

AGENDA ITEM

DATE: October 26, 2012

TO: Members, Regulation, Admissions and Discipline Oversight Committee

FROM: Gayle Murphy, Senior Director for Admissions

SUBJECT: **Proposed Amendment to *Accredited Law School Rules* Re Equal Opportunity and Non-Discrimination Standard – Request to Circulate for Public Comment**

EXECUTIVE SUMMARY

During its October 19 and 20, 2012 meeting, the Committee of Bar Examiners (Committee) approved in principle an amendment to Rule 4.160(O), of the *Accredited Law School Rules* to modify the accreditation standard relative to equal opportunity and non-discrimination, subject to a period of public comment authorized by the Board Committee on Regulation, Admissions and Discipline Oversight. The Committee seeks the Board Committee on Regulation, Admissions and Discipline Oversight's approval to circulate the proposed amendments to the rule for public comment.

BACKGROUND:

Earlier this year, the Committee of Bar Examiners' (Committee) Advisory Committee on Accredited Law School Rules (RAC) voted to recommend that Guideline 12.1 (Equal Opportunity and Non-Disclosure) of the *Guidelines for Accredited Law School Rules* be amended in the form attached hereto as Attachment A. The Committee agreed that it should be amended, and it was circulated for public comment. No comments were received and the Committee adopted the amended guideline, subject to amendment of the associated accreditation standard, which is found in the *Accredited Law School Rules*.

The current language in Guideline 12.1 places an affirmative duty on the California Accredited Law Schools (CALS) to promote equal opportunity in both the study of law and as to those they retain to teach law by means of not discriminating against a number of enumerated groups of individuals. The proposed revision of the guideline came after a discussion within the Committee, input from the Committee's legal counsel and, finally, a discussion among and between members of the RAC to revise the guideline in light of the current state of both federal and California state law as they relate to unlawful discriminatory conduct.

The revised version of Guideline 12.1 now properly comports with all applicable law by simply expressing a requirement that each CALS operate lawfully in regard to offering

equal opportunity and in a nondiscriminatory manner. The amended guideline protects the constitutional right of the CALS to operate as they please, while emphasizing the need to operate lawfully in this area of law to remain accredited and in good standing with the Committee. Since approving the new guideline, however, it has been determined, that the associated standard, which is contained in the *Accredited Law Schools Rules*, required amendment. If the amendments to the rule are eventually approved, there will be no need for a guideline since the language is the same.

ISSUE

Whether the proposed amendments to Rule 4.160(O) of the *Accredited Law School Rules* should be circulated for a 45-day public comment period.

SUMMARY OF PROPOSAL

The request is to circulate for public comment proposed amendments to Rule 4.160(O) of the *Accredited Law School Rules*. The amendment to the rule is needed in order to implement the changes to the guidelines that have been approved by the Committee. Attachment B is the proposed amendment to Rule 4.160(O), *Accredited Law School Rules*, which was approved in principle by the Committee during its October 19 and 20, 2012 meeting, subject to a public comment period, consideration of any comments received and final recommendation to the Board of proposed amendments. The proposed amendment makes the schools comply with all applicable and controlling state and federal anti-discrimination laws.

LENGTH OF PUBLIC COMMENT PERIOD

Forty-five days from the action taken by the Board Committee.

EFFECTIVE DATE OF PROPOSAL

If the Board of Trustees ultimately approves the amendment to the rule, it is anticipated the rule change would become effective upon final action taken by the Board.

FISCAL / PERSONNEL IMPACT:

None.

RULE AMENDMENTS:

Rule 4.160(O), *Accredited Law School Rules*.

BOARD BOOK IMPACT:

None.

RECOMMENDATION:

The Committee of Bar Examiners recommends that the Board Committee on Regulation, Admissions and Discipline Oversight approve the request that the proposed amendments to Rule 4.160(O), *Accredited Law School Rules*, as attached as Attachment B, be circulated for public comment.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Regulation, Admissions and Discipline Oversight Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Regulation, Admissions and Discipline Oversight Committee authorizes staff to make available for public comment for a period of 45 days, the proposed amendments to Rule 4.160(O), *Accredited Law School Rules*, in the form attached; and it is

FURTHER RESOLVED, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed item.