



April 1, 2026

David Barker, Assistant Secretary for Postsecondary Education
U.S. Department of Education
Office of Postsecondary Education
400 Maryland Avenue, SW
Washington, DC 20202

**Re: Complaint Regarding the American Bar Association’s Standard 303(c) and
Federal Recognition**

Dear Assistant Secretary Barker:

The America First Policy Institute (“AFPI”) respectfully submits this complaint requesting that the U.S. Department of Education (the “Department” or “DOE”) investigate whether the American Bar Association’s Council of the Section of Legal Education and Admissions to the Bar (“ABA Council”) is compliant with federal recognition criteria under 34 C.F.R. Part 602.

I. Executive Summary

The ABA Council serves as the sole national accrediting agency for Juris Doctor (J.D.) programs in the United States as recognized by the DOE, giving it extraordinary influence over the structure and requirements of legal education. Because federal student aid eligibility depends heavily on institutional accreditation, the ABA’s standards exert significant control over law school curricula and institutional policies.

This complaint concerns ABA Standard 303(c), which requires law schools to provide education related to bias, cross-cultural competency, and racism. AFPI does not challenge law schools' ability to teach about controversial social or political topics. Rather, when accreditation standards are implemented in ways that create racially hostile environments or compel students to participate in ideological programming—as ABA Standard 303(c) precipitates—it raises serious concerns about violations of federal civil rights law.

AMERICA FIRST POLICY INSTITUTE
1455 Pennsylvania Ave, NW, Suite 225
Washington, D.C. 20004
(703) 637-2548

Evidence submitted contemporaneously with this complaint shows that Penn State Dickinson Law School mandates a first-year law student program entitled “Race and the Equal Protection of the Law” (“REPL”), which the institution has tied to its compliance with ABA Standard 303(c). We highlight this example from Penn State to illustrate the significant risk of civil rights violations stemming from compliance with the ABA’s DEI Standard.

Based on the materials reviewed by AFPI, the REPL program raises several concerns:

1. The program is mandatory for first-year students;
2. The program presents false and outrageous claims about American legal institutions, including assertions that the criminal justice system functions as a tool of racial subordination and is inherently, systematically racist; and
3. These claims are presented without meaningful—or, in some cases, *any*—accompanying course engagement with credible scholarship presenting critiques or alternatives. By failing to engage with a range of scholarly perspectives on these important issues, this course could be fairly described as “indoctrinating” rather than “educating” students. This assessment is bolstered by student reports about feeling pressured to parrot perspectives presented to them in this class.

Because Penn State is a recipient of federal funding, these concerns may implicate Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, skin color, and national origin in federally funded programs.

AFPI respectfully requests that the Department examine whether the ABA Council’s standards and oversight mechanisms sufficiently ensure that ABA Standard 303(c) is implemented in a manner consistent with federal law and civil rights protections.

II. Federal Recognition Framework and the Role of Accreditors

The Department of Education recognizes accrediting agencies under 34 C.F.R. Part 602 to ensure that those agencies function as “reliable authorities regarding the quality of education or training offered by institutions of higher education.”¹

¹ 34 C.F.R. § 602.1.

Accreditors play a critical role in the federal higher education system. Institutions must maintain accreditation from a recognized agency for their students to participate in federal student aid programs under Title IV of the Higher Education Act.²

Because of this gatekeeping function, recognized accreditors must adopt and enforce standards that operate consistently with federal law and ensure that institutions comply with applicable legal obligations. The ABA Council occupies a uniquely powerful position within this system. It is the only accrediting agency recognized by the Department for Juris Doctor programs, meaning that the ABA's accreditation standards effectively determine the structure of legal education nationwide. As a result, when ABA standards influence institutional programming and potentially conflict with federal civil rights law, the Department has a strong interest in oversight.

III. The ABA DEI Standard

ABA Standard 303(c) requires law schools to provide education addressing bias, cross-cultural competency, and racism. The standard was adopted following extensive debate within the legal education community over how law schools should address issues of race and discrimination. Supporters argued that law students should receive training to recognize bias and understand how legal institutions affect different communities.

However, the adoption of Standard 303(c) also raised concerns that accreditation standards might encourage mandatory ideological training programs that present contested viewpoints as fact. AFPI's complaint does not challenge the importance of discussing complex social issues in legal education. Rather, the issue presented here is whether accreditation standards are being implemented in ways that incentivize law schools to adopt programs that suppress dissent, compel ideological conformity, or create racially hostile educational environments.

IV. Case Study: Penn State Dickinson Law's REPL Program

A. Structure and Mandatory Nature of the Program

Penn State Dickinson Law has implemented a first-year program titled "Race and the Equal Protection of the Law," consisting of multiple sessions throughout the academic year. Based on the materials provided to AFPI, participation in the program is mandatory for first-year law students. The program includes required reading assignments, lectures from faculty members and guest speakers, as well as small-group discussions and administrative presentations.

² Higher Education Act of 1965, 20 U.S.C. § 1099b.

The involvement of senior administrators in the program is noteworthy. According to the course materials, the law school's Dean participates directly in presenting portions of the course content, which may create additional pressure on students to conform to those viewpoints, given the Dean's broad authority at the school.

B. Content Presented in REPL Sessions

Title VI jurisprudence recognizes that discrimination can occur not only through explicit disparate treatment based on race, skin color, or national origin, but also through the creation of racially hostile environments within educational institutions. Materials from the REPL sessions include numerous statements and themes that tread dangerously into this territory:

1. Race Essentialism

Statements in the course materials frame systemic social problems primarily through concepts such as "white supremacy" and racial domination. When presented in mandatory programming, such framing attributes collective responsibility to individuals based on their membership in groups defined by race and skin color.

2. Hostile Educational Environment

Educational programs that characterize certain racial groups as inherently oppressive or morally culpable contribute to a racially hostile learning environment.

For example, during one lecture, a guest speaker stated: "What the problem is... is white supremacy... The idea that what the criminal legal system is about is racial subordination."

The same lecture included the assertion that the American criminal justice system exists primarily "to keep Black people in their place."

In another REPL session, faculty members suggested that criminal prosecutions and jury decisions are driven by racial "othering," implying that racial identity rather than evidence frequently determines criminal outcomes.

3. Compelled Ideological Conformity

Some course statements suggest that accepting the program's ideological framework is necessary to become a competent legal professional. For example, one instructor told students that understanding the course's racial framework would make them "a better lawyer." When students are required to attend such programming as a condition of their legal education, the line between academic discussion and ideological compulsion becomes blurred.

AFPI does not contend that these viewpoints cannot or should not be discussed in an academic setting. However, when such claims are presented in mandatory programming without meaningful exposure to competing perspectives, the educational environment may become coercive and/or hostile to dissenting viewpoints.

V. Evidence of Viewpoint Suppression

AFPI has also received evidence suggesting that dissenting viewpoints may face institutional barriers within the law school community.

On January 26, 2026, the Dean of Penn State Dickinson Law sent an all-school email addressing recent federal immigration enforcement actions, using highly charged language to characterize those events and affirming the importance of institutional programming—including the REPL course—as part of the law school’s response. Shortly thereafter, a student submitted a respectful response offering an alternative perspective and emphasizing the need for viewpoint diversity in addressing such contested issues. However, that response was rejected by a moderator and never distributed to the student body. The student appealed the decision to censor the response, and the school upheld its decision to ban this dissenting viewpoint.

The juxtaposition of these events—an official, school-wide communication advancing a particular viewpoint and reinforcing mandatory programming, followed by the censoring of a dissenting student response—demonstrates a lack of viewpoint neutrality and reinforces the claim that required programs such as REPL are implemented in a manner that discourages or excludes opposing perspectives. Indeed, this incident is a stark indicator of the school’s system of silencing dissenting viewpoints.

VI. Implications for Federal Recognition Criteria and Requested Action

Under 34 C.F.R. § 602.16, recognized accrediting agencies must ensure that their standards effectively evaluate whether institutions operate in compliance with applicable legal requirements. If accreditation standards encourage institutions to implement mandatory ideological programming that creates racially hostile environments or teach charged ideological viewpoints as settled fact, the accreditor’s oversight mechanisms are inadequate, and the Department’s recognition of the accreditor must be called into question.

Accordingly, AFPI respectfully requests that the Department of Education:

1. Open an investigation into the ABA Council’s compliance with federal recognition criteria under 34 C.F.R. Part 602, including whether it adequately monitors and enforces the implementation of the ABA’s DEI Standard.

AMERICA FIRST POLICY INSTITUTE
1455 Pennsylvania Ave, NW, Suite 225
Washington, D.C. 20004
(703) 637-2548

2. Require the ABA Council to explain what safeguards and guidance it provides to ensure that the ABA's DEI Standard is implemented in a manner consistent with federal civil rights law and does not result in coercive or discriminatory programming.
3. Investigate whether law schools are using mandatory ideological training programs to satisfy the ABA's DEI Standard, and whether such practices create a hostile environment in violation of federal law.
4. Take appropriate enforcement action, including revocation of the ABA's federal accreditation recognition, if the Department determines that the ABA's standards are being implemented inconsistent with federal law and the ABA fails or refuses to modify its accreditation standards accordingly.

VII. Conclusion

Accreditation serves as the central gatekeeping mechanism within the federal higher education system. When accreditation standards influence mandatory educational programming at federally funded institutions, those standards must operate in a manner consistent with federal civil rights protections. The evidence presented in this complaint raises serious questions about whether ABA Standard 303(c) is being implemented in ways that create coercive or racially hostile educational environments.

For these reasons, AFPI respectfully requests that the Department investigate the implementation of ABA Standard 303(c) and the ABA Council's compliance with federal recognition criteria.

Sincerely,

Leigh Ann O'Neill

Leigh Ann O'Neill
Chief Legal Affairs Officer
America First Policy Institute

AMERICA FIRST POLICY INSTITUTE
1455 Pennsylvania Ave, NW, Suite 225
Washington, D.C. 20004
(703) 637-2548