



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

June 20, 2007

Hewlett H. Askew, Esq.
Consultant on Legal Education
Council of the Section of Legal Education and
Admissions to the Bar
American Bar Association
321 North Clark Street, 21st Floor
Chicago, Illinois 60610-4714

Dear Mr. Askew:

I write concerning the petition for continued recognition filed by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association (Council) pending with the U.S. Department of Education (Department).

At its December 4, 2006, meeting, the National Advisory Committee on Institutional Quality and Integrity (NACIQI) recommended that I grant continued recognition to the Council as a nationally recognized accrediting agency under Section 496 of the Higher Education Act of 1965, as amended, for a period of eighteen months. The record reflects that NACIQI further recommended that I require the Council to demonstrate through the submission of interim reports, as well as in a renewal petition due by December 5, 2007, compliance with certain sections of the regulatory Criteria for Recognition.

With the exception of the recommendation of the Accreditation and State Liaison Staff of the Office of Postsecondary Education (Staff) pertaining to the Council's Standard 212, NACIQI adopted the recommendations in the Staff's Final Report. NACIQI agreed with the Staff that the Council failed to demonstrate that it has complied with the following Criteria for Recognition:

34 C.F.R. § 602.15(a)(2)	34 C.F.R. § 602.15(a)(4)	34 C.F.R. § 602.16(a)(1)(i)
34 C.F.R. § 602.16(a)(1)(vii)	34 C.F.R. § 602.17(e)	34 C.F.R. § 602.18(a), (b)
34 C.F.R. § 602.20(a), (b)	34 C.F. R. § 602.21(a), (b)	34 C.F.R. § 602.22(c)
34 C.F.R. § 602.23(a)	34 C.F.R. § 602.23(c)	34 C.F.R. § 602.24(b)
34 C.F.R. § 602.26(c)	34 C.F.R. § 602.27(d)	34 C.F.R. § 602.28(d)

NACIQI also concurred with the Staff recommendation to recognize the Council for a period of eighteen (18) months.

As provided in 34 C.F.R. § 602.34, I have carefully reviewed the record. Although much of the testimony during the NACIQI hearing and third-party filings focused on Standard 212 and Interpretations 212-1 through 212-3, the record reveals concerns about the Council that are far broader than any controversy about Standard 212, which concerns diversity in law school admissions and hiring. During the December 4 hearing, several members of NACIQI voiced serious concerns about the Council's track record in complying with the Department's criteria for the recognition of accreditation agencies. Indeed, one member referenced the historical difficulty that the Department has had with the Council.¹ Another member described the Council as "extraordinarily casual and dismissive"² toward the Department's requirements, process, and staff, and further noted that the Council has "a history of problems with criteria."³ The member termed this casualness "disturbing."⁴ Pointing to a consistent lack of attention to the Department's compliance requirements for accreditation recognition, another member questioned whether the Council should receive full recognition and opined that providing for an eighteen (18) month recognition period for the Council was "kind."⁵ None of the other members challenged these findings.

During these deliberations, NACIQI also focused on the Staff finding that the American Bar Association (ABA) failed to comply with a consent decree with the United States of America in certain civil litigation styled "United States of America v. American Bar Association," Civil Action No. 95-1211, United States District for the District of Columbia.⁶ As the Staff noted in its Final Report, in June of 2006, the ABA paid a fine of \$185,000.00 and agreed that it had violated the consent decree with the United States in several ways, including failing to provide proposed revisions to its law school accreditation standards to the Government. When one couples these findings with the Staff Final Report evidencing how the Council has not complied with the Criteria for Recognition, these facts underscore that the Council has ongoing problems with the Department's accreditation recognition process, as well as credibility issues with NACIQI. These continuing difficulties are troubling and worrisome to me, particularly where, as here, the applicant effectively serves as the sole accreditation authority for the nation's law schools.⁷

Based on a careful review of the record, I have decided as follows:

¹ Transcript of December 4, 2006, hearing, p. 92.

² Transcript, pp. 107-108 and 222.

³ Transcript, p. 225.

⁴ Transcript, p. 108.

⁵ Transcript, p. 228.

⁶ Transcript, p. 104.

⁷ The record reflects that the Council was originally scheduled for review at NACIQI's December 2005 meeting. The Council's application was administratively postponed while the Department reviewed voluminous third-party comments alleging substantive violations of the Criteria for Recognition, and postponed again after the Council failed to notify the Department about material changes to Standard 212 in accordance with 34 C.F.R. § 602.27. The failure of the Council--a body of lawyers--to follow the applicable regulations and to provide proper notice to the Department about these important changes underscores NACIQI's concerns.

1. I concur with NACIQI's recommendation of an eighteen-month period of recognition; accordingly, in December of 2007, the Council must file a petition for renewal of recognition that NACIQI will consider at its June 2008 hearing. In accordance with the applicable authorities, for a period of eighteen months, I shall list the Council as a nationally recognized accrediting agency for the accreditation throughout the United States of programs in legal education that lead to the first professional degree in law, as well as freestanding law schools offering such programs. This recognition also extends to the Accreditation Committee of the Section of Legal Education (Accreditation Committee) for decisions involving continued accreditation (referred to by that agency as "approval") of law schools.
2. I also concur with NACIQI's recommendation that the Council has failed to establish compliance with certain Criteria for Recognition cited by the Staff and that the Council must submit a report to the Department demonstrating its compliance with certain Criteria for Recognition. To that end, the compliance report should be submitted concurrently with, or as part of, the Council's filing of a petition for renewal of recognition.
3. The compliance report must directly address the Council's failure to comply with 34 C.F.R. § 602.18 as it relates to all of its standards, including (but not limited to) Standard 212 and Interpretations 212-1 to 212-3 and its predecessor, Standard 211 and its Interpretations, as well as submit the documentation set forth below.

In this vein, I note that the Council did not directly and persuasively address the Staff's finding that the Council failed to comply with § 602.18's requirements to maintain effective controls against inconsistent application of Standard 212 and its Interpretations. Indeed, the Council has repeatedly argued that Standard 212 does not differ in any material way from its predecessor, Standard 211. I see no reason, and the Council has not presented any persuasive argument, for the Department to treat Standard 212 and its predecessor differently from the Council's other standards by exempting it from the finding that the Council has not complied with § 602.18.

4. In the compliance report, the Council and the Accreditation Committee must (i) show the progress, if any, in complying with each Criteria for Recognition identified in the Staff's Final Report, and (ii) provide the Department with the following documents for the time period January 1, 2006, through the date of the filing of its petition for renewal recognition:
 - a. Any and all site evaluation reports of any school;
 - b. Any and all training, retreat, or workshop materials provided to the Council ensuring compliance with the Criteria for Recognition;
 - c. Any and all training, retreat, or workshop materials provided to the Accreditation Committee ensuring compliance with the Criteria for Recognition;

- d. Any and all training, retreat, or workshop materials provided to the Council's site team evaluators ensuring compliance with the Criteria for Recognition;
- e. Any and all studies, determinations, conclusions, transcripts, memoranda, and/or recommendations as to whether a school complies, or does not comply, with the Council's standards;
- f. Minutes, agendas, and transcripts of any and all meetings of the Council;
- g. Minutes, agendas, and transcripts of any and all meetings of the Accreditation Committee; and
- h. Minutes, agendas, and transcripts of any and all meetings of the Executive Committee of the Council.

I note that accrediting agencies submitting reports and documentation for review by NACIQI must use the Department's electronic submission system. The Council may obtain access to the system at the following Web site:

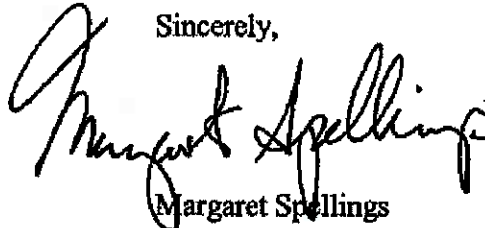
<http://webprod.cbmiweb.com/aslweb/index.cfm>

The Council should forward to the Department CDs of any material that it cannot submit electronically. Please provide a duplicate set of CDs of any material that you do not file electronically.

I hope that the Council will come into full compliance with all of the criteria cited above by the time it submits its December 2007 petition for renewal of recognition; however, I remind you that the Higher Education Amendments of 1998 provide a twelve (12) month deadline for agencies that fail to comply with the Criteria for Recognition to bring themselves into compliance. If the Council fails to come into compliance within the specified time frame, the law requires a denial of the Council's petition for renewal of recognition, unless it is determined that the agency should extend for good cause the period for coming into compliance. Absent such an extension, this twelve (12) month period constitutes the maximum time frame that the law allows for the Council to correct the deficiencies noted in the Final Staff Report.

I appreciate the Council's attention to the matters raised above. We look forward to the resolution of these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Margaret Spellings", written in a cursive style.

Margaret Spellings

Enclosure