

# Internal Operating Practices

## **Accreditation Project: Internal Operating Practices**

The Section of Legal Education and Admissions to the Bar is both a section of the American Bar Association and the recognized national agency for the accreditation of law schools. The following Internal Operating Practices apply to the Accreditation Project of the Section.

### **1. Accreditation Entities**

The following entities are part of the Accreditation Project: the Council; the Appeals Panel; the Accreditation Committee; the Standards Review Committee; and the Data Policy and Collection Committee. As stated in Rule 49 of the Rules of Procedure, all matters relating to the accreditation of a law school are confidential. All proceedings of the Accreditation Committee and the Appeals Panel are closed. All proceedings of the Council when considering matters relating to the accreditation of a law school are closed. Meetings of the Council when not considering matters relating to the accreditation of a law school and meetings of the Standards Review Committee and the Data Policy and Collection Committee are generally open and shall be open whenever any final action will be taken.

### **2. Site Team Evaluators**

- (a) Qualifications – The Council seeks to appoint site evaluators who are competent and knowledgeable concerning legal education and the legal system. Site evaluation teams shall include, as appropriate, educators, practitioners, administrative personnel, and judges. Site evaluation teams must be of sufficient size to accomplish the purposes of the site evaluation.
- (b) Evaluation – The Managing Director should seek to evaluate the quality of work done by individual site evaluators. This may be accomplished by corresponding with the chair of the team and the dean of the school visited. The objective of this process should be the development of a pool of competent and experienced site evaluators.
- (c) Training – The Managing Director shall conduct, each year, workshops to train evaluators (particularly new or relatively new ones), and chairpersons of site evaluation teams. These workshops should cover the Standards, Interpretations and Rules of Procedure, current matters of accreditation policy, process considerations for the conduct of an on-site inspection, and the drafting of the site team report. Current instructions concerning the conduct of a site evaluation visit and the content of a site evaluation report should be supplied to each site evaluator.

### **3. Notice of Schools and Programs to be Accredited, and Preparation of Schools for Site Evaluation Visits**

- (a) The Managing Director shall publish on the Section website a list of all law schools that are scheduled to be visited during the upcoming academic year for sabbatical, provisional or full approval site evaluation visits, or a visit in connection with an application for acquiescence in a major change of organizational structure. The notice should also state that interested persons may submit written comments regarding the school by a date certain determined by the Managing Director.
- (b) The Managing Director shall conduct, each year, one or more workshops to prepare schools for undergoing site evaluation visits. Such workshops may be, but need not be, held in conjunction with the workshops for training new site evaluators. These workshops should cover the Standards, Interpretations and Rules of Procedure, current matters of accreditation policy, preparation for a site evaluation visit, the conduct of a site evaluation visit, and the expected content of a site evaluation report. Current instructions concerning the conduct of a site evaluation visit and the expected content of a site evaluation report should be provided to each school well in advance of the scheduled site evaluation visit.

### **4. Notification of Council Decisions**

The Managing Director shall:

- (a) Provide written notification to the Secretary of the Department of Education, the appropriate state licensing agency, and the appropriate accrediting agency, at the same time the Managing Director notifies the law school in writing of any decision to deny, withdraw, suspend or remove the approval or provisional approval of the law school, or to place a law school on probation, but no later than thirty (30) days after the Council reaches the decision.
- (b) Provide written notification to the Secretary of the Department of Education, the appropriate state licensing agency, the appropriate accrediting agency, and the public, within thirty (30) days, of:
  - (i) a decision to grant provisional approval or full approval to a law school;
  - (ii) a decision by an approved or provisionally approved law school to withdraw from approved or provisionally approved status; and
  - (iii) a decision by a law school to allow its approval or provisional approval to lapse.
- (c) Provide written notification to the public within 24 hours of the time the Managing Director notifies the law school in writing of any decision to deny, withdraw, suspend or remove the approval or provisional approval of the law school, or to place a law school on probation.
- (d) Make available to the Secretary of the Department of Education, the appropriate state licensing agency, the appropriate accrediting agency, and the public within 60 days after final decision, a brief statement summarizing the reasons for the decision to deny, withdraw, suspend or remove the approval or provisional approval of a law school, and the comments, if any, which the affected law school may wish to make with regard to that decision or evidence that the law school was offered but declined to provide any comments.

### **5. Submission of Information to Secretary of Education**

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

- (a) the Section's *Annual Report*;

- (b) the identity of any school that the Council has reason to believe is failing to meet its Title IV program responsibilities or is engaged in fraud or abuse, and the reason for the Council's concern;
- (c) any revisions to the Standards, Interpretations or Rules of Procedure;
- (d) a copy, updated annually, of the Council's listing of approved law schools;
- (e) upon request by the Secretary of Education, information regarding an approved law school's compliance with its Title IV, HEA responsibilities; and
- (f) upon request by the Secretary of Education, a summary of the Council's major accrediting activities during the previous year.

## **6. Maintenance of Records**

The Managing Director shall maintain a complete set of records for a sufficient period of time 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 shall maintain the following records indefinitely: Accreditation Committee decision letters, Council decision letters, Appeals Panel decision letters, the law school's responses to such decision letters, and all other correspondence significantly related to those decisions.

## **7. Response to Department of Education Information Regarding Law School Compliance with Standards**

In the event that the Managing Director should receive information from the Department of Education that raises issues about a law school's ability to comply with the Standards for the Approval of Law Schools and Interpretations, the Managing Director will submit such information to the Accreditation Committee for consideration under the Rules of Procedure, and for any subsequent action by the Committee as it may deem appropriate.

## **8. Review of Standards, Interpretations and Rules**

The Council with the assistance of the Standards Review Committee shall engage in an ongoing review of the Standards, Interpretations and Rules. Issues for consideration may be directed by the Council or may be initiated by the Standards Review Committee itself. At the beginning of each academic year, the Managing Director shall provide notice as to any specific Standards, Interpretations or Rules of Procedure that will be considered for revision during the coming academic year and shall invite suggestions as to those possible revisions and any other revisions of the Standards, Interpretations and Rules that should be considered. Notice shall be published on the Section's website and distributed to relevant constituencies.

At ten year intervals, or sooner if directed by the Council, the Managing Director shall provide notice as to the commencement of a process of comprehensive review for all the Standards, Interpretations and Rules, including a proposed schedule for completion of this review. As part of the notice, the Managing Director shall invite suggestions as to possible revisions of the Standards, Interpretations and Rules. Notice of the comprehensive review shall be published on the Section's website and distributed to relevant constituencies.

Proposals for amendments to the Standards, Interpretations or Rules may be submitted by any interested party to the Managing Director, who shall refer proposals to the Standards Review Committee. The proposals will be considered by the Standards Review Committee as part of the annual or comprehensive review, as appropriate. The Standards Review Committee shall report to the Council each year on its work, including its consideration of proposed amendments referred to it by the Managing Director.

If, during the review process the Council determines that it needs to make changes to the Standards, Interpretations, or Rules, action to make those changes must be initiated within 12 months of the determination and shall be completed within a reasonable period of time.

Any proposed revisions from the Standards Review Committee from either the ongoing review or the comprehensive review shall be submitted by the Standards Review Committee to the Council. The Council shall either reject the proposed revisions, return the proposed revisions to the Standards Review Committee for further consideration, or approve the proposed revisions to be posted on the Section website and distributed to relevant constituencies for notice and comment. The Council shall hold public hearings to solicit testimony from interested parties. The Council may delegate this function to the Standards Review Committee. Notice shall be given at least 15 days prior to any scheduled hearing on the proposed revisions.

The Council shall consider oral and written comments and any testimony received, and, if necessary, make changes to the proposed revisions. The Council may delegate this function to the Standards Review Committee. The Council shall act on the final revisions and shall make available to the public a written report discussing the results of the review, an explanation for the revisions adopted, and a summary of the comments that were not adopted. A Council decision to adopt, revise, amend or repeal the Standards, Interpretations or Rules shall be reviewed by the House in accordance with Part XI of the Rules of Procedure and House Rule 45.9.

## **9. Approval of Questionnaires**

Each year the Council shall approve all of the questionnaires (including annual and site evaluation questionnaires) that schools will be required to complete.

## **10. Accreditation Committee Reports to the Council**

After each of its meetings, the Accreditation Committee shall provide to the Council a written report identifying all of the decisions and recommendations that the Committee made at the meeting. The report shall be transmitted no later than three months after the conclusion of the meeting of the Committee.

## **11. Publication of Composition of Site Teams**

At the end of each Association year, the Managing Director shall publish the date and place of each site evaluation (including limited site evaluations and visits to foreign programs) that occurred during the past Association year, together with the names and institutional affiliations of each site evaluator or fact-finder.

## **12. Training for Council and Accreditation Committee Members**

At the beginning of each academic year, the Managing Director shall provide training for members of the Council and the Accreditation Committee concerning the Standards for Approval of Law Schools and the policies and procedures that govern the accreditation process. Additional training in the Standards, policies and procedures will be provided at the beginning of each academic year to any new members of the Council and the Accreditation Committee. All new members of the Accreditation Committee and Council are required to attend a training session.

**13. Conflicts of Interest**

- (a) It is the Council's policy to avoid any conflict of interest or perceived conflict of interest arising because a person involved in the accreditation process has an interest in the law school or law school program under review by the Council, the Accreditation Committee, or the Appeals Panel.
- (b) In order that members of the Council, members of the Accreditation Committee, members of the Appeals Panel and members of the staff of the Office of the Managing Director (in each case when used in this IOP, a "Member") may avoid the appearance of a conflict of interest, any Member may recuse himself or herself from participating in any matter before the Accreditation Committee, the Council, or the Appeals Panel related to a law school under review without the necessity of stating a reason for recusal.
- (c) If any of the following conditions are met, a Member is required to recuse himself or herself from participating in a matter before the Accreditation Committee, the Council or the Appeals Panel related to a law school under review:
  - 1. The Member:
    - (A) is currently the dean, a faculty member, other employee or a student of a law school under review (or its parent institution), a former dean of a law school under review, a former full-time faculty member of the law school under review (for a period of ten years following the termination of faculty status with that law school), a former employee of the law school under review other than as a full-time faculty member (for a period of two years following termination of such employment) or a graduate of the law school under review;
    - (B) is currently a member of any board of the law school or its parent institution or has been within the last two years; or
    - (C) has a current business or professional relationship (including consulting with or without compensation) with the law school (or its parent institution) or has had such a relationship within the last two years.
  - 2. The Member's spouse, child, parent, domestic partner, or sibling:
    - (A) is an employee or student of the law school under review (or its parent institution) or has been within the last two years;
    - (B) is currently a member of any board of the law school or its parent institution or has been within the last two years; or
    - (C) has a current material business or professional relationship with the law school (or its parent institution) or has had such a relationship within the last two years.
- (d) A Member of the Council shall recuse himself or herself from participating in the review of a matter before the Council involving the status of a law school in any case where the Member of the Council participated in making the decision or recommendation on such matter as a member of the Accreditation Committee. A Member of the Appeals Panel shall recuse himself or herself from participating in the review of a matter before the Appeals Panel involving an adverse action as defined in Rule 10, Section (a)(1-3) against a law school in any case where the Member of the Appeals Panel participated in making the decision on such adverse action as a member of the Council or the Accreditation Committee or served on the site team which visited the law school.
- (e) In addition to the conditions set forth in subparts (b), (c) and (d) above, if, in a matter before the Council, the Appeals Panel or Accreditation Committee related to a law school under review, a meaningful conflict exists or could be reasonably perceived to exist in view of the Member's office or other position, previous or current relationship with the law school, or other circumstances (including

geographic distance between the Member's residence or place of employment and the law school under review or circumstances involving the Member's spouse, child, parent, domestic partner, or sibling), then the Member shall disclose the relationship to the Chair of the Council, the Chair of the Appeals Panel or the Accreditation Committee, as applicable, and the relevant Chair shall determine whether the Member shall be recused from participating in the matter under consideration. For purposes of this subpart, a relationship with a law school includes, but is not limited to, a relationship with the members of the law school's faculty, staff, students, graduates or its parent institution.

- (f) A Member who is recused with regard to a matter related to a law school under review:
- (1) may not be present in the room (nor participate in the meeting by means of telecommunications) when the law school appears before the Council, the Appeals Panel or the Committee or when the Council, the Appeals Panel or the Committee is discussing the matter related to the law school;
  - (2) shall refrain from participating in any discussions, formal or informal, with other Members regarding the matter related to the law school; and
  - (3) shall not read but instead shall destroy or delete any materials received from the Managing Director or Managing Director's staff concerning the law school.
- (g) A current dean, faculty member, other employee or student of the law school under review (or its parent institution), a former dean of the law school under review, a former full-time faculty member of the law school under review (for a period of ten years following the termination of faculty status with the law school), a former employee of the law school under review other than as a full-time faculty member (for a period of two years following termination of such employment) or a graduate of the law school under review may not serve on a site evaluation team or as a fact finder visiting that law school or law school program.
- (h) For good cause stated, the dean of a law school (or law school program) under review may request that a member of a site evaluation team, or a Member of the Council, the Appeals Panel or the Accreditation Committee, recuse himself or herself from acting in such capacity with respect to the dean's law school. With regard to a member of a site evaluation team, the Managing Director shall grant or deny such request based on the merits of the claim. With regard to a Member of the Council, the Appeals Panel or of the Accreditation Committee, the Chair of the Council, the Appeals Panel or the Accreditation Committee, as the case may be, shall grant or deny such request based on the merits of such claim.

#### **14. Grievance Committee**

There shall be six members of the Grievance Committee. The Chairperson of the Council shall appoint the members of the Grievance Committee for terms of three years. The terms of the members shall be staggered and a member may serve no more than two terms. Appointments shall be made from members of the Section; however no member of the Grievance Committee may be a current member of the Council, the Accreditation Committee or staff of the Section. The Chairperson shall appoint a Chairperson of the Grievance Committee for a term of one year, subject to one reappointment.

Complaints received pursuant to IOP 15 Grievance Procedure shall be heard by a panel of three members of the Grievance Committee. The Chairperson of the Grievance Committee shall appoint the panel, designating one member to preside. Members shall be subject to the same conflict of interest rules that apply to members of the Council.

**15. Procedures for Processing Complaints Filed Against Council Members, Appeals Panel Members, Accreditation Committee Members, Managing Director's Office Staff, Site Team Evaluators, or Entities of the Section**

- (a) Any person may file with the Managing Director a written and signed complaint against a member of an Accreditation Entity, a staff member of the Managing Director's Office, or a site team evaluator for failure to comply with rules, procedures or policies of the Section, or for other misconduct related to the accreditation process. Any such complaint against the Managing Director may be filed with the Chairperson of the Grievance Committee, and the Chairperson of the Grievance Committee shall act in the place of the Managing Director for all procedures that would otherwise involve the Managing Director. The complaint must contain a statement of facts and circumstances showing with reasonable particularity the basis for the allegation of non-compliance or misconduct. The complaint must be filed within 6 months of the occurrence that is the basis for the allegation of non-compliance or misconduct. Pursuit of other remedies does not toll the 6 month limit. Under no circumstance shall this complaint procedure be a substitute for or alternative to the appeal procedures with respect to decisions affecting accreditation, in which instances the appeal procedures shall be exclusive.
- (b) The Managing Director shall dismiss the complaint if the Managing Director determines that the complaint does not allege facts sufficient to establish a violation of the rules, procedures or policies of the Section, or otherwise to establish misconduct related to the accreditation process. If the Managing Director does not dismiss the complaint, the Managing Director shall forward the complaint to the Chairperson of the Grievance Committee within 30 days after receipt of the complaint. The Managing Director shall simultaneously forward a copy of the complaint to the person or persons against whom, or the Section entity against which, the complaint asserted. Such persons or entities shall hereinafter be referred to as "respondents."
- (c) Respondents shall respond to the complaint by sending a written response to the Chair of the Grievance Committee. Said response shall be delivered to the Chair of the Grievance Committee within 30 days after the date on which the Managing Director sent the complaint to the respondents.
- (d) Upon review of the complaint and the response required by (c), the Grievance Committee may request that the complainant or respondents provide additional information. Complainant and/or respondents shall submit the additional information requested within 30 days after receipt of the Committee's request.
- (e) The Complainant bears the burden by a preponderance of the evidence of establishing that there has been a violation of the rules, procedures or policies of the Section, or other misconduct related to the accreditation process.
- (f) Within 45 days, after receipt of the information required in (c) and (d), the Grievance Committee shall render its decision. In the event that the Grievance Committee determines that there has been such a violation or misconduct, the Grievance Committee may also determine such relief, if any, as is appropriate to remedy the violation or misconduct. The decision of the Grievance is final and is not subject to appeal.
- (g) The Managing Director shall, in writing, inform the complainants and any respondents of the Grievance Committee's decision.
- (h) All matters under this section shall be confidential.

## 16. Impartiality and Propriety

- (a) Those who have significant responsibility in the process leading to accreditation of law schools serve a vital function in the legal system of the United States. It is important to the fair and effective functioning of the system of law school accreditation and to the maintenance of public and professional respect for that system that those who act in it act impartially and avoid even the appearance of impropriety.
- (b) One who has significant responsibility in this system or who has had significant responsibility in this system within a period of two years past, as enumerated in paragraph (d) below, should not serve as a consultant to a law school in any matter relating to:
  - (i) initial accreditation by the Council, and
  - (ii) re-evaluation and continuation of accreditation by the Council.
- (c) This statement applies to service as consultant whether or not that service is for compensation. It does not apply to informal advice which an advisor renders
  - (i) without fee;
  - (ii) informally; and
  - (iii) which he or she discloses fully to the other members of the accreditation body on which he or she serves or has served; nor does it apply to the routine or official advice and assistance which is rendered by members of a site evaluation team or hearing commission, by the Managing Director, or by persons acting on behalf of the Managing Director; or
  - (iv) by a person acting in the normal course of his or her employment.
- (d) This statement applies to:
  - (i) members of the Accreditation Committee;
  - (ii) members of the Council;
  - (iii) members of the Appeals Panel;
  - (iv) members of the professional staff of the Section except as provided in subsection (c) above; and
  - (v) a member of a site evaluation team or hearing commission accepting appointment as a consultant to a law school that he or she has evaluated or conducted hearings on, within two years after the site evaluation or while the Council still has under consideration matters developed by the site evaluation, whichever is longer.
- (e) Service as a consultant for a law school does not disqualify a person from any of the offices or committees in paragraph (d). However, the officer or committee member should excuse himself or herself from participation in discussion, formal or informal, of the affairs of a school which he or she has served as consultant or employee and from taking part in any vote with respect to its status.
- (f) A person who has served as a consultant or employee of a law school within two years prior to assuming a significant responsibility in the accreditation process should decline to participate in the determination of the accreditation status of the school with which he or she previously served.
- (g) The Managing Director shall bring this provision to the attention of persons who are nominated for or appointed to any of the positions enumerated in paragraph (d) above and to all persons who are holding these positions or who have held them within two years past, at the time the statement becomes effective.

**17. Guidelines for Reimbursement of Site Evaluators and Fact Finders**

All reasonable and necessary expenses of members of site evaluation teams and fact finders shall be reimbursed by the visited institution as follows:

- (a) Transportation – All necessary transportation on the basis of coach class airfares and ground transportation expenses.
- (b) Lodging and Meals – Hotel or motel sleeping rooms at a reasonable cost, including a meeting room when necessary for the work of the site evaluation team or fact finders. Meals shall be reimbursed on a reasonable basis.
- (c) Incidentals – Gratuities and miscellaneous items shall be reimbursed. Long distance telephone calls related to the site visit shall be reimbursed.