Memorandum

To: The Council

From: The Standards Review Committee

Date: November 5, 2019

Re: Proposed Changes to the Standards, Rules, and Internal Operating Procedures based on Newly Adopted Department of Education Regulations

This Memorandum consists of four parts. The first part, A, provides proposed changes to the ABA Standards and Rules of Procedures of Approval of Law Schools in response to the new Department of Education (DE) regulations from the Standards Review Committee of the Council (SRS). If approved by the Council, they will be sent out for Notice and Comment.

Part B provides the necessary changes to the Internal Operating Procedures in response to the new regulations. These proposed changes are not subject to Notice and Comment.

Part C lists those Standards and Rules that will require revision based on the DE regulations, but the SRS recommends waiting until the Department issues guidance memoranda. Consequently, no action is recommended at this time.

Part D indicates the SRS’s determination that the current Standards and Rules are sufficient to meet the new requirements.

A. Proposed Changes to the Standards and Rules

1. Retroactive application of accrediting decisions
2. Provisional approval
3. Substantive change
4. Appeal

1. Retroactive Application of Accrediting Decisions

Explanation of Changes:
The Department now wants all accreditors to publish any policies for retroactive application of an accrediting decision. Since we do not have retroactive application, we need to clarify that our decisions are not retroactive.

Redline:

Rule 11: Proceedings to Determine Compliance with Standards in General

(a) In a proceeding to determine accreditation status or compliance with the Standards within the jurisdiction of the Council under Rule 2, the Council may:

1. Conclude that the law school is in compliance with a Standard or all of the Standards;
2. Request or gather further information that will enable the Council to determine compliance with one or more Standards;
3. Conclude that the Council has reason to believe that a law school has not demonstrated compliance with the Standards;
4. Conclude that the law school is not in compliance with a Standard; or
5. Direct the Managing Director to appoint a fact finder.

(b) In the event the Council requests or gathers further information or appoints a fact finder in accordance with Rule 11(a) upon receipt of the law school’s response or any fact-finding report, the Council must find the law school in compliance or not in compliance with the Standards for which information was requested or gathered, absent clearly articulated special circumstances. In the event of such special circumstances, the Council may request or gather further information pursuant to Rules 11(a)(2), 11(a)(3), or 11(a)(5).

(c) A determination by the Council under this rule shall be effective upon issuance and is not retroactive.

2. Provisional Approval

Explanation of Changes:

In the past, the Council has taken the position that it does not preaccredit law schools. The Department is proposing the following new definition:

Preaccreditation means the status of accreditation and public recognition that a nationally recognized accrediting agency grants to an institution or program for a limited period of time that signifies the agency has determined that the institution or program is progressing toward
full accreditation and is likely to attain full accreditation before the expiration of that limited period of time.

Given the new definition, we believe that provisional approval is preaccreditation, requiring us to meet additional requirements under the Department regulations, including requiring all provisionally approved schools to submit a teach-out plan, allowing schools that are denied provisional approval to maintain accreditation in order to teach out students, and preventing schools from moving from accredited status to preaccredited status. This will require changes to Rule 22 and Standards 102 and 103.

Redline:

**Rule 22: Application for Provisional or Full Approval**

(a) A law school seeking provisional or full approval shall file with the Managing Director a written notice of intent to seek approval.

(1) The notice shall be filed no later than March 15 in the academic year prior to the academic year in which the law school will apply for approval and shall indicate the law school’s preference for a fall or spring site evaluation visit.

(2) Upon receipt of written notice of a law school’s intent to seek provisional or full approval, the Managing Director shall arrange for a site evaluation as provided under Rule 4.

(3) A law school may not apply for provisional approval until it has completed the first full academic year of operating a full-time program of legal education.

(4) A provisionally approved law school may apply for full approval no earlier than two years after the date that provisional approval was granted.

(5) Upon notice to the Managing Director of its intent to seek provisional approval, a law school seeking provisional approval shall comply with Standard 102(f) regarding communication of its status.

(b) The application for provisional or full approval is due at least eight weeks prior to the scheduled site evaluation visit and must contain:

(1) A letter from the dean certifying that the law school has completed all of the requirements for seeking provisional or full approval or that the law school seeks a variance from specific requirements of the Standards and that the law school has obtained the concurrence of the president in the application;

(2) All completed forms and questionnaires, as adopted by the Council;

(3) In the case of a law school seeking provisional approval, a copy of a feasibility study that evaluates the nature of the educational program and goals of the law school, the profile of the
students who are likely to apply, and the resources necessary to create and sustain the law school, including relation to the resources of a parent institution, if any;

(4) In the case of a law school seeking provisional approval, a copy of a teach-out plan in accordance with Rule 29, that includes the names of other law schools that could enter into a teach-out agreement with the law school.

(45) A copy of the self study;

(56) Financial operating statements and balance sheets for the last three fiscal years, or such lesser time as the institution has been in existence. If the applicant is not a publicly owned institution, the statements and balance sheets must be certified;

(67) Appropriate documents detailing the law school and parent institution’s ownership interest in any land or physical facilities used by the law school;

(78) A request that the Managing Director schedule a site evaluation at the law school’s expense; and

(89) Payment to the Section of any required fee.

(c) A law school must demonstrate that it or the university of which it is a part is legally authorized under applicable state law to provide a program of education beyond the secondary level.

(d) A law school shall disclose whether an accrediting agency recognized by the United States Secretary of Education has denied an application for accreditation filed by the law school, revoked the accreditation of the law school, or placed the law school on probation. If the law school is part of a university, then the law school shall further disclose whether an accrediting agency recognized by the United States Secretary of Education has taken any of the actions enumerated above with respect to the university or any program offered by the university. As part of such disclosure, the law school shall provide the Managing Director with information concerning the basis for the action of the accrediting agency.

Standard 102. PROVISIONAL APPROVAL

(a) The Council shall grant provisional approval to a law school if at the time the school seeks such approval it demonstrates that it has achieved substantial compliance with the Standards and presents a reliable plan for bringing the law school into full compliance with each of the Standards within three years after receiving provisional approval. In order to demonstrate that it has a reliable plan to come into full compliance with the Standards within three years after receiving provisional approval, a law school must clearly state the specific actions that it plans to take to bring the school into full compliance and demonstrate that there is a reasonable probability that such actions will be successful. A provisionally approved law school may apply for full approval no earlier than two years after receiving provisional approval and must obtain full approval within five years after receiving provisional approval.

(b) The Council may withdraw provisional approval if the Council determines that the law school is no longer in substantial compliance with the Standards, is not making adequate progress toward achieving
full compliance with each of the Standards, or is no longer able to demonstrate that there is a reasonable probability that the school will achieve full compliance with each of the Standards within the allotted time frame.

(c) If five years have elapsed since the law school was provisionally approved and the Council has not granted full approval, provisional approval shall terminate, except that the Council may extend provisional approval to allow the law school to complete a teach-out plan. Before the end of the five-year period in an extraordinary case and for good cause shown, the Council may extend the time within which the law school must obtain full approval.

(d) A provisionally approved law school shall not offer a post-J.D. degree program or other non-J.D. degree program, offer a program in a country outside the United States, or seek to establish a separate location.

(e) A provisionally approved law school shall state that it is provisionally approved in all of its printed and electronic materials describing the law school and its program and in any other publication that references the law school’s approval by the Council.

(f) A law school seeking provisional approval shall make its status clear in any printed and electronic materials describing the law school and its program and in any other publication that references the law school’s approval status. At a minimum, the law school shall state the following in all such communications:

   The law school is not currently approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association and makes no representation to any applicant that it will receive approval from the Council before the graduation of any matriculating student.

(g) A law school seeking provisional approval shall not delay conferring a J.D. upon a student in anticipation of obtaining approval. An approved law school may not retroactively grant a J.D. degree as an approved school to a student who graduated from the law school before its approval.

Standard 103. FULL APPROVAL

(a) The Council shall grant full approval to a provisionally approved law school if at the time the school seeks such approval it demonstrates that it is in full compliance with each of the Standards. Plans to achieve full compliance with any Standard are not sufficient to demonstrate full compliance.

(b) A law school granted full approval under this Standard remains approved unless the Council withdraws that approval.

(c) Once a law school is granted full approval, the Council shall not move the law school to provisional approval, unless, following the loss of approval, the law school reapplies for and is granted provisional approval.

3. Substantive Change
Explanation of Changes:

The Department has added two items (the addition of graduate programs of study by an institution that previously offered only undergraduate programs or certificates, and the addition of each direct assessment program) that must be included in the definition of substantive change. Until we receive clarification from the Department that we are not required to include these items as they would not be applicable to law schools, the items must be added. Also, the Department added additional items of substantive change requiring a school on probation or equivalent status to seek prior approval. The recommended language prevents a school on probation or equivalent status from receiving acquiescence for a substantive change, unless the law school can show the substantive change will assist the law school in making progress toward achieving full compliance.

Redline:

Rule 24: Application for Acquiescence in Substantive Change

(a) Substantive changes requiring application for acquiescence include:

(1) Acquiring another law school, program, or educational institution;

(2) Acquiring or merging with another university by the parent university where it appears that there may be substantial impact on the operation of the law school;

(3) Transferring all, or substantially all, of the program of legal education or assets of the approved law school to another law school or university;

(4) Merging or affiliating with one or more approved or unapproved law schools;

(5) Merging or affiliating with one or more universities;

(6) Materially modifying the law school’s legal status or institutional relationship with a parent institution;

(7) A change in control of the law school resulting from a change in ownership of the law school or a contractual arrangement;

(8) A change in the location of the law school that could result in substantial changes in the faculty, administration, student body, or management of the law school;

(9) Establishing a branch campus;

(10) Establishing a separate location other than a branch campus;

(11) A significant change in the mission or objectives of the law school;
(12) The addition of courses or programs that represent a significant departure from existing offerings or method of delivery since the latest site evaluation including instituting a new full-time or part-time division, or establishing a new or different program leading to a degree other than a J.D. degree;

(13) The addition of a permanent location at which the law school is conducting a teach-out for students at another law school that has ceased operating before all students have completed their program of study;

(14) Contracting with an educational entity that is not certified to participate in Title IV, HEA programs, that would permit a student to earn 25 percent or more of the course credits required for graduation from the approved law school;

(15) The addition of graduate programs of study by an institution that previously offered only undergraduate degrees or certificate programs. Establishing a new or different program leading to a certificate or degree other than the J.D. degree;

(16) A change in program length measurement from clock hours to credit hours; and

(17) A substantial increase in the number of clock or credit hours required for graduation; and

(18) The addition of each direct assessment program.

(b) An application for acquiescence in a substantive change shall consist of the following:

(1) All completed forms and questionnaires, as adopted by the Council;

(2) A letter from the dean certifying that the law school has completed all of the requirements for requesting acquiescence in a substantive change and that the law school has obtained the concurrence of the president in the application;

(3) A copy of the law school’s most recent self study or an updated self study if the most recent self study is more than three years old where the application is for acquiescence in a substantive change described in Rule 24(a)(1) through 24(a)(13);

(4) A description of the proposed change and a detailed analysis of the effect of the proposed change on the law school’s compliance with the Standards;

(5) Payment to the Section of the application fee.

(c) The Managing Director shall appoint a fact finder in connection with an application for acquiescence in a substantive change, except that no fact finder is required if the Managing Director and the Chair of the Council determine that the application does not require additional information to assist Council determination of the question of acquiescence.

(d) When the Council grants acquiescence in a substantive change under Rules 24(a)(1) through 24(a)(9), the Managing Director shall appoint a fact finder subsequent to the effective date of acquiescence as provided in Rule 25(e). The Council also may direct appointment of a fact finder
subsequent to the effective date of acquiescence in a substantive change under Rules 24(a)(10) through 24(a)(17) for purposes of determining whether the law school remains in compliance with the Standards. When the Council grants acquiescence under Rule 24(a)(10) in a separate location at which the law school offers more than 50% of the law school’s program of legal education, the Managing Director shall appoint a fact finder to conduct a visit within six months of the effective date of acquiescence or in the first academic term subsequent to acquiescence in which students are enrolled at the separate location.

(e) In addition to satisfying the requirements of Rule 24(b), an application for acquiescence shall contain information sufficient to allow the Council to determine whether the substantive change is so significant as to constitute the creation of a new or different law school. If the Council that the substantive change constitutes the creation of a new or different law school, then it shall require that the school apply for provisional approval under the provisions of Standard 102 and Rule 22. Factors that shall be considered in making the determination of whether the substantive change is so significant as to constitute the creation of a new or different law school include, without limitation:

1. the financial resources available to the law school;
2. a significant change, present or planned, in the governance of the law school;
3. the overall composition of the faculty and staff at the law school;
4. the educational program offered by the law school; and
5. the location or physical facilities of the law school.

(f) A law school’s approval status remains unchanged following acquiescence in any substantive change.

(g) A law school’s request for acquiescence in the proposed substantive change in organizational structure shall be considered under the provisions of Rule 25, and will become effective upon the decision of the Council. The decision of the Council may not be retroactive.

(h) A Law School shall not receive acquiescence in a substantive change if the law school is on probation or equivalent status, has been subject to such action by the Council over the prior three academic years, or is under a provisional certification under Title IV of the Higher Education Act of 1965, as amended, unless the law school can show the substantive change will assist the law school in making progress toward achieving full compliance.

**Standard 105. Acquiescence for Substantive Change in Program or Structure**

(a) Before a law school makes a substantive change in its program of legal education or organizational structure, it shall obtain the acquiescence of the Council for the change. A substantive change in program or structure that requires application for acquiescence includes:

1. Acquiring another law school, program, or educational institution;
(2) Acquiring or merging with another university by the parent university where it appears that there may be substantial impact on the operation of the law school;

(3) Transferring all, or substantially all, of the program of legal education or assets of the approved law school to another law school or university;

(4) Merging or affiliating with one or more approved or unapproved law schools;

(5) Merging or affiliating with one or more universities;

(6) Materially modifying the law school’s legal status or institutional relationship with a parent institution;

(7) A change in control of the school resulting from a change in ownership of the school or a contractual arrangement;

(8) A change in the location of the school that could result in substantial changes in the faculty, administration, student body, or management of the school;

(9) Establishing a branch campus;

(10) Establishing a separate location;

(11) A significant change in the mission or objectives of the law school;

(12) The addition of courses or programs that represent a significant departure from existing offerings or method of delivery since the latest site evaluation including instituting a new full-time or part-time division; or establishing a new or different program leading to a degree other than a J.D. degree;

(13) The addition of a permanent location at which the law school is conducting a teach-out for students at another law school that has ceased operating before all students have completed their program of study;

(14) Contracting with an educational entity that is not certified to participate in Title IV, HEA programs, that would permit a student to earn 25 percent or more of the course credits required for graduation from the approved law school;

(15) The addition of graduate programs of study by an institution that previously offered only undergraduate degrees or certificate programs; establishing a new or different program leading to a degree other than the J.D. degree;

(16) A change in program length measurement from clock hours to credit hours; and

(17) A substantial increase in the number of clock or credit hours required for graduation; and

(18) The addition of each direct assessment program.
(b) The Council shall grant acquiescence only if the law school demonstrates that the change will not detract from the law school’s ability to remain in compliance with the Standards.

(c) A law school may not apply for acquiescence in a substantive change if the law school is on probation or equivalent status, has been subject to such action by the Council over the prior three academic years, or is under a provisional certification under Title IV of the Higher Education Act of 1965, as amended, unless the law school can show the substantive change will assist the law school in making progress toward achieving full compliance.

4. Appeal

Explanation of Changes:

The Department removed reversal as an option available to the appeals panel to ensure that an accredditor’s board is able to fully re-evaluate its original decision upon remand, whereas a reversal prohibits that re-evaluation.

Redline:

Rule 39: Decision of the Proceeding Panel

(a) The Proceeding Panel shall issue a written decision no later than 30 days following the hearing. The decision shall state specifically the grounds upon which it is based.

(b) The Proceeding Panel, following a hearing, has the authority to:

(1) Affirm the decision of the Council;

(2) Amend the decision of the Council; or

(3) Remand the decision of the Council for further consideration.

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

(d) Decisions by the Proceeding Panel under (b)(1) and (2) are final and not appealable.

(e) When the only remaining deficiency cited by the Council in support of an adverse decision is a law school’s failure to meet the Standards dealing with financial resources for a law school, the law school may request a review of new financial information that was not part of the record before the Council at the time of the adverse decision if all of the following conditions are met:

(1) A written request for review is filed with the Office of the Managing Director within 30 days after the date of the letter reporting the adverse decision of the Council to the law school;
The financial information was unavailable to the law school until after the adverse decision subject to the appeal was made; and

(3) The financial information is significant and bears materially on the financial deficiencies that were the basis of the adverse decision by the Council.

(f) The request to review new financial information will be considered by the Council at its next meeting occurring at least 30 days after receipt of the request.

(g) A law school may request review of new financial information only once and a decision made by the Council with respect to that review does not provide a basis for appeal.

B. Proposed Changes to the Internal Operating Practices

1. Notice of Decisions
2. Notice to Department
3. Maintenance of Records

1. Internal Operating Practice 5. Notice of Decisions

Explanation of Changes:

The Department of Education’s new regulations give agencies longer than 30 days to provide notice of a final decision of probation or equivalent status, acknowledging that it may take longer than 30 days for an accreditor to prepare the written decision and have it reviewed for accuracy and legal sufficiency before issuing it to an institution or program. In addition, upon receipt of such a decision, an institution or program must disclose such action within seven business days of receipt of the decision to all current and prospective students. Finally, the Department replaced “24 hours” with “one business day” to clarify that accreditors are not required to make notifications on weekends or holidays.

The new regulations also reduce the time from 30 days to 10 business days in which an accrediting agency must notify the Secretary if an institution or program decides to voluntarily withdraw from accreditation or let its accreditation lapse.

Redline:


The Managing Director’s Office shall:

(a) Provide written notification to the Secretary of the Department of Education, the appropriate state licensing agency, and other appropriate accrediting agencies, at the same time the Managing Director’s Office notifies the Law school in writing of any 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 significant non-compliance with one or more Standards under Rule 11(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, other appropriate accrediting agencies, and the public within thirty (30) days of:

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

(ii)(c) Provide written notification to the Secretary of the Department of Education, the appropriate state licensing agency, other appropriate accrediting agencies, and the public within ten (10) business days if:

(ii) receiving notification from a decision by an approved or provisionally approved law school of its decision to withdraw from approved or provisionally approved status; or

(iii) receiving notification from an approved or provisionally approved law school of its decision to allow its approval or provisional approval to lapse.

(c)(d) Provide written notification to the public within 24 hours one business day of the time the Managing Director’s Office notifies the law school in writing of any 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 significant non-compliance with one or more Standards under Rule 11(a)(4).

(d)(e) 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.

(f) Require a law school to provide written notification to current and prospective students of any decision to deny, withdraw, suspend, or remove the approval or provisional approval of the law school within seven business days of receipt of the decision.

2. Internal Operating Practice 6. Notice to Department

Explanation of Changes:

The Department replaced the requirement that an accreditor provide to the Department a copy of any annual report and a copy of its directory of accredited institutions and programs with a requirement that an accreditor provide an annual list of accredited institutions and programs, in order to reduce administrative burden and the size of an accreditors’ submission.
The Department clarified accredits enforcement obligations by identifying areas that are the responsibility of the Department to enforce, but requiring the accredits to notify the Department if it identifies potential instances of non-compliance.

For accreditors that have the approval of distance education J.D. programs in the scope of their authority, the Department regulations require that an accredits must monitor the headcount enrollment of each institution it has accredited that offers distance education. If any such institution has experienced an increase in headcount enrollment of 50% or more within one institutional fiscal year, the agency must report that information to the Secretary within 30 days of acquiring such information. Proposed changes below address this requirement.

Redline:

6. Submission of Information to Secretary of Education

(a) The Council shall submit to the Department of Education:

(a) the Section’s Annual Report;

(1) (b) the name of any school for which the Council is an institutional accredits 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(s) for the Council’s concern;

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

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

(3) (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 or HEA responsibilities, including requests for decision letters, site reports, transcripts, or related correspondence; and

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

(b) The Council shall provide written notification to the Department of Education of identified instances or potential instances of non-compliance with the following requirements under Title IV of the Higher Education act of 1965, as amended:

(1) Program participation agreements;
(2) Standards of financial responsibility;
(3) Standards of administrative capability;
(4) Disclosure of information to students;
(5) Annual security reporting; or
(6) Crime statistics reporting.
(c) The Council shall provide written notification to the Department of Education that a law school for
which the Council is an institutional accreditor, and that offers a distance education J.D. program, has an
increase in headcount of 50% or more within one fiscal year, within 30 days of receiving such data.

3. Internal Operating Practice 7. Maintenance of Records

Explanation of Changes:

To reduce administrative burden, the Department now requires that agencies do not have to retain
every record of conversations or interim decisions when superseded by a final decision or
determination.

Redline:

7. Maintenance of Records

The Managing Director’s Office shall maintain a complete set of records for a period to cover at least the
last two reviews of a law school or a law school’s programs. The records shall include site evaluation and
fact finder reports, law school responses to site evaluation and fact finder reports, the law school’s most
recent self-study, and any other reports and responses related to the review of a law school. Periodic
review reports, including the law school’s completed annual questionnaire, shall be retained for a period
of one accreditation review.

The Managing Director’s Office shall maintain the following records indefinitely: Council decision letters,
Appeals Panel decision letters, the former Accreditation Committee decision letters, and the law
school’s responses to such decision letters, and all other correspondence significantly related to those
decisions.

C. Anticipate Revisions Once the Department Issues Guidance

1. Arbitration. The Secretary does not recognize the accreditation of an institution unless the institution
agrees to submit any dispute involving an adverse action to initial arbitration before initiating other legal
action. The Department wants to increase awareness of this provision.

   Working Group Recommendation: While this is a requirement under the current regulations,
   not all accrediting bodies have standards on arbitration. It is not entirely clear what the DE
   requires. Consequently, we should await guidance from the DE.

2. Teach Out. A new definition of teach-out has been added to clarify the types of activities that qualify
as a teach-out. The definition prohibits an institution from engaging in misrepresentation about the
nature of teach outs. In addition, the regulations (602.24) for teach-out have been revised to provide
additional specificity and clarity to the requirements regarding teach-out plans and agreements.

   Working Group Recommendation: Additional guidance is expected from the Department if the
   proposed DE regulations are approved. We should await that guidance before revising the
   relevant standards and rules.
3. **Enforcement of Standards.** The Department has extended the period to come into compliance to four years (602.20). In addition, the Department wants written policies for granting good cause extensions, and written policies for evaluating and approving monitoring reports (what we would consider report backs). This will require the preparation of written policies as well as consideration of the extension of time.

**Working Group Recommendation:** As with the teach out provisions, more guidance from the Department is expected on requiring written policies for granting good cause. We should await that guidance before developing the policies.

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**D. Current Standards and Rules Are Sufficient**

1. **Information from other sources.** (602.17(e)) The Department wants agencies to “substantiate” other information used in the review of a school. The issue is whether our current Rule 5(a) meets this requirement (Council shall use information otherwise “deemed reliable” by the Council for its review).

**Working Group Recommendation:** Current Rule 5(a) is sufficient.

2. **Credit hour.** The Department removed the provisions regarding a specific type of review of credit hour policies, but the definition remains.

**Working Group Recommendation:** Continue at the present time with the current policy of reviewing credit hour definitions and policies during the site visit process.

3. **Third-Party Comments.** The Department wants agencies to take into account “and be responsive” to any comments on proposed changes to Standards.

**Working Group Recommendation:** The process followed by the Council in proposing and adopting changes to the ABA Standards and Rules includes notice and comment period and final recommendations to the Council include responses to comments received. No changes needed at this time.

4. **Non-JD and Certificates** (602.22). The Department has clarified that the “addition of a program of study at a credential level” applies to the addition of graduate programs by an institution that previously offered only undergraduate programs or certificates. The issues is whether we want to continue to review and acquiesce in these programs or certificates.

**Working Group Recommendation:** Continue with our current practice. In the meantime, work with the Non-JD Committee to develop a comprehensive approach to reviewing certificate programs and non-JD degrees.

5. **Self-Study** (602.17(b)). The Department refined the regulation on self-study to focus on continuous improvement. The self-study process now must assess an institution’s or program’s success in meeting its mission and objectives.

**Working Group Recommendation:** Current Standard 204, coupled with current Standard 315, satisfies the Department of Education’s proposed changes to self-study. Going forward,
however, the SRS is of the view that law schools would benefit from greater clarity about the scope of Standard 204, as well as its relationship to Standard 315.

6. **Variance (602.18)** The Department has provided safe harbors to agencies in support of innovation and to address hardship without jeopardizing recognition as an accreditor.

   **Working Group Recommendation:** The current Standard already has a “hardship” provision without the requirement of innovation. No action is necessary.

7. **Substantive Change (602.22).** The Department clarified that an accreditor’s definition of substantive change must cover high-impact, high-risk changes, including all items listed in the regulation.

   **Working Group Recommendation:** The regulation on substantive change provides that the definition of substantive change must cover high-impact, high risk changes in mission. The final rule corrected this error. No action necessary.

8. **Delegation:** The Department permits authority to approve substantive changes set out in our Rule 24/Standard 105 (a)(12) to (14), (16), and (17) to be delegated to senior staff by the Council.

   **Working Group Recommendation:** No action at this time but reconsider at a later time.