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SUBJECT:

Proposed amendments to Guidelines 12.1 and 12.2, Guidelines for Accredited Law School Rules (Guidelines), re Criteria for Determining Compliance with Accredited Law School Rule 4.160(M) (Minimum, Cumulative Bar Examination Pass Rate) and Action Taken When a Law School is in Noncompliance with Guideline 12.1

BACKGROUND:

Effective Jan. 1, 2013, all California-accredited law schools (CALs) became subject to a new accreditation standard that requires the school to maintain a “minimum, cumulative bar examination pass rate.” As required by Rule 4.160(M) of the Accredited Law School Rules (Rules) the CALs “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 new standard, the Committee also adopted two new amendments to the Guidelines for Accredited Law School Rules (Guidelines): Guidelines 12.1 and 12.2. Guideline 12.1 sets the current, minimum, cumulative bar examination pass rate (MPR) at 40 percent and requires that the CALs calculate and report their respective rates as five year rolling, annual percentages. As currently described in Guideline 12.1, a CALs calculates its MPR by dividing the total number of its graduates who take and pass the California Bar Examination (CBX) over the previous five years, by the total number of its graduates who take the CBX at least once whether or not they pass during the same period of time. Graduates who choose never to take the CBX are not counted in calculating a school’s MPR.

Guideline 12.2 requires the CALs to report their MPRs in their 2013 Annual Compliance Reports, and for any CALs that failed to report a MPR of at least 40 percent, the Committee could have issued a Notice of Noncompliance pursuant to Rule 4.170. One of the goals in adopting this new accreditation standard and the associated Guidelines was to have the CALs calculate and report a MPR that is accurate, consistent and verifiable. Soon after the adoption of Rule 4.160(M) and Guidelines 12.1 and 12.2, however, a number of CALs Deans expressed concern that the methodology described in Guideline 12.1 is unclear as to which CBX administrations the CALs should use, and which classes of eligible graduates were to be counted to calculate and report an accurate MPR. Concern was also expressed that, as adopted, the ambiguity of Guideline 12.1 could lead to inaccurate and inconsistent reporting of this important new accreditation metric by some or all of the CALs.

In recognition of these concerns, the Committee of Bar Examiners (Committee) deferred implementation of Guidelines 12.1 and 12.2, so that the requirement that the 2013 Annual Compliance Reports contain MPR reports was suspended until amendments to Guideline 12.1 and Guideline 12.2 could be adopted. Amendments to the guidelines were discussed by the Committee's Advisory Committee on California Accredited Law School Rules (RAC) and it submitted proposed amendments to the Guidelines for review by the Committee during its March 14, 2014 meeting. The Committee accepted the version submitted by RAC, subject to a 30-day public comment period and final adoption by the Committee during its next regularly scheduled meeting.

Any public comments received regarding the proposed amendments to Guideline 12.1 and Guideline 12.2 will be submitted to the Committee's Advisory Committee on California Accredited Law School Rules (RAC) for its comments prior to final consideration by the Committee, which will be at its April 25 and 26, 2014 meeting.

PROPOSAL:

The proposed amendments to Guideline 12.1 and Guideline 12.2 are specific as to the time period for the five-year reporting periods. The primary goal in selecting the July 1 through June 30 time period was so that the students who graduate in May and then take the following July administration of the CBX can be counted. Starting each five-year reporting period with the pass results of a July administration and ending it with a February administration, the CALS will be able to report the success of those graduates who graduate in the same five calendar years for each reporting period. The proposed amendments also clarify the methodology that should be used to make the calculations.

ANY KNOWN FISCAL/PERSONNEL IMPACT:

None

ATTACHMENTS:

[Attachment A](#) contains the proposed amendments to Guideline 12.1 and Guideline 12.2.

SOURCE:

Committee of Bar Examiners

DEADLINE FOR COMMENTS:

April 15, 2014

Division 12. Minimum, Cumulative Bar Examination Pass Rate

12.1 Criteria for Determining Compliance with Accredited Law School Rule 4.160(M). In evaluating the compliance of a law school with the accreditation standard set forth in Accredited Law School Rule 4.160(M), a law school must maintain a [Insert Text Begin]minimum,[Insert Text end] cumulative bar examination pass rate (~~[Deleted Text Begin]CBEPR[Deleted Text End]~~[Insert Text Begin]MPR[Insert Text end]) of at least 40 percent[Insert Text Begin] for the most recent five-year period of time[Insert Text end]. The rate will be calculated [Insert Text Begin]and reported[Insert Text end] annually [Insert Text Begin]to the Committee on or before July 1st of the year following each reporting period.[Insert Text end]~~[Deleted Text Begin]as a percentage of all the school's students who (a) have graduated from the school within the past five years and (b) have taken and passed one of the tenth administrations of the California Bar Examination given following their graduation,[Deleted Text End]~~

[Insert Text Begin]To calculate and report its MPR accurately, the law school must use the following reporting period and methodology: The reporting period covers the five most-recent twelve-month periods (July 1 through June 30) prior to the year in which the MPR is reported and it includes the pass/fail results of all students who graduate during this period. The reporting period starts with the July administration of the California Bar Examination in the first year and ends with the February administration of the California Bar Examination in the same calendar year in which a MPR is reported.[Insert Text end]

[Insert Text Begin]The methodology to be used to calculate a compliant MPR is a percentage of the total number of a law school's graduates who take and pass any one of the ten administrations of the California Bar Examination during the reporting period,[Insert Text end] divided by the total number of the school's graduates over the same ~~[Deleted Text Begin]five years[Deleted Text End]~~[Insert Text Begin]five-year reporting period[Insert Text end] who take ~~[Deleted Text Begin]any of those same ten administrations of [Deleted Text End]~~the California Bar Examination. Graduates who choose not to take any bar examination will not be included.

12.2 Action Taken When a Law School is in Noncompliance with Guideline 12.1.

If the Committee finds that a law school is not in compliance with this Guideline, it will issue a Notice of noncompliance pursuant to Rule 4.170.

~~[Mandatory [Deleted Text Begin]calculation and [Deleted Text End]reporting of the [Deleted Text Begin]CBEPR[Deleted Text End]~~[Insert Text Begin]MPR[Insert Text end] will [Insert Text Begin]begin July 1, 2014 with a reporting period that starts with the July 2009 administration of the California Bar Examination and ends with the administration of the February 2014 California Bar Examination. An accredited law school must submit its MPR calculation using the Committee's form.[Insert Text end]~~[Deleted Text Begin]go into effect with the submission of their 2013 Annual Compliance Report. With the submission of any 2013 Annual Compliance Report by any accredited law school that does not report compliance with Guideline 12.1, [Deleted Text End]~~[Insert Text Begin]T[Insert Text end]he Committee may issue ~~[Deleted Text Begin]that law school [Deleted Text End]~~a Notice of Noncompliance

[Insert Text Begin]to an accredited law school that is not in compliance with Guideline 12.1 by July 1, 2014[Insert Text end]. A~~[Deleted Text Begin]ny[Deleted Text End]~~ law school that fails to report compliance with Guideline 12.1 in its 2016 ~~[Deleted Text Begin]Annual Compliance[Deleted Text End]~~[Insert Text Begin]MPR[Insert Text end] Report ~~[Deleted Text Begin]shall[Deleted Text End]~~[Insert Text Begin]will[Insert Text end] be placed on probation by the Committee pursuant to Rule 4.172; a~~[Deleted Text Begin]ny[Deleted Text End]~~ law school placed on probation ~~[Deleted Text Begin]and [Deleted Text End]~~that ~~[Deleted Text Begin]thereafter [Deleted Text End]~~does not meet the terms of its probation by the end of 2017 ~~[Deleted Text Begin]shall[Deleted Text End]~~ [Insert Text Begin]will[Insert Text end] be subject to the loss of its accreditation.]

Guideline 12.1 & 12.2 adopted effective ~~[Deleted Text Begin]January 1, 2013[Deleted Text End]~~[Insert Text Begin]May 1, 2104.[Insert Text end]