

September 9, 2010

## MEMORANDUM

TO: Interested Persons and Entities

FROM: Hon. Christine Durham, Council Chairperson  
Hulett H. Askew, Consultant on Legal Education

SUBJECT: Matters for Notice and Comment

At its August 6, 2010 meeting the Council of the Section considered and approved for Notice and Comment a proposed revision to Rule 22 of the Rule of Procedure for Approval of Law Schools.

The proposed changes to Rule 22 are required by new Department of Education regulations arising out of amendments to the Higher Education Act.

Under the new DOE regulations, if a school loses its accreditation, loses its Title IV lending authority, ceases operation on its own accord or if its state license to operate is revoked, the school must develop a teach-out plan and may be required to enter into a teach-out agreement. A teach-out plan is a written plan developed by the school that provides for the equitable treatment of its own students in the event it is subject to one or more of the four "triggers" listed above. A teach-out agreement means a written agreement between institutions that provides for equitable treatment of students in the event that one of the institutions is subject to one or more of the triggers listed above.

The proposed changes are attached here and will be published on the Section's website, <http://www.abanet.org/legaled>.

We solicit and encourage written comments on the proposed change by letter or e-mail. A hearing on the proposed change is also scheduled for 3:30 p.m. - 5:00 p.m. on November 6, 2010 at the Ritz Carlton Hotel in St. Louis, Missouri. Please address written comments on the proposals and requests to speak at the hearing to Charlotte Stretch, Assistant Consultant, at our Chicago office or at [Stretchc@staff.abanet.org](mailto:Stretchc@staff.abanet.org). Comments should be submitted no later than October 15, 2010.

We expect that final Council action on these matters will occur at the Council meeting scheduled for December 3 - 4, 2010.

Thank you.

Charlotte (Becky) Stretch  
Assistant Consultant  
American Bar Association  
Section of Legal Education and Admissions to the Bar  
321 N. Clark St. 21st floor  
Chicago, IL 60654-7598

T: 312/988-5297  
F: 312/9885681  
[stretchc@staff.abanet.org](mailto:stretchc@staff.abanet.org)  
[www.abanet.org](http://www.abanet.org)

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

**Proposed Revisions to Rule 22  
Rules of Procedure for Approval of Law Schools**

**Rule 22. Teach-out Plan and Agreement and Law School Closure of a Law School**

(a) A provisional or fully approved school must submit a teach-out plan for approval by the Accreditation Committee and Council upon occurrence of any of the following events:

1) The school notifies the Consultant's Office that it intends to cease operations entirely or close a separate location in which a student can earn all of the necessary credits to earn the J.D. degree;

2) The Accreditation Committee recommends or the Council acts to withdraw, terminate, or suspend the accreditation of the school;

3) The U.S. Secretary of Education notifies the Consultant'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 Consultant's Office that an institution's license or legal authorization to provide an educational program has been or will be revoked.

(b) To be approved by the Accreditation Committee and Council, the teach-out plan must be in writing and must provide for the equitable treatment of its own students, specify additional charges that may apply, and provide for notification to the students of any additional charges.

(c) The Consultant's Office, in consultation with the Accreditation Committee leadership, may require a school to enter into a teach-out agreement as part of its teach-out plan.

(d) If the school enters into a teach-out agreement, either on its own accord or as required by the Consultant's Office, the agreement must be recommended by the Accreditation Committee and approved by the Council and must comply with all federal and state laws, including regulations of the United States Department of Education. At a minimum, the agreement must be with a law school approved by the Accreditation Committee and Council for this purpose, must provide students access to the program and

services without requiring them to move or travel substantial distances, and must provide students with information about additional charges, if any.

(e) The teach-out institution must have the necessary experience, resources and support services to provide a program of legal education that is reasonably similar in content, structure and scheduling to that provided by the institution that is subject to any of the occurrences that are set out in (a)(1-4) above. Additionally, the teach-out institution must be financially stable and able to carry out its mission and meet all of its obligations to its students and must demonstrate that it can provide students access to its program and services without requiring them to move or travel substantial distances and that it will provide re-located students with information about additional charges, if any.

(f) If the Accreditation Committee recommends and the Council approve a teach-out plan that includes a program that is accredited by another recognized accrediting agency, the Consultant's Office must notify that accrediting agency of its approval.

~~(a)~~ (g) In the event of closure or cessation of operation, An approved law school and its parent institution, if any, must agree to provide, in the event of closure or cessation of operation, an opportunity for currently enrolled students to complete their degrees under the terms of a closure plan which meets at least the conditions set out below and is found acceptable by the Accreditation Committee and the Council. As soon as the decision to close an approved law school is made, the institution shall make a public announcement of the decision and shall notify the Consultant, the appropriate state licensing authority and the U.S. Department of Education of its decision.

~~(b)~~ (h) Upon deciding or being required to close or cease operations, The law school shall promptly submit a closure plan, which shall be reviewed by the Accreditation Committee and must be approved by the Council.

~~(c)~~ (i) The conditions to be met by a closure plan shall include the following:

(1) The law school shall not thereafter admit or enroll any student (including transfer or non-degree candidates) who was not a student at the time when the decision to close is announced.

(2) The governing body of the institution shall take all necessary steps to retain degree-granting authority for sufficient time to allow completion of degrees by those students who are degree candidates at the time the decision to close is announced and who complete degree requirements either at the law school or at another ABA-approved law school in the normal period of time required for that student's course of study.

(3) The law school shall use its best efforts to assist students in transferring to, or acquiring visiting status at, another ABA-approved law school for completion of their degree requirements.

(4) Until the date of closing the law school shall maintain:

- (i) an educational program that is designed to qualify its graduates for admission to the bar;
- (ii) a library collection and services adequate to support the curriculum, either on-site or through arrangements with other law libraries in the immediate vicinity;
- (iii) a faculty adequate to maintain a sound educational program;
- (iv) an adequate administrative staff to handle student needs and recordkeeping along with support of the academic program; and
- (v) ~~the law school shall maintain~~ its existing physical facilities unless prior approval of the Accreditation Committee is obtained.

~~(5) In the event that the school enters into a teach-out agreement with another law school, the school shall submit the teach-out agreement to the Accreditation Committee for its approval. As a condition for approval of the closure plan, the teach-out agreement must comply with applicable regulations of the Department of Education.~~

~~(d)~~ (j) If the school discontinues instruction or makes a decision to do so prior to the end of the normal period for completion of degrees by current students, then:

- (1) The school shall take all reasonable steps to avoid closing during an academic year. If the closing occurs during an academic year, then the school shall make adequate arrangements for students to enroll in other law schools for that current year at no additional cost to the student.
- (2) The school shall permit currently enrolled students to complete their degree requirements at other ABA-approved law schools by entering into “teach out” agreements with other law schools. Credit earned at other law schools shall be received as transfer credit toward the degree of the closing school.
- (3) Students transferring credit back to the law school shall not be charged fees beyond a reasonable administrative fee for processing of records.
- (4) The Consultant shall notify the Council of the school’s decision and the date at which the school intends to cease operations.

~~(e)~~ (k) The law school or the governing body of the institution shall make satisfactory arrangements for the continuation of legal representation undertaken during the operation of a law school skills training program.

(f) (1) The governing body of the institution shall make arrangements for permanent retention and availability of student records.

(m) In the event a school closes without an approved teach-out plan or agreement, the Consultant's Office will work with the U.S. 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.