

## **TITLE 4. ADMISSIONS AND EDUCATIONAL STANDARDS**

### **PROPOSED AMENDMENTS – 8/18/14 DRAFT**

#### Division 3. Registered Law School Rules

#### Chapter 1. General Provisions

##### Rule 4.200 Authority

The Committee of Bar Examiners (“the Committee”) is authorized by law to register, oversee, and regulate registered law schools in California.

##### Rule 4.201 What these rules are

- (A) A law school conducting business in California must register with the Committee and comply with these rules and other applicable law unless otherwise exempt.
- (B) These rules have been approved by the Committee and adopted by the Board of Trustees as part of the Rules of the State Bar of California and may be amended in accordance with State Bar rules.
- (C) These rules do not apply to law schools accredited by the Committee, law schools approved by the American Bar Association, paralegal programs, undergraduate legal degree programs, or other legal studies programs that do not lead to a professional degree in law. The appropriate legal entity must approve such programs, even if they are offered by an accredited, approved, or registered law school or an institution of which it is a part.
- (D) The time limits for Committee actions specified in these rules are norms for processing. The time limits are not jurisdictional and the Committee may extend them for good cause.

##### Rule 4.202 Interpreting and applying the rules

The Guidelines for Registered Law School Rules, as adopted by the Committee, govern the interpretation and application of these rules.

##### Rule 4.203 Citation

These rules may be cited as the Registered Law School Rules.

#### Rule 4.204 Definitions

- (A) An “American Bar Association Approved Law School” is a law school fully or provisionally approved by the American Bar Association and deemed accredited by the Committee.
- (B) A “California accredited law school” is a law school that has complied with the Rules on Accreditation of Law Schools and has been accredited by the Committee.
- (C) “The Committee” is the Committee of Bar Examiners of the State Bar of California.
- (D) The “First-Year Law Students’ Examination” is the examination required by statute and by the Rules Regulating Admission to Practice Law in California.<sup>1</sup>
- (E) “Inspection” means an on-site visit to a law school by an individual or a team appointed by the Senior Director, Admissions in accordance with these rules.
- (F) A “major change” is one of the changes specified in rule 4.246, Major changes.
- (G) A “professional law degree” is the LL.B. (Bachelor of Laws) or the J.D. (Juris Doctor). An LL.M. (Master of Laws), a M.L.S. (Master of Legal Studies) or other post-graduate degree do not qualify a recipient to take the California Bar Examination but, with the acquiescence of the Committee, may be offered by a registered law school. The J.D. degree may be granted only upon completion of a law program that qualifies a student to take the California Bar Examination.
- (H) A “registered law school” is a California law school that meets the requirements of these rules and that has been registered by the Committee, but is not accredited by the Committee. Registered law schools must provide the number of hours of instruction to their students as required by Business and Professions Code Section 6060.
- (I) “Senior Director” means “Senior Director, Admissions” or that person’s designee.
- (J) A “provisionally accredited law school” is a law school that is pursuing accreditation and has been recognized by the Committee as being in substantial compliance with applicable law and *Accredited Law School Rules*.

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<sup>1</sup> Business & Professions Code § 6060(h) and Rule VIII, Section 1 and related provisions of the Rules Regulating Admission to Practice Law in California.

#### Rule 4.205 Lists of law schools

The Committee maintains lists of law schools operating in California: those accredited by the Committee, those registered by the Committee, and those approved by the American Bar Association. The lists are available on the State Bar Web site and upon request.

#### Rule 4.206 Student complaints

The Committee does not intervene in disputes between a student and a registered law school. It retains complaints about a law school submitted by students and considers those complaints in assessing the law school's compliance with these rules.

#### Rule 4.207 Public information

(A) The following information about registered law schools is public, subject to any exception of confidentiality the Committee deems appropriate, and available upon written request for the processing fee set forth in the Schedule of Charges and Deadlines:

- (1) applications for registration;
- (2) public portions of annual reports;
- (3) notices of major changes; and
- (4) any other information designated by the Committee.

(B) The following information is confidential, whether or not contained in a public record:

- (1) personal information about identifiable students;
- (2) personal information about identifiable instructors;
- (3) law school financial records; and
- (4) any other information designated confidential by the Committee.

#### Rule 4.208 Waiver of requirements

(A) A law school may request that the Committee waive any rule or guideline. The request must clearly show that the law school otherwise complies with the rules.

(B) The Committee will allow a law school a reasonable time to comply with the rule or guideline for which it has granted a waiver, but a waiver is temporary.

A request to renew a waiver must be filed with the Annual Compliance Report. The Committee may then renew, modify, or withdraw the waiver.

#### Rule 4.209 Fees

- (A) The regulatory and oversight services provided by the Committee are funded by reasonable fees that are set forth in the Schedule of Charges and Deadlines.
- (B) Fees for the services of the Senior Director, that person's designee or a consultant engaged on behalf of the Committee are based on a published hourly rate that covers the cost of providing the service, inclusive of preparation and travel time.
- (C) Travel expenses are reimbursed at actual cost, in accordance with State Bar travel reimbursement policies.

#### Chapter 2. Application for registration

##### Rule 4.220 Before applying to register

An educational institution planning to offer instruction in law may request that the Committee arrange a consultation visit to advise it on any matter, including whether the institution is ready to apply for registration or should make changes before doing so. The institution must agree to reimburse the Committee for the costs of a consultation visit, including those of travel.

##### Rule 4.221 Application procedure

A law school that meets the standards set forth in rule 4.240 may apply for registration by:

- (A) completing and submitting the Application for Registration using the form prescribed by the Committee with the fee set forth in the Schedule of Charges and Deadlines; and
- (B) agreeing to allow the Committee to make any inspection it deems necessary and promptly pay all expenses of the inspection.

##### Rule 4.222 Multiple locations

If a law school has multiple physical locations that are more than ten miles apart by the most direct route, each location must apply for registration as a separate law school.

##### Rule 4.223 Committee action

- (A) After considering an application, the Committee may

(1) notify the law school within thirty days of considering the application that it has failed to establish a reasonable probability that the law school is in compliance with these rules and, for reasons stated in the notice, advise the law school to withdraw its application; or

(2) require an inspection of a law school within sixty (60) days of the Committee's consideration of the application for registration

(i) to confirm whether the law school appears to substantially comply with the standards; or

(ii) if the law school refuses to withdraw its application in spite of the Committee's advice to do so; or

(3) request further information, allowing a reasonable time for review; or

(4) deny the application.

(B) After reviewing the application and any related inspection report and objections, the Committee may register the law school, subject to any conditions it deems appropriate, such as annual inspections at the law school's expense, or deny registration.

### Chapter 3. Responsibilities of registered law schools

#### Rule 4.240 Standards

A registered law school must at all times meet the following standards.

(A) Lawful Operation. The law school must operate in compliance with all applicable federal, state, and local laws and regulations.

(B) Integrity. The law school must demonstrate integrity in all of its programs, operations, and other affairs.

(C) Governance. The law school must be governed, organized, and administered so as to provide a sound educational program.

(D) Dean and Faculty. The law school must have a qualified dean, and a competent faculty that devotes adequate time to administration, instruction, and student counseling.

(E) Educational Program. The law school must maintain a sound program of legal education.

(F) Scholastic Standards. The law school must maintain sound scholastic standards and must as soon as possible identify and dismiss those students

- from the J.D. program who have demonstrated they are not qualified to continue.
- (G) Admissions. The law school must maintain a sound admissions policy. The law school must not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the degree program.
  - (H) Library. The law school must ensure that its students have access to library materials and legal authorities consistent with the minimum requirements set by the Committee.
  - (I) Infrastructure. The law school must have an infrastructure that is adequate for its programs and operations. The law school must, at a minimum, maintain its primary administrative office in the State of California.
  - (J) Financial Resources. The law school must have adequate present and anticipated financial resources to support its programs and operations.
  - (K) Records and Reports. The law school must maintain adequate records of its programs, students, faculty and operations.
  - (L) Minimum, Cumulative Bar Examination Pass Rate. The law school must maintain a minimum, cumulative bar examination pass rate as determined and used by the Committee in the evaluation of the qualitative soundness of a law school's program of legal education.
  - (M) Minimum, Sustained Enrollment. The law school must, within at least three of the past five years in which it filed an Annual Compliance Report with the Committee, report that it had a student enrollment of no fewer than three (3) currently enrolled students studying in any year of its curriculum for the Juris Doctor degree.
  - (N) Limitation on Duration of Registration. The law school is limited to a seven-year period of registration before it must begin the process of applying for and becoming accredited by the Committee and achieve accreditation within ten years of first becoming registered. A registered law school in existence at the time of adoption of this requirement must pursue accreditation within five years of the date this provision is approved and become accredited within ten years of that date.
  - (O) Equal Opportunity. Consistent with sound educational policy and these rules, a law school must operate in accordance with policies and procedures that comply with the Constitutions of both the United States and the State of California so as to provide both equality of opportunity and to prohibit unlawful discrimination.

- (P) Compliance with Committee requirements. The law school must demonstrate its compliance with these rules by submitting the required annual reports and otherwise complying with the rules.

#### Rule 4.241 Disclosure statement

- (A) A registered law school must provide each student, in the format required by the Committee, a disclosure statement that includes all the information that is required by Section 6061 of the California Business and Professions Code and may otherwise be required by the Committee.
- (B) The disclosure statement must be provided to students as required by Section 6061 of the California Business and Professions Code, subject to any additional requirements that may be imposed by the Committee.
- (C) The disclosure statement must be signed by the student, who must receive a copy of the signed statement.
- (D) Each year on the date indicated in the Schedule of Charges and Deadlines, a law school must file at the Committee's San Francisco office
  - (1) a copy of the disclosure statement the law school has provided or intends to provide in any academic term between July 1 of the current calendar year and June 30 of the following calendar year; and
  - (2) the Disclosure Statement Certification form prescribed by the Committee.
- (E) A law school that does not comply with this rule must refund all fees, including tuition, paid by a student who did not receive the disclosure statement. Non-compliance constitutes cause for withdrawal of registration.

#### Rule 4.242 Annual Compliance Report

A registered law school must submit an Annual Compliance Report using the form prescribed by the Committee. The report must acknowledge any noncompliance with these rules and describe the remedial steps being taken to address the noncompliance. The deadline and fee for submission of the report are set forth in the Schedule of Charges and Deadlines.

#### Rule 4.243 Self-study

Prior to a periodic inspection, or more frequently if the Committee requests it, a registered law school must conduct an objective, self-evaluation and reevaluate its educational program and submit a written self-study to the Committee. The purpose of the self-study is to determine whether the law school is in compliance with these rules and has achieved its mission and objectives. The law school must use the format prescribed by the Committee and submit the required fee.

#### Rule 4.244 Inspections

- (A) A registered law school must be inspected every five years or more frequently if the Committee determines that an inspection is required to assess compliance with these rules.
- (B) A law school subject to inspection must
  - (1) facilitate the review of records, facilities inspection, observation of classes, and interviews with students, faculty, staff, administration, and board; and
  - (2) pay all expenses of the inspection.
- (C) For the inspection that is required every five years, the Committee will appoint an inspection team composed of
  - (1) the Senior Director, or designee; and
  - (2) up to two additional members, who may be other State Bar staff, members of the Committee, educational consultants, or representatives from a registered law school.
- (D) Within ten days of receiving notice of an inspection, a law school has the right to challenge the appointment of an inspector and to request an alternative appointment. Grounds for a challenge are that an appointee is biased or has a financial interest in or is employed by a competing institution. An allegation of bias must be documented by written evidence. The Senior Director will consider the challenge and may appoint an alternative member for good cause. The Senior Director's decision will be issued within thirty days of receipt of the challenge.
- (E) A person or team appointed to make an inspection must provide the Senior Director with a written report of its findings and recommendations within ninety days of completing its inspection. Within sixty days of receipt by the Senior Director of the report, a copy must be sent to the law school.
- (F) Within thirty days of receiving an inspection report, the law school must notify the Senior Director that it accepts the report or objects to it in whole or in part. An objection must be supported by relevant documentation. The report and the law school's response will be provided to the Committee for consideration during its next regularly scheduled meeting providing that the deadline for the posting such agenda matters and materials permit it.
- (G) Within sixty days of receiving an inspection report and any law school objections, the Committee will



- (1) accept the report and register or continue the registration of the law school;
- (2) accept the report and permit the law school to proceed with its application for registration;
- (3) grant a waiver in accordance with these rules;
- (4) issue a warning requiring immediate action to correct specified deficiencies within a certain number of days of the date of the warning;  
or
- (5) initiate proceedings to deny or withdraw registration for failure to comply with a warning.

#### Rule 4.245 Prior approval of major changes

A registered law school contemplating a major change must notify the Committee and obtain its prior approval before making the change. The notice must explain in detail the substance of any such action and any anticipated effect the change might have on the law school's compliance with the rules and guidelines, and be submitted with the fees specified in the Schedule of Charges and Deadlines. The Committee may then require submission of additional information or an inspection before taking action on any such request.

#### Rule 4.246 Major changes defined

The following are major changes:

- (A) instituting a new full-time or part-time division;
- (B) changing the location of the law school's administrative office or facility;
- (C) instituting any joint degree program, whether within the law school or any college or university affiliated with the law school or another institution;
- (D) merging or affiliating with another law school, college, or university, or the severance from a law school, college or university, or modifying the law school's relationship with an affiliated college or university;
- (E) offering a new program in law study, either a non-degree or non-professional degree program, or a degree program beyond the first professional degree in law;
- (F) providing law study credit for a fixed-facility law school program or class offered more than ten miles from the site of the law school, outside California, or in multiple locations;

- (G) changing the name of the law school;
- (H) changing corporate status or from a nonprofit to a profit-making institution or vice versa; and
- (I) changing the material ownership of the law school.

#### Chapter 4. Withdrawal of registration

##### Rule 4.260 Notice of Noncompliance

If the Committee believes that a registered law school is not in full compliance with these rules, the Committee will issue the law school a written Notice of Noncompliance that states the basis and all other reasons for its belief. At the option of the Committee, it may also choose to forward a copy of the Notice to all students currently enrolled at the law school believed to be not compliant.

##### Rule 4.261 Response to Notice of Noncompliance

Within fifteen days of receiving a Notice of Noncompliance, a law school must file a written response demonstrating that it is in compliance or is taking steps to achieve compliance. The response must be submitted with the fee set forth in the Schedule of Charges and Deadlines.

##### Rule 4.262 Committee action on law school response

- (A) If the Committee deems the response satisfactory, it will notify the law school within thirty days.
- (B) If the Committee deems the response non-responsive or otherwise unsatisfactory, it must schedule an inspection of the law school within thirty days, unless the Committee determines that an inspection is unnecessary. Upon concluding the inspection, the inspection team selected by the Senior Director must submit its report to the Senior Director within sixty (60) days. The Senior Director will send a copy of the report to the law school.

##### Rule 4.263 Committee action with or without an inspection report

- (A) If the Committee believes that the inspection report provides sufficient evidence that the law school is not currently, or is not soon likely to be in compliance with these rules, the Committee will notify the law school that it intends to either place the law school on probation for a specified period of time or proceed with the procedures to withdraw its registration.
- (B) If the Committee has determined that in an inspection of the law school is unnecessary, and believes that it has sufficient evidence that the law school is not currently or not soon likely to be in compliance with these rules, the Committee will notify the law school that it intends to either place the law

school on probation for a specified period of time or proceed with the procedures to withdraw its registration.

#### Rule 4.264 Request for hearing

The law school may request a hearing before the Committee within fifteen days of being sent a notice that the Committee is recommending probation or withdrawal of registration.

#### Rule 4.265 Hearing procedures

- (A) Within sixty days of receiving a timely request for hearing, the Committee will schedule a hearing at a time that is mutually agreeable to the Committee and the law school.
- (B) The hearing need not be conducted according to common law or statutory rules of evidence. Any relevant evidence is admissible if it is the kind of evidence on which responsible persons rely in the conduct of serious affairs. The rules of privilege in the California Evidence Code or required by the United States or California Constitutions will be followed. The law school has the burden of establishing its compliance with these rules.
- (C) All parties may be represented by counsel.

#### Rule 4.266 Committee action following hearing or when no hearing is requested.

- (A) Following a hearing, the Committee will determine whether the law school is in compliance with these rules and the guidelines. Its decision will be based on the entire record, including materials and evidence presented at the hearing.
- (B) The Committee may take any action affecting the law school's registration that it considers appropriate, including issuing an additional Notice of Noncompliance based evidence submitted at the hearing, the placement of the law school on probation for a specified period of time or the termination of its registration.
- (C) The Committee, in its discretion, may do any or all of the following with respect to its decision:
  - (1) publish it;
  - (2) send it to the students enrolled in the law school;
  - (3) send it to the California Supreme Court;
  - (4) send it to the California Attorney General.

#### Rule 4.267 Probation

- (A) If the Committee decides that a law school has not complied or taken adequate steps to comply with these rules but has made perceptible progress toward compliance, the Committee may place the law school on probation for a specified time.
- (B) The Committee may impose probation conditions, including interim inspections and progress reports.
- (C) During the probation, students will be deemed enrolled at a registered law school and the school's degree-granting authority will continue.
- (D) At least sixty (60) days before its period of probation is set to expire, the Committee will request from the law school evidence to determine whether sufficient progress has been made toward compliance or whether it will proceed to withdraw the law school's registration. The Committee will notify the law school of its decision.

#### Rule 4.268 Termination of registration

The Committee will terminate a law school's registration on a specific date, at which time it will also terminate its degree-granting authority. Until that date, students attending the law school are deemed enrolled at a registered law school.

#### Rule 4.269 Review by Supreme Court

A law school whose registration has been terminated by the Committee may seek review of the Committee's action before the California Supreme Court pursuant to the rules of that court.