

**U.S. Department of Education**

**Staff Report  
to the  
Senior Department Official  
on  
Recognition Compliance Issues**

**RECOMMENDATION PAGE**

1. **Agency:** American Bar Association (1952/2007)  
(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)
2. **Action Item:** Compliance Report
3. **Current Scope of Recognition:** The accreditation throughout the United States of programs in legal education that lead to the first professional degree in law, as well as freestanding law schools offering such programs. This recognition also extends to the Accreditation Committee of the Section of Legal Education (Accreditation Committee) for decisions involving continued accreditation (referred to by the agency as "approval") of law schools.
4. **Requested Scope of Recognition:** Same as above.
5. **Date of Advisory Committee Meeting:** June, 2013
6. **Staff Recommendation:** Renew the agency's recognition for a period of three years.
7. **Issues or Problems:** None.

## **EXECUTIVE SUMMARY**

### **PART I: GENERAL INFORMATION ABOUT THE AGENCY**

The American Bar Association established the Section of Legal Education and Admissions to the Bar (Council) in 1893, and the Council began to conduct accrediting activities in 1923. The Council is both an institutional and a programmatic accrediting agency. The Council currently accredits 199 legal education programs. Of the legal education programs accredited/approved by the agency, 19 are freestanding law schools and maintain independent status as institutions of higher education with no affiliation with a college or university. These law schools may use the agency's accreditation to establish eligibility to participate in HEA programs. Since the agency is a Title IV gatekeeper, it must meet the Department's separate and independent criteria or seek a waiver of those requirements.

#### **Recognition History**

The then-Commissioner of Education initially recognized the Council in 1952. The agency has been recognized since that time.

The agency was last reviewed for continued recognition in 2011, when the Assistant Secretary issued a decision in July 2011 that required the agency to come into compliance with several areas of the Secretary's criteria within twelve months, and submit a compliance report 30 days thereafter demonstrating the agency's compliance with the criteria cited in the decision letter. The agency's compliance report is the subject of this analysis.

## **PART II: SUMMARY OF FINDINGS**

### **§602.15 Administrative and fiscal responsibilities**

**The agency must have the administrative and fiscal capability to carry out its accreditation activities in light of its requested scope of recognition.**

**The agency meets this requirement if the agency demonstrates that--**

**(a) The agency has--**

**(b) The agency maintains complete and accurate records of--**

**(1) Its last full accreditation or preaccreditation reviews of each institution or program, including on-site evaluation team reports, the institution's or program's responses to on-site reports, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, and a copy of the institution's or program's most recent self-study; and**

**2) All decisions made throughout an institution's or program's affiliation with the agency regarding the accreditation and preaccreditation of any institution or program and substantive changes, including all correspondence that is significantly related to those decisions.**

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The agency was required to provide evidence that it had implemented its amended records retention procedures. The agency has adopted a policy reflected in its Internal Operating Practice (IOP) memo that states that it will retain documents from its last two full accreditation reviews of institutions, and that it will retain all decision letters and related correspondence indefinitely in accord with the requirements of this section. The agency also provided documentation of its implementation of its records retention policy.

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### **§602.16 Accreditation and preaccreditation standards**

**(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if -**

- (1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:**

**(i) Success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates.**

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Previously the agency did not clearly indicate its expectations for collection and review of job placement data as part of its assessment of student achievement. The agency has since made significant changes to its collection, review, and analysis of employment data. The agency states that it does not include the analysis of such data as part of its student achievement standard per se, but analyzes job placement data along with other performance data indicators (PDIs) via its annual interim monitoring process. The agency states that it analyzes job placement data as a "barometer" of the overall efficacy of an academic program and student services. The agency does not use job placement data as a basis to find a program non-compliant with the agency's standards, but low placement rates will trigger scrutiny by reviewers to review whether the program remains in compliance with the agency's standards.

The agency has identified two triggers with regard to job placement rates through its interim monitoring process. Programs that have more than 15% of their graduates' employment status as "unknown," and/or programs that have more than 20% in the "unemployed seeking" category, will be required to provide a response to the data, or, in some cases, the agency will send a site visit team to the program. The agency has provided an example under Exhibit 69 where the agency conducted a site visit based on suspicion that the program was not accurately reporting its job placement data, (among other issues). The agency has also provided a sample letter to a program indicating the agency's request for more information after the program exceeded the agency's trigger in the "unemployed seeking" category, related to the agency's standard 511.

The revised policies - to include the identified triggers for job placement - as well as the agency's evidence of application of such policies demonstrate that the agency is in compliance under this standard.

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**(a)(1)(ix) Record of student complaints received by, or available to, the agency.**

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The agency was previously cited for being unable to demonstrate that it had and applied a standard with regard to a record of student complaints. The agency has since provided evidence of its revised standard on a record of student complaints and has provided evidence of its review of a program under this standard. The revised standard and site visit report evidence the agency's compliant standard and application of standard.

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**(a)(1)(x) Record of compliance with the institution's program responsibilities under Title IV of the Act, based on the most recent student loan default rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and any other information that the Secretary may provide to the agency; and**

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The agency was previously cited because it could not demonstrate that it had and applied a standard regarding Title IV responsibilities. The agency has since provided evidence of its revised procedures and interpretation for reviewing an institution's compliance with Title IV responsibilities. The agency monitors compliance through its annual questionnaire and reviews financial audits, program reviews, default rates, and the institution's compliance with Title IV responsibilities as evidenced by the site visit report provided. The agency's revised policy and procedures are in accord with the requirements of this section.

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**§602.17 Application of standards in reaching an accrediting decision.**

**The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if the agency demonstrates that it--**

**(g) Requires institutions that offer distance education or correspondence education to have processes in place through which the institution establishes that the student who registers in a distance education or correspondence education course or program is the same student who participates in and completes the course or program and receives the academic credit. The agency meets this requirement if it--**

**(1) Requires institutions to verify the identity of a student who participates in class or coursework by using, at the option of the institution, methods such as--**

**(i) A secure login and pass code;**

**(ii) Proctored examinations; and**

**(iii) New or other technologies and practices that are effective in verifying student identity; and**

**(2) Makes clear in writing that institutions must use processes that protect student privacy and notify students of any projected additional student charges associated with the verification of student identity at the time of registration or enrollment.**

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Previously, the agency needed to demonstrate that it had adopted and implemented policies related to student verification. The agency has since provided its revised policy regarding student verification which is in accord with the requirements of this section. The agency also provided evidence of its application of its student verification policy with a sample site visit report and decision letter. The agency's application of its revised policy is in accord with the requirements of this section.

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**§602.19 Monitoring and reevaluation of accredited institutions and programs.**

**(b) The agency must demonstrate it has, and effectively applies, a set of monitoring and evaluation approaches that enables the agency to identify problems with an institution's or program's continued compliance with agency standards and that takes into account institutional or program strengths and stability. These approaches must include periodic reports, and collection and analysis of key data and indicators, identified by the agency, including, but not limited to, fiscal information and measures of student achievement, consistent with the provisions of §602.16(f). This provision does not require institutions or programs to provide annual reports on each specific accreditation criterion.**

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The agency was previously cited because it could not demonstrate the application of its monitoring procedures. The agency has since provided evidence of its revised procedures for reviewing annual questionnaires and identifying triggers for its "performance data indicators" (PDIs) as part of its approach to monitoring programs during the period of accreditation. The agency provided meeting minutes that evidence the agency's identification of triggers, and the agency has provided decision letters based on the agency's review of annual questionnaires, as well as responses from programs, and a decision based on a review of the program's response, evidencing that the agency applies its approach to monitoring in accord with the requirements of this section.

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**§602.22 Substantive change.**

**(2) The agency's definition of substantive change includes at least the following types of change:**

**(i) Any change in the established mission or objectives of the institution.**

**(ii) Any change in the legal status, form of control, or ownership of**

**the institution.**

**(iii) The addition of courses or programs that represent a significant departure from the existing offerings of educational programs, or method of delivery, from those that were offered when the agency last evaluated the institution.**

**(iv) The addition of programs of study at a degree or credential level different from that which is included in the institution's current accreditation or preaccreditation.**

**(v) A change from clock hours to credit hours.**

**(vi) A substantial increase in the number of clock or credit hours awarded for successful completion of a program.**

**(vii) If the agency's accreditation of an institution enables the institution to seek eligibility to participate in title IV, HEA programs, the entering into a contract under which an institution or organization not certified to participate in the title IV, HEA programs offers more than 25 percent of one or more of the accredited institution's educational programs.**

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Previously, the agency could not demonstrate it had and applied compliant substantive change procedures. The agency has since provided evidence of its revised policy to include all of the types of substantive changes stipulated under this section. The agency cannot provide evidence of its application of its revised policy because it has not had an opportunity to apply its policy.

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**(ix) The acquisition of any other institution or any program or location of another institution.**

**(x) The addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution that has ceased operating before all students have completed their program of study.**

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Previously, the agency could not demonstrate it had and applied compliant substantive change procedures. The agency has provided evidence of its revised policy to include the types of substantive changes stipulated under this section. The agency cannot provide evidence of its application of its revised policy because it has not had an opportunity to apply its policy.

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**(b) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, these procedures must specify an effective date, which is not retroactive, on which the change is included in the program's or institution's accreditation. An agency may designate the date of a change in ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change in ownership. Except as provided in paragraph (c) of this section, these procedures may, but need not, require a visit by the agency.**

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Previously, the agency could not demonstrate it had policies to ensure that effective dates for substantive changes were not retroactive. The agency has since provided evidence of its revised policy that specifies that the effective date for a substantive change is upon the decision of the Council and may not be retroactive. The agency cannot provide evidence of its application of its revised policy because it has not had an opportunity to apply its policy.

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**§602.23 Operating procedures all agencies must have.**

**(b) In providing public notice that an institution or program subject to its jurisdiction is being considered for accreditation or preaccreditation, the agency must provide an opportunity for third-party comment concerning the institution's or program's qualifications for accreditation or preaccreditation. At the agency's discretion, third-party comment may be received either in writing or at a public hearing, or both.**

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Previously, the agency could not demonstrate that it had implemented its policy regarding solicitation of third-party comment. The agency has compliant policies and practices with regard to providing public notice that an institution is being considered for accreditation or preaccreditation. The agency has also provided evidence of its application of its policies with a site visit report that incorporates a third-party comment received in response to its public notice that an institution was being considered for accreditation. At the time of this review, the decision for the example provided is still pending. The agency's application of its policy is in accord with the requirements of this section.

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**(c) The accrediting agency must--**

**(1) Review in a timely, fair, and equitable manner any complaint it receives against an accredited institution or program that is related to the agency's standards or procedures. The agency may not complete its review and make a decision regarding a complaint unless, in accordance with**

**published procedures, it ensures that the institution or program has sufficient opportunity to provide a response to the complaint;**

**(2) Take follow-up action, as necessary, including enforcement action, if necessary, based on the results of its review; and**

**(3) Review in a timely, fair, and equitable manner, and apply unbiased judgment to, any complaints against itself and take follow-up action, as appropriate, based on the results of its review.**

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Previously, the agency could not demonstrate that it had implemented proposed revisions to its complaint procedures. The agency has since provided evidence that it has removed the deferral provision from its complaint procedures that delayed processing a complaint until the disposition of another legal action involving parties related to the complaint. The agency now has compliant complaint procedures in accord with the requirements of this section.

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**§602.24 Additional procedures certain institutional accreditors must have.**

**If the agency is an institutional accrediting agency and its accreditation or preaccreditation enables those institutions to obtain eligibility to participate in Title IV, HEA programs, the agency must demonstrate that it has established and uses all of the following procedures:**

**(2) The agency must evaluate the teach-out plan to ensure it provides for the equitable treatment of students under criteria established by the agency, specifies additional charges, if any, and provides for notification to the students of any additional charges.**

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Previously, the agency could not demonstrate that it had a process in place for the review and approval of teach-out plans. The agency has since provided the forms it uses to evaluate teach-out plans submitted by institutions in accordance with the requirements of this section. The forms specify the substantive criteria employed by the agency to assess teach-out plans submitted by institutions and on which the agency bases its approval. The forms which serve as the process by which it enforces its teach-out plan policy, includes such items as provision of a description of how the school will ensure the delivery of instruction and services to students, and a listing, by name, of all students in the program.

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**(e) Transfer of credit policies.**

**The accrediting agency must confirm, as part of its review for initial accreditation or preaccreditation, or renewal of accreditation, that the institution has transfer of credit policies that--**

- (1) Are publicly disclosed in accordance with §668.43(a)(11); and**
- (2) Include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.**

**(Note: This criterion requires an accrediting agency to confirm that an institution's teach-out policies are in conformance with 668.43 (a) (11). For your convenience, here is the text of 668.43(a) (11):**

**“A description of the transfer of credit policies established by the institution which must include a statement of the institution's current transfer of credit policies that includes, at a minimum –**

- (i) Any established criteria the institution uses regarding the transfer of credit earned at another institution; and**
  - (ii) A list of institutions with which the institution has established an articulation agreement.”)**
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Previously, the agency could not demonstrate that it had and applied procedures for the review of transfer of credit policies. The agency now demonstrates that it has incorporated its policy on transfer of credit as part of its comprehensive review of institutions. The agency has provided its notification to institutions after the policy's approval, a sample site visit report, and a sample decision letter demonstrating its application of its transfer of credit policy in accord with the requirements of this section.

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### **§602.26 Notification of accrediting decisions**

**The agency must demonstrate that it has established and follows written procedures requiring it to provide written notice of its accrediting decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public. The agency meets this requirement if the agency, following its written procedures--**

**(a) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public no later than 30 days after it makes the decision:**

**(1) A decision to award initial accreditation or preaccreditation to an institution or program.**

**(2) A decision to renew an institution's or program's accreditation or preaccreditation;**

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Previously, the agency could not provide evidence of its timely notifications in accord with the requirements of this section. The agency has since provided appropriate documentation demonstrating that it notifies all of the entities required under this section within the appropriate time frame. The agency provided sample positive notifications to all the entities required under this

section.

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**(b) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies at the same time it notifies the institution or program of the decision, but no later than 30 days after it reaches the decision:**

- (1) A final decision to place an institution or program on probation or an equivalent status.
- (2) A final decision to deny, withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of an institution or program;
- (3) A final decision to take any other adverse action, as defined by the agency, not listed in paragraph (b)(2) of this section;**

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Previously, the agency could not provide evidence of its timely notifications in accord with the requirements of this section. The agency has since provided appropriate documentation demonstrating that it notifies all of the entities required under this section within the appropriate time frame. The agency provided sample negative notifications to all the entities required under this section.

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**(c) Provides written notice to the public of the decisions listed in paragraphs (b)(1), (b)(2) and (b)(3) of this section within 24 hours of its notice to the institution or program;**

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Previously, the agency could not provide evidence of its application of its policy regarding the 24-hour time frame. The agency now demonstrates that it applies its policy on notification to the public in accord with the requirements of this section. The agency provided a sample notification to a school and subsequent notification to the public which occurred within the 24-hour time frame stipulated under this section.

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**((d) For any decision listed in paragraph (b)(2) of this section, makes available to the Secretary, the appropriate State licensing or authorizing agency, and the public, no later than 60 days after the decision, a brief statement summarizing the reasons for the agency's decision and the official comments that the affected institution or program may wish to make with regard to that decision, or evidence that the affected institution has been offered the opportunity to provide official comment; and**

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Previously, the agency could not demonstrate application under this section. The agency has since provided evidence of its notice to the entities required under this section, that the affected program had been offered the opportunity to provide official comments and declined to do so. The agency demonstrates that it applies its policy on notification in accord with its written policy and the requirements under this section.

### **PART III: THIRD PARTY COMMENTS**

The Department did not receive any written third-party comments regarding this agency.