

Chapter 7: The Accreditation Process

The Role of the ABA Section of Legal Education and Admissions to the Bar

Under Title 34, Chapter VI, §602 of the Code of Federal Regulations, the Council and the Accreditation Committee of the ABA Section of Legal Education and Admissions to the Bar are recognized by the United States Department of Education (DOE) as the accrediting agency for programs that lead to the J.D. degree.. In this function, the Council and the Section are separate and independent from the ABA, as required by DOE regulations.

The Council of the Section promulgates the *Standards and Rules of Procedure for Approval of Law Schools* with which law schools must comply in order to be ABA-approved. The Standards establish requirements for providing a sound program of legal education. The law school approval process established by the Council is designed to provide a careful and comprehensive evaluation of a law school and its compliance with the Standards.

The Council is comprised of 21 voting members, no more than 10 of whom may be law school deans or faculty members. Other members of the Council include judges, practicing attorneys, one law student, and at least three public members. By tradition, the Chair rotates among a judge, an academic, and a practicing lawyer.

To assist in its accreditation function, the Council has created three Standing Committees, with a similar mix of membership. The Accreditation Committee (19 members) assists the Council in evaluating schools seeking provisional or full approval and monitoring approved schools. It meets five times per year, typically for two-and-a-half days at each meeting. The Standards Review Committee (14 members) assists in reviewing the Standards to assure that they are transparent and focus on matters that are central to quality legal education. The Council has established an extensive process to seek comment on current and proposed Standards. The Committee meets four times a year, typically for a day-and-a-half. The Questionnaire Committee (10 members) assists in gathering and maintaining the vast information database concerning ABA-approved law schools and their programs. It meets three times each year for a one-day meeting.

The Council and the Accreditation Committee are assisted by the staff of the Office of the Consultant on Legal Education and Admissions to the Bar. As of September 1, 2006, Hulett H. (“Bucky”) Askew is the Consultant on Legal Education.

The Standards for Approval of Law Schools, the associated Rules of Procedure, additional information about the accreditation process, and other information about legal education may be found on the website of the Section of Legal Education and Admissions to the Bar:
<http://www.abanet.org/legaled>.

The Approval Process

Provisional Approval

A law school may not apply for provisional approval by the ABA until it has been in operation for one year. Schools considering applying for provisional approval are strongly encouraged to contact the Office of the Consultant as early as possible, and well before the year in which the school applies for provisional approval. The Consultant or other senior members of the Consultant's Office staff will meet with representatives of schools seeking provisional approval and provide them with extensive information about the Standards for Approval of Law Schools, the Rules of Procedure, and the accreditation process.

A school must apply for provisional approval after classes have begun in the fall term and before October 15, so that a full site evaluation can be properly scheduled for late in the fall or early in the spring term. The site evaluation process is described below. The school is required to develop an extensive Self-Study, which describes the school in detail, contains a critical evaluation of the school's strengths and weaknesses, establishes goals for the school's future progress, and identifies the means of achieving those goals. The school also completes a Site Evaluation Questionnaire that provides much of the information that a site evaluation team needs to ascertain the basic facts concerning the school and its operation.

The fact-finding report of the initial site evaluation team is sent to the Accreditation Committee, which holds a hearing at which representatives of the school applying for provisional approval appear. After the hearing, the Accreditation Committee makes its recommendation concerning provisional approval to the Council.

A school that applies for provisional approval must establish that it "is in substantial compliance with each of the Standards" and must present "a reliable plan for bringing the school into full compliance with the Standards within three years after receiving provisional approval." The burden is on the school to establish that it fulfills these requirements. If the Accreditation Committee concludes that a school is in substantial compliance with the Standards and that the school has a reliable plan for coming into full compliance, the Committee will recommend that the Council grant provisional approval. If the Committee concludes either that the school is not in substantial compliance or does not have a reliable plan to come into full compliance in three years, it will recommend against provisional approval.

When a school seeks provisional approval, the final decision on the school's application is made by the Council. The Accreditation Committee's findings of fact are binding on the Council unless those findings are not supported by substantial evidence in the record, but the Accreditation Committee's conclusions and recommendations are not binding on the Council.

If the decision of the Council is to grant provisional approval, that decision is final and effective immediately upon notice to the school. If the decision of the Council is to deny provisional approval, the school has the right of appeal to an Appeals Panel appointed annually by the Council.

From an accreditation perspective, a school that is provisionally approved is entitled to all the rights of a fully approved law school. Similarly, from an ABA perspective, graduates of provisionally approved law schools are entitled to the same recognition that is accorded graduates of fully approved schools.

Obtaining Full Approval

Once a school has obtained provisional approval, it remains in provisional status for at least three years. Unless extraordinary circumstances justify an extension, a school may not remain in provisional status for more than five years. In order to be granted full approval, a school must demonstrate that it is in full compliance with each of the Standards; substantial compliance does not suffice. Again, the burden is upon the school to establish full compliance.

During a school's provisional status, the progress of the school is closely monitored. A visit to the school by a full site evaluation team is conducted in years two, four, and five after provisional approval, and a limited site evaluation by one or two site evaluators is conducted during years one and three. After each such site visit, a site evaluation report is submitted to the school and the Accreditation Committee. The Committee reviews the site report and the school's response and sends the school a letter summarizing its findings and indicating any areas where the Committee needs further information or where the school may be out of compliance with one or more Standards.

In the year in which a school is considered for full approval, the process is identical to that undertaken in connection with an application for provisional approval. Decisions on full approval are made only by the Council, by reviewing the findings, conclusions, and recommendations of the Accreditation Committee. If the decision of the Council is to grant full approval, that decision is final and effective immediately upon notice to the school. If the decision of the Council is to deny full approval, the school has the right of appeal to the Appeals Panel.

Oversight of Fully Approved Schools

After a school is granted full approval, it undergoes a full site evaluation in the third year after full approval, and then a full sabbatical site evaluation every seven years.

Each law school is required to complete a comprehensive Annual Questionnaire, which inquires into facts relevant to continued compliance with accrediting Standards. The questionnaire elicits information and data regarding curriculum, faculty, facilities, fiscal and administrative capacity, technology resources, student profiles, bar passage rates, and student placement data. Information obtained is reported to the Accreditation Committee on a fact sheet prepared by the Consultant's Office. For schools undergoing a sabbatical review, additional information is reported on a Site Evaluation Questionnaire and both questionnaires are reviewed by the site evaluation team and the Accreditation Committee.

The Accreditation Committee's actions upon review of a site report on a fully approved school are likely to take one of three forms. If the Committee concludes that the school fully complies with all the Standards, it writes the school with that conclusion and indicates that the

school remains on the list of approved schools. In the remainder of the cases, the Committee will conclude either that the school does not appear to comply with one or more of the Standards, or that the Committee lacks sufficient information to determine whether or not the school complies. In either case, the Committee's action letter will indicate with specificity the Standard or Standards with which the school does not comply, or to which Standard or Standards the Committee lacks sufficient information to determine compliance. The school will then be required, by a specific time, to indicate what steps the school has taken to bring itself into compliance or to provide the information necessary to enable the Committee to determine compliance.

If facts indicating possible noncompliance are presented from any source, the Accreditation Committee may, in its discretion, send a special fact finder to ascertain facts for the Accreditation Committee's consideration on whether the school is in compliance. In addition, major changes in the program or organizational structure of the school may constitute grounds for a special site visit and action by the Accreditation Committee.

Once a finding of noncompliance is made, the school is required to appear at a show cause hearing and demonstrate that it complies with the Standards and that no remedial action is necessary. If the Accreditation Committee finds that the school is, in fact, out of compliance, then it gives the school no more than two years to come into compliance, absent a finding of good cause for extending the time period. If the school fails to come into compliance during that two-year period, the Accreditation Committee initiates action to remove the school from the list of approved law schools.

Site Evaluation Process

Site Evaluation Visits

When a site evaluation is required under the Rules of Procedure, the Office of the Consultant appoints a site evaluation team typically of six or seven persons to undertake a site evaluation of the school. The team chairperson is always an experienced site evaluator and frequently a present or former law school dean. The team usually consists of one or two academic law school faculty members, a law librarian, one faculty member with an expertise in professional skills instruction (clinic, simulation skills, or legal writing), one judge or practitioner, and, except on teams visiting a law school that is not affiliated with a university or college, one university administrator who is not a member of a law faculty.

The Site Team is responsible for submitting to the Accreditation Committee a report that addresses the factual information relevant to each of the Standards so that the Accreditation Committee can determine whether a school is in compliance with the Standards. The Section conducts annual workshops to train evaluators and chairs of site evaluation teams. Workshops are also conducted to prepare schools for site evaluation visits.

The site evaluation team carefully reviews the materials the school has provided and visits the school for a three-day period, often from Sunday afternoon through Wednesday morning following the schedule as outlined in the Section's Conduct Memo (available on the Accreditation page of the Section Web site: www.abanet.org/legaled). During that visit, the team meets with the dean and other leaders of the faculty and law school administration, with the president and other

university administrators (or, in the case of an independent law school, with the leadership of the board of trustees), and tries to have one member of the team meet individually with every member of the faculty. The team also visits as many classes as it can during its visit in order to make judgments concerning the quality of instruction, holds an open meeting with students, and meets with student leaders. In addition, the team meets with alumni and members of the bar and judiciary who are familiar with the school.

At the end of the visit, the team meets with the dean and the president or, in the case of independent law schools, the board chair, to provide an oral report of the team's findings. Shortly after leaving the school, the team drafts and finalizes an extensive written site evaluation report. The report covers all aspects of the school's operation as outlined in the Format Memo (available on the Accreditation page of the Section Web site: www.abanet.org/legaled), including faculty and administration, the academic program, the student body and its success on the bar examination and in job placement, student services, library and information resources, financial resources, and physical facilities and technological capacities. The team's report should be candid in its evaluation of the school and its program and in reporting facts bearing on the school's compliance with the Standards.

The site report and any response by the school, as well as historical information and responses to the Questionnaires, are sent to the Accreditation Committee, and, where appropriate, to the Council to make compliance determinations.

Confidentiality

The Rules of Procedure for the Approval of Law Schools make clear that, in general, all matters relating to the accreditation of a law school are confidential.