JAMES UTHMEIER
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL
James Uthmeier, *Attorney General*

PL-01 The Capitol
Tallahassee, FL 32399-1050
Phone (850) 414-3300
Fax (850) 487-0168
https://www.myfloridalegal.com

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Mr. Adam M. Foslid
Ms. Erin O'Hara O'Connor
Mr. Ricky L. Polston
Mr. John M. Stewart
Mr. John F. Stinneford
Honorable Allen C. Winsor

VIA E-MAIL

Re: Public Comment to Working Group No. AOSC25-15, "Workgroup on the Role of the American Bar Association in Bar Admission Requirements."

I. Introduction.

Attorney General James Uthmeier submits this comment regarding the role of the American Bar Association's Council on Legal Education in the State's bar admission requirements.[1] As the State's chief legal officer, the Attorney General has a significant interest in legal education and admission to the Florida Bar—including whether attorneys seeking to practice law in Florida must first graduate from an ABA approved law school.

That answer should be no. In imposing the requirement that all members of the Florida Bar first graduate from an ABA approved law school, Florida, wittingly or

[1] The ABA's accrediting body is the Council on Legal Education and Admissions to the Bar, which operates within the Section of Legal Education. Although it is "more accurate to say that law schools are 'ABA-Council Accredited' rather than 'ABA-Accredited[,]'" for ease of reference, this comment will refer to the ABA rather than "the ABA Council." *See* Alexandra Diana Graves, *What Is the Role of the ABA Section of Legal Education?* ABA (June 10, 2025), https://tinyurl.com/2sxcpx89. Note that the ABA itself describes its work accrediting law schools as something "the ABA" accomplishes. *See* Defendant's Mot. to Dismiss at 2, *American Alliance for Equal Rights v. ABA*, No. 1:25-cv-03980 (N.D. Ill. April 12, 2025) ("The ABA also develops model uniform standards for the legal profession . . . and accredits law schools.").

not, vested enormous power in the ABA. In effect, the ABA can destroy any law school in Florida as it can unilaterally withhold accreditation and thus prevent that law school's graduates from becoming members of the Florida Bar. Even under the best of circumstances, this is almost certainly too much authority to vest in a non-governmental agency that is totally unaccountable to the public. Unfortunately, the ABA has demonstrated that it is unworthy of the immense public trust that has been placed in it. If the ABA ever existed as an important non-partisan organization that could be entrusted to ensure technical excellence in American legal education, those days have sadly long since passed. The ABA is now a brazenly political operation that seeks to impose its woke ideology on aspiring lawyers.

These concerns are not new, yet the ABA refuses to correct course. So the Attorney General recommends that the Florida Supreme Court amend its rules to eliminate the requirement that applicants for membership in the Florida Bar graduate from an ABA-accredited law school before they can sit for the Florida Bar Exam. Such action is necessary to free Florida from the improper influence the ABA wields over legal education in this state.

Additionally, the Court should consider forming a standing committee that would recognize alternative agencies to accredit law schools for purposes of bar admission. The ABA's status as the sole accreditor for most States admittedly makes it more difficult for any one State to enact accreditation reform on its own because students who attend non-ABA-accredited schools in Florida would be significantly limited in which States they could later practice. But Florida's rule changes would be a crucial first step towards helping counteract the ABA's monopoly on law school accreditation nationwide and can serve as a model for other States to follow. And reciprocity among the States in this regard—*i.e.*, allowing students who graduate from non-ABA-accredited schools in one State to take the Bar Exam in another State—could offer a long-term solution moving forward.

II. The ABA forces law schools to engage in illegal racial discrimination.

There are many concerns with the ABA operating as the sole accrediting agency for law schools, but most worrisome is the fact that the ABA demands that law schools racially discriminate in student admissions and faculty hiring as a condition of accreditation.[2]

ABA Standard 206 outlines this demand. It requires law schools to "demonstrate by concrete action a commitment to diversity and inclusion" in two ways.[3] First, schools must discriminate in the student-admissions process by taking "concrete action" to ensure "full opportunities for the study of law and entry into the profession

[2] Standards & Rules of Pro. For Approval of L. Schs. Standard 206 (Am. Bar Ass'n 2004).

[3] *Id.*

by members of underrepresented groups, *particularly racial and ethnic minorities*."[4] That entails, as further set out by Standard 206, a "commitment to having a student body that is diverse with respect to gender, race, and ethnicity."[5] Second, the ABA requires law schools to discriminate in the hiring of faculty. To obtain accreditation, a school must take "concrete action" to show its "commitment to diversity and inclusion by having a faculty and staff that *are diverse with respect to gender, race, and ethnicity*."[6] Neither of those requirements, of course, can be satisfied without a school's adoption of affirmative-action policies that discriminate based on race.

Such blatant racial discrimination is immoral and illegal. The Supreme Court confirmed as much in *Students for Fair Admissions v. Harvard*, 600 U.S. 181 (2023), where it rejected Harvard's and the University of North Carolina's policy of "[c]lassifying" university applicants and students "based on their race." *Id.* at 207. It also dismissed those universities' purported interest in "better educating its students through diversity" and in fostering "cross-racial understanding" as insufficient to justify the practice. *Id.* at 214. As the Court neatly summarized, "[e]liminating racial discrimination means eliminating all of it." *Id.* at 206 (cleaned up). The Supreme Court, in other words, has condemned precisely the sort of racial discrimination required by ABA Standard 206.

Yet the ABA has dragged its feet in the wake of *Students for Fair Admissions*. Despite repeated warnings by government officials that its policies violate that decision[7]—and despite the fact that *Students for Fair Admissions* was decided a full two years ago—the ABA has just recently "suspended" enforcement of Standard 206 until August 2026, pending its review of what changes to its policies the decision necessitates.[8] To date, it has offered no justification for its failure to simply withdraw Standard 206 entirely.

So too has the ABA refused to withdraw Interpretation 206-1, which states: "The requirement of a constitutional provision or statute that purports to prohibit

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[4] *Id.* (emphasis added).

[5] *Id.*

[6] *Id.* (emphasis added).

[7] *See, e.g.*, Letter from Jonathan Skrmetti, Tenn. Att'y Gen., to ABA Section of Legal Educ. and Admissions to the Bar (June 3, 2024) (on file at https://tinyurl.com/yck4cj9x); Exec. Order No. 14,173, 90 Fed. Reg. 8633, 8633 (Jan. 21, 2025) ("Ending Illegal Discrimination and Restoring Merit-Based Opportunity."); Letter from U.S. Dep't of Educ., Off. for Civ. Rts. (Feb. 14, 2025) (on file at https://tinyurl.com/mvd2neyu); Letter from Pam Bondi, Att'y Gen. to David A. Brennen, Council Chair of the ABA (Feb. 28, 2025) (on file at https://tinyurl.com/3fetx6w5); Letter from David A. Brennen, Council Chair of the ABA to Pam Biondi, Att'y Gen. (Mar. 10, 2025) (on file at https://tinyurl.com/29t4ttma); Memorandum from the Att'y Gen. to All U.S. L. Schs. Deans & Admissions Officers 2 (Mar. 26, 2025) (on file at https://tinyurl.com/bdz26uvp).

[8] *Council of the ABA Section of Legal Education extends Standard 206 suspension to 2026*, ABA, (May 9, 2025), https://tinyurl.com/2d5w2hsa (last visited July 3, 2025).

consideration of gender, race, ethnicity, or national origin in admissions or employment decisions is not a justification for a school's non-compliance with Standard 206." Rather, "[a] law school that is subject to such constitutional or statutory provisions would have to demonstrate the commitment required by Standard 206 by means other than those prohibited by the applicable constitutional or statutory provisions."[9]

Said another way, the ABA asks schools to skirt (or ignore) the animating principles behind equal protection and *Students for Fair Admissions* if doing so arguably complies with any existing gray areas around the letter of the law. Putting this into practice, the ABA launched a four-part series of workshops titled "The Path Forward: Discussions and Strategies in Ensuring Diversity, Equity, and Inclusion post-*SFFA v. Harvard*,"[10] and its House of Delegates endorsed the New York State Bar Association's Report and Recommendations for law schools and other entities to "advanc[e] their respective DEI efforts" after *Students for Fair Admissions*. The Report and Recommendations include advising law schools to maintain an institutional goal of "diversity in education" and assign weight to that goal in its admissions process; consider "place-based" admissions policies, which apparently means preferring applicants from South Chicago over applicants from Western Appalachia; train "key personnel" in admissions procedures "to ensure a holistic effort;"[11] design application materials to collect "demographic data;" and reexamine criteria for evaluating merit including the use of standardized tests—long believed by some to disadvantage minority test-takers[12]—all for the express purpose of making applicants of certain races more competitive against other applicants in the admissions process.[13]

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[9] Standards & Rules of Pro. For Approval of L. Schs. Standard 206, Interpretation 206-1 (Am. Bar Ass'n 2004).

[10] *The Path Forward: Discussions and Strategies in Ensuring Diversity, Equity and Inclusion post-*SFFA v. Harvard *Webinar Series*, ABA, https://tinyurl.com/2jp92cbr (last visited July 3, 2025).

[11] *See e.g.*, Sara Harberson, *Op-Ed: The truth about 'holistic' college admissions*, LOS ANGELES TIMES (June 9, 2015) https://tinyurl.com/39wk53ju ("But has holistic admissions become a guise for allowing cultural and even racial biases to dictate the admissions process? To some degree, yes.")

[12] *See, e.g.,* John Rosales and Tim Walker, *The Racist Beginnings of Standardized Testing*, NEAToday (Mar. 20, 2021), https://tinyurl.com/4s35wxzt.

[13] The ABA has invented new, creative ways to sidestep certain nondiscrimination requirements in its scholarship programs as well. For example, in April 2025, the ABA suddenly pivoted regarding its use of racial preferences in its programs, mere days before law students sued the ABA alleging that its race-based scholarship program illegally excluded them based solely on their race in violation of 42 U.S.C. § 1981. *See* Defendant's Mot. to Dismiss at 3 n.6, *American Alliance for Equal Rights v. ABA*, No. 1:25-cv-03980 (N.D. Ill. April 12, 2025). Rather than end the years-long discriminatory program and admit it had been wrong to exclude people of certain races from its program, the ABA created a new requirement for the old program. *See ABA Board of Governors passes diversity resolution*, ABA, https://tinyurl.com/5n6n3se6. The scholarship program for years offered funds only to "member[s] of an underrepresented racial . . . minority," *see* Verified Am. Compl., ¶ 47, but the ABA now states it is

Yet *Students for Fair Admissions* is clear: "[U]niversities may not simply establish through . . . other means the regime we hold unlawful today." 600 U.S. at 230. "[W]hat cannot be done directly cannot be done indirectly," and "the prohibition against racial discrimination" in the Constitution "is 'levelled at the thing, not the name.'" *Id.* The ABA refuses to listen.

The ABA's insistence on racial discrimination alone is disqualifying. Florida lawyers are "officer[s] of the legal system" and are obligated to "demonstrate respect for the legal system and for those who serve it."[14] Yet the accrediting agency requires law schools—entities tasked with instilling these duties in future members of the Bar—to ignore the Constitution in the name of a radical racial ideology.

The ABA is a hopelessly captured institution; captured by those committed to racial discrimination—a practice which offends the constitution and degrades the integrity of the legal profession. The ABA's core commitments are antithetical to Florida's, so Florida should no longer trust it to serve as a credible authority on the quality of bar applicants' academic credentials.

III. The ABA is demonstrably partisan and cannot be expected to act as a neutral gatekeeper for law school accreditation.

The ABA claims it "is for everyone" [15] and that it operates as a "non-partisan . . . organization."[16] Those claims are demonstrably false. Every facet of the ABA actively advances a progressive agenda, and an overtly dishonest and ideological organization should not continue to receive sole, state-sanctioned market power over law school accreditation. Academic accreditors should be neutral; they serve students of all political persuasions and ideologies and must be receptive to different political ideas. Given its record, the ABA should no more be responsible for accrediting law schools than the American Civil Liberties Union.

"in the process of reviewing its programs" to implement its new eligibility standard requiring a person to instead "demonstrate[] commitment" to "eliminating bias and enhancing diversity" rather than awarding funds based on a person's adherence to "particular group identities." Defendant's Mot. to Dismiss at 3 n.6. Conveniently, the ABA expects that this new standard will likely moot the lawsuit. *See* Defendant's Mot. to Dismiss at 3 n.6. But the students contend that "only a court order" will ensure that the ABA will actually refrain from preferring certain races when selecting scholarship winners, especially given that the ABA preferred certain races in its program for "many years," designed and created the scholarship specifically for students of certain races, and demonstrated a long "history of practicing and defending racial preferences." Verified Am. Compl., ¶ 47. For similar reasons, we hesitate to trust that the ABA will actually abide by the law in its interpretations—and enforcement—of Standard 206.

[14] Rules Regulating the Florida Bar Chapter 4 preamble, https://tinyurl.com/49xup66b.

[15] ABA, https://tinyurl.com/z73pepy4 (last visited June 27, 2025).

[16] *About Us*, ABA, https://tinyurl.com/uaczw4nm (last visited June 27, 2025).

a. Government lobbying to advance one-sided policy positions

The ABA's Governmental Affairs Office is a legislative juggernaut that arranges congressional testimony, submits documents and reports on its preferred positions, and lobbies Congress for support of its policies.[17] So much so that it averages almost $1 million in congressional lobbying expenditures annually.[18] And it uses this lobbying machine to advance dozens of progressive policy positions across a host of contentious and consequential issues, including:

- Advancing legislation that would provide government subsidized abortions to low-income women;
- Opposing legislation that would permit Congress to override agency regulations;
- Exhorting all lawyers to devote at least 20 hours per year to work that promotes DEI;
- Promoting legal structures that consider race, national origin, and gender as factors in employment, student admissions, or government contracting;
- Supporting transgender athletes' ability to compete with students of the opposite sex;
- Advocating for national basic income as a human right;
- Urging all institutions to use preferred pronouns;
- Supporting the creation of a congressional committee to make recommendations on reparations for persons of African descent;
- Urging all courts to implement an affirmative action plan and to consider diversity in employment/appointment decisions;
- Supporting strong federal gun control;
- Decriminalizing marijuana;
- Repealing Stand Your Ground laws;
- Restoring voting rights to all criminal convicts; and
- Granting permanent legal residency status to all illegal aliens in the nation who have not been convicted of a crime.[19]

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[17] *Id*.

[18] *See Financial Reports from the American Bar Association*, ABA, https://tinyurl.com/4v42phvv (last visited June 20, 2025). Total disclosures include: $940,000 (2024), $850,000 (2023), $850,000 (2022), $940,000 (2021). https://tinyurl.com/2s3av86c.

[19] *See generally Legislative Policies of the ABA*, ABA, https://tinyurl.com/mr2wk5h8 (updated Aug. 2019).

Worse than merely advocating for liberal policy positions, the ABA has taken the unserious position that the Equal Rights Amendment *is already* a valid part of the United States Constitution.[20] This radical claim means the organization that houses the accrediting agency for law schools holds to a different Constitution than everyone else.[21] The absurdity is obvious.

No reasonable person would look at this list of positions and conclude the sponsoring party is anything but a progressive ideologue. And some of the ABA's positions—like the one on the ERA—also call into question its competence. It makes no difference that the ABA doesn't chime in on "party" politics—it is nakedly partisan. Any organization which demonstrates such unswerving fealty to the policies of the Left cannot remain the sole accreditation gatekeeper of this State's law schools.

b. Amicus briefs

The ABA's amicus brief practice forms another of its large advocacy arms. As with its lobbying efforts, the ABA boasts that it has "been a leading voice"—and incidentally has taken the leftward position—in "nearly every landmark discrimination case involving sex, sexual identity, or education over the past two decades."[22] It submitted briefs in *Dobbs v. Jackson Women's Health* ("women have the right to decide . . . whether to continue a pregnancy"),[23] *Lawrence v. Texas* (banning sodomy "violate[s] constitutionally protected liberty and privacy interests"),[24] *Obergefell v. Hodge* ("the Fourteenth Amendment requires a state to license a marriage between two people of the same sex"),[25] *Masterpiece Cakeshop v. Colorado Civil Rights Commission* ("public accommodations laws" should not contain "a constitutional exemption" for First Amendment rights),[26] *Students for Fair Admissions v. Harvard University* (making admissions decisions based on race is "consistent with the principles" of American law, and an "important tool" for the

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[20] *See* Statement from President Joe Biden on the Equal Rights Amendment, (Jan. 17, 2025) https://tinyurl.com/44cu7jby ("I agree with the ABA and with leading legal constitutional scholars that the Equal Rights Amendment has become part of our Constitution.").

[21] Indeed, even liberal jurists have long rejected such an outlandish claim. *See, e.g.,* Russell Berman, *Ruth Bader Ginsburg Versus the Equal Rights Amendment*, THE ATLANTIC (Feb. 15, 2020) https://tinyurl.com/4p345wa2 (noting Justice Ginsburg's opposition to this position).

[22] Brief for ABA as Amicus Curiae supporting Respondents at *2–4, *Gloucester Cnty. School Board v. G. G.*, 2017 WL 894897 (U.S., 2017).

[23] Brief for ABA as Amicus Curiae supporting Respondents at *4*, Dobbs v. Jackson Women's Health Org.*, 2021 WL 4441203 (U.S., 2022).

[24] Brief for ABA as Amicus Curiae supporting Petitioners at *4, *Lawrence v. Texas*, 2003 WL 164108 (U.S., 2003).

[25] Brief for ABA as Amicus Curiae supporting Petitioners at *1, *Deboer v. Snyder*, 2015 WL 1045422 (U.S., 2015).

[26] Brief for ABA as Amicus Curiae supporting Respondents at *4, *Masterpiece Cakeshop v. Colorado C.R. Comm'n*, 2017 WL 5152968 (U.S., 2017).

profession),[27] and *District of Columbia v. Heller* (the Second Amendment does not enshrine an individual right to keep and bear arms).[28] An advocacy organization is certainly entitled to express its views—like the ACLU or Planned Parenthood routinely do. But it should never be entrusted with state-endowed regulatory power, the very position Florida currently affords it.

c. Rating Judicial Nominees

Finally, the ABA's federal judicial ratings systematically favor left-leaning nominees. A 2012 study concluded that the ABA was 15% more likely to give "well-qualified" ratings to candidates nominated by a democrat president.[29] According to the study, simply being nominated by a democrat is a greater predictor of a high ABA rating than 10 years of district judge experience or previous service as a federal appellate clerk.[30] This trend has continued with President Trump's and President Biden's judicial nominations.[31] And as is a pattern with the ABA, it denies any claim of bias despite the mountain of evidence to the contrary.[32]

Unsurprisingly, these reckless actions by the ABA have led to a loss of formal vetting responsibilities across a host of contexts. The new chair of the Federal Trade Commission, Andrew N. Ferguson, announced that political appointees employed by the Commission can no longer be members, hold leadership positions, or attend events of the ABA.[33] Chairman Ferguson explained that "[w]ere the ABA a nonpartisan association," his prohibitions "would not be necessary."[34] But because the ABA is an "insistent and outspoken political organization" that has rebuffed conservatives' efforts "for years" to work within the organization to "make it more balanced," the FTC's leaders "should not lend a patina of nonpartisan legitimacy" to the ABA by participating in its programs.[35] Separately, Attorney General Bondi cited the ABA's lack of independence and neutrality as reason to withdraw the ABA's

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[27] Brief for ABA as Amicus Curiae supporting Respondents at *7, *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.,* 2022 WL 3108796 (U.S., 2023).

[28] Brief for ABA as Amicus Curiae supporting Petitioners at *2–3, *District of Columbia v. Heller*, 2008 WL 136349 (U.S., 2008).

[29] Susan N. Smelcer, et al., *Bias and the Bar: Evaluating the ABA Ratings of Federal Judicial Nominees*, 65 Pol. Rsch. Q. 827–40, 832 (2012).

[30] *Id.* at 832–33.

[31] *See, e.g.*, Letter from U.S. Senators to William Bay, President, ABA (Mar. 7, 2025) https://tinyurl.com/4kfethpc.

[32] Letter from William Bay, President, ABA, to Att'y Gen. Pam Bondi, (June 10, 2025) https://tinyurl.com/mr49tfb3.

[33] Letter from Andrew N. Ferguson, Chairman, Fed. Trade Comm'n to Fed. Trade Comm'n Staff (Feb. 14, 2025) (on file at https://tinyurl.com/533wvjku).

[34] *Id.* at 2–3.

[35] *Id.* at 3.

special access to nominees to federal judgeships.[36] And the Texas Supreme Court recently announced that it is rethinking the ABA's role as that State's sole law school accreditor as well as its current requirements that permits only those persons who graduated from an ABA-accredited law school to be eligible for admission to the Texas bar.[37]

That recognition extends to Florida officials as well. Chief Justice Muñiz recently sent a letter to the Florida Bar directing it to immediately cease making appointments to the ABA House of Delegates, withdraw any existing appointments, and amend the Florida Bar's policies to implement the directive.[38]

IV. The ABA's monopolistic control stifles competition and diminishes the quality of legal education nationwide.

The ABA's aggressive leftward bias would be less worrisome if it was only one of multiple actors in the accreditation space. Yet the ABA is a monopoly. Stand-alone law schools must receive ABA accreditation to receive federal student loan funds, and the ABA is the sole law school accreditor recognized by the U.S. Department of Education and most states.[39] That control enables the ABA to fix prices, punish outsiders, raise barriers to entry, and stifle innovation. None of those things are good for the quality of legal education in Florida or the nation.

Other government actors have similarly concluded that the ABA is a monopoly. So much so that the DOJ sued the ABA for antitrust violations after discovering that the ABA was fixing faculty salaries, refusing to accredit schools simply because they were for-profit, and refusing to allow ABA-accredited law schools to accept credit for classes at schools that were state-accredited. That suit resulted in a 10-year consent decree with the Department of Justice in 1995 to end a federal antitrust lawsuit, which included self-reporting and monitoring over the ABA's accreditation

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[36] Letter from Pam Bondi, Att'y Gen. to William Bay, President of the ABA (May 29, 2025) (on file at https://tinyurl.com/2pcrzsrr).

[37] Order Inviting Comments on the Law School Accreditation Component of Texas's Bar Admission Requirement at 1–2, (Tex. 2025) (Misc. Docket No. 25-9018), https://tinyurl.com/45hpdabv.

[38] Letter from Hon. Carlos G. Muñiz, Chief Justice of the Supreme Ct. of Fla., to Joshua Doyle, Exec. Dir. of the Fla. Bar (June 12, 2025) (on file at https://tinyurl.com/3w39h9ju).

[39] For law schools that are attached to an undergraduate institution that is already accredited by one of the institutional accreditors recognized by the U.S. Education Department, that "institutional accreditation provides access to the loan programs to students in all degree programs at the institution, including the J.D. program." Barry Currier, *Should the Council Withdraw from the U.S. Department of Education Accreditation System?*, LEGAL EDUCATION MATTERS, (May 30, 2025), https://tinyurl.com/bdey7f42. Thus, those law schools would be able to receive federal funds even if they lost ABA accreditation. Only seven of the approximately 200 ABA-approved law schools rely on ABA accreditation so that its students can access the federal student loan program. *Id.*

practices.[40] The ABA later admitted it violated that consent decree and paid a $185,000 fine.[41]

Despite that suit, the ABA remains an "accreditation cartel."[42] It oversees the massive and profitable business of higher legal education and permits law schools to "[h]id[e] behind [its] accreditation power" while fixing prices, punishing those outside the cartel, and erecting significant barriers for other schools to enter the market.[43] Moreover, many ABA accreditation requirements discourage innovation. As just one example, Standard 106 imposes numerous requirements on law schools wishing to offer an additional location, including full-time faculty, library resources, and physical facilities,[44] making it difficult for any school wanting to offer in-person classes to an underreached region of a city. The result is a stagnation in the law school model.

V. Alternatives to the ABA's monopoly in law school accreditation.

The ABA's brazen ideological commitments and its established monopolistic practices demonstrate the need for a new law school accreditation framework. The Attorney General therefore offers two recommendations for the Workgroup's consideration: (1) amending its rules requiring applicants to graduate from an ABA-accredited law school before sitting for the Florida Bar Exam and (2) forming a permanent committee that would approve and oversee additional agencies that can accredit law schools for purposes of bar admission.

Florida Bar Admissions Rule 4-12 requires anyone wishing to practice law in the State to first pass the Florida Bar Exam.[45] But to take "any portion" of the bar exam, applicants must "complete the requirements for graduation . . . from an accredited law school," which means a school "approved" by the ABA. Rule 4-13.

For all the reasons previously described, Florida should end its requirement that a student graduate from an ABA-accredited school to sit for the Florida Bar Exam.

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[40] Complaint at 12–13, United States v. ABA, 934 F. Supp. 435 (D.D.C. 1996) (No. 95 Civ. 1211), https://tinyurl.com/muakku9v; *see also* Press Release, U. S. Dep't of Just., Justice Department Asks Court to Hold American Bar Association in Civil Contempt (June 23, 2006) (available at https://tinyurl.com/mrxnkn3s).

[41] Press Release, U.S. Dep't of Just., Justice Department Asks Court to Hold American Bar Association in Civil Contempt (June 23, 2006) (available at https://tinyurl.com/mrxnkn3s).

[42] Josh Wright, *The ABA & the Accreditation Cartel: A Worthy Target for the Trump Antitrust Enforcers*, COMPETITION ON THE MERITS (Feb. 20, 2025), https://tinyurl.com/33hwrbxa.

[43] *Id.*

[44] STANDARDS & RULES OF PRO. FOR APPROVAL OF L. SCHS. Standard 106 (AM. BAR. ASS'N 2004), https://tinyurl.com/yvbzaw8f.

[45] Fla. Bar Admiss. R. 4-12.

In addition, the Florida Supreme Court could form a standing committee that would approve and oversee other agencies that can accredit law schools for purposes of bar admission in the State.[46] The committee would develop criteria for such agencies, which could track the U.S. Education Department's requirements for the accrediting agencies it oversees. Such requirements include demonstrating that the agency has standards for accreditation that are "sufficiently rigorous," and that set forth clear expectations for:

- "Student achievement" (including bar passage and job placement rates);
- Curricula;
- Faculty;
- Facilities;
- Financial and administrative capacity;
- Student support services;
- Record of student complaints received by the agency, and
- Record of compliance with the institution's program responsibilities under Title IV.[47]

Alternatively, the standing committee could establish its own requirements for agencies wishing to accredit law schools for bar admission in Florida. Those requirements could include the following:

- The commitment that each law school will not discriminate based on the protected classes recognized by Florida or federal law;
- Student achievement standards, such as a 75% bar passage rate within 2 years of graduation; and
- Other neutral criteria, including financial and administrative capacity, faculty criteria, and others.

Whatever course of action the Court takes, it should acknowledge that the ABA's monopoly is entrenched. It is the only law school accreditor recognized by the U.S. Department of Education and most of the States and therefore complicates any State's attempt at reform. And currently only Texas and Florida are publicly reconsidering their law school accreditation rules. Thus, any student attending law school in Florida who may one day want or need to move out of the State to practice

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[46] One such accrediting agency could be the newly-created Commission for Public Higher Education, which is comprised of six state public university systems and offers a "new accreditation model," if that agency were willing to also accredit law schools. Press Release, Governor Ron DeSantis Announces First-of-its-Kind Alternative University Accreditor (June 26, 2025) (available at https://tinyurl.com/mz5btmkw).

[47] U.S. DEP'T OF EDUC. OFF. OF POSTSECONDARY EDUC. ACCREDITATION GRP., ACCREDITATION HANDBOOK, 13–14 (2022), available at, https://tinyurl.com/39dehcpc.

law will still need to have graduated from an ABA-accredited law school to take the bar exam and practice law in that State. This means any solution will likely require a multistate agreement, and Florida should not shy away from reaching out to other States and encouraging similar reform.[48]

VI. Conclusion

The ABA is unworthy of the power and influence it has been given. Nor has it conducted itself in a manner consistent with its unique role in law school accreditation. Something must be done, but as a modest start, the Florida Supreme Court ought to amend its rules requiring applicants to graduate from an ABA-accredited law school before they can sit for the Florida Bar Exam, and it should consider creating a committee to oversee new agencies to accredit law schools within the State.

Sincerely,

James Uthmeier
Attorney General

[48] Florida is already facilitating such multistate agreements regarding undergraduate accreditation with Texas, Georgia, North Carolina, South Carolina, and Tennessee. *See Southern states join forces to break free from 'woke accreditation cartels,'* FOX NEWS (June 27, 2025), https://tinyurl.com/nhcfy8e7.