

COMMITTEE OF BAR EXAMINERS

OPEN SESSION AGENDA ITEM

AGENDA ITEM NUMBER: August 2014 – O-401

DATE: August 18, 2014

TO: Subcommittee on Educational Standards

FROM: Gayle Murphy, Senior Director, Admissions

SUBJECT: Recommendations from Working Group Activities Re Amending Statutes, Court Rule and Law School Rules to Require Eventual Accreditation by California Law Schools

BACKGROUND

Over the last many years, the Committee has spent countless hours discussing issues related to California's registered, unaccredited law schools, the future of such law schools, the Committee's regulatory oversight of unaccredited law schools and their various programs of legal education and whether its authority to accredit law schools should be expanded to include distance-learning law schools. During its March 2013 meeting, the Committee came to a consensus that the various rules and statutes relating to these issues should be amended as follows:

- Propose amendments to Sections 6046.7 and 6060.7 of the California Business and Professions Code that will clarify that the Committee's oversight and regulatory authority extend only to law schools and their law-related programs that offer a J.D. degree that would qualify their graduates to take the California Bar Examination; all other law-related programs (offered by law schools or "nonlaw" schools), including advanced law degrees and any other degree in law that is not based on a J.D. curriculum, would be under the oversight of the state's degree granting entity. Propose further statutory amendments that will require all registered, unaccredited law schools to meet the standards for accreditation by the Committee within ten years, which would result in a period of registration with the Committee as an unaccredited law school for no more than ten years.
- Propose amendments to Rule 9.30 of the California Rules of Court that will align the rule with the statutory requirements for admission and the various vehicles of legal education that will qualify an applicant for admission to practice law in California, including new restrictions with regard to how long an unaccredited law school may continue to operate as an unaccredited law school.
- Propose amendments to the *Unaccredited Law School Rules and Guidelines for Unaccredited Law School Rules* that bring them into conformance with the new statutory and court rule proposals, in addition to other changes that may be

necessary to ensure that they are not in conflict with the *Admissions Rules* and to enhance the requirements for registration, such as requiring a minimum enrollment of students, providing additional, mandatory disclosures of consumer information including, but not limited to, the public disclosure of any Notice of Noncompliance the Committee has issued the law school over the past five years, the basis for each such Notice and its resolution, etc., in order to ensure public protection and that a sound legal education is being provided by such schools.

- Propose amendments to the *Accredited Law School Rules and Guidelines for Accredited Law School Rules* that will permit the accreditation of distance-learning law schools.

DISCUSSION

The Committee conducted a public forum in August 2013 to receive input from interested parties on these issues. Subsequently, a Working Group was appointed by the Committee Chair to consider the comment received and to draft proposed rules. The Working Group included the following individuals: Dean Gregory Brandes, Dean George Gliaudys, Jr., Dean William Robertson, Dean Robert Strouse, and Committee members Cometria Cooper, Richard Frankel, Martha Pruden-Hamiter and Patricia White. Following Ms. Cooper's resignation from the Committee, Archie Joe Biggers was named in her place. Mr. Frankel was appointed to Chair the Working Group. George Leal and I attended all meetings of the Working Group and provided assistance and input as needed. In addition, several other deans participated in the meetings as guests.

The Working Group met many times over the past year and after several very substantive discussions about the issues and possible proposed amendments to the rules and statutes, and it is by consensus proposing that the Committee consider the amendments to the rules and statutes that will be passed out at the meeting (the format of the attachments makes the documents difficult to remediate, which is why they are not posted as attachments to this agenda item). The attachments include:

Attachment A: California Rules of Court – Chapter 3. Legal Education. Rule 9.30. Law School Study in Schools Accredited or Registered by the Committee of Bar Examiners

Attachment B: Proposed Amendments to Business And Professions Code Sections 6046.7 And 6060.7

Attachment C: Article 4 Admission to the Practice of Law, Section 6060, Qualifications, Examination and Fee

Attachment D: Title 4. Admissions and Educational Standards, Division 2. Accredited Law School Rules

Attachment E: Title 4. Admissions and Educational Standards, Division 3.
Registered Law School Rules

If the Committee agrees with the proposed amendments in principle, the next step would be forwarding them to the Board of Trustees with a request that they be circulated for public comment. Following the period of public comment, they would come back to the Committee for further revision, if needed, in preparation for submission to the Board for approval so that the proposed statutory amendments could be included in the State Bar's legislative program and the proposed *California Rules of Court* amendments could be submitted to the Court. The other rules would be implemented if the proposed amendments to the Rules of Court and the statutes are approved by the Court, the Legislature and signed by the Governor.

If these proposals should all come to pass, transition rules will need to be drafted and approved so that those schools currently registered with the Committee are given sufficient time to conform with the new requirements. In addition, if the proposals are accepted, the Guidelines interpreting the Accredited Law School Rules and Registered Law School Rules will need to be drafted, circulated for public comment and adopted by the Committee.

RECOMMENDATION

It is recommended that the Subcommittee recommend to the Committee that the proposed amendments to the: 1) California Rules of Court – Chapter 3. Legal Education, Rule 9.30. Law School Study in Schools Accredited or Registered by The Committee of Bar Examiners, 2) Business And Professions Code Sections 6046.7 and 6060.7, 3) Article 4 Admission to the Practice of Law, Section 6060, Qualifications, Examination and Fees, 4) Title 4. Admissions and Educational Standards, Division 2. Accredited Law School Rules and 5) Title 4. Admissions and Educational Standards, Division 3. Registered Law School Rules in the form attached hereto be approved in principle. It is further recommended that the proposed amendments be forwarded to the Board of Trustees with a request that they be circulated for public comment, and that following public comment, the Committee consider any comments received and adopt final proposed amendments for consideration by the Board of Trustees.

PROPOSED MOTION

If the Subcommittee agrees with the proposed recommendation, the following motion is suggested:

Move that the proposed amendments to the: 1) California Rules of Court – Chapter 3. Legal Education, Rule 9.30. Law School Study in Schools Accredited or Registered by The Committee of Bar Examiners, 2) Business And Professions Code Sections 6046.7 and 6060.7, 3) Article 4 Admission to the Practice of Law, Section 6060, Qualifications, Examination and Fees, 4) Title 4. Admissions and Educational Standards, Division 2. Accredited Law School Rules and 5) Title 4. Admissions and Educational Standards, Division 3. Registered Law School Rules in the

form attached hereto be approved in principle; that the proposed amendments be forwarded to the Board of Trustees with a request that they be circulated for public comment, and that following public comment, the Committee consider any comments received and adopt final proposed amendments for consideration by the Board of Trustees.