

Memorandum

TO: Council of the Section of Legal Education and Admissions to the Bar

FROM: Hulett H. Askew

RE: Proposed Revisions to Rule 24: Complaints

Date: May 26, 2010

In 2009, Accreditation Committee Chair Catherine Carpenter appointed a Rule 24 Subcommittee to assist the Committee in its responsibility to periodically review complaints received in the Consultant's Office and to review the procedures for filing complaints.

The Subcommittee proposed revisions to Rule 24 and submitted them to the full Committee for approval. At its April 2010 meeting, the Accreditation Committee voted to approve and send to the Council the proposed changes to Rule 24.

The proposed changes are meant to address issues that have arisen in the complaint process over the last several years. They are submitted to you for approval. Upon approval by the Council, the amended Rule 24 will be published for notice and comment and will be brought back to you for final review and approval at the August meeting. The new Rule must then be submitted to the ABA House of Delegates for concurrence.

Thank you.

Relevant Department of Education Regulation:

Sec. 602.23 Operating procedures all agencies must have.

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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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DRAFT REVISIONS

Rule 24. Complaints Concerning Law School Non-Compliance with the Standards

(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 of the Section of Legal Education and Admissions to the Bar and law schools with Juris Doctor programs approved by the Council.

(i) This process aims to bring to the attention of the Council, the Accreditation Committee, and the Consultant on Legal Education facts and allegations that may indicate that an approved law school is operating its program of legal education out of compliance with the Standards for the Approval of Law Schools.

(ii) 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, Accreditation Committee and the Consultant on Legal Education 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.

(iii) If a law school that is the subject of a complaint is due to receive a regularly scheduled sabbatical site visit 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 visit.

(b) Any person may file with the Consultant on Legal Education a written complaint alleging non-compliance with the Standards for the Approval of Law Schools by an approved law school.

(i) 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.

(ii) Complaints must be in writing using the form "Complaint Against an ABA-Approved Law School" and must be signed. The form is available online and from the Office of the Consultant on Legal Education.

(iii) Anonymous complaints will not be considered.

(iv) 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.

(v) The Consultant or designee may, with the concurrence of the chairperson of the Accreditation Committee, defer the complaint proceedings if a party to the proceedings files or has filed a claim in another forum.

(c) The Complaint form requests the following information:

(i) A clear and concise description of the nature of the complaint. Provide 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.

(ii) The section(s) of the Standards alleged to have been violated and the time frame in which the lack of compliance is alleged to have occurred.

(iii) 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.

(iv) Disclosure of any other channels the complainant is pursuing, including legal action.

(v) A release authorizing the Consultant's Office to send a copy of the complaint to the dean of the law school.

(d) If the person filing the complaint is not willing to sign a release authorizing the Consultant's Office to send a copy of the complaint to the dean of the law school, the matter will be closed. If the Consultant or designee concludes that extraordinary circumstances so require, the name of the person filing the complaint may be withheld from the school.

(e) Process

(i) The Consultant or the Consultant's designee shall acknowledge receipt of the complaint within 14 days of its receipt.

(ii) The Consultant or designee 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 Consultant or designee concludes that the complaint does not raise issues relating to an approved school's compliance with the Standards, the matter will be closed.

- (iii) If the Consultant or designee determines that the complaint may raise such issues, the complaint shall be sent to the school and a response requested. The Consultant or designee ordinarily will request the dean of the school to respond within 30 days.
- (iv) If the school is asked for a response to the complaint, the Consultant or designee will review that response within 45 days of receiving it. If the response establishes that the school is not out of compliance with respect to the matters raised in the complaint, the Consultant or designee will close the matter.
- (v) If the school's response does not establish that it is operating in compliance with the Standards on the matters raised by the complaint, the Consultant or designee, with the concurrence of the chairperson of the Accreditation Committee, may appoint a fact finder to visit the school to investigate the issues raised by the complaint and the school's response. The complaint, school response, and fact-finder's report, if any, shall be referred to the Accreditation Committee and considered in the same manner as complaints and reviews that fall under Rule 13(a) of the Rules of Procedure.
- (vi) The person making the complaint will be notified promptly whether the matter was concluded under (ii), (iv) or (v) above. The person filing the complaint will not be provided with a copy of the school's response, if any, and will not receive any further report on the matter.
- (f) There is no appeal to the Council or the Accreditation Committee, or elsewhere in the American Bar Association, in connection with a conclusion by the Consultant or designee that a complaint does not raise issues under the Standards.
- (g) To ensure the proper administration of the Standards and this complaint process, a subcommittee of the Accreditation Committee shall periodically review the written complaints received in the Consultant's Office and their disposition. The subcommittee shall periodically report to the Committee on this process. The Consultant's Office shall keep a record of these complaints for a period of ten years.

DRAFT REVISIONS

Rule 24. ~~Complaints~~ Concerning Law School Non-Compliance with the Standards

Deleted: Reports

(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 of the Section of Legal Education and Admissions to the Bar and law schools with Juris Doctor programs approved by the Council.

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(iii) ~~If a law school that is the subject of a complaint is due to receive a regularly scheduled sabbatical site visit 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 visit.~~

(b) Any person may file with the Consultant on Legal Education a written ~~complaint~~, alleging non-compliance with the Standards for the Approval of Law Schools by an approved law school.

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(i) ~~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.

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(ii) ~~Complaints~~ must be in writing ~~using the form "Complaint Against an ABA-Approved Law School" and must be signed.~~ The form is available online and from the Office of the Consultant on Legal Education.

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suggest a pattern of significant noncompliance with the Standards not evident from the consideration of the previously resolved ~~complaint~~.

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(v) The Consultant or designee may, with the concurrence of the chairperson of the Accreditation Committee, defer the complaint proceedings if a party to the proceedings files or has filed a claim in another forum.

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(c) ~~The Complaint form requests the following information:~~

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(i) A clear and concise description of the nature of the complaint. Provide 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.

(ii) The section(s) of the Standards alleged to have been violated and the time frame in which the lack of compliance is alleged to have occurred.

(iii) 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.

(iv) Disclosure of any other channels the complainant is pursuing, including legal action.

(v) A release authorizing the Consultant's Office to send a copy of the complaint to the dean of the law school.

(d) ~~If the person filing the complaint is not willing to sign a release authorizing the Consultant's Office to send a copy of the complaint to the dean of the law school, the matter will be closed. If the Consultant or designee concludes that extraordinary circumstances so require, the name of the person filing the complaint may be withheld from the school.~~

Deleted: The report must include the following release language: "I authorize the Consultant on Legal Education to disclose this report and my identity to the law school discussed in the report."

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(e) Process

(i) The Consultant or the Consultant's designee shall acknowledge receipt of the ~~complaint~~ within 14 days of its receipt.

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(ii) The Consultant or designee 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 Consultant or designee concludes that the ~~complaint~~ does not raise issues relating to an approved school's compliance with the Standards, the matter will be closed.

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(iv) If the school is asked for a response to the ~~complaint~~, the Consultant or designee will review that response within 45 days of receiving it. If the response establishes that the school is not out of compliance with respect to the matters raised in the ~~complaint~~, the Consultant or designee will close the matter.

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(v) If the school's response does not establish that it is operating in compliance with the Standards on the matters raised by the ~~complaint~~, the Consultant or designee, with the concurrence of the chairperson of the Accreditation Committee, ~~may~~ appoint a fact finder to visit the school to investigate the issues raised by the ~~complaint~~ and the school's response. The ~~complaint~~, school response, and fact-finder's report, ~~if any~~, shall be referred to the Accreditation Committee and considered in the same manner as ~~complaints~~ and reviews that fall under Rule 13(a) of the Rules of Procedure.

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(f) There is no appeal to the Council or the Accreditation Committee, or elsewhere in the American Bar Association, in connection with a conclusion by the Consultant or designee that a ~~complaint~~ does not raise issues under the Standards.

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(g) To ensure the proper administration of the Standards and this ~~complaint~~ process, a subcommittee of the Accreditation Committee shall periodically review the written ~~complaints~~ received in the Consultant's Office and their disposition. The subcommittee shall periodically report to the Committee on this process. The Consultant's Office shall keep a record of these ~~complaints~~ for a period of ten years.

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COMPLAINT AGAINST AN ABA-APPROVED LAW SCHOOL

Complainant Information

Name
Street Address
City, State, Zip Code

Telephone Number
Email Address

Name of ABA-Approved Law School

Complaint Information

- A. Provide a clear and concise description of the nature of the complaint. Provide 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.
- B. Indicate the section(s) of the Standards alleged to have been violated and the time frame in which the lack of compliance is alleged to have occurred.
- C. Describe the steps taken to exhaust the law school's grievance process, describe the action taken by the law school to date, and provide a copy of the law school's response to the complaint as a result of prescribed procedures. Attach copies of relevant documents.
- D. Indicate any channels external to the law schools that the complainant is pursuing, including legal action.

E. Check all of the boxes below and sign the Complaint. The complaint will not be processed unless all of the boxes are checked.

----- I have read the Complaint procedures in Rule 24 of the Rules of Procedure for Approval of Law Schools

----- I understand (i) that 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; (ii) that the Council, Accreditation Committee and the Consultant on Legal Education 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; and (iii) that 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.

----- I authorize the Consultant's Office to send a copy of my complaint and supporting documents to the dean of the law school.

----- I certify that the information provided in this Complaint is true and complete to the best of my knowledge.

Your Signature _____

Date _____