

AGENDA ITEM

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DATE: April 8, 2013

TO: Members, Board Committee on Regulation, Admissions and Discipline Oversight
Members, Board of Trustees

FROM: Gayle E. Murphy, Senior Director, Admissions

SUBJECT: Proposed Amendment to Accredited Law School Rules re Equal Opportunity and Non-Discrimination Standard. Request for Adoption Following Public Comment

EXECUTIVE SUMMARY

The Committee of Bar Examiners proposes amendment of the current accreditation standard regarding equal opportunity and non-discrimination for California accredited law schools to simply state that the schools must follow all federal and California state law as they relate to unlawful discriminatory conduct. With the authorization of the Board Committee on Regulation, Admissions and Discipline Oversight, the proposed amendment was circulated for public comment; no comments were received. The Committee adopted the amendment, subject to approval of the Board of Trustees.

BACKGROUND

The current language in Rule 4.160(M) of the *Accredited Law School Rules* states:

(M) Equal Opportunity and Non-Discrimination. Consistent with sound educational policy and these rules, the law school should demonstrate a commitment to providing equal opportunity to study law and in the hiring, retention and promotion of faculty without regard to sex, race, color, ancestry, religious creed, national origin, disability, medical condition, age, marital status, political affiliation, sexual orientation, or veteran status.

The rule and associated guidelines, which are contained in the *Guidelines for Accredited Law School Rules*, places an affirmative duty on the California Accredited Law Schools not to discriminate and to promote equal opportunity in the study of law and to hire, retain and promote faculty without regard to various statuses. The proposed amendment of the rule came after a discussion within the Committee of Bar Examiners (Committee), input from the Committee's legal counsel and, finally, a discussion among and between members of the Committee's Advisory Committee on California Accredited Law School Rules to revise the rule in light of the current state of both federal and California state law as they relate to unlawful discriminatory conduct.

Upon the Committee's request, the Board Committee on Regulation, Admissions and Discipline Oversight authorized a period of public comment for the proposed amendment. The proposed amendment was circulated to all California Law Schools and others on December 21, 2012 and posted on the State Bar's website. To date, no comments have been received.

ISSUE

Whether the proposed amendment to the rule in the *Accredited Law School Rules* regarding the Equal Opportunity and Non-Discrimination Standard and the renumbering of other standards, as attached to this agenda item, will be approved by the Board of Trustees.

CONCLUSION

The Committee recommends that the Board approve the proposed amendments.

DISCUSSION

The proposed amendment to the rule, which is attached to this agenda item, properly comports with all applicable law by simply expressing a requirement that California Accredited Law Schools operate lawfully in regard to offering equal opportunity and in a nondiscriminatory manner. The amended rule protects the constitutional right of the California Accredited Law Schools to operate within their own discretion, while emphasizing the need to operate lawfully in this area of law to remain accredited and in good standing with the Committee. Two other standards have been renumbered to place the standards in the appropriate order.

No public comments were received during the public comment period. The Committee considered this matter during its March 22, 2013 meeting and adopted the proposed amendments, subject to approval by the Board of Trustees.

FISCAL / PERSONNEL IMPACT:

None.

RULE AMENDMENTS:

If approved, the proposed amendment will become accreditation standard (N), the current Standard (N) will become (O) and the current Standard (O) will become (M) of Rule 4.160 the *Accredited Law School Rules*.

BOARD BOOK IMPACT:

None.

RECOMMENDATION

It is recommended that the proposed amendment to the *Accredited Law School Rules* regarding the equal opportunity and non-discrimination accreditation standard and the renumbering of two other accreditation standards in the form attached hereto, which were adopted by the Committee, be approved by the Board Committee on Regulation, Admissions and Discipline Oversight and the Board of Trustees.

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, upon recommendation of the Committee of Bar Examiners, the Board Committee on Regulation, Admissions and Discipline Oversight recommends that the Board approve the proposed amendments to Rule 4.160 of the *Accredited Law School Rules* in the form attached hereto, effective immediately following action by the Board.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with the Board Committee on Regulation, Admissions and Discipline Oversight's recommendation, the following resolutions would be in order:

RESOLVED, that upon the recommendation of the Board Committee on Regulation, Admissions and Discipline Oversight, the Board hereby approves the proposed amendments to Rule 4.160 of the *Accredited Law School Rules* in the form attached hereto, effective immediately following this action by the Board.