

MEMORANDUM

To: Dean Maureen O'Rourke, Chair
Council of the Section of Legal Education and Admissions to the Bar

From: Pamela Lysaght, Chair
Standards Review Committee

Date: April 23, 2018

Re: Comments Received on Items Circulated for Notice and Comment on Proposed Changes to the Rules of Procedure; SRC Recommendations

This Memorandum addresses the Standards Review Committee's recommendations regarding the proposed revisions to the *ABA Rules of Procedure* approved by the Council for Notice and Comment during its meetings held in November 2017 and February 2018.

Changes to the following Rules were approved for Notice and Comment at the Council's November 2017 meeting:

- **Rule 3:** Accreditation Committee Responsibility and Authority
- **Rule 5:** Site Evaluations
- **Rule 10:** Notice of Accreditation Decision by Other Agency
- **Rule 14:** Actions on Determinations of Noncompliance with a Standard
- **Rule 22:** Council Consideration of Recommendation of Accreditation Committee
- **Rule 23:** Council Consideration of Appeal from Accreditation Committee Decision
- **Rule 24:** Evidence and Record for Decision
- **Rule 25:** Decisions by the Council
- **Rule 34:** Teach-Out Plan
- **Rule 52:** Disclosure of Decision Letters

No comments were received during the Notice and Comment period, and no testimony was offered at the Committee's April 12, 2018, hearing. The proposed changes approved for Notice and Comment are attached as Appendix A.

SRC Recommendation: The Committee unanimously recommends adoption of the proposed changes.

Changes to the following Rule (Draft is attached as Appendix B) were approved for Notice and Comment at the Council's February 2018 meeting:

- **Rule 53: Applications, Decisions, and Recommendations Made Public**

Subsequently, it was noted that a decision concerning a law school's significant noncompliance with one or more Standards under Rule 12(a)(4) "must" be made public to comply with the Department of Education's requirements. The draft that was distributed for notice and comment states that such a decision "may" be made public. To address this

issue, a new section (c) is proposed. If the merger of the Committee and Council is approved, Proposal 2 is presented below.

SRC Recommendation: The Committee unanimously recommends adoption of the revised Rule 53, which follows. (If the merger becomes effective, Proposal 2 is recommended.)

Revised Proposed Changes to Rule 53:

Rule 53: Applications, Plans, Decisions and Recommendations Made Public

- (a) When a law school has applied for provisional or full approval, acquiescence in a major change, or a variance, or has submitted a teach-out plan for approval, the ~~Council or the~~ Managing Director shall provide public notice:
 - (1) That the law school has submitted an application or plan; and
 - (2) Of the procedural steps for consideration of the application or plan.
- (b) After a law school has been notified of the Committee's decision or recommendation, the Managing Director may state publicly the conclusions of the Committee and its decision or recommendation, with an explanation of the procedural steps in further consideration of the matter, concerning:
 - (1) The law school's application for provisional or full approval;
 - (2) The law school's application for acquiescence in a major change;
 - (3) The law school's application for a variance;
 - (4) The imposition of sanctions or specific remedial action on the law school;
 - (5) The placing of the law school on probation; or
 - (6) The withdrawal of the law school's approval.
- (c) After a law school has been notified of the Committee's decision concerning the law school's significant noncompliance with one or more Standards under Rule 12(a)(4), the Managing Director shall provide public notification of the Committee's conclusions and decision, with an explanation of any procedural steps for further consideration of the matter.
- (d) After a law school has been notified of the Council's decision, the Managing Director shall provide public notification of the Council's conclusions and decision (except as to a sanction that is explicitly not public), with an explanation of any procedural steps for further consideration of the matter, concerning:
 - (1) The law school's application for provisional or full approval;
 - (2) The law school's application for acquiescence in a major change;

- (3) The law school's application for a variance;
 - (4) The imposition of sanctions or specific remedial action on the law school;
 - (5) The placing of the law school on probation; or
 - (6) The withdrawal of the law school's approval;
 - (7) The law school's significant non-compliance with one or more Standards under Rule 12(a)(4); or
 - (8) The law school's submission of a teach-out plan.
- (e) After a matter concerning a law school has been acted upon by an Appeals Panel, the ~~Council or the~~ Managing Director shall provide public notification of the conclusions and decision of the Appeals Panel.
- (f) After a law school has received a decision from the Committee or Council, the Managing Director, with the concurrence of the Council Chair, may issue a public statement in writing or orally to address other matters related to the accreditation of the school, to confirm or deny media reports on the law school's accreditation or matters related to that accreditation, or to respond to an inquiry from the public.

CLEAN VERSION

Rule 53: Applications, Plans, Decisions and Recommendations Made Public

- (a) When a law school has applied for provisional or full approval, acquiescence in a major change, or a variance, or has submitted a teach-out plan for approval, the Managing Director shall provide public notice:
- (1) That the law school has submitted an application or plan; and
 - (2) Of the procedural steps for consideration of the application or plan.
- (b) After a law school has been notified of the Committee's decision or recommendation, the Managing Director may state publicly the conclusions of the Committee and its decision or recommendation, with an explanation of the procedural steps in further consideration of the matter, concerning:
- (1) The law school's application for provisional or full approval;
 - (2) The law school's application for acquiescence in a major change;
 - (3) The law school's application for a variance;
 - (4) The imposition of sanctions or specific remedial action on the law school;
 - (5) The placing of the law school on probation; or

- (6) The withdrawal of the law school's approval.
- (c) After a law school has been notified of the Committee's decision concerning the law school's significant noncompliance with one or more Standards under Rule 12(a)(4), the Managing Director shall provide public notification of the Committee's conclusions and decision, with an explanation of any procedural steps for further consideration of the matter.
- (d) After a law school has been notified of the Council's decision, the Managing Director shall provide public notification of the Council's conclusions and decision (except as to a sanction that is explicitly not public), with an explanation of any procedural steps for further consideration of the matter, concerning:
- (1) The law school's application for provisional or full approval;
 - (2) The law school's application for acquiescence in a major change;
 - (3) The law school's application for a variance;
 - (4) The imposition of sanctions or specific remedial action on the law school;
 - (5) The placing of the law school on probation;
 - (6) The withdrawal of the law school's approval;
 - (7) The law school's significant non-compliance with one or more Standards under Rule 12(a)(4); or
 - (8) The law school's submission of a teach-out plan.
- (e) After a matter concerning a law school has been acted upon by an Appeals Panel, the Managing Director shall provide public notification of the conclusions and decision of the Appeals Panel.
- (f) After a law school has been notified of Committee's recommendation, or a Committee's or Council's decision, the Managing Director, with the concurrence of the Council Chair, may issue a public statement in writing or orally to address other matters related to the accreditation of the school, to confirm or deny media reports on the law school's accreditation or matters related to that accreditation, or to respond to an inquiry from the public.

Proposal 2

Rule 53: Applications, Plans, Decisions and Recommendations Made Public

- (a) When a law school has applied for provisional or full approval, acquiescence in a major change, or a variance, or has submitted a teach-out plan for approval, ~~the Council or~~ the Managing Director shall provide public notice:

- (1) That the law school has submitted an application or plan; and
 - (2) Of the procedural steps for consideration of the application or plan.
- (b) ~~After a law school has been notified of the Committee's decision or recommendation, the Managing Director may state publicly the conclusions of the Committee and its decision or recommendation, with an explanation of the procedural steps in further consideration of the matter, concerning:~~
- ~~(1) The law school's application for provisional or full approval;~~
 - ~~(2) The law school's application for acquiescence in a major change;~~
 - ~~(3) The law school's application for a variance;~~
 - ~~(4) The imposition of sanctions or specific remedial action on the law school;~~
 - ~~(5) The placing of the law school on probation; or~~
 - ~~(6) The withdrawal of the law school's approval.~~
- (c) After a law school has been notified of the Council's decision, the Managing Director shall provide public notification of the Council's conclusions and decision (except as to a sanction that is explicitly not public), with an explanation of any procedural steps for further consideration of the matter, concerning:
- (1) The law school's application for provisional or full approval;
 - (2) The law school's application for acquiescence in a major change;
 - (3) The law school's application for a variance;
 - (4) The imposition of sanctions or specific remedial action on the law school;
 - (5) The placing of the law school on probation; or
 - (6) The withdrawal of the law school's approval;
 - (7) The law school's significant non-compliance with one or more Standards under Rule 12(a)(4);
 - (8) The Law School's submission of a teach-out plan.
- (d) After a matter concerning a law school has been acted upon by an Appeals Panel, ~~the Council or~~ the Managing Director shall provide public notification of the conclusions and decision of the Appeals Panel.
- (e) After a law school has been notified of a Council's decision, the Managing Director, with the concurrence of the Council Chair, may issue a public statement in writing or orally to address other matters related to the accreditation of the school, to confirm or deny media reports on the law school's accreditation or matters related to that

accreditation, or to respond to an inquiry from the public.

Proposal 2 CLEAN VERSION

Rule 53: Applications, Plans, Decisions and Recommendations Made Public

- (a) When a law school has applied for provisional or full approval, acquiescence in a major change, or a variance, or has submitted a teach-out plan for approval, the Managing Director shall provide public notice:
 - (1) That the law school has submitted an application or plan; and
 - (2) Of the procedural steps for consideration of the application or plan.
- (b) After a law school has been notified of the Council's decision, the Managing Director shall provide public notification of the Council's conclusions and decision (except as to a sanction that is explicitly not public), with an explanation of any procedural steps for further consideration of the matter, concerning:
 - (1) The law school's application for provisional or full approval;
 - (2) The law school's application for acquiescence in a major change;
 - (3) The law school's application for a variance;
 - (4) The imposition of sanctions or specific remedial action on the law school;
 - (5) The placing of the law school on probation;
 - (6) The withdrawal of the law school's approval;
 - (7) The law school's significant non-compliance with one or more Standards under Rule 12(a)(4);
 - (8) The law school's submission of a teach-out plan.
- (c) After a matter concerning a law school has been acted upon by an Appeals Panel, the Managing Director shall provide public notification of the conclusions and decision of the Appeals Panel.
- (d) After a law school has been notified of a Council's decision, the Managing Director, with the concurrence of the Council Chair, may issue a public

statement in writing or orally to address other matters related to the accreditation of the school, to confirm or deny media reports on the law school's accreditation or matters related to that accreditation, or to respond to an inquiry from the public.

Appendix A

Rule 3: Accreditation Committee Responsibility and Authority

Explanation of Changes:

Rule 3(a)(5) currently provides that the Accreditation Committee (“AC”) has jurisdiction to make recommendations about teach-out plans. The proposed amendment deletes AC and replaces it with the Council so that the authority to approve a teach-out remains solely with the Council and approval is not delayed by requiring review and a recommendation by the AC.

Redlined Draft:

Rule 3: Accreditation Committee Responsibility and Authority

- (a) The responsibility and authority of the Accreditation Committee is delegated to it by the Council.
- (b) The Committee has jurisdiction to make recommendations to the Council concerning:
 - (1) an application for provisional or full approval;
 - (2) withdrawal of provisional or full approval;
 - (3) an application for acquiescence in a major change under Rules 29(a)(1) through 29(a)(13); and
 - (4) an application for a variance; ~~and~~
 - (5) ~~approval or denial of a teach-out plan.~~
- (c) The Committee has jurisdiction to make decisions concerning all matters other than those specified in Rule 3(a), including:
 - (1) determining compliance with the Standards of any provisionally or fully approved law school in connection with a site evaluation, a complaint, a response to a request for information, a fact-finding report, interim monitoring of accreditation status, or any other circumstances as provided in these Rules;
 - (2) granting or denying an application for approval of a foreign programs, and the continuance of a foreign program as set forth in the Criteria for Foreign Summer and Intersession Programs Offered by ABA-Approved Law Schools in a Location Outside the United States; the Criteria for Approval of Foreign Semester and Year-Long Programs; and the Criteria for Accepting

Credit for Student Study at a Foreign Institution; and

- (3) granting or denying an application for acquiescence in a major change under Rule 29(a)(14) through 29(a)(17).
- (d) The Committee has jurisdiction to impose sanctions and/or direct specific remedial action, or to recommend to the Council that it impose sanctions and/or direct specific remedial action, in accordance with Rules 16 to 18.
- (e) The Committee has the authority to create subcommittees and task forces as it deems appropriate. Subcommittees do not have the authority to take action on behalf of the Accreditation Committee but have the authority to make recommendations where appropriate.

Rule 5: Site Evaluations

Explanation of Changes:

Rule 5(d) currently provides that in extraordinary circumstances, a site evaluation of a law school may be postponed upon the request of the law school. The proposed amendment removes “upon the request of the law school,” so that the Managing Director has authority to postpone a visit.

Redlined Draft:

Rule 5: Site Evaluations

- (a) A site evaluation of a law school or of a program is a comprehensive examination of the law school or program conducted by one or more persons qualified to conduct site evaluations who:
 - (1) Review documents relating to the law school or program;
 - (2) Perform an on-site evaluation of the law school or program; and
 - (3) Prepare a factual report to be used by the Committee for purposes of making decisions or recommendations relating to accreditation status of the law school or program.
- (b) Site evaluations of law schools shall be conducted according to the following schedule:
 - (1) A site evaluation of a fully approved law school shall be conducted in the third year following the granting of full approval and every seventh year thereafter.
 - (2) A site evaluation of a provisionally approved law school shall be conducted

in accordance with subsection (g) below.

- (3) A site evaluation shall be conducted upon application by a law school for provisional approval.
- (c) The Council or Committee may order additional site evaluations of a law school when special circumstances warrant.
 - (d) In extraordinary circumstances, a site evaluation of a law school may be postponed ~~upon the request of the law school~~. In such cases, the postponement shall be at the discretion of the Managing Director in consultation with the chair of the Committee and shall not exceed one year.
 - (e) When a site evaluation of a law school is required under the Standards or these Rules, the Managing Director shall make the following arrangements:
 - (1) Schedule the site evaluation during the regular academic year, at a time when classes in the program of legal education are being conducted.
 - (2) Appoint a qualified site evaluation team of sufficient size to accomplish the purposes of the site evaluation, and appoint a chair of the site evaluation team;
 - (3) Provide the site evaluation team all relevant documents relating to Accreditation Committee and Council action regarding the law school;
 - (4) Provide the site evaluation team with any third-party comments received by the Managing Director's Office regarding the law school's compliance with the Standards;
 - (5) Provide the site evaluation team all complaints received under Rule 43 and not dismissed by the Managing Director or the Accreditation Committee; and
 - (6) Provide the site evaluation team with any necessary or appropriate directions or instructions.
 - (f) In connection with a site evaluation of a law school, the Managing Director shall direct the law school to provide the following documents to the site evaluation team before the site evaluation:
 - (1) All completed forms and questionnaires, as adopted by the Council; and
 - (2) In the case of a law school applying for provisional or full approval, the completed application for provisional or full approval.
 - (g) Site evaluations for provisionally approved law schools shall be conducted as follows:
 - (1) In years two and four, and upon application for full approval, the law school

shall be inspected in accordance with the rules for site evaluation of fully approved law schools.

- (2) The Accreditation Committee has the discretion to order a site evaluation in any other year. The Accreditation Committee may direct that the additional site evaluation be limited in scope.
- (h) Following a site evaluation, the site evaluation team shall prepare a written report on facts and observations that will enable the Committee to determine compliance with the Standards or other issues relating to the accreditation status of the law school. A site evaluation report shall not contain conclusions regarding compliance with Standards or make recommendations for action by the Committee or the Council.
- (i) The Managing Director shall review the report submitted by a site evaluation team and ensure that it complies with (h). The Managing Director shall then transmit the report to the president and the dean in order to provide an opportunity to make factual corrections and comments. The law school shall be given at least 30 days to prepare its response to the report, unless the law school consents to a shorter time period. The 30 day period shall run from the date on which the Managing Director transmits the report to the law school.
- (j) Following receipt of the law school's response to the site evaluation report, the Managing Director shall forward a copy of the report with the law school's response to members of the Accreditation Committee and the site evaluation team.
- (k) Site evaluations regarding foreign programs shall be conducted as provided under the:
 - (1) Criteria for Foreign Summer and Intersession Programs Offered by ABA-Approved Law Schools in a Location Outside the United States;
 - (2) Criteria for Approval of Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools.

Rule 10: Notice of Accreditation Decision by Other Agency

Explanation of Changes:

Rule 10(c) currently provides that a law school must complete and submit the Notice of State or Other Recognized Agency Action Form. This form does not exist so the proposed amendment deletes this provision.

Redlined Draft:

Rule 10: Notice of Accreditation Decision by Other Agency

- (a) An approved law school shall promptly inform the Managing Director of the following actions with respect to the law school:
- (1) Pending or final action by State agency to suspend, revoke, withdraw, or terminate legal authority to provide post-secondary education;
 - (2) Decision by recognized agency to deny accreditation or pre-accreditation;
 - (3) Pending or final action by recognized agency to suspend, revoke, withdraw, or terminate accreditation or pre-accreditation; or
 - (4) Probation or equivalent status imposed by recognized agency.
- (b) If the law school is part of a university, then the law school shall promptly inform the Managing Director of the above actions with respect to the university or any program offered by the university.
- ~~(c) A law school must complete and submit the Notice of State or Other Recognized Agency Action Form.~~
- ~~(c) (d)~~ The Council will not grant approval to a law school if the Council knows, or has reasonable cause to know, that the law school is subject to the actions in subsection (a), unless the Council can provide a thorough and reasonable explanation, consistent with the Standards, why the action of the other body does not preclude the Council's grant of approval. Such explanation will be provided to the Secretary of the Department of Education.
- ~~(d) (e)~~ If the Council learns that an approved law school is the subject of an adverse action by another recognized accrediting agency or has been placed on probation or an equivalent status by another recognized agency, the Council will promptly review its approval of the law school to determine if it should also take adverse action or place the law school on probation.
- ~~(e) (f)~~ The Council will, upon request, share with other appropriate recognized accrediting agencies and recognized State approval agencies information about the accreditation status of a law school and any adverse actions it has taken against a law school.

Rule 14: Actions on Determinations of Noncompliance with a Standard

Explanation of Changes:

Rule 14(a)(2) currently provides that the Committee can direct a law school representative to appear at a hearing to determine whether to impose sanctions. However, Rule 21

provides that at the hearing, the Committee may impose sanctions or direct specific remedial action. The proposed amendment adds “specific remedial action to Rule 14(a)(2) to be consistent with Rule 21.

Redlined Draft:

Rule 14: Actions on Determinations of Noncompliance with a Standard

- (a) Following a determination by the Committee of non-compliance with a Standard in accord with Rule 12(a)(4), the Committee shall:
 - (1) Require the law school to bring itself into compliance and submit information by a specific date to demonstrate that it has come into compliance with the Standard; and
 - (2) Direct that representatives of the law school, including any person specifically designated by the Committee, appear at a hearing to determine whether to impose sanctions or direct specific remedial action in connection with the law school’s non-compliance with the Standard.
- (b) The period of time by which a law school is required to demonstrate compliance with a Standard shall not exceed two years from the date of determination of noncompliance, except as provided for in subsection (c).
- (c) Upon request of the law school and for good cause shown, the Committee may extend the date of compliance or may recommend that the Council extend the date of compliance.

Rule 22: Council Consideration of Recommendation of Accreditation Committee

Explanation of Changes:

Rule 22 currently provides that a law school has a right to have representatives, including legal counsel, appear before the Council following a Committee recommendation to impose sanctions. The proposed amendment adds “specific remedial action” so that a law school has a right to have representatives appear on a Committee recommendation to direct specific remedial action since such action is proposed to be added to Rule to Rule 14(a)(2).

Redlined Draft:

Rule 22: Council Consideration of Recommendation of Accreditation Committee

- (a) A law school has a right to have representatives of the law school, including legal counsel, appear before the Council at a Council hearing following a Committee recommendation regarding (i) the law school’s application for provisional

approval, (ii) the law school's application for full approval, (iii) the law school's application for acquiescence in a major change under Rule 29(a)(1) – 29(a)(13), ~~and~~ (iv) the Committee's recommendation to impose sanctions following a hearing held in accordance with Rules 11(b) or 14(a)(2), and (v) the Committee's recommendation of specific remedial action.

- (b) The Managing Director in consultation with the Chair of the Council may set reasonable limitations on the number of law school representatives that may appear at a meeting and on the amount of time allotted for the appearance.
- (c) Except as permitted in subsection (a), a law school does not have a right to appear at a Council meeting, hearing or proceeding on any matter related to the accreditation of a law school.
- (d) The Chair of the Council may invite the Chair of the Accreditation Committee to appear at the hearing, if the Chair determines that such person could reasonably be expected to provide information helpful to the Committee. The Chair of the Accreditation Committee may not present new evidence unless the law school has the opportunity to respond to that new evidence.
- (e) The Managing Director or designee and any additional staff designated by the Managing Director shall be present at Accreditation Committee meetings and hearings. Legal Counsel for the Section may also be present at Accreditation Committee meetings and hearings.

Rule 23: Council Consideration of Appeal from Accreditation Committee Decision

Explanation of Changes:

Rule 23 currently provides that a law school may appeal a decision of the Accreditation Committee by filing a written appeal within 30 days after the date of the letter reporting the decision. If a law school does not file an appeal, the Committee's decision becomes final after the expiration of the 30-day appeal period. The proposed amendment would shorten the appeal period to 15 days so that the Council can comply with Department of Education requirements and IOP 4, requiring the Council to post a final decision to find a law school significantly out of compliance with one or more Standards under Rule 12(a)(4) no later than 30 days after the Committee reaches the decision. This change is necessary only if the reorganization of the Council does not move forward or is delayed as there would be no right to appeal a Rule 12(a)(4) decision of the Council.

Redlined Draft:

Rule 23: Council Consideration of Appeal from Accreditation Committee Decision

- (a) A law school may appeal a decision of the Committee by filing with the Managing Director a written appeal within ~~15~~ 30 days after the date of the letter reporting the Committee's decision.
- (b) The Council shall consider the appeal promptly and, when feasible, at its next regularly scheduled meeting.
- (c) A law school shall not have a right to appear before the Council in connection with the appeal.

Rule 24: Evidence and Record for Decision

Explanation of Changes:

The proposed amendment requires a law school to submit new evidence at least 30 days before the Council meeting, giving the Executive Committee sufficient time to review the evidence and make a determination whether the evidence will be accepted. Experience has shown that this decision is sometimes not made until the Council meeting.

Redlined Draft:

Rule 24: Evidence and Record for Decision

- (a) In any action on a recommendation of the Committee or in any appeal from a Committee decision, the Council shall adopt the Committee's findings of fact unless the Council determines that the findings are not supported by substantial evidence in the record.
- (b) In any action on a recommendation of the Committee or in any appeal from a Committee decision, the record on which the Council shall make its decision shall be the following:
 - (1) The record before the Committee on which the Committee based its decision or recommendation;
 - (2) The letter setting forth the Committee's decision or recommendation;
 - (3) The written appeal by the law school, if applicable;
 - (4) Any written submission by the Committee in response to an appeal, if applicable;
 - (5) Any testimony of the law school in a hearing or an appearance before the Council.
- (c) Except as specifically provided otherwise in these Rules, the law school shall not

present any evidence to the Council that was not before the Committee at the time of the Committee's decision or recommendation.

- (d) In any action on a recommendation of the Committee or in any appeal from a Committee decision, the Council will accept new evidence submitted by the law school only if the Executive Committee of the Council determines that:
- (1) The evidence was not presented to the Committee;
 - (2) The evidence could not reasonably have been presented to the Committee;
 - (3) A reference back to the Committee to consider the evidence would, under the circumstances, present a serious hardship to the law school;
 - (4) The evidence was submitted at least ~~30~~44 days in advance of the Council meeting; and
 - (5) The evidence was appropriately verified at the time of submission.

Rule 25: Decisions by the Council

Explanation of Changes:

Rule 25 does not specify when the decision of the Council will be effective. The proposed amendment adds a section that provides the decision of the Council will be effective upon issuance.

Redlined Draft:

Rule 25: Decisions by the Council

- (a) In any action on a recommendation of the Committee or in any appeal from a Committee decision, the Council shall give substantial deference to the conclusions, decisions, and recommendations of the Committee.
- (b) In any action on a recommendation of the Committee or in any appeal from a Committee decision, the Council may, as appropriate:
- (1) Affirm the Committee's decision or recommendation;
 - (2) Amend the Committee's decision or recommendation, including imposing any sanction regardless of whether the Committee has imposed or recommended any sanction;
 - (3) Reverse the Committee's decision or recommendation; or
 - (4) Remand the matter to the Committee for further proceedings.

- (c) If the Council remands a decision for further consideration or action by the Committee, the Council shall identify specific issues that the Committee must address.
- (d) The decision of the Council shall be effective upon issuance.

Rule 34: Teach-Out Plan

Explanation of Changes:

The proposed amendment requires review of a teach-out plan by the Council instead of the AC and Council. This will allow for a quicker review of the plan given the time sensitive nature of the process.

Redlined Draft:

Rule 34: Teach-Out Plan

- (a) If a provisional or fully approved law school decides to cease operations or close a branch campus, the law school shall promptly make a public announcement of the decision and shall notify the Managing Director, the appropriate state licensing authority, and the United States Department of Education of the decision.
- (b) A provisional or fully approved law school must submit a teach-out plan for approval upon occurrence of any of the following events:
 - (1) The law school notifies the Managing Director's Office that it intends to cease operations or close a branch campus;
 - (2) The Accreditation Committee recommends, or the Council acts to withdraw, terminate, or suspend, the accreditation of the law school;
 - (3) The United States Secretary of Education notifies the Managing Director's Office that the Secretary has initiated an emergency action against an institution, in accordance with section 487(c)(1)(G) of the HEA, or an action to limit, suspend, or terminate an institution participating in any title IV, HEA program, in accordance with section 487(c)(1)(F) of the HEA, and that a teach-out plan is required;
 - (4) A state licensing or authorizing agency notifies the Managing Director's Office that an institution's license or legal authorization to provide an educational program has been or will be revoked.
- (c) The law school shall submit the teach-out plan for the law school or branch being closed as required by paragraph (b) to the Managing Director's Office within the time specified by the Managing Director. The Managing Director's Office, in

- consultation with the Chair of the ~~Accreditation Committee~~ Council, may require a law school to enter into a teach-out agreement as part of its teach-out plan.
- (d) A law school must submit the “Teach-Out Plan Approval Form,” as adopted by the Council, and address each item in the form.
 - (e) If a law school voluntarily enters into a teach-out agreement or if the Managing Director requires a law school to submit a teach-out agreement as part of a teach-out plan, the law school must submit the “Teach-Out Agreement Approval Form,” as adopted by the Council, and address each criterion in the form.
 - (f) The ~~Accreditation Committee~~ Council will promptly review a teach-out plan submitted in accordance with (b) and (c) and shall ~~recommend approval or denial~~ approve or deny of the plan ~~by the Council~~.
 - (1) Approval of the teach-out plan may be conditioned on specified changes to the plan.
 - (2) If the teach-out plan is denied, the law school must revise the plan to meet the deficiencies identified and resubmit the plan no later than 30 days after receiving notice of the decision.
 - (g) Upon approval of a teach-out plan of a law school or branch that is also accredited by another recognized accrediting agency, the Managing Director’s Office shall notify that accrediting agency within 30 days of its approval.
 - (h) Upon approval of a teach-out plan, the Managing Director shall within 30 days notify all recognized agencies that accredit other programs offered by the institution of which the law school is a part.
 - (i) In the event a law school closes without an approved teach-out plan or agreement, the Managing Director’s office will work with the United States Department of Education and the appropriate State agency, to the extent feasible, to assist students in finding reasonable opportunities to complete their education without additional charges.

Rule 52: Disclosure of Decision Letters

Explanation of Changes:

The proposed amendment deletes Rule 52(a) because it is already addressed in Rule 49.

Redlined Draft:

Rule 52: Disclosure of Decision Letters

~~(a) — Except as provided in Rule 53, decisions and recommendations of the Committee and Council shall be confidential.~~

~~(b)~~(a) If the law school makes public a decision or recommendation of the Committee or Council, the law school must make public the entire decision or recommendation.

- (1) If the law school makes public a decision or recommendation of the Committee or Council, the law school must notify the Managing Director at or before the time of the disclosure.
 - (i) The Managing Director, in consultation with the Chair of the Council, may subsequently correct any inaccurate or misleading information released or published by the law school in connection with the disclosure or the decision or recommendation.
 - (ii) A corrective communication by the Managing Director may include the disclosure of portions of the site evaluation report or the entire site evaluation report.
- (2) Discussion of the contents of a decision or recommendation with, or release of the report to, the faculty, the university, or the governing board of the university or law school, does not constitute release of the decision or recommendation to the public within the meaning of this Rule.

Appendix B

Proposed Changes to Rule 53 Approved for Notice and Comment

Rule 53. Applications, Decisions, and Recommendations Made Public

Explanation of Changes:

The Council proposes three changes to Rule of Procedure 53, which addresses when accreditation matters, generally confidential under Rule 49, may or shall be made public. These proposed changes are to promote transparency in the accreditation process.

One proposed change adds the submission of a teach-out plan (see Rule 34) to Rule 53 in two places. First, it includes the submission of a teach-out plan in the list of requests or submissions that shall be made public when filed by a law school in Rule 53(a). Second, it adds the Council's conclusion and decision on a teach-out plan to the list of conclusions and decisions that must be made public following Council action and notification to the law school of that action in Rule 53(c).

A second proposed change clarifies and makes specific the requirements of Rules 53(b) and (c) that the Managing Director make public, after notice of the decision to a school, an Accreditation Committee or Council decision of significant non-compliance with a Standard under Rule 12(a)(4). This aligns the Rule with the requirements of the United States Department of Education, to which the Council is subject, and the provisions of Council Internal Operating Practice 4.

Finally, for accreditation matters that have been made public regarding the status of a law school, the proposed new Rule 53(e) clarifies the Managing Director's ability to comment on these matters.

Redlined Draft:

Rule 53: Applications, Plans, Decisions, and Recommendations Made Public

- (a) When a law school has applied for provisional or full approval, acquiescence in a major change, or a variance, or has submitted a teach-out plan for approval, the ~~Council~~ or the Managing Director shall provide public notice:
- (1) That the law school has submitted an application or plan; and
 - (2) Of the procedural steps for consideration of the application or plan.
- (b) After a law school has been notified of the Committee's decision or recommendation, the Managing Director may state publicly the conclusions of the Committee and its decision or recommendation, with an explanation of the

procedural steps in further consideration of the matter, concerning:

- (1) The law school's application for provisional or full approval;
 - (2) The law school's application for acquiescence in a major change;
 - (3) The law school's application for a variance;
 - (4) The imposition of sanctions or specific remedial action on the law school;
 - (5) The placing of the law school on probation; ~~or~~
 - (6) The withdrawal of the law school's approval; or
 - (7) The law school's significant non-compliance with one or more Standards under Rule 12(a)(4).
- (c) After a law school has been notified of the Council's decision, the Managing Director shall provide public notification of the Council's conclusions and decision (except as to a sanction that is explicitly not public), with an explanation of any procedural steps for further consideration of the matter, concerning:
- (1) The law school's application for provisional or full approval;
 - (2) The law school's application for acquiescence in a major change;
 - (3) The law school's application for a variance;
 - (4) The imposition of sanctions or specific remedial action on the law school;
 - (5) The placing of the law school on probation; ~~or~~
 - (6) The withdrawal of the law school's approval; ~~;~~
 - (7) The law school's significant non-compliance with one or more Standards under Rule 12(a)(4); or
 - (8) The law school's submission of a teach-out plan.
- (d) After a matter concerning a law school has been acted upon by an Appeals Panel, the ~~Council or the~~ Managing Director shall provide public notification of the conclusions and decision of the Appeals Panel.

- (e) After a law school has received a decision from the Committee or Council, the Managing Director, with the concurrence of the Council Chair, may issue a public statement in writing or orally to address other matters related to the accreditation of the school, to confirm or deny any media report on the law school's accreditation or matters related to that accreditation, or to respond to an inquiry from the public.