

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM: O-400

DATE: October 7, 2013

TO: Subcommittee on Educational Standards

FROM: George Leal, Director, Educational Standards

SUBJECT: **Proposed Extension of the Deadline for the Submission of the Annual Compliance Report by California-Accredited Law Schools**

BACKGROUND

As currently required by Rule 4.161 of the *Accredited Law School Rules* (Rules), all California-Accredited Law Schools (CALs) are required to submit an Annual Compliance Report to the Committee of Bar Examiners (Committee) on or before November 15th of each calendar year. The purpose of the Report is to inform the Committee as to the compliance of each of the CALs under the Rules and the associated *Guidelines for Accredited Law School Rules* (Guidelines).

Last year, the Committee established and adopted a new accreditation standard that requires each CALs to maintain a “minimum, cumulative bar examination pass rate” (CBEPR). As now required by Rule 4.160(M): “The law school must maintain a minimum, cumulative bar examination pass rate as determined and used by the Committee in the evaluation of the qualitative soundness of a law school’s program of legal education.” To enforce this standard, the Committee adopted two new Guidelines: Guideline 12.1, which sets the current, compliant minimum CBEPR at 40% and requires that each CALs calculate their respective CBEPR as a rolling, five-year annual percentage based upon the total number of its graduates who pass the California Bar Examination (CBX), divided by the total number of its graduates who take CBX over the previous five-year period of time; and Guideline 12.2, which mandates that if a law school is not in compliance with the minimum CBEPR, the Committee will issue the law school a Notice of Noncompliance pursuant to Rule 4.170 of the Rules.

Guideline 12.2 also requires that each CALs calculate and report its respective CBEPR in its 2013 Annual Compliance Report. To do so, each is expected to use the pass results of its graduates on the CBX over its 10 most-recent administrations. Thus, to calculate and report its CBEPR accurately in its 2013 Annual Report, each CALs is expected to use the pass results starting from the February 2009 CBX up through and including the results of its graduates on the July 2013 CBX administration.

DISCUSSION

The current November 15th deadline for submission of the CALS' 2013 Annual Reports makes it impossible for any to use the results of their graduates on the July 2013 CBX to calculate their CBEPR, since results will not be available until November 25th. As a result, the Committee and the CALS now face the dilemma of either having the CALS use only the nine most-recent CBX administrations to calculate and report their initial CBEPRs, or allow the law schools to use the pass results of their graduates going back to the July 2008 CBX administration.

Whether the CALS should use the pass results of the any of 2008 administrations of the CBX was an issue that was both discussed and rejected by the CALS and their representatives during the discussions that took place prior to the Committee's adoption of Rule 4.160(M) and Guidelines 12.1 and 12.2. The concern then discussed was the degree to which the reporting of each CALS' CBEPR in its 2013 Annual Report would rely only on those CBX results that reflected the operation of each law school subsequent to the adoption of the Guidelines which went into effective January 2009.

Based upon that concern, the California Accredited Law School Rules Advisory Committee (RAC) recommended that the CALS only use the CBX pass rates of their graduates starting with the two administrations in 2009 onward. Thus, to achieve that goal and carry out intent of the Committee that the CALS use the most recent results of its graduates on the CBX, they should be allowed to use the results of the July 2013 CBX administration to calculate and then report their inaugural CBEPR.

RECOMMENDATION

It is recommended that the CALS be permitted the opportunity to obtain and then use the results of their graduates on the July 2013 CBX administration to calculate and then report their inaugural CBEPR. In order to do so, the deadline for the submission of the Annual Compliance Report should be moved to a date of not earlier than December 15, 2013. This proposal will be on the agenda for consideration by RAC during its meeting, which is the day prior to the Subcommittee's October meeting, so it is possible that a recommendation from RAC will be reported to the Subcommittee.

PROPOSED MOTION

Should the Subcommittee agree with the above recommendation, the following motion would be appropriate:

Move that the deadline for the submission of the Annual Compliance Reports by California-Accredited Law School, which are required by Rule 4.161 of the *Accredited Law School Rules*, be extended to on or after December 15, 2013 and that a proposed rule change to change the deadline permanently to December 15 of each calendar year be forwarded to the Board of Trustees.