

AGENDA ITEM

131 MARCH 2016

DATE: February 10, 2016

TO: Members, Admissions and Education Committee
Members, Board of Trustees

FROM: Lee Wallach, Chair, Committee of Bar Examiners
Gayle Murphy, Senior Director, Office of Admissions

SUBJECT: Proposed Amendments to Law School Rules re Additional Disclosures –
Return from Public Comment

EXECUTIVE SUMMARY

The Committee of Bar Examiners (Committee) at its December meeting adopted in principle, a proposed amendment to Rule 4.241 of the *Unaccredited Law School Rules*, subject to a public comment period and final adoption and approval by the Board of Trustees. The proposed amendment would require registered, unaccredited law schools to modify their disclosure statements to include the attrition rates of students who are enrolled in the school and do not matriculate into subsequent years of law study. With the authorization of the Board of Trustees, the proposed amendment was circulated for a period of public comment. Two comments were received, and are summarized in this item. The Committee believes that disclosure of attrition rates promotes greater transparency and helps ensure public and consumer protection and that for these reasons the Board should adopt the proposal.

BACKGROUND

As required by California's *Business and Professions Code* Section 6061, a registered, unaccredited law school must currently provide each of its enrolled students a written Disclosure Statement that, pursuant to Rule 4.241(A) of the *Unaccredited Law School Rules*, provides each of its students the following information:

(A) A registered law school must provide each student, in the format required by the Committee, a disclosure statement that includes all the following information.

(1) It is not accredited by the Committee.

(2) Whether it has applied for accreditation in the previous five years, and if so, the date of the application and whether the application is pending or has been withdrawn or denied.

(3) A statement of assets and liabilities. This requirement applies only if it has been in operation for fewer than ten years. The requirement does not apply if the law school is affiliated with or under the control of another school that has been in operation ten years or more.

(4) In the format required by the Committee, the pass rates of students who have taken the California First-Year Law Students' Examination and the California Bar Examination. This information must be provided for the past five years or since the establishment of the law school, whichever time is shorter.

(5) The number of legal volumes in the library. This requirement does not apply to correspondence or distance-learning law schools.

(6) The educational background, qualifications, and experience of the faculty and the names of any faculty or administrators who are members of the State Bar of California or who are admitted in another jurisdiction.

(7) The ratio of faculty to students for the previous five years or since the establishment of the law school, whichever time is shorter.

(8) A statement that the education it provides may not satisfy the requirements of other jurisdictions for the practice of law and that applicants should contact the jurisdiction in which they may wish to practice for that jurisdiction's requirements.

(9) Whether it has been issued a Notice of Noncompliance by the Committee.

DISCUSSION

With the intention of providing greater transparency and effective disclosures to all students attending any registered law school, and based upon its concern that those who apply and then enroll in an unaccredited law school are fully informed whether their law school has a high attrition rate, the Committee adopted, in principal, the following proposed amendment to Rule 4.241 of the *Unaccredited Law School Rules*, subject to a period of public comment and final adoption and approval by the Board of Trustees, which would require unaccredited law schools to provide the attrition rates of their students in the disclosure statements:

(10) In the format required by the Committee, the attrition rates of students who are enrolled in the school and do not matriculate into subsequent years of law study. This information must be provided for the past five years or since the establishment of the law school, whichever time is shorter.

Two comments were received. One submitted by Dean George J. Gliaudys of the Irvine University College of Law, a fixed-facility registered law school located in the City of Cerritos. The second comment was submitted by Dean Michael P. Clancey of the Northwestern California University School of Law, an online, registered correspondence law school, which maintains its administrative offices in Sacramento.

In his comment, Dean Gliaudys stated that he supported the proposed disclosure if the disclosed attrition rate required of each registered law school was accompanied by the following statement: "There are many reasons for students leaving the J.D. program including academic, change of occupational interest and personal."

In requesting this or a similarly-worded statement, Dean Gliaudys believes that in merely disclosing attrition rates, without any explanation or content, such rates “might be misleading in that they do not tell the full story of why persons attrite from the law study program” and without more, could lead applicants and students to misinterpret the basis for such attrition and lead them to believe that a “registered law school’s sole interest recruiting applicants into its student body is for revenue. . . .”

Dean Clancey’s comment makes three key points: a) Since both California’s registered, unaccredited and its accredited law schools have higher attrition rates than those of ABA-approved law schools, it will be patently unfair to require that only unaccredited law school be required to disclose their respective attrition rates; b) To provide students with better transparency through a fair comparison of attrition rates among all law schools operating in California, the attrition rates of all California ABA-approved, California-accredited and registered, unaccredited law schools should be disclosed; c) Since all registered law schools are required to have a honest and reasonable *pro rata* tuition refund policy, students who decide to withdraw from a law school (often for personal reasons) do so with the knowledge that they will recover a portion of any tuition paid for classes they will no longer attend. As a result, as noted by Dean Clancey, such refunds policies “remove the risk that students will lose much money to find out that attending law school, or a particular type of law school, is not for them.”

The concern of Dean Gliaudys can be addressed in the format of the disclosure required by the Committee and does not need to be included in the rule. While Dean Clancey may have a point with regard to expanding the requirement to other schools regulated by the Committee, that is not part of this proposal. Dean Clancey’s other comments were considered.

RULE AMENDMENTS

Rule 4.241(A) of the *Unaccredited Law School Rules*.

BOARD BOOK IMPACT

None.

BOARD COMMITTEE RECOMMENDATIONS

If the Admissions and Education Committee agrees with the Committee’s recommendation to approve the proposed amendment of Rule 4.241(A) of the *Unaccredited Law School Rules*, which will require all unaccredited law schools to provide attrition rates in their respective Student Disclosure Statements, it should recommend that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approves that the proposed amendment of Rule 4.241(A) of the *Unaccredited Law School Rules*, which will require unaccredited law schools to provide attrition rates in their disclosure statements, be adopted:

(10) In the format required by the Committee, the attrition rates of students who are enrolled in the school and do not matriculate into subsequent years of law study. This information must be provided for the past five years or since the establishment of the law school, whichever time is shorter.