TO

1. All the Registrars of the Universities imparting Legal Education

2. All the Deans of the Department of Law/ Faculty of Law

3. All Principals of the Law Colleges in the country

Sub: Implementation of Rules of Legal Education - 2008

Sirs,

The Legal Education Committee at its meeting held on 17th November, 2013 has passed the following resolutions.

You are requested to kindly go through the following resolutions and send your compliance report to the Bar Council of India immediately.

General Resolution 1:-

It has been seen for some time that inspite of rules and repeated communications issued earlier, procedural irregularity is being committed both by the universities and the affiliated colleges in respect of seeking approval of affiliation by the Bar Council of India. The present circular/communication is once again to appraise the concerned universities and colleges to strictly adhere to the rules as laid down in the Bar Council of India Rules framed under the Advocates Act, 1961.

1. The first error which is committed is many universities before granting any affiliation either to department or to the affiliated law college, direct the law colleges and wait for Bar Council of India to first grant approval. This is in-consistent with the rules of the Bar Council of India. It is the university to grant affiliation in the first place after inspection under Rules 16(1)(2), Chapter III of Legal Education Rules 2008 which is reproduced here for reference:-

Contd.../-
"16. Conditions for a University to affiliate a Centre of Legal Education:

(i) When a University receives an application for affiliation of a Centres of Legal Education to provide legal education by running professional degree program in law under either or both the streams, the University may before deciding whether it is fit case for seeking inspection from the Bar Council of India, shall ensure that

(i) the applicant organization proposing to run the institution is either already a non-profit organization of trust or registered society or a non-profit company or any other such legal entity or has taken all legal formalities to be as such,

(ii) the institution has in its name either in freehold or leasehold, adequate land and buildings, to provide for Centre of Legal Education building, library, halls of residences separately for male and female and sports complex both indoor and outdoor, so that it can effectively run professional law courses provided that in case of leasehold the lease is not less than ten years,

Provided that sufficient and adequate floor space area specially and completely devoted for a Centre of Legal Education, based on the size of its student population, faculty requirement, adequate space required for infrastructure facilities can be considered sufficient accommodation for the purpose in a multi-faculty building on land possessed by the Management of a Society/ Trust running multi-faculty institutions.

(iii) recruited or taken steps to recruit adequate number of full time and visiting faculty members to teach each subjects of studies, each faculty having at least a Master Degree in the respective subject as required under the UGC Rules,

(iv) there is the separate Centres of Legal Education for the study of law under a separate Principal who should be qualified in Law to be a Professor of Law as stipulated under UGC and Bar Council of India rules,

(v) there is adequate space for reading in the library and there are required number of books and journals and adequate number of computers and computer terminals under a qualified librarian,
(vi) if the prior permission of the state government is necessary, a no objection certificate is obtained to apply for affiliation, (emphasis added)

(vii) a minimum Capital Fund as may be required under Schedule III from time to time by the Bar Council of India, and put into a Bank Account in the name of the proposed Center of Legal Education sponsored by any private sponsor or sponsors, and

(viii) all other conditions of affiliation under the University rules as well as the Bar Council of India Rules are complied with,

(2) After affiliation order is received from the University the Centres of Legal Education may only then apply for inspection by the Bar Council of India.” (emphasis added)

It is only after the affiliation is granted by the university after exercising its power under the aforesaid rule an application is to be made by the affiliated college to the Bar Council of India for seeking approval of affiliation granted by the university. As such, the Bar Council of India will not entertain any application for approval of affiliation from any institution unless the requisite affiliation is granted by the concerned University in the first place. Rule 16(1) as aforesaid clearly lays down when university receives an application for affiliation of a Centre of Legal Education for seeking extension from the Bar Council of India shall ensure the various clauses referred in Rule 16. Under Rule 16(2) after affiliation order is received from the university, the Centre of Legal Education only then will apply for inspection by the Bar Council of India. Thus in no case the Bar Council of India will inspect the college before affiliation is granted by the respective university.

2. In cases where existing colleges have not even applied with requisite fee for extension of their approval of affiliation, the question arises to the extension of grant of affiliation in such cases. In such cases, no admission should be made by any Centre of Legal Education, in case if it does, it has to face the consequences of Rule 14(3) of Legal Education Rules 2008. Thus it is necessary for such colleges to apply for extension of its approval much before its period of validity comes to an end and University to do the same several months earlier.

Contd.../-
As and when a Centre of Legal Education would like to enhance the strength of intake or for additional section or for introduction of new courses or re-designate the degrees so conferred (for example BA.LLB to BA.LLB(Hons.)), the concerned Centre of Legal Education has to necessarily obtain necessary affiliation for such modifications following Rule 16 of the Bar Council of India.

3. University while inspecting under Rule 16 as aforesaid should also see that number of students admitted by the concerned affiliated colleges does not exceeded the permissible limit of 60 students in each section and the number of sections approved by the Bar Council of India. While doing so it shall record in this regard specifically the number of students admitted by such affiliated colleges in each section.

4. Rule 14 of Chapter III also makes it very clear that no Centre of Legal Education shall admit any student unless the recognition of the degree of the university or the affiliation of the Centre of Legal Education has been approved by the Bar Council of India. In this regard it is also to be kept in mind Sub Clause (3) of the said Rule 14 which is quoted herein:

"Bar Council of India may suspend a Centre of Legal Education for such violation for a period of not more than two academic years which shall be notified."

This makes it clear that in cases such admissions are made by any Centre of Legal Education, the Bar Council of India may suspend a Centre of Legal Education for such violation for a period of not more than two academic years which shall be notified. In this regard, many such cases are reported where the Centres of Legal Education are not complying with this Rule 14(1) and (2). Hence, this circular is intended to make them aware of the consequences as indicated.

5. It shall be the duty of the university in order to maintain minimum standard of any Centre of Legal Education to ensure within its jurisdiction proper inspection under Rule 16 as aforesaid and then seek inspection by a team of the Bar Council of India under Rule 17. The Bar Council of India merely examines under the aforesaid rule to see that minimum requirements are provided or ensured by the Centre of Legal Education as per the rules in a course of study in law for enrolment as an advocate. However, this does not restrict any university to lay down further conditions to upgrade their accreditation which each university deems fit and proper.

Contd.../-
The relevant Rule 2 of Schedule II is quoted herein :-

“A University is free to design its academic program under LL.B. and LL.B. Honours course as well as program under the integrated degree program in Bachelor degree component as well as the LL.B. component with or / and without Honours course. However, LL.B. courses shall include the courses as stipulated under this schedule.”

6. It is also to be noted that in order to receive approval of affiliation from the Bar Council of India, fresh applications are to be sent to the Bar Council of India office. Rule 15(1) Chapter III lays down that any application made for getting approval of affiliation after specified date in case notified but not later than December 31st of each year. Applications received later than 31st December will not be considered for the succeeding academic year in question. However, such application can be considered for the subsequent succeeding year in question. Rule 15(a) is quoted herein :-

“(a) At the direction of the Legal Education Committee, the Secretary shall notify each year prescribing the last date for submission of new application for proposing new law courses in a University or a new affiliated Centres of Legal Education under an existing recognized University but not later than December 31 of the previous academic year to which the new proposal is applied for. No application received after that date can be considered for the academic year under notification but can be considered for the subsequent year.”

7. The Rule specifically lays down that the regular course of study should be at least five hours a day continuously with an additional half an hour recess every day. It also specifies the broad general timing under which this five and half hour of regular course of study should be taken. It clearly states that classes may be conducted between 8.00 A.M. to 7.00 P.M. in a institution which is not fully residential. The relevant Rule 2 (xxiii) and Clause 5 of Schedule III is quoted here under :-

“(xxiii) “Regular Course of Study” means and includes a course which runs for at least five hours a day continuously with an additional half an hour recess every day and running not less than thirty hours of working schedule per week.”

Contd.../-
"5. General timing for conducting of courses in Academic Building: Classes may be conducted between 8 a.m. to 7 p.m. in an Centre of Legal Education, which is not fully residential. However the Library may remain open till 10 p.m."

In many cases it is found that many institutions are running colleges less than the prescribed direction which is in contradiction to the requirements of the aforesaid statutory rule. It is incumbent duty of each university to see, while inspecting whether the Centre of Legal Education is following the said timing or not for both the three year and five year courses independently. Unless this is done approval of affiliation should not be given.

8. It is also seen in a number of cases that for the purpose of both three year and five year degree course, core faculty as required under Rule 17 of Schedule III of the said rule is not being followed. In many cases it is seen, apart from one or two or few regular full-time appointment, part-time or guest faculty members are being appointed. The said rule specifically lays down that "There shall be sufficient number of full-time faculty member in each Centre of Legal Education to teach each subject at all point of time for running courses." It further lays down "such a core faculty shall in no case be less than 6 in the first year of the approval with both stream, 8 in second year and 10 in third year of law courses. Similar is the position for the integrated course. The said rule states after core faculty member are appointed it can be supported by part-time or visiting faculty members. What is done instead of minimum number of core faculty members most of the appointments are either as part-time basis or as guest faculty member which is in violation of said rule.

The fourth stipulation as laid down in the said provision is, if any institution of the university has no adequate number of full-time faculty. **Bar Council of India after giving notice to the university might also direct the university not to admit students in the new academic year in that institution.**

The Clause 17 of Schedule III of the Legal Education Rules – 2008 is given hereunder:
"17. Core Faculty: There shall be sufficient number of full time faculty members in each Centre of Legal Education (i.e. Department, constituent or affiliated college) to teach each subject at all point of time for running courses who can be supported by part time or visiting faculty. Such a core faculty shall in no case be less than six in the first year of the approval with both streams in operation, eight in the second year and ten in the case of third year of law courses. In addition, for the integrated course there shall be adequate faculty in the subjects offered in the liberal educational subjects as part of the course by the institution. These faculties in the liberal educational discipline in Arts, Science, Management, Commerce, Engineering, Technology or any other discipline shall possess qualification as is required under the UGC guideline or under such other standard setting body as the discipline is allotted to by any Act, statute, or Rules of the Government of India or of a State.

For the Three Year Bachelor of Law degree course only with two sections without the Honour program, there shall be minimum of 4 core faculty in the first year six in the second and eight in the third year in addition to the Principal/Head or Dean as the case may be.

Provided that an institution intending to run any specialized or honours course must have at least three faculty in the group in which specialization and honours courses are offered.

Provided further that each full time faculty shall take as many classes in the subject or subjects as may be assigned to them on the basis of standard prescribed by 'the standard setting institution' like UGC.

Provided further, if any institution of a University, which was already affiliated to the University and approved to run professional courses of either scheme or both by the Bar Council of India after inspection of the University, falls short of required full time faculty, the new admission in courses may be required to remain suspended until new required number of faculty is procured. The University shall before starting a new academic session, notify which institutions are only be allowed to admit fresh students.
Provided further that if while inspecting the University it was found that in any institution of the University adequate number of full time faculty was not there in the staff, the Bar Council after giving notice to the University might give a public notice directing the University not to admit students in the new academic year in that institution."

9. The Bar Council of India rules also lays down the students taking legal study for the courses prescribed must attend minimum 70% of the classes held in the subjects concerned. It is found that this provision is not seriously taken by most of the affiliated colleges. It is the statutory duty of each university that the affiliated college, including its own department in law follow the Rule 12 in this regard which is quoted here under :-

"12. End Semester Test: No student of any of the degree program shall be allowed to take the end semester test in a subject if the student concerned has not attended minimum of 70% of the classes held in the subject concerned as also the moot court room exercises, tutorials and practical training conducted in the subject taken together.

Provided that if a student for any exceptional reasons fail to attend 70% of the classes held in any subject, the Dean of the University or the Principal of the Centre of Legal Education, as the case may be, may allow the student to take the test if the student concerned attended at least 65% of the classes held in the subject concerned and attended 70% of classes in all the subjects taken together. The similar power shall rest with the Vice Chancellor or Director of a National Law University, or his authorized representative in the absence of the Dean of Law.

Provided further that a list of such students allowed to take the test with reasons recorded be forwarded to the Bar Council of India."

10. It is also found that in other and many Government aided institutions university grants affiliation without adequate number of faculty members as per rules. It must ensure see that the core faculty members for each course should at least be 1:40 ratio so that the students do not suffer because of shortage of faculty members. In most cases in Government aided institutions, it is found that the State Government does
not sanction with minimum requirements of faculty members for various reasons. There can be no exception to be made in the cases of Govt. aided institution. In cases of shortage of faculty members the Bar Council of India has power to stop admission of students. The University must see affiliation should only be granted by it when faculty members confirm to the rules as aforesaid. Sometimes defense is taken that the Govt. is not sanctioning as per requirements by the UGC. The University Grants Commission lays down general rule but can't supersede specific statutory rule laid down by the Bar Council of India under Advocates Act, 1961. It is made clear that the present rules are for the purpose where a person wants to be enrolled as an advocate, University / college must follow the minimum requirements of faculty as per rule. This rule has to be followed not withstanding anything laid down any other rule. Similar is the situation for the infrastructure. Govt. aided college are poor in infrastructure and does not possess the minimum requirements prescribed in this rule. University shall see no exception to be made in such Govt. aided institution to dilute the said standard. Even for Govt. aided institution both requirements of faculty members and infrastructure should be maintained as per rules.

11. It is clear as per rule as aforesaid that Bar Council of India only approves the affiliation granted by the University. If no affiliation exists, the question of granting approval of affiliation does not arise. University should see that running colleges are not affected by the delay in granting affiliation. Some time affiliation are granted retrospectively for three years preceding the order when no inspection was done for the year in question. If inspection is done after three years, how University would know the state of affair that existed three years back? This should be done regularly within the relevant period in question.

General Resolution 2:-

Question cropped up that teaching of both three year and five year law course should have English language not only as compulsory paper but English standard has to be of high order. All law graduates graduating either from three year or five year law course have to enter the profession of law with the ability of not only interpreting the statutes, but analyze High Court or Supreme Court orders which are in English. Hence, every inspection team must check the standard of English taught and also report, if necessary, that teaching of English is substandard by the said college or centre of legal education. The Committee feels that unless the high standard is maintained in English the implementation of law and successful profession in law will not be realized.

****
General Resolution 3 (for All the New Colleges)

As the academic session for first year students, especially three year LLB, starts very late in October, efforts must be taken by all educational institutions to make necessary arrangements for additional classes. This will ensure 90 working days in a semester, including examinations and tests, as prescribed by the UGC. It is felt that such measures will certainly enhance the standard of legal Education. The extent and the manner in which these additional classes should be organised shall be notified by the respective University to which the college is affiliated.

A copy of this order should be sent to all the Universities for necessary action.

General Resolution 4:-

Every Centre of Legal Education shall upload the number of students admitted in each and every course as well as in every class (or classwise) after the process of admission is completed in that year on its website. If the Centre of Legal Education does not have a website of its own, such information shall be sent to Bar Council of India on or before 31st December every year.

General Resolution 5:-

It is important for Legal Education Committee to consider one matter which is repeatedly coming from various Colleges. These colleges are writing that the work load of non law subjects is very short and it is not possible to appoint full time teachers and pay the full salary to them. It is also said that each non law subject is taught during limited semester. Hence, paying them full time is not possible. The concerned University/Government are also not sanctioning full time non law subject faculty. It is only after order by Bar Council of India, they are considering this now. This scenario is alarming as it is diluting the standard of integrated degree due to weak feeding inter disciplinary subjects. How can a degree in this integrated course be granted without rendering services of competent full time faculty for teaching inter disciplinary courses. Various colleges also say that sanction of faculty is made as per UGC norms which limits appointments of faculty members as per total work hour for such non law subjects.
Normally if a student undertakes a course in other discipline, for that discipline he is taught by full time teachers with longer period of study. If we reduce its standards then the foundation of student for non law subject would be very weak which will over all affect the quality of law graduate of this integrated course. In integrated degree more concentrated study of subjects of other discipline is to be undertaken with reasonable, profortunate allocation of time for both law and non law subjects by the Universities, instead of reducing this integrated degree as only for law. If necessary, total hours of study should be increased. It is for the university to see which is granting the integrated course for the affiliated colleges to readjust workload interplay between law and non-law. This apart since university/colleges are not following strictly the CDC report recommending the courses to be undertaken of the non-law subjects, the workload has been reduced. No degree can be granted for an integrated course by not following the recommendation to update the study of non-law subjects and then reduce the workload to justify to appoint non-law subjects faculty members on adhoc or as guest faculty members. This cannot be done as per rules. It is for the university/colleges to see that in terms of the rules the faculty members for non-law subjects are appointed on regular basis and pay at least UGC/State Govt. scale. This matter requires consideration by Legal Education Committee for future guidance.

***

The Bar Council of India strictly follows the above said resolutions along with the Legal Education Rules-2008. Therefore you are requested to follow the above said resolutions and comply with the Bar Council of India before the starting the academic year 2014-15.

The compliance reports shall be placed before the Legal Education Committee at its next meeting for consideration.

Yours sincerely

(J. R. SHARMA)
SECRETARY