American Bar Association  
Section of Legal Education and Admissions to the Bar

MEMORANDUM

TO: Interested Persons and Entities

FROM: Jeffrey Lewis, Council Chair  
Barry A. Currier, Managing Director of Accreditation and Legal Education

DATE: June 17, 2019

SUBJECT: ABA Standards and Rules of Procedure – Matters for Notice and Comment

At its meeting held on May 16-18, 2019, the Council of the Section of Legal Education and Admissions to the Bar approved for Notice and Comment proposed revisions to the following Standards and Rules of Procedure of the ABA Standards and Rules of Procedure for Approval of Law Schools:

- Standard 202. Resources for Program
- Standard 206. Diversity and Inclusion
- Standard 307. Studies, Activities, and Field Placements Outside the United States
- Standard 310. Determination of Credit Hours for Coursework
- Standard 311. Academic Program and Academic Calendar
- Standard 502. Educational Requirements
- Standard 509. Required Disclosures
- Rule 13. Actions on Determinations of Noncompliance with a Standard
- Rule 29. Teach-Out Plan
- Rules 30-36. Appeals Panel Procedure
- Rule 37. Complaints in General
- Rule 39. Disposition of Complaints

All proposed revisions and accompanying explanations are published on the Section’s website: http://www.americanbar.org/groups/legal_education/resources/notice_and_comment.html.

We solicit and encourage written comments on all the proposals listed above. A hearing on the proposed changes is scheduled for Wednesday, August 21, 2019, at 1 p.m. The hearing will be held at the Park Hyatt Chicago (800 N. Michigan Ave., Chicago, IL 60611).

Please address written comments on the proposals to Dean Emeritus and Professor Jeffrey Lewis, Council Chair. Please send comments and requests to speak at the hearing to Mary Kearin (mary.kearin@americanbar.org) by Monday, July 17, 2019.

Requests to speak at the hearing received after July 17, 2019, will be accommodated if possible. Written comments received after July 17, 2019, may not be included in the materials considered by the Council at its August 22-24, 2019 meeting.
Standard 202 Resources for Program

Explanation of Changes:

The Council proposes changes to Standard 202 which clarify a university's responsibility under the Standard to provide an accounting of all the charges and costs by the university against the resources generated by the law school. Proposed Interpretation 202-2, which is new, makes clear that the Standard anticipates line-item specificity in the accounting.

Redlined Draft:

Standard 202. RESOURCES FOR PROGRAM

(a) The current and anticipated financial resources available to the law school shall be sufficient for it to operate in compliance with the Standards and to carry out its program of legal education.

(b) A law school that is part of a university shall obtain at least annually from its university an accounting and explanation for all charges and costs assessed against resources generated by the university against law school and for any use of resources generated by the law school to support non-law school activities and central university services.

(c) A law school is not in compliance with the Standards if its current financial condition has a negative and material effect on the school's ability to operate in compliance with the Standards or to carry out its program of legal education.

(d) A law school is not in compliance with the Standards if its anticipated financial condition is reasonably expected to have a negative and material effect on the school’s ability to operate in compliance with the Standards or to carry out its program of legal education.

(e) A law school shall be given the opportunity to present its recommendations on budgetary matters to the university administration before the budget for the law school is submitted to the governing board for adoption.

Interpretation 202-1

“Resources generated by the law school” include law school tuition and fees generated by the law school, appropriated support, endowment income restricted to the law school, restricted an unrestricted gifts to the law school, and any other revenue generated by the law school, including but not limited to revenue from grants, contracts, and property of the law school.

Interpretation 202-2
A law school satisfies Standard 202(b) if the accounting identifies resources generated by the law school, all charges and costs assessed by the university, and the general disposition of any surplus or source of any deficit. It is anticipated that such an accounting would provide line-item specificity with regard to resources generated and charges and costs.

Standard 206 Diversity and Inclusion

Explanation of Changes:

The Council proposed an additional interpretation to Standard 206 that would provide greater clarity to law schools with respect to the scope of the Standard, and which is consistent with current practice of the Council.

Redlined Draft:

Standard 206. DIVERSITY AND INCLUSION

(a) Consistent with sound legal education policy and the Standards, a law school shall demonstrate by concrete action a commitment to diversity and inclusion by providing full opportunities for the study of law and entry into the profession by members of underrepresented groups, particularly racial and ethnic minorities, and a commitment to having a student body that is diverse with respect to gender, race, and ethnicity.

(b) Consistent with sound educational policy and the Standards, a law school shall demonstrate by concrete action a commitment to diversity and inclusion by having a faculty and staff that are diverse with respect to gender, race, and ethnicity.

Interpretation 206-1
The requirement of a constitutional provision or statute that purports to prohibit consideration of gender, race, ethnicity, or national origin in admissions or employment decisions is not a justification for a school’s non-compliance with Standard 206. A law school that is subject to such constitutional or statutory provisions would have to demonstrate the commitment required by Standard 206 by means other than those prohibited by the applicable constitutional or statutory provisions.

Interpretation 206-2
In addition to providing full opportunities for the study of law and the entry into the legal profession by members of underrepresented groups, the enrollment of a diverse student body promotes cross-cultural understanding, helps break down racial, ethnic, and gender stereotypes, and enables students to better understand persons of different backgrounds. The forms of concrete action required by a law school to satisfy the obligations of this Standard are not specified. If consistent with
applicable law, a law school may use race and ethnicity in its admissions process to promote diversity and inclusion. The determination of a law school’s satisfaction of such obligations is based on the totality of the law school’s actions and the results achieved. The commitment to providing full educational opportunities for members of underrepresented groups typically includes a special concern for determining the potential of these applicants through the admission process, special recruitment efforts, and programs that assist in meeting the academic and financial needs of many of these students and that create a favorable environment for students from underrepresented groups.

**Interpretation 206-3**

Standard 206(b) applies to the full-time faculty, the adjunct and part-time faculty, and the staff. A law school must demonstrate by concrete action a commitment to diversity in each of these areas.

**Standard 307 Study, Activities, and Field Placements Outside the United States**

**Explanation of Changes:**

Standard 307 was completely overhauled during the 2017-18 year. The thinking was that the revised Standard was now comprehensive and eliminated the need for the Interpretations. Since that time, however, it has become clear that eliminating prior Interpretation 307-2 may be viewed as eliminating the "brief visit" exception. That was not the intention, and the proposed revision clarifies that brief visits are permitted. The interpretation also provides law schools with guidance as to what constitutes a "brief visit."

**Redlined Draft:**

**Standard 307. STUDIES, ACTIVITIES, AND FIELD PLACEMENTS OUTSIDE THE UNITED STATES**

(a) A law school may grant credit for study outside the United States that meets the requirements of the Criteria adopted by the Council.

(b) A law school may grant credit for field placements outside the United States that meet the requirements of Standard 304.

(c) A law school may grant up to two-thirds of the credits required for the J.D. degree for study outside the United States provided the credits are obtained in a program sponsored by an ABA approved law school. Programs sponsored by an ABA-Approved law school include programs held in accordance with the Criteria for Approval of Foreign Summer and Intersession Programs established by ABA-Approved Law Schools;
programs held in accordance with the Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools; and field placements outside the United States.

(d) A law school may grant up to a maximum of one-third of the credits required for the J.D. degree for any combination of 1) student participation in study outside the United States under the Criteria for Accepting Credit for Student Study at a Foreign Institution and 2) credit for courses completed at a law school outside the United States in accordance with Standard 505(c).

(e) Credit hours granted pursuant to subsections (b), (c) and (d) shall not in combination exceed two-thirds of the total credits required for the J.D. degree.

(f) A student participating in study outside the United States must have successfully completed sufficient prerequisites or must contemporaneously receive sufficient training to assure the quality of the student educational experience.

**Interpretation 307-1**

For purposes of Standard 307, a course including only a brief visit outside the United States is not considered “study outside the United States.” A “brief visit” is one-third or less of the class time in a course that is offered and based primarily at the law school and approved through the school’s regular curriculum approval process.

**Standard 310. Determination of Credit Hours for Coursework**

**Explanation of Changes:**

There is no substantive change to the Standard under this proposed revision. Instead, the Council proposes this revision in order to make the Standard more understandable and to give law schools guidance in how to comply with the requirements of the Standard, which are mandated by the Department of Education.

**Redlined Draft:**

(a) A law school shall adopt, publish, and adhere to written policies and procedures for determining the credit hours that it awards for coursework.

(b) A “credit hour” is an amount of work that reasonably approximates:
(1) not less than one hour 50 minutes of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time; or

(2) at least an equivalent amount of work as required in subparagraph (1) of this definition for other academic activities as established by the institution, including simulation, field placement, clinical, co-curricular, and other academic work leading to the award of credit hours.

**Interpretation 310-1**

Based on For purposes of this Standard, the fifty minutes suffices for one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week over the fifteen-week (or its equivalent) period required by the Standard, is sixty minutes. The fifteen-week period may include one week for a final examination. At least 42.5 hours of total in-class instruction and out-of-class student work is required per credit [15 x 50 minutes + 15 x 2 hours]. Time devoted to taking a required final examination may count toward the in-class time required, and time devoted to studying for a required final examination may count toward the out-of-class time required. However, merely scheduling a general “exam week” or “exam weeks” does not permit allocating “exam time” to every class. In order to count time spent studying for and taking a final examination, an exam of appropriate length must be required for the particular class.

**Interpretation 310-2**

A school may award credit hours for coursework that extends over any period of time, if the coursework entails no less than the minimum total amounts of classroom or direct faculty instruction and of out-of-class student work (42.5 hours) specified in Standard 310(b).

**Standard 311. Academic Program and Academic Calendar**

No substantive changes to the Standard. Instead, the issue of how to address law schools following the quarter system will be governed by a new definition. See infra.

**Standard 502. Educational Requirements**

**Explanation of Changes:**

The current Standard requires law schools to have student transcripts on file “within a reasonable time after a student registers.” This requirement was vague and caused some confusion for law schools. The proposed change clarifies this
ambiguity by making October 15 the bright-line date by which a law school must comply with the transcript requirement.

The Council believes October 15 is an appropriate date because it is the date by which law schools must report their student population to the ABA in the Annual Questionnaire. Students included in the population reported in the Annual Questionnaire must be students who have provided copies of their official transcripts, thereby demonstrating their eligibility to continue as an enrolled student.

Additionally, the Council wishes to ensure that a student’s eligibility to continue as an enrolled student is verified before the student invests more than a few weeks of time and money in attending law school. The revised standard ensures that if the submission of official transcripts reveals that a student is ineligible for enrollment, the student can be promptly dismissed within a few weeks of the start of the academic term.

The proposed changes also account for the possibility that extraordinary circumstances may, on rare occasions, and through no fault of the student, make it impossible for the student to meet the deadline. In such circumstances, the law school may grant an extension to deal with the extraordinary circumstances. In such a case, the extraordinary circumstances and the terms of the extension should be documented and placed in the student’s file. Rather than attempting to outline circumstances that may qualify as “extraordinary,” the proposed changes allow the “extraordinary circumstances” standard to develop over time as the standard is applied.

The proposed change also matches the Accreditation Committee’s recent interpretation of the “reasonable time” requirement as expressed in the Managing Director’s Guidance Memo of January 2018.

An additional question arose as to the appropriate requirement when a student matriculates in a program that has start dates in the winter, spring, or summer. Proposed change (d)(ii) will ensure that students enrolling at those times have sufficient time to obtain official transcripts, while still imposing a reasonable bright-line requirement.

**Redlined draft:**

**Standard 502. EDUCATIONAL REQUIREMENTS**

(a) A law school shall require for admission to its J.D. degree program a bachelor’s degree that has been awarded by an institution that is accredited by an accrediting agency recognized by the United States Department of Education.
(b) Notwithstanding subsection (a), a law school may also admit to its J.D. degree program:

(1) an applicant who has completed three-fourths of the credits leading to a bachelor’s degree as part of a bachelor’s degree/J.D. degree program if the institution is accredited by an accrediting agency recognized by the United States Department of Education; and

(2) a graduate of an institution outside the United States if the law school assures that the quality of the program of education of that institution is equivalent to that of institutions accredited by an accrediting agency recognized by the United States Department of Education.

(c) In an extraordinary case, a law school may admit to its J.D. degree program an applicant who does not satisfy the requirements of subsections (a) or (b) if the applicant’s experience, ability, and other qualifications clearly demonstrate an aptitude for the study of law. For every such admission, a statement of the considerations that led to the decision shall be placed in the admittee’s file.

(d) Within a reasonable time after a student registers, except in extraordinary circumstances, a law school shall have on file the each enrolled student’s official transcripts verifying all academic credits undertaken and degree(s) conferred by the following deadlines:

(i) for students matriculating in the fall, by October 15; and

(ii) for students matriculating at any other time, within 4 weeks of the date classes begin.

Standard 509. Required Disclosures

Explanation of Changes:

The name and address of the Council is now provided on the Required Disclosures form. This proposed revision reflects that change.

Redlined Draft:

Standard 509. REQUIRED DISCLOSURES

(a) All information that a law school reports, publicizes, or distributes shall be complete, accurate and not misleading to a reasonable law school student or
applicant. A law school shall use due diligence in obtaining and verifying such information. Violations of these obligations may result in sanctions under Rule 15 of the Rules of Procedure for Approval of Law Schools.

(b) A law school shall publicly disclose on its website, in the form and manner and for the time frame designated by the Council, the following information:
   (1) admissions data;
   (2) tuition and fees, living costs, and financial aid;
   (3) conditional scholarships;
   (4) enrollment data, including academic, transfer, and other attrition;
   (5) numbers of full-time and part-time faculty, professional librarians, and administrators;
   (6) class sizes for first-year and upper-class courses; number of seminar, clinical and cocurricular offerings;
   (7) employment outcomes; and
   (8) bar passage data.

(c) A law school shall publicly disclose on its website, in a readable and comprehensive manner, the following information on a current basis:
   (1) refund policies;
   (2) curricular offerings, academic calendar, and academic requirements; and
   (3) policies regarding the transfer of credit earned at another institution of higher education. The law school's transfer of credit policies must include, at a minimum:
      (i) A statement of the criteria established by the law school regarding the transfer of credit earned at another institution; and
      (ii) A list of institutions, if any, with which the law school has established an articulation agreement.

(d) A law school shall distribute the data required under Standard 509(b)(3) to all applicants being offered conditional scholarships at the time the scholarship offer is extended.

(e) If a law school makes a public disclosure of its status as a law school approved by the Council, it shall do so accurately and shall include the name and contact information of the Council in a form and manner approved by the Council.

Definitions

Explanation of Changes:

The Council recently discussed how to apply Standard 311(c) (a law school shall not permit a student to be enrolled at any time in coursework that exceeds 20 percent of the total credit hours required by that school for graduation) for the maximum number of credits a student may take in a single semester to schools on the
quarter system and whether similar issues might arise under other Standards. Arguably, any Standard that requires a certain number of “credits” or imposes a limit on the number of “credits” should take into account the difference between a semester hour credit and a quarter hour credit. Adopting a new Definition will require the least “disruption” to the current Standards and law schools will need to demonstrate they are appropriately applying the Standards to their academic system.

Redlined Draft:

Definitions

As used in the Standards, Interpretations, and Rules of Procedure:

(5) “Credit(s) or Credit Hour(s)” means semester hour credits as defined in Standard 310. Law schools that use academic schedules other than semesters, such as a quarter system, shall convert these credits in a manner that is consistent with the provisions of Standard 310 or as otherwise provided in a particular Standard or Interpretation.
Rule 13. Actions on Determinations of Noncompliance with a Standard

Explanation of Changes:

Rule 13 currently provides that the Council can extend the date of compliance for good cause shown, “upon the request of the law school.” The Council believes it should have the power to extend based on its findings and conclusions and that it does not require a request of the law school so the Council proposes deletion of that language.

In addition, the Council has imposed sanctions “and” directed specific remedial action. Therefore, the Council proposes that the language in Rule 13(a)(2) be change to “and/or.”

Redlined Draft:

(a) Following a determination by the Council of non-compliance with a Standard in accord with Rule11(a)(4), the Council 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 Council, appear at a hearing to determine whether to impose sanctions and/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 Council may extend the date of compliance.

Rule 29. Teach-Out Plan

Explanation of Changes:

The Council proposes the following changes to Rule 29, after reviewing the Department of Education regulations and the approaches and rules of other accreditors regarding school closures and teach-out plans. Specifically, the Council proposes to add provisions that address the sudden closure of a law school, including situations where the law school has suddenly lost its license to operate, allowing its Executive Committee to take immediate action when necessary.

Redlined Draft:

Rule 29: Teach-Out Plan

(a) If a provisional or fully approved law school or branch decides to is closing, suspending, or ceasing to operate or suspending some or all of its approved program of legal education or close a branch campus, the law school shall promptly provide notice to the public, all students at the law school, and 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 action 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 close, suspend, or cease operations of the law school or close a branch campus;

2. 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.

5. The Executive Committee of the Council determines that the law school is at risk of sudden closure, suspension, or ceasing of some or all of its operations because it is in financial distress, under governmental investigation, or facing other significant challenges.

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. Upon submission of the teach-out plan, the law school must cease recruiting students, accepting deposits, and to admitting new students.

d. The Managing Director’s Office, in consultation with the Chair of the Council, may require a law school to enter into a teach-out agreement as part of its teach-out plan if the law school will not be able to teach out its own students prior to its closure as a law school.

e. A law school must submit the “Teach-Out Plan Approval Form,” as adopted by the Council, and address each item in the form.

f. If the Council 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.

(g) The Executive Committee of the Council shall either approve or deny the teach-out plan submitted in accordance with (b) and (c).

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 as directed, no later than 30 days after receiving notice of the decision.

(h) 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.
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.

For a law school that is suspending or reducing operations, the Council may withdraw approval from the law school if it ceases to operate as an educational institution, if its legal authorization to operate and grant degrees is terminated, or if the Council determines, based on its review, that what remains of the law school is no longer in compliance with the Standards as required to sufficiently provide students with a quality legal education.

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.

VII. Appeals Panel Procedure

Explanation of Changes:

The Council proposes to update and improve current Rules 30 to 36 relating to procedures for an appeal based on best practices and lessons learned by recent appeals. The Rules now incorporate internal procedures followed by the Managing Director’s Office when processing an Appeal. A timeline has been attached as Appendix 1 to make it easier to follow the timing of events.

The Standards Review Subcommittee also considered whether the Rules should be amended regarding the opportunity of a law school to seek further review of a Council decision other than decisions covered by Rules 30-36, in light of the fact that the prior structure provided for an appeal to the Council of Accreditation Committee decisions, which the new structure eliminates. The Standards Review Subcommittee did not recommend adding this process. The Department of Education regulations do not require an additional process. Adding another layer of appeal will lengthen the decision process shortened by merging the Accreditation Committee into the Council.

Redlined Draft:

VII. Appeals Panel Procedure

Rule 30: Notice of Appeal of Decisions of the Council-Appeals Panel

(a) The Appeals Panel shall consist of at least five persons appointed by the Chair of the Council. Members shall serve a one year term beginning at the end of the Annual Meeting of the Section and continuing to the end of the next Annual Meeting of the Section or until replaced. Appeals Panel members are eligible to serve consecutive terms or non consecutive multiple terms.

(b) Every member of the Appeals Panel shall be:

(1) A former member of the Council, or
(2) An experienced site evaluator.

(c) Members of the Appeals Panel shall be:

(1) Experienced in and knowledgeable about the Standards, Interpretations and Rules of Procedure;
(2) Trained in the Standards, Interpretations and Rules of Procedure at a retreat or workshop or by other appropriate methods within the 3 years prior to appointment; and
(2) Subject to the Section’s Conflicts of Interest Policy, as provided in IOP 13.

(d) The Appeals Panel shall include:

(1) an academic;
Rule 31: Form and Content of Appeals to the Appeals Panel

(a) A law school may appeal decisions of the Council specified in Rule 3 by filing a written Notice of Intent to Appeal within 10 days of the Managing Director’s letter to the Law School reporting the decision of the Council (“Decision Letter”) to the law school reporting the decision of the Council.

(b) If a law school is required to file a Teach-Out Plan subsequent to the decision of the Council, the time line to file the appeal is stayed until the Teach-Out Plan is filed pursuant to the timetable set by the Managing Director and approved by the Council.

(a) The written appeal shall include:

(1) A statement of the grounds upon which the appeal is based; and

(2) Argument and documentation in support of the grounds upon which the appeal is based.

Rule 31: Grounds for Appeal Form and Content of Appeals to the Appeals Panel

(a) The grounds for an appeal are limited to the following:

(1) The decision of the Council was arbitrary and capricious and not supported by the evidence on record; or

(2) The Council failed to follow the applicable Rules of Procedure, and the procedural error prejudiced its decision.

Rule 32: Membership of Appeals Panel and Proceeding Panel

(a) The Appeals Panel shall consist of at least five persons appointed by the Chair of the Council. Members shall serve a one-year term beginning at the end of the Annual Meeting of the Section and continuing to the end of the next Annual Meeting of the Section or until replaced. Appeals Panel members are eligible to serve consecutive terms or non-consecutive multiple terms.

(b) Every member of the Appeals Panel shall be:

(1) A former member of the Council; or

(2) An experienced site evaluator.
(2)(1) Experienced in and knowledgeable about the Standards, Interpretations and Rules of Procedure; and

(2) Trained in the Standards, Interpretations and Rules of Procedure at a retreat or workshop or by other appropriate methods within the 3 years prior to appointment; and

(2) Subject to the Section’s Conflicts of Interest Policy, as provided in IOP 13.

(d) The Appeals Panel shall include at least one person who can fill the following roles:

(1) an academic;

(2) an administrator;

(3) a legal educator;

(4) a practitioner or member of the judiciary; and

(5) a representative of the public

(e) No more than fifty percent of the members may be persons whose primary professional employment is as a law school, dean, faculty, or staff member. Public members shall have qualifications and representation consistent with the regulations of the United States Department of Education applicable to the accreditation of professional schools.

By virtue of background and experience, some members may appropriately serve in more than one role. The roles that members can fulfill shall be determined each year when the Panel is appointed.

(a) No more than fifty percent of the members may be persons whose primary professional employment is as a law school, dean, faculty, or staff member. Public members shall have qualifications and representation consistent with the regulations of the United States Department of Education applicable to the accreditation of professional schools.

(d)(e) Within 30 days of receipt of the Notice of Intent to Appeal, if it is a written appeal within the scope of authority of the Appeals Panel, the Managing Director shall appoint three members of the Appeals Panel to hear the appeal. The appointed members shall be known as the Proceeding Panel. The Managing Director shall designate one member of the Proceeding Panel as chair. The Managing Director shall also appoint a staff person who will serve as Liaison and provide support to the Proceeding Panel.

(e) For law schools for which the Council is the institutional accreditor, the Managing Director shall appoint an academic, an administrator, and a representative of the public to serve on the Proceeding Panel. For law schools for which the Council is the programmatic accreditor, the Managing Director shall appoint a legal educator, a practitioner or member of the judiciary, and a representative of the public to serve on the Proceeding Panel.

(f) In the event a member of the Appeals Panel cannot be appointed to participate in a decision on appeal so as to ensure that the Proceeding Panel meets the requirements of Rule 32, the Managing Director shall appoint to the Proceeding Panel another person that is not a member of the Appeals Panel who meets those requirements.

(g) Members of the Proceeding Panel will receive training prior to the hearing regarding its responsibilities and in the Standards, Interpretations, and Rules of Procedure.

(h) The Managing Director shall notify the law school of the Liaison and members of the Proceeding Panel and shall afford the law school an opportunity to present objections regarding conflict of interest. Such objections shall be ruled on by the Managing Director within 30 days of the date of the Decision Letter.
Rule 33: Designation of the Record
Scheduling of Hearings

(a) The Managing Director shall refer the appeal to the Proceeding Panel within 30 days of receipt of a written appeal within the scope of authority of the Appeals Panel. In referring the appeal, the Managing Director shall provide the Proceeding Panel with copies of:

(1) The written appeal;

(2) The decision of the Council; and

(3) The record before the Council, including any transcript of hearing.

(b) The Managing Director, in consultation with the Chair of the Proceeding Panel, shall set the date, time, and place of the hearing.

(1) The hearing shall be scheduled within 45 days of the Managing Director’s referral of the appeal to the Proceeding Panel.

(2) The Managing Director shall inform the law school of the date, time, and place of the hearing at least 30 days in advance of the hearing, unless the law school agrees to the hearing on less than 30 days’ notice.

(a) Within 240 days of the date of receipt of the Decision Letter, the Managing Director-Council shall deliver to the law school, the Record on Appeal.

(a)(b) The Record on Appeal shall be:

(1) The record before the Council;

(2) The decision letter from which the appeal is taken; and

(3) The transcript of the hearing before the Council.

, its legal counsel (if any), and the Proceeding Panel.

Rule 34: Filing of Written Appeal
Burden and Evidence in Proceedings

(a) The law school appealing to the Appeals Panel has the burden of demonstrating that the Council’s decision was arbitrary and capricious, and not supported by the evidence on record, or inconsistent with the Rules of Procedure and that inconsistency prejudiced the decision.

(b) The appeal shall be decided exclusively on the record before the Council, the transcript of the hearing before the Council, and the decision letter of the Council. Except as provided in Rule 36(e), no new evidence shall be considered by the Proceeding Panel.

(a) A law school shall file electronically, a written appeal with the Liaison and Council within 40 days of the date of the Decision Letter, unless the time period has been extended.

(b) The written appeal shall include:

(1) A statement of the grounds upon which the appeal is based; and

(2) Documentation in support of the grounds upon which the appeal is based.
(c) The written appeal and supporting documentation may not contain or refer to any new evidence, nor may the law school refer to any new evidence in its written appeal or arguments to the Proceeding Panel unless the only remaining deficiency cited by the Council in support of an adverse decision is the law school’s non-compliance with a Standard dealing with financial resources for the law school. In that case, the process set out in Rule 39(e) applies to new financial information that the law school may want to submit with its appeal.

**Rule 35: Council’s Response to the Appeal Procedure in Hearing before Proceeding Panel**

(a) The hearing will be a closed proceeding and not open to the public.
(b) The law school shall have a right to have representatives, including legal counsel, appear at the hearing.
(c) The Council shall be represented at the hearing through the Chair, other members of the Council as the Chair of the Council deems appropriate and legal representation for the Council.
(d) The Managing Director or designee shall be present at the hearing. The Managing Director may designate additional staff to be present at the hearing.
(e) The hearing shall be transcribed by a court reporter and a transcript of the hearing shall be provided to the Proceeding Panel, the Council, and the law school.

(a) The Council’s written response to the law school’s written appeal shall be filed by the Council with the law school and the Liaison within 60 days of the date of the Decision Letter.

(b) The Council’s written response and supporting documentation may not contain or refer to any new evidence, nor may the Council refer to any new evidence in its written response or statements to the Proceeding Panel.
Rule 363: Scheduling of Hearings

(a) The Managing Director shall refer the appeal to the Proceeding Panel within 740 days of the date of the Decision Letter. In referring the appeal, the Liaison shall provide the Proceeding Panel with copies of:

(1) The written appeal;
(2) The Council’s response;
(3) The Decision Letter of the Council; and
(4) The record before the Council, including any hearing transcripts.

(a) The Managing Director shall refer the appeal to the Proceeding Panel within 30 days of receipt of a written appeal within the scope of authority of the Appeals Panel. In referring the appeal, the Liaison shall provide the Proceeding Panel and the Council with copies of:

(5) The written appeal;
(6) The Council’s response;
(7) The decision of the Council; and
(8) The record before the Council, including any transcript of hearing.

(b) The Managing Director, in consultation with the Chair of the Proceeding Panel, shall set the date, time, and place of the hearing.

(1) The hearing shall be held date shall be scheduled within 100 days of the date of the Decision LetterManaging Director’s referral of the appeal to the Proceeding Panel.

(2) The Managing Director shall inform the law school of the date, time, and place of the hearing at least 30 days in advance of the hearing, unless the law school agrees to the hearing on less than 30 days’ notice.

Rule 374: Burdens and Evidence in Proceedings

The appealing law school has the burden of demonstrating that the Council’s decision was arbitrary and capricious, and not supported by the evidence on record, or inconsistent with the Rules of Procedure and that inconsistency prejudiced the decision.

Rule 385: Procedure in Hearing Protocols before the Proceeding Panel

(a) The Chair of the Proceeding panel shall conduct the hearing. The Proceeding Panel may ask questions of the law school, Council representatives, and the staff of the Managing Director’s Office.
(b) The hearing will be a closed proceeding and not open to the public.

(cb) The law school shall have a right to have representatives, including legal counsel, appear at the hearing: any of whom shall be allowed to make any statement or presentation that the law school is permitted to make at the hearing or to respond to any questions directed to the law school by the Proceeding Panel.

(de) The Council shall have a right to have representatives, including legal counsel, appear be represented at the hearing: any of whom shall be allowed to make any statement or presentation on behalf of the Council or to respond to any questions directed to the Council representatives by the Proceeding Panel.

(ed) The Managing Director or designee shall be present at the hearing. The Managing Director may designate additional staff to be present at the hearing.

(fe) The hearing shall be transcribed by a court reporter and a transcript of the hearing shall be provided to the Proceeding Panel, the Council, and the law school.

**Rule 396: Decision of the Proceeding Panel**

(a) The Proceeding Panel shall issue a written decision no later than 130 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. Reverse the decision of the Council and enter a new decision;
3. Amend the decision of the Council; or
4. 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), (2) and (3) 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 **Decision Letter** reporting the adverse decision of the Council to the law school;

(2) 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.
# Timeline for Appeals Process

<table>
<thead>
<tr>
<th>Timeline</th>
<th>Party Responsible</th>
<th>Due Date Based on Decision Letter dated January 1st</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice of intent to appeal submitted within 10 days of date of decision letter</td>
<td>Law School</td>
<td>January 11th</td>
</tr>
<tr>
<td>Record sent to Law School within 20 days of date of decision letter</td>
<td>Managing Director</td>
<td>January 21st</td>
</tr>
<tr>
<td>Appoint Final Liaison and Proceeding Panel (Panel) within 320 days of date of decision letter</td>
<td>Managing Director</td>
<td>January 31st</td>
</tr>
<tr>
<td>Written Appeal submitted within 40 days of date of decision letter</td>
<td>Law School</td>
<td>February 11th</td>
</tr>
<tr>
<td>Council Response to Law School’s Written Appeal submitted to Liaison and Law School within 60 days of the date of decision letter</td>
<td>Council</td>
<td>March 1st</td>
</tr>
<tr>
<td>Refer appeal to Panel within 70 days of date of decision letter</td>
<td>Managing Director</td>
<td>March 11th</td>
</tr>
<tr>
<td>Notice of hearing sent 30 days in advance of the hearing</td>
<td>Managing Director</td>
<td>April 10th</td>
</tr>
<tr>
<td>Hearing held within 100 days of date of decision letter</td>
<td>All parties</td>
<td>April 10th</td>
</tr>
<tr>
<td>Decision of Panel submitted within 30 days of hearing</td>
<td>Proceeding Panel</td>
<td>May 10th</td>
</tr>
</tbody>
</table>
Rule 37. Complaints in General; Rule 39 Disposition of Complaints

Explanation of Changes:

Rule 37 provides that if a law school that is the subject of a complaint is due to receive a site visit within one year of receiving the complaint, the complaint may be handled by the site team. The Council proposes that this provision be moved to Rule 39 since it deals with the disposition of a complaint.

Redlined Draft:

Rule 4037. Complaints in General

(a) The United States Department of Education procedures and rules for the recognition of accrediting agencies require a recognized accrediting agency to have a process for the reporting of complaints against accredited institutions that might be out of compliance with the agency’s accreditation standards. This is the process for the Council with regard to law schools having J.D. programs approved by the Council.

(b) The process for Complaints under these Rules is designed to bring to the attention of the Council, and the Managing Director, facts and allegations that may indicate that an approved law school is operating its program of legal education out of compliance with the Standards.

(c) This process is not available to serve as a mediating or dispute-resolving process for persons with complaints about the policies or actions of an approved law school. Neither the Council nor the Managing Director will intervene with an approved law school on behalf of an individual with a complaint against or concern about action taken by a law school that adversely affects that individual. The Council will, as a part of this process, provide no individual relief for any person, nor will it order any specific action by a law school with respect to any individual.

(d) If a law school that is the subject of a complaint is due to receive a regularly scheduled sabbatical site evaluation within a reasonable amount of time after the complaint is received, usually within one year, the complaint may be handled as part of the sabbatical site evaluation.

Rule 4139: Disposition of Complaints

(a) The Managing Director, upon receiving a complaint submitted in accordance with Rule 37, and not dismissed, shall proceed as follows:

(1) The Managing Director shall acknowledge receipt of the complaint within 14 days of its receipt.

(2) The Managing Director shall determine whether the complaint alleges facts that raise issues relating to an approved law school’s compliance with the Standards. This determination shall be made within six weeks of receiving the complaint. If the Managing Director concludes that
the complaint does not raise issues relating to an approved law school’s compliance with the Standards, the matter will be closed.

(3) If the Managing Director determines that the complaint may raise issues relating to an approved law school’s compliance with the Standards, the Managing Director will send the complaint to the law school and request a response within 30 days. The Managing Director may extend the period for response if, in the judgment of the Managing Director, there is good cause for such an extension.

(4) The Managing Director will review any response to a complaint within 45 days of receipt. If the response establishes that the law school is not out of compliance with respect to the matters raised in the complaint, the Managing Director will close the matter.

(b) If the law school’s response to a complaint does not establish that it is in compliance with the Standards on the matters raised by the complaint, the Managing Director, in consultation with the Chair of the Council, may appoint a fact finder to investigate the issues raised by the complaint and the law school’s response.

(c) If the law school’s response to a complaint does not establish that it is in compliance with the Standards on the matters raised by the complaint, then the Managing Director shall refer the complaint, along with the law school’s response, the fact-finder’s report, if any, and any other relevant information, to the Council for further action in accordance with these Rules.

(d) If a law school that is the subject of a complaint is due to receive a regularly scheduled sabbatical site evaluation within a reasonable amount of time after the complaint is received, usually within one year, the complaint may be handled as part of the sabbatical site evaluation.