

Under pressure: Appalachian School of Law faces ABA accreditation decision

By: [Peter Vieth](#) April 9, 2018

<https://valawyersweekly.com/2018/04/09/under-pressure-appalachian-school-of-law-faces-aba-accreditation-decision/>

Southwest Virginia's Appalachian School of Law has been directed by an accreditation panel to address questions about how it selects students capable of earning a degree and passing the bar. A critical hearing is set for June.

Credentials of ASL's current and future students are under review even as the law school banks the proceeds of a \$6 million economic development loan designed to keep it open and providing jobs in the coalfields.

The student statistics are discouraging. ASL's latest class of full-time students has the lowest median LSAT score of any law school ranked by U.S. News & World Report. The school has struggled with its bar pass rate, although nearly 77 percent of ASL's first-time exam takers passed the July 2017 exam, a jump from a one-third bar pass rate for the year before.

Whipsawed

The school appeared to have competing pressures. The final \$1 million installment of the job-booster loan was contingent on the school meeting an enrollment target of 122 students. The school met that target by admitting a class of 68 in the fall of 2017, yielding a total enrollment of 128, but test scores remained low. The school accepted 21 transfers, 18 from the now-defunct Charlotte School of Law.

ASL's troubles are not unusual, observed lawyer and writer David J.R. Frakt, who often blogs on the struggles of lower-tier law schools. The Florida attorney is a former law professor and chair of an advisory council for the non-profit advocacy group "Law School Transparency."

"From 2010 to 2016, law school applications dropped nationwide by 40 percent. But the number of law schools did not drop," he said. "Law schools were forced to either lower their standards or shrink their classes, or some combination of the two," Frakt said.

The pain was especially acute for free-standing law schools, such as ASL, that are without an associated university to help absorb losses during the economic downturn, Frakt said.

Money tied to enrollment

ASL found another way to weather the storm. It borrowed \$6 million from the Virginia Coalfields Economic Development Authority, a state-created organization formed in 1988 to boost the economy of the state's coal region.

A three-part funding package was approved in 2016. The last \$1 million installment was delivered March 29. The money went to the Buchanan County Industrial Development Authority to be disbursed in turn to the law school, according to the loan agreement.

"The main justification is job retention for the law school," said VCEDA Executive Director Jonathan Belcher in an interview. "It would be pretty detrimental if the law school closed," he added. A VCEDA news release said 69 first-year students from 19 states arrived to start the 2017-18 school year, representing a more than 80 percent increase compared to fall 2016.

ABA threatens sanctions

While its financial position improved with the loan, ASL was getting bad news from the American Bar Association. The ABA's Section of Legal Education and Admission to the Bar is the official accrediting agency for J.D. programs in the U.S.

A year ago, the ABA accreditation committee concluded ASL failed to meet standards for admissions and for a "rigorous program of legal education." School representatives satisfied the accreditation

committee with progress on its education program at a December meeting. Admissions remained a problem, however.

The committee concluded ASL was still noncompliant on “sound admission policies and practices” and admission of applicants who do not appear capable of “completing the program of legal education and being admitted to the bar.”

The LSAT scores for the 2017 beginning students were 149 for the 75th percentile, 143 at the 50th percentile and 141 at the 25th percentile, according to the school’s required disclosures. The median score of 143 can be compared to an average median score of 156 at the 185 law schools ranked by USNWR.

The committee directed ASL to submit – by Jan. 19 – a “written reliable plan” for bringing the law school into compliance.

The committee also asked for the school’s admissions data and methodology, including practices and policies, for the fall 2018 entering class. “Where factors other than grade point average and LSAT are used to support an admissions decision, report those factors and state why they were sufficient to overcome concerns inherent in the applicant’s academic qualifications and LSAT score,” the school was instructed.

The panel called for a fact-finder to visit the law school to review the admissions process.

Another accreditation hearing is set for June. After the accreditation committee issues a decision letter, the school will be required to publish a statement of the required remedial action, the notice said. In addition, students must be advised of bar pass rates for ASL students taking the bar exams in Virginia, Kentucky and Tennessee.

ASL responds

“The law school is addressing the ABA’s concerns and will demonstrate its full compliance with all ABA standards,” read a statement posted by the school on its website.

The school hired an outside expert to analyze data on admitted students from 2009 to 2016, the statement said. Officials said they learned ASL’s admission procedures would be strengthened by “adopting a minimum LSAT, UGPA, and an Index that combines both of those features based on a formula recommended by the Law School Admissions Council. These admission adjustments will be implemented as a core element of the Law School’s reliable plan,” the statement said.

The ABA scrutiny to date has not resulted in any sanction for ASL.

“ASL is fully accredited by the American Bar Association,” said school Dean Sandra McGlothlin in an email. “As such, ASL graduates are eligible to sit for the bar examination in any U.S. state and the District of Columbia,” she said.

Loan requirements

Pressure remains to keep enrollment numbers high. The loan is secured by the school’s law library building and an adjacent parking lot, according to the loan agreement.

The Buchanan County IDA is obligated to repay the loan beginning with five consecutive annual payments of \$250,000. After five years and payment of \$1.25 million, however, the VCEDA could forgive the balance and convert the remainder of the loan to a grant if ASL has at least 145 students enrolled, remains accredited by the ABA and remains in operation in Buchanan County.

All the balance is due and payable in full if ASL ceases to operate as a law school in the county or loses ABA accreditation, according to the terms of the loan.

Applications up

There could be better days ahead for law schools on the margin. As of mid-January, law school admissions were running nearly 11 percent higher than around the same time the year before, according to the Law School Admission Council. The number of LSAT test takers in December rose by more than a quarter from the prior year.

That’s welcome news, according to University of Richmond Law Dean Wendy C. Perdue, the current president of the Association of American Law Schools.

"I have no specific knowledge about the situation at Appalachian School of Law, but it is no secret that the last seven years have been challenging ones for nearly every law school," Perdue said. "We are all hopeful that this year's upturn in applications bodes well for the future."