

CALS Deans Discussion Draft 9/1/2018

Accreditation

The State Bar staff is currently recommending that the Board of Trustees not take action at the September 13-14 Board of Trustees meeting on the staff's proposals regarding revisions to accreditation and law school engagement. These proposals address the possible outsourcing of accreditation and eliminating the RAC and the Law School Council.

The Board is considering the current proposals to improve governance, reduce the State Bar's cost and other resources allocated to the accreditation and regulation of law schools, and for bringing about a simplification and realignment of the stakeholder engagement structures of the State Bar.

The following recommendations provide an example of how the State Bar can address these concerns while retaining both public protection and the important benefits that non-ABA law schools provide towards improving diversity of the legal profession and access to affordable, quality legal education. This memo does not recap all of the detailed legal, procedural, and policy issues that have been the subject of numerous committee meetings at the RAC, Law School Council, Committee of Bar Examiners, and Board of Trustees. The public record of these meetings is more than adequate to establish the critical need for these institutions and for all stakeholders to seek a compromise. This memo is not presented as an official position of the CALS, but as a discussion draft for consideration by all stakeholders in the accreditation process.

Challenge: There are 21 ABA law schools, 15 CALS law schools, and 20 Registered law schools currently operating in California. The challenge is to determine how to reduce the cost and resources used by the Committee of Bar Examiners for accreditation and regulation of law schools while maintaining a rigorous regulatory oversight that protects the public from poor quality programs and potentially unscrupulous or fraudulent activities.

Current Status: The 21 ABA law schools are "deemed accredited" if in compliance with the ABA's various standards for approval. No additional oversight of these schools is required or conducted by the CBE. The 35 CALS and Registered law schools are regulated by a rigorous set of Rules and Guidelines promulgated by the CBE and approved by the Board of Trustees, with non-binding advisory input from the Rules Advisory Committee (RAC). Regulatory compliance is monitored by comprehensive annual self-study compliance reports filed by each school and five-year accreditation site visits conducted by staff and CBE members.

Recommendation: *Expand the definition of "deemed accredited" law schools to include law schools accredited by any regional or national accreditor recognized by the U.S. Department of Education and any other accreditor recognized by the State of California. At the current time, this would include accreditors such as the ABA, the Western Association of Schools and Colleges (WASC), its counterparts in other regions, and the Distance Education Accrediting Commission (DEAC).*

- a. *Under this recommendation, there would be no change related to the oversight of ABA law schools, since the ABA is a national law school accreditor.*
- b. *The non-ABA law schools that are “deemed accredited” by virtue of WASC, DEAC, or other recognized accreditors would continue to be subject to the Rules and Guidelines of Accredited and Registered Law Schools and would continue to be required to submit annual compliance reports and other required filings with the CBE. However, the CBE would no longer be required to conduct five-year site visits for these “deemed accredited” law schools unless a formal complaint is filed with the CBE alleging harm from non-compliance with the Rules, Guidelines, or statutes.*
- c. *All schools not “deemed accredited” by another agency would continue to be accredited or registered by the CBE subject to the existing Rules and Guidelines of Accredited and Registered Law Schools. As such, these schools would continue to submit annual self-study compliance reports and receive accreditation site inspections on the existing 5-year cycle. All non-ABA law schools would continue to pay an annual fee to the CBE to support the accreditation functions, although only those schools not “deemed accredited” by another agency will be required to pay additional site visit fees and expenses.*

Benefits: This change would reduce the cost and resources used by the Committee of Bar Examiners for accreditation and regulation of law schools while maintaining a rigorous regulatory oversight that protects the public from poor quality programs and potentially unscrupulous or fraudulent activities.

- a. This change would significantly reduce the number of five-year site visits that the CBE and staff are currently required to conduct from 42 to approximately 24-28 (based on the recent reports of additional CALS considering WASC). This is potentially a 40% (or greater) reduction in the costly and time-consuming site visits and extensive report writing process.
- b. Under this recommendation, it is important that the annual self-study compliance reports and other required filings and reporting by non-ABA law schools to the CBE would continue in order to maintain substantial public protection related to law school operations and performance.
- c. This proposal supports the current staff recommendation to reassign some ministerial review and notice functions to staff, thereby additionally reducing the current CBE obligation to review and vote on each filing and report.

As a general matter, CALS benefit greatly from the CBE involvement in the accreditation process. The CBE’s professional and cognitive diversity and 70+ years of accreditation experience elevate the accreditation outcome. It is clear, however, that the Board has concerns about the potentially overbroad demands on the CBE. Therefore, the proposal assigning the CBE appellate vs. primary review of most accreditation functions, thereby further reducing the burden on the CBE, deserves additional review. *However, it is considered essential that policy related to amendments to or additions of guidelines, rules, statutes, court rules, etc. effecting accreditation would remain the responsibility of the CBE*

with the assistance of staff and the non-binding advice of the RAC (see separate recommendation regarding law school engagement.)