

OPEN SESSION AGENDA ITEM

NOV142 – NOVEMBER 2017

DATE: October 27, 2017

TO: Members, Finance and Planning Committee
Members, Board of Trustees

FROM: Andrew Conover, Office of Research & Institutional Accountability

SUBJECT: Proposed Adjustments to Law School Fees

EXECUTIVE SUMMARY

Based on staff research documented in a series of reports to the Committee of Bar Examiners (Committee) this year, staff has estimated a shortfall of \$279,000 between revenues and expenses for the Law School Regulation program. Rather than attempt to close the gap completely – which would result in fees that would be unmanageable for some of the smallest schools – staff recommended raising the inspection fees 20 percent and the annual reporting fees 25 percent for *all* law schools under their jurisdiction. In addition, changes were also recommended to transition to an annual installment schedule for the California Accredited Law Schools (CALS), as opposed to the current process which involves a sizeable fee paid once every five years. After returning from public comment¹ and considering two differing billing models, and the Committee now recommends the fee increases above and continued use of the true-up billing method for the CALS inspections.

BACKGROUND

The State Bar's law school regulation process is comprised of these primary components:

- Processing of applications for the registration of new law schools or the accreditation of unaccredited law schools
- Annual compliance reporting of accredited and unaccredited law schools
- Inspecting schools every five years to confirm the operational compliance of accredited and unaccredited law schools
- Enforcing compliance through issuance of Notices of Noncompliance, subsequent inspections and, if needed, Committee hearing and action
- Reviewing and recommending Committee action regarding requests for variances, waivers of requirements and major changes by accredited and unaccredited law schools
- Drafting recommended changes to Committee's accreditation or registration standards;
- Assisting the Committee in the adoption of all such changes

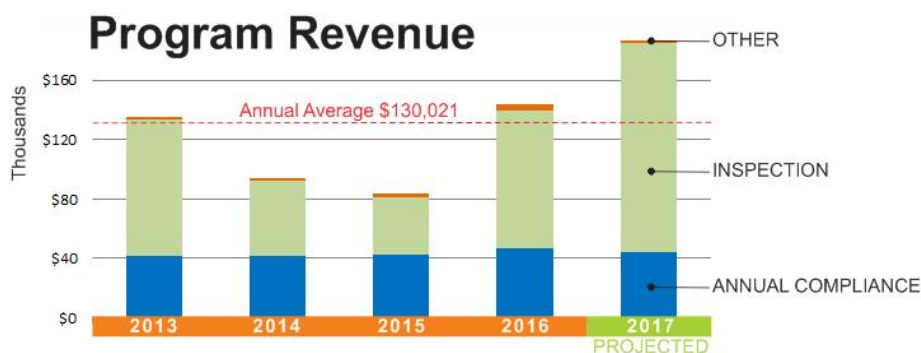
¹ A single anonymous voice mail was received.

The Committee currently regulates 39 schools – 15 that it accredits, referred to as CALS, and 21² that it registers to offer legal education in California³. The current law school regulation fees established by the Committee vary by type (accredited or unaccredited) and student enrollment, but can largely be lumped into two main recurring categories: compliance and inspection. Compliance fees are paid annually in November, whereas the periodic inspection fees are paid every five years, based on the inspection schedule. There is a distinction between the unaccredited schools and the CALS in terms of the payment structure for inspection fees: unaccredited schools are charged a flat rate based on their student enrollment size, while the CALS are billed a fee at an hourly rate based on the total staff resources expended during the inspection and subsequent report drafting. Both the CALS and the unaccredited law schools pay for travel-related and meal expenses incurred during an inspection.

DISCUSSION

Structural Deficit

Revenue received from the law school regulation program over the last five years averages \$130,021 per year. The table below summarizes the year-to-year fluctuations. Changes in revenue from year to year are driven largely by differences in inspection schedules.



The current cost to operate this program is \$409,077⁴ per year, reflecting an annual structural deficit of \$279,056. (Detailed cost information is provided as Attachment A.)

Comparative Accreditation Processes

In addition to analyzing program revenue and costs, staff reviewed the processes and fees assessed by other accrediting bodies, specifically the American Bar Association's (ABA) and the Western Association of Schools and Colleges Senior Colleges and University Commission (WASC). This study focused on the ongoing annual or cyclical fees assessed once the initial school application process has been completed.

² Pinnacles School of Law is closing effective 12/31/17.

³ The American Bar Association has approved 21 other programs that are deemed accredited law schools for California students seeking admission to practice law in California.

⁴ Future operating costs are expected to be affected by changes in staff and application of new information systems.

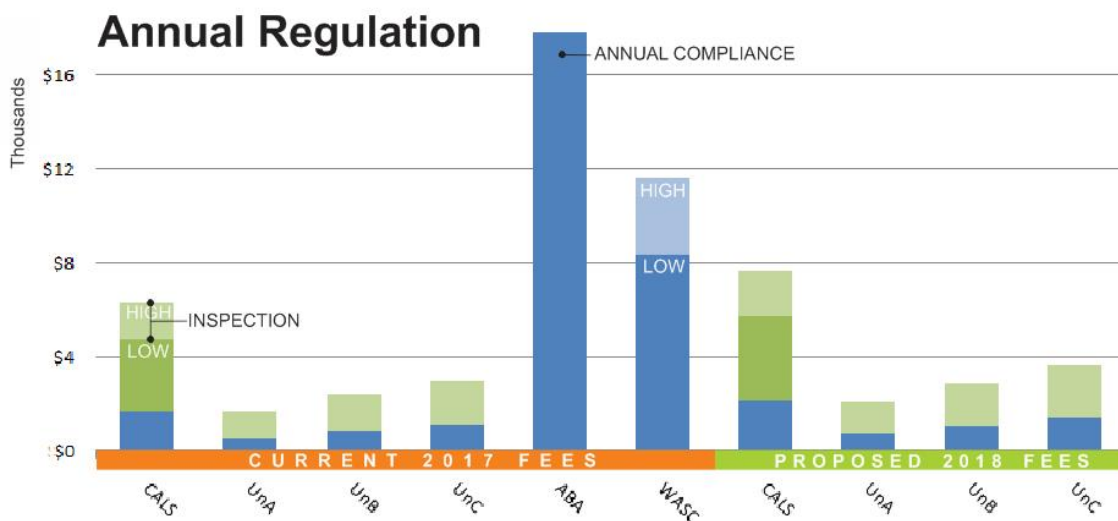
With respect to the ABA, which assesses a flat annual fee to all schools it approves, staff converted the existing fee structure to a comparable annual rate. This fee was then compared to the ABA fees for comparably sized schools.⁵ The results of that analysis reflect the following:

- State Bar Average Annualized Law School Regulation Cost: \$1,735-\$6,319
- ABA Annual Law School Regulation Cost: \$17,818⁶

The WASC Senior Colleges and University Commission typically inspect much larger educational institutions than does the State Bar, such as public and private universities, and have much longer accreditation periods (up to 10 years). CBE's Subcommittee on Educational Standards considered a detailed staff report on WASC accreditation at their recent October meeting. This [report](#) notes that WASC accredits institutions (governance, finances, operational policies, faculty, etc.) and not individual programs. The report concludes that obtaining WASC accreditation is very a lengthy and labor intensive process, and also very expensive given the expenditures required initially by the application process and annually once accreditation is granted:

- State Bar Average Annualized Law School Regulation Cost: \$1,735-\$6,319
- WASC Annual School Regulation Cost: \$8,340-\$11,575

Detailed information reflecting the individual school fees and corresponding estimated ABA and WASC fees by school is provided in Attachment B.



The above analysis demonstrates that State Bar fees are substantially lower than those of other accrediting bodies. Increasing California State Bar Law School Regulations costs from the annualized maximum of \$6,319 to the ABA cost would represent over a 170 percent increase in costs. Even taking the same maximum California State Bar cost and increasing it to the WASC level would represent an 85 percent increase over current fee levels.

To avoid imposing an unmanageable cost on the smallest law schools, staff recommend fee increases of 20 percent (inspection) and 25 percent (annual reporting) designed to help reduce

⁵ Virtually all ABA law schools operate from a single campus, unlike some CALS who operate branch or satellite campuses which require significantly more effort for periodic inspections.

⁶ Amount shown is for the smallest ABA enrollment category.

but not eliminate⁷ the funding shortfall, are recommended at this time. The proposed new fee schedules are provided as Attachment C.

Payment Scheduling

In addition to increasing accreditation fees, staff recommends modifying the inspection fee payment structure such that both the periodic inspection and annual reporting fees are paid on a flat annual installment basis for the CALS. Including a portion of the cost of site visits along with schools' annual reporting fees could be beneficial to both the schools and the State Bar for planning and budgeting purposes. Planning for known set fees would eliminate the peaks and valleys of payments for the schools, as they would be paying a portion of the site inspection fees each year in advance, regardless of which year their next inspection is scheduled.

The proposed CALS inspection fee of \$22,200 was derived from a review of the fees charged over the last five-year CALS inspection cycle (historic CALS average of \$18,500 plus the 20 percent proposed increase). Under the staff recommendation, all fee adjustments would become effective January 1, 2018. The increased Annual Compliance Report fees and 1/5 of the next periodic inspection would be reflected in the November 2018 billing.

Staff presented an option for the Committee to consider adopting a flat-fee fee model for inspections (prorated equally over a 5-year inspection cycle) in addition to the current "true-up" billing method, which they choose to continue using. The amount CALS will pay each year is the same pre-payment of the *set* inspection fee; but the final cost would be determined by the *actual* number of hours expended during the visit and report-writing process (using the new proposed hourly rate of \$275 per hour). The bill would reflect a credit for all annual installment fees that had been paid at the time of invoicing.

Although the flat-fee payment model was deemed the *simplest* to administer for both the schools and the State Bar, there was the concern that the adopted fee may be too low as compared to the investment needed to regulate some CALS, and too high as compared to the investment needed for others. In effect, the smaller schools could end up subsidizing their larger peers. Staff recommends that actual regulation costs should be assessed every five years to determine if any adjustments were needed to align the fees with the actual regulation operating costs.

FISCAL/PERSONNEL IMPACT

Based on both the increased rates recommended and the partial pre-payment of future-years' inspections, a revenue increase of \$92,170 to the Admissions Fund could be realized in FY2018.

RULE AMENDMENTS

Revisions to Appendix A: Schedule of Charges and Deadlines, Title 4, Divisions 1 and 2.

⁷ At current program costs, fee increases averaging 315% for all would be required to completely eliminate this gap.

BOARD BOOK IMPACT

None.

STRATEGIC PLAN GOALS & OBJECTIVES 2017-2022

Goal: 2. Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.

Objective: Provide adequate resources to regulate California's non-ABA accredited law schools to provide broad access to legal education for California students.

RECOMMENDATION

The Finance and Planning Committee recommends that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approve annual compliance reporting fees for all CALS and registered Unaccredited Law Schools be increased 25% from existing amounts; and it is

FURTHER RESOLVED, that site inspection fees for registered Unaccredited Law Schools be increased 20% over the existing tiered rates; and it is

FURTHER RESOLVED, that the hourly rate for CALS site inspections be increased 20% and paid in advance via five equal annual installments of \$4,440; and it is

FURTHER RESOLVED, that the full amount of any installment payments made in advance of the final reports delivered to the Committee be credited against the total amount due for the inspection cycle itself; and it is

FURTHER RESOLVED, that new fees listed above be effective January 1, 2018.

ATTACHMENT(S) LIST

- A.** Internal Costing Summary
- B.** Law School Fee Comparisons
- C.** Law School Fee Schedule (redline)

ATTACHMENT A

Internal Resources Cost Summary

Law School Regulation

	2013	2014	2015	2016	2017*	5-Yr AVG
Annual Reporting Fees	\$ 42,000	\$ 42,000	\$ 42,855	\$ 46,910	\$ 43,985	\$ 43,550
School Visitation Cal Accredited	\$ 54,265	\$ 3,578	\$ 17,548	\$ 56,000	\$ 114,518	\$ 49,182
School Visitation Unaccredited	\$ 37,169	\$ 47,004	\$ 21,180	\$ 36,750	\$ 32,345	\$ 34,890
Waivers / Major Changes/Other	\$ 1,922	\$ 1,922	\$ 1,922	\$ 4,232	\$ 2,000	\$ 2,400
<i>Total Revenue</i>	\$ 135,355	\$ 94,504	\$ 83,505	\$ 143,892	\$ 192,848	\$ 130,021
External Consultant Expense	\$ 13,619	\$ 22,611	\$ 9,841	\$ 13,150	\$ 30,000	\$ 17,844

FTE 1: <i>name</i>	David Knight	Current Program Operating Expense	
Job Title	Sr. Admin Asst	Program Labor	\$ 247,875
% of time spent on task:	90%	Benefits	\$ 88,194
FTE 2: <i>name (supervisor)</i>	George Leal	Overhead	\$ 53,915
Job Title	Dir Educational Standards	Other	\$ 19,094
% of time spent on task:	100%	Annual Resource Cost	\$ 409,077
FTE 3: <i>name (senior mgt)</i>	Gayle Murphy	As of June 2017	
Job Title	Senior Director Admissions		
% of time spent on task:	15%		
External consultant	\$ 17,844	Future Projections	
Travel expense	\$ 1,250	Annual Revenue	\$ 130,021
Printing, mailing, supply expense	\$ -	Annual Expense	\$ 409,077
Other expense (travel for visitation billed to school)		Total Program NET	\$ (279,056)

*2017 estimated using previous cycle

ATTACHMENT B

Law School Fee Comparisons

Current Rates					Inspections (pre 2017)		Reporting	Comparisons				
#	School Name	Type	Enroll	Fee Cat	Last Inspection	Last Date	Annual Report	Annualized Cost	Annual / student	ABA Annual Equivalent	WASC Annual**	DEAC Annual***
1	Cal Northern School of Law	CALS	37	n/a	\$15,000.00	2012	\$ 1,735.00	\$ 4,735.00	\$ 127.97	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
2	San Francisco/San Diego Law School	CALS	54	n/a	\$18,409.50	2011	\$ 1,735.00	\$ 5,416.90	\$ 100.31	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
3	Southern California Institute of Law	CALS	58	n/a	\$22,924.50	2010	\$ 1,735.00	\$ 6,319.90	\$ 108.96	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
4	Lincoln Law School of San Jose	CALS	66	n/a	\$17,295.00	2013	\$ 1,735.00	\$ 5,194.00	\$ 78.70	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
5	Empire College School of Law	CALS	78	n/a	\$17,206.00	2011	\$ 1,735.00	\$ 5,176.20	\$ 66.36	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
6	Humphreys University Drivon SOL	CALS	79	n/a	\$17,229.61	2013	\$ 1,735.00	\$ 5,180.92	\$ 65.58	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
7	John F. Kennedy University COL	CALS	89	n/a	\$20,584.25	2012	\$ 1,735.00	\$ 5,851.85	\$ 65.75	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
8	Glendale University College of Law	CALS	96	n/a	\$18,100.00	2011	\$ 1,735.00	\$ 5,355.00	\$ 55.78	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
9	Monterey/San Luis Obispo College of Law	CALS	111	n/a	\$17,785.50	2012	\$ 1,735.00	\$ 5,292.10	\$ 47.68	\$ 17,818.00	\$ 11,575.00	\$1,000-\$5,000
10	Pacific Coast University School of Law	CALS	154	n/a	\$19,212.24	2016	\$ 1,735.00	\$ 5,577.45	\$ 36.22	\$ 17,818.00	\$ 11,575.00	\$1,000-\$5,000
11	San Joaquin College of Law	CALS	163	n/a	\$19,395.00	2016	\$ 1,735.00	\$ 5,614.00	\$ 34.44	\$ 17,818.00	\$ 11,575.00	\$1,000-\$5,000
12	Santa Barbara/Ventura Colleges of Law	CALS	178	n/a	\$19,740.00	2013	\$ 1,735.00	\$ 5,683.00	\$ 31.93	\$ 17,818.00	\$ 11,575.00	\$1,000-\$5,000
13	Trinity Law School	CALS	179	n/a	\$16,775.00	2015	\$ 1,735.00	\$ 5,090.00	\$ 28.44	\$ 17,818.00	\$ 11,575.00	\$1,000-\$5,000
14	University of West Los Angeles LAX/SFV	CALS	208	n/a	\$20,521.65	2016	\$ 1,735.00	\$ 5,839.33	\$ 28.07	\$ 17,818.00	\$ 11,575.00	\$1,000-\$5,000
15	Lincoln Law School of Sacramento	CALS	225	n/a	\$17,569.60	2012	\$ 1,735.00	\$ 5,248.92	\$ 23.33	\$ 17,818.00	\$ 11,575.00	\$1,000-\$5,000
1	McMillan Academy of Law	UnAcc	0	A	\$5,775.00	2013	\$ 580.00	\$ 1,735.00	n/a	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
2	Pinnacles School of Law*	UnAcc	6	A	\$5,775.00	2014	\$ 580.00	\$ 1,735.00	\$ 289.17	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
3	Pacific West College of Law	UnAcc	7	A	\$5,775.00	2016	\$ 580.00	\$ 1,735.00	\$ 247.86	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
4	Central California University College of Law	UnAcc	9	A	\$5,775.00	2014	\$ 580.00	\$ 1,735.00	\$ 192.78	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
5	Lady Justice Law School (new)	UnAcc	10	A	\$5,775.00	N/A	\$ 580.00	\$ 1,735.00	\$ 173.50	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
6	American International School of Law	UnAcc	28	B	\$7,510.00	2016	\$ 870.00	\$ 2,372.00	\$ 84.71	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
7	American Heritage School of Law	UnAcc	30	B	\$7,510.00	2013	\$ 870.00	\$ 2,372.00	\$ 79.07	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
8	Western Sierra Law School	UnAcc	35	B	\$7,510.00	2016	\$ 870.00	\$ 2,372.00	\$ 67.77	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
9	Peoples College of Law	UnAcc	36	B	\$7,510.00	2014	\$ 870.00	\$ 2,372.00	\$ 65.89	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
10	California Desert Trial Academy COL	UnAcc	37	B	\$7,510.00	2014	\$ 870.00	\$ 2,372.00	\$ 64.11	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
11	Oak Brook College of Law and Government Policy	UnAcc	37	B	\$7,510.00	2014	\$ 870.00	\$ 2,372.00	\$ 64.11	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
12	St. Francis School of Law	UnAcc	39	B	\$7,510.00	2016	\$ 870.00	\$ 2,372.00	\$ 60.82	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
13	California School of Law	UnAcc	47	B	\$7,510.00	2015	\$ 870.00	\$ 2,372.00	\$ 50.47	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
14	American Institute (new)	UnAcc	49	B	\$7,510.00	N/A	\$ 870.00	\$ 2,372.00	\$ 48.41	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
15	California Southern University School of Law	UnAcc	52	B	\$7,510.00	2015	\$ 870.00	\$ 2,372.00	\$ 45.62	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
16	California Southern Law School	UnAcc	58	B	\$7,510.00	2014	\$ 870.00	\$ 2,372.00	\$ 40.90	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
17	Irvine University College of Law	UnAcc	62	B	\$7,510.00	2011	\$ 870.00	\$ 2,372.00	\$ 38.26	\$ 17,818.00	\$ 8,340.00	\$1,000-\$5,000
18	Abraham Lincoln University School of Law	UnAcc	144	B	\$7,510.00	2015	\$ 870.00	\$ 2,372.00	\$ 16.47	\$ 17,818.00	\$ 11,575.00	\$1,000-\$5,000
19	Taft Law School	UnAcc	273	C	\$9,240.00	2014	\$ 1,155.00	\$ 3,003.00	\$ 11.00	\$ 17,818.00	\$ 11,575.00	\$1,000-\$5,000
20	Concord Law School at Kaplan University	UnAcc	394	C	\$9,240.00	2014	\$ 1,155.00	\$ 3,003.00	\$ 7.62	\$ 17,818.00	\$ 11,575.00	\$1,000-\$5,000
21	Northwestern California University School of Law	UnAcc	480	C	\$9,240.00	2013	\$ 1,155.00	\$ 3,003.00	\$ 6.26	\$ 17,818.00	\$ 11,575.00	\$1,000-\$5,000

* closing 12/31/17

** includes one-half of 10-year visit fee ***no visits for program

CALS Average: \$ 5,438.30

Unaccredited Average: \$ 2,310.48

ATTACHMENT C

TITLE 4, DIVISION 2

ACCREDITED LAW SCHOOL FEES

Fees previously adopted by the Board of Trustees or mandated by statute.

Amended effective ~~January~~ **March 11, 2018**.

Rule	Description	Amount	Deadline
4.108(A)	Public Record copying fee, per page	\$5.00 first page; \$1.00 each additional page	Not applicable
4.110(A) & (B)	Fees for services	\$275.30/hour Total cost: Time and Expenses	Not applicable
4.110(C)	Travel Expenses (per State Bar Travel Reimbursement policy)	Actual Cost	Not applicable
4.121(A)	Application for Provisional Accreditation Fee	Deposit: \$750.00 Total cost: Time and Expenses	Not applicable
4.121(D)	Provisional Accreditation Inspection and Report Fee (plus expenses per Rule 4.110(C))	Deposit: \$5,000.00 Total cost: Time and Expenses	Not applicable
4.141(A)	Application for Accreditation fee	Deposit: \$750.00 Total cost: Time and Expenses	Not applicable
4.141(D)	Accreditation Inspection and Report fee (plus expenses per Rule 4.110(C))	Deposit: \$5,000.00 Total cost: Time and Expenses	Not applicable
4.161	Annual Compliance Report Fee and Deadline	\$2,1701,735.00	November 15
4.161	Late Filing of Annual Compliance Report Fee	\$350.00	Not applicable
4.161(A)	Annual Branch Campus Fee	\$1,000.00	November 15
4.161(A)	Annual Satellite Campus Fee	\$800.00	November 15
4.162	Periodic or Other Inspections (plus expenses per Rule 4.110(C))	Total cost: Time and Expenses Annual prepayment : \$4,400	Not applicable
4.163	Self-Study fee	Deposit: \$500.00 Total cost: Time and Expenses	Not applicable
4.164	Application for Major Change fee	Deposit: \$250.00 Total cost: Time and Expenses	Not applicable
4.164	Major Change Inspection and Report fee (plus expenses per Rule 4.110(C))	Deposit: \$2,000.00 Total cost: Time and Expenses	Not applicable
4.170(B)	Response to Notice of Noncompliance fee	Deposit: \$800.00 Total cost: Time and Expenses	Not applicable
4.170(B)(2)	Site Inspection Regarding Notice of Noncompliance fee (plus expenses per Rule 4.110(C))	Deposit: \$2,000.00 Total cost: Time and Expenses	Not applicable

ATTACHMENT C

TITLE 4, DIVISION 3

UNACCREDITED LAW SCHOOL FEES

EFFECTIVE JANUARY 1, 2016

Fees previously adopted by the Board of Trustees or mandated by statute.

Amended effective January 1, 2018.

Approved by the Board of Trustees November 6, 2014

Rule	Description	Amount	Deadline
4.209(B)	Services of Senior Executive or consultant	\$ 27530 .00/hour	Not applicable
4.209(C)	Travel Expenses (per State Bar Travel Reimbursement policy)	Actual cost	Not applicable
4.221(A)	Application for Registration	\$2,310.00	Not applicable
4.221(B)	Inspection for Application for Registration	\$5,775.00	Not applicable
4.241(D)	Deadline for Disclosure Statement Certification and copy of Disclosure Statement	Not applicable	November 15
4.242	Annual Compliance Report	Not applicable	November 15
4.242	Category A law school fee	\$ 725580 .00	Not applicable
4.242	Category B law school fee	\$ 1,090870 .00	Not applicable
4.242	Category C law school fee	\$ 1,445455 .00	Not applicable
4.242	Late Filing of Annual Compliance Report	\$350.00	Not applicable
4.243	Self-Study (if separate from inspection)	\$ 27530 .00/hour	Not applicable
4.244(B)	Inspection Category A law school fee	\$ 6,9255,775 .00	Not applicable
4.244(B)	Inspection Category B law school fee	\$ 9,0007,510 .00	Not applicable
4.244(B)	Inspection Category C law school fee	\$ 11,0009,240 .00	Not applicable
4.245	Request for approval of Major Change	\$ 27530 .00/hour	Not applicable
4.261	Response to Notice of Noncompliance	\$924.00	Not applicable