

# STATE BAR OF CALIFORNIA

## TASK FORCE ON ADMISSIONS REGULATION REFORM: PHASE II FINAL REPORT

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September 25, 2014

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This Phase II Final Report completes a twenty-eight month process by the State Bar of California Task Force on Admissions Regulation Reform (“TFARR”) in which TFARR examined whether a program of training requirements focusing on competency and professionalism for new lawyers should be adopted in California.

TFARR’s work took place in two phases. In Phase I, TFARR concluded that, as increasing numbers of new lawyers graduate from law school and transition into the practice of law without access to mentoring and other modes of informal practice-based training that, in previous eras, were more readily available, three new admissions requirements should be adopted:

- (a) Pre-admission Competency Training:** New applicants for admission must certify the following: (a) at any time in law school, he or she has taken at least fifteen units of practice-based, experiential course designed to develop law practice competency, and (b) in lieu of some or all of the fifteen units of practice-based, experiential course work, a candidate for admission may opt to participate in a Bar-approved externship, clerkship or apprenticeship at any time during or following completion of law school.
- (b) 50-Hour Pro Bono or Reduced-Fee Legal Services Requirement:** Prior to admission or by the end of one year following admission, each new admittee must devote at least 50 hours of legal services to pro bono or modest means clients. Credit towards these hours will be available for “in-the-field,” supervised experience while in law school. This new requirement, which borrows from and largely tracks a recently adopted rule in New York, is designed to generate opportunities for real world experience with clients, and to inculcate as a core professional value readiness to provide service to those who cannot afford or have limited means to afford representation.
- (c) Enhanced Post-Admission Competency Training:** New admittees will be required to take ten additional hours of mandatory continuing legal education (“MCLE”) courses specifically focused on law practice competency training, over and above the required MCLE hours for all active members of the Bar. Credit toward this enhanced MCLE requirement, the Phase I Report recommended, will be available for participation in Bar-approved mentoring programs.

These proposed recommendations and the rationale for advancing them are set forth in detail in TFARR’s June 24, 2013 Phase I Final Report. The State Bar Board of Trustees (the “Board”) unanimously adopted the TFARR’s Phase I Final Report on October 12, 2013.

Over the course of the last ten months, Phase II of TFARR’s work has focused on developing rules for the implementation of its Phase I recommendations. TFARR II’s work began in December 2013 and has taken place in a series of eight public meetings. As in Phase I of

TFARR's work, each meeting was publicly noticed, all agendas for discussion were posted in advance, and public comment was invited.

To develop implementing recommendations, TFARR II organized itself into three working groups,<sup>1</sup> each dedicated to drafting proposed revisions and additions to applicable portions of the State Bar Act and the State Bar Rules. The working groups followed the same open meeting protocol that TFARR followed, sitting as a whole. Each working group meeting was open to the public.

The TFARR Phase II working groups presented their proposals in finished form to the TFARR members at TFARR's July 28, 2014 meeting. Following plenary discussion of these working group proposals, and adoption of several modifications designed to ensure that the working group proposals were consistent with each other, TFARR members voted in favor of a full set of implementing rules at TFARR's September 16, 2014 meeting. The vote was unanimous.

The TFARR Phase I Final Report dated June 24, 2013 remains the best source for understanding the foundational rationale behind the three-pronged program that TFARR has developed and is recommending for adoption by the Board, but at this stage of the process, after an additional ten months of work in Phase II, a few supplemental comments are appropriate.

**First**, TFARR's recommendations have been exhaustively vetted and examined by all potentially affected stakeholder constituencies and by all members of the public who wished to comment. Consistent with its efforts to solicit comments and engage with interested parties throughout both phases of its work, in mid-August 2014 TFARR circulated a set of draft rules to a list of interested stakeholders who have consistently shown interest in TFARR's work, and proactively solicited their comments. As a result, when TFARR's proposed final implementing rules are placed before the Board, the rules will have gone through two notice-and-comment cycles, one informal – where comments were affirmatively solicited from parties known to have interest and relevant knowledge – and one formal, geared to the public at large, according to the mandatory protocol for adoption of any proposed new or revised rules by the Board. TFARR followed the same, two-step notice and comment protocol at the end of its Phase I work.

**Second**, the membership of TFARR, in both phases, covers a broad cross section of professional viewpoints. In all, 55 lawyers, judges and lay members of the public served on TFARR at different points in Phases I and II.<sup>2</sup> Included in the TFARR membership were law school deans and professors from ABA-accredited law schools, California-accredited law schools, and unaccredited law schools; lawyers from small firm and solo practices, large firms, plaintiff-side and defense-side practice specialties, and the pro bono legal services sector; representatives from many county and specialty bar associations; young lawyers as well as lawyers who have

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<sup>1</sup> The members of the three working groups, and the Chairs of each one, are listed in an Addendum to this Report.

<sup>2</sup> Brief biographical profiles of all TFARR members for Phase II are set forth in the Addendum. Brief biographical profiles of all members of TFARR for Phase I are set forth in an Addendum to the TFARR Phase I Final Report.

practiced for many decades; lawyers from litigation and trial practice and from various kinds of transactional practice, from the private sector and the public sector, and from corporate legal departments; judges, both trial and appellate, from within the judicial branch and from the executive branch (i.e. administrative agency judges); and, not least, non-lawyer public members. In addition to this wide range of viewpoints from inside and outside the legal profession, the ethnic and gender diversity of TFARR fairly reflects the increased demographic diversity within the profession as it has evolved over the last two decades. While perspectives inevitably vary widely within a group as diverse as TFARR on many things affecting the legal profession, we found a remarkable degree of consensus about the need for better practice-readiness training for new lawyers, the need for action, and the appropriateness of the specific measures recommended here.

**Third**, during Phase II, TFARR paid close attention to whether 15 units of experiential education is an appropriate and feasible benchmark for its proposed pre-admission competency training requirement, and the related issue of whether creating such a training requirement might drive up tuition, as some commentators in Phase I claimed it would. The Phase I Final Report flagged this issue as one that was worthy of further study upon examination of available data. Thus, early in its Phase II process, at its February 2014 meeting, TFARR heard a presentation from Professor Robert Kuehn of Washington University School of Law based on some empirical research that Professor Kuehn has done recently.<sup>3</sup> Focusing on data submitted in 2012 from the 21 ABA-accredited law schools in California, Professor Kuehn analyzed tuition, curricular, and enrollment data, and concluded that (i) “requiring more practice-based coursework, and even a clinical experience, is not related to the tuition students are charged,” and (ii) these schools “can provide 15-credits of practice-based coursework, including a clinical experience, without raising tuition, and in many cases without even adding additional courses or faculty.”<sup>4</sup> Professor Kuehn updated his analysis in September 2014 to include data submitted by all 212 ABA accredited schools across the United States and submitted a letter to TFARR reporting the same conclusions for ABA-accredited schools nationwide, not just in California.<sup>5</sup>

According to the conventional wisdom, experiential education is more expensive to offer than traditional doctrinal coursework, and by adopting rules that might require schools to offer more of it, our recommendations would place added financial pressure on law schools at a time when they, and their students, cannot tolerate any further increases in costs. There may be some validity to this point of view, depending on the approach a particular law school takes to its course offerings. But on the whole, the available data we considered does not support the idea that our recommendations will bring crushing financial burdens on anyone. Especially given the care we took to avoid a “one-size-fits-all” approach, to give maximum flexibility to law schools,

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<sup>3</sup> Prof. Robert R. Kuehn, “Pricing Experiential Legal Education,” February 3, 2014. Professor Kuehn’s PowerPoint slides from this presentation are part of the TFARR Phase II record.

<sup>4</sup> Letter from Prof. Robert R. Kuehn to Teri Greenman, TFARR Executive Staff (September 15, 2014), p. 2.

<sup>5</sup> *Id.*

and to avoid imposing anything that might be misunderstood in the academy as a set of top-down regulatory prescriptions, we are confident that our recommendations can be adopted without creating undue cost burdens. The expected cost to the Bar itself, projected to be approximately \$464,000 per year, primarily in the added staff resources that will be needed to monitor compliance, approximates less than 1% of the Bar's annual budget. While that is certainly a significant item, and it could affect other budget priorities, and require some tradeoffs, we believe it is justified given the profession-wide importance of the reforms we recommend. If, for law schools, the cost impact of our recommendations is comparable in magnitude as a percentage of their annual budgets, we think the added costs are justified there as well, and most importantly, we see no evidence that there will be a "pass-through" effect driving up tuition to students.

**Fourth**, we wish to highlight some areas in which our proposed Phase II implementing rules clarify and in some respects depart from our Phase I recommendations. To begin with, for our recommendation (a) (pre-admission competency training), in Phase I we recommended that the alternative of taking a "Bar-approved" externship, clerkship or apprenticeship could be taken "in lieu of some or all" of the 15-unit law school benchmark for experiential coursework. In our proposed implementing rules, we eliminated entirely the condition that this alternative be "Bar-approved" (in recognition that law schools already have excellent systems for vetting and approving these outside experiential programs) and we limited the apprenticeship track to no more than 6 units. Next, for our recommendation (b) (the 50-hour pro bono/reduced-fee legal services requirement), in Phase I we have clarified that pro bono service prior to admission may count under some circumstances for "dual credit," that is, both toward the 15 experiential units required by recommendation (a) and the 50-hours of service required by recommendation (b). Finally, for our recommendation (c) (enhanced MCLE), in Phase I we anticipated building in a Bar-approved mentoring program option. After extensive evaluation and comparison with other States, we decided against developing rules for a mentoring option. We dropped the idea because of the difficulty of implementing mentoring on a state-wide basis on the scale that would be needed here. We continue to support the concept of mentoring, very strongly, and we see it is a crucial component of practice-readiness training, but we think that, to be effective, mentoring programs should be developed on a much smaller scale than would be necessary here if mentoring were going to be a meaningful option for the large number of admittees that become members of the State Bar each year (now averaging 7,000, and rising). Aside from these three areas, close observers may detect many other differences between the program outlined in our Phase I Final Report and our Phase II proposed implementing rules, but some differences are in nature of any project whose goal is to take the architecture of a broad structure to working reality, which of course was the nature of our task in Phase II.

From this point forward, we anticipate submitting our recommendations to the Board. After that -- assuming recommendations are adopted -- the Board will determine where to go from there. Our recommendation is to submit the entire package of proposed TFARR recommendations to the California Supreme Court, since the Court has plenary authority over admissions and all other matters concerning the regulation of the legal profession in California. And then, after that, only after the Supreme Court has had the opportunity to address these matters -- again, assuming our recommendations are ultimately approved -- we cannot predict how long it might be before

all elements of the three-pronged program we recommend become effective. But as we stated in our Phase I Final Report, we reiterate that we believe there should be a gradual phase-in period so that all affected stakeholders have time to familiarize themselves with any changes that must be made. To help those who have not been following closely the development and evolution of the rules we are here proposing, we have drafted a set of “Frequently Asked Questions” that the staff of the State Bar can post and update as necessary in order to explain how the new rules will work in practice.

Based on the foregoing, and on the entire record of each of the public meetings that we have held and that our working groups have held during the Phase II portion of our work, we now submit to the Board this Phase II Final Report. Included as Attachment A are our proposed implementing rules for recommendation (a) (pre-admission competency training), Attachment B, our proposed implementing rules for recommendation (b) (50-hour pro bono/reduced-fee legal services requirement), and Attachment C, our proposed implementing rules for recommendation (c) (enhanced MCLE).

Finally, to close the work of TFARR, I wish to acknowledge the contributions of some particularly important supporters of the TFARR process. First, I salute the three State Bar Presidents who have served since my term as President of the State Bar in 2011-2012, when TFARR was launched. Patrick Kelly, who served as State Bar President in 2012-2013, Luis Rodriguez, who served as State Bar President in 2013-2014, and Craig Holden, who has just begun his term as State Bar President for 2014-2015, have all given complete, unflagging support to this project. The continuity of active support for TFARR’s work among a generation of State Bar Presidents is important, in and of itself, in my view. Second, I thank each TFARR member for all of the time they devoted to this project. I am particularly grateful to the Phase II Working Group Chairs, Professor Shauna Marshall, Hernán Vera, and Richard Frankel, for their highly focused and productive leadership. Third, on behalf of the entire TFARR membership in both Phase I and Phase II, I wish to extend thanks and express deep gratitude to Senator Joseph Dunn (Ret.), the State Bar Chief Executive Officer, to Teri Greenman, the lead staff liaison to TFARR, and to the many other members of the State Bar staff who supported this effort. Without the dedicated support of the State Bar’s able staff, the work of TFARR would not have been possible. A list of the Bar staff members who supported us, and the key roles they played in the TFARR process, is included in the Addendum.

Jon B. Streeter, TFARR Chair

# ADDENDUM

**Biographical Information**  
**State Bar of California**  
**Task Force on Admissions Regulation Reform**  
**Phase II**

**Jon B. Streeter (Chairman)**

Mr. Streeter is the Immediate Past President of the State Bar of California and a partner with Keker & Van Nest LLP, a litigation firm in San Francisco. He specializes in complex commercial cases with an emphasis on intellectual property matters. Mr. Streeter chairs the pro bono committee at Keker & Van Nest and has long maintained an active pro bono docket of his own, generally in cases involving racial justice and civil rights issues. Prior to his State Bar Presidency, Mr. Streeter served as Vice Chairman of the California State Senate Commission on the Fair Administration of Justice, a commission that was tasked with studying the problem of wrongful convictions in California. In addition, Mr. Streeter was President of the Northern California Chapter of the Association of Business Trial Lawyers (2005); President of the Bar Association of San Francisco (BASF) (2004); Chair of the Northern District of California Lawyer Representatives to the Ninth Circuit Court of Appeals (1998-99); and President of the Edward McFetridge Chapter of the American Inns of Court. Mr. Streeter is a member of the Executive Committee of the Open Courts Coalition.

**Current Board of Trustees Members**

**David Pasternak**

*Pasternak & Pasternak, A Law Corporation*

Last year, Mr. Pasternak became the California Supreme Court's first appointee to the State Bar's Board of Trustees. He is a past president of the Los Angeles County Bar Association (1997), a former chair of its Litigation Section, a former President of its Barristers Section, and Chair of its Senior Lawyers Division. He has chaired many committees for the American Bar Association, Los Angeles County Bar Association, and Beverly Hills Bar Association. He has also served on a number of California Judicial Council and Los Angeles Superior Court committees, including some bench/bar committees that revised the Los Angeles Superior Court rules. He has served a three year term as a member of the California Judicial Council, was an attorney delegate to the 9th Circuit Judicial Conference, and President of the Chancery Club.

**Glenda Corcoran**

*Senate Rules Appointment*

Sacramento attorney Glenda Corcoran was appointed by the State Senate to the California State Bar Board of Trustees. Prior to her appointment, Ms. Corcoran spent more than a decade working in the California State Assembly, concentrating on legislative efforts dealing with public safety, election law and local government policy. During that time, specific projects included ensuring safe waiting areas for children during contentious parental court hearings, California voting laws, grand jury procedures and defining evidence admissibility. Ms. Corcoran volunteers with the Voluntary Legal Services Program, providing free legal help to low-income clients and also serves on the board of directors for the St. John's Shelter Program for Women and Children and the Sacramento Gay and Lesbian Center.



## **Past Board of Trustees Member**

### **Patrick M. Kelly (District 7)**

*Partner*

*Wilson Elser et al LLP*

Mr. Kelly, former President of the State Bar of California, is a regional managing partner with Wilson Elser in Los Angeles. He is a veteran trial lawyer who focuses his practice on advising and representing insurance carriers in coverage matters and defending individuals and companies in high-stakes professional liability and commercial cases. His practice also encompasses insurance bad faith, insurance coverage, product liability, premises liability, employment litigation, ski resort liability and railroad liability matters. He has particular experience with class actions involving directors and officers (D&O) liability, product liability, employment and consumer fraud claims. Mr. Kelly has served as president of the Los Angeles County Bar Association and he also was appointed by the Governor of California to serve as one of 11 members of the Commission on Judicial Performance.

Mr. Kelly was recently appointed as the only lawyer member to the Commission on the Future of the Courts.

## **Judicial Representation**

### **Hon. Steven A. Brick (former Task Force member)**

The Honorable Steven A. Brick is a judge of the Superior Court of California in and for Alameda County. He has served in a complex civil trial department since August 2008. He previously served in a civil direct calendar department and for three years in a civil law and motion department. He is currently a member of the Civil Advisory Committee of the Judicial Council of California and chairs its Subcommittee on Case Management and Complex Litigation. He previously served as a member and co-chair of the Council's Access and Fairness Advisory Committee.

### **Hon. Karen V. Clopton**

The Honorable Karen V. Clopton is the first African American appointed Chief Administrative Law Judge for the California Public Utilities Commission (CPUC) and manages the Administrative Law Judge (ALJ) Division, comprised of more than 100 employees, including 40 judges. In recognition of her work at the CPUC and throughout her more than 25 year career, the American Bar Association awarded Judge Clopton the 2010 Mary C. Lawton Award for Outstanding Government Service.

## **Modest Means**

### **Luz E. Herrera**

*Assistant Dean for Clinical Education, Experiential Learning, and Public Service  
UCLA School of Law*

Before arriving at UCLA School of Law, Assistant Dean Herrera was a Senior Clinical Fellow with Harvard Law School's clinical program. She was a visiting professor at Chapman Law School, where she taught courses in Corporations and Wills & Trusts, as well as a seminar on Access to Justice. In 2008, Herrera was appointed Associate Professor at Thomas Jefferson School of Law, where she taught Access to Civil Justice, Community Economic Development, Professional Responsibility, and Wills and Trusts. At Thomas Jefferson, Herrera developed a transactional clinical program called the Small Business Law Center (SBLC), and helped found The Center for Solo Practitioners, a business incubator program to help graduates understand how to establish and operate their own law firms to serve underserved populations. Herrera was also a Visiting Clinical Professor at the University of California, Irvine School of Law for 2013-14. There, Herrera supervised students in the Consumer Protection Clinic and the Community Economic Development Clinic, as well as managed special projects for the California Monitor - a program of the Office of the California Attorney General providing oversight of the National Mortgage Settlement implementation.

## **Pro Bono Coordinators**

*Southern California*

### **Scot H. Fishman**

*Director, Pro Bono Activities  
Manatt, Phelps & Phillips*

Scot Fishman is the Director of Pro Bono Activities for Manatt, Phelps & Phillips, LLP.

After litigating for several years at a large commercial law firm in New York City, Mr. Fishman began directing law firm pro bono efforts in 2006, when he was tasked with creating, implementing and directing his previous firm's pro bono program. As a result, in just his first year, the average pro bono hours for the firm's U.S. lawyers increased by more than 60%, while participation rose by nearly 70%, signifying the largest jump in pro bono activity that year among the top 200 grossing law firms based in New York City. In 2009, The Legal Aid Society in New York City honored Mr. Fishman with its Pro Bono Publico Award for Outstanding Pro Bono Counsel.

At Manatt, Mr. Fishman's success has continued. Under his direction, Manatt's professionals have taken on a full range of direct legal services cases, large impact litigation and advocacy projects, as well as matters for a wide range of nonprofit organizations and small businesses. Manatt's pro bono contribution immediately increased by more than 30%, leading the firm to be honored for its pro bono efforts -- in just his first couple years -- by the State Bar of California, Lawyers Alliance for New York, Public Law Center, Los Angeles Center for Law & Justice, Alliance for Children's Rights, and Inner City Law Center.

Mr. Fishman's law firm experience is complemented by his past work as an adjunct lecturer at the University of Virginia Law School, as well as his experience as an educator in D.C. Public Schools through Teach For America.

**Hernán D. Vera***President & CEO**Public Counsel Law Center*

Mr. Vera is the President & Chief Executive Officer of Public Counsel, where he was selected after a nationwide search as the first Latino head of the 40-year-old civil rights organization. He is a graduate of UCLA School of Law, and received his B.A., with Distinction, from Stanford University in 1991. Prior to joining Public Counsel, Mr. Vera spent many years as a litigator at O'Melveny & Myers LLP in Los Angeles.

Mr. Vera is widely respected in the legal and broader public interest community for his work on access to justice and consumer issues. In 2009, President Obama nominated him to the Board of Directors of the State Justice Institute, a federally-chartered entity that provides grants to state court systems to increase access to justice. The United States Senate confirmed his nomination on June 22, 2010.

In 2013, the California Supreme Court named Mr. Vera as one of 19 attorney representatives on the California State Bar Board of Trustees, which works to protect the public and expand access to justice for Californians.

He also currently serves as one of twelve Lawyer Representatives of the Ninth Circuit Judicial Conference.

**Pro Bono Coordinators***Northern California***Renee Glover Chantler***Pro Bono Counsel**DLA Piper*

Renée Glover Chantler is Pro Bono Counsel for DLA Piper LLP (US). She coordinates and oversees the firm's pro bono programs in the firm's offices in East Palo Alto (Silicon Valley), San Francisco, Sacramento and Los Angeles. She directs a number of pro bono initiatives undertaken by the firm in partnership with legal services nonprofits and the firm's commercial clients; mentors and assists billing attorneys in their handling of substantive and procedural issues in pro bono projects; and maintains a pro bono caseload emphasizing real estate title and equity fraud against distressed homeowners and assistance to immigrant victims of crime.

Previously, Renee's legal practice emphasized business litigation, unfair competition, real estate, insurance and public law litigation. She has demonstrated a steadfast commitment to providing and expanding pro bono services and culture throughout her 23 year legal career. To that end, she has also spent significant time working with and training law students, while an adjunct clinical professor at Stanford Law School and through teaching at several Mexico City law schools as part of the firm's partnership with Mexico Appleseed that seeks to strengthen and expand pro bono culture in Mexico.

**Mairi McKeever**

*Director/Managing Attorney, Pro Bono Legal Programs, Justice & Diversity Center (JDC)  
Bar Association of San Francisco (BASF)*

Ms. McKeever has worked within the legal services community since 1994. She joined the Justice & Diversity Center (JDC) of The Bar Association of San Francisco in 2003 as an attorney overseeing the Homeless Advocacy Project's SSI for Children project. She then moved on to become the Supervising Attorney of the Landlord/Tenant and Consumer Projects. In her current position as the Director of JDC's Pro Bono Legal Services Program, Mairi manages seven pro bono projects which serve over 6500 clients each year. She has conducted trainings for pro bono attorneys and direct services providers on federal disability benefits advocacy and housing law. Mairi has also presented at several ABA/NLADA Equal Justice Conferences. In May 2013 she presented on JDC's Right to Civil Counsel Project which focuses on the provision of pro bono legal services in cases involving basic human needs. She has also presented on developing and maintaining JDC's innovative pro bono programs including the Federal Pro Bono Project and limited scope representation in housing cases. Before arriving at JDC, Mairi led the benefits counseling program at a San Francisco AIDS organization, representing low income people living with HIV/AIDS in their claims for federal disability benefits (SSI) and health coverage.

Mairi earned her undergraduate degree from the University of Colorado at Boulder, and her J.D. from UC Hastings College of the Law.

**Law School Pro Bono Administrator****Laura Dym Cohen**

*Associate Clinical Professor of Law and Director of the Street Law Clinic and Community Outreach  
Southwestern Law School*

As Director of the Street Law Clinic and Community Outreach, Professor Cohen brings her extensive experience helping abused and neglected foster children and their families at the Los Angeles County Children's Court to the classroom. Professor Cohen received national recognition when she was named 2007 Street Law Educator of the Year. She also has twice been honored with an Excellence in Teaching Award from Southwestern. As Director of Community Outreach, she also coordinates the law school's Public Service Program and is the faculty advisor to student public interest groups including Teen Court.

Professor Cohen works with and often trains pro bono attorneys for various nonprofit opportunities and law-related education programs. She has served as co-chair of the Juvenile Courts Task Force of the Los Angeles County Bar Association and as a member of the California State Bar Council on Access and Fairness. She currently serves on California Foster Youth Education Task Force and is a mediator for the Consortium for Children regarding permanency planning mediations for dependency matters.

## **Law School Clinician**

### **Charles D. Weisselberg**

*Associate Dean, J.D. Curriculum and Teaching; Shannon Cecil Turner Professor of Law; Director, Sho Sato Program in Japanese and U.S. Law  
Berkeley Law*

Associate Dean Weisselberg joined the Boalt faculty in 1998 where he served as the founding director of the Center for Clinical Education, Boalt's in-house clinical program, which he developed and administered from 1998 to 2006. Professor Weisselberg teaches criminal procedure, criminal law, and related courses.

After graduating from law school, Weisselberg practiced with a private law firm, taught in the clinical program at the University of Chicago Law School, and served as a trial attorney with Federal Defenders of San Diego, Inc. He taught at the University of Southern California Law School for 11 years, where he litigated post-conviction, civil rights, and immigration cases with his students and colleagues before numerous federal and state courts.

Professor Weisselberg's research focuses primarily on criminal procedure, immigration detention, and clinical legal education. He is active in legal education groups, bar associations, and criminal justice organizations. He is a past chair of the Association of American Law School's Section on Clinical Legal Education and has lectured at professional gatherings in the United States and abroad on topics ranging from graduate professional legal education to police interrogation. Weisselberg regularly works with pro bono counsel in trial and appellate cases.

## **Academic Representation**

### **Deanell R. Tacha (former Task Force member)**

*Dean, Professor of Law  
Pepperdine University School of Law*

Dean Tacha is Duane and Kelly Roberts Dean of the School of Law and professor of law at Pepperdine University School of Law. Previously, she was a Circuit Judge, U.S. Court of Appeals for the Tenth Circuit, and she served as Chief Judge from January 2001 through 2007. Dean Tacha also served as a member of the Judicial Conference of the United States and was named in 2006 by U.S. Supreme Court Chief Justice John Roberts to the Conference's Executive Committee. Previously, Chief Justice Rehnquist appointed her to serve two terms as Chair of the Conference's Committee on the Judicial Branch which oversees the federal judiciary's relationship with Congress and the executive branch. As a spokesperson for enhanced ethics, professionalism, and civility in the legal profession, Dean Tacha has been active in the American Inns of Court movement. She helped found the Judge Hugh Means American Inn of Court in Lawrence, served on the national Board of Trustees of the American Inns of Court, and was its national president from 2004-2008.

**Shauna I. Marshall (former Task Force member)**

*Emerita Professor of Law*

*University of California Hastings College of the Law*

Shauna Marshall joined the Hastings faculty in 1994 as a Clinical Law Professor. Prior to joining the faculty, she spent 15 years working on behalf of the public interest. She began her career as a trial attorney for the US Department of Justice, Antitrust Division. Five years later, she joined Equal Rights Advocates as a staff attorney working on impact cases, policy initiatives and mobilizing campaigns on behalf of low income women and women of color. She then spent four years in the Stanford and East Palo Alto community, lecturing in the areas of civil rights and community law practice at Stanford Law School and directing the East Palo Alto Community Law Project. She served as Hastings Associate Academic Dean from 2000 – 2002 and Academic Dean from 2005 – 2013. She stepped down as Academic Dean in 2013 and joined the emeritus faculty in 2014. Professor Marshall writes in the area of community law practice and social justice.

**Lisa A. Kloppenberg**

*Dean and Professor of Law*

*Santa Clara Law*

Dean Kloppenberg is a well-known expert in constitutional law and Appropriate Dispute Resolution. She is the co-author of a popular text teaching law students to be effective advocates in negotiation and mediation. Previous to being appointed Dean in 2013, Kloppenberg served as Dean and Professor of Law at the University of Dayton (2001-2011) where she received national recognition for championing curricular reform and creating the first accelerated five-semester law degree in the nation. She also diversified the faculty, emphasized student services and fostered a renewed student commitment to service.

Kloppenberg received her law degree from the University of Southern California Law Center where she was editor-in-chief of the law review. After graduation, Kloppenberg clerked for Judge Dorothy Wright Nelson of the 9th U.S. Circuit Court of Appeals. She then became an attorney with Kaye, Scholer, Fierman, Hays & Handler in Washington, D.C. where she was involved with litigation, arbitration, and mediation of a variety of domestic and international disputes.

Dean Kloppenberg has been active with numerous academic and professional organizations including the American Bar Association Section of Legal Education and Admission to the Bar, as a member of the Standards Review Committee and the Law School Admission Council as a member of the Finance and Legal Affairs Committee.

In 2014, Dean Kloppenberg was appointed to serve on the Association of American Law Schools (AALS) Dean's Forum Steering Committee.

**Greg Brandes**

*Professor of Law and Executive Director  
Concord Law School  
Kaplan University*

Professor Brandes joined Concord in 1999 after nearly 15 years in corporate and solo practice and a successful career in business. He has over 20 years' experience preparing law students and prospective law students for the bar exam and other admission and licensing examinations. He has lectured extensively, in CLE and other forums, on negotiation, management, and leadership skills and contract, business, privacy, and employment law. Among other written works, he published *Straight Talk on Workplace Law*, a commonsense guide to human resources compliance and risk management for small businesses.

Professor Brandes was named Outstanding First-Year Professor in 2003, receiving the 2003 Dean's Award for Excellence in Teaching. He was also recognized by the graduating class of 2003 with its Outstanding Faculty Award, and by a Law School Service Award in 2004. He served as dean of the Law School from fall 2011 through spring 2014. Professor Brandes continues his service to Concord as executive director, focusing on Bar and regulatory matters. In addition to his State Bar membership, Professor Brandes is admitted to practice before the Supreme Court of the United States.

**Mitchel L. Winick**

*Dean  
Monterey College of Law*

Winick became dean of Monterey College of Law, a California state-accredited nonprofit law school, in 2005 and President in 2010. His prior career in academe centered on Texas, where he was a lecturer (1996-99) and then assistant dean (1999-2003) at Texas Tech University School of Law. He previously taught law at the University of Houston, University of New Mexico, Southern Methodist University and Texas Wesleyan University. A 1976 liberal arts graduate of the University of the Pacific, Winick earned a J.D. from the University of Houston Law Center in 1978. He served as an Assistant Attorney General of Texas and as interim executive director of the Texas Center for Legal Ethics and Professionalism. In the Monterey community, Winick is currently president of the non-profit ACTION Council and Girl's Inc. of Monterey County and is on the education advisory councils for Leadership Monterey Peninsula, the Panetta Institute of Public Policy and the Monterey County Business Council.

## **Corporate Representation**

### **Erika Frank**

*Vice President, Legal Affairs, and General Counsel  
California Chamber of Commerce*

Ms. Frank was named vice president of legal affairs in 2009. She joined the CalChamber in April 2004 as a policy advocate and began serving as general counsel shortly thereafter, leveraging her 10 years of combined legal, governmental and legislative experience.

Before assuming full-time general counsel responsibilities in late 2005, Frank also lobbied the legislative and executive branches on taxation, civil litigation and lawsuit abuse issues.

Frank leads CalChamber's Legal Affairs Department, which participates in court cases having a broad impact on California's economy and business climate—including workers' compensation reform, labor and employment, taxation, litigation reform and commercial free speech.

As CalChamber's subject matter expert on California and federal employment law, she oversees and contributes to CalChamber's labor law and human resources compliance publications; co-produces and presents webinars and seminars; and heads the Labor Law Helpline.

## **Committee of Bar Examiners**

### **Richard A. Frankel (former Task Force member)**

*Frankel Goldware Ferber LLP*

Mr. Frankel, former State Bar Board of Trustees member, serves on the State Bar's Committee of Bar Examiners. His practice is devoted to general business and employment matters and his clients include manufacturers, retailers, internet companies, professional associations (e.g., physicians, accountants, attorneys, etc.), non-profit organizations, independent contractors and public and private employees. Mr. Frankel was a member of the Board of Directors of the Contra Costa County Bar Association for 10 years, serving as President during 2002. He serves as a mediator for the Contra Costa County Superior Court.

### **Patricia P. White (former Task Force member)**

*Littler Mendelson et al*

Ms. White is a former member of the State Bar Board of Trustees and is currently serving on the Committee of Bar Examiners. A shareholder with Littler in San Jose, she advises employers about human resources issues, training supervisors and preparing personnel policies, and representing management in employment discrimination proceedings before the Equal Employment Opportunity Commission and the Department of Fair Employment and Housing. She also handles issues involving The Americans with Disabilities Act, The Meyers-Milias-Brown Act, The Educational Employment Relations Act and The Higher Education Employer-Employee Relations Act. Ms. White has represented clients in labor relations, such as permanent teacher dismissals, certificated and classified layoffs and dismissal of other public employees and administrators. She has experience with collective bargaining negotiations, Public Employment Relations Board proceedings, arbitration and mediation, administrative mandamus hearings and other administrative proceedings.



## **California Young Lawyers Association (CYLA)-Nominated**

### **Ireneo A. Reus III**

*The Law Offices of Ireneo A Reus III*

Mr. Reus has served as outside corporate counsel to clients in various industries, such as financial services, commercial and residential real estate, health care, and media. Prior to establishing his own law firm, Mr. Reus worked for a national public finance law firm, a civil litigation firm, and the General Counsel's office of the Metropolitan Water District of Southern California.

Mr. Reus earned his Juris Doctorate degree from the UCLA School of Law, where he was a member of the UCLA Moot Court Honors Program and served as Senior Articles Editor for the UCLA Journal of Law Technology. Mr. Reus also earned dual Bachelor of Arts degrees in Economics and Political Science, summa cum laude, from Whittier College, where he competed for the Rhodes Scholarship and Truman Scholarship.

Mr. Reus has been actively involved with national and local bar associations, such as the American Bar Association (ABA) and the National Asian Pacific American Bar Association (NAPABA). The ABA recently awarded Mr. Reus with a Young Lawyers Division Scholarship and appointed him as a Liaison to the ABA's Standing Committee on Technology and Information Systems. Mr. Reus was also selected to participate in NAPABA's inaugural mentoring program and was listed in NAPABA's Directory of Asian Pacific American owned law firms.

Mr. Reus has been a member of the Judge William J. Rea-American Board of Trial Advocates (ABOTA) American Inns of Court, the Los Angeles County Bar Association's Litigation Section's Inn of Court, and the Los Angeles Area Chamber of Commerce. He also serves on the Board of Governors of the Philippine American Bar Association and the Whittier College Alumni Association's Board of Directors.

### **Megan Knize**

*Kawahito Shraga & Westrick LLP*

Ms. Knize's practice focuses primarily on employment and consumer class actions as well as complex litigation. She joined the firm following private practice with a large law firm in San Francisco and three year-long judicial clerkships, including with state and federal trial court judges in Southern California. As a law clerk for the Honorable Judge Carolyn B. Kuhl, of the Los Angeles Superior Court, Complex Litigation Division, Ms. Knize drafted bench memoranda and orders for a variety of complicated, high-stakes cases. She also spent a year clerking for the Honorable James V. Selna, of the Central District of California, where she drafted orders in cases ranging from employment disputes to multi-district consumer class actions. Most recently, Ms. Knize served as Court Counsel to the Supreme Court of the Republic of Palau, an island-nation in the Western Pacific Ocean, where she drafted opinions and orders and advised the Court's Justices on a range of trial court and appellate disputes. She has also provided legal services for California Rural Legal Assistance, the San Francisco Diversity & Justice Center, and the European Roma Rights Centre in Budapest, Hungary. During law school, Ms. Knize served for three years on the Board of Directors of the King Hall Legal Foundation, a non-profit organization dedicated to increasing equal access of underserved populations to the legal system. She was also the Editor in Chief of the UC Davis Law Review and of The Stanford Daily, the daily newspaper of Stanford University.

## **Bar Associations**

### **Hon. Richard J. Burdge, Jr.**

The Honorable Richard J. Burdge, Jr. was the owner of the Burdge Law Firm PC until his appointment by Governor Jerry Brown to the Superior Court of Los Angeles County in 2014. Prior to his appointment, Judge Burdge was a partner at Howrey LLP from 2000 to 2011, at Dewey Ballantine LLP from 1986 to 2000 and at Lillick and McHose LLP in 1986.

Judge Burdge was president of the Los Angeles County Bar Association from 2012 to 2013. He earned a Juris Doctor degree from the University of California, Los Angeles School of Law and a Bachelor of Science degree from Yale University.

### **David M. Balabanian**

*Partner*

*Bingham McCutchen LLP*

Mr. Balabanian is a litigator with more than 40 years of experience handling, high-stakes commercial litigation, including securities, energy, and antitrust cases and takeover battles. He has also served as an expert on matters of professional responsibility.

Mr. Balabanian was president of the Bar Association of San Francisco; chairman of the California Conference of Delegates; lawyer delegate to the Ninth Circuit Judicial Conference; trustee of the Practising Law Institute; and a member of the Harvard Law School Visiting Committee.

He has taught more than 150 continuing legal education courses and has written extensively on topics relating to law practice, particularly management of large, complex cases. He was a member of the commission that wrote the California Judicial Council's Deskbook on the Management of Complex Civil Litigation.

Mr. Balabanian is admitted to practice in California, New York and the District of Columbia as well as before the U.S. Supreme Court and many federal District and Circuit Courts.

### **Marcella O. McLaughlin**

*District Attorney*

*San Diego District Attorney's Office*

Ms. McLaughlin is the Immediate Past President of the San Diego County Bar Association, the first Latina to lead the local bar association. She has worked as a prosecutor in the District Attorney's Office for seven years.

## **Chair's Prerogative**

### **Robert Weisberg**

*Edwin E. Huddleson, Jr. Professor of Law*

*Faculty Co-Director, Stanford Criminal Justice Center*

*Stanford Law School*

Professor Weisberg works primarily in the field of criminal justice, writing and teaching in the areas of criminal law, criminal procedure, white collar crime, and sentencing policy. He also founded and now serves as faculty co-director of the Stanford Criminal Justice Center (SCJC), which promotes and coordinates research and public policy programs on criminal law and the criminal justice system, including institutional examination of the police and correctional systems. Professor Weisberg was a consulting attorney for the NAACP Legal Defense Fund and the California Appellate Project, where he worked on death penalty litigation in the state and federal courts. In addition, he served as a law clerk to Justice Potter Stewart of the U.S. Supreme Court and Judge J. Skelly Wright of the U.S. Court of Appeals for the District of Columbia Circuit. In 1979, Professor Weisberg received his JD from Stanford Law School, where he served as President of the Stanford Law Review. Professor Weisberg is a two-time winner of the law school's John Bingham Hurlbut Award for Excellence in Teaching.

He is one of the nation's leading scholars on the intersection of law and literature and co-author of the highly praised book *Literary Criticisms of Law*.

### **Robert A. Shives, Jr. (former Task Force member)**

*Senior Director & Associate General Counsel*

*Fujitsu America, Inc.*

Mr. Shives provides support for business and legal affairs (including international and domestic transactions as well as litigation management) of North American affiliates of Japan's Fujitsu Limited. He also serves as Vice President & General Counsel of US Holding Company for certain EU and Caribbean subsidiaries and is Managing Director of certain Caribbean, UK, EU and Latin American subsidiaries. His duties include oversight of multi-jurisdictional reporting, compliance, and governance. Mr. Shives manages in-house and outside legal personnel in connection with corporate and commercial transactions as well as litigation, including patent infringement cases, other intellectual property disputes, commercial lawsuits and employment, pension, tax, product liability, and class action cases in the US, Canada, and throughout the EU. He is Immediate Past President & Board member, Association of Corporate Counsel - San Francisco Bay Area Chapter.

### **Ex Officio/Non-Voting Member (TFARR)**

#### **Erwin Chemerinsky**

*Dean of the School of Law  
University of California Irvine*

Dean Chemerinsky is the founding Dean and Distinguished Professor of Law, and Raymond Pryke Professor of First Amendment Law, at the University of California, Irvine School of Law, with a joint appointment in Political Science.

Previously, he taught at Duke Law School for four years, during which he won the Duke University Scholar-Teacher of the Year Award in 2006. Before that, he taught for 21 years at the University of Southern California School of Law. Dean Chemerinsky has also taught at UCLA School of Law and DePaul University College of Law.

His areas of expertise are constitutional law, federal practice, civil rights and civil liberties, and appellate litigation. He is the author of eight books, most recently *The Case Against the Supreme Court*, to be published by Viking in September 2014, and more than 200 articles in top law reviews. He frequently argues cases before the nation's highest courts, including the United States Supreme Court, and also serves as a commentator on legal issues for national and local media. He writes a weekly column for the Orange County Register, monthly columns for the ABA Journal and the Daily Journal, and frequent op-eds in newspapers across the country.

#### **Frank Wu**

*Chancellor and Dean, William B. Lockhart Professor of Law  
UC Hastings College of the Law*

Prior to coming to UC Hastings, Chancellor Wu was a member of the faculty at Howard University, the nation's leading historically black college/university, for a decade. He also served as Dean of Wayne State University Law School in his hometown of Detroit, and he has been a visiting professor at George Washington University, University of Maryland, University of Michigan; an adjunct professor at Columbia University; and a teaching fellow at Stanford University. He taught at the Peking University School of Transnational Law in its inaugural year.

He is dedicated to civic engagement and volunteer service. He was appointed by the federal Department of Education to its National Advisory Committee on Institutional Quality and Integrity (NACIQI), which advises the administration on higher education accreditation, and by the Defense Department to the Military Leadership Diversity Commission, which submitted to Congress the report *From Representation to Inclusion*. He served on the Board of the Leadership Conference on Civil Rights Education Fund from 2004 to 2010. Chancellor Wu is an elected member of the American Law Institute and a Fellow of the American Bar Foundation.

Prior to his academic career, he held a clerkship with the late U.S. District Judge Frank J. Battisti in Cleveland and practiced law with the firm of Morrison & Foerster in San Francisco – while there, he devoted a quarter of his time to pro bono work on behalf of indigent clients.

### **Ex Officio/Non-Voting Members (Working Group A)**

#### **Eileen A. Scallen**

*Associate Dean for Curriculum and Academic Affairs  
Adjunct Professor of Law*

Associate Dean Scallen received her M.A. from the University of Minnesota, Twin Cities and her J.D. magna cum laude from the University of Minnesota Law School, where she was Editor-in-Chief of the Minnesota Law Review and a member of the Order of the Coif. Following law school, she clerked for the Honorable A. Wallace Tashima of the U.S. District Court in the Central District of California, and then became an associate with Latham & Watkins.

Associate Dean Scallen began her academic career at the University of California, Hastings College of Law. She received an “Outstanding Faculty Member Award” in 1992, and served as Associate Academic Dean from 1996-98. In 2000, Scallen joined the faculty at William Mitchell College of Law as Professor of Law. She did extensive pro bono work for national, state, and local LGBT organizations in addition to expanding her research and teaching interests.

Her current research interests include rethinking theories of evidentiary privilege, and developing new theories of influence in small group and team settings. She is the primary author of California Evidence Courtroom Manual (with Glen Weissenberger) (published annually by LexisNexis), and Working Together in Law: Teamwork and Small Group Skills for Legal Professionals (with Sophie M. Sparrow and Clifford S. Zimmerman) (Carolina Academic Press, forthcoming 2013). She has most recently taught Evidence, Civil Procedure, and Advocacy. She has also taught Cross-Cultural Negotiations and Dispute Resolution Theories of Legal Argumentation & Persuasion, Team Leadership for Lawyers, and Estates and Trusts.

#### **Michele Benedetto Neitz**

*Director of Externship Programs  
Professor of Law  
Golden Gate University School of Law*

Professor Michele Benedetto Neitz teaches courses in Business Associations, Professional Responsibility and Poverty Law. Her research interests and areas of specialization include Judicial Ethics, Poverty Law, Professional Responsibility, Public Interest Law and Youth Law.

She received her JD from New York University and served as Judicial Clerk for the Hon. Napoleon A. Jones Jr., US District Court. She designed and coordinated the Youth Outreach Project at the Legal Aid Society of San Diego as part of Equal Justice Works Fellowship and was an associate at Morrison & Foerster, LLP, in San Diego.

### **Ex Officio/Non-Voting Members (Working Group C)**

#### **Perry Segal**

*Charon Law, SP*

Mr. Segal has more than 20 years of national and international enterprise-wide data technology experience and has worked as a liaison between Technology & Legal professionals (IC/OC) and Third-Parties.

He is the author of the ABA-award-winning eDiscovery blawg, “e-Discovery Insights” and has written on eDiscovery matters for California Lawyer magazine, among others. He creates and presents certified Continuing Legal Education (CLE) training seminars for the State Bar of California and Los Angeles County Bar among others as well as to non-lawyers and IT personnel. Mr. Segal is a disaster-Recovery, Retention & eDiscovery specialist and has created eDiscovery departments for Fortune 500 companies from personnel, procedures, custom software applications, data lab design & evidence chain-of-custody. He is an expert on Legal Hold and Litigation Readiness & Response Programs (LR/RP).

Mr. Segal is Co-Chair of the Council of California State Bar Sections and Special Advisor & Past Chair of the State Bar of California Law Practice Management & Technology Section Executive Committee.

#### **Kay Rubin**

*Director of Programs*

*Continuing Education of the Bar (CEB)*

Prior to becoming Director of Programs at Continuing Education of the Bar, Ms. Rubin was a program attorney and publications attorney. She was Senior Counsel at Reed Smith LLP, VP & Senior Counsel at Wells Fargo and an Associate Attorney at Cooley LLP.

She received a BS in International Economics & Finance from Georgetown University and her JD from the University of California, Berkeley.

### ***Acknowledgement***

A special thank you to the following State Bar staff liaisons that were instrumental in assisting the Task Force with accomplishing its mission:

Joseph Dunn, Chief Executive Officer  
Teri Greenman, Executive Offices

Tracey McCormick, Assistant General Counsel  
Thomas Miller, General Counsel  
Susan Phan, Assistant General Counsel  
Victor Rowley, State Bar Rules Consultant

Carol Madeja, Managing Director, Bar Relations  
Sharon Ngim, Program Developer, Legal Services - Program Development

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# ATTACHMENT A

**TFARR: Recommendation A**  
**Summary of Rules**  
**[9/25/14]**

**INTRODUCTION**

*The State Bar of California is proposing new requirements in order to ensure that new admittees are better prepared for practice. Applicants for the Bar will now have to meet a practice-based experiential professional competency training requirement prior to admission to practice. The Bar recognizes that today's law graduates must not only understand legal doctrine but have the ability to apply that doctrine in practice settings. Moreover, the Bar believes that the distinction between doctrine and skills is often an artificial one and has designed this competency requirement to reflect the synthesis of doctrine and skills that lawyers find in practice. The Bar expects that most applicants will be able to satisfy the practice-based professional competency training requirement through experiential coursework in law school. For applicants who graduate from law schools accredited by the American Bar Association, the proposed practice-based professional competency training requirement coheres with ABA accreditation standards through a "safe harbor" provision; courses that satisfy the ABA "experiential course" requirement will also satisfy the practice-based professional competency training requirement.<sup>1</sup> The proposed rule also affords an option for applicants to complete a portion of the professional competency training requirement through Bar or law school approved apprenticeships or clerkships. With this option, the Bar hopes to encourage experienced lawyers and judges to provide substantial mentoring to new applicants. The Bar expects these mentors to provide high-quality training, professional-level assignments, and direct supervision and feedback to the applicants, which will foster the applicants' development of practice-based professional competencies and benefit the profession as a whole. The proposed practice-based experiential competency training requirement does not apply to applicants who have already been admitted to practice law in another United States jurisdiction and who have practiced full-time for at least one year or half-time for two years, or to foreign law graduates who earn an LLM degree in the United States.*

**PROPOSED RULE CHANGES**

*The proposed rules will require that an applicant for admission to practice law in California take 15 units of practice-based experiential coursework in a graduate professional law school designed to foster the development of professional competencies. For a course to meet the requirement, it must develop the concepts underlying the practice competencies being taught, provide opportunities for*

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<sup>1</sup> The ABA has approved a new Accreditation Standard 303(a)(3), which would require students to complete one or more "experiential courses" totaling at least 6 credit hours, and defining an experiential course as a simulation class, clinic or field placement. The Standard will replace current Standard 302(a)(4), which now requires one professional skills course in addition to first-year legal writing.

*performance by each student other than traditional classroom discussion, provide for regular individualized student feedback from a faculty member, and provide opportunities for student self-evaluation. A course that is designated by a school as an experiential course under “the ABA Standards and Rules of Procedure for Approval of Law Schools” shall also be considered a “practice-based, experiential course” under this rule. The proposed rule does not apply to traditional first year Legal Writing and Research and first-year Moot Court class or to upper division traditional academic seminars.*

*Each applicant shall provide a certificate from the law school, designating the courses taken by the applicant that meet the requirement, and stating whether the applicant has satisfied the requirement in whole or in part. A law school may count a portion of a given course’s units toward this requirement provided no less than .5 unit is so designated. Any partial credit must reflect the proportion of the course dedicated to developing a student’s competency in the articulated skill. If the applicant’s school does not provide certificates, the applicant may present syllabi or other evidence that courses taken by the applicant should count toward the requirement. Traditional large classroom courses are encouraged to integrate practice-based exercises into their curriculum. For purposes of the proposed rule, the practice-based experiential courses that meet the professional competency training requirement include but are not limited to the following topics:*

- *Oral presentation and advocacy;*
- *Interviewing;*
- *Counseling;*
- *Client service and business development;*
- *Negotiation, mediation, arbitration and other alternate dispute resolution methods;*
- *advanced legal research and writing (excluding (a) purely academic papers; and (b) the first four units earned in introductory first-year legal research and writing class, first-year Moot Court class or any combination thereof);*
- *Applied legal writing (e.g. drafting of contracts, pleadings or other legal instruments);*
- *Law practice management or the use of technology in law practice;*
- *Cultural competency;*
- *Collaboration or project management;*
- *Financial analysis (e.g. accounting, budgeting, project management and valuation);*
- *Cost benefit analysis in administrative agencies;*
- *Use of technology, data analyses, or predictive coding;*
- *Business strategy and behavior;*
- *Pre-trial preparation, fact investigation (e.g. discovery, e-discovery, motion practice, assessing evidence, utilizing experts);*
- *Trial practice;*
- *Professional civility and applied ethics;*

- *Law Clinics, including classroom component;*
- *Legal Externships, including classroom component.*

*Applicants to the Bar are strongly encouraged to meet a portion of these units by taking a law clinic or an externship.*

*To provide flexibility in meeting this requirement and to encourage collaboration with practicing attorneys, an applicant may fulfill up to six (6) of the fifteen (15) units through Committee-approved apprenticeships or clerkships or apprenticeships or clerkships that have been approved by a law school. For the purpose of this rule, fifty (50) hours of work in an apprenticeship or clerkship is the equivalent of one law school unit. A Committee-approved or law school-approved apprenticeship or clerkship must provide the applicant with the opportunity to further develop knowledge of the law and any of the following:*

- *Effective research and organization of legally relevant information derived from non-legal sources, such as investigative records, economic research and technical analyses;*
- *Analysis, critical reasoning and problem solving;*
- *Application of facts to law;*
- *Legal expression, e.g. persuasive and objective oral or written communication;*
- *Practice competencies, e.g. litigation or transactional projects;*
- *Professionalism;*
- *Client service;*
- *Leadership, e.g. communicating and effectively influencing others;*
- *Collaboration;*
- *Management, e.g. giving feedback, planning and implementing tasks, organizing or managing workloads.*

*To become a program approved by the Bar, the program must provide an orientation session, individualized supervision, a system for assignments, timely oral and written feedback, a diversity of tasks and an opportunity for reflection. All apprenticeship and clerkship programs meeting the standards above may apply to become a Bar-approved program by completing the approval process specified by the State Bar. Initially, the Bar will review each program at the end of the first year and subsequently every three years. The State Bar intends to partner with local Bar associations in the development of apprenticeship and clerkship programs.*

*Any law school offering an apprenticeship or clerkship option will be responsible for the development and oversight of its program. The Bar will not be responsible for approval of law school apprenticeship and clerkship programs. Law school programs must ensure that placements provide an orientation session, active supervision, a system for assignments, timely oral and written feedback, a diversity of tasks and an opportunity for reflection.*

*An applicant seeking to satisfy the practice-based competency training requirement in part through the apprenticeship or clerkship option shall provide a certification from the program that the applicant has satisfied the requirements of the apprenticeship or externship. The certification must include the number of hours worked by the applicant.*

*The Bar considered whether this new Rule should apply to applicants to the California Bar who are already admitted to practice in another United States jurisdiction. The Bar determined that the practice-based competency training requirement should not apply to these lawyers if they have practiced full-time in another United States jurisdiction for at least one year or half-time for two years. The Bar also considered whether this new Rule should be extended to foreign lawyers who have earned an LLM from a law school in the United States and sit for the California Bar. The Bar concluded that this group of applicants should be excluded from the practice-based competency training requirement given that LLM programs are typically one year in duration and the number of LLM students sitting for the California Bar remains quite low.*

*The State Bar intends to review this new requirement, including the apprenticeship or clerkship option, in 3 years. During that review, the Bar will address whether to require applicants to the Bar to meet a portion of the 15 unit competency requirement by completing a law clinic or an externship during law school. The review should also engage practitioners, law schools, students and graduates, and receive feedback from them.*

#### **PROPOSED ADDITIONS AND AMENDMENTS TO CALIFORNIA BUSINESS AND PROFESSIONS CODE AND TO STATE BAR RULES**

*The following additions and amendments to the California Business and Professions Code and the Rules of The State Bar of California are recommended to implement this recommendation:*

- *[AMENDMENT] Business and Professions Code, section 6062 Out-of-State Attorneys*
- *[AMENDMENT] Business and Professions Code, section 6060 Qualifications; Examination and Fee*

- *[AMENDMENT] Rules of the State Bar, rule 4.15 Certification to Supreme Court*
- *[NEW] Rules of the State Bar, rule 4.34 and rule 4.35 Practiced Based Experiential Competency Training Requirements*
- *[NEW] Rules of the State Bar, rule 4.36 Approved Apprenticeship and Clerkship Programs*

## ATTACHMENT A

### BUSINESS & PROFESSIONS CODE

#### Division 3. Professions and Vocations Generally

#### Chapter 4. Attorneys

#### Article 4. Admission to the Practice of law

##### 6062. Out-of-State Attorneys

- (a) To be certified to the Supreme Court for admission, and a license to practice law, a person who has been admitted to practice law in a sister state, United States jurisdiction, possession, territory, or dependency the United States may hereafter acquire shall:
- (1) Be of the age of at least 18 years.
  - (2) Be of good moral character.
  - (3) Have passed the general bar examination given by the examining committee. However, if that person has been an active member in good standing of the bar of the admitting sister state or United States jurisdiction, possession, or territory for at least four years immediately preceding the first day of the examination applied for, he or she may elect to take the Attorneys' Examination rather than the general bar examination. Attorneys admitted less than four years and attorneys admitted four years or more in another jurisdiction but who have not been active members in good standing of their admitting jurisdiction for at least four years immediately preceding the first day of the examination applied for must take the general bar examination administered to general applicants not admitted as attorneys in other jurisdictions.
  - (4) Have passed an examination in professional responsibility or legal ethics as the examining committee may prescribe.
  - (5) Have met the practice-based experiential competency training requirement approved by the board. This requirement does not apply to an attorney applicant who has been admitted to practice law in another United States jurisdiction and has practiced full-time for at least one year or half-time for two years. The board shall adopt regulations for the administration of this subdivision.

## BUSINESS & PROFESSIONS CODE

### Division 3. Professions and Vocations Generally

#### Chapter 4. Attorneys

#### Article 4. Admission to the Practice of law

#### 6062. Out-of-State Attorneys

- (b) To be certified to the Supreme Court for admission, and a license to practice law, a person who has been admitted to practice law in a jurisdiction other than in a sister state, United States jurisdiction, possession, or territory shall:
  - (1) Be of the age of at least 18 years.
  - (2) Be of good moral character.
  - (3) Have passed the general bar examination given by the examining committee.
  - (4) Have passed an examination in professional responsibility or legal ethics as the examining committee may prescribe.
  - (5) Have met the practice-based experiential competency training requirement approved by the board. This requirement does not apply to an attorney applicant who received a law degree outside the United States and then received an LLM degree from a law school within the United States. The board shall adopt regulations for the administration of this subdivision.



BUSINESS & PROFESSIONS CODE

Division 3. Professions and Vocations Generally

Chapter 4. Attorneys

Article 4. Admission to the Practice of law

6060. Qualifications; Examination and Fee

- (i) Have met the practice-based experiential competency training requirement approved by the board. The board shall adopt regulations for the administration of this subdivision.

# RULES OF THE STATE BAR OF CALIFORNIA

## Title 4. Admissions and Educational Standards

### Division 1. Admission To Practice Law In California

#### Rule 4.15 Certification to California Supreme Court

To be eligible for certification to the California Supreme Court for admission to the practice of law, an applicant for admission must

- (A) be at least eighteen years of age;
- (B) file an Application for Admission with the Committee;
- (C) meet the requirements of these rules regarding education or admission as an attorney in another jurisdiction, determination of moral character, and examinations;
- (D) be in compliance with California court-ordered child or family support obligations pursuant to Family Code § 17520;
- (E) be in compliance with tax obligations pursuant to Business and Professions Code section 494.5;
- (F) **be in compliance with the practice-based experiential competency training requirement pursuant to these rules;**
- (G) until admitted to the practice of law, notify the Committee within thirty days of any change in information provided on an application; and
- (H) otherwise meet statutory criteria for certification to the Supreme Court.

# RULES OF THE STATE BAR OF CALIFORNIA

## Title 4. Admissions and Educational Standards

### Division 1. Admission To Practice Law In California

#### Chapter 3. Required Education and Practice-Based Experiential Competency Training

##### Rule 4.34 Practice-Based Experiential Competency Training

- (A) A general applicant qualifying to take the California Bar Examination through legal education must have successfully completed fifteen units of practice-based experiential competency training.
- (1) The practice-based experiential competency training requirement does not apply to an applicant who has received a law degree outside the United States and then received an LLM degree from a law school within the United States.<sup>1</sup>
- (B) Definitions
- (1) “Unit” is the academic credit a law school gives for course work completed or, in the case of a Committee-approved apprenticeship or clerkship or law school-approved apprenticeship or clerkship for which academic credit is not awarded, 50 hours of qualifying work as defined in Rule 4.34 (H). For law schools accredited by the ABA, a unit is the same as a credit hour under ABA standards.<sup>2</sup>
- (2) “Externship” is a placement during law school in a private, public or non-profit law office for which the applicant is awarded units.<sup>3</sup>
- (3) “Clerkship” is a placement in a judge’s chambers during or following law school for which an applicant may be awarded units.
- (4) “Apprenticeship” is a placement after completion of the first year of law school or following law school in a private, public or non-profit law office for which an applicant may receive compensation but is not awarded academic credits.
- (5) “Clinic” is a course within the law school which provides

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<sup>1</sup> Business and Professions code section 6062(b)(5).

<sup>2</sup> ABA Standards and Rules of Proc. for Approval of Law Schools, std. 310(b).

<sup>3</sup> ABA Standards and Rules of Proc. for Approval of Law Schools, std. 310.

- (a) students with a substantial lawyering experience supervised by a faculty member;
- (b) opportunities for student performance, faculty feedback and self-evaluation; and
- (c) a classroom component.

For law schools accredited by the ABA, the definition of clinic under the ABA Standards also meets this definition.<sup>4</sup>

- (C) Competency training must develop the concepts underlying a particular subject matter, provide opportunities for student performance in addition to traditional classroom discussion, provide for regular individualized student feedback from a faculty member, and provide opportunities for student self-evaluation. Credit toward the fifteen unit requirement may be given upon successful completion of training that includes but is not limited to the following topics:
  - (1) oral presentation and advocacy;
  - (2) interviewing;
  - (3) counseling;
  - (4) client service and business development;
  - (5) negotiation, mediation, arbitration, or other alternate dispute resolution methods;
  - (6) advanced legal research and writing excluding
    - (a) purely academic papers; and
    - (b) the first four units earned in introductory first-year legal research and writing class, first-year Moot Court class, or any combination thereof.
  - (7) applied legal writing such as drafting of contracts, pleadings, or other legal instruments;
  - (8) law practice management or the use of technology in law practice;
  - (9) cultural competency;

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<sup>4</sup> ABA Standards and Rules of Proc. for Approval of Law Schools, std. 304(b).

- (10) collaboration or project management;
  - (11) financial analysis, such as accounting, budgeting, project management, and valuation;
  - (12) cost benefit analysis in administrative agencies;
  - (13) use of technology, data analyses, or predictive coding;
  - (14) business strategy and behavior;
  - (15) pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts;
  - (16) trial practice;
  - (17) professional civility and applied ethics;
  - (18) a law clinic that includes a classroom component; or
  - (19) a legal externship that includes a classroom component.
- (D) No less than .5 units of a portion of a course dedicated to developing a student's competency in a particular skill may be used to satisfy this requirement.
- (E) This requirement may be satisfied through qualifying study not certified by a law school upon completion of the practice-based experiential competency requirement and submission of the required form with the fee set forth in the Schedule of Charges and Deadlines.
- (F) Courses that satisfy the "experiential courses" requirement of law schools accredited by the American Bar Association will also satisfy this requirement.
- (G) An applicant may satisfy no more than six units of this requirement through a Committee-approved apprenticeship or clerkship or law school-approved apprenticeship or clerkship for which academic credit is not awarded, provided that 50 hours of qualifying work is completed for each unit earned.
- (H) An apprenticeship or clerkship approved by the Committee or by a law school must provide the opportunity to further develop knowledge of the law and any of the following:

- (1) effective research and organization of legally relevant information derived from non-legal sources, such as investigation records, economic research, and technical analyses;
  - (2) analysis, critical reasoning, and problem solving;
  - (3) application of facts to law;
  - (4) legal expression, such as persuasive and objective oral or written communication;
  - (5) practice competencies, such as litigation or transactional projects;
  - (6) professionalism;
  - (7) client service;
  - (8) leadership, such as communicating and effectively influencing others;
  - (9) collaboration; or
  - (10) management, such as giving feedback, planning and implementing tasks, organizing or managing workloads.
- (I) Nothing in this rule requires a law school to establish an apprenticeship program or to approve any individual apprenticeship. A law school may elect to provide all 15 units of practice-based experiential competency training through courses for which academic credit is awarded.
- (J) An applicant who intends to satisfy a portion of this requirement through an apprenticeship or clerkship program must submit the required form with the fee set forth in the Schedule of Charges and Deadlines.

RULES OF THE STATE BAR OF CALIFORNIA

Title 4. Admissions and Educational Standards

Division 1. Admission To Practice Law In California

Chapter 3. Required Education **and Practice-Based Experiential Competency Training**

Rule 4.35 Practice-Based Experiential Competency Training for Attorney Applicants

- (A) An attorney applicant qualifying to take the California Bar Examination who is admitted to and has practiced in another United States jurisdiction full-time for less than one year or half-time for less than two years must successfully complete fifteen units of practice-based experiential competency training in accordance with the provisions of Rule 4.34.<sup>5</sup>

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<sup>5</sup> See also Business and Professions Code section 6062(a)(5)

RULES OF THE STATE BAR OF CALIFORNIA

Title 4. Admissions and Educational Standards

Division 1. Admission To Practice Law In California

Chapter 3. Required Education **and Practice-Based Experiential Competency Training**

Rule 4.36 Approved Apprenticeship and Clerkship Programs

- (A) To be approved by the Committee or a law school, an apprenticeship or clerkship must provide
  - (1) an orientation session;
  - (2) individualized supervision;
  - (3) a system for assignments;
  - (4) timely oral and written feedback;
  - (5) diversity of tasks; and
  - (6) opportunity for reflection.
- (B) The supervisor of an applicant in an approved apprenticeship or clerkship must:
  - (1) have practiced law for at least two years immediately preceding the time of supervision; and
  - (2) submit the required form certifying that all requirements specified by the Committee have been met.



# ATTACHMENT B

**TFARR: Recommendation B**  
**Summary of Rules**  
**[9/25/14]**

*INTRODUCTION*

*On October 12, 2013, the State Bar's Board of Trustees adopted the Phase I Final Report and three proposed competency training proposals of the Task Force on Admissions Regulation Reform (TFARR)*

- A. Pre-admission: 15 Units of Practice-Based Experiential Training in Law School with an Apprenticeship Option;*
- B. **50 Hours Pro Bono or Reduced-Fee Legal Services**; and*
- C. Post-admission: 10 Hours Competency Training MCLE, or participation in a Bar-certified voluntary mentoring program.*

*Recommendation B proposes that all new members provide fifty hours of pro bono or reduced-fee legal services at any point during law school or study of law in a law office or judge's chambers and no later than one year following admission. While the proposed requirement will increase practical competency skills in furtherance of the State Bar's public protection mission, the pro bono aspect will also help inculcate pro bono as a core value of professionalism and help address California's justice gap—the shortfall between those who need legal assistance but cannot afford to pay for it, and the availability of lawyers to meet that need. A model for this aspect of the recommendation is New York's 50 hour pre-admission pro bono requirement. However, Recommendation B goes even further by including reduced-fee legal services to those who do not qualify for free legal services, but who also cannot afford traditionally priced legal services, as an alternate way to fulfill the requirement. By including this form of practice, new lawyers will be exposed to the possibilities of serving clients with limited ability to pay, and who often are in underserved communities.*

*TFARR Phase II was formed at the end of 2013 to implement Recommendations A, B and C. Three working groups were formed, one for each Recommendation. The working group for Recommendation B recommends implementing new rules within a newly created Division 6. (New Member Requirement to Provide Supervised Pro Bono or Reduced-Fee Legal Services) of Title 2. (Rights and Responsibilities of Members) of the Rules of the State Bar of California.*

## ***New Member Requirement to Provide 50 Hours Supervised Pro Bono or Reduced-Fee Legal Services***

### ***Pro Bono***

*For purposes of the new requirement, pro bono is defined as (1) providing or enabling the direct delivery of legal services without expectation of compensation from the clients to persons of limited means; (2) to organizations designed primarily to address the needs of persons of limited means; or (3) a wider range of individuals or organizations in the areas of civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate. The general definition of pro bono in the proposed new member requirement is consistent with California Rules of Professional Conduct, proposed Rule 6.1, which was adopted by the State Bar Board of Trustees in 2010. The adoption of proposed Rule 6.1 demonstrates the State Bar's commitment to pro bono and is in line with longstanding national trends.*

*The definition is broad enough so that a wide range of opportunities will be available either within or outside of California. Receiving academic credit or compensation while doing pro bono work is allowed. The pro bono definition does not include section (b)(3) of proposed Rule 6.1 because, as a "catch-all," it has no nexus to experiential training and no connection to the direct delivery of legal services.*

### ***Reduced-fee legal services***

*Reduced-fee is defined as providing or enabling direct delivery of legal services at a substantially reduced rate. Working Group B recognizes that lawyers and their clients have the right to determine who qualifies to receive legal services at a reduced fee and what constitutes a substantially reduced fee, but wants to provide some guidance on what counts without trying to dictate or impact the market rate. While the area of reduced-fee legal services is still evolving, the Working Group compiled information from modest means providers in California and other states, including lawyer referral services, incubator programs and entities that charge reduced fees to those without the means to pay legal fees at the prevailing rate. The definition of reduced-fee is consistent with proposed Rule 6.1(b)(1) and (b)(2).*

*The Working Group proposes that those who qualify as “low-income”, “very low-income”, or “extremely low-income” under the current California Department of Housing and Community Development Official State Income Limits by county found at <http://www.hcd.ca.gov/hpd/hrc/rep/state/incNote.html>, or under comparable official state income limits in another United States jurisdiction be deemed qualified under the rules to receive a substantially reduced fee for limited scope representation. Modest means programs of State Bar certified lawyer referral services are a good source of examples of substantially reduced and flat fees for limited scope services. Substantially reduced fees as defined by State Bar certified lawyer referral modest means programs represent the lower threshold of what is known as “low bono” work.*

#### *“Dual credit”*

*The pro bono or reduced-fee requirement and the pre-admission practice-based experiential competency training requirement (see Recommendation A ) may be concurrently satisfied by completion of an externship or apprenticeship with a qualified legal services project under Business & Professions Code section 6213(a) or support center under Business & Professions section 6213(b), a court-based self-help center under California Rule of Court 10.960, or a law school legal clinic or law school credit-bearing experiential program at which the applicant’s work qualifies as pro bono legal services as defined in 2.151 (A)(1) and (A)(2) of the proposed new rules.*

*In another United States jurisdiction, the externship or apprenticeship must be completed at a legal services organization or support center that primarily provides legal services without charge to indigent persons, and is funded by either the Legal Services Corporation, the Older Americans Act, the jurisdiction’s interest on lawyers trust account program, or a law school legal clinic at law school credit-bearing experiential program at which the applicant’s work qualifies as pro bono legal services as defined in 2.151 (A)(1) and (A)(2) of the proposed rules.*

*Using a more narrow definition of pro bono to receive dual or concurrent credit incentivizes experiences that lead to direct legal services to low-income clients. It also sends an important message to law students and new lawyers about the importance of pro bono. The Working Group discussed the possibility of creating a limited expansion for dual credit to include government agencies and other qualified nonprofit organizations, but decided it was better for the State Bar to revisit this after the first few years of implementation.*

#### *Exclusions and Exemptions*

*Newly admitted attorneys employed by a qualified legal services project or support center at which the work qualifies as pro bono legal services as defined in 2.151 (A)(1) or (A)(2) will be deemed to have satisfied the 50 hour requirement upon completion of fifty hours. Active members who have been admitted and active in a jurisdiction outside of California (United States or foreign) for four years immediately preceding the application for admission or applicants who have received a law degree outside the United States and then received an LL.M. degree from a law school within the United States are exempt from the pro bono or reduced-fee requirement.*

## Supervision

*TFARR Phase I recommended that the 50 hour requirement be completed at a Bar-certified pro bono or modest means program. Many public comments expressed concern about the potential impact of the 50 hour requirement on legal services providers, creation of more bureaucracy, the need for more flexibility to complete the 50 hours and adequate supervision. Working Group B took those comments seriously and decided it was unnecessary and too cumbersome to create a separate list of Bar-certified providers. With respect to qualifications and duties of supervising attorneys, they are required to have practiced law for at least two years immediately preceding the time of supervision, and must provide or ensure active and timely written or oral feedback, and verify the number of completed hours of pro bono or reduced-fee legal services on a State Bar compliance form. Also, in the proposed revised and new rules, the word “supervised” modifies “pro bono or reduced-fee legal services” to emphasize the importance of supervision.*

## Compliance

*Members must submit their member compliance form by the end of one year following admission. They must also retain a copy of the member compliance form and all original supervising attorney compliance form or forms until the end of two years following admission. Noncompliance by end of the first year of admission may ultimately result in the member being involuntarily enrolled as inactive. After a member receives notification of noncompliance, State Bar staff will assist the member to come into compliance before the member is enrolled as inactive.*

*The noncompliant member placed on inactive status who otherwise would be ineligible to practice law will be able to provide supervised pro bono or reduced-fee legal services solely for the purpose of complying with the pro bono or reduced-fee legal services requirement.*

## **PROPOSED ADDITIONS AND AMENDMENTS TO CALIFORNIA BUSINESS AND PROFESSIONS CODE AND TO STATE BAR RULES**

*The following additions and amendments to the California Business and Professions Code and the Rules of The State Bar of California are recommended to implement the proposed new 50 hour supervised pro bono or reduced-fee requirement:*

- *[NEW] Business & Professions Code section 6060.4 Provision of supervised pro bono or supervised reduced-fee legal services*
- *[AMENDMENT] Business & Professions Code section 6073 Pro Bono Legal Services*
- *[AMENDMENT] Rules of the State Bar, Rule 2.30 Member Status*

- *[NEW] Rules of the State Bar, Rule 2.37 Inactive enrollment for failure to comply with supervised pro bono or reduced-fee legal services requirement*
- *[NEW] Rules of the State Bar, Title 2, Division 6 New Member Requirement to Provide Supervised Pro Bono or Supervised Reduced-Fee Legal Services (11 new rules)*

## **ATTACHMENT B**

### **BUSINESS & PROFESSIONS CODE**

#### **Division 3. Professions and Vocations Generally**

##### **Article 4. Admission to the Practice of Law**

###### **§ 6060.4 Provision of supervised pro bono or supervised reduced-fee legal services**

A member must provide fifty hours of supervised pro bono or supervised reduced-fee legal services prior to admission or no later than one year following admission in accordance with rules adopted by the board. A member who has not completed the legal services within one year following admission is enrolled as inactive until the legal services have been completed.

## BUSINESS & PROFESSIONS CODE

### Division 3. Professions and Vocations Generally

#### Chapter 4. Attorneys

#### Article 4.8. Pro Bono Services

§ 6073. Pro bono legal services; financial support in lieu of directly providing services

It has been the tradition of those learned in the law and licensed to practice law in this state to provide voluntary pro bono legal services to those who cannot afford the help of a lawyer. Every lawyer authorized and privileged to practice law in California is expected to make a contribution. In some circumstances, it may not be feasible for a lawyer to directly provide pro bono services. In those circumstances, a lawyer may instead fulfill his or her individual pro bono ethical commitment, in part, by providing financial support to organizations providing free legal services to persons of limited means. In deciding to provide that financial support, the lawyer should, at minimum, approximate the value of the hours of pro bono legal service that he or she would otherwise have provided. In some circumstances, pro bono contributions may be measured collectively, as by a firm's aggregate pro bono activities or financial contributions. Lawyers also make invaluable contributions through their other voluntary public service activities that increase access to justice or improve the law and the legal system. In view of their expertise in areas that critically affect the lives and well-being of members of the public, lawyers are uniquely situated to provide invaluable assistance in order to benefit those who might otherwise be unable to assert or protect their interests, and to support those legal organizations that advance these goals. **This section does not exempt members from, or provide an alternative means of compliance with, the requirements of Business and Professions Code, section 6060.4.**



# RULES OF THE STATE BAR OF CALIFORNIA

## Title 2. Rights and Responsibilities of Members,

### Division 3. Member Status

#### Rule 2.30

- (A) Any member not under suspension, who does not engage in any of the activities listed in (B) in California, may, upon written request<sup>1</sup>, be enrolled as an inactive member. The Secretary may, in any case in which to do otherwise would work an injustice and subject to any direction of the board permit retroactive enrollment of inactive members.
- (B) No member practicing law, or occupying a position in the employ of or rendering any legal service for an active member, or occupying a position wherein he or she is called upon in any capacity to give legal advice or counsel or examine the law or pass upon the legal effect of any act, document or law, shall be enrolled as an inactive member.
- (C) Notwithstanding (A) and (B) a member serving for a court or any other governmental agency as a referee, hearing officer, court commissioner, temporary judge, arbitrator, mediator or in another similar capacity is eligible for enrollment as an inactive member if he or she does not otherwise engage in any of the activities listed in (B) or hold himself or herself out as being entitled to practice law.
- (D) Notwithstanding (A), (B), and (C), above, a member placed on inactive status pursuant to Business & Professions Code Section 6060.4 may provide supervised pro bono or supervised reduced-fee legal services solely to comply with the supervised pro bono or supervised reduced-fee legal services requirements of Business and Professions Code, section 6060.4.

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<sup>1</sup> Rule 2.31(A).

# RULES OF THE STATE BAR OF CALIFORNIA

## Title 2. Rights and Responsibilities of Members,

### Division 3. Member Status

#### Rule 2.37 Inactive enrollment for failure to comply with supervised pro bono or supervised reduced-fee legal services requirement

- (A) A member who fails to provide the supervised pro bono or supervised reduced-fee legal services prior to admission or no later than as required by Business and Professions Code section 6060.4 is involuntarily enrolled inactive.
- (B) To terminate inactive enrollment for failure to provide the supervised pro bono or supervised reduced-fee legal services required by Business and Professions Code section 6060.4, a member must comply with the supervised pro bono or supervised reduced-fee legal services rules governing reinstatement.<sup>2</sup>

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<sup>2</sup> See Rule 2.160.

# RULES OF THE STATE BAR OF CALIFORNIA

## Title 2. Rights and Responsibilities of Members

### Division 6. Requirement to Provide Supervised Pro Bono or Supervised Reduced-Fee Legal Services

#### Rule 2.150 Purpose of supervised pro bono or supervised reduced-fee legal services requirement

The purpose of requiring completion of fifty hours of supervised pro bono or supervised reduced-fee legal services is to increase practical skills by providing direct delivery of legal services as defined by these rules and to further the tradition of those learned in the law and licensed to practice law in this state to provide voluntary pro bono legal services to those who cannot afford the help of a lawyer.<sup>3</sup>

#### Rule 2.151 Definitions

##### In this Division

- (A) “Pro bono” means providing or enabling direct delivery of supervised legal services without expectation of compensation from the client other than reimbursement of expenses to
- (1) persons of limited means as defined by Business & Professions Code section 6213(d) in California, or by the interest on lawyers trust account program in another United States jurisdiction;
  - (2) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means; or
  - (3) individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization’s economic resources or would be otherwise inappropriate.
- (B) “Reduced-fee” means providing or enabling direct delivery of supervised legal services at a substantially reduced rate affordable to

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<sup>3</sup> Business & Professions Code section 6073.

- (1) individuals qualified as “low-income,” “very low-income,” or “extremely low-income” under the current California Department of Housing and Community Development Official State Income Limits at the State of California Web site, or comparable income limits in another United States jurisdiction; or
- (2) organizations identified in (A)(2) or (A)(3).

#### Rule 2.152 Standards

- (A) Following commencement of law school or filing the State Bar Notice of Intent to Study Law in a Law Office or Judge’s Chambers and by the end of one year following admission, a new member must provide fifty hours of pro bono or reduced-fee legal services in accordance with these rules.<sup>4</sup>
- (B) In California the pro bono or reduced-fee requirement,<sup>5</sup> and the practical skills training required prior to admission<sup>6</sup> may be concurrently satisfied by completion of an externship or apprenticeship with a qualified legal services project,<sup>7</sup> a qualified support center,<sup>8</sup> a court-based self-help center,<sup>9</sup> a law school legal clinic or law school credit-bearing experiential program at which the applicant’s work qualifies as pro bono as defined in 2.151 (A)(1) and (A)(2) and the supervising attorney satisfies the requirements set forth in 2.155.
- (C) In another United States jurisdiction, the pro bono or reduced-fee requirement,<sup>10</sup> and the practical skills training required prior to admission<sup>11</sup> may be concurrently satisfied by an externship or apprenticeship completed at a legal services organization or support center that primarily provides legal services without charge to indigent persons and is funded by either the Legal Services Corporation, the Older Americans Act, or the jurisdiction’s interest on lawyers trust account program, a law school legal clinic or law school program at which the applicant’s work qualifies as pro bono legal services as defined in 2.151 (A)(1) and (A)(2) and the supervising attorney satisfies the requirements set forth in 2.155.

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<sup>4</sup> See Business and Professions Code section 6060.4.

<sup>5</sup> Rule 4.34 and Rule 2.152(a).

<sup>6</sup> Rule 4.34.

<sup>7</sup> Business and Professions Code section 6213(a)(1).

<sup>8</sup> Business and Professions Code section 6213(b).

<sup>9</sup> California Rules of Court, rule 10.960.

<sup>10</sup> Rule 2.152(a).

<sup>11</sup> Rule 4.34.

- (D) Employment at a qualified legal services project<sup>12</sup> or support center<sup>13</sup> in California or the equivalent in another U.S. jurisdiction, where the work qualifies as pro bono legal services as defined in 2.151(A)(1) and (A)(2), satisfies the requirements of these rules upon completion of fifty hours of pro bono or reduced-fee legal services.

#### Rule 2.153 Exemptions

The pro bono or reduced-fee requirement does not apply to an applicant who has

- (A) been admitted and been active in any jurisdiction for at least four years immediately preceding application for admission; or
- (B) received a law degree outside the United States and then an LLM degree from a law school in the United States.

#### Rule 2.154 Modifications

A member unable to fulfill the pro bono or reduced-fee requirement due to a physical or mental condition, natural disaster, family emergency, financial hardship, or other good cause may apply to the State Bar for approval of any modification of the requirement.

#### Rule 2.155 Supervising attorney

##### (A) Qualifications

A supervising attorney must be

- (1) is a member in good standing in any United States jurisdiction; and
- (2) has practiced law for at least two years immediately preceding the time of supervision.

##### (B) Duties

A supervising attorney must

- (1) provide or ensure active and timely written or oral feedback;
- (2) ensure that the relationship between the supervising attorney and supervisee is in compliance with current state and federal labor laws; and

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<sup>12</sup> Business and Professions Code section 6213(a)(1).

<sup>13</sup> Business and Professions Code section 6213(b).

- (3) verify the number of hours of pro bono or reduced-fee legal services completed by the supervisee and compliance with these rules using the supervising attorney compliance form.

#### Rule 2.156 Reporting to the State Bar

Completion of the pro bono or reduced-fee requirements of these rules must be reported no later than one year following the date of admission. The report must be made online using My State Bar Profile or with the Pro Bono or Reduced-Fee Requirement Compliance Form. Fees for noncompliance are set forth in the Schedule of Charges and Deadlines.

#### Rule 2.157 Record of Pro Bono or Reduced-Fee Requirement

For two years after reporting completion of pro bono or reduced-fee compliance, a member must retain and provide upon demand and to the satisfaction of the State Bar:

- (A) a record of pro bono or reduced-fee legal services that includes the entity and date of service, and all original supervising attorney compliance forms; or
- (B) proof of exempt status.

#### Rule 2.158 Noncompliance

Noncompliance is failure to:

- (A) complete the pro bono or reduced-fee requirement by the end of one year following admission or an extension of it;
- (B) report completion of the pro bono or reduced-fee requirement by the end of one year following admission or claim exemption from the pro bono or reduced-fee requirement;
- (C) keep a record of the pro bono or reduced-fee requirement;
- (D) pay fees for noncompliance; or
- (E) otherwise comply with the requirements of these rules.

Rule 2.159 Enrollment as inactive for noncompliance

- (A) A member who is sent a notice of noncompliance must comply with its terms.<sup>14</sup>
- (B) A member who fails to comply with a notice of noncompliance is enrolled as inactive and is not eligible to practice law.<sup>15</sup> The enrollment is administrative and no hearing is required.

Rule 2.160 Reinstatement following noncompliance

Enrollment as inactive for noncompliance with the pro bono or reduced-fee requirement terminates when a member submits proof of compliance and pays noncompliance fees.

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<sup>14</sup> See Rule 2.30.

<sup>15</sup> See Rule 2.30.

# ATTACHMENT C



**TFARR: Recommendation C**  
**Summary of Rules**  
**[9/25/14]**

**INTRODUCTION**

*On October 12, 2013, the State Bar's Board of Trustees adopted the Phase I Final Report and three proposed competency training proposals of the Task Force on Admissions Regulation Reform (TFARR).*

- A. Pre-admission: 15 Units of Practice-Based Experiential Training in Law School with an Apprenticeship Option;*
- B. 50 hours Pro Bono or Reduced-Fee Legal Services; and*
- C. Post-admission: 10 hours Competency Training MCLE, or participation in a Bar-certified voluntary mentoring program.***

*Recommendation C proposes the adoption of statutes and State Bar rules requiring newly licensed attorneys to complete ten hours of minimum continuing legal education (MCLE) within the first year following admission. This would comprise six hours of first-year basic skills and four hours of first-year legal ethics education. All new members not licensed in another U.S. jurisdiction with less than four years of experience will be required to fulfill this requirement. New members admitted in another U.S. jurisdiction with at least four years of experience need only complete the four-hour first-year legal ethics portion of the training. New attorneys must complete first-year MCLE requirements in addition to the recurrent MCLE requirement for non-exempt active bar members.<sup>1</sup> All ten hours must be taken for participatory course credit, and attorneys will certify compliance and be subject to audit.*

*These recommendations will ensure that newly licensed attorneys quickly receive practical skills in core competencies that typically are not covered by doctrinal learning. This proposal will help new attorneys access fundamental concepts that are necessary to the practice of law. The proposed change will also ensure new attorneys gain access to legal ethics in the context of a specific practice area. Early development of these skills will not only be beneficial to new attorneys' careers, but will also further the State Bar's mission of public protection by ensuring that new attorneys learn how to adequately and ethically represent their clients. New attorneys are strongly encouraged to complete their entire ten hours of first-year MCLE in a designated practice area. The Committee believes this will help new attorneys gain background in*

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<sup>1</sup> The State Bar Board of Trustees will be considering a proposed change to the calculation of "proportional requirements due" (which applies to most attorneys during their first regular compliance cycle). The proposed change would ensure that one hour of Elimination of Bias credit and one hour of Substance Abuse (Competence Issues) credit will also be required within an attorney's first regular compliance cycle, regardless of the total pro-rated number of hours due. This addresses the concern that new attorneys currently can go three to six years before education in those areas is required.

*their particular area of practice. Provided that new licensees complete their first-year MCLE requirements with one legal education provider, the Committee recommends that new licensees obtain a certificate of completion in the particular completed practice area. The Committee encourages MCLE providers to offer the first-year MCLE requirements at no cost or a nominal cost.*

*The post-admission ten hour MCLE requirement has two components. Six hours will be devoted to first-year basic skills training, preferably in a single practice area as noted above. New members must also complete four of the ten MCLE hours in first-year legal ethics. The legal ethics hours must contain training on best practices in ethical situations lawyers face in their daily practice. For purposes of fulfilling the four hour first-year legal ethics requirement, courses that meet this requirement might include, but are not limited to the following:*

- *Ethical issues in pro bono representation*
- *Conflicts of interest in law practice*
- *Ethics for commercial litigators*
- *Ethics for corporate lawyers*
- *Ethics for discovery*
- *Ethics for financial industry lawyers*
- *Ethics for in-house lawyers*
- *Ethics for litigators*
- *Ethics for the negotiation and mediation*
- *Maintaining Good Standing with the State Bar*
- *Social media ethics*
- *Attorney-client privilege and work product; maintaining client confidences*
- *Attorney advertisement and solicitation*
- *Ethical issues in fee agreements, billing and collection*
- *Ethical issues relating to candor*
- *Ethical issues relating to relationships with clients, including communication*
- *Starting and terminating attorney client relationships*

*The Committee acknowledges that applicants, prior to admission, already are required under the rules to complete fifteen units of practical skills coursework. Therefore, the Committee carefully crafted the six remaining post-admission hours of first-year basic skills training to reinforce the skills gained in the fifteen units of foundational law school coursework. The six-hour first-year basic skills requirement might be fulfilled by, but are not limited to, the following courses in fundamental skills:*

- *Accounting for lawyers; financial statements; business concepts for lawyers*
- *Administrative law*
- *ADR*
- *Appellate law*

- *Bankruptcy*
- *Civility and professionalism*
- *Contract drafting fundamentals*
- *Corporate*
  - *Preparation of initial public offering*
  - *Federal and state securities law compliance*
  - *SEC requirements*
  - *Securities arbitration*
- *Criminal defense*
- *Elder law*
- *Employment law*
- *Estate planning*
- *Family law*
- *Guardianship*
- *Immigration*
- *Insurance law*
- *Intellectual property*
- *Juvenile law*
- *Landlord-tenant*
- *Law practice management*
  - *Attorney fee agreements*
  - *Client trust accounts*
  - *Managing a virtual law office*
  - *Technology*
  - *Employees/independent contractors*
  - *Opening your own law office*
  - *Insurance*
- *Limited scope representation*
- *Litigation*
- *Nonprofit*
- *Personal injury*
- *Probate*
- *Real estate*
  - *Map Act*
  - *Mechanic's liens*
  - *Residential/commercial purchase/lease agreements*
  - *Real estate broker practice*
  - *Construction law*
- *School law*
- *Veteran law*

*The proposal will help new lawyers with little or no practical experience gain professional competency and successfully transition into the practice of law. Therefore, the Committee proposes that the first-year MCLE requirements should apply to all newly admitted attorneys, regardless of status. Out of state attorneys with less than*

*four years of experience are also required to complete first-year MCLE. Foreign attorneys are required to complete all ten hours of MCLE. However, new admittees from U.S. jurisdictions outside of California with more than four years' experience are not required to complete the first-year basic skills training component (six hours) although they will be required to complete the first-year legal ethics component (four hours). Existing exemptions under recurrent MCLE will not apply to new attorneys completing their ten hour first-year MCLE requirement.*

*Newly admitted attorneys who wish to begin taking their ten hours of first-year MCLE prior to admission may do so, but only courses taken four months prior to the date of their admission will be counted towards their first-year MCLE requirements. This four-month window provides the opportunity for applicants who have completed the Bar exam to begin fulfilling their post-admission skills requirements while awaiting their bar results. New attorneys have one year following admission to complete their requirements. Thus, newly licensed attorneys will have a total of sixteen months to complete their requirements.*

*The programmatic requirements set forth above, along with recommendations as to compliant coursework and details of the State Bar's administration of the first-year MCLE requirement and other program requirements will be highlighted in materials provided to new admittees and will also be made available on the State Bar website. To implement this first-year MCLE requirement, the Committee proposes the following additions and amendments to the California Rules of Court, the Business and Professions Code and the Rules of the State Bar:*

- *[AMENDMENT] Rules of Court, rule 9.31 Minimum Continuing Legal Education*
- *[AMENDMENT] Business and Professions Code, section 6070 Mandatory Continuing Legal Education*
- *[AMENDMENTS] Rules of the State Bar, rules 2.50, 2.53, 2.54, 2.55, 2.71 and 2.72 Minimum Continuing Legal Education.*
- *[AMENDMENTS] Rules of the State Bar, rules 3.601 and 3.602 MCLE Providers*

### ***Post-Admission Mentoring Program***

*In conjunction with the practical skills competency training requirement, the Task Force on Admissions Regulation Reform in Phase I proposed a post-admittance mentoring requirement as an alternative to first-year MCLE. The Committee recommends that post-admittance mentoring not be implemented in conjunction with the mandatory first-year MCLE requirements at this time. The Committee recognizes the importance of mentoring for new lawyers and believes a future mentoring program will be valuable for public protection and enhance the practice of law in California. However, given the fundamental and logistical difference between*

*implementing MCLE requirements and developing a participatory mentoring program, the Committee declined to implement the mentoring program at this time. (See Appendix A.)*

## **Working Group C**

### **Appendix A**

**[9/25/14]**

The Committee recommends that post-admittance mentoring not be implemented in conjunction with the mandatory first-year MCLE requirements at this time. The Committee recognizes the importance of mentoring for new lawyers and believes a future mentoring program will be valuable for public protection and enhance the practice of law in California. However, given the fundamental and logistical difference between implementing MCLE requirements and developing a participatory mentoring program, the Committee declined to implement the mentoring program at this time.

1. Although the Committee declined to implement a mentoring program, the Committee recognizes that mentoring:
  - Promotes collegial relationships among in the legal community
  - Fosters development of practical skills
  - Builds awareness of ethical obligations
  - Encourages the use of best practices and professionalism
  - Provides an experienced practitioner who is also a role model
  - Enhances public protection
  - Promotes personal development
2. The Committee also recognizes existing mentor providers such as:
  - Bar associations and local barrister organizations offering “Bridging the Gap” programs
  - State bar sections and CYLA
  - Specialty bar associations
  - Private law firms/attorneys
  - Corporate law departments
  - Nonprofit/public legal service providers
  - Government agencies
  - Law school alumni and law schools
  - Pro Bono Practice Program
  - American Inns of Court
3. Mentors can also provide guidance on various subject matters, but not limited to:
  - Rules of professional conduct, standards of professionalism, and civility
  - Creating pride and integrity in the legal profession
  - Introduction to the legal community, and public service and bar programs
  - Personal and professional development including work-life balance
  - Ethics
  - Law office management
  - Client communications, advocacy and negotiations

- Specific practice areas (e.g., civil litigation, criminal law and procedure, family, personal injury, insurance, juvenile, employment, immigration, bankruptcy, estate planning, tax, real estate, consumer, collection, probate, business, corporate and commercial, etc.)

If implemented the Committee suggests consideration of the following criteria:

A. Mentees should be required to:

- Provide confirmation of State Bar membership.
- Choose a mentor from a list of pre-approved mentor providers
- Initiate contact with mentor from a list of approved mentors
- Enter into a “mentoring contract” with mentor
- Complete mentor evaluations periodically during the term of the mentoring program

B. Mentors should:

- Have minimum qualifications (must be a licensed California attorney in good standing)
- Agree to the volunteer assignment
- Complete a mentor training program
- Complete mentee evaluations on a regularly scheduled basis

C. Mentoring programs:

- Should begin within 30 days of admission to the bar, and conclude in no less than 12 months
- Should establish a monthly conference call or meeting between the mentee and mentor
- Should establish the preferred method of communication between the mentor and mentee.

D. The Committee also recommends that the State Bar research and review the efficacy of mentoring and determine whether the Bar should revisit the mentoring program in the future. Lastly, the Committee also recommends that the State Bar identify two bar associations and two state bar sections for 24-month pilot programs. State Bar staff will reevaluate and revise the program as necessary. Should the pilot program be successful, the State Bar can reconsider and engage in a phased-in roll out.

E. The Committee recommends review of existing mentoring programs, among which include:

- National Legal Mentoring Consortium, University of South Carolina
- National Mentoring Partnership, Boston
- Existing state mentoring programs (i.e., North Dakota, New Mexico, Georgia, Delaware, Colorado, Indiana, Nevada, Ohio, Oregon, British Columbia/Canada (Articling Program))
- Bar Associations: Beverly Hills, Alameda County Barristers, LA County BWL Law Students, LA County Consumer Attorneys', Lesbian & Gay Lawyers Association – LA, Philippine American Bar Association – LA, Women Lawyers of LA, Federal Bar Association - Orange County, Mentor on Demand – Orange County, Korean American Bar Association - San Diego County, Lawyers Club – San Diego, North County Bar Association – San Diego, Young/New Lawyers Division – San Diego, Asian American Bar Greater Bay Area - San Francisco County, Bay Area Lawyers for Individual Freedom – San Francisco, Korean American Bar Association – San Francisco, Queen's Bench – San Mateo, Women Defenders – Berkeley, Santa Barbara County Women Lawyers, South Asian Bar Association of Southern California, California Women Lawyers



## ATTACHMENT C

### CALIFORNIA RULES OF COURT

#### Title 9. Rules on Law Practice, Attorneys and Judges

##### Chapter 3. Legal Education

###### Rule 9.31. Minimum continuing legal education

###### (a) Statutory authorization

This rule is adopted under Business and Professions Code section 6070.

###### (b) State Bar minimum continuing legal education program

The State Bar must establish and administer a minimum continuing legal education program under rules adopted by the Board of ~~Governors~~ Trustees of the State Bar. These rules may provide for carry forward of excess credit hours, staggering of the education requirement for implementation purposes, and retroactive credit for legal education.

###### (c) ~~—Recurrent Minimum~~ minimum continuing legal education requirements

~~Each~~ An active member of the State Bar (1) not exempt under Business and Professions Code section 6070, (2) not a full-time employee of the United States Government, its departments, agencies, and public corporations, acting within the scope of his or her employment, and (3) not otherwise exempt under rules adopted by the Board of Trustees ~~Governors~~ of the State Bar, must, within 36-month periods designated by the State Bar, complete at least 25 hours of legal education approved by the State Bar or offered by a State Bar-approved provider. Four of those hours must address legal ethics. Members may be required to complete legal education in other specified areas within the 25-hour requirement under rules adopted by the State Bar. Each active member must report his or her compliance to the State Bar under rules adopted by the Board of Trustees ~~Governors~~ of the State Bar.

###### (d) First-year minimum continuing legal education requirements

A new member of the State Bar not otherwise exempt under rules adopted by the Board of Trustees of the State Bar is required to complete 10 hours of legal education by the end of the first year following admission. These 10 hours are in addition to the 25 hours of legal education required under subpart (c).

###### (~~de~~) Failure to comply with program

A member of the State Bar who fails to satisfy the requirements of the State Bar's minimum continuing legal education program must be enrolled as an inactive member of the State Bar under rules adopted by the Board of ~~Trustees~~Governors of the State Bar.

(~~e~~f) Fees and penalties

The State Bar has the authority to set and collect appropriate fees and penalties.

## BUSINESS & PROFESSIONS CODE

### Division 3. Professions and Vocations Generally

#### Chapter 4. Attorneys

#### Article 4.5. Mandatory Continuing Legal Education

6070. (a) The State Bar shall request the California Supreme Court to adopt a rule of court authorizing the State Bar to establish and administer a mandatory continuing legal education program. The rule that the State Bar requests the Supreme Court to adopt shall require that, within designated 36-month periods, all active members of the State Bar shall complete at least 25 hours of legal education activities approved by the State Bar or offered by a State Bar approved provider, with four of those hours in legal ethics.

Additionally, the rule shall require all newly admitted members to complete at least 10 hours of first-year continuing legal education. A member of the State Bar who fails to satisfy the mandatory continuing legal education requirements of the program authorized by the Supreme Court rule shall be enrolled as an inactive member pursuant to rules adopted by the Board of Trustees of the State Bar.

(d) The State Bar shall provide and encourage the development of low-cost programs and materials by which members may satisfy their continuing education requirements. Special emphasis shall be placed upon the use of internet capabilities and computer technology in the development and provision of no-cost and low-cost programs and materials. Towards this purpose, the State Bar shall ensure that by July 1, 2000, any member possessing or having access to the Internet or specified generally available computer technology shall be capable of satisfying the full self-study portion of his or her recurrent MCLE requirement at a cost of fifteen dollars (\$15) per hour or less.

# RULES OF THE STATE BAR OF CALIFORNIA

## Title 2. Rights and Responsibilities of Members

### Division 4. Minimum Continuing Legal Education

#### Rule 2.50 Purpose of MCLE

Rules for Minimum Continuing Legal Education (MCLE) require active members of the State Bar of California to remain current regarding the law, the obligations and standards of the legal profession, and the management of their practices. All new members must complete first-year MCLE regardless of status. A member's involuntary enrollment as inactive for failing to comply with these rules is public information available on the State Bar Web site.

# RULES OF THE STATE BAR OF CALIFORNIA

## Title 2. Rights and Responsibilities of Members

### Division 4. Minimum Continuing Legal Education

#### Rule 2.53 New members

(A) A new member must complete first-year MCLE by the end of the first year following admission.<sup>1</sup>

(AB) A new member is permanently assigned to a compliance group on the date of admission for recurrent MCLE requirements<sup>2</sup>.

(BC) The initial compliance period for recurrent MCLE for a new member begins on the first day of the month in which the member was admitted. It ends when the period ends for the compliance group. If the initial period is less than the period for the compliance group, the required credit hours may be reduced as provided in these rules.

(CD) A new member may not claim credit for education taken before the initial~~initial~~applicable compliance period.

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<sup>1</sup> Bus. & Prof. Code § 6070(a); Rule of Court, rule 9.31(d).

<sup>2</sup> Bus. & Prof. Code § 6070(a); Rule of Court, rule 9.31(c).

# RULES OF THE STATE BAR OF CALIFORNIA

## Title 2. Rights and Responsibilities of Members

### Division 4. Minimum Continuing Legal Education

#### Rule 2.54 Exemptions

(A) The following active members are exempt from recurrent MCLE requirements, provided they claim the exemption in their assigned compliance periods using My State Bar Profile online or an MCLE Compliance Form:

- (1) officers and elected officials of the State of California;
- (2) full-time professors at law schools accredited by the State Bar of California or the American Bar Association;
- (3) those employed full-time by the State of California as attorneys or administrative law judges on a permanent or probationary basis, regardless of their working hours, who do not otherwise practice law; and
- (4) those employed full-time by the United States government as attorneys or administrative law judges on a permanent or probationary basis, regardless of their working hours, who do not otherwise practice law.

(B) Members whom this rule exempts by reason of their employment with the State of California or the United States government may provide pro bono legal services through a California qualified legal services project or a qualified support center, or through a legal services project or support center that primarily provides legal services without charge to indigent persons in another jurisdiction and is funded by the Legal Services Corporation or the Older Americans Act or receives funding administered by the jurisdiction's interest on lawyers trust accounts program.

(C) New members who are admitted to the practice of law in good standing in another United States jurisdiction for at least four years are exempt from the six-hour first-year basic skills training requirements<sup>3</sup> provided they claim the exemption. The exemption must be claimed within the first year of admission when reporting compliance with the four-hour first-year legal ethics requirement.

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<sup>3</sup> State Bar Rule 2.72(e).

# RULES OF THE STATE BAR OF CALIFORNIA

## Title 2. Rights and Responsibilities of Members

### Division 4. Minimum Continuing Legal Education

#### Rule 2.55 Modifications

| A member prevented from fulfilling ~~the~~any MCLE requirement for a substantial part of a compliance period because of a physical or mental condition, natural disaster, family emergency, financial hardship, or other good cause may apply for modification of MCLE compliance requirements. The State Bar must approve any modification.

# RULES OF THE STATE BAR OF CALIFORNIA

## Title 2. Rights and Responsibilities of Members

### Division 4. Minimum Continuing Legal Education

#### Rule 2.71 Compliance periods

(A) The first-year MCLE requirement may be satisfied no earlier than the four months preceding admission and must be completed no later than one year following the date of admission.

(B) A compliance period for recurrent MCLE consists of thirty-six months. It begins on the first day of February and ends three years later on the last day of January. The three compliance groups begin and end their compliance periods in different years. A member must report MCLE compliance no later than the day following the end of the compliance period. The report must be made online using My State Bar Profile or with an MCLE Compliance Form. Fees for noncompliance are set forth in the Schedule of Charges and Deadlines.



# RULES OF THE STATE BAR OF CALIFORNIA

## Title 2. Rights and Responsibilities of Members

### Division 4. Minimum Continuing Legal Education

#### Rule 2.72 Requirements

(A) Unless these rules indicate otherwise, a member who has been active throughout a thirty-six-month compliance period must complete twenty-five credit hours of MCLE activities. No more than twelve and a half credit hours may be self-study. Total hours must include no less than 6 hours as follows:

(1) at least four hours of legal ethics;

(2) at least one hour dealing with the recognition and elimination of bias in the legal profession and society by reason of, but not limited to, sex, color, race, religion, ancestry, national origin, physical disability, age, or sexual orientation; and

(3) at least one hour of education addressing substance abuse or other mental or physical issues that impair a member's ability to perform legal services with competence.

(B) Required education in legal ethics, elimination of bias, or competence issues may be a component of an ~~approved~~ MCLE activity that deals with another topic.

(C) A member may reduce the required twenty-five hours in proportion to the number of full months the member was inactive or exempt in the thirty-six-month compliance period. Up to half the reduced hours may be self-study. A tool for applying this formula is available at the State Bar Web site.

(D) Excess credit hours may not be applied to the next compliance period.

(E) Unless these rules indicate otherwise, a new member regardless of status must complete first-year MCLE requirements, which consist of ten credit hours of MCLE activities including four hours of first-year legal ethics and six hours of first-year basic skills training. None of these hours may be self-study.

# RULES OF THE STATE BAR OF CALIFORNIA

## Title 3. Programs and Services

### Division 5. Providers of Programs and Service

#### Chapter 1. Providers of Continuing Legal Education

#### Article 1. Global provisions

#### Rule 3.601 MCLE Activities

To be approved for MCLE credit, an MCLE activity must meet State Bar standards.

- (A) The MCLE activity must relate to legal subjects directly relevant to members of the State Bar or have significant current professional and practical content.
- (B) The presenter of the MCLE activity must have significant professional or academic experience related to its content.
- (C) Promotional material must state that the MCLE activity is approved for MCLE credit or that a request for approval is pending; specify the amount of credit offered; and indicate whether any of the credit may be claimed for required MCLE in legal ethics, elimination of bias, ~~or~~ competence issues, first-year legal ethics, or first-year basic skills training.<sup>2</sup>
- (D) If the activity lasts one hour or more, the provider must make substantive written materials relevant to the MCLE activity available either before or during the activity. Any materials provided online must remain online for at least thirty calendar days following the MCLE activity.
- (E) Programs and classes must be scheduled so that participants are free of interruptions.

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<sup>2</sup> Business & Professions Code § 6070(b) provides that programs offered by the California District Attorneys Association and the California Public Defenders Association are deemed to be approved MCLE. State Bar Rule 2.84 provides that “A member may claim MCLE credit for educational activities that the California Board of Legal Specialization approves for certification or recertification.” See State Bar Rule 2.72 for a description of competence issues and elimination of bias.

# RULES OF THE STATE BAR OF CALIFORNIA

## Title 3. Programs and Services

### Division 5. Providers of Programs and Service

#### Chapter 1. Providers of Continuing Legal Education

##### Article 1. Global provisions

#### Rule 3.602 Responsibilities of every provider

Every provider must

- (A) comply with any State Bar rules and terms applicable to an approved MCLE activity;
- (B) retain the Record of Attendance for an MCLE activity for four years from the date of the activity and submit it to the State Bar upon request. The record must include the title of the MCLE activity, date, total hours awarded, any credits awarded for legal ethics, elimination of bias, ~~or~~ competence issues, first-year legal ethics, or first-year basic skills training as a component of the topic of the activity, and whether the activity is participatory or self-study;
- (C) furnish an MCLE Certificate of Attendance to each attendee who has met the requirements for the MCLE activity. The certificate must include the provider name, title of the MCLE activity, date, total hours awarded, any credits awarded for legal ethics, elimination of bias, ~~or~~ competence issues, first-year legal ethics, or first-year basic skills training as a component of the topic of the activity, and whether the activity is participatory or self-study;
- (D) give each attendee who completes an MCLE activity a State Bar MCLE Activity Evaluation Form or its equivalent; retain the completed form for at least one year; and submit it to the State Bar upon request; and
- (E) notify the State Bar in writing of any change in the name, address, or other contact information required by the State Bar.