

<b>Name:</b> American Bar Association	<b>Meeting Date:</b> 05/22/2018	<b>Response Submit Date:</b> 04/10/2018	<b>Status:</b> Final Review	<b>Type:</b> Compliance Report
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**U.S. Department of Education**

Staff Report

to the

Senior Department Official

on

Recognition Compliance Issues

**Recommendation Page**

1. **Agency:** American Bar Association
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:** May 22, 2018
6. **Staff Recommendation:** Renew the agency's recognition for 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. The Department received one third party comment, which is addressed in the third party comment section of this compliance report.

**Recognition History**

The then-Commissioner of Education initially recognized the Council in 1952, and the agency has been recognized since that time. The agency was last reviewed for continued recognition at the June 2016 NACIQI Meeting, when the Senior Department Official issued a decision in September 2016 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 as cited in the decision letter. The agency's compliance report is the subject of this analysis.

**Part II: Summary Of Findings**

**602.15(a)(1) Staffing/Financial Resources**

**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--**

**(1) Adequate administrative staff and financial resources to carry out its accrediting responsibilities;**

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**602.15(a)(2) Competency of Representatives**

**(2) Competent and knowledgeable individuals, qualified by education and experience in their own right and trained by the agency on their responsibilities, as appropriate for their roles, regarding the agency's standards, policies, and procedures, to conduct its on-site evaluations, apply or establish its policies, and make its accrediting and preaccrediting decisions, including, if applicable to the agency's scope, their responsibilities regarding distance education and correspondence education;**

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**602.15(a)(3) Academic/Administrator Representatives**

**(3) Academic and administrative personnel on its evaluation, policy, and decision-making bodies, if the agency accredits institutions;**

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**602.16(a)(1)(viii) Program Length**

**(a)(1)(viii) Measures of program length and the objectives of the degrees or credentials offered.**

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**602.17(b) Self-Study**

**(b) Requires the institution or program to prepare, following guidance provided by the agency, an in-depth self-study that includes the assessment of educational quality and the institution's or program's continuing efforts to improve educational quality;**

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**Analyst Remarks to Response:**

Issue: The agency must provide required reports 1-23 of the Site Evaluation Questionnaire (Part I) for the University of California at Davis School of Law and the University of Louisville's Brandeis School of Law. [§602.17(b)]

Discussion: The agency has now provided evidence that indicates Required Reports 1-23 of the Site Evaluation Questionnaire (Part 1)—for both the University of California at Davis School of Law (See Exhibit #38) and the University of Louisville's Brandeis School of Law (See Exhibit #39)—have been entered, electronically, into the ABA system. The agency is now compliant with this criterion.

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## **Part III: Third Party Comments**

### **Staff Analysis of 3rd Party Written Comments**

There was one written comment regarding this agency, which acknowledged the efforts that the agency has made to become compliant with what they described as three personnel issues and two quality control issues; however, the commenter still has concerns.

As it relates to 602.15(a)(1), 602.15(a)(2), and 602.15(a)(3), the commenter pointed out that redactions in the resumes and biographical materials contained in Exhibits 4, 8, and 17 make it difficult for public assessment of staff qualifications. The commenter also had concerns about one specific employee (i.e., Barry Arthur Currier, Managing Director, Legal Education and Accreditation) who held various leadership roles at a non-ABA approved online law school affiliated with Kaplan Legal Education from 2004 to 2010. The commenter emphasized that during such time, a Senate investigation of Kaplan uncovered problematic practices, including Kaplan's provision of online programs. Further, the commenter pointed out that law enforcement actions suggest that Kaplan misrepresented the availability of post-graduation opportunities to students of another non-approved professional program, raising concerns about Mr. Currier's qualification to hold a leadership role on ABA's legal accreditation staff.

Although the commenter acknowledged the agency's efforts with its self study revisions [602.16(a)(1)(viii); 602.17(b)], they emphasized that "it is not clear that the ABA has....demonstrated sufficiently aggressive implementation of the standard [and that it] remains to be seen whether ABA's revised self study policies are sufficiently aggressive to combat noncompliant practices at problematic law schools". The commenter also asserted that the agency's recent actions on finding 23 programs noncompliant are "promising signals" for improved focus on compliance, but suggests that the agency ignored early warning signs from these institutions, including their low bar passage rates, high volume of student complaints, and high debt-to-earnings ratios.

Citing the Senior Department Official's September 22, 2016 letter to the agency, the commenter raised concerns about whether distance education was within the agency's scope of recognition and urged the Department to ensure that the agency has the capacity to properly oversee online programs if it has not done so already.

Department Response: In accordance with 34 CFR 602.31(f) the agency is allowed to redact information. The Department has found the agency compliant with 602.15(a)(1), 602.15(a)(2), and 602.15(a)(3) based on the review of all provided documentation. In addition, the agency has been found compliant with 602.16(a)(1)(viii), but needs to provide additional documentation to demonstrate compliance with 602.17(b). Department staff notes that distance education is not included in the agency's scope of recognition. Should the agency request to have distance education included in its scope of recognition, it would be added in accordance with 34 CFR § 602.27(a)(5). Finally, the Department has noted the commenter's concerns with a specific agency staff member; however, the Department does not have the authority to intervene in such human resource matters.

### **Agency Response to 3rd Party Comments**

The Council thanks the commenter for acknowledging its efforts to become compliant with the criteria. The Council agrees with the Department's comments that it is allowed to redact information under 34 CFR 602.31(f). In response to the comments on the self-study efforts, please note that the Council has implemented the revisions to Standard 204 for all site visits beginning in the fall of 2017. Moving forward, all schools are required to meet those requirements. In response to the comments on distance education, as the Department staff noted, distance education is not included in the Council's current scope of recognition.