

# ABA ACCREDITATION: A SYMBOL OF QUALITY

*by Diane F. Bosse*

**I**n our daily lives, we regularly rely on surrogates for quality. The iconic Good Housekeeping Seal of Approval on our soap, the FDA approval on our medications, and the UL mark on our electrical appliances all have meaning. These labels tell us that the products to which they are attached have been tested and found to meet applicable standards of quality, safety, and effectiveness. The evaluation done by those granting the mark of approval substitutes for the assessment we lack the ability and resources to independently and individually perform.

In much the same way, the American Bar Association accreditation of law schools is an indicium of educational quality that we all rely on in performing our bar admissions functions. The ABA accreditation process substitutes for an investigation and evaluation of educational quality that none of our jurisdictions has the resources to perform. It is a valuable service.

In pursuit of our mission to protect the public from incompetent legal practice, each jurisdiction has established what we believe to be appropriate educational eligibility requirements to sit for the bar exam. In general, we default to the ABA for this determination. That is, graduation from a law school that is approved by the ABA is necessary in many states and is sufficient in most to qualify for the opportunity to take the licensing test.

But what does ABA accreditation mean? What standards apply? How are the standards promul-

gated and enforced? And what is the process for obtaining accreditation? It is the goal of this article to answer these questions, to remind us all of the value this symbol of quality brings to our jurisdictions, and to encourage our collective participation in the accreditation process.

## THE FOUNDATION OF ABA ACCREDITATION

First, let's correct our definition. "ABA accreditation" is often used as shorthand (including in this article) but is, in truth, a misnomer. The ABA does not accredit law schools. It is the Council of the ABA Section of Legal Education and Admissions to the Bar, along with its Accreditation Committee, that is recognized by the United States Department of Education (DOE) as the national accrediting body for the J.D. degree. For antitrust reasons, DOE regulations require that the decision-making authority for the accreditation function be separate and independent from the related trade association. Thus, the Council has the final say on accreditation matters, and the larger ABA cannot interfere.

The Council is composed of 21 members, 10 of whom are typically law school deans or faculty members. The remaining members of the Council include judges, practicing attorneys, public members, and a representative of the Law Student Division of the ABA. NCBE is well-represented. The Council presently includes one current member of the NCBE

Board of Trustees, Rebecca Berch, and two prior chairs of NCBE, Greg Murphy and Jequita Napoli.

The Accreditation Committee, which I am privileged to chair, consists of 19 members. Membership may include law school deans, doctrinal faculty, law librarians, clinical legal educators and legal writing faculty, private practitioners, bar examiners, federal and state court judges, and public members, including accountants and university presidents and provosts. The Accreditation Committee is charged with the administration of the law school accreditation process.

The Office of the Consultant on Legal Education, housed in the Section of Legal Education and Admissions to the Bar, administers the project of accrediting law schools, supporting the Council and the Accreditation Committee in their oversight functions.

## THE STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS

### **The Substance of the Standards**

Law schools are evaluated for accreditation purposes against a set of criteria known as the Standards and Rules of Procedure for Approval of Law Schools.<sup>1</sup> The “Standards” include both Standards, which are the black-letter law, and Interpretations, which give guidance as to the application of the Standards. The Standards are divided into eight chapters, such as Program of Legal Education, The Faculty, Admissions and Student Services, Library and Information Resources, and Facilities—each of which is further divided into individual numbered Standards, totaling 57 Standards in all. For instance, the chapter on Program of Legal Education includes

individual Standards covering curriculum, academic standards and achievements, and course of study and academic calendar. The chapter on Admissions and Student Services includes individual Standards covering admission requirements, a required notice regarding character and fitness, consumer information, and student complaints.

The Rules of Procedure govern the process of accreditation and decision making regarding the status of individual schools. The 30 Rules cover topics such as applications for provisional or full approval, the process for site evaluations, action concerning apparent non-compliance with the Standards, sanctions, and complaints and appeals of adverse actions of the Accreditation Committee or the Council.

### **How the Standards Are Promulgated**

The Standards are written by the Standards Review Committee of the Section, subject to approval of the Council. NCBE President Erica Moeser presently serves on the Standards Review Committee. In reviewing and amending the Standards, the Council seeks to ensure that the requirements are appropriate for current programs of legal education and that they focus on those matters that are most pertinent to quality legal education.

A comprehensive review of the Standards is currently under way, with changes to the existing Standards being proposed and considered.<sup>2</sup> Among the proposed revisions under consideration as part of the current comprehensive review are requirements for outcome measures, including the articulation and assessment of student achievement; law school admission requirements, including whether or not the Law School Admission Test (LSAT) or any test should be required of applicants to law school; and bar passage standards, particularly what bar

passage rate is acceptable as indicating that the law school prepares its graduates for entrance into the profession, and how soon after a class graduates should that bar passage rate be achieved.

Once the Standards Review Committee completes its work on one or more Standards, it sends the proposed Standards to the Council. After its review and possible modification of the proposed Standards, the Council publishes them for public comment. The proposed revisions are always specifically sent to the chief justice of every state and to every office of bar admissions in the country, with an invitation for comment. Public hearings are held to air concerns and voice opinions regarding the proposals. The Standards Review Committee considers the comments and, if necessary, revises its recommendations to the Council; the Council then acts on the Committee's recommendations as appropriate before releasing a written report to the public summarizing the results of the review and explaining the revisions that were adopted. Any decision of the Council to adopt revisions to the Standards must be reviewed by the ABA House of Delegates. The House can concur in the revisions or refer them back to the Council for further consideration. Because of the requirement that the Council be separate and independent from the larger ABA, the House has no authority to change or reject a proposed revision to the Standards.

While not every Standard is such as to impact issues related directly to bar admissions, every change to a Standard implicates the educational eligibility requirements of every state by altering the rules for the accreditation of law schools within our

states and beyond. Thus, review and comment by those involved in the licensing process is critical.

## THE ACCREDITATION PROCESS

### Provisional Approval

A law school wishing to become ABA-approved must first apply for provisional approval. That application cannot be filed until the school has completed one full year of operation. The law school must submit a feasibility study, as well as an Annual Questionnaire, a Site Evaluation Questionnaire, and a self study, as described below. The feasibility study evaluates the nature of the educational program and goals of the school, the profile of the students who are likely to apply, and the resources necessary to create and sustain the school. The Consultant's Office sends a site team to conduct a site evaluation, using a process similar to that for fully approved law schools, also described below.

The site team produces a report, to which the law school may respond. After receiving the report of the site team and the school's response, the Accreditation Committee conducts a hearing at which representatives of the law school appear. In order to be granted provisional approval, a law school must demonstrate that it is in substantial compliance with all of the Standards and has a reliable plan for bringing itself into full compliance. The Accreditation Committee then makes a recommendation to the Council as to whether or not to grant provisional approval. The Council accepts the Accreditation Committee's findings of fact, unless not supported by substantial evidence, but the Committee's conclusions and recommendations are not binding on the Council.

Once provisional approval is granted, the law school has five years in which to become fully approved by demonstrating compliance with all of the Standards. While a law school is provisionally approved, it is visited each year by a site team, alternating between full site inspections and inspections more limited in the size of the site team and the scope of the review. The goal of the site inspections is to evaluate the school's progress toward full compliance with the Standards and full approval. The Accreditation Committee monitors the progress of the school each year by review and consideration of the report of the site team, directing the law school, as may be appropriate, to address certain Standards where the law school's compliance and/or progress toward achieving full compliance with the Standards may be deficient.

### **Full Approval**

A law school that is provisionally approved may apply for full approval after three years. Again, a hearing will be held before the Accreditation Committee, with a recommendation made to the Council. As with provisional approval, the Council will conduct its own hearing and may accept or reject the Committee's recommendation.

Once a law school receives full approval, it will be visited by a site team and reviewed by the Accreditation Committee after three years. Thereafter, every fully approved law school is inspected by a site team every seven years, in what is known as the sabbatical review process. Once a law school is approved by the ABA, its graduates become

eligible to sit for the bar exam in any state, subject to any local idiosyncratic rules or requirements.

## **THE SITE EVALUATION PROCESS**

Site teams, both for law schools seeking provisional or full approval and for those that are fully approved, typically consist of six or seven members. Site teams are chaired by an experienced site evaluator, often a dean, and generally consist of one or two doctrinal faculty members, a clinician and/or legal writing faculty member, a librarian, a practitioner or judge, and a university provost or other non-law school administrator. Site team members undergo training provided by the Consultant's Office and are given detailed guidance as to the conduct of the site visit.

Site teams are not standing entities; rather, they are assembled on a school-by-school basis, with members selected based on their expertise in any specific area of concern at the school in question, the availability of volunteers to fill the various positions on the team, and any preferences of the site team chair. Site teams are assembled from lists of willing volunteers maintained by the Consultant's Office.

In preparation for a full site visit, a law school is required to prepare a self study, describing the program of legal education, evaluating the strengths and weaknesses of the program, setting goals to improve the program, and identifying the means to accomplish the law school's unrealized goals. The law school also must complete a Site Evaluation Questionnaire, providing specific and detailed information regarding the law school's compliance

with the Standards. The site team members receive these documents, along with the law school's recent Annual Questionnaires, reporting such matters as entering credentials of students, enrollment and attrition data, bar passage information, faculty profiles, financial information, and the like, and a history of the Accreditation Committee's findings on past evaluations of the law school. The site team reviews that material and spends typically three days on site, meeting with the dean, the university president if the school is affiliated with a university, and law school administrators, faculty, and students, and attending classes. Following the visit, the site team prepares an extensive report setting forth facts that bear on the law school's compliance with the Standards.

The site team's report is supplied to the school for comment, correction, and response. The site team's report and the law school's response, as well as all of the documents and information available to the site team, then go to the Accreditation Committee for its review.

The Accreditation Committee reviews the facts as reported by the site team, makes findings of fact, and draws conclusions as to compliance with the Standards. As a result of the Committee's review, the law school may be required to report back on various Standards in order to demonstrate compliance. If the Accreditation Committee finds the law school out of compliance with any Standard, the law school will be required to appear before the Committee to show cause why the school should not be required to take remedial action, have sanctions imposed, be placed on probation, or be removed from the list of approved law schools. A law school found out of compliance has two years to come into full compliance or face removal from the list of approved schools.


Between site visits, law schools are subject to interim monitoring by the Accreditation Committee, which is accomplished by a review and evaluation of various data reported by the school in its Annual Questionnaire and, where appropriate, a request to the school to provide information to the Committee.

## CONCLUSION

The process for the accreditation of law schools and monitoring of their continued compliance with the Standards is exacting and labor intensive. The work is primarily done by volunteers who donate their time to the accreditation project, for the benefit of both legal education and the bar admissions process.

By establishing graduation from an ABA-approved law school as the educational prerequisite to sit for the bar exam, states have, in effect, given to the ABA the authority to determine what the specific educational requirements for licensure should be and the responsibility to determine whether law schools satisfy those requirements. States have surrendered that authority for good reason—we lack the time, resources, and expertise to establish and administer a process for evaluation of law schools. And we have surrendered that authority with the knowledge and confidence that the process the ABA utilizes for the accreditation of law schools is appropriate, comprehensive, rigorous, and effective. Our confidence is well placed.

But the process requires our participation. Those involved in bar admissions and the supreme courts that supervise them need to be engaged in the process to ensure that the Standards adopted and applied, and the manner in which they are enforced, continue to serve our collective needs. To that end, I urge you to comment on proposed Standards, volunteer for a site team,<sup>3</sup> or offer to serve on committees

within the Section. I believe you will find that your participation is personally rewarding, and I know it will benefit all of us who look to the ABA for its mark of quality in legal education. 

## NOTES

1. The Standards and Rules of Procedure for Approval of Law Schools are *available at* [http://www.americanbar.org/groups/legal\\_education/resources/standards.html](http://www.americanbar.org/groups/legal_education/resources/standards.html).
2. All current draft proposals and agendas for upcoming meetings are *available at* [http://www.americanbar.org/groups/legal\\_education/committees/standards\\_review.html](http://www.americanbar.org/groups/legal_education/committees/standards_review.html). The Standards Review Committee welcomes comment on the proposals it is considering. All comments are posted, and comments previously received by the Committee can also be viewed.  
*[Editor's Note: For a summary of the comprehensive review of the Standards currently under way, see Donald J. Polden, Comprehensive Review of American Bar Association Law School Accreditation Policies and Procedures: A Summary, 79:1 THE BAR EXAMINER (Feb. 2010), at 42.]*
3. ABA membership is not required in order to serve on a site team. Those interested in serving on a site team may contact the ABA Consultant's Office to volunteer.



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