

# AGENDA ITEM

**135 NOVEMBER 2017**

**DATE:** October 24, 2017

**TO:** Members, Board Committee on Programs  
Members, Board of Trustees

**FROM:** Erika Hiramatsu, Chair, Committee of Bar Examiners  
Gayle Murphy, Director III, Admissions

**SUBJECT:** Proposed Amendments to Law School Regulation Rules re 6 Units of Competency Training – Return from Public Comment

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## EXECUTIVE SUMMARY

During its November 2016 meeting, the Board of Trustees (Board) asked that the Committee of Bar Examiners (CBE) consider amending the law school regulation rules for the schools for which the CBE has oversight to require 6 units of competency training as a curriculum requirement.

The CBE approved in principle a proposed new Rule 4.160(F) (Competency Training) of the *Accredited Law School Rules* and the proposed new Rule 4.240(F) (Competency Training) of the *Unaccredited Law School Rules*, subject to a 45-day public comment period and final approval by the Board. The proposed new rules were circulated for public comment, which ended on September 5, 2017, and no public comments were received. During its October 2017 meeting, the CBE adopted the rules, subject to the Board of Trustees' approval.

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## BACKGROUND

During its meeting in November 2016, the Board of Trustees took the following action relative to requiring students attending California accredited and unaccredited law schools to complete six units of competency training:

RESOLVED, that the Board of Trustees recommends that the Committee of Bar Examiners consider adopting rules requiring a minimum of 6 units of competency training as part of the curricula of the law schools it regulates, which rules will be subject to the approval of the Board of Trustees;

During its April 2017 meeting, the Committee of Bar Examiners (CBE) agreed that the regulations should be changed so that students attending such schools be required to complete six units of competency training. Two new proposed rules were drafted:

1. Proposed new “Rule 4.160(F) (Competency Training)” of the *Accredited Law School Rules* as proposed by staff (Attachment A); and
2. Proposed new “Rule 4.240(F) (Competency Training)” of the *Unaccredited Law School Rules* (Unaccredited Rules) (Attachment B).

The language of each proposed rule, similar to a requirement at all ABA-approved law schools, would require that students attending either type of law school complete a minimum of six units in courses designed to teach practical skills and competency before earning their J.D. degrees. This requirement would act as an accreditation standard for the CALS and a registration standard for the unaccredited law schools.

In response to the Committee’s request to circulate the new rules for public comment, the Board authorized a public comment period, which ended on September 5, 2017. No public comments were received.

## **DISCUSSION**

While it may be more of a challenge for the unaccredited law schools to provide the necessary units, the *Guidelines for Accredited Law School Rules* were recently amended by the CBE, after a period of public comment, to require law schools accredited by the CBE to provide the opportunity for students in their J.D. programs to complete a minimum of fifteen (15) units of practice based skills and competency training.

At its October 2017 meeting, the Committee took the following action:

It was moved, seconded and duly carried that the proposed new Rule 4.160(F) (Competency Training) of the *Accredited Law School Rules* and the proposed new Rule 4.240(F) (Competency Training) of the *Unaccredited Law School Rules* in the form attached hereto, be adopted, subject to the approval of the Board of Trustees, and that the new rules become effective with those students enrolled in their first year of law study on or after January 1, 2018.

## **FISCAL/PERSONNEL IMPACT**

None

## **RULE AMENDMENTS**

Rule 4.160 of the *Accredited Law School Rules*  
Rule 4.240 of the *Unaccredited Law School Rules*

## **BOARD BOOK IMPACT**

None

## **BOARD GOALS & OBJECTIVES**

N/A

## **BOARD COMMITTEE/BOARD RECOMMENDATIONS**

If the Board Committee agrees with CBE's recommendation that the new rules be approved, it is recommended that the Board approve the following resolution:

**RESOLVED**, that following a period of public comment, the Board of Trustees approves proposed new "Rule 4.160(F) (Competency Training)" of the *Accredited Law School Rules* and the proposed new "Rule 4.240(F) (Competency Training)" of the *Unaccredited Law School Rules* in the form attached hereto, effective with those students enrolled in their first year of law study on or after January 1, 2018.

## **ATTACHMENT(S) LIST**

- A: Proposed new "Rule 4.160(F) (Competency Training)" of the *Accredited Law School Rules*
- B: Proposed new "Rule 4.240(F) (Competency Training)" of the *Unaccredited Law School Rules*

## Rule 4.160 Standards

A provisionally accredited law school must substantially comply with these standards. An accredited law school must comply with them.

- (A) Lawful Operation. The law school must operate in compliance with all applicable federal, state, and local laws and regulations.
- (B) Integrity. The law school must demonstrate integrity in all of its programs, operations, and other affairs.
- (C) Governance. The law school must be governed, organized, and administered so as to provide a sound educational program.
- (D) Dean and Faculty. The law school must have at each campus, including any approved branch campus, a competent dean, a qualified administrator, an adequate administrative staff and a competent faculty that devote adequate time to administration, instruction and student counseling.
- (E) Educational Program. The law school must maintain a sound program of legal education.
- (F) Competency Training. The law school must require that each student enrolled in its Juris Doctor Degree program satisfactorily complete a minimum of six semester units (or their equivalent) of course work designed to teach practice-based skills and competency training. Such competency training must teach and develop those skills needed by a licensed attorney to practice law in an ethical and competent manner.
- ~~(E)~~
- ~~(F)~~(G) Scholastic Standards. The law school must maintain sound scholastic standards and must as soon as possible identify and disqualify those students who lack the capability to satisfactorily complete the law school's J.D. degree program.
- ~~(G)~~(H) Admissions. The law school must maintain a sound admissions policy. The law school must not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the degree program.
- ~~(H)~~(I) Multiple locations. Accreditation is granted to a law school as an institution. If a law school receives approval to open a branch campus or a satellite campus, the branch or satellite campus must be operated in compliance with the Standards and Guidelines, subject to all site specific operational requirements and any waivers approved by the Committee. The new campus must be in substantial

compliance with the Standards and all operational requirements no less than one month prior to the start of classes, and in full compliance within two years. The Dean of the law school will certify the substantial compliance of each new branch or satellite campus, by a letter to the Committee, no later than 30 days prior to the start of classes. If a law school conducts seminars or classes other than at its principal facility, satellite or branch campuses, the seminars and classes must be conducted in compliance with the Standards, except the Library Standard.

- | ~~(H)~~(J) Library. The law school must maintain a library consistent with the minimum requirements set by the Committee.
- | ~~(J)~~(K) Physical Resources. The law school must have physical resources and an infrastructure adequate for its programs and operations offered at each campus.
- | ~~(K)~~(L) Financial Resources. The law school must have adequate present and anticipated financial resources to support its programs and operations.
- | ~~(L)~~(M) Records. The law school must maintain adequate records of its programs and operations.
- | ~~(M)~~(N) Minimum, Cumulative Bar Pass Rate. The law school must maintain a minimum, cumulative bar examination pass rate as determined and used by the Committee in the evaluation of the qualitative soundness of a law school's program of legal education. The minimum, cumulative bar examination pass rate for a law school with one or more branch campus is to be calculated and reported as the combined rate of all such campuses.
- | ~~(N)~~(O) Consistent with sound educational policy and these rules, a law school must operate in accordance with policies and procedures that comply with the Constitutions and all applicable laws of both the United States and the State of California so as to provide both equality of opportunity and to prohibit unlawful discrimination.
- | ~~(O)~~(P) Compliance with Committee requirements. The law school must demonstrate its compliance with these rules by submitting required reports and otherwise complying with the rules.

*Rule 4.160 adopted effective January 1, 2009; amended effective January 1, 2013; amended effective May 10, 2013; amended effective March 13, 2015; amended effective November 18, 2016.*

## Rule 4.240 Standards

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

- (A) Lawful Operation. The law school must operate in compliance with all applicable federal, state, and local laws and regulations.
- (B) Integrity. The law school must demonstrate integrity in all of its programs, operations, and other affairs.
- (C) Governance. The law school must be governed, organized, and administered so as to provide a sound educational program.
- (D) Dean and Faculty. The law school must have a competent dean or other administrative head and a competent faculty that devotes adequate time to administration, instruction, and student counseling.
- (E) Educational Program. The law school must maintain a sound program of legal education.
- (F) Competency Training. The law school must require that each student enrolled in its Juris Doctor Degree program satisfactorily complete a minimum of six semester units (or their equivalent) of course work designed to teach practice-based skills and competency training. Such competency training must teach and develop those skills needed by a licensed attorney to practice law in an ethical and competent manner.
- ~~(E)~~
- ~~(F)~~(G) Scholastic Standards. The law school must maintain sound scholastic standards and must as soon as possible identify and exclude those students who have demonstrated they are not qualified to continue.
- ~~(G)~~(H) Admissions. The law school must maintain a sound admissions policy. The law school must not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the degree program.
- ~~(H)~~(I) Library. The law school must maintain a library consistent with the minimum requirements set by the Committee.
- ~~(I)~~(J) Physical Resources. The law school must have physical resources and an infrastructure adequate for its programs and operations. The law school must, at a minimum, maintain its primary administrative office in the State of California.

- | ~~(J)~~(K) Financial Resources. The law school must have adequate present and anticipated financial resources to support its programs and operations.
- | ~~(K)~~(L) Records and Reports. The law school must maintain adequate records of its programs and operations.
- | ~~(L)~~(M) Equal Opportunity and Non-Discrimination. Consistent with sound educational policy and these rules, the law school should demonstrate a commitment to providing equal opportunity to study law and in the hiring, retention and promotion of faculty without regard to sex, race, color, ancestry, religious creed, national origin, disability, medical condition, age, marital status, political affiliation, sexual orientation, or veteran status.
- | ~~(M)~~(N) Compliance with Committee requirements. The law school must demonstrate its compliance with these rules by submitting the required annual reports and otherwise complying with the rules.

*Rule 4.240 adopted effective January 1, 2008.*