



# THE BUCKEYE INSTITUTE

July 7, 2026

Daniel R. Thies, Chair

Council of the American Bar Association Section of Legal Education and Admissions to the Bar  
321 North Clark Street, 19th Floor  
Chicago, IL 60654

Via email: [NoticeandComment@americanbar.org](mailto:NoticeandComment@americanbar.org)

Re: Matters for Notice and Comment: 2026-2027 Standards Committee Agenda Suggestions

Dear Chair Thies:

The Buckeye Institute, an independent think tank that advances free-market public policy in the states, writes in response to the Council of the ABA Section of Legal Education and Admissions to the Bar's (the "Council") request for suggestions regarding the Standards and Rules of Procedure for Approval of Law Schools (the "Standards").

The Department of Education authorizes accreditors like the ABA to determine which institutions are eligible for Title IV funding.<sup>1</sup> But beyond such mandated minimum requirements, free markets can effectively regulate law school behavior and incentivize their improvement. Publicly available bar-passage rates and employment outcomes help students and donors decide where to spend their money.<sup>2</sup> Satisfying those stakeholders and attracting their tuition and charitable contributions has proven effective for maintaining quality legal education standards.

By contrast, the ABA Standards are overbroad, burdensome, and focus on process rather than student outcome.<sup>3</sup> The accreditation process itself lacks definitiveness and transparency, allowing regulators to take an "I know it when I see it" approach to rule enforcement, which increases compliance costs and stifles academic freedom, institutional innovation, and competition.

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<sup>1</sup> Office of Enforcement, Federal Student Aid, *FSA Enforcement Bulletin, August 2023—Following an Enforcement Investigation, Federal Student Aid Reminds Schools to Ensure Programs are Properly Accredited Before Disbursing Funds*, U.S. Dep't of Educ. (Aug. 24, 2023), <https://tinyurl.com/5a25j5k3>.

<sup>2</sup> See, e.g., U.S. News & World Reports; 2026 Best Law Schools, U.S. News & World Report, <http://usnews.com/best-graduate-schools/top-law-schools/law-rankings> (last visited June 17, 2026); Compare 196 ABA-Accredited Law Schools Side-by-Side, publiclegal, <https://www.ilrg.com/rankings/law> (last visited June 17, 2026); Dan Trevas, Which law school is best for you?, Ohio Bar (Aug. 1, 2016) <https://tinyurl.com/5cycx699> (last visited June 17, 2026) and general internet searches and AI research (inquiry: "what law school should I attend?").

<sup>3</sup> See George Leef, *The American Bar Association Needn't Accredit Law Schools*, The James G. Martin Center for Academic Renewal (July 29, 2025), <https://jamesgmartin.center/2025/07/the-american-bar-association-neednt-accredit-law-schools/>.

## **I. Accreditation should focus on minimum educational quality and student outcomes.**

Federal law requires accreditors to set “clear expectations” regarding “success with respect to student achievement in relation to the institution’s mission,” including state licensing examinations, course completion, and job placement rates, as well as curricula, faculty, facilities and equipment, appropriate fiscal and administrative capacity, student support services, admissions, program length, student complaints, and Title IV compliance.<sup>4</sup> Accreditation standards arose in significant part because of the Korean War GI Bill, when Congress became concerned that taxpayer funds were being spent at substandard institutions.<sup>5</sup> Accreditors serve an important gatekeeping function: To ensure that taxpayer funds are spent at institutions that provide quality education, without telling those institutions how and what to teach. Regrettably, the Council’s accreditation Standards have become excessively burdensome and should be refocused on student outcomes.

### **A. Several Standards impose burdensome institutional mandates without clear connection to student outcomes.**

Several Standards now focus on the minutiae of institutional control, faculty, libraries, facilities, and admissions. These may be tangentially related to successful outcomes, but the Standards force the Council’s preferred values upon institutions, even though those values typically have little or no demonstrated impact on student success. Below are Standards worthy of repeal or reconsideration:

- Control: Standard 105(a)(7)<sup>6</sup> requires law schools to obtain the Council’s preapproval for any change in school ownership or control. Why the Council should hold such a veto right is unclear. The Council should repeal this requirement or explain why its necessity.
- Tenure: Several Standards require that law schools provide tenure-track employment for professors and others. Schools should determine for themselves whether tenured employment is consistent with their mission and teaching program. Some schools have concluded that the tenure system is archaic and harmful to education.<sup>7</sup> The Council should amend all references to tenure in the Standards to permit, but not require, tenure. Standards 201(b), 203(b), 405(b), 405(c), and Appendix 1’s section on tenure should be repealed or amended.

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<sup>4</sup> **34 C.F.R. § 602.16(a)(1).**

<sup>5</sup> Andrew Gillen, Defense of Freedom Inst., *Should College Accreditation Be Replaced or Reformed* 2 (2025), <https://tinyurl.com/bdfzxuk8>.

<sup>6</sup> Am. Bar Assoc., *Standards & Rules of Procedure for Approval of Law Schools 2025-2026*, at 8 (2025), <https://tinyurl.com/a9mmwu3u>.

<sup>7</sup> See generally Chris Sharp, *Rethinking Tenure to Improve Higher Education*, Cicero Inst. (Nov. 12, 2025), <https://ciceroinstitute.org/blog/rethinking-tenure-to-improve-higher-education/>; Margit Livingston, *Tenure Revisited*, 61 B.C. L. Rev. E-Supplement I.-12 (2019), <https://storage.googleapis.com/jnl-bcls-j-bclr-files/journals/1/articles/239/63a3edb5139do.pdf>.

- Administration: The Buckeye Institute agrees with the Council’s proposal to repeal or amend Standards 205<sup>8</sup>, 206<sup>9</sup>, and 207<sup>10</sup>.
- Faculty: Standards 401–405 overregulate faculty size, responsibilities, and tenure.<sup>11</sup> They require law schools to maintain faculty structures they might not otherwise adopt. Standard 402 is vague and does not allow administrators to know whether law school’s faculty staffing and mix will satisfy ABA gatekeepers, contravening the law’s “clear expectations” mandate.<sup>12</sup> Faculty decisions should reside with school administrators approved by the school’s governing board rather than the Council. Standards 401, 403(b), and 404 should be replaced with the following:

(a) The governing body of a law school, in consultation with the administration and the faculty, shall adopt, publish, and adhere to written policies with respect to (1) the faculty-to-student ratio; (2) the faculty evaluation process; (3) faculty job responsibilities; and (4) academic freedom. (b) The law school shall publicly disclose: (1) its faculty-to-student ratio; (2) the qualifications of its faculty; and (3) the number of full-time and part-time faculty members.

- Law Libraries: Standards 601–605 regulate law school libraries, collections, facilities, staffing, and administration.<sup>13</sup> An accreditor’s preferred library model should not determine a law school’s accreditation. Larger libraries may attract more students, support better outcomes, or contribute to a law school’s prestige, but those considerations should be left to institutions, students, and the market. As legal information becomes increasingly accessible through digital platforms and other research tools, institutions should have flexibility to determine how best to provide students and faculty with effective access to legal resources. The current Standards appear to allow law libraries to be primarily electronically based; the comments to Standards 601-605 should be amended to make this clear.
- Standardized Admission Tests: Appendix 2’s cautionary policies regarding LSAT scores exceed the proper advisory role of an accreditor: “LSAT scores must be examined in relation to the total range of information available about a prospective law student”; “Do not use the LSAT as a sole criterion for admission”; and “Cut-off LSAT scores . . . are strongly discouraged.”<sup>14</sup> Accreditors should not micromanage institutional governance. Schools should remain free to maintain policies on academic admissions testing. Although

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<sup>8</sup> Daniel Thies & Jennifer Rosato Perea, Am. Bar. Assoc., *Matters for Notice and Comment: Revisions to Standards for Approval of Law Schools* (2026), <https://tinyurl.com/5x5sptj>.

<sup>9</sup> Karen Sloan, *American Bar Association votes to eliminate DEI rule for law schools*, Reuters (May 17, 2026), <https://www.reuters.com/legal/government/american-bar-association-votes-eliminate-dei-rule-law-schools-2026-05-15/>.

<sup>10</sup> Thies & Rosato Pera, *supra*.

<sup>11</sup> Am. Bar Assoc., *Standards & Rules of Procedure for Approval of Law Schools 2025-2026*, *supra*, at 33–36.

<sup>12</sup> **34 C.F.R. § 602.16(a)(1)**.

<sup>13</sup> Am. Bar Assoc., *Standards & Rules of Procedure for Approval of Law Schools 2025-2026*, *supra*, at 45–47.

<sup>14</sup> *Id.* at 53–54.

some academic discussion debates the value of standardized tests and whether standardized admissions tests predict law school and bar-exam success,<sup>15</sup> schools—and not the ABA—should determine the relative value of those tests.

## **B. Transparency is critical for institutions and the ABA’s credibility.**

The Committee should make the accreditation process more transparent. First, the ABA charges law schools substantial accreditation fees: \$100,000 to apply for provisional approval and tens of thousands of dollars annually thereafter. Those fees appear to be comingled with the ABA’s general funds and there is no public accounting for how the accreditation fees are spent, even though annual fees alone generate \$4 million to \$7 million each year.<sup>16</sup> And those published fees understate the true institutional cost of accreditation. Law schools devote substantial faculty, staff, and administrative time<sup>17</sup> to prepare self-studies, complete site-evaluation questionnaires,<sup>18</sup> collect and verify required data, coordinate site visits, host reviewers (including reimbursing reviewers for food, lodging, and travel),<sup>19</sup> and respond to follow-up inquiries.

Second, the ABA’s Rules of Procedure for Approval limit public access to accreditation matters. Section IX<sup>20</sup> provides that accreditation matters remain confidential until public notice is required for “sanctions, specific remedial action, probation, withdrawal of approval, and significant noncompliance with one or more Standards under Rule 11(a)(4).”<sup>21</sup> Even then, the public notices often provide little explanation beyond identifying the Standard at issue. That lack of transparency makes it difficult for law schools, students, taxpayers, and the public to know whether and how vague Standards are applied across institutions.

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<sup>15</sup> *Summary of 2021-2025 LSAT Correlation Study Results*, Law School Admission Council, <https://www.lsac.org/data-research/research/lSAT-correlation-study-results> (noting that LSAT scores continue to be a strong predictor of first year law school performance). See also Aaron N. Taylor, Jason M. Scott & Josh Jackson, *It’s Not Where You Start, It’s How You Finish: Predicting Law School and Bar Success* (June 8, 2021) (working paper), <https://www.accesslex.org/research-and-data-tools-and-resources/its-not-where-you-start-its-how-you-finish-predicting-law> (evidence, among other things, that LSAT score is a better predictor of future law school and bar exam success than undergraduate GPA).

<sup>16</sup> Schedule of Law School Fees, Am. Bar Assoc., [https://www.americanbar.org/groups/legal\\_education/accreditation/fees/](https://www.americanbar.org/groups/legal_education/accreditation/fees/) (last visited June 11, 2026) (There are 198 ABA accredited institutions, and the ABA charges annual fees that range between \$22,073 and \$35,790 based on enrollment).

<sup>17</sup> Vikram David Amar, Some (Informed?) Musings on the ABA’s Process for Reaccreditation of American Law Schools, *Justia* (Apr. 5, 2018), <https://verdict.justia.com/2018/04/05/informed-musings-abas-process-reaccreditation-american-law-schools> (Amar served as the dean for eight years at the University of Illinois, Urbana-Champaign College of Law).

<sup>18</sup> Am. Bar Assoc., *Standards & Rules of Procedure for Approval of Law Schools 2025-2026*, *supra*, at 15 (Standard 204).

<sup>19</sup> *Id.* at 127 (Internal Operating Practice 17).

<sup>20</sup> Am. Bar Assoc., *Standards & Rules of Procedure for Approval of Law Schools 2025-2026*, *supra*, at 88–91.

<sup>21</sup> *Sanctions, Specific Remedial Action, Withdrawal of Approval, and Significant Noncompliance Under Rule 11(a)(4)*, Am. Bar Assoc., [https://www.americanbar.org/groups/legal\\_education/accreditation/news/public-notices/sanctions-remedial-action-noncompliance/](https://www.americanbar.org/groups/legal_education/accreditation/news/public-notices/sanctions-remedial-action-noncompliance/) (last visited June 11, 2026).

The Committee and the ABA should adopt rules that increase organizational transparency, including rules requiring a clear accounting of how accreditation fees are spent and public evidence that the ABA's Standards are being enforced uniformly.

## **II. Conclusion**

To receive taxpayer funds, law schools should demonstrate minimum educational quality, and prospective students should know which law schools meet those threshold standards. But the Council's Standards go too far. The Council should amend its Standards to streamline the accreditation process, grant law schools greater autonomy, focus on measurable student performance and outcomes, and make its own finances and decision-making more transparent.

Respectfully,  
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