

# AGENDA ITEM

**A&EII.E. November 2014**

**DATE:** October 20, 2014

**TO:** Members, Admissions and Education Committee

**FROM:** Patricia P. White, Chair, Committee of Bar Examiners  
Gayle E. Murphy, Senior Director, Admissions

**SUBJECT:** Proposed Amendments to Admissions Rules, Statutes and Court Rules re Regulation of Law Schools – Request for Public Comment

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## EXECUTIVE SUMMARY

The Committee of Bar Examiners (Committee) has approved in principle, subject to a public comment period and approval by the Board of Trustees, amendments to the: 1) California Rules of Court – Chapter 3. Legal Education, Rule 9.30. Law School Study in Schools Accredited or Registered by The Committee of Bar Examiners, 2) Business And Professions Code Sections 6046.7 and 6060.7, 3) Article 4 Admission to the Practice of Law, Section 6060, Qualifications, Examination and Fees, 4) Title 4. Admissions and Educational Standards, Division 2. Accredited Law School Rules and 5) Title 4. Admissions and Educational Standards, Division 3. Registered Law School Rules. Among other changed requirements, the proposed amendments require that unaccredited law schools (renamed “registered law schools”) become accredited within a set period of time and provide the opportunity for online (distance learning) law schools to become accredited. Before final consideration by the Committee and the Board of Trustees, however, it is recommended that the proposals be released for a 45-day public comment period. After consideration of any comments received, it is anticipated that a final version of the proposed amendments will be forwarded to the Board of Trustees for approval.

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## BACKGROUND

Over the last many years, the Committee of Bar Examiners (Committee) has spent countless hours discussing issues related to California’s registered, unaccredited law schools, the future of such law schools, the Committee’s regulatory oversight of unaccredited law schools and their various programs of legal education and whether its authority to accredit law schools should be expanded to include distance-learning law schools. During its March 2013 meeting, the Committee came to a consensus that the various rules and statutes relating to these issues should be amended as follows:

- Propose amendments to Sections 6046.7 and 6060.7 of the California Business and Professions Code that will clarify that the Committee's oversight and regulatory authority extend only to law schools and their law-related programs that offer a J.D. degree that would qualify their graduates to take the California Bar Examination; all other law-related programs (offered by law schools or "nonlaw" schools), including advanced law degrees and any other degree in law that is not based on a J.D. curriculum, would be under the oversight of the state's degree granting entity. Propose further statutory amendments that will require all registered, unaccredited law schools to meet the standards for accreditation by the Committee within ten years, which would result in a period of registration with the Committee as an unaccredited law school for no more than ten years.
- Propose amendments to Rule 9.30 of the California Rules of Court that will align the rule with the statutory requirements for admission and the various vehicles of legal education that will qualify an applicant for admission to practice law in California, including new restrictions with regard to how long an unaccredited law school may continue to operate as an unaccredited law school.
- Propose amendments to the *Unaccredited Law School Rules and Guidelines for Unaccredited Law School Rules* that bring them into conformance with the new statutory and court rule proposals, in addition to other changes that may be necessary to ensure that they are not in conflict with the *Admissions Rules* and to enhance the requirements for registration, such as requiring a minimum enrollment of students, providing additional, mandatory disclosures of consumer information including, but not limited to, the public disclosure of any Notice of Noncompliance the Committee has issued the law school over the past five years, the basis for each such Notice and its resolution, etc., in order to ensure public protection and that a sound legal education is being provided by such schools.
- Propose amendments to the *Accredited Law School Rules and Guidelines for Accredited Law School Rules* that will permit the accreditation of distance-learning law schools.

## ISSUE

Whether to authorize a 45-day public comment period for proposed amendments to the: 1) California Rules of Court – Chapter 3. Legal Education, Rule 9.30. Law School Study in Schools Accredited or Registered by The Committee of Bar Examiners, 2) Business And Professions Code Sections 6046.7 and 6060.7, 3) Article 4 Admission to the Practice of Law, Section 6060, Qualifications, Examination and Fees, 4) Title 4. Admissions and Educational Standards, Division 2. Accredited Law School Rules and 5) Title 4. Admissions and Educational Standards, Division 3. Registered Law School Rules.

## CONCLUSION

Proposed amendments to the: 1) California Rules of Court – Chapter 3. Legal Education, Rule 9.30. Law School Study in Schools Accredited or Registered by The Committee of Bar Examiners, 2) Business And Professions Code Sections 6046.7 and 6060.7, 3) Article 4 Admission to the Practice of Law, Section 6060, Qualifications, Examination and Fees, 4) Title 4. Admissions and Educational Standards, Division 2. Accredited Law School Rules and 5) Title 4. Admissions and Educational Standards, Division 3. Registered Law School Rules should be released for a 45-day public comment period.

## DISCUSSION

The Committee conducted a public forum in August 2013 to receive input from interested parties on these issues. Subsequently, a Working Group was appointed by the Committee Chair to consider the comments received and to draft proposed rules. The Working Group was composed of deans from a California-accredited law school and the various categories of unaccredited law schools and members of the Committee.

The Working Group met several times over the past year and after several very substantive discussions about the issues and possible proposed amendments to the rules and statutes, it made several recommendations to the Committee. The Committee carefully considered the recommendations and approved in principle the following proposed amendments, subject to a public comment period and approval by the Board of Trustees (Board), which are attached to this agenda item:

- Attachment A: California Rules of Court – Chapter 3. Legal Education. Rule 9.30. Law School Study in Schools Accredited or Registered by the Committee of Bar Examiners
- Attachment B: Proposed Amendments to Business And Professions Code Sections 6046.7 And 6060.7
- Attachment C: Article 4 Admission to the Practice of Law, Section 6060, Qualifications, Examination and Fee
- Attachment D: Title 4. Admissions and Educational Standards, Division 2. Accredited Law School Rules
- Attachment E: Title 4. Admissions and Educational Standards, Division 3. [Unaccredited] Registered Law School Rules

Following the period of public comment, the proposals and any comments received would come back to the Committee in preparation for submission of final versions to the Board for approval so that the proposed statutory amendments could be included in the State Bar's legislative program and the proposed *California Rules of Court* amendments

could be submitted to the Court. The other rules would be implemented if the proposed amendments to the Rules of Court are approved by the Court and the Legislature acts on the proposed amendments to the statutes and they are signed into law.

If these proposals, ultimately, are approved for implementation, transition rules will be drafted so that those schools currently registered with the Committee are given sufficient time to conform with the new requirements. In addition, if the proposals are accepted, the Guidelines interpreting the *Accredited Law School Rules* and *Registered Law School Rules* would be drafted, circulated for public comment and adopted by the Committee and forwarded to the Board for approval.

### **FISCAL / PERSONNEL IMPACT**

None.

### **RULE AMENDMENTS**

If ultimately adopted, the *Unaccredited Law School Rules* and *Accredited Law School Rules* will need to be updated accordingly.

### **BOARD BOOK IMPACT**

None.

### **RECOMMENDATION**

It is recommended that the Board Committee agree that the proposed amendments to the: 1) California Rules of Court – Chapter 3. Legal Education, Rule 9.30. Law School Study in Schools Accredited or Registered by The Committee of Bar Examiners, 2) Business And Professions Code Sections 6046.7 and 6060.7, 3) Article 4 Admission to the Practice of Law, Section 6060, Qualifications, Examination and Fees, 4) Title 4. Admissions and Educational Standards, Division 2. Accredited Law School Rules and 5) Title 4. Admissions and Educational Standards, Division 3. Registered Law School Rules in the form attached hereto be released for public comment.

### **PROPOSED BOARD COMMITTEE RESOLUTION:**

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

**RESOLVED**, that the Admissions and Education Committee recommends that proposed amendments to the: 1) California Rules of Court – Chapter 3. Legal Education, Rule 9.30. Law School Study in Schools Accredited or Registered by The Committee of Bar Examiners, 2) Business And Professions Code Sections 6046.7 and 6060.7, 3) Article 4 Admission to the Practice of Law, Section 6060, Qualifications, Examination and Fees, 4) Title 4. Admissions and Educational

Standards, Division 2. Accredited Law School Rules and 5) Title 4. Admissions and Educational Standards, Division 3. Registered Law School Rules as attached hereto be released for public comment for a period of 45 days; and it is

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