

American Bar Association Accreditation Of Specialty Certification Programs For Lawyers

GOVERNING RULES

NOVEMBER 2006

SECTION 1 - PURPOSE AND DEFINITIONS

- 1-1. Purpose - These Rules implement the Standards by which the American Bar Association accredits specialty certification programs for lawyers in particular areas of law, and describe the conditions and procedures under which such accreditation shall be granted, maintained or revoked.
- 1-2. Definitions -
- 1-2.1. "Accreditation Review Panel" means a body, whose composition is further defined in Section 5 of these Rules, appointed by the Standing Committee that is responsible for conducting an independent evaluation of and making a recommendation on the accreditation, reaccreditation and revocation of accreditation of Programs which certify lawyers as specialists.
 - 1-2.2. "Accredited Organization" means an entity which has at least one Program that is accredited by the American Bar Association to certify lawyers as specialists.
 - 1-2.3. "Appeals Board" means a body appointed by the Standing Committee to investigate and recommend the disposition of appeals filed by Applicants and Accredited Organizations of adverse recommendations by Accreditation Review Panels.
 - 1-2.4. "Applicant" means a Certifying Organization which applies to the American Bar Association for accreditation or reaccreditation under the Standards.
 - 1-2.5. "Association" means the American Bar Association.
 - 1-2.6. "Certifying Organization" means an organization, bar association, group or other entity which certifies or intends to certify lawyers as specialists, including the Association or subdivision thereof.
 - 1-2.7. "House of Delegates" means the House of Delegates of the American Bar Association.
 - 1-2.8. "Program," unless otherwise specified, means the process by which lawyers are certified as specialists in a certain area of law or practice.
 - 1-2.9. "Reasonable period of time," unless otherwise specified, means a period not to exceed six (6) months.
 - 1-2.10. "Rules" means the Governing Rules for Accreditation of Specialty Certification Programs for Lawyers as adopted by the Standing Committee.
 - 1-2.11. "Staff Advisor" means a person employed by the Association assigned to assist the Standing Committee, Accreditation Review Panels, Appeals Boards, Applicants and Accredited Organizations on matters relating to the administration of the Standards and Rules.
 - 1-2.12. "Standards" means the American Bar Association Standards for Accreditation of Specialty Certification Programs For Lawyers, as amended.

- 1-2.13. "Standing Committee" means the Standing Committee on Specialization of the American Bar Association.
- 1-2.14. "Notice" shall mean a written communication delivered via electronic mail or facsimile, as well as by private courier or U.S. Postal Service facilities.
- 1-2.15. "Meeting" shall include those conducted in person or by telephone conference by the Standing Committee, an Accreditation Review Panel, or an Appeals Board.
- 1-2.16. "Hearing" shall include those conducted in person or by telephone conference by the Standing Committee, an Accreditation Review Panel, or an Appeals Board.
- 1.3. Non-Compliance with Governing Rules - An Applicant or an Accredited Organization with one or more accredited Programs that does not comply with these Governing Rules may be denied accreditation or reaccreditation or may have its accreditation revoked.
- 1.4. Indemnification and Hold Harmless - Accredited Organizations and Applicants agree to hold and save the Association, its officers, agents, employees and volunteers harmless from liability of any kind, including costs and expenses, for any suit or damages sustained by any person or property by virtue of an Accredited Organization's or Applicant's activities relating to accreditation by the Association or for any consequences of an Accredited Organization's or Applicant's involvement in seeking or sustaining accreditation of its Program(s), by virtue of any act by the Association, its volunteers, officers, agents, employees, members of Accreditation Review Panels and Appeals Boards, and examination reviewers.

SECTION 2 - ACCREDITATION PERIOD AND REACCREDITATION

- 2-1. Initial Accreditation - Initial accreditation is effective for five (5) years from the date on which accreditation is granted by the House of Delegates.
- 2-2. Reaccreditation - To retain Association accreditation, an Accredited Organization will be required to apply for reaccreditation of its Program(s) prior to the end of the fifth year of its initial accreditation period and every five (5) years thereafter in accordance with the provisions of Section 9 of these Rules. The Program(s) will be granted reaccreditation only upon a showing of continued compliance with the Standards.
- 2-2.1. Technical Extension of Accreditation Period - If the five year period of accreditation for a Program ends prior to the adjournment of the meeting of the House of Delegates during which a report recommending reaccreditation of that Program is officially calendared for consideration, then such accreditation period shall be extended until the adjournment of the meeting of the House of Delegates.

SECTION 3 - CONFLICT OF INTEREST

- 3-1. In General - Members of the Standing Committee, Accreditation Review Panels and Appeal Boards, as well as Staff Advisors, have significant responsibility in the process of accrediting Programs that certify lawyers as specialists and serve a vital and important function on behalf of the legal profession. Therefore, it is essential to the fair and effective functioning of the accreditation system, and to the maintenance of public and professional respect for the system, that those with an active role in it act impartially and avoid bias or the appearance of bias.

It is not the intention of the Association to restrict the personal, professional or proprietary activities of persons who serve on the Standing Committee, an Accreditation Review Panel or an Appeals Board. Membership in any of the types of organizations mentioned below is not by itself a basis for disqualification from involvement in an accreditation matter. However, to preserve the integrity of the processes by which the Standards are administered and interpreted, the following rules apply to persons and members of their immediate family:

- 3-1.1. Former Staff Advisors - A former Staff Advisor may not serve as a member of an Accreditation Review Panel or an Appeals Board in connection with an accreditation matter in which he or she was involved as a member of the staff. A former Staff Advisor serving as a Standing Committee member must disclose his or her prior involvement in an accreditation, reaccreditation or revocation matter.
- 3-1.2. Members of the Standing Committee - A member of the Standing Committee who is presently serving or who in the past five years has served on a council, board, panel or committee, or as a paid consultant or employee of any Applicant, Accredited Organization or any other certifying organization must disclose such service.
- 3-1.3. Persons Affiliated with Certification Organizations - Any person who is presently serving or who in the past five years served on a council, board, panel or committee, or as a paid consultant or employee of any Applicant or its parent organization, an Accredited Organization, or any other certification organization must disclose such service before serving on an Accreditation Review Panel or an Appeals Board involved in the accreditation, reaccreditation or revocation of accreditation of a Program sponsored by that Applicant or Accredited Organization.
- 3-1.4. Association Volunteers - Any person who serves as an officer, delegate, member of a governing board or council or chair of a standing or special committee or commission of the Association, or any of its entities, with a business interest in the outcome of a decision regarding accreditation, reaccreditation or revocation of accreditation of a Program may not serve on an Accreditation Review Panel or an Appeals Board which is acting on a matter involving the Applicant or Accredited Organization sponsoring that Program.
- 3-2. Voluntary Recusal - A person who feels incapable of adequately performing his or her responsibilities in connection with an accreditation matter may recuse himself or herself from involvement in the matter and may do so without the necessity of stating a reason for his or her recusal.
- 3-3. Precedence - The fact that the application of this rule would prevent or delay investigation or adjudication of a particular matter may not result in the waiver or disregard of these requirements.
- 3-4. Recusal - Recusal shall be formally noted in the record.
- 3-5. Recusal of the Chair - If the chair of the Standing Committee recuses him or herself from involvement in a particular accreditation matter, she or he shall appoint another member of the Standing Committee to assume the duties of the chair specified in these Rules.

SECTION 4 - DISCLOSURE OF INFORMATION

- 4-1. Confidentiality - Except for the circumstances set out below, distribution of files, records and other documents designated as confidential by an Applicant or an Accredited Organization which are submitted as part of the accreditation, reaccreditation or revocation process shall be limited to those

persons who need the information to fulfill obligations specified in these Rules. The Standing Committee will take reasonable steps to maintain confidentiality of the designated materials.

- 4-1.1. Exceptions to Confidentiality - Confidentiality shall not be extended to:
- a. Any information submitted as part of an application for accreditation or reaccreditation that has previously been published in print or electronic form, or other media and which is generally available to any lawyer or the public upon request;
 - b. The statement of the definition of the specialty area in which certification is sought;
 - c. The names and biographical information of the persons serving on governing boards, examination committees, certification committees and like entities associated with the Program submitted as part of an application; and
 - d. Any other information that the Applicant and the Standing Committee agree may be disclosed publicly.
- 4-2. Examinations - Actual or proposed written examinations submitted in connection with accreditation, reaccreditation, or revocation will be kept confidential and handled in accordance with Section 6-4.3(e) and Section 9-1.3(d) of these Rules.

SECTION 5 - ACCREDITATION REVIEW PANEL

- 5-1. Purpose - An Accreditation Review Panel shall be appointed by the Standing Committee in connection with initial accreditation, reaccreditation and revocation of accreditation. The Accreditation Review Panel serves as the body that evaluates Program components and the capabilities of Applicant Organizations in terms of the requirements of the Standards and thereafter makes a recommendation to the Standing Committee as to accreditation, reaccreditation or revocation of accreditation.
- 5-2. Composition - The Standing Committee shall name a chair and two members of the Accreditation Review Panel.
- 5-2.1. Appointment - The Staff Advisor shall determine the willingness of the designated persons to serve. If a designated person chooses not to accept the appointment, the staff advisor shall nominate an alternate for consideration by the Standing Committee, which shall appoint a replacement for the person originally nominated. Each of these persons will be sent a packet containing a brief description of the Applicant or Accredited Organization and its Program(s), as well as a copy of the Standards and these Rules, with specific mention of the conflict of interest provisions, and will be given the opportunity to accept or reject appointment.
- 5-2.2. Objection to Accreditation Review Panel Member - The Applicant or Accredited Organization shall be provided notice of the names and affiliations of the Accreditation Review Panel members and shall have ten (10) days from the date of the notice in which to notify the chair of the Standing Committee, in writing, of a challenge of any member for cause. Upon a showing of good cause to disqualify a proposed Panel member, the Standing Committee shall make an alternate appointment.
- 5-3. Examination Reviewers - In cases of initial accreditation and reaccreditation, the chair of the Accreditation Review Panel shall appoint one examination reviewer for each program for which accreditation or reaccreditation is sought. Examination Reviewers do not serve on the Accreditation

Review Panel, but assist the Panel by determining whether the Applicant's examination meets the requirements set out in Standard 4.06(C).

- 5-3.1. Acceptance of Appointment - The person designated by the chair of the Accreditation Review Panel as the examination reviewer shall be sent a packet containing a brief description of the Applicant and its Program(s), the Standards and these Rules, with specific reference to the conflict of interest provisions, and will be given the opportunity to accept or reject the appointment.
- 5-3.2. Objection to Examination Reviewer - The Applicant shall be provided notice in writing, via facsimile transmission, of the name and affiliation of the examination reviewer and shall have ten (10) days from the date of the notice in which to notify the chair of the Accreditation Review Panel, in writing, of a challenge to the reviewer for cause. Upon a showing of good cause to disqualify a proposed examination reviewer, the chair of the Accreditation Review Panel shall make an alternate appointment of a qualified person pursuant to this Section.
- 5-3.3. Duty of Examination Reviewers - Examination reviewers shall complete an evaluation of the Applicant's certification examination and make a written finding, directed to the chair of the Accreditation Review Panel, as to whether the examination meets the requirements set out in Standard 4.06(C).
 - a. Where the review is being conducted in connection with an initial application for accreditation, the examination reviewer will receive a copy of the materials identified in Section 6-4.2(f) of these Rules, as well as the applicable forms prepared by the Standing Committee.
 - b. Where the review is being conducted in connection with an application for reaccreditation, the examination reviewer will receive the materials identified in Section 9-1.3(d) of these Rules, as well as the applicable forms prepared by the Standing Committee.
 - c. Examination reviewers shall take steps to assure that all examination materials received are kept in a secure place and are not made available to persons other than the Staff Advisor, except at the direction of the Standing Committee.

SECTION 6 - ACCREDITATION PROCEDURES

- 6-1. Accreditation Process - The process of accrediting specialty certification programs for lawyers involves determining whether an Applicant's organizational features, operational methods and certification standards comply with the requirements of the Standards. Programs found to be in compliance with the Standards shall be accredited by the Association as specified in these Rules.
- 6-2. Pre-Application Services - A Certifying Organization that is considering filing an application for accreditation may obtain information from the Association prior to filing a formal application. Inquiries should be addressed to the Staff Counsel of the Standing Committee, who will supply a copy of the Standards, Rules, fee schedules and other pertinent data, and respond to any questions the potential applicant may have.
- 6-3. Notice of Intent to Apply For Accreditation - Prior to making a formal application for accreditation, an Applicant is required to file a Notice of Intent to Apply with the Standing Committee and, in addition, pay a non-refundable pre-application fee in the amount specified on the Notice of Intent to Apply.

- 6-3.1. Definition of Specialty - Along with the Notice of Intent to Apply and the fee, the Applicant must submit the name of the specialty for each Program to be considered, along with a statement which defines the specialty in detail, including the specific areas of law and practice it covers.
 - 6-3.2. Preliminary Review - The Notice of Intent to Apply, with the specialty name(s) and definition(s), shall be reviewed by the Standing Committee, after which The Standing Committee shall issue a decision as specified in Standard 4.05(C).
 - 6-3.3. Lapse of Notice – The Applicant shall have one year from the time the Standing Committee communicates its decision regarding the definition as specified in Standard 4.05(C), to submit a formal application or to request an extension. In the event that a formal application is not submitted within this period or any period of extension, the Notice of Intent to Apply for Accreditation will be deemed to have lapsed. Subsequent to any lapse, an Applicant wishing to seek accreditation for a program must submit a new Notice of Intent to Apply for Accreditation in accordance with Rule 6-3.
- 6-4. Application For Accreditation - Subject to the Notice of Intent to Apply requirement described above and upon approval of the proposed definition by the Standing Committee, an Applicant may file a formal application for accreditation with the Standing Committee at any time on forms provided by the Association, together with payment of a basic application fee, plus a certificate fee for each specialty program for which accreditation is being sought.
- 6-4.1. Notification of ABA Entities - The Standing Committee shall notify sections, divisions, standing and special committees and commissions of the Association that the Applicant has submitted such application. This notice shall include the name and address of the Applicant, and the name of the specialty area of the Program for which accreditation is being sought. The notice shall also invite comments concerning the Applicant.
 - 6-4.2. Supporting Documents - The application for accreditation must be accompanied by all of the following supporting documents:
 - a. The Applicant's governing documents, including articles of incorporation, bylaws, and resolutions of the governing bodies of the Applicant or any parent organization, which resolutions relate to the standards, procedures, guidelines or practices of the Applicant's certification Program(s);
 - b. Financial information about the Applicant, including audited financial statements for the current year and for three years preceding the filing of the application. If the organization is newly formed, this information should be supplied by any supporting or parent organization;
 - c. Financial Plan. Projected revenue and expense budgets for three years following accreditation should it be granted;
 - d. Biographical summaries of members of the governing board, senior staff and advisory panels, standards committees or other bodies relevant to the certification process including specific information concerning the degree of involvement in the specialty area of persons who review and pass upon applications for certification;
 - e. Materials furnished to lawyers seeking certification, including application forms, booklets or pamphlets describing the certification Program, peer reference forms, rules and procedures, and evaluation guides;

- f. A copy of the 3 most recent examinations, used to evaluate the knowledge of lawyers applying for certification, whether those examinations are administered by the Applicant or by another entity. In the case of a new organization, a copy of the proposed examination with a description of how validity and reliability are determined, written examination procedures, including a description of how examinations are developed, conducted and reviewed, a description of the grading standards used, the names of persons responsible for determining pass/fail standards, a description of the periodic review process, and a description of the measures taken to protect the security of all examinations. Actual or proposed written examinations are to be made available on a confidential basis, with the understanding that the Applicant, at its option, may rule the person who reviews the examination ineligible for certification by the Applicant for a period of three (3) years from the time of such designation.
- g. Such other materials or information deemed necessary by the Accreditation Review Panel or the Standing Committee.
- h. If the Applicant has certified lawyers in the specialty area prior to applying to the Association for accreditation, the Applicant may submit a written request that those certified lawyers who were directly involved in designing, writing, administering and grading the first written examination given by Applicant in the specialty area, be deemed to have passed a written examination as required by Standard 4.06(C). A list of any such lawyers shall accompany the request.

6-5. Preliminary Review by Staff Advisor - Upon receipt of the application, a Staff Advisor shall review all materials submitted by the Applicant for completeness and conformance with the basic requirements of the Standards.

6-5.1. Incomplete Applications - Applications that are not accompanied by all of the supporting documents specified in Section 6-4.2 above will not be processed. If omissions are noted or clarification of responses is needed, the Staff Advisor shall contact the Applicant and request additional information. The Staff Advisor shall notify the Applicant once the materials are deemed complete.

6-5.2. Application Period Lapse - The Applicant shall have one hundred twenty (120) days from the time of the Staff Advisor's request for additional information to submit the materials requested or to request an extension. In the event that the materials are not submitted within this period or any period of extension, the application will be deemed to have lapsed.

6-5.3. Program Deficiencies - If the Staff Advisor notes any deficiencies in the application, as compared with the requirements of the Standards or these Rules, he or she shall notify the Applicant of the deficiency or deficiencies that have been identified. An Applicant who is notified during preliminary review about apparent deficiencies in its application may:

- a. Request that its application be given full review without modification;
- b. Request that further action on the application be suspended for a reasonable period of time to allow modifications to be made; or
- c. Withdraw the application without prejudice.

6-5.4. Permanent Withdrawal of Application - An Applicant which withdraws its application pursuant to Rule 6-5.3(c) within a reasonable time following the Staff Advisor's

preliminary review will receive a refund of fifty percent (50%) of the application fee. Withdrawal of an application does not preclude a subsequent application.

- 6-6. Appointment of Accreditation Review Panel - Within thirty (30) days of receiving a completed application for accreditation, the Standing Committee shall appoint, in accordance with Section 5 of these Rules, an Accreditation Review Panel to evaluate the Program(s) submitted by the Applicant.
- 6-7. Assignment of Materials - The Staff Advisor shall provide the Applicant's application form and supporting materials, with the exception of the certification examination(s), to the members of the Accreditation Review Panel for their independent review. Certification examinations shall be provided to examination reviewers exclusively.
- 6-8. Development of Panel Recommendation - At the call of its chair, the Accreditation Review Panel shall hold a meeting to consider each Panel member's findings on the Program's compliance with the Standards and discuss the disposition of the application.
 - 6-8.1. Request for Additional Information - Should the Panel conclude that more information is necessary to make a recommendation concerning an application, the Panel shall so advise the Applicant in writing and provide thirty (30) days for the Applicant to respond.
 - 6-8.2. Site Visit - Upon recommendation of the Accreditation Review Panel chair, the chair of the Standing Committee may authorize a site visit to the place of business of the Applicant to gather additional information. All costs associated with a site visit shall be borne by the Applicant.
- 6-9. Final Report - When the Accreditation Review Panel has sufficient information to make a judgment concerning the application, it shall issue a written final report containing its recommendations on accreditation of the Program(s). A copy of the report shall be sent to the Applicant. The Applicant shall have ten (10) days to respond to the report.
 - 6-9.1. Notice of Right of Appeal - A final report from an Accreditation Review Panel which recommends that the Applicant's program not be accredited shall contain a Notice of Right to Appeal consistent with Section 11 of these Rules.
- 6-10. Standing Committee Action - The Standing Committee shall determine whether to adopt the recommendation contained in the Accreditation Review Panel's final report by a vote to be taken at a regularly scheduled meeting or at a special meeting.
 - 6-10.1. Receipt of Report Required - In order for the Standing Committee to act on an application for accreditation at a meeting, it must receive a final report containing the recommendation from the Accreditation Review Panel at least two (2) weeks prior to the date of that meeting.
 - 6-10.2. New Information - If the Applicant presents new information which suggests that action other than that recommended by the Accreditation Review Panel should be taken, the matter shall be referred back to the Accreditation Review Panel for its consideration.
 - 6-10.3. Deferral of Action - If an Applicant files an appeal of an Accreditation Review Panel recommendation, final action by the Standing Committee on the application shall be deferred pending receipt of the final report from the Appeals Board appointed in accordance with Section 11 of these Rules.
- 6-11. Decision - The Standing Committee shall rule on applications for accreditation as follows:

- 6-11.1. Acceptance of Recommendation - If the Standing Committee accepts a recommendation from an Accreditation Review Panel or an Appeals Board that a program be accredited, it shall file a report with recommendation to the House of Delegates to that effect.
- 6-11.2. No Action and Closing of Application - If the Standing Committee accepts a recommendation from an Accreditation Review Panel or a report from an Appeals Board that a program not be accredited or rejects a recommendation that a program be accredited, it shall not make any recommendation to the House of Delegates regarding the matter. Subsequent to the Standing Committee's final action, an application will be deemed closed. If an application is closed, the Applicant may subsequently re-apply for accreditation without prejudice and such application shall be considered a new application for accreditation as provided for in Section 6-4.
- 6-12. Notification of Standing Committee Action - The Applicant shall be notified, in writing, of the Standing Committee's action with regard to accreditation within three (3) days of such action.
- 6-13. Appeal to House of Delegates - In the event that the Standing Committee accepts a recommendation from an Accreditation Review Panel that a program not be accredited or rejects a recommendation that a program be accredited, the Applicant may seek program accreditation from the House of Delegates by filing a report with recommendation in accordance with the rules and schedule of the House, but only after its appeal under the provisions of Section 11 of these Rules has been denied.
- 6-14. Action by House of Delegates Required - Accreditation of a program shall not become effective until passage of an appropriate resolution by the House of Delegates.

SECTION 7 - COMMUNICATION OF ACCREDITATION

- 7-1. Authorized Statement - Upon accreditation of one or more Programs, an Accredited Organization is authorized to state that it is "Accredited by the American Bar Association to certify lawyers in the specialty area(s) of _____" subject to the following conditions:
- 7-1.1. Notice to Lawyers - An Accredited Organization using this statement or otherwise referring to its accreditation by the Association must provide notice to lawyers applying for certification that accreditation by the Association indicates solely that the organization's certification Program has met the Standards.
- 7-1.2. Specialty Areas - The announcement must clearly indicate the specialty area or areas in which accreditation has been granted by the Association.
- 7-1.3. Identification with the Association - An Accredited Organization, other than the Association or subdivision thereof, shall not permit certified lawyers to state or imply that they are certified or accredited by the Association. Accredited Organizations shall actively enforce this prohibition.

SECTION 8 - REPORTING

- 8-1. Annual Report - Each Accredited Organization shall, by March 1 of each calendar year, furnish to the Standing Committee a written report on forms promulgated by the Standing Committee. The report shall include a description of the current status of each accredited Program, and the name and current address of each lawyer certified as a specialist by the Accredited Organization.

- 8-2. Notice of Material Change - An Accredited Organization shall furnish to the Standing Committee written notice of any proposed material change in the Accredited Organization or the operation or structure of an accredited Program, including any proposed Program merger, transfer in Program administration, or change in the standards, guidelines or criteria for certification, at least ninety (90) days before such change becomes effective.
- 8-2.1. Information Required - The written notice shall fully describe the proposed change and shall include any new documentation or a revised copy of existing documentation developed in connection with the proposed change. Such documentation includes:
- a. Articles of incorporation, bylaws, and resolutions relating to changes in Program sponsorship, governance or administration;
 - b. Copies of standards, procedures, guidelines or criteria, and any transition rules or regulations that have been prepared in anticipation of the proposed change;
 - c. Evidence that the proposed change will not jeopardize the financial stability of the certification Program;
 - d. A description of any proposed change in the way in which administrative services are provided or structured;
 - e. A description of any change in composition of the bodies responsible for governing the Accredited Organization or the accredited Program, developing and grading examinations, and making certification decisions, as well as biographical information for members of such bodies where such information has not been furnished previously to the Standing Committee;
 - f. Notices provided to the organization's certified attorneys, or individuals who have expressed an interest in the certification Program, which address the proposed change; and
 - g. Any other pertinent information which would demonstrate that the affected certification Program remains in compliance with the ABA Standards or facilitate a determination by the Standing Committee as to whether action by the Association's House of Delegates is required.
- 8-2.2. Staff Advisor Review - A Staff Advisor shall conduct a review of the aforementioned materials and thereafter prepare a written report for the Standing Committee which describes the proposed change and discusses its impact on the accredited status of the lawyer certification Program.
- 8-2.3. Standing Committee Consideration - Within sixty (60) days from receipt of the Notice of Material Change, the Chair shall calendar the matter for discussion at the next meeting of the Standing Committee or a special meeting convened by the Chair.
- a. The Accredited Organization shall be given written notice of the meeting of the Standing Committee during which the matter will be discussed and shall be offered an opportunity to be present, in person or by telephone, to answer questions or provide additional information.
 - b. The Standing Committee shall consider the Staff Advisor's report, documentation submitted by the Accredited Organization, and any other oral or written statements provided by representatives of the Accredited Organization in making a

determination as to whether the proposed change will affect the accredited status of the certification Program.

- c. If the Standing Committee determines that the proposed change will not affect the accredited status of the certification Program, the Accredited Organization will be so notified in writing and no further action will be required.
 - d. If the Standing Committee determines that the proposed change would not adversely affect the certification Program's compliance with the Standards, but is deemed to require approval by the House of Delegates to retain accreditation, the Standing Committee shall so notify the Applicant in writing and prepare the appropriate report with recommendation for consideration by the House of Delegates and seek its approval in accordance with Association procedures and deadlines.
 - e. If the Standing Committee determines that the proposed change would adversely affect compliance with the Standards, the Accredited Organization shall be so notified in writing.
- 8-2.4. Notification of Determination - The Chair shall notify the Accredited Organization, in writing, of the Committee's determination concerning the effect of the proposed change within ten (10) days of such determination.
- 8-2.5. Deferral of Change - In the event that the Standing Committee's determination is consistent with Section 8-2.3 (d) or (e) of these Rules, the accredited status of the certification Program will not be affected if implementation of the proposed change is deferred until the Association's House of Delegates has acted on the matter or an alternate approach, which does not implicate Program accreditation, is developed.

SECTION 9 - REACCREDITATION PROCEDURE

- 9-1. Application for Reaccreditation - Pursuant to Standard 5.02, accredited organizations must apply for reaccreditation prior to the end of the fifth year of the initial accreditation period and every five years thereafter. An Applicant must file a formal application for reaccreditation with the Standing Committee for each accredited program which it administers on forms provided by the Association, along with payment of a reaccreditation application fee for each accredited program.
- 9-1.1. Time Guidelines for Applications for Reaccreditation - For programs which were accredited by the House of Delegates at the Association's Midyear Meeting, normally held in February of each year, applications for reaccreditation must be received by the Standing Committee no later than June 15 of the fifth year of the accreditation period. For programs which were accredited by the House of Delegates at the Association's Annual Meeting, normally held in August of each year, applications for reaccreditation must be received by the Standing Committee no later than December 15 of the fifth year of the accreditation period.
- 9-1.2. Upon an Applicant's written request, which must be received prior to the deadlines indicated above, the Standing Committee may extend or waive such time deadlines for receipt of the reaccreditation application, provided the Applicant is given notice in such waiver that any delay in receipt of the required materials permitted by such a waiver could jeopardize the timely consideration of the applicant's reaccreditation application.
- 9-1.3. Supporting Documents - The application for reaccreditation must be accompanied by all of the following supporting documents:

- a. Current versions of the Applicant's governing documents, including articles of incorporation, bylaws, and resolutions of the governing bodies of the Applicant or any parent organization, which resolutions relate to the standards, procedures, guidelines or practices of the Applicant's certification Program(s);
- b. Biographical summaries of members of the governing board, senior staff and advisory panels, including specific information concerning the degree of involvement in the specialty area of persons who review and pass upon applications for certification;
- c. Materials furnished to lawyers seeking certification, including application forms, booklets or pamphlets describing the certification Program(s), peer reference forms, rules and procedures, and evaluation guides;
- d. A copy of the 3 most recent examinations used to evaluate the knowledge of lawyers applying for certification, whether those examinations are administered by the Applicant or by another entity, with a description of how validity and reliability are determined, written examination procedures, including a description of how the examinations are developed, conducted and reviewed, a description of the grading standards used, the names of persons responsible for determining pass/fail standards, a description of the periodic review process and a description of the measures taken to protect the security of all examinations. Written examinations are to be made available on a confidential basis, with the understanding that the Applicant, at its option, may rule any person who reviews an examination ineligible for certification by the Applicant for a period of three (3) years from the time of such designation; and
- e. Applicant shall attest that any lawyer who was certified by the Applicant prior to initial accreditation of the program, who had not successfully completed a written examination required under Standard 4.06(C), has successfully completed or will complete such an examination upon re-certification, unless they have been deemed to have passed such examination in accordance with Rule 6-4.2(h).
- f. Such other materials or information deemed necessary by the Accreditation Review Panel or the Standing Committee.

9-2. Preliminary Review by Staff Advisor - Upon receipt of the application for reaccreditation, a Staff Advisor shall review all materials submitted by the Applicant for completeness and continued conformance with the basic requirements of the Standards.

9-2.1. Incomplete Applications - Applications that are not accompanied by all of the supporting documents specified in Section 9-1.2 of these Rules will not be processed. If omissions are noted or a clarification of responses is needed, the Staff Advisor shall contact the Applicant and request the additional information. The Staff Advisor shall notify the Applicant once the materials are deemed complete.

9-2.2. Failure to Respond - In the event that there is no response from the Applicant to the request for additional information within ten (10) days, the review of the application will terminate and Program accreditation will lapse in accordance with Section 10 of these Rules.

- 9-3. Appointment of Accreditation Review Panel - Within thirty (30) days of receiving a completed application for reaccreditation, the Standing Committee shall appoint, in accordance with Section 5 of these Rules, an Accreditation Review Panel to evaluate the Program(s) submitted by the Applicant.
- 9-4. Assignment of Materials - The Staff Advisor shall provide the Applicant's reaccreditation application form and supporting materials, with the exception of the certification examination(s), to the members of the Accreditation Review Panel for their independent review. Certification examinations shall be appointed to appointed examination reviewers exclusively.
- 9-5. Development of Panel Recommendation - At the call of the chair, the Accreditation Review Panel shall hold a meeting to consider each Panel member's findings on the Program's compliance with the Standards and discuss the disposition of the application.
- 9-5.1. Request for Additional Information - Should the Panel conclude that more information is necessary to make a recommendation concerning an application, the Panel shall so advise the Applicant in writing and provide thirty (30) days for the Applicant to respond.
- 9-5.2. Site Visit - Upon recommendation of the Accreditation Review Panel chair, the chair of the Standing Committee may authorize a site visit to the place of business of the Applicant to gather additional information. All costs associated with a site visit shall be borne by the Applicant.
- 9-6. Final Report - When the Accreditation Review Panel has sufficient information to make a judgement concerning the application, it shall issue a written final report containing its recommendations on reaccreditation of the Program(s). A copy of the report shall be sent to the Applicant. The Applicant shall have 10 days to respond to the report.
- 9-6.1. Notice of Right of Appeal - A final report from an Accreditation Review Panel which recommends against reaccreditation of a Program shall contain a Notice of Right to Appeal consistent with Section 11 of these Rules.
- 9-7. Standing Committee Action - The Standing Committee shall determine whether to adopt the recommendation contained in the Accreditation Review Panel's final report by a vote to be taken at a regularly scheduled meeting or at a special meeting.
- 9-7.1. Receipt of Report Required - In order for the Standing Committee to act on an application for reaccreditation at a meeting, it must receive a final report containing the recommendation from the Accreditation Review Panel at least two (2) weeks prior to the date of that meeting.
- 9-7.2. New Information - If the Accredited Organization presents new information which suggests that action other than that recommended by the Accreditation Review Panel should be taken, the matter shall be referred back to the Accreditation Review Panel for its consideration.
- 9-7.3. Deferral of Action - If an Applicant files an appeal of an Accreditation Review Panel recommendation, final action by the Standing Committee on the application shall be deferred pending receipt of the final report from the Appeals Board appointed in accordance with Section 11 of these rules.
- 9-8. Decision - The Standing Committee shall rule on applications for reaccreditation as follows:

- 9-8.1. Acceptance of Recommendation - If the Standing Committee accepts a recommendation from an Accreditation Review Panel or an Appeals Board that a program be reaccredited, it shall file a report with recommendation to the House of Delegates to that effect.
- 9-8.2. No Action and Closing of Application - If the Standing Committee accepts a recommendation from an Accreditation Review Panel or a report from an Appeals Board that a program not be reaccredited, or rejects a recommendation that a program be reaccredited, it shall not make any recommendation to the House of Delegates regarding the matter. Subsequent to the Standing Committee's final action, the program's accredited status will terminate at the end of the fifth year of the current period of accreditation pursuant to Section 10 of these Rules. In the event that program accreditation is terminated, the Applicant may subsequently re-apply for accreditation without prejudice and such application shall be considered a new application for accreditation as provided for in Section 6-4
- 9-8.3 Extension of Accreditation Period – Upon an Applicant's written request or upon its own motion, the Standing Committee may recommend to the House of Delegates that the accreditation period of an accredited program be extended until the adjournment of the next House of Delegates meeting after the original accreditation period expired.
- 9-9. Notification of Standing Committee Action - The Accredited Organization shall be notified in writing of the Standing Committee's action with regard to reaccreditation within three (3) days of such action.
- 9-10. Appeal to House of Delegates - In the event that the Standing Committee accepts a recommendation from an Accreditation Review Panel that a program not be reaccredited or rejects a recommendation that a program be reaccredited, the Applicant may seek program reaccreditation from the House of Delegates by filing a report with recommendation in accordance with the rules and schedule of the House, but only after its appeal under the provisions of Section 11 of these Rules has been denied.
- 9-11. Action by House of Delegates Required - Reaccreditation of a program shall not become effective until passage of an appropriate resolution by the House of Delegates.

SECTION 10 - TERMINATION OF ACCREDITATION

- 10-1. Conditions for Termination - Program accreditation may be terminated by means of revocation by the Association, voluntary withdrawal by the Accredited Organization or lapse of the accreditation period absent reaccreditation.
- 10-2. Revocation of Accreditation - The accreditation of any Program shall be revoked if the Accredited Organization administering the Program has ceased to exist or has ceased to operate such Program in compliance with the Standards.
- 10-2.1. Initial Determination - The chair of the Standing Committee, acting on his or her own or upon a complaint from a third party, may request that the Staff Advisor prepare a written report on whether there are sufficient facts to warrant consideration of the revocation of a Program's accreditation. Such report shall detail the facts and circumstances surrounding an allegation of non-compliance with the Standards and incorporate by attachment any documentation submitted by a complaining party or by the Accredited Organization.
- 10-2.2. Appointment of Panel - Upon determining that reasonable grounds exist for consideration of revocation of accreditation, the Standing Committee shall appoint, in accordance with Section 5 of these Rules, an Accreditation Review Panel which shall be charged with

investigating the allegations and making a recommendation to the Standing Committee regarding appropriate action.

- 10-2.3. Panel Investigation - The Accreditation Review Panel shall review the Staff Advisor's report and shall consider any statements made or documents filed by the Accredited Organization in answer to inquiries regarding the matter, as well as any other materials it deems relevant to the allegations. If the investigation involves the examination administered in connection with the accredited program, the chair of the Accreditation Review Panel may appoint an examination reviewer, in accordance with §5-3, to evaluate compliance with Standard 4.06(c).
- 10-2.4. Hearing - Within forty five (45) days of its appointment, the Accreditation Review Panel shall hold a hearing on the matter at a time mutually agreed upon by the Accreditation Review Panel and the Accredited Organization.
- a. Notice of the hearing shall be furnished in writing to the president, chair or other principal officer of the Accredited Organization no later than twenty (20) days prior to the date of the hearing. In the event that it is not possible to hold the hearing on the agreed upon date, the hearing may be postponed to an alternate date no later than sixty (60) days from the original hearing date.
 - b. Representatives of the Accredited Organization, including legal counsel, may be present in person or by telephone during the hearing to submit information and present statements. Any written information which the Accredited Organization wishes to submit in connection with the hearing must be received by the Staff Advisor no later than seven (7) days prior to the date of the hearing.
 - c. The Accreditation Review Panel may invite the Staff Advisor, the chair of the Standing Committee or any other party with an interest in the matter to present relevant information concerning the Program's compliance with the Standards.
 - d. The Staff Advisor shall be present during the hearing to compile a written record of the proceedings.
 1. The written record shall include any agreement between the Accredited Organization and the Accreditation Review Panel concerning the action(s) which the Accredited Organization will take to bring the Program into compliance with the Standards and shall also indicate whether the Accreditation Review Panel will defer final judgement on the matter until a later time.
 2. A draft of the written record shall be supplied to the Accredited Organization and the Accreditation Review Panel within fourteen (14) days of the hearing. Any objection to or correction of the written record must be filed with the Staff Advisor within seven (7) days of the date the draft record is received.
- 10-2.5. Final Report - Within thirty (30) days of the hearing and after considering the entire record, the Accreditation Review Panel shall issue a written final report containing its recommendation on the matter jointly to the Accredited Organization and the Standing Committee.
- a. If the Accreditation Review Panel finds that the Program remains in compliance with the Standards, it shall recommend that no further action be taken on the matter.

- b. If the Accreditation Review Panel finds that the Program fails to meet the Standards, but that the Accredited Organization has agreed to take specified remedial action within a reasonable period of time, it shall recommend that any further consideration of revocation of accreditation be deferred pending receipt of written evidence that the remedial action has been taken. The report will also include the terms of any agreement by the Accredited Organization regarding the remedial action to be taken.
 - c. If the Accreditation Review Panel finds that the Program fails to meet the Standards and that the Accredited Organization will not agree to take the remedial action needed to retain accreditation, it shall recommend that accreditation of the Program be revoked.
- 10-2.6. Right of Appeal - A final report from an Accreditation Review Panel which recommends that accreditation of a Program be revoked shall contain a notice indicating that the Accredited Organization has the right to appeal in accordance with Section 11 of these Rules.
- 10-2.7. Standing Committee Action - The Standing Committee shall determine whether to adopt the recommendation contained in the Accreditation Review Panel's final report by a vote to be taken at a regularly scheduled meeting or at a special meeting.
- a. Receipt of Report Required - In order for the Standing Committee to act on an application for accreditation at a meeting, it must receive a final report containing the recommendation from the Accreditation Review Panel at least two (2) weeks prior to the date of that meeting.
 - b. New Information - If the Accredited Organization presents new information which suggests that action other than that recommended by the Accreditation Review Panel should be taken, the matter shall be referred back to the Accreditation Review Panel for its consideration.
 - c. Deferral of Action – If an Accredited Organization files an appeal of an Accreditation Review Panel recommendation, final action by the Standing Committee on the recommendation shall be deferred pending receipt of the final report from the Appeals Board appointed in accordance with Section 11 of these Rules.
- 10-2.8. Decision - The Standing Committee shall rule as follows:
- a. Acceptance of Recommendation - If the Standing Committee accepts a recommendation from an Accreditation Review Panel or an Appeals Board that accreditation of a program be revoked, it shall file a report with recommendation to the House of Delegates to that effect.
 - b. No Action and Closing of Matter - If the Standing Committee accepts a recommendation from an Accreditation Review Panel or a report from an Appeals Board that accreditation of a Program not be revoked, or rejects a recommendation that accreditation of a Program be revoked, it shall not make any recommendation to the House of Delegates regarding the matter. Subsequent to the Standing Committee's final action, the matter will be deemed closed.
- 10-2.9. Notification of Standing Committee Action - The Accredited Organization shall be notified in writing of the Standing Committee's action with regard to revocation within seven (7) days of such action.

- 10-3. Voluntary Withdrawal of Accreditation - An Accredited Organization may request that accreditation of its Program(s) be withdrawn by filing a written request with the Standing Committee.
- 10-3.1. Filing of Request - A request to withdraw accreditation must contain evidence that the governing entity of the Accredited Organization has authorized the request, and a statement by the Accredited Organization indicating that it will notify each lawyer certified under the affected Program of the discontinuance of accreditation once such discontinuance becomes effective.
- 10-3.2. House of Delegates - Upon approving a request for withdrawal of accreditation, the Standing Committee shall file a report recommending withdrawal of accreditation with the House of Delegates for consideration at its next meeting. Accreditation of the program shall cease upon approval of the recommendation by the House.
- 10-4. Lapse of Accreditation - Accreditation of a Program will lapse five (5) years from the date on which accreditation or reaccreditation was granted by the House of Delegates absent timely House action to reaccredit or extend the accreditation period of the Program in accordance with Section 9 of these Rules.
- 10-4.1. Notice of Lapse - Upon the lapse of accreditation, the Standing Committee shall send a notice to the Accredited Organization indicating that the accreditation of the affected Program has lapsed and requesting that the Accredited Organization notify all lawyers certified under such Program that it is no longer accredited by the Association.
- 10-4.2. Re-Application - A certifying organization may re-apply for accreditation of a lapsed Program at any time. The application for accreditation of a lapsed Program shall be considered in the same way and under the same conditions as an application for a new Program.

SECTION 11 - APPEAL OF DECISION BY THE ACCREDITATION REVIEW PANEL

- 11-1. Notice of Appeal - An Applicant or an Accredited Organization that is adversely affected by a decision of an Accreditation Review Panel may appeal the decision to the Standing Committee by filing a written Notice of Appeal addressed to the chair of the Standing Committee within thirty (30) days after its receipt of the decision of the Accreditation Review Panel. In the notice of appeal, the Applicant or Accredited Organization shall identify the specific conclusions from which the appeal is being filed, specify the nature of and grounds for the appeal, and attach any documents that support the appeal.
- 11-2. Decisions Subject to Appeal - Only decisions of the Accreditation Review Panel not to recommend accreditation or reaccreditation of a Program or to recommend the revocation of accreditation of a Program shall be subject to appeal.
- 11-3. Burden of Proof - The Appellant has the burden of proof on all issues.
- 11-4. Appointment of Appeals Board - Within thirty (30) days of the receipt of a Notice of Appeal, the Standing Committee shall appoint an Appeals Board to consider the appeal and affirm or reverse the decision of the Accreditation Review Panel.
- 11-4.1. Composition - The Standing Committee shall name a chair and two (2) members of the Appeals Board.

- 11-4.2. Acceptance of Appointment - The Staff Advisor shall determine the willingness of the designated persons to serve. Each prospective Appeals Board member will be sent a packet containing a description of the matter, the Standards, and these Governing Rules, with specific mention of the conflict of interest portions, and will be given the opportunity to accept or reject the appointment.
- 11-4.3. Objection to Appeals Board Member - The Appellant shall be provided written notice of the names and affiliations of the Appeals Board members and shall have ten (10) days from the date of the notice in which to notify the chair of the Standing Committee, in writing, of a challenge of any member for cause. Upon a showing of good cause to disqualify a proposed Appeals Board member, the Standing Committee shall make an alternate appointment of a qualified person.
- 11-5. Issues to be Considered by the Appeals Board - The issues addressed by the Appeals Board shall be limited to those included in the appeal made by the Appellant. The Appeals Board, the Appellant, legal counsel and the Staff Advisor shall be furnished with all of the documents reviewed by the Accreditation Review Panel in making its decision and the letter notifying the Appellant of the Accreditation Review Panel's decision.
- 11.6. Meetings of the Appeals Board - Within thirty (30) days of its appointment, the Appeals Board shall hold an initial meeting, in executive session, to review the record. The Staff Advisor shall be present during this meeting to assist members of the Appeals Board. The Appeals Board may hold additional meetings at the discretion of its chair, all of which shall include the Staff Advisor and all of which shall be in executive session.
- 11-7. Hearing - Within sixty (60) days of its appointment, the Appeals Board shall hold a hearing, at a time mutually agreed to by the Appeals Board and the Appellant, during which testimony and other evidence shall be presented by the Appellant or its legal counsel in support of its position on the matter. The Appeals Board may request the assistance of counsel to provide guidance in the interpretation and resolution of legal or procedural problems that may arise in the context of an appeal.
- 11-7.1. Notice - Notice of the hearing shall be furnished in writing to the president, chair or other principal officer of the Appellant no later than fifteen (15) days prior to the date of the hearing. Should events occur which make the holding of the hearing on the date specified in the notice impossible, the hearing may be postponed to an alternate date no later than sixty (60) days from the original hearing date.
- 11-7.2. Hearing Process - Representatives of the Appellant, including legal counsel, may be present in person or by telephone during the hearing to submit information and present statements to demonstrate that the decision of the Accreditation Review Panel should be reversed. Any written information which the Appellant wishes to submit as part of its presentation during the hearing must be received by the Staff Advisor no later than seven (7) days prior to the date of the hearing.
- 11-7.3. Other Information
- a. The Appeals Board may, but is not obligated to, invite the Staff Advisor, the chair of the Accreditation Review Panel, or any other party with an interest in the matter to present relevant information during the hearing concerning the Program's compliance with the Standards.
 - b. Upon request by the Appeals Board, the chair of the Accreditation Review Panel shall file a statement with the Appeals Board commenting on the points made by the Appellant in its notice of appeal.

- 11-8. Decision of the Appeals Board - The function of the Appeals Board is to review the decision of the Accreditation Review Panel based on the record that was before it at the time of Accreditation Review Panel's decision. Within thirty (30) days of the hearing, the Appeals Board shall issue its final decision jointly to the Appellant, the Accreditation Review Panel and the Standing Committee in the form of a written report containing its conclusions and the basis for them.
- 11-9. Action by the Standing Committee – Upon receiving a written report from an Appeals Board, the Standing Committee shall take action in accordance with the provisions of these Rules, as set out in Section 6 (Accreditation), Section 9 (Reaccreditation), and Section 10 (Discontinuance of Accreditation).

SECTION 12 - AMENDMENT OF GOVERNING RULES AND OTHER DOCUMENTS

- 12-1. The Standing Committee may, through a majority vote of its members, revise or amend these Governing Rules, and any additional forms, guides, descriptions or other documents connected with the administration of the accreditation system.