

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM: January 2016 – O-400

DATE: January 25, 2016

TO: Subcommittee on Educational Standards

FROM: George Leal, Director, Educational Standards

SUBJECT: **Proposed Amendments to Guidelines for Accredited Law School Rules re Branch Campuses – Request to Circulate for Public Comment**

BACKGROUND

At its meeting in January 2015, the Committee of Bar Examiners (Committee) adopted, in principal, Division 15 of the *Guidelines for Accredited Law School Rules* (Guidelines). This Division and its four new Guidelines (15.1-15.4) were created to define and provide a process for California-accredited law schools (CALs) to seek and obtain the approval of the Committee to open a provisionally-approved branch or satellite campus. The new Guidelines, along with associated Rule 4.160(H) (Accreditation Standards) and Rule 4.165(B) (Major Changes) of the *Accredited Law School Rules* (Rules), were then approved by the State Bar's Board of Trustees on March 13, 2015 and now govern any new request submitted by a CALs for approval to open a branch or satellite campus.

The new Guidelines both define and provide a process to open either a branch or satellite campus. Under Guideline 15.1 a "branch campus of a law school is a location different from that originally approved where students may complete more than one half of the total number of units required to earn a Juris doctor degree or may graduate with that degree to any law degree that the law school is authorized by the Committee to offer." Guideline 15.2(A) establishes the process and timing for the Committee to approve the request of a CALs seeking to open a new branch or satellite campus. Guideline 15.2(B) requires that "[n]o less than 120 days before the proposed first day of classes at the branch or satellite campus, the Committee must approve or deny the law school's proposal." If the materials submitted by the law school confirm that the campus will be in "substantial compliance" with the *Accredited Law School Rules* (Rules) and all relevant Guidelines "as of the date of its opening," the Committee will provide its approval" Thereafter, within 90 days of its actual opening, the law school must submit a report that confirms that the new campus is, in fact, in substantial compliance.

As provided by Guideline 15.3, an approved branch campus is to be considered "provisionally approved" until the law school is able to demonstrate that the campus is in compliance with "all accreditation standards and operational requirements" found in

both the Rules and Guidelines. And, finally, as provided by Guideline 15.4, “[w]ithin two years of operating as a provisionally-approved branch campus, the Committee must conduct an inspection to determine whether the branch campus is to be deemed approved, continue to be provisionally approved or denied provisional approval.” Students attending branch campuses that have been provisionally approved are not required to take the First-Year Law Students’ Examination if they successfully complete their first year of law study are advanced to their second year of law study.

The Guidelines allow a branch campus to be opened without a pre-opening inspection. To receive Committee approval, “no less than 180 days before the proposed first day of classes of a branch or satellite campus, the law school must notify the Committee.” The notice must inform the Committee whether a new branch or satellite campus is sought, when it expects the new camps to open and contain all academic and operational documentation to be used by the faculty, students and staff at the new campus. Finally, the notice must have a certification signed by the CALS Dean to confirm that when the new campus opens it will be in “substantial compliance with all relevant academic and operational requirements set forth” in the Rules and Guidelines.

Soon after the new Guidelines went into effect, there was a request by one of the CALS to open additional, new branch campuses. As a result, several issues became apparent as to whether any CALS that seeks to open and operate new branch campuses, in addition to its existing campuses, would be able to do so compliantly under the existing accreditation standards found in the Rules and various operational requirements of the Guidelines. Such issues included the scope of the responsibilities of the Dean of a multi-campus CALS and the minimum administrative staffing and academic resource levels thought to be needed at each new campus for it to receive Committee approval.

A set of staff-recommended amendments to Guidelines 15.2 and 15.3 intended to address all such issues was prepared and submitted for discussion by the Committee’s Rules Advisory Committee (RAC) during its meeting in August 2015. The Committee’s consideration of proposed amendments was deferred pending further consideration by the RAC. Following additional discussion at its meeting this past December, the RAC voted to recommend to the Committee that it continue to table its consideration of the recommended revisions to the Guidelines regarding branch campuses pending receipt of a comprehensive proposal from the Deans.

DISCUSSION

Attachment A contains a comprehensive set of recommended amendments to both the Rules and Guidelines as envisioned by both the RAC and the Committee that, if all are adopted, would provide both clear operational requirements and a reasonable timetable (without a pre-opening inspection) for a CALS to submit a request for approval to open any new branch or satellite campus.

Among the issues these amendments are intended to address is the extent to which each four-year branch campus may be permitted to use the administrative, academic and operational resources of its “main” CALS campus. As now permitted, a CALS with multiple branch campuses may collectively share the time, attention and presence of a

single dean since there is no express requirement that he or she be present at any one campus of the law school for any specific amount of time. Under the current and long-standing requirement of Guideline 4.1(A), a CALS is only required to have “a competent dean who devotes adequate time to the managing and administering the affairs of the law school.” While a few of the CALS operate multiple campuses compliantly with only one dean, each of these law schools (University of West Los Angeles, the Santa Barbara and Ventura Colleges of Law and the Southern California Institute of Law) maintain campuses within relatively close geographic proximity that allows their deans to travel between campuses regularly and divide their time between them reasonably.

With the possibility of a single CALS wanting to operate three, four or more campuses, the ability of the dean to govern the law school as a single institution raises a legitimate concern of whether each approved campus would be compliantly administered. To address this issue and to continue to allow a CALS to operate with only one dean, the obvious solution is to require at least one, full-time administrator at each campus. Currently under Guideline 15.1, a new four-year branch campus may be approved with only an “administrator,” who may or not be on campus full-time. In the absence of a dean who would be able to be at each campus sufficiently to be considered compliant with Guideline 4.1(A), the proposed amendment to Guideline 4.1(B) is intended to resolve this concern. As currently provided by Guideline 4.1(B), each CALS must “have at least one full-time administrator” who is qualified with the proper law degree or license to practice law. In light of this requirement, the Committee prefaced its approval of both the SFLS branch campus in San Diego and the MCL campus in San Luis Obispo on the express requirement that each branch maintain a full-time administrator.

Consistent with each of these past approvals, the proposed amendment to Guideline 4.1(B) would require that every new branch campus provisionally approved have a qualified, full-time administrator who is to be denominated as an associate dean, while each new satellite campus is to be administered by at least one, part-time administrator with the title of assistant dean.

In addition to the issue of a full-time administrator, the need to offer students approximately the same level of operational and academic support services at each campus being operated by a CALS, such as those provided by the law school registrar, library staff and academic support personnel, is also an issue addressed by the recommended revisions to the Guidelines. For example, if the proposed amendment to Guideline 1.7 is adopted, each CALS would have to “maintain reasonable office hours at its primary administrative offices and each approved branch or satellite campus, so that all administrative staff and all academic services offered at each campus are made readily available to students and the Committee on an equal basis.” As with many of the other recommended amendments, the intent is to set minimum standards so that students enrolled at a CALS, regardless of which campus they attend, will receive the same legal education as is mandated by the Committee’s accreditation standards.

The advisability and need to revise the Guidelines of Division 15, less than a year after they became effective, is being driven by market forces and changes in legal education that were not apparent only a year ago. As more than one CALS seeks to grow and

enroll larger numbers of students in geographically distant locations, the current standards and requirements to open branch campuses appear, again, to be inadequate.

As a result, the many substantive amendments to the Rules and Guidelines now being proposed are intended to provide an effective and efficient method to allow a CALS to seek and obtain approval for any new and possible multiple branch campuses, while requiring it to maintain compliant and reasonably equal administrative and academic resources for all students, regardless of which campus they attend and graduate from.

RECOMMENDATION

It is recommended that the proposed amendments to the *Accredited Law School Rules and Guidelines for Accredited Law School Rules*, as attached, be approved in principle; that the proposed amendments be circulated for a 45-day public comment period; and, following receipt of any public comments, the amendments and public comments be referred to the RAC for its further input and recommendation prior to further consideration and final approval and adoption by the Committee.

PROPOSED MOTION

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

Move that the proposed amendments to the *Accredited Law School Rules and Guidelines for Accredited Law School Rules* as attached hereto be approved in principle; that the proposed amendments be circulated for a 45-day public comment period; and, following receipt of any public comments, the proposed amendments and public comments be referred to the RAC for its further input and recommendation prior to further consideration and final approval and adoption by the Committee.