose a time limit on its report.

American Bar Association
Section of Legal Education and Admissions to the Bar

Chapter 8

REDLINE DRAFT

Strike-outs and underlines show changes from the current Standards.

Standard 801. COUNCIL AUTHORITY

~~The Council shall have the authority to adopt, revise, amend or repeal the Standards, Interpretations and Rules. A decision of the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules shall not become effective until it has been reviewed by the House. Review of such decisions by the House shall be conducted pursuant to the procedures set forth in Standard 803 and the Rules of Procedure of the House.~~

Standard 802. VARIANCE

~~A law school proposing to offer a program of legal education a portion of which is inconsistent with a Standard may apply for a variance. If the Council finds that the proposal is nevertheless consistent with the general purposes of the Standards, the Council may grant the variance, may impose conditions, and shall impose time limits it considers appropriate. Council may terminate a variance prior to the end of the stated time limit if the school fails to comply with any conditions imposed by the Council. As a general rule, the duration of a variance should not exceed three years.~~

Interpretation 802-1

~~Variations are generally limited to proposals based on one or more of the following:~~

- ~~(a) a response to extraordinary circumstances that would create extreme hardship for students or for an approved law school; or~~
- ~~(b) an experimental program based on all of the following:
 - ~~(1) good reason to believe that there is a likelihood of success; (2) high quality experimental design;~~
 - ~~(3) clear and measurable criteria for assessing the success of the experimental program;~~
 - ~~(4) strong reason to believe that the benefits of the experiment will be greater than its risks; and~~
 - ~~(5) adequately informed participation by students involved in the experiment.~~~~

Interpretation 802-2

~~A school applying for a variance has the burden of demonstrating that the variance should be granted. The application should include, at a minimum, the following:~~

- ~~(a) a precise statement of the variance sought;~~
- ~~(b) an explanation of the bases and reasons for the variance; and~~
- ~~(c) additional information needed to support the application.~~

Interpretation 802-3

~~The Chair of the Accreditation Committee or the Consultant may appoint one or more fact~~

finders to elicit facts relevant to consideration of the application for a variance. Thus an application for a variance must be filed well in advance of consideration of the application by the Accreditation Committee and the Council.

Interpretation 802-4

The Consultant, the Accreditation Committee or the Council may from time to time request written reports from the school concerning the variance.

Interpretation 802-5

Variations are school-specific and based on the circumstances existing at the law school filing the request.

Standard 803. AMENDMENT OF STANDARDS, INTERPRETATIONS AND RULES

~~(a) A decision by the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules does not become effective until it has been reviewed by the House. After the meeting of the Council at which it decides to adopt, revise, amend or repeal the Standards, Interpretations or Rules, the Chairperson of the Council shall furnish a written statement of the Council action to the House.~~

~~(b) Once the action of the Council is placed on the calendar of a meeting of the House, the House shall at that meeting either agree with the Council's decision or refer the decision back to the Council for further consideration. If the House refers a decision back to the Council, the House shall provide the Council with a statement setting forth the reasons for its referral.~~

~~(c) A decision by the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules is subject to a maximum of two referrals back to the Council by the House. If the House refers a Council decision back to the Council twice, then the decision of the Council following the second referral will be final and will not be subject to further review by the House.~~

~~(d) Proposals for amendments to the Standards, Interpretations or Rules may be submitted to the Consultant, who shall refer the proposal to the Standards Review Committee or other appropriate committee. The committee to which any such proposal is referred shall report its recommendation concerning that proposal to the Council within twelve months after the proposal had been referred to the Committee.~~

**American Bar Association
Section of Legal Education and Admissions to the Bar**

*Definitions Section
Explanation of Changes*

The Standards Review Committee has proposed creating a new section for the definitions used in both the Standards and the Rules of Procedure. In the current Standards, definitions are found in Standard 106, and under the current Rules, definitions are found in Rule 1. Almost all of the proposed changes are clarifying amendments.

“Approved law school” is no longer defined as a school that appears on the list of law schools approved by the Council. An approved law school under the proposed definitions is one that the Council has determined meets the requirements of the Standards.

Under the current definitions, a “Branch campus” is a separate location at which the law school offers sufficient courses to allow a student to earn at the separate location all of the credits required for the J.D. degree. Under the proposed definitions, a branch campus is a type of separate location at which a student may earn more than two-thirds of the credit hours required for the J.D. degree. Under the proposed definitions, the term “Satellite campus” is no longer used. The term “Separate location” in the proposed definitions means any location within the United States at which the law school offers more than sixteen credit hours of the program of legal education and that is not in reasonable proximity to the law school’s main campus. A branch campus is a type of separate location.

The proposed definition of “Full-time faculty member” has been moved from current Standard 402 to the new Definitions section. The proposed definition adds a reference to faculty members who are designated by the law school as full-time faculty members and deletes the limitation that outside professional activities must be limited to those that relate to major academic interests, enrich the faculty member’s capacity as a scholar and teacher, or are of service to the legal profession and the public generally.

Under the proposed definitions, “J.D. degree” is no longer defined as the first professional degree in law. The new definition states that the J.D. degree means the professional degree in law granted upon completion of a program of legal education that is governed by the Standards.

The proposed definition of “President” includes a reference to law schools that are not part of a university.

American Bar Association
Section of Legal Education and Admissions to the Bar

DEFINITIONS

REDLINE DRAFT

Strike-outs and underlines show changes from the current Standards.

Standard 106. DEFINITIONS

As used in the Standards, ~~and Interpretations~~ and Rules of Procedure:

(1) “Accreditation Committee” or “Committee” means the Accreditation Committee of the Section.

(2) “Approved law school” means a fully approved law school that the Council or Accreditation Committee has determined meets the requirements of Standard 103 or a provisionally approved law school that the Council or the Accreditation Committee has determined meets the requirements of Standard 102. ~~a law school that appears on the list of law schools approved by the Council of the Section of Legal Education and Admissions to the Bar.~~

(3) “Association” means the American Bar Association.

(4) “Branch campus” means a type of separate location at which a student may earn more than two-thirds of the credit hours that the law school requires for the award of a J.D. ~~“Branch campus” means a separate location at which the law school offers sufficient courses that a student could earn at the separate location all of the credit hours that the law school requires for the J.D. degree.~~

(5) ~~“Consultant” means the Consultant on Legal Education to the American Bar Association.~~

(65) “Council” means the Council of the Section.

(76) “Dean” means the chief administrative officer of a law school and includes an acting or interim dean.

(7) “Full-time faculty member” means an individual whose primary professional employment is with the law school, who is designated by the law school as a full-time faculty member, who devotes substantially all working time during the academic year to responsibilities described in Standard 404(a), and whose outside professional activities, other than those described in Standard 404(a), if any, do not unduly interfere with his or her responsibilities as a full-time faculty member.

(8) “Governing board” means a board of trustees, board of regents, or comparable body that has ultimate policy making authority for a law school or the university of which the law school is a part.

(9) “House” means the House of Delegates of the American Bar Association.

(10) “Interpretations” mean the Interpretations of the Standards for Approval of Law Schools.

(11) “J.D. degree” means the first professional degree in law granted by a law school upon completion of a program of legal education that is governed by the Standards.

(12) “Managing Director” means the Managing Director of the Section of Legal Education and Admissions to the Bar of the American Bar Association.

~~(12)~~ (13) “President” includes means the chief executive officer of a university or, if the university has more than one administratively independent unit, of the unit of which a law school is a part. If a law school is not part of a university, “president” refers to the chief executive officer of any entity that owns the law school, if there is such a person, or else the Chair of the Board of Directors of the law school.

~~(13)~~ (14) “Probation” is a public status indicating that a law school is not being operated in compliance with the Standards and is at risk of being removed from the list of approved law schools having its approval withdrawn.

(15) “Rules” mean the Rules of Procedure for Approval of Law Schools by the American Bar Association.

~~(15) “Satellite campus” means a separate location (other than one approved under the Criteria for Approval of Semester Abroad Programs) which is not within reasonable proximity to the main law school campus and at which a student could take the equivalent of 16 or more semester credit hours toward the law school’s J.D. degree but which does not constitute a branch campus.~~

(16) “Section” means the Section of Legal Education and Admissions to the Bar of the American Bar Association.

(17) “Separate location” means a location within the United States at which the law school offers more than sixteen credit hours of the program of legal education and that is not in reasonable proximity to the law school’s main location.

~~(17)~~ (18) “Standards” mean the Standards for the Approval of Law Schools.

~~(18)~~ (19) “University” means a post-secondary educational institution, whether referred to as a university, college, or by any other name, that confers a baccalaureate degree, (and may grant other degrees), whether it is called a university, college or by another name.

CLEAN COPY

As used in the Standards, Interpretations and Rules of Procedure:

- (1) “Accreditation Committee” or “Committee” means the Accreditation Committee of the Section.**
- (2) “Approved law school” means a fully approved law school that the Council or Accreditation Committee has determined meets the requirements of Standard 103 or a provisionally approved law school that the Council or the Accreditation Committee has determined meets the requirements of Standard 102.**
- (3) “Association” means the American Bar Association.**
- (4) “Branch campus” means a type of separate location at which a student may earn more than two-thirds of the credit hours that the law school requires for the award of a J.D.**
- (5) “Council” means the Council of the Section.**
- (6) “Dean” means the chief administrative officer of a law school and includes an acting or interim dean.**
- (7) “Full-time faculty member” means an individual whose primary professional employment is with the law school, who is designated by the law school as a full-time faculty member, who devotes substantially all working time during the academic year to responsibilities described in Standard 404(a), and whose outside professional activities, other than those described in Standard 404(a), if any, do not unduly interfere with his or her responsibilities as a full-time faculty member.**
- (8) “Governing board” means a board of trustees, board of regents, or comparable body that has ultimate policy making authority for a law school or the university of which the law school is a part.**
- (9) “House” means the House of Delegates of the American Bar Association.**
- (10) “Interpretations” mean the Interpretations of the Standards for Approval of Law Schools.**
- (11) “J.D. degree” means the professional degree in law granted upon completion of a program of legal education that is governed by the Standards.**
- (12) “Managing Director” means the Managing Director of the Section of Legal Education and Admissions to the Bar of the American Bar Association.**
- (13) “President” means the chief executive officer of a university or, if the university has more than one administratively independent unit, of the independent unit. If a law school is**

not part of a university, “president” refers to the chief executive officer of any entity that owns the law school, if there is such a person, or else the Chair of the Board of Directors of the law school.

(14) “Probation” is a public status indicating that a law school is not being operated in compliance with the Standards and is at risk of having its approval withdrawn.

(15) “Rules” mean the Rules of Procedure for Approval of Law Schools.

(16) “Section” means the Section of Legal Education and Admissions to the Bar of the American Bar Association.

(17) “Separate location” means a location within the United States at which the law school offers more than sixteen credit hours of the program of legal education and that is not in reasonable proximity to the law school’s main location.

(18) “Standards” mean the Standards for Approval of Law Schools.

(19) “University” means a post-secondary educational institution, whether referred to as a university, college, or by any other name, that confers a baccalaureate degree (and may grant other degrees).

**American Bar Association
Section of Legal Education and Admissions to the Bar**

***Rule of Procedure
Explanation of Changes***

The Purpose of the Proposed Revision

Four goals framed the examination of the Rules of Procedure. They were to:

- 1) reorganize the rules by clearly defined subject matter;
- 2) modify the language in the Rules to reflect current implementation;
- 3) clarify terminology and language where ambiguous; and
- 4) make changes to the Rules, where appropriate, that are commensurate with proposed changes to the Standards.

Although the Rules have been completely reorganized, it is important to note that very few substantive changes have been made to them. Additionally, each of the current Rules of Procedure has found a “home” within the reorganized draft. The correlation between current rule numbers and reorganized draft numbers can be found in the attached correlation chart. Proposed substantive changes to the Rules are highlighted below.

An Overview of the Rules

The Rules of Procedure are divided into eleven Chapters and 57 rules. The Chapters are designed to group related rules together. The order of the rules is designed to parallel the order of accreditation processes. The Rules of Procedure move from jurisdictional authority through the gathering and acting on information including sanctions, to rules affecting petitions and hearings, with final chapters on third party complaints, confidentiality and transparency and the authority of the Council to amend the Standards and Rules of Procedure.

Specifically, the organization is as follows:

- **Chapter One** is entitled *Scope and Authority*, and within it, rules 1-4 deal with the overarching scope and purpose of the Rules of Procedure, and the authority and jurisdiction of the Council, the Accreditation Committee and the Appeals Panel.
- **Chapters Two, Three, and Four** are the bulk of rules affecting the mainstay of the accreditation process. Chapter Two entitled *Information* and including Rules 5-11, deals with ways that, and by whom, information is gathered in the accreditation process. Chapter Three, named *Action on Information*, and Rules 12-15, govern the procedures and measures taken to determine compliance of the information gathered. Chapter Four, titled *Sanctions*, and Rules 16-18, reference the types of sanctions available for noncompliance of the Standards and the rules affecting monitoring and enforcement.
- **Chapter Five**, named *Petitions and Applications*, and Rules 19-26 deal with specific situations in the accreditation process. They include application and reapplication for provisional and full approval, acquiescence for major changes, request for variances, and rules affecting teach out plans.

- **Chapters Six, Seven, and Eight** govern hearings and appeals processes. Chapter Six, *Hearings and Meeting of the Accreditation Committee* and Rules 27-28, and Chapter Seven, *Hearings and Meetings of the Council*, and Rules 29-33, lay out the specific rules governing hearings for each of these accrediting bodies. Chapter Eight, *Appeals Panel Procedure*, and Rules 34-40 specify the rules involved in the Appeals Panel process.
- **Chapters Nine and Ten** deal with other Rules affecting the process. Chapter Nine, *Complaints Regarding Noncompliance of Standards*, and Rules 41-47, outlines the procedures in place to deal with third party complaints. Chapter Ten, *Transparency and Confidentiality*, and Rules 48-54, govern principles of confidentiality in the accreditation process and highlight the rules that affect transparency.
- **Chapter Eleven**, *Amendment of Standards, Interpretations, and Rules*, and Rules 55-56 discuss the authority of the Council and concurrence by the House of Delegates to amend the Standards and Rules of Procedure.

Highlighted Proposed Substantive Changes to the Rules

1. Chapter Five, *Petitions and Applications* Rules 21-22 Acquiescence in a Major Change

Definitions of what constitutes a major change outlined in proposed Rule 21 and 22 accords with the definitions contained in current Rule 20 and 21. Where the proposed rules differ is with respect to 1) the necessary showing to receive acquiescence and 2) the status of a law school meeting the requirements of acquiescence. These changes only affect the following major changes: establishment of a branch campus, change in ownership, or change in location that substantially alters aspects of the law school.

Currently, the Rules provide acquiescence to proceed on these major changes. But Council authority to proceed does not confer ABA approval status until such time prescribed by the Rules when the law school would seek provisional approval. Under the current system, the law school's burden to demonstrate reasonable likelihood of compliance with the Standards happens *after* acquiescence.

For these three types of major changes, the Standards Review Committee proposes a different approach. The Standards Review Committee proposes that the law school must demonstrate *prior to* acquiescence by the Council a reasonable likelihood that it will be in full compliance with each of the Standards. To enable the shift, Rule 22 requires that the law school file a business plan at the time of the request for acquiescence which would demonstrate a reasonable likelihood of being in full compliance with each of the Standards. If the law school is able to meet its burden of proof, the Council's acquiescence of the major change will include ABA approval status.

2. Timeframe to Reapply in Proposed Rules 20 and 23.

Current rules require that a law school must wait ten months to reapply, unless that limitation is waived by the Council. Proposed rules shift from a mandatory timeframe to a certified showing in the new application that that a law school has addressed the reasons for the denial or withdrawal and is able to demonstrate that it is operating in compliance with the Standards.

3. Inclusion of Aggravating and Mitigating Circumstances in Rule 16 used to Determine Sanctions

Based on suggestions from a working group of the Council, proposed Rule 16 includes a list of aggravating and mitigating circumstances that may be used when determining the appropriate sanction.

4. Evidence and Record for Decision in Proposed Rule 32

The proposed rule provides a uniform set of procedures for Council consideration of recommendations from the Accreditation Committee as well as Council consideration of appeals from Accreditation Committee decisions. Under current Rules 8 and 9, there are two different procedures for those considerations.

5. Appearance of Representatives by Law School in Proposed Rule 28

Proposed Rule 28 (a) combines current Rules 6(a) and 15(c) into one provision addressing when law schools have a right to have representatives appear before the Accreditation Committee. Proposed Rules 28(b) through (d) are new and clarify existing practice. The proposed Rules have deleted current Rules 6(b) and 15(d) that permit attendance at an Accreditation Committee meeting or hearing by a fact finder or the chair of a site team.

Correlation Chart, Existing to Proposed	
Existing Rule	Proposed Rule
1	new definitions section
2	5
3(a), (b)	12, 27
3(c)	6
4	19
5	3
6(a)	28(a), 30(a)
6(b)	deleted
7	15
8, 9	31, 32, 33
9(a)	15
10(a)	4
10	35 - 41
11	20, 21, 22
12	5
13(a)	8
13(b)	14, 16
13(c)	11, 13
13(d)	29
14	9
15	29
15(c)	28(a)
15(d)	deleted
16	16, 17, 18
17	33
18	16, 17, 18
19	13(c)
20, 21	21, 22
22	26
23	3, 24
24	42 - 48
25(a)	49
25	51, 52
26	53
27(a)	8
27(b)	54
27(c)	10
28	55
29	2
30	moved to IOPs
Standard 801	56

Existing Rule	Proposed Rule
prev. S801(a)	2
Interpretations 802-2 to 802-4	25
Standard 803(a) to (c)	57

Correlation Chart, Proposed to Existing	
Proposed Rule	Existing Rule
1	new
2	new
3	5, 23
4	10(a)
5	2, 12
6	3c
7	new
8	13(a), 27(a)
9	14
10	27c
11	13c
12	
13	new, 19
14	new, 13(b)
15	7, 9(a)
16	new, 16, 13(b)
17	new
18	18
19	4
20	11
21	11
22	new
23	11
24	23
25	new, Interpretations 802-2 to 802-4
26	22
27	3
28	new, 6(a), 15c
29	13(d), 15(b)
30	new, 6(a)
31	9
32	8, 9
33	8, 9
34	10(i)
35 to 41	10
42 to 48	24
49	25(a)
50	3(d), 8e, 9g, 10j, 10m
51	25
52	25

Proposed Rule	Existing Rule
53	26
54	27(b)
55	28
56	Standard 801
57	Standard 803(a) - 803 c

**American Bar Association
Section of Legal Education and Admissions to the Bar**

**RULES OF PROCEDURE
RELATING TO APPROVAL OF LAW SCHOOLS**

Table of Contents

I. Scope and Authority	3
<i>Rule 1: Scope and Purpose</i>	3
<i>Rule 2: Council Responsibility and Authority with Regard to Accreditation Status</i>	3
<i>Rule 3: Accreditation Committee Responsibility and Authority</i>	3
<i>Rule 4: Appeals Panel Authority</i>	4
II. Information	4
<i>Rule 5: Site Evaluations</i>	4
<i>Rule 6: Interim Monitoring of Accreditation Status</i>	7
<i>Rule 7: Acquisition of Additional Information by the Accreditation Committee and Council</i>	7
<i>Rule 8: Responses to Requests for Information</i>	8
<i>Rule 9: Appointment of a Fact Finder</i>	8
<i>Rule 10: Notice of Accreditation Decision by Other Agency</i>	9
<i>Rule 11: Failure to Provide Information or Cooperate with the Gathering of Information</i>	9
III. Action on Information	10
<i>Rule 12: Proceedings to Determine Compliance with Standards in General</i>	10
<i>Rule 13: Determinations of Compliance</i>	11
<i>Rule 14: Actions on Determinations of Noncompliance with a Standard</i>	11
<i>Rule 15: Reconsideration; Right to Appeal</i>	11
IV. Sanctions	12
<i>Rule 16: Sanctions for Noncompliance with a Standard</i>	12
<i>Rule 17: Sanctions for Failure to Cure Noncompliance with a Standard</i>	15
<i>Rule 18: Monitoring and Enforcing Compliance with Sanctions</i>	15
V. Applications	15
<i>Rule 19: Application for Provisional or Full Approval</i>	15
<i>Rule 20: Reapplication for Provisional or Full Approval</i>	17
<i>Rule 21: Application for Acquiescence in Major Change</i>	17
<i>Rule 22: Major Changes Requiring a Business Plan</i>	19
<i>Rule 23: Reapplication for Acquiescence in Major Change</i>	20
<i>Rule 24: Application for Approval of Foreign Program</i>	20
<i>Rule 25: Application for Variance</i>	20
<i>Rule 26: Teach-Out Plan</i>	21
VI. Hearings and Meetings of the Accreditation Committee	22
<i>Rule 27: Accreditation Committee Consideration</i>	22
<i>Rule 28: Attendance at Accreditation Committee Meetings and Hearings</i>	23
<i>Rule 29: Hearings Before the Accreditation Committee</i>	24
VII. Hearings and Meetings of the Council	24
<i>Rule 30: Council Consideration of Recommendation of Accreditation Committee</i>	24

<i>Rule 31:</i>	<i>Council Consideration of Appeal from Accreditation Committee Decision</i>	25
<i>Rule 32:</i>	<i>Evidence and Record for Decision</i>	25
<i>Rule 33:</i>	<i>Decisions by the Council</i>	26
<i>Rule 34:</i>	<i>Action by Council Following Appeals Panel Proceeding</i>	26
VIII. Appeals Panel Procedure		26
<i>Rule 35:</i>	<i>Appeals Panel</i>	27
<i>Rule 36:</i>	<i>Form and Content of Appeals to the Appeal Panel</i>	27
<i>Rule 37:</i>	<i>Membership of the Appeals Panel for the Proceeding</i>	28
<i>Rule 38:</i>	<i>Scheduling of Appeals Panel Hearings</i>	28
<i>Rule 39:</i>	<i>Burdens and Evidence in Appeals Panel Proceedings</i>	29
<i>Rule 40:</i>	<i>Procedure in Hearings Before the Appeals Panel</i>	29
<i>Rule 41:</i>	<i>Action by the Appeals Panel</i>	30
IX. Complaints Regarding Noncompliance With Standards		31
<i>Rule 42:</i>	<i>Complaints in General</i>	31
<i>Rule 43:</i>	<i>Submission of Complaints</i>	31
<i>Rule 44:</i>	<i>Disposition of Complaints</i>	32
<i>Rule 45:</i>	<i>Notice of Disposition of Complaint</i>	33
<i>Rule 46:</i>	<i>Appeal of Managing Director's Disposition of Complaint</i>	33
<i>Rule 47:</i>	<i>Review of Complaint Process</i>	33
<i>Rule 48:</i>	<i>Records of Complaints</i>	33
X. Transparency and Confidentiality		33
<i>Rule 49:</i>	<i>Confidentiality of Accreditation Matters</i>	34
<i>Rule 50:</i>	<i>Communication of Decisions and Recommendations</i>	34
<i>Rule 51:</i>	<i>Communication and Distribution of Site Evaluation Reports</i>	34
<i>Rule 52:</i>	<i>Disclosure of Decision Letters</i>	35
<i>Rule 53:</i>	<i>Applications, Decisions and Recommendations Made Public</i>	35
<i>Rule 54:</i>	<i>Statistical Reports</i>	36
<i>Rule 55:</i>	<i>Publication of List of Approved Schools</i>	37
XI. Amendment of Standards, Interpretations and Rules		37
<i>Rule 56:</i>	<i>Council Authority</i>	37
<i>Rule 57:</i>	<i>Concurrence by the ABA House of Delegates</i>	37

I. Scope and Authority

Rule 1: Scope and Purpose

These Rules of Procedure govern the accreditation process as carried out by the Council, Accreditation Committee, Managing Director, and Appeals Panel. They establish processes relating to accreditation that further the purposes of the Standards and promote consistency, fairness, and transparency.

Rule 2: Council Responsibility and Authority with Regard to Accreditation Status

The Council has primary authority to determine compliance with the Standards. It has delegated certain authority to the Accreditation Committee as stated in Rule 3. The Council has authority to:

- (a) grant or deny an application of a school for provisional approval or full approval.
- (b) withdraw provisional or full approval.
- (c) grant or deny applications for acquiescence in a major change, as provided in the Standards.
- (d) grant or deny applications for variances.
- (e) approve or deny approval of a teach-out plan.
- (f) impose sanctions and remedies.
- (g) consider appeals from decisions of the Accreditation Committee.
- (h) set fees for services and activities related to accreditation.

Rule 3: Accreditation Committee Responsibility and Authority

The responsibility and authority of the Accreditation Committee is delegated to it by the Council.

- (a) The Committee has jurisdiction to make recommendations to the Council concerning:
 - (1) an application for provisional or full approval;
 - (2) withdrawal of provisional or full approval;
 - (3) an application for acquiescence in a major change under Rules 21(a)(1) through 21(a)(13);

- (4) an application for a variance;
- (5) approval or denial of a teach-out plan.

(b) The Committee has jurisdiction to make decisions concerning all matters other than those specified in Rule 3(a), including:

- (1) determining compliance with the Standards of any provisionally or fully approved law school in connection with a site evaluation, a complaint, a response to a request for information, a fact-finding report, interim monitoring of accreditation status, or any other circumstances as provided in these Rules.
- (2) granting or denying an application for approval of a foreign programs, and the continuance of a foreign program.
- (3) granting or denying an application for acquiescence in a major change under Rule 21(a)(14) through 21(a)(17).

(c) The Committee has jurisdiction to impose sanctions and remedies, or to recommend to the Council that it impose sanctions or remedies, in accordance with Rules 16 to 18.

(d) The Committee has the authority to create subcommittees as it deems appropriate. Subcommittees do not have the authority to take action on behalf of the Accreditation Committee but have the authority to make recommendations where appropriate.

Rule 4: Appeals Panel Authority

An Appeals Panel has authority to consider appeals of the following decisions of the Council:

- (a) Denial of provisional approval;
- (b) Denial of full approval; or
- (c) Withdrawal of provisional or full approval.

II. Information

Rule 5: Site Evaluations

- (a) A site evaluation of a law school or of a program is a comprehensive examination of the school or program conducted by one or more persons qualified to conduct site evaluations who:
 - (1) Review documents relating to the school or program;

- (2) Perform an on-site evaluation of the school or program; and
 - (3) Prepare a factual report to be used by the Committee for purposes of making decisions or recommendations relating to accreditation status of the school or program.
- (b) Site evaluations of schools shall be conducted according to the following schedule:
- (1) A site evaluation of a fully approved law school shall be conducted in the third year following the granting of full approval and every seventh year thereafter.
 - (2) A site evaluation of a provisionally approved law school shall be conducted in accordance with subsection (g) below.
 - (3) A site evaluation shall be conducted upon application by a school for provisional approval.
- (c) The Council or Committee may order additional site evaluations of a school when special circumstances warrant.
- (d) In extraordinary circumstances, a site evaluation of a school may be postponed upon the request of the school. In such cases, the postponement shall be at the discretion of the Managing Director in consultation with the chair of the Committee and shall not exceed one year.
- (e) When a site evaluation of a school is required under the Standards or these Rules, the Managing Director shall make the following arrangements:
- (1) Schedule the site evaluation:
 - (i) During the regular academic year, at a time when classes in the program of legal education are being conducted; and
 - (ii) In the case of a school applying for provisional or full approval, during the academic year in which the application is received;
 - (2) Appoint a qualified site evaluation team of sufficient size to accomplish the purposes of the site evaluation, and appointing a chair of the site evaluation team;
 - (3) Provide the site evaluation team all relevant documents relating to Accreditation Committee and Council action regarding the school;
 - (4) Provide the site evaluation team with any third-party comments received by the Managing Director's Office regarding the law school's compliance with the Standards;
 - (5) Provide the site evaluation team all complaints received under Rule 43 and not dismissed by the Managing Director or the Accreditation Committee; and

- (6) Provide the site evaluation team with any necessary or appropriate directions or instructions.
- (f) In connection with a site evaluation of a school, the Managing Director shall direct the school to provide the following documents to the site evaluation team before the site evaluation:
 - (1) All completed forms and questionnaires, as adopted by the Council; and
 - (2) In the case of a school applying for provisional or full approval, the completed application for provisional or full approval.
- (g) Site evaluations for provisionally approved schools shall be conducted as follows:
 - (1) In years two and four, and upon application for full approval, the school shall be inspected in accordance with the rules for site evaluation of fully approved schools.
 - (2) The Accreditation Committee has the discretion to order a site evaluation in any other year. The Accreditation Committee may direct that the additional site evaluation be limited in scope.
- (h) Following a site evaluation, the site evaluation team shall prepare a written report on facts and observations that will enable the Committee to determine compliance with the Standards or other issues relating to the accreditation status of the school. A site evaluation report shall not contain conclusions regarding compliance with Standards or make recommendations for action by the Committee or the Council.
- (i) The Managing Director shall review the report submitted by a site evaluation team and ensure that it complies with (h). The Managing Director shall then transmit the report to the president and the dean in order to provide an opportunity to make factual corrections and comments. The school shall be given at least 30 days to prepare its response to the report, unless the school consents to a shorter time period. The 30 day period shall run from the date on which the Managing Director transmits the report to the school.
- (j) Following receipt of the school's response to the site evaluation report, the Managing Director shall forward a copy of the report with the school's response to members of the Accreditation Committee and the site evaluation team.
- (k) Site evaluations regarding foreign programs shall be conducted as provided under the:
 - (1) Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools;
 - (2) Criteria for Approval of Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools; and
 - (3) Criteria for Student Study at a Foreign Institution.

Rule 6: Interim Monitoring of Accreditation Status

(a) The Accreditation Committee shall monitor the accreditation status of law schools on an interim basis between site evaluations. In its interim monitoring of a school's accreditation status, the Committee shall use a school's annual questionnaire submissions, other information requested by the Committee, or information otherwise deemed reliable by the Committee for its review.

(b) In conducting interim monitoring of law schools, the Committee shall consider at a minimum:

- (1) Resources available to the law school;
- (2) Efforts and effectiveness in facilitating student career placement;
- (3) Bar passage; and
- (4) Student admissions including student credentials, size of enrollment, and academic attrition.

Rule 7: Acquisition of Additional Information by the Accreditation Committee and Council

(a) At any time when the record before the Committee is not sufficient to allow the Committee to determine compliance with a Standard or to determine any other issue before the Committee, the Committee, or the Managing Director in consultation with the Chair of the Committee, may send a fact finder or require that a law school provide information to enable the Committee to determine the school's compliance with a Standard or any other issue before the Committee, or to determine appropriate action in response to an actual or potential violation of a Standard.

(b) At any time when the record before the Council is not sufficient to allow the Council to determine compliance with a Standard or to determine any other issue before the Council, the Council, or the Managing Director in consultation with the Chair of the Council, may send a fact finder or require that a law school provide information to enable the Council to determine the school's compliance with a Standard or any other issue before the Council, or to determine appropriate action in response to an actual or potential violation of a Standard.

Rule 8: Responses to Requests for Information

(a) In any case in which the Committee or the Managing Director requests information from a school, the Committee or Managing Director shall request that the information be provided by a date certain, determined by the Committee or the Managing Director.

(b) A law school shall provide in a timely manner all information requested by the Consultant, a site evaluation team, the Accreditation Committee or the Council.

Rule 9: Appointment of a Fact Finder

(a) One or more qualified persons may be appointed as fact finders for the specific purpose of gathering information to enable the Committee or the Council to determine a school's compliance with a Standard. A fact finder may be required under Rules 21(c) and 22(e) in connection with a law school's application for acquiescence in a major change; under Rule 21(d) to assess compliance subsequent to the effective date of acquiescence in a major change; under Rule 25(b) in connection with a request for a variance; under Rule 44(b) in connection with a complaint; or at the direction of the Council, Committee, or Managing Director.

(b) The appointment of a fact finder shall include the following:

(1) A statement of the Standards, Rules, or other requirements to which the appointment relates;

(2) A statement of questions or issues for determination by the fact finder;

(3) A statement of relevant documents or information provided to the fact finder; and

(4) A date by which the fact finding report shall be submitted.

(c) The fact finder shall prepare a written report on facts and observations that will enable the Committee to determine compliance with a Standard or any other issue before the Committee, or determine appropriate action in response to an actual or potential violation of a Standard. A fact-finding report shall not contain conclusions regarding compliance with the Standards or make recommendations for action by the Committee.

(d) The Managing Director shall review the report submitted by a fact finder and ensure that it complies with (c). The Managing Director shall then transmit the report to the dean in order to provide an opportunity for the school to make factual corrections and comments. The school shall be given at least 30 days to prepare its response to the report, unless the school consents to a shorter time period. The 30 day period shall run from the date on which the Managing Director transmits the report to the school.

Rule 10: Notice of Accreditation Decision by Other Agency

- (a) An approved law school shall promptly inform the Managing Director of the following actions with respect to the law school:
 - (1) Pending or final action by State agency to suspend, revoke, withdraw, or terminate legal authority to provide post-secondary education;
 - (2) Decision by recognized agency to deny accreditation or pre-accreditation;
 - (3) Pending or final action by recognized agency to suspend, revoke, withdraw, or terminate accreditation or pre-accreditation; or
 - (4) Probation or equivalent status imposed by recognized agency.
- (b) If the law school is part of a university, then the law school shall promptly inform the Managing Director of the above actions with respect to the university or any program offered by the university.
- (c) A law school must complete and submit the Notice of State or Other Recognized Agency Action Form.
- (d) The Council will not grant approval to a law school if the Council knows, or has reasonable cause to know, that the law school is subject to the actions in subsection (a), unless the Council can provide a thorough and reasonable explanation, consistent with the Standards, why the action of the other body does not preclude the Council's grant of approval. Such explanation will be provided to the Secretary of the Department of Education.
- (e) If the Council learns that an approved law school is the subject of an adverse action by another recognized accrediting agency or has been placed on probation or an equivalent status by another recognized agency, the Council will promptly review its approval of the law school to determine if it should also take adverse action or place the law school on probation.
- (f) The Council will, upon request, share with other appropriate recognized accrediting agencies and recognized State approval agencies information about the accreditation status of a law school and any adverse actions it has taken against a law school.

Rule 11: Failure to Provide Information or Cooperate with the Gathering of Information

- (a) The Committee or Council may find that a school has:
 - (1) Failed to provide information required to be provided under the Standards:

- (2) Failed to comply with a request for information under these Rules of Procedure;
 - (3) Provided information to the Committee or the Managing Director's Office that the Committee has reason to believe is false or misleading; or
 - (4) Failed to cooperate with a site evaluation, a fact finder, or other process for the gathering of information under the Standards or these Rules of Procedure.
- (b) If the Committee or Council makes a finding under (a) above, then the Committee or Council may:
- (1) Direct remedies or impose sanctions; or
 - (2) Direct that representatives of the school, including any person specifically designated by the Committee or Council, appear at a hearing to determine whether to impose sanctions.

III. Action on Information

Rule 12: Proceedings to Determine Compliance with Standards in General

- (a) In a proceeding to determine accreditation status or compliance with the Standards within the jurisdiction of the Committee under Rule 3, the Committee may:
- (1) Find the school in compliance with a Standard or all of the Standards;
 - (2) Find the school not in compliance with a Standard;
 - (3) Find that the Committee has reason to believe that a law school has not demonstrated compliance with the Standards;
 - (4) Gather or request further information that will enable the Committee to determine compliance with one or more Standards; or
 - (5) Appoint a fact-finder.
- (b) In the event the Committee gathers or requests further information or appoints a fact finder in accordance with 12(a)(4) or 12(a)(5), upon receipt of the school's response or any fact-finding report, the Committee must find the school in compliance or not in compliance with the Standards for which information was gathered or requested, absent clearly articulated special circumstances. In the event of such special circumstances, the Committee may gather or request further information pursuant to 12(a)(4) or 12(a)(5).

(c) In any determination of compliance or noncompliance with a Standard in accordance with 12(a)(1) or (2), the Committee shall set out findings of facts on the basis of which it makes that determination.

Rule 13: Determinations of Compliance

(a) A determination that the school is in compliance with all of the Standards means that the law school remains an approved law school.

(b) In finding a school in compliance with a Standard, the Committee may couple the finding with a statement calling the school's attention to the requirements of that Standard when the Committee has reason to believe that the school might, at some time before the next scheduled site evaluation, no longer be in compliance with the Standard in question.

(c) The approval status of a law school is not affected while an appeal from, or review of, a decision or recommendation of the Committee or Council is pending.

Rule 14: Actions on Determinations of Noncompliance with a Standard

(a) Following a determination by the Committee of non-compliance with a Standard in accord with Rule 12(a)(2), the Committee shall:

(1) Require the school to provide information to demonstrate that it has come into compliance with the Standard; and

(2) Direct that representatives of the school, including any person specifically designated by the Committee, appear at a hearing to determine whether to impose sanctions in connection with the school's non-compliance with the Standard.

(b) Upon receipt of information demonstrating compliance with the Standard, the Committee may at any time find that the school is in compliance and cancel the hearing.

Rule 15: Reconsideration; Right to Appeal

(a) A law school does not have the right to request reconsideration of a decision or recommendation made by the Accreditation Committee or to request reconsideration of a decision made by the Council.

(b) A law school has a right to appeal a decision of the Accreditation Committee as provided in Rule 31.

(c) A law school has a right to appeal a decision of the Council as provided in Rule 36.

IV. Sanctions

Rule 16: Sanctions for Noncompliance with a Standard

(a) Conduct for which sanctions may be imposed upon a law school includes, without limitation:

- (1) Substantial or persistent noncompliance with one or more of the Standards;
- (2) Failure to present a reliable plan to bring the law school into compliance with the Standards;
- (3) Failure to provide information or to cooperate in a site evaluation as required by the Standards;
- (4) Making misrepresentations or engaging in misleading conduct in connection with consideration of the school's status by the Committee or the Council, or in public statements concerning the school's approval status;
- (5) Initiating a major change or implementing a new program without having obtained the prior approval or acquiescence required by the Standards; or
- (6) Provision of incomplete, inaccurate or misleading consumer information in violation of Standard 509.

(b) If the Committee determines that a school is not in compliance with a Standard, the Committee shall direct that the school bring itself into compliance with the Standard by a specific date.

- (1) The date by which a school is directed to bring itself into compliance with a Standard shall not exceed two years from the date of determination of noncompliance, except as provided for in (2) or (3).
- (2) The Committee may, after issuing the directive to a school to bring itself into compliance with a Standard, upon request of the school, for good cause, extend the date for the school to bring itself into compliance
- (3) The Committee may, after issuing the directive to a school to bring itself into compliance with a Standard, upon request by the school, recommend that the Council extend the date for the school to bring itself into compliance. The Council may, for good cause, extend the date for the school to bring itself into compliance.

(c) If the Committee determines that a school is not in compliance with a Standard then the Committee, following a hearing in accordance with Rule 14(a)(2), may, in addition to or in place of directing compliance with the Standard:

- (1) Direct specific remedial action on the part of the school; and/or
- (2) Impose sanctions, or recommend that the Council impose sanctions, on the school.

(d) Sanctions may include any or all of the following:

- (1) A monetary payment;
- (2) A requirement that the law school refund all or part of tuition or fees paid by students;
- (3) Public censure;
- (4) Private censure;
- (5) Publication or distribution of an apology or corrective statement by the school;
- (6) A prohibition against initiating new programs for a specific period;
- (7) Probation for a specific period or until specific conditions are fulfilled; or
- (8) Withdrawal of provisional or full approval.

(e) The Committee may itself impose any sanction under (c), except for sanctions under (7) or (8).

(f) Any sanction under (d) may be imposed, even if the school has, at the time of the decision or recommendation, ceased the actions that are the basis for sanctions or otherwise brought itself into compliance with the Standards.

(g) The Committee will consider aggravating and mitigating circumstances in determining the appropriate sanction, including the amount of a monetary payment.

(1) Aggravating circumstances are considerations or factors that may justify an increase in the degree or severity of the sanction to be imposed and include, without limitation:

- (i) prior history of violations;
- (ii) degree of negligence, recklessness, or knowledge;
- (iii) effort to conceal;

- (iv) dishonest or selfish motive;
- (v) a pattern of misconduct;
- (vi) bad faith obstruction of an investigation or sanction proceeding by failing to comply with requests of the Managing Director's Office, a Fact Finder, or rules of a sanction proceeding;
- (vii) submission of false or misleading evidence, false or misleading statements, or other deceptive practices during the investigation process or sanction proceeding;
- (viii) refusal to acknowledge wrongful nature of conduct;
- (ix) injury to former, current, or prospective law students;
- (x) apparent amount of monetary, strategic, or reputational gain;
- (xi) failure to have sufficient systems in place to ensure compliance, including the law school dean's lack of oversight;
- (xii) institutional incentive structures that may contribute to noncompliance; and
- (xiii) failure to enquire or investigate when circumstances warrant enquiry or investigation.

(2) Mitigating circumstances are any considerations or factors that may justify withholding or reducing a sanction and include, without limitation:

- (i) absence of a prior history of violations;
- (ii) degree of negligence, recklessness, or knowledge;
- (iii) apparent lack of monetary, strategic, or reputational gain
- (iv) self-reporting of violation;
- (v) timely good faith effort to rectify consequences of violation;
- (vi) full and free disclosure to and cooperation with Managing Director's Office, cooperation with fact finder, or cooperative attitude toward sanction proceedings; and
- (vii) imposition of other sanctions.

Rule 17: Sanctions for Failure to Cure Noncompliance with a Standard

If, following a determination by the Committee that a school is not in compliance with a Standard, the school fails to bring itself into compliance within the time specified by the Committee, including any extension for good cause, or fails to complete remedial action directed under 16(c) or fails to comply with sanctions imposed by the Committee or Council under 16(d), the Committee shall impose or recommend that the Council impose further remedial action or sanctions as provided for in 16(c) and 16(d) or recommend that the Council extend the period for the school to bring itself into compliance.

Rule 18: Monitoring and Enforcing Compliance with Sanctions

(a) The Committee shall monitor the law school's compliance with any requirements for remedial action, any sanctions, or any requirements of probation imposed under these Rules. If the Committee concludes that the school is not complying with the sanctions that have been imposed, or not making adequate progress toward bringing itself into compliance with the Standards, or not fulfilling the requirements of its probation, the Committee may impose or recommend that the Council impose additional sanctions referred to in 16(d). The Committee may itself impose any sanction under 16(d), except for sanctions under (7) or (8).

(b) If a law school has been placed on probation, the law school shall demonstrate compliance with the Standards by the end of the period fixed for probation. If the school fails to demonstrate compliance, then the Committee shall:

- (1) Recommend that the Council withdraw approval; or
- (2) Recommend that, for good cause shown, the Council extend the period for the school to bring itself into compliance.

(c) If a law school has been placed on probation, and the law school demonstrates compliance with the Standards by the end of the period fixed for probation, then the Committee shall recommend to the Council that probationary status be removed.

V. Applications

Rule 19: Application for Provisional or Full Approval

(a) A law school seeking provisional or full approval shall submit its application to the Managing Director after the beginning of fall term classes but no later than October 15 in the academic year in which the law school is seeking approval.

- (1) If the school is seeking a site evaluation in the fall academic term it shall also file

with the Managing Director, during the month of March of the preceding academic year, a written notice of its intent to do so.

(2) A provisionally approved law school may apply for full approval no earlier than two years after the date that provisional approval was granted.

(3) Upon notice to the Managing Director of its intent to seek provisional approval, a law school seeking provisional approval shall comply with Standard 102(f) regarding communication of its status.

(b) The application for provisional or full approval must contain:

(1) A letter from the dean certifying that the law school has completed all of the requirements for seeking provisional or full approval or that the law school seeks a variance from specific requirements of the Standards and that the law school has obtained the concurrence of the president in the application;

(2) All completed forms and questionnaires, as adopted by the Council;

(3) In the case of a law school seeking provisional approval, a copy of a feasibility study which evaluates the nature of the educational program and goals of the school, the profile of the students who are likely to apply, and the resources necessary to create and sustain the school, including relation to the resources of a parent institution, if any;

(4) A copy of the self-study;

(5) Financial operating statements and balance sheets for the last three fiscal years, or such lesser time as the institution has been in existence. If the applicant is not a publicly owned institution, the statements and balance sheets must be certified;

(6) Appropriate documents detailing the law school and parent institution's ownership interest in any land or physical facilities used by the law school;

(7) A request that the Managing Director schedule a site evaluation at the school's expense; and,

(8) Payment to the Section of the application fee.

(c) A law school may not apply for provisional approval until it has completed the first full academic year of its program,

(d) A law school must demonstrate that it or the university of which it is a part is legally authorized under applicable state law to provide a program of education beyond the secondary level.

(e) A law school shall disclose whether an accrediting agency recognized by the United

States Secretary of Education has denied an application for accreditation filed by the law school, revoked the accreditation of the law school, or placed the law school on probation. If the law school is part of a university, then the law school shall further disclose whether an accrediting agency recognized by the United States Secretary of Education has taken any of the actions enumerated above with respect to the university or any program offered by the university. As part of such disclosure, the school shall provide the Managing Director with information concerning the basis for the action of the accrediting agency.

(f) When a law school submits a completed application for provisional or full approval, the Managing Director shall arrange for a site evaluation as provided under Rule 5.

Rule 20: Reapplication for Provisional or Full Approval

(a) In a subsequent application for approval following any final action that resulted in a denial of provisional or full approval or a withdrawal of provisional or full approval, a law school must certify that it has addressed the reasons for the denial or withdrawal and is able to demonstrate that it is operating in compliance with the Standards.

(b) Any new application must be filed within the schedule prescribed by Rule 19(a).

Rule 21: Application for Acquiescence in Major Change

(a) Major changes requiring application for acquiescence include:

(1) Acquiring another law school, program, or educational institution;

(2) Acquiring or merging with another university by the parent university where it appears that there may be substantial impact on the operation of the law school;

(3) Transferring all, or substantially all, of the program of legal education or assets of the approved law school to another law school or university;

(4) Merging or affiliating with one or more approved or unapproved law schools;

(5) Merging or affiliating with one or more universities;

(6) Materially modifying the law school's legal status or institutional relationship with a parent institution;

(7) A change in control of the school resulting from a change in ownership of the school or a contractual arrangement;

(8) A change in the location of the school that could result in substantial changes in the faculty, administration, student body, or management of the school;

- (9) Establishing a branch campus;
 - (10) Establishing a separate location other than a branch campus;
 - (11) A significant change in the mission or objectives of the law school;
 - (12) The addition of courses or programs that represent a significant departure from existing offerings or method of delivery since the most recent accreditation period including combined undergraduate and J.D. programs, such as 2/4, 4/2 programs, and programs leading to a J.D. and a first-degree program at foreign institution; instituting a new full-time or part-time division; or changing from a full-time to a part-time program or from a part-time to a full-time program;
 - (13) The addition of a permanent location at which the law school is conducting a teach-out for students at another law school that has ceased operating before all students have completed their program of study;
 - (14) Contracting with an educational entity that is not certified to participate in Title IV, HEA programs, that would permit a student to earn 25 percent or more of the course credits required for graduation from the approved law school;
 - (15) Establishing a new or different program leading to a degree other than the J.D. degree;
 - (16) A change in program length measurement from clock hours to credit hours; and
 - (17) A substantial increase in the number of clock or credit hours required for graduation.
- (b) An application for acquiescence in a major change shall consist of the following:
- (1) All completed forms and questionnaires, as adopted by the Council;
 - (2) A letter from the dean certifying that the law school has completed all of the requirements for requesting acquiescence in a major change and that the law school has obtained the concurrence of the president in the application;
 - (3) A copy of the law school's most recent self-study or an updated self-study if the most recent self-study is more than three years old where the application is for acquiescence in a major change described in Rule 21(a)(1) through 21(a)(13);
 - (4) A description of the proposed change and a detailed analysis of the effect of the proposed change on the law school's compliance with the Standards;
 - (5) Payment to the Section of the application fee.

(c) The Managing Director shall appoint a fact finder in connection with an application for acquiescence in a major change, except that no fact finder is required if the Managing Director and the Chair of the Accreditation Committee determine that the application does not require additional information to assist Accreditation Committee and Council determination of the question of acquiescence.

(d) In recommending or granting acquiescence in a major change, the Committee or Council may appoint a fact finder subsequent to the effective date of acquiescence, for purposes of determining whether the law school remains in compliance with the Standards.

Rule 22: Major Changes Requiring a Business Plan

(a) In addition to satisfying the requirements of Rule 21(b), an application for acquiescence under 21(a)(1) through Rule 21(a)(9) shall include a business plan.

(b) The business plan in connection with the establishment of a branch campus under Rule 21(a)(9) shall contain information sufficient to allow the Accreditation Committee and the Council to determine that:

(1) The proposed branch campus has achieved substantial compliance with the Standards and is reasonably likely to achieve full compliance with each of the Standards within three years of the effective date of acquiescence;

(2) The proposed branch campus will meet the requirements of Standard 106 applicable to separate locations and branch campuses.

(c) The business plan regarding a matter involving a substantial change in ownership, governance, control, assets, or finances of the law school, under Rule 21(a)(1) through 21(a)(7) shall contain information sufficient to allow the Accreditation Committee and the Council to determine whether the law school is reasonably likely to be in full compliance with each of the Standards as of the effective date of acquiescence.

(d) The business plan regarding a change in location of the school that could result in substantial changes in the faculty, administration, student body, or management of the school under Rule 21(a)(8) shall contain information sufficient to allow the Accreditation Committee and the Council to determine whether the law school is reasonably likely to be in full compliance with each of the Standards within one year of the effective date of acquiescence.

(e) In a case where the Council has acquiesced in a major change subject to (a), the Council shall appoint a fact finder subsequent to the effective date of acquiescence, as provided in (f), (h), or (i).

(f) In the case of the establishment of a branch campus under Rule 21(a)(9), the fact finder required in accordance with (e) shall be appointed within six months of the effective date of acquiescence to verify that the branch campus satisfies the requisites of (b)(2).

(g) In a case involving a substantial change in ownership, control, assets, or finances of the law school under Rule 21(a)(1) through 21(a)(7), the fact finder required in accordance with (e) shall be appointed within six months of the effective date of acquiescence to verify that the law school is in substantial compliance with each of the Standards.

(h) In a case involving a substantial change in location of the school that could result in substantial changes in the faculty, administration, student body, or management of the school, under Rule 21(a)(8), the fact finder required in accordance with (e) shall be appointed within one year of acquiescence to verify that the law school is in full compliance with each of the Standards.

Rule 23: Reapplication for Acquiescence in Major Change

(a) If an application for acquiescence in a major change is withdrawn by a law school, or if the Committee or Council denies an application for acquiescence in a major change, a law school shall not reapply until it is able to certify in its application that it has addressed the reasons for the denial or withdrawal and is able to demonstrate that it is operating in compliance with the Standards.

(b) Any new application must be filed in accordance with Rule 21.

Rule 24: Application for Approval of Foreign Program

(a) A school may apply for approval of programs in accordance with the procedures set forth in the following Criteria:

- (1) Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools;
- (2) Criteria for Approval of Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools; or
- (3) Criteria for Student Study at a Foreign Institution.

Rule 25: Application for Variance

(a) A law school applying for a variance has the burden of demonstrating that the variance should be granted. The application should include, at a minimum, the following:

- (1) A precise description of the program changes or other actions for which the variance is sought, and identification of the Standard or Standards with which they are or may be inconsistent;
 - (2) An explanation of the bases and reasons that justify granting the variance; and
 - (3) Any additional information and factual material needed to sustain the law school's burden of proof and support the granting of the application.
- (b) The chair of the Accreditation Committee or the Managing Director may appoint one or more fact finders to elicit additional information and facts relevant and necessary to consideration of the application for a variance.
- (c) The Managing Director, the Accreditation Committee or the Council may request written reports from a law school to which a variance has been granted in addition to the written reports required under the terms of the variance.

Rule 26: Teach-Out Plan

- (a) If a provisional or fully approved law school decides to cease operations or close a branch campus, the school shall promptly make a public announcement of the decision and shall notify the Managing Director, the appropriate state licensing authority, and the United States Department of Education of the decision.
- (b) A provisional or fully approved law school must submit a teach-out plan for approval upon occurrence of any of the following events:
- (1) The school notifies the Managing Director's Office that it intends to cease operations or close a branch campus;
 - (2) The Accreditation Committee recommends, or the Council acts to withdraw, terminate, or suspend, the accreditation of the school;
 - (3) The United States Secretary of Education notifies the Managing Director's Office that the Secretary has initiated an emergency action against an institution, in accordance with section 487(c)(1)(G) of the HEA, or an action to limit, suspend, or terminate an institution participating in any title IV, HEA program, in accordance with section 487(c)(1)(F) of the HEA, and that a teach-out plan is required;
 - (4) A state licensing or authorizing agency notifies the Managing Director's Office that an institution's license or legal authorization to provide an educational program has been or will be revoked.
- (c) The school shall submit the teach-out plan for the school or branch being closed as required by paragraph (b) to the Managing Director's Office within the time specified by the

Managing Director. The Managing Director's Office, in consultation with the Chair of the Accreditation Committee, may require a school to enter into a teach-out agreement as part of its teach-out plan.

(d) A law school must submit the “Teach-Out Plan Approval Form,” as adopted by the Council, and address each item in the form.

(e) If a law school voluntarily enters into a teach-out agreement or if the Managing Director requires a law school to submit a teach-out agreement as part of a teach-out plan, the law school must submit the “Teach-Out Agreement Approval Form,” as adopted by the Council, and address each criterion in the form.

(f) The Accreditation Committee will promptly review a teach-out plan submitted in accordance with (b) and (c) and shall recommend approval or denial of the plan by the Council.

(1) Approval of the teach-out plan may be conditioned on specified changes to the plan.

(2) If the teach-out plan is denied, the school must revise the plan to meet the deficiencies identified and resubmit the plan no later than 30 days after receiving notice of the decision.

(g) Upon approval of a teach-out plan of a school or branch that is also accredited by another recognized accrediting agency, the Managing Director’s Office shall notify that accrediting agency within 30 days of its approval.

(h) Upon approval of a teach-out plan, the Managing Director shall within 30 days notify all recognized agencies that accredit other programs offered by the institution of which the law school is a part.

(i) In the event a school closes without an approved teach-out plan or agreement, the Managing Director’s office will work with the United States Department of Education and the appropriate State agency, to the extent feasible, to assist students in finding reasonable opportunities to complete their education without additional charges.

VI. Hearings and Meetings of the Accreditation Committee

Rule 27: Accreditation Committee Consideration

(a) The Accreditation Committee shall consider the status of a law school under Part III or an application from a law school under Part V based on a record consisting of the following, as appropriate:

- (1) Any fact finder's report relating to the subject matter under consideration;
- (2) The most recent site evaluation report;
- (3) The most recent site evaluation questionnaire;
- (4) The most recent annual questionnaire;
- (5) Any letters reporting Committee or Council decisions written subsequent to the most recent site evaluation report, and any responses of the school;
- (6) The application for provisional or full approval;
- (7) The application for acquiescence in a major change;
- (8) The application for a variance of a standard; and
- (9) Any other information that the Managing Director and the Chair determine relevant to the matter under consideration.

(b) The Committee shall make findings of fact and state conclusions with respect to the matter under consideration. If the matter falls within the provisions of Rule 3(a), the Committee shall make recommendations to the Council.

Rule 28: Attendance at Accreditation Committee Meetings and Hearings

(a) A law school has a right to have representatives of the school, including legal counsel, appear before the Committee at a hearing regarding (i) the school's application for provisional approval, (ii) the school's application for full approval, (iii) the school's application for acquiescence in a major change under Rule 21(a)(1) – 21(a)(13), or at a hearing held in accordance with Rules 11(b)(2) or 14(a)(2).

(b) The Managing Director in consultation with the Chair of the Committee may set reasonable limitations on the number of school representatives that may appear and on the amount of time allotted for the appearance.

(c) Except as permitted in subsection (a), a law school does not have a right to appear at a meeting of the Accreditation Committee.

(d) The Managing Director or designee and any additional staff designated by the Managing Director shall be present at Accreditation Committee meetings and hearings. Legal Counsel for the Section may also be present at Accreditation Committee meetings and hearings.

Rule 29: Hearings Before the Accreditation Committee

(a) In any hearing held in accordance with Rules 11(b)(2) or 14(a)(2), the Managing Director shall give the law school at least 30 days' notice of the Committee hearing. The notice shall specify the apparent non-compliance with the Standards or the apparent failure to provide information or to cooperate with the gathering of information and shall state the time and place of the hearing. For good cause shown, the Managing Director in consultation with the Chair may grant the school additional time, not to exceed 30 days. Both the notice and the request for extension of time must be in writing.

(b) In any hearing before the Committee, the Managing Director shall provide the Committee with all appropriate questionnaires, reports, correspondence and any other information that the Managing Director and the Chair determine relevant to the hearing.

VII. Hearings and Meetings of the Council

Rule 30: Council Consideration of Recommendation of Accreditation Committee

(a) A law school has a right to have representatives of the school, including legal counsel, appear before the Council at a Council hearing following a Committee recommendation regarding (i) the school's application for provisional approval, (ii) the school's application for full approval, (iii) the school's application for acquiescence in a major change under Rule 21(a)(1) – 21(a)(13), and (iv) the Committee's recommendation to impose sanctions following a hearing held in accordance with Rules 11(b)(2) or 14(a)(2).

(b) The Managing Director in consultation with the Chair of the Council may set reasonable limitations on the number of school representatives that may appear at a meeting and on the amount of time allotted for the appearance.

(c) Except as permitted in subsection (a), a law school does not have a right to appear at a Council meeting, hearing or proceeding on any matter related to the accreditation of a law school.

(d) The Chair of the Council may invite the Chair of the Accreditation Committee to appear at the hearing, if the Chair determines that such person could reasonably be expected to provide information helpful to the Committee. The Chair of the Accreditation Committee may not present new evidence unless the law school has the opportunity to respond to that new evidence.

(e) The Managing Director or designee and any additional staff designated by the Managing Director shall be present at Accreditation Committee meetings and hearings. Legal Counsel for the Section may also be present at Accreditation Committee meetings and hearings.

Rule 31: Council Consideration of Appeal from Accreditation Committee Decision

- (a) A law school may appeal a decision of the Committee by filing with the Managing Director a written appeal within 30 days after the date of the letter reporting the Committee's decision.
- (b) The Council shall consider the appeal promptly and, when feasible, at its next regularly scheduled meeting.
- (c) A law school shall not have a right to appear before the Council in connection with the appeal.

Rule 32: Evidence and Record for Decision

- (a) In any action on a recommendation of the Committee or in any appeal from a Committee decision, the Council shall adopt the Committee's findings of fact unless the Council determines that the findings are not supported by substantial evidence in the record.
- (b) In any action on a recommendation of the Committee or in any appeal from a Committee decision, the record on which the Council shall make its decision shall be the following:
 - (1) The record before the Committee on which the Committee based its decision or recommendation;
 - (2) The letter setting forth the Committee's decision or recommendation;
 - (3) The written appeal by the law school, if applicable;
 - (4) Any written submission by the Committee in response to an appeal, if applicable;
 - (5) Any testimony of the law school in a hearing or an appearance before the Council.
- (c) Except as specifically provided otherwise in these Rules, the law school shall not present any evidence to the Council that was not before the Committee at the time of the Committee's decision or recommendation.
- (d) In any action on a recommendation of the Committee or in any appeal from a Committee decision, the Council will accept new evidence submitted by the school only if the Executive Committee of the Council determines that:
 - (1) The evidence was not presented to the Committee;
 - (2) The evidence could not reasonably have been presented to the Committee;

- (3) A reference back to the Committee to consider the evidence would, under the circumstances, present a serious hardship to the school;
- (4) The evidence was submitted at least 14 days in advance of the Council meeting;
and
- (5) The evidence was appropriately verified at the time of submission.

Rule 33: Decisions by the Council

- (a) In any action on a recommendation of the Committee or in any appeal from a Committee decision, the Council shall give substantial deference to the conclusions, decisions, and recommendations of the Committee.
- (b) In any action on a recommendation of the Committee or in any appeal from a Committee decision, the Council may, as appropriate:
 - (1) Affirm the Committee's decision or recommendation;
 - (2) Amend the Committee's decision or recommendation, including imposing any sanction regardless of whether the Committee has imposed or recommended any sanction;
 - (3) Reverse the Committee's decision or recommendation; or
 - (4) Remand the matter to the Committee for further proceedings.
- (c) If the Council remands a decision for further consideration or action by the Committee, the Council shall identify specific issues that the Committee must address.

Rule 34: Action by Council Following Appeals Panel Proceeding

- (a) If the Appeals Panel remands a decision of the Council for further consideration or action by the Council, the Council shall proceed in a manner consistent with the Appeals Panel's decisions or instructions.
- (b) In implementing the decision of the Appeals Panel, the Council may impose monitoring, reporting or other requirements on the law school consistent with the Appeals Panel decision and the Rules of Procedure.

VIII. Appeals Panel Procedure

Rule 35: Appeals Panel

(a) The Appeals Panel shall consist of at least three persons appointed by the Chair of the Council. Members shall serve a one-year term beginning at the end of the Annual Meeting of the Section and continuing to the end of the next Annual Meeting of the Section or until replaced. Appeals Panel members and alternates are eligible to serve consecutive terms or non-consecutive multiple terms.

(1) The Chair of the Council shall designate one member of the Appeals Panel to serve as its chair.

(2) The Chair of the Council shall also appoint, at the same time as appointing members of the Appeals Panel and for the same term, an equal number of alternates to the Appeals Panel.

(b) Every member of the Appeals Panel and alternate shall be:

(1) A former member of the Council or Accreditation Committee; or

(2) An experienced site evaluator.

(c) Members of the Appeals Panel and alternates shall be:

(1) Experienced in and knowledgeable about the Standards, Interpretations and Rules of Procedure;

(2) Trained in the Standards, Interpretations and Rules of Procedure at a retreat or workshop or by other appropriate methods within the 3 years prior to appointment; and

(3) Subject to the Section's Conflicts of Interest Policy, as provided in IOP 19.

(d) The Appeals Panel, and the group of alternates, shall each include legal educators, practitioners, members of the judiciary, and representatives of the public. No more than fifty percent of the members may be persons whose primary professional employment is as a law school dean, faculty or staff member. Public members shall have qualifications and representation consistent with the regulations of the United States Department of Education applicable to the accreditation of professional schools.

Rule 36: Form and Content of Appeals to the Appeal Panel

(a) A law school may appeal decisions of the Council specified in Rule 4 by filing a written appeal with the Managing Director within 30 days after the date of the letter to the law school reporting the decision of the Council.

(b) The written appeal must include:

- (1) A statement of the grounds for appeal; and
 - (2) Documentation in support of the appeal.
- (c) The grounds for an appeal are limited to the following:
- (1) That the decision of the Council was arbitrary and capricious; or
 - (2) That the Council failed to follow the applicable Rules of Procedure and the procedural error prejudiced its decision.
- (d) The written appeal and supporting documentation may not contain or refer to any evidence that was not in the record before the Council.

Rule 37: Membership of the Appeals Panel for the Proceeding

- (a) Within 30 days of receipt of a written appeal within the scope of authority of the Appeals Panel, the Managing Director shall ensure that the Appeals Panel or the Appeals Panel with alternates is authorized and available to decide the appeal.
- (b) In the event a member of the Appeals Panel cannot participate in the appeal, the Managing Director shall appoint one of the alternates to the panel hearing the matter and making the decision, and shall ensure that the panel includes one legal educator, one judge or practitioner, and one public member.
- (c) In the event an alternate cannot be appointed to participate in a decision on appeal so as to ensure that the panel includes one legal educator, one judge or practitioner, and one public member, the Managing Director shall appoint to the panel another person who:
- (1) Wholly or substantially meets the criteria of Rule 35(b) and (c); and
 - (2) Whose appointment to the panel ensures that the panel includes one legal educator, one judge or practitioner, and one public member.
- (d) In the event the Chair of the Appeals Panel is unable to participate in the appeal, the Managing Director shall appoint a Chair Pro Tempore, where possible from among the members of the Appeals Panel appointed by the Chair of the Council.

Rule 38: Scheduling of Appeals Panel Hearings

- (a) Within 30 days of receipt of a written appeal within the scope of authority of the Appeals Panel, the Managing Director shall refer the appeal to the Appeals Panel. In referring the appeal, the Managing Director shall provide the members of the Appeals or alternates hearing the appeal

with copies of:

- (1) The written appeal;
 - (2) The decision of the Council; and
 - (3) The record before the Council, including any transcript of hearing.
- (b) The Managing Director, in consultation with the Chair or Chair Pro Tempore of the Appeals Panel, shall set the date, time, and place of the hearing.
- (1) The hearing shall be scheduled within forty-five days of the Managing Director's referral of the appeal to the Appeal Panel.
 - (2) The Managing Director shall inform the law school of the date, time, and place of the hearing at least 30 days in advance of the hearing, unless the law school agrees to the hearing on less than 30 days' notice.

Rule 39: Burdens and Evidence in Appeals Panel Proceedings

- (a) The law school appealing to the Appeals Panel has the burden of demonstrating that the Council's decision was arbitrary and capricious and not supported by the evidence on record, or inconsistent with the Rules of Procedure and that inconsistency prejudiced its decision.
- (b) The appeal shall be decided based on the record before the Committee and the Council, the decision letters of those bodies and any documents cited in those decision letters, and transcripts of hearings before the Committee and the Council. Except as provided in Rule 41(e), no new evidence shall be considered by the Appeals Panel.

Rule 40: Procedure in Hearings Before the Appeals Panel

- (a) The hearing will be a closed proceeding and not open to the public.
- (b) The law school shall have a right to have representatives, including legal counsel, appear at the hearing.
- (c) The Council shall be represented at the hearing through the Chair, other members of the Council as the Chair of the Council deems appropriate, and legal representation for the Council.
- (d) The Managing Director or designee shall be present at the hearing. The Managing Director may designate additional staff to be present at the hearing.
- (e) The hearing shall be transcribed by a court reporter and a transcript of the hearing shall be provided to the Appeals Panel, the Council, and the law school.

Rule 41: Action by the Appeals Panel

- (a) Within 30 days of the hearing, the Appeals Panel shall provide the Council and the law school with a written statement of the Appeals Panel's decision and the basis for that decision.
- (b) The Appeals Panel, following a hearing, has the authority to:
 - (1) Affirm the decision of the Council;
 - (2) Reverse the decision of the Council and enter a new decision;
 - (3) Amend the decision of the Council; or
 - (4) Remand the decision of the Council for further consideration.
- (c) The decision of the Appeals Panel shall be effective upon issuance. If the Appeals Panel remands a decision for further consideration or action by the Council, the Appeals Panel shall identify specific issues that the Council must address.
- (d) Decisions by the Appeals Panel under (b)(1), (2) and (3) are final and not appealable.
- (e) When the only remaining deficiency cited by the Council in support of an adverse decision is a law school's failure to meet the Standards dealing with financial resources for a law school, the law school may request a review of new financial information that was not part of the record before the Council at the time of the adverse decision if all of the following conditions are met:
 - (1) A written request for review is filed with the Consultant within 30 days after the date of the letter reporting the adverse decision of the Council to the law school;
 - (2) The financial information was unavailable to the law school until after the adverse decision subject to the appeal was made; and
 - (3) The financial information is significant and bears materially on the financial deficiencies that were the basis of the adverse decision by the Council.
- (f) The request to review new financial information will be considered by the Council at its next meeting occurring at least 30 days after receipt of the request.
- (g) A law school may request review of new financial information only once and a decision made by the Council with respect to that review does not provide a basis for appeal.

IX. Complaints Regarding Noncompliance With Standards

Rule 42: Complaints in General

(a) The United States Department of Education procedures and rules for the recognition of accrediting agencies require a recognized accrediting agency to have a process for the reporting of complaints against accredited institutions that might be out of compliance with the agency's accreditation standards. This is the process for the Council with regard to law schools having J.D. programs approved by the Council.

(b) The process for Complaints under these Rules aims to bring to the attention of the Council, the Committee, and the Managing Director facts and allegations that may indicate that an approved law school is operating its program of legal education out of compliance with the Standards.

(c) This process is not available to serve as a mediating or dispute-resolving process for persons with complaints about the policies or actions of an approved law school. The Council, the Committee and the Managing Director will not intervene with an approved law school on behalf of an individual with a complaint against or concern about action taken by a law school that adversely affects that individual. The outcome of this process will not be the ordering of any individual relief for any person or specific action by a law school with respect to any individual.

(d) If a law school that is the subject of a complaint is due to receive a regularly scheduled sabbatical site evaluation within a reasonable amount of time after the complaint is received, usually within one year, the complaint may be handled as part of the sabbatical site evaluation.

Rule 43: Submission of Complaints

(a) Any person may file with the Managing Director a written complaint alleging non-compliance with the Standards.

(1) Except in extraordinary circumstances, the complaint must be filed within one calendar year of the facts on which the allegation is based. Pursuit of other remedies does not toll this one calendar year limit.

(2) Complaints must be in writing using the form "Complaint Against an ABA Approved Law School" and must be signed. The form shall be available both online and from the Office of the Managing Director.

(3) Anonymous complaints will not be considered.

(4) A complaint that has been resolved will not be subject to further review or reconsideration unless subsequent complaints about the school raise new issues or suggest a pattern of significant noncompliance with the Standards not evident from the consideration of the previously resolved complaint.

- (b) The Complaint must provide the following information:
- (1) A clear and concise description of the nature of the complaint and any evidence upon which the allegation is based, with relevant supporting documentation. The description and supporting evidence should include relevant facts that support the allegation that the law school is out of compliance with the Standards referenced in the complaint.
 - (2) The Standards and Interpretations alleged to have been violated and the time frame in which the lack of compliance is alleged to have occurred.
 - (3) A description of the steps taken to exhaust the law school's grievance process and the actions taken by the law school in response to the complaint as a result of prescribed procedures.
 - (4) Disclosure of any other channels the complainant is pursuing, including legal action.
 - (5) A release authorizing the Managing Director's Office to send a copy of the complaint to the dean.
- (c) If the person filing the complaint is not willing to sign a release authorizing the Managing Director's Office to send a copy of the complaint to the dean, the matter will be closed. If the Managing Director concludes that extraordinary circumstances so require, the name of the person filing the complaint may be withheld from the school.

Rule 44: Disposition of Complaints

- (a) The Managing Director, upon receiving a complaint submitted in accordance with Rule 43 and not dismissed, shall proceed as follows:
- (1) The Managing Director shall acknowledge receipt of the complaint within 14 days of its receipt.
 - (2) The Managing Director shall determine whether the complaint alleges facts that raise issues relating to an approved law school's compliance with the Standards. This determination shall be made within six weeks of receiving the complaint. If the Managing Director concludes that the complaint does not raise issues relating to an approved school's compliance with the Standards, the matter will be closed.
 - (3) If the Managing Director determines that the complaint may raise issues relating to an approved school's compliance with the Standards, the Managing Director will send the complaint to the school and request a response within 30 days. The Managing Director may extend the period for response if, in the judgment of the Managing Director,

there is good cause for such an extension.

(4) The Managing Director will review any response to a complaint within 45 days of receipt. If the response establishes that the school is not out of compliance with respect to the matters raised in the complaint, the Managing Director will close the matter.

(b) If the school's response to a complaint does not establish that it is in compliance with the Standards on the matters raised by the complaint, the Managing Director, in consultation with the Chair of the Committee, may appoint a fact finder to investigate the issues raised by the complaint and the school's response.

(c) If the school's response to a complaint does not establish that it is in compliance with the Standards on the matters raised by the complaint, then the Managing Director shall refer the complaint, along with the school's response, the fact-finder's report, if any, and any other relevant information, to the Committee for further action in accordance with these Rules.

Rule 45: Notice of Disposition of Complaint

The Managing Director will promptly notify the person submitting a complaint of the final disposition of the complaint. The notification shall not include a copy of the school's response, if any, and shall not include a copy of any written decision of the Committee.

Rule 46: Appeal of Managing Director's Disposition of Complaint

There is no appeal to any body of a conclusion by the Managing Director that a complaint does not raise issues under the Standards.

Rule 47: Review of Complaint Process

To ensure the proper administration of this complaint process, the Committee shall periodically review the written complaints received in the Managing Director's Office and their disposition.

Rule 48: Records of Complaints

The Managing Director's Office shall keep a record of the complaints under Part VIII of these Rules for a period of ten years.

X. Transparency and Confidentiality

Rule 49: Confidentiality of Accreditation Matters

Except as otherwise provided in these Rules, all matters relating to the accreditation of a law school, including any proceedings, hearings or meetings of the Committee or Council, shall be confidential.

Rule 50: Communication of Decisions and Recommendations

When a law school is the subject of a decision or recommendation in accordance with these Rules, the Managing Director shall promptly inform the dean and the president of the decision or recommendation, in writing.

Rule 51: Communication and Distribution of Site Evaluation Reports

(a) Except as provided in Part X of these Rules, site evaluation and fact finding reports shall be confidential.

(b) The law school may release an entire site evaluation report or fact finding report or portions of a report.

(1) If the law school makes public the site evaluation report or any portion of it, the school must notify the Managing Director at or before the time of the disclosure. In the event the school discloses only a portion of the site evaluation report, the Managing Director, in consultation with the Chair of the Council, may subsequently disclose any other portions of the site evaluation report or the entire report.

(2) Discussion of the contents of a site evaluation report with, or release of the report to, the faculty, the university administration, or the governing board of the university or law school, does not constitute release of the report to the public within the meaning of this Rule.

(c) If the dean determines that a site evaluation report for the dean's law school contains criticism of the professional performance, competence, or behavior of a member of the school's faculty or professional staff:

(1) The dean shall make available to the person affected the relevant portions of the report and shall send the Managing Director a copy of those relevant portions and any accompanying memorandum or letter to the affected person.

(2) The affected person shall have the right to file with the Managing Director a document responding to the criticism contained in the site evaluation report.

(3) Any such response to the criticism shall become part of the law school's official file.

Rule 52: Disclosure of Decision Letters

- (a) Except as provided in Rule 53, decisions and recommendations of the Committee and Council shall be confidential.
- (b) If the law school makes public a decision or recommendation of the Committee or Council, the school must make public the entire decision or recommendation.
 - (1) If the law school makes public a decision or recommendation of the Committee or Council, the law school must notify the Managing Director at or before the time of the disclosure.
 - (i) The Managing Director, in consultation with the Chair of the Council, may subsequently correct any inaccurate or misleading information released or published by the law school in connection with the disclosure or the decision or recommendation.
 - (ii) A corrective communication by the Managing Director may include the disclosure of portions of the site evaluation report or the entire site evaluation report.
 - (2) Discussion of the contents of a decision or recommendation with, or release of the report to, the faculty, the university, or the governing board of the university or law school, does not constitute release of the decision or recommendation to the public within the meaning of this Rule.

Rule 53: Applications, Decisions and Recommendations Made Public

- (a) When a law school has applied for provisional or full approval, acquiescence in a major change, or a variance, the Council or the Managing Director shall provide public notice:
 - (1) That the law school has submitted an application; and
 - (2) Of the procedural steps for consideration of the application.
- (b) After a law school has been notified of the Committee's decision or recommendation, the Managing Director may state publicly the conclusions of the Committee and its decision or recommendation, with an explanation of the procedural steps in further consideration of the matter, concerning:
 - (1) The law school's application for provisional or full approval;
 - (2) The law school's application for acquiescence in a major change;

- (3) The law school's application for a variance;
- (4) The imposition of sanctions or remedies on the law school;
- (5) The placing of the law school on probation; or
- (6) The withdrawal of the law school's approval;

(c) After a law school has been notified of the Council's decision, the Managing Director shall provide public notification of the Council's conclusions and decision (except as to a sanction that is explicitly not public), with an explanation of any procedural steps for further consideration of the matter, concerning:

- (1) The law school's application for provisional or full approval;
- (2) The law school's application for acquiescence in a major change;
- (3) The law school's application for a variance;
- (4) The imposition of sanctions or remedies on the law school;
- (5) The placing of the law school on probation; or
- (6) The withdrawal of the law school's approval;

(d) After a matter concerning a law school has been acted upon by an Appeals Panel, the Council or the Managing Director shall provide public notification of the conclusions and decision of the Appeals Panel.

Rule 54: Statistical Reports

(a) School specific information and statistical reports derived from data contained in all questionnaires are for the use of the Council, the Committee, the Managing Director, and deans of ABA-approved law schools, and are not for public release.

(b) Information contained in statistical reports prepared from data contained in annual questionnaires is for exclusive and official use by those persons authorized by the Council to receive such statistical reports, except as public disclosure of information about specific law schools is authorized under Standard 509 or has been made public by the law school.

(c) The Managing Director may release general data from the statistical reports and questionnaires that are not school-specific.

Rule 55: Publication of List of Approved Schools

The Council shall publish annually a complete list of all approved law schools. The list shall be published in one or more venues designated by the Council pursuant to Standard 509.

XI. Amendment of Standards, Interpretations and Rules

Rule 56: Council Authority

The Council has authority to adopt, revise, amend or repeal the Standards, Rules, and Interpretations.

Rule 57: Concurrence by the ABA House of Delegates

(a) A decision by the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules does not become effective until it has been concurred in by the ABA House of Delegates in accordance with House Rule 45.9. After the meeting of the Council at which it decides to adopt, revise, amend or repeal the Standards, Interpretations or Rules, the Chairperson of the Council shall furnish a written statement of the Council action to the House.

(b) Once the action of the Council is placed on the calendar of a meeting of the House, the House shall at that meeting either agree with the Council's decision or refer the decision back to the Council for further consideration. If the House refers a decision back to the Council, the House shall provide the Council with a statement setting forth the reasons for its referral.

(c) A decision by the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules is subject to a maximum of two referrals back to the Council by the House. If the House refers a Council decision back to the Council twice, then the decision of the Council following the second referral will be final and will not be subject to further review by the House.