



CALS
Association of California
Accredited Law Schools

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RE: Possible Discontinuation of Ed Standards Subcommittee

Dear CBE Executive Staff and Committee Members,

At the recent Committee of Bar Examiners (Committee) meeting a proposal was discussed to reorganize the Committee in a manner that would discontinue the use of subcommittees, in particular the Subcommittee on Education Standards (Ed Standards). The discussion was not in response to the functions or effectiveness of Ed Standards, but in response to the challenges presented by the recent application of the Bagley-Keene requirements to the Committee and its subcommittees as a whole.

Although there appear to be compelling reasons to make these changes to address serious concerns about the effect of Bagley-Keene on the timely and effective decision-making related to bar exam testing accommodations and moral character determinations, the California Accredited Law Schools (CALS) suggest that the same considerations do not apply to Ed Standards and the critical role that it plays in the regulation and accreditation of law schools.

As such, the CALS encourage the Committee not to discontinue Ed Standards and to allow it to continue to operate as a subcommittee subject to appropriate Bagley-Keene guidelines.

There are important and specific reasons for this request. The process of rulemaking, particularly in the complex and challenging arena of law school regulation and accreditation, requires significant input and considerable dialogue between the regulated institutions (law schools), the public, the Committee . . . and periodically, the Board of Trustees, the Court, and the Legislature. The current Rules and Guidelines for Accredited and Registered law schools reflect the input and interests of these important constituencies over many years. As observed in the recent amendments to the Rules and Guidelines, significant changes frequently take years to complete and require thoughtful negotiations and careful drafting. Ed Standards plays a critical and extremely valuable role in this process.

Perhaps the following discussion will help explain why.

Proposed amendments to the Rules and Guidelines (for Accredited and Regulated law schools) originate from many quarters - the schools, the Committee, Committee staff, the Board of Trustees, the bench and bar, the public, the legislature, the Courts, and other interested parties. In recent years, depending on the scope of proposed changes, they either have been assigned to a working group or to the Rules Advisory Committee (RAC) for comprehensive review, discussion, drafting, and recommendations.

Working groups have generally represented a broad range of constituencies and have usually been convened for omnibus-style broad redrafting of the rules and guidelines. The RAC has generally been the venue for amendments to specific rules and guidelines and the second-step for proposals from working groups.

The RAC is composed of three deans and three representatives of the Committee and is supported by senior staff from the educational standards department and admissions. It provides a public venue for comment from Committee members, staff, other deans, and interested parties. As such, similar to working groups, it has also proven to be an effective venue for working out the detailed language of proposed rules and regulations.

From the RAC, recommendations go to Ed Standards. The CBE appointees to Ed Standards have historically represented Committee members who are interested and well versed in the intricacies of the Rules and Guidelines, particularly as they intersect with the goals, objectives, and policy considerations of the Committee and the State Bar. Whereas the RAC focuses on the technical drafting of proposed rules and regulations, the essential role of Ed Standards is to discuss the policy implications of proposals. It is not unusual for these subcommittee discussions to identify and focus on policy issues that result in proposals being returned to the RAC for additional consideration. This is the essential stage of collaborative rule making that would be lost without the Ed Standards subcommittee.

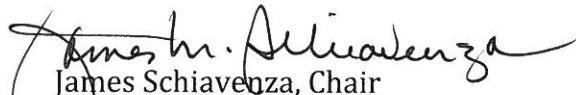
The practical reality is that the 19-member Committee, with its broad responsibilities, extensive agendas, and limited meeting time would not have the opportunity to provide the same level of focus, expertise, and interaction on regulatory and accreditation issues as the Ed Standards subcommittee.

A preliminary review of the Bagley-Keene requirements does not appear to create any of the type of problems for Ed Standards that have generated concerns for the subcommittees responsible for timely determination of testing accommodation and moral character applications and appeals.

Therefore, we respectfully request that the Committee allow the Ed Standards subcommittee to remain intact and to continue its critical and important role in the regulation and accreditation of law schools.

This communication is sent acknowledging that Lincoln Law School of San Jose objects to the position taken in this letter. It is further acknowledged that the Southern California Institute of Law has not taken part in the discussion or decision supporting the content of this letter.

Sincerely,



James M. Schiavenza, Chair
Association of California Accredited Law Schools