

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM: April 2015 – O-402

DATE: April 17, 2015

TO: Subcommittee on Educational Standards

FROM: George Leal, Director, Educational Standards

SUBJECT: **Publication of the Minimum, Cumulative Bar Examination Pass Rates of California-Accredited Law Schools**

BACKGROUND

California-accredited law schools (CALs) are now subject to an accreditation standard based upon a “minimum, cumulative bar examination pass rate” (MPR) for its graduates who seek to practice law. As required by Rule 4.160(M) of the *Accredited Law School Rules*, to remain accredited, a CALS “must maintain a minimum, cumulative bar examination pass rate as determined and used by the Committee in the evaluation of the qualitative soundness a law school’s program of legal education.” To enforce this new standard, the Committee also adopted and has recently amended Guidelines 12.1 and 12.2 of the *Guidelines for Accredited Law School Rules*.

At its meeting this past January 31st, the Committee adopted amendments to Guideline 12.1, which clarified the methodology to be used to calculate an accurate MPR and changed its reporting deadline. As amended, Guideline 12.1 sets a compliant MPR at 40% and requires each CALS to calculate its respective rate as a rolling, five-year annual percentage. To calculate its MPR, each CALS is to divide the total number of its graduates who, over the preceding five years, take and pass the California Bar Examination (CBX) by the total number of graduates who took any administration of the CBX the over the same five years, whether or not they pass. Those who never take the CBX are not to be counted. As now amended, Guideline 12.1 now provides that a CALS may also use the pass/fail results from a total of 11 CBX administrations (instead of the prior 10) to calculate its MPR so that the pass/fail results from the first February administration after the close of each reporting period may be counted. While graduates must pass the CBX within the first 10 administrations from the date they graduate, adding an additional February administration gives the last class of graduates within each reporting period at least two opportunities to take and pass the CBX.

Pursuant to Guideline 12.2, if a CALS fails to report a compliant MPR in its 2016 Annual Compliance Report (now due on July 1st of each year) it will be placed on probation. Then, if it fails to meet the terms of its probation by the end of 2017, any such CALS “will be subject to the loss of its accreditation.”

The Committee's chief goal in adopting the MPR as an accreditation standard was to have the CALS calculate and report a metric that would be accurate, verifiable and consistent. The CALS first reported their respective MPRs, confidentially, last September. When discussing this new reporting requirement, the issue of whether individual MPR reports should remain confidential or become public was discussed by the Committee and there appeared to be a general consensus that the information should eventually be made available to the public. Among other considerations, making this important and objective metric available to the public, including to potential students, will offer significant transparency in whether a CALS is succeeding in offering a meaningful opportunity for graduates to become licensed California attorneys.

This issue was referred to the California Accredited Law School Rules Advisory Committee (RAC) for its input. The CALS Dean's representatives to the RAC then prepared a proposal, which was discussed during its last meeting. The Deans' proposal suggests that the Committee publish each CALS' MPR statistic on a discrete webpage that is accessed through the State Bar's webpages. The RAC discussed the Deans' proposal and now recommends that the proposal be approved by the Committee.

DISCUSSION

The proposal would, technically, have the CALS' MPRs posted on the State Bar's website. The proposal also recommends that Guideline 2.3(D) (Required Disclosures) be amended so that the MPR reports received from the CALS would also be readily accessible to their applicants, students and anyone viewing their websites through the Guideline's existing disclosure requirements. The Guideline 2.3(D) now provides:

In addition, an accredited law school must publish on its 'Accreditation' webpage information relating to the pass rates of its graduates on the ten most recent administrations of the California Bar Examination. This information must be published in one of the following way:

- i. By means of posting an active link to the California Bar Examination "Statistics" page of the State Bar's website; or alternatively;
- ii. By posting on its own website the pass rates of its graduates published on the State Bar website for the ten most recent administrations of the California Bar Examination."

The proposal would amend the first option offered by Guideline 2.3(D) subsection i by having that the required "active" link direct viewers to a new State Bar webpage entitled "Accredited Law Schools Minimum Pass Rate Compliance," in place and instead of the current "Statistics" page found on the State Bar's website. That page provides both the "first-time" and "repeater" pass rates for all of California law schools (ABA-approved, CALS, unaccredited and law schools located anywhere that had ten or more graduates take any particular administration of the CBX. The proposal preserves the right of the CALS, as provided by Guideline 2.3(D) ii, to post their MPRs on their own websites.

While many of the principles behind the proposal are sound, staff does not agree with the proposed amendment to Guideline 2.3(D). The current obligation that the CALS have to offer access to the State Bar's website's "Statistics" page, or post the same such statistical information themselves, in order to maintain public access to their first-time and repeater rate CBX pass rates should remain. While the CALS may believe the MPR statistics are the most relevant, the pass/fail rates on California Bar Examination, by individual administration, offers important information regarding all law schools operating in California. A simple means to retain this separate reporting function would be to have a link on the new webpage relating to the CALS's MPR reports that would take viewers to the existing "Statistics" page. The precise manner in how the web links and webpages are set up is an administrative task that can be handled by staff if the Committee agrees with the principle policy decision to post the CALS's MPRs on the State Bar's website, separate from the examination statistics that are already published.

RECOMMENDATION

It is recommended that the Subcommittee recommend to the Committee that the California Accredited law school MPR data be published on the State Bar's website on a page separate from the general examination statistics following receipt of the information with the 2015 Annual Compliance Reports.

PROPOSED MOTION

If the Subcommittee agrees, the following motion is suggested:

Move that California Accredited law school minimum, cumulative bar examination pass rate data be published on the State Bar's website on a page separate from the general examination statistics following receipt of the information from the schools in July 2015.