To: Council

From: Barry Currier and Stephanie Giggetts

Re: Reporting on Changes to Internal Operating Practices 4 and 5

Date: July 28, 2017

At the June Council meeting, we discussed the need to revise, among other things, Internal Operating Practices 4 and 5 to establish compliance with current U.S. Department of Education requirements for public reporting of certain Council and Accreditation Committee decisions.

So that we could incorporate these changes into the 2017-2018 Standards & Rules book and proceed with the process of publishing that book in time for the upcoming workshops and fall site visits, we asked the Council Executive Committee to review proposed revisions to IOPs 4 and 5, and to approve them under Article VI, Section 2 of the Bylaws, which allow the Executive Committee to act for the Council on matters like this that require action prior to the next meeting. They have done so, and we write this memorandum to report this action to you.

The USDE regulations for some time have required us to provide notice of decisions to place schools on probation or “equivalent status.” Now the Department has provided clarification of what “equivalent status” means and that includes findings that a law school is significantly out of compliance with one or more Standards. This would include a Rule 12(a)(4) conclusion by the Accreditation Committee for serious violations (for example, a conclusion that a law school is out of compliance with Standards 202, 301, 501, or 316). We needed to update our IOPs to allow us to provide notice of these matters.

In addition, the Department is requiring us to post actual decision letters for these type of decisions, and we are receiving requests from the Department for these decision letters and documents, letters, and such relating to them. There is clear authority in the USDE recognition criteria for these requests under 34 C.F.R. §§ 602.27(a)(6)-(7). As a result, we needed to update our IOPs to make clear that we will comply with these rules, which prevail over any other IOPs or Rules of Procedure regarding confidentiality of decisions and documents.

Redlined and restated versions of IOPs 4 and 5 are attached.
IOP 4 Redlined

4. Notification of Council or Accreditation Committee Decisions

The Managing Director shall:

(a) Provide written notification to the Secretary of the Department of Education, the appropriate state licensing agency, and the appropriate accrediting agency, at the same time the Managing Director notifies the law school in writing of any final decision to deny, withdraw, suspend or remove the approval or provisional approval of the law school, or to place a law school on probation, to direct specific remedial action, or to find a law school significantly out of compliance with one or more Standards under Rule 12(a)(4), but no later than thirty (30) days after the Council reaches the decision.

(b) Provide written notification to the Secretary of the Department of Education, the appropriate state licensing agency, the appropriate accrediting agency, and the public, within thirty (30) days, of:

(i) a final decision to grant provisional approval or full approval to a law school;

(ii) a decision by an approved or provisionally approved law school to withdraw from approved or provisionally approved status; and

(iii) a decision by a law school to allow its approval or provisional approval to lapse.

(c) Provide written notification to the public within 24 hours of the time the Managing Director notifies the law school in writing of any final decision to deny, withdraw, suspend or remove the approval or provisional approval of the law school, or to place a law school on probation, to direct specific remedial action, or to find a law school significantly out of compliance with one or more Standards under rule 12(a)(4).

(d) Make available to the Secretary of the Department of Education, the appropriate state licensing agency, the appropriate accrediting agency, and the public within 60 days after final decision, a brief statement summarizing the reasons for the decision to deny, withdraw, suspend or remove the approval or provisional approval of a law school, and the comments, if any, which the affected law school may wish to make with regard to that decision or evidence that the law school was offered but declined to provide any comments.
IOP 4 restated

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5. Submission of Information to Secretary of Education

The Council shall submit to the Department of Education the following information:

(a) the Section’s Annual Report;

(b) the identity of any school for which the Council serves as an institutional accreditor that the Council has reason to believe is failing to meet its Title IV program responsibilities or is engaged in fraud or abuse, and the reason for the Council’s concern;

(c) annually, any revisions to the Standards, Interpretations or Rules of Procedure;

(d) annually, a list of a copy, updated annually, of the Council’s listing of approved law schools;

(e) upon request by the Department Secretary of Education, or an office within the Department of Education under the Secretary’s control, information regarding an approved law school’s compliance with the Standards or its Title IV, HEA responsibilities, including requests for decision letters, site reports, transcripts or related correspondence; and

(f) upon request by the Secretary of Education, a summary of the Council’s major accrediting activities during the previous year.

Rule 49: Confidentiality of Accreditation Matters

Except as otherwise provided in these Rules or Internal Operating Practices, all matters relating to the accreditation of a law school, including any proceedings, hearings or meetings of the Committee or Council, shall be confidential.
IOP 5 Restated

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(b) the name of any school for which the Council serves as an institutional accreditor that the Council has reason to believe is failing to meet its Title IV program responsibilities or is engaged in fraud or abuse, and the reason for the Council’s concern;

(c) annually, revisions to the Standards, Interpretations or Rules of Procedure;

(d) annually, a list of approved law schools;

(e) upon request by the Department of Education, or an office within the Department of Education under the Secretary’s control, information regarding an approved law school’s compliance with the Standards or its Title IV, HEA responsibilities, including requests for decision letters, site reports, transcripts or related correspondence; and

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