Preface

Scope of Accrediting Authority

The Council of the American Bar Association Section of Legal Education and Admissions to the Bar (Council) is recognized by the United States Department of Education (USDE) as the accreditor of first-professional degree in law (J.D.) programs. Further, with very few exceptions, in all bar-admitting jurisdictions in the United States, a J.D. degree from an ABA-approved law school is sufficient to meet the minimal education requirements established by a jurisdiction to qualify a person to sit for the bar examination. In most jurisdictions, an ABA-approved law school J.D. degree is a necessary credential to qualify to sit for the bar examination. Whether a jurisdiction requires education at an ABA-approved law school is a decision made by a jurisdiction’s highest court and its bar admission authority and not by the Council or the ABA. The Council and the ABA believe, however, that every candidate for admission to the bar should have graduated from a law school approved by the ABA and that every candidate for admission should be examined by public authority to determine fitness for admission.

The Council’s recognition as a USDE-recognized accrediting agency was established in 1952. USDE recognition criteria require an accrediting agency within a professional association to operate separately and independently of the association of which it is a part. Therefore, it is the Council, and not the American Bar Association that is the formally recognized accreditor. Nonetheless, for ease of reference, law schools accredited by the Council are referred to as “ABA-approved.” While the ABA supports the Council and its work in a variety of ways, including financially, “separate and independent” means, at a minimum, that the ABA is not involved in any way in the approval of a law school or the enforcement of the ABA Standards for Approval of Law Schools against law schools, including findings of non-compliance, imposition of sanctions, or withdrawal of approval.

The ABA’s interest and role in supporting legal education began in 1879, when the Standing Committee on Legal Education and Admissions to the Bar was established as one of the ABA’s first committees. In 1893, the Section of Legal Education and Admissions to the Bar was established as the Association’s first section. In 1921 the ABA promulgated the first Standards for Legal Education. At the same time, the ABA began to publish a list of ABA-approved law schools that met the ABA Standards.

In its role as the “accreditor” and “approver” of law school programs, the Council has been promulgating and enforcing standards for nearly a century. The Standards contain the requirements a law school must meet to obtain and retain ABA approval. In their current form, the Standards often include Interpretations that provide additional guidance concerning the implementation of a particular Standard. The Rules of Procedure govern the accreditation process and the process through which decisions concerning the status of individual schools are made. The Rules also contain provisions related to the operation of the Office of the Managing Director.
Revisions of the Standards, Interpretations and Rules of Procedure through 1996

The Revisions of the Early 1970s
A major revision of the 1921 Standards was undertaken in the early 1970s. After an extensive comment process, the revised Standards and the Rules of Procedure were adopted by the Section of Legal Education and Admissions to the Bar in August 1972 and were approved by the ABA House of Delegates in February 1973. A major revision of these standards occurred in 1989 as the result of the work of the Ramsey Commission, chaired by Judge Henry Ramsey, Jr., of the Alameda County, California, Superior Court and Chair-Elect of the Section.

Wahl Commission, Department of Justice Consent Decree, and 1996 Revisions
The Council had commenced a comprehensive review of the Standards and Rules in 1992. In April 1994 the Council had established the Commission to Study the Substance and Process of the American Bar Association’s Accreditation of American Law Schools, which was chaired by Justice Rosalie E. Wahl of the Supreme Court of Minnesota, and a former chair of the Section. The Wahl Commission’s mandate was to conduct a thorough, independent examination of all aspects of law school accreditation by the ABA. It prepared a report and recommendations that were ready for consideration at the 1995 ABA Annual Meeting. However, in June 1995, the United States Department of Justice filed a civil antitrust suit against the ABA, alleging violations of antitrust laws in the ABA law school accreditation program, and the review of these changes was put on hold.

The litigation was concluded by a final Consent Decree (June 1996). It included requirements for review of the Standards. The Consent Decree was in force for a period of ten years and expired by its own terms on June 25, 2006. The Council has determined, however, that it will continue to observe the substantive provisions of the Consent Decree.

The Consent Decree required that the ABA establish a special commission to determine whether the Standards, Interpretations, and Rules of Procedure should be revised in some respects. It was agreed by the Department of Justice and the ABA that the Wahl Commission’s mandate would be enlarged to include these matters and that the Commission’s tenure would be continued. In response to this additional mandate, in November 1995 the Wahl Commission submitted a supplement to its August 1995 report.

A revision process that the Council had begun in 1992, then incorporated into the work of the Wahl Commission in 1994, and which had continued and was enlarged in response to the Consent Decree in 1996, led to a set of standards and rules of procedure that were approved by the Council and concurred in by the ABA House of Delegates in August 1996.

Review of the standards and rules is an ongoing process. Each year, proposed revisions to the Standards, Interpretations, and Rules of Procedure are considered, suggestions for matters that need study are solicited, and proposed changes are subject to an extensive public comment process. Proposed revisions are carefully considered in light of the comment received before any final action is taken.

Further comprehensive reviews of the Standards and Interpretations were undertaken in 1996-2000 and 2003-2006. A comprehensive review of the Rules of Procedure took place in 2004-2006. From 2008-2014, another comprehensive review, this time of both the Standards and the Rules, was undertaken.

The Section’s website (www.americanbar.org/legaled) contains considerable history of the Standards and the Standards review process. Visit the following pages for more information:
www.americanbar.org/groups/legal_education/resources/standards/standards_archives.html
www.americanbar.org/groups/legal_education/committees/standards_review/comp_review_archive.html
Council Responsibility

The Council grants provisional and full ABA approval to law schools located in the United States, its territories, and possessions. It also adopts the Standards for Approval of Law Schools and the Interpretations of those Standards, and the Rules of Procedure that govern the law school accreditation process. The Council also must grant prior acquiescence in any substantive changes that are proposed by an approved law school and may impose sanctions for noncompliance with the Standards.

ABA House of Delegates Responsibility

In August 2010, the role of the ABA House of Delegates in accreditation matters was revised to comply with new Department of Education requirements regarding appeals. Prior to August 2010, a school that was denied provisional or full approval by the Council was able to file an appeal to the House of Delegates. The House of Delegates could either concur in the Council’s decision or refer that decision back to the Council for further consideration. A decision of the Council was final after referral from the House of Delegates a maximum of two times in the case of decisions denying provisional or full approval, or once in the case of decisions to withdraw approval from a school. The 2010 changes removed any authority or role for the ABA House of Delegates with respect to the approval or removal of approval of a law school.

The House of Delegates continues to play a limited role in the revision of standards and rules of procedure. The House’s role is called “concurrence.” Changes adopted by the Council are referred to the House, which may “concur,” in which case the changes become effective at the adjournment of the ABA meeting where the changes were reviewed, or “refer back,” in which case the changes do not become effective and are returned to the Council for further consideration. If the Council confirms the changes that it had previously adopted, the changes are returned for a second review by the House of Delegates. If the House does not concur in this review, the matter is returned to the Council. If the Council once again confirms the changes it had adopted, the Council’s decision stands without further review by the House.

This Book Includes:

- The 2018-2019 Standards and Rules of Procedure
  These are the current criteria that law schools must meet to obtain and retain ABA approval. The 2018-2019 edition reflects all changes approved by the Section’s Council and concurred in by the ABA House of Delegates through August 2018.

- Criteria for Approval of Foreign Programs and Study Abroad
  Under its authority to adopt rules implementing the Standards, the Council has adopted criteria for the approval of studies or activities leading to credit for the J.D. degree that are undertaken outside the United States. These Criteria, for various forms that study abroad can take, are included in this book.

- Internal Operating Practices (IOPs)
  The IOPs provide direction concerning the operation of accreditation functions and other activities of the Office of the Managing Director.

- Additional Information and Guidelines
  (Available online at: http://www.americanbar.org/groups/legal_education/resources/standards.html)
  Also included in this book are Council Statements and Guidance Memos. Council Statements are positions that the Council has taken on various matters that do not have the force of a mandatory Standard or Interpretation. Guidance Memos are issued periodically to assist schools in coming into or remaining in compliance with the Standards.