

# COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

**AGENDA ITEM NUMBER:** October 2016 – O-400

**DATE:** October 3, 2016

**TO:** Subcommittee on Educational Standards

**FROM:** George Leal, Director, Educational Standards

**SUBJECT:** **Proposed Amendments to Accredited Guidelines re Approval of New Branch Campuses/Satellite Campuses – Return from Public Comment**

---

## BACKGROUND

In 2015, the Committee of Bar Examiners (Committee) adopted four new Guidelines, Division 15 of the *Guidelines for Accredited Law School Rules* (Guidelines), and amendments to Rule 4.160(H) (Accreditation Standards) and Rule 4.165(B) (Major Changes) of the *Accredited Law School Rules* (Rules). Collectively, all were intended to provide a simplified process for a California-accredited law school (CALs) to obtain Committee approval to open a new, provisionally-approved branch or satellite campus.

The Guidelines now define a branch or satellite campus. Under Guideline 15.1(A), a “satellite campus” is a separate facility where students are offered no more than one half of a CALs’s Juris Doctor (J.D.) degree curriculum, or any other law degree that the law school is authorized to offer. Guideline 15.1(B) defines a “branch campus” as a location where students will be able to complete the law school’s entire J.D. curriculum.

Guideline 15.2 establishes the process and timing to receive Committee approval of a new branch or satellite campus. Under Guideline 15.2(A), “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 confirm whether the new campus will be a branch or satellite, the date of its planned opening and it must include copies of all of the academic and operational documentation to be used by its faculty, students and staff. Finally, the notice must include a certification signed by the Dean confirming 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.

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 . . . .” Within 90 days of its actual opening, the law school must submit a report to confirm that the new campus is, in fact, in substantial compliance with the Guidelines.

If all such requirements are met the new branch may be approved without a pre-opening inspection and, once opened, will operate as “provisionally-approved.” Then, under Guideline 15.4, within two years of opening, the new campus is to be inspected to determine whether the Committee should grant it final approval, require it to continue to operate as provisionally approved or denied its provisional approval. Students enrolled in a provisionally-approved branch campus are not required to take the First-Year Law Students’ Examination if they successfully complete their first year and are advanced to their second year of law study.

Soon after the new Guidelines became effective, the Committee received a request to allow a CALS to open two additional branch campuses, which, if approved, would have resulted in the law school operating four separate campuses. That request, along with the likelihood that similar requests would soon be submitted, suggested that further amendments to the new Guidelines should be considered. The key issues of concern were whether a CALS with multiple branch campuses should have only a single Dean, whether each branch campus should be administered by a full-time, onsite administrator and the minimal level of operational resources to be required at each approved branch campus so that students enrolled at a such campus would receive an equivalent educational experience as those enrolled at a CALS’s main campus.

A set of staff-recommended amendments to Guidelines 15.2 and 15.3, along with appropriate amendments to a number of other Guidelines and several of the *Accredited Law School Rules* (Rules), intended to address each of these governance issues, were prepared and submitted for discussion by the Committee’s Rules Advisory Committee (RAC). After discussion, the CALS Deans submitted a number of suggested, alternative amendments which, along with staff’s proposals were considered during a meeting of the RAC on April 28<sup>th</sup>. After further discussion, a final set of recommended amendments to the Rules and Guidelines were recommended to the Committee.

At its meeting on April 29<sup>th</sup>, the Committee approved, in principal, all of the proposed amendments to the *Accredited Law School Rules* and the Guidelines. Subsequently, a request to circulate the proposed amendments to the Rules for a public comment period was approved by the Board of Trustee’s Committee on Admissions and Education. The Board Committee approved the request and the Rules and Guidelines were published for 45-day period of public comment. The deadline for submission of public comment ended on September 15<sup>th</sup>. No public comment was received by that date.

## **DISCUSSION**

Attachment A contains the proposed amendments, approved in principal, to the Rules; Attachment B contains the proposed amendments, approved in principal, to the Guidelines. Collectively they provide both a clear and workable timetable for a CALS to seek and receive Committee approval to open a new branch or satellite campus, while setting acceptable minimum levels of operational support so that each approved campus operates compliantly.

Specifically, the amendments confirm the extent to which a new branch campus may rely upon the administrative, academic and operational resources of its “main” campus. As to the issue of administering a CALS with multiple branch campuses, while the proposed amendments continue to permit a law school to operate with a single Dean, even one with multiple branch campuses, under the proposed amendments to Guideline 15.1 a branch campus must operate with the presence of a “qualified” administrator. As defined in Guideline 4.1(B), a qualified administrator must be a graduate of either an ABA-approved or a California-accredited law school or be admitted to practice law.

Under the proposed amendments to Guideline 4.1(B), as approved in principal by the Committee and then submitted for public comment, a branch campus with 25 or fewer students may operate with only a part-time administrator. Once its total enrollment exceeds 25 students, a full-time administrator is required. It should be noted, however, that a threshold enrollment of 25 students was not the number of students recommended by the RAC. At its meeting of September 28<sup>th</sup>, the RAC voted to recommend to the Committee to increase the maximum enrollment by five students so that a branch campus with 30 or fewer students could operate compliantly with only a part-time administrator. The RAC’s recommendation to increase the enrollment number by five students to 30 was accepted by the Committee as among the other proposed amendments to the Rules and Guidelines that it approved in principal and then submitted for public comment.

Due to an administrative error, however, the proposed amendments to Guideline 4.1(B) submitted for public comment did not reflect the higher, approved enrollment threshold of 30 students. Instead it reflected the earlier, proposed number of 25 students. Changing the number from 25 to 30, is not considered a substantive change in what was circulated for public comment; thus, sending it out for another period of public comment does not seem warranted. It is recommended that if the Committee adopts the recommendation below, the number in the attachment be changed from 25 to 30 students, so that it is clear that a law school with a maximum enrollment of 30 students at a branch campus can administered by a part-time administrator.

As to the amount of academic and operational support offered at an approved branch camps, the amendments now require that each campus of a CALS provide students with “a competent dean, a qualified administrator, an adequate administrative staff and a competent faculty that devotes adequate time to administration, instruction and student counseling.” Proposed amended Rule 4.160(D) (Dean and Faculty). Moreover, approved amendments to Guideline 4.1(C) will require “adequate and timely” access to the law school’s full-time registrar. Finally it “maintain reasonable office hours at its primary administrative offices and at 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.” Guideline 1.7.

As with all of the proposed amendments, the goal is to require the minimum educational, administrative and operational support at each CALS campus so that all of its students, regardless of which campus they attend, receive the same legal education and administrative support as mandated by the Committee’s accreditation standards.

## **RECOMMENDATION**

It is recommended that, following a period of public comment, the proposed amendments to the *Accredited Law School Rules* (Rules) and *Guidelines for Accredited Law School Rules* (Guidelines), as attached hereto be adopted; that the proposed amendments to the Rules be forwarded to the Board of Trustees (Board) with a request that it approve the amendments to the Rules; and if approved by the Board, both the proposed amendments to the Rules and Guidelines become effective the date of Board approval.

## **PROPOSED MOTION**

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

Move that following a period of public comment, the proposed amendments to the *Accredited Law School Rules* (Rules) and *Guidelines for Accredited Law School Rules* (Guidelines), as attached hereto be adopted; that the proposed amendments to the Rules be forwarded to the Board of Trustees (Board) with a request that it approve the amendments to the Rules; and if approved by the Board, both the proposed amendments to the Rules and Guidelines become effective the date of Board approval.