

Society of American Law Teachers (SALT) Comments on
the Report of the ABA Council on Legal Education and Admissions to the Bar
Special Committee on Transparency

July 21, 2008

Since 1973, SALT has been an independent organization of law teachers, deans, law librarians, and legal education professionals working to make the profession more inclusive, to enhance the quality of legal education, and to extend the power of legal representation to under-served individuals and communities. SALT challenges faculty, staff, and students to develop legal institutions with greater equality, justice, and excellence; to promote core values of equality and justice; and to resist inequitable social policies. The SALT Board of Governors submits these comments on the Report of the Special Committee on Transparency (“Transparency Report”) to the Council on behalf of the SALT membership after carefully considering the report.

SALT strongly supports efforts to make the law school accreditation process more transparent. As the Transparency Report notes, accrediting bodies for some of the other professions, notably architecture, have successfully pursued a transparent accreditation policy. SALT believes that transparency is necessary to ensure a fair process for accreditation, to provide faculties and administrators with guidance as to what is required for accreditation, and to assist schools in preparing for a review by the site team and review by the accreditation committee. We also believe that the system should be one that provides the greatest amount of useful information while promoting a candid discussion of compliance issues.

The Transparency Report makes several recommendations to the Council, and SALT supports most of them. Our comments will address only those recommendations in the Transparency Report where SALT has a differing view, where we suggest a slight variation in a proposal, or where we wish to emphasize our strong support for a particular course of action.

1. The Committee recommends that unredacted accreditation decision letters and follow-up correspondence between a school and the Accreditation Committee be available prospectively on the Section’s website, password-protected, to deans of approved law schools and, as determined by each dean, to other faculty members “for use in the accreditation process.”

SALT agrees in principle that transparency is absolutely crucial to a fair application of accreditation standards, but we urge that unredacted accreditation letters and follow-up correspondence not be made available on a website where they can be read by all deans and by anyone to whom any dean gives the password. As the Report notes, deans would have varying interpretations of how broadly the information can and should be shared. While we are confident that administrators and faculty would act in good faith, the potentially broad dissemination of the letters makes it too likely that the information posted would end up in the hands of some source that could use it to embarrass or damage the reputation of a school.

One of the consequences of the posting of this information so publicly might be a practice of “sanitizing” the letters, making them less harmful in the event they become available to the public, but also less useful to the institutions in determining exactly what must be done to comply with accreditation standards. Candid conversations occur between site evaluators and provosts or university presidents. This free flow of information may be harmed if there is a possibility that the content of the conversations, reflected in accreditation decision letters, might become public information. In the end, less rather than more information would be available to law school administration and faculties, and the process would be less effective and less fair. While it is important that deans share the accreditation letters with their own faculties, the risks of having the letters about all schools available to all deans and any faculty they believe should see them outweigh the benefits of such wide distribution.

Finally, we note that the vote on this recommendation was closely divided, while other recommendations received broad support from Committee members. It seems clear that these or similar doubts are shared by close to half the Committee members, re-enforcing the need for caution implementing a change that could have serious negative consequences. It would be better to take steps toward transparency that have broad support, and then determine the need for further change after assessing the impact of those changes.

2. The Committee recommends that Accreditation Issues Summaries be available on the Section’s website.

SALT strongly supports the Committee’s recommendation to publish Accreditation Issues Summaries. A transparent system is crucial to ensure that Standards are applied consistently. There should be no schools exempt from the standards, and no cases where special exceptions are created and Standards are waived or modified arbitrarily. Transparency furthers the equal application of Standards to law schools without regard to the law school’s perceived standing. Publication of Accreditation Issues Summaries will create a body of precedent that will provide guidance about the meaning of the accreditation standards, and law schools will be able to use the summaries to evaluate the actions of the Site Evaluation Team and the Accreditation Committee in their own cases.

SALT notes that while a law school may receive an accreditation letter with one or more “action items” requiring the law school to respond, it is extremely rare for a law school to be placed on probation and even rarer for a law school to lose accreditation. The value of publication can thus be achieved through the dissemination of summaries of decisions that describe in some detail the circumstances that require remedial action. It would also be helpful to make available summaries and explanations when the Accreditation Committee concludes the Standards *have* been satisfied to provide additional definition of the Standards.

In addition to publishing the Accreditation Issues Summaries, we encourage the ABA to create other materials, such as Consultant’s Memoranda or the Best Practices Guide

referenced in the Transparency Report that can be used prospectively to clarify Standards. As noted in the Transparency Report, the dissemination of this information will help law schools understand how the Accreditation Committee and Council are interpreting and applying the Standards.

SALT strongly urges the ABA to archive and make these summaries available on the ABA website. Scholars looking into accreditation issues and particular ABA Standards would then have access to this information. SALT believes that, at the present time, the ABA needlessly keeps the Accreditation Issues Summaries confidential. SALT urges the Council to implement this recommendation immediately.

3. The Committee recommends that the Consultant's description of the accreditation process be placed on the Section's website and that there be a concerted effort to offer training for faculty and administrators in the preparation of both a strategic plan and a self evaluation.

SALT strongly supports this recommendation of the Committee. As the Transparency Report notes, describing the accreditation process publicly and thoroughly will help to demystify the process for both law schools and the public. SALT believes that this is particularly important for law students and prospective law students, especially those attending or considering provisionally approved law schools. SALT urges the Council to implement this recommendation immediately. We also agree that training is important for faculty and administrators. We agree that the current training session of site evaluators should be expanded or that it should be replicated with a different emphasis for faculty and administrators. We agree that both the differences in and the relationship between a strategic plan and a self evaluation are not well understood. Workshops or educational seminars for deans and faculty on these two crucial tools for quality control should be offered as well.

4. The Committee recommends the Council appoint a committee to make the Section's website more accessible, user-friendly, and interactive.

SALT strongly supports this recommendation. In particular, SALT urges the ABA to maintain access on the website to the historical record of the comments received on proposed changes to the Standards, reports from the Standards Review Committee, and iterations of the Standards. Such materials are important to understanding the development of Standards and the intent of any changes in the Standards. At the present time, very little information is accessible on the Section website, and the information that is posted is often removed within a year of posting. Maintaining these and other materials on the website would be helpful to law school deans and faculty, as well as members of the Council, the Standards Review Committee, and the Accreditation Committee. Failure to maintain these materials in a publicly accessible fashion impedes the proper functioning of the accreditation process. SALT urges the Council to appoint the proposed committee immediately and to vest in the committee the authority to begin posting these materials on the ABA website.

Conclusion

SALT believes that the Council should show its commitment to more transparency by taking action on the Transparency Report recommendations as soon as possible. Delay in implementing the recommendations will be a set-back to efforts to make the accreditation process more transparent. Regarding disclosure of details of accreditation decisions, we urge the Council to strike a balance between the need for confidentiality and the desire to provide sufficient information to ensure that the Standards are applied fairly and consistently.

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