

Comparison Between the Original CSBARS Rules Proposal and Updated Rules Proposal to Replace the Accredited Law School Rules

Rule Number	CSBARS	CSBARS Reasoning	Updated Rules Proposal	Updated Proposal Reasoning
4.101  Citation to Rules		CSBARS seeks an option to condense the citation language so as to cite the law school’s accreditor properly when using social media and the full language can be linked to but not directly included.	Adds information about how to cite to the rules, consolidated from previous locations.	While the full text for citation is included in the rule, the Committee should explore guidance or policy for use in social media in a guideline due to accommodate technological change.
4.147 Core Rules (Renumbered from 4.102)	Deemed Accredited status		CBE adds core rules of 4.160(C) (diversity, equity and inclusion policies and practices) and 4.160(B) (student success).	CBE adds the new diversity, equity and inclusion provisions a priority that should be a core rule.  CBE expands the core reference to 4.160(B) to ensure that all law schools admit students who can meet the pre-legal and legal education requirements to establish eligibility to take the bar exam.
4.103 Role of Guidelines	Only rules are enforceable; guidelines offer a way to comply with the rule, but schools can propose others and argue for why their choice meets the core objective of the rule.  CSBARS would propose a process for seeking approval to implement a proposal that it	CSBARS is concerned that there will be Rules and Guidelines with alternative methods of compliance, so schools will need to track the Rules and which Guidelines create enforceable rules and which create only a presumption. The staff proposal lacks a process to get approval for school choices that they feel comply with the rules, but do not comply with the guidelines.	Committee retains the option to determine whether to require a specific interpretation, or a rebuttable presumption on a case by case basis.	State Bar policy authorizes sub-entities to create enforceable guidelines, after taking comment from CSBARS and the public.  Some guidelines will be intentionally prescriptive, while others may set performance standards. The guidelines can call out which provisions are prescriptive and which set performance standards for which alternative methods of compliance may be shown, and methods by which that compliance may be demonstrated.  The rules maintain a waiver provision for a

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	believes complies with a rule, even if it does not comply with the Committee’s guideline interpreting the rule.			temporary variance from a rule.
4.103(B)  Safe Harbor and Implementation Timeline	Would allow a school who has filed an application under the old rules the day before the new rules go into effect to become accredited under the old rules	Would allow any school with an application filed prior to the effective date of the new rules to accredit under the prior rules, and would provide up to a five-year phase in to demonstrate compliance, allowing all schools to go through one transitional inspection cycle.	Two-year phase in period for the new rules for schools that are currently provisionally or fully accredited.	Though this was removed from the rule set, a two-year phase in period to be recommended in the agenda item rather than the rules, consistent with State Bar practice.  Since schools have been aware that this rules change has been under discussion since 2019, schools that are not accredited as of the adoption of the new rules should attain substantial or full compliance with the new rules to gain provisional or full accreditation.
4.105(M)  Combines Definition of Unaccredited Schools and Types of Unaccredited			4.105(M) combined with subsequent definitions of the types of registered, unaccredited schools.	Combine the definition of registered, unaccredited schools and the definitions of the types of registered, unaccredited schools in 4.105(M).

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Schools				
4.105(O)3  Substantial Compliance Definition		The Committee's judgment as to a school's compliance <u>should</u> be informed by the judgment of experts, peers, and members of the public.	Substantial compliance is a qualitative judgment made by the Committee, giving principal attention to the rule and its reasonable objectives. The Committee's judgment may not be arbitrarily exercised, and <u>may</u> be informed by the judgment of experts, peers, and members of the public as applicable, as to the level of compliance with each rule.	Changes the word "should" to "may" to allow Committee discretion as to whom to consult when determining compliance.  The State Bar retains the ultimate responsibility to regulate schools in line with State Bar priorities.
4.105(O)1  Standard to bypass typical noncompliance process	"fraudulent or other serious misconduct harming the education, safety, health, or financial condition of students or prospective students."	CSBARS original language at left.	"has not engaged in, and is not likely to imminently engage in, serious misconduct that could harm the education, safety, health, or financial condition of students or prospective students."	Removes fraud as a standard; adds imminent risk of engaging in misconduct to prevent imminent harm.
4.109(D)  General Waiver in Cases of Emergency		Added after CSBARS draft concluded due to evolving pandemic circumstances.	The Committee is authorized to adopt emergency policies and procedures in response to extraordinary circumstances in which compliance with the rules would create or constitute extreme hardship for multiple law schools. These policies and	New provision allows the Committee to issue general waivers during emergencies; provision on ratification no longer needed due to addition of this section  Previously, schools could request waivers, but authority was vague as to the Committee's

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			procedures will be effective upon adoption by the Committee for a term certain and limited to the duration of the extraordinary circumstance.	authority to issue sua sponte.
4.121, 4.141  Application Process Clarified for Schools Transitioning from Council approval			Accreditation process clarified to show how a school leaving Council approved status could apply directly for provisional or full accredited status, skipping the registered, unaccredited status that a new law school must first complete.	This makes current informal practice explicit.
4.170 et. seq.	A school leaving accreditation will "become an unaccredited law school."	This wording comports with current practice.	A law school whose accredited status may be terminated or has been terminated "may apply to become an unaccredited law school."	It was learned that application is necessary to ensure that the school's schedule and calendar comply with the provisions of Business and Professions Code section 6060 applicable to unaccredited law schools, so its students will meet the legal education requirements to take the bar exam. Other changes may also be necessary to comply with the registered school rules.
4.143  Scheduling of	Requires inspection within 60 days after an		Schedules an inspection within 60 days	Staff keeps current language to allow enough time to schedule, even as school breaks or holidays approach. This approach balances

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Inspection for School Seeking Accreditation	application is filed.			giving schools certainty and the State Bar flexibility
4.144  Composition of Inspection Team		Would replace may with should because it considers peer review to be an important part of the inspection process.	The inspection will be conducted by State Bar staff or designees and <u>may</u> include members of the Committee, law school representatives, or other members selected by the Committee.	Historically, the State Bar has had the authority to appoint teams at its discretion and it is recommended to retain this discretion
4.147  Jointly Accredited status and Core Rules	CSBARS definition of core rules would not include the diversity, equity and inclusion section, and would exclude certain provisions of 4.160 (B) Academic Success related to staffing levels, faculty evaluations, and transfer credits.	<p>4.147(C)(1) on the core standards that apply to jointly accredited schools is now so inclusive as to potentially have little value. There are now only seven substantive standards of 4.160 that do NOT apply to jointly accredited schools (and arguably, some of these are more important to have strict compliance than some of the provisions that are currently on the list):</p> <p>--4.160(A)(5, 7-(10)</p> <p>--4.160(D)(1), (5)</p> <p>This would seem to provide little benefit to the State Bar in terms of reducing oversight, and little benefit to the schools</p>	<p>Deletes branch campus rule and moves branch campus requests to the major change section.</p> <p>Replaces rule with the jointly accredited rule that also includes the core rule definition.</p> <p>Adds diversity section</p> <p>Adds 4.160(B) Eligibility and Staffing requirements</p> <p>Clarifies that jointly accredited schools must copy the State Bar on correspondence with other</p>	<p>As for the branch campus requirements moving, the Committee can now ask the questions necessary when considering branch campus petitions.</p> <p>As for core requirements, there are fewer prescriptive requirements in general, so it is not expected that a majority of this shorter list might be included as core requirements.</p> <p>The jointly accredited status remains helpful to the State Bar and to law schools, as the additional oversight from the accreditors allows monitoring through a periodic report by the State Bar.</p>

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		in terms of streamlined compliance.	accreditors.	<p>If a specific law school does not agree, the law school is not required to seek jointly accredited status.</p> <p>CSBARS identifies the excluded items as more important, but did not propose adding them at an earlier point. They can be added now.</p>
4.160(A)(1)	Office and Campuses in California		Requires all administrative offices and campuses to be in California, though students can be located elsewhere.	This allows for proper service of process if needed and manageable oversight for the State Bar. Some back-office services may be staffed from an out of state location, but must be capable of delivery from a physical location in California.
4.160(A)(8)c	Probation Lasts One Year		Requires schools to dismiss a student who does not advance from probationary status to good standing <i>after one year</i> .	Limits probation to one year, to promptly dismiss students who do not demonstrate capability to advance and become licensed after a reasonable opportunity to improve.
4.160(A)(8)(e)	Course Repetition		A policy on course repetition must not allow credit for the same course twice.	Avoids duplicate credit being awarded.
4.160(A)(11)	Recordkeeping		"A law school must maintain complete and accurate records of its programs and operations that are readily accessible to its	Staff provided a location to address the issue of secure and complete recordkeeping. Staff proposes that a guideline provide detail on key documents such as transcripts and eligibility

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			administration and the Committee in a manner properly secured and backed up to prevent loss."	documents.
4.160(B)  General Student Success Requirement			The school must ensure that the student completes all program requirements and legal education requirement to take the bar exam in California before awarding a JD.	A law school has an affirmative duty to stay updated on admissions and graduation requirements and make sure its program complies with all rules, court rules and statutes.
4.160(B)(2)  Minimum Staffing Requirement			Staff adds requirement to have dean, administrator and registrar, not suspended, disbarred, or resigned with charges pending.	.
4.160(B)(6)(a)  Admissions Minimum Threshold	School should not <u>regularly</u> admit students who are obviously unqualified		School should not admit students who are obviously unqualified or who do not meet prelegal education requirements	Consumer protection element to avoid admitting students who do not appear to have the qualifications or current focus to attend law school.
4.160(B)(6)(c)  Inquiry into Prior Law Study			School should require a transcript for all prior law study and determine the student's standing	School should confirm the student's prior law study results and standing to assess whether the student has the intent and capacity to pursue a JD . Maintains current practice, but deletes current 2 year waiting period and LSAT requirement.

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4.160(B)(6)(d)  Special Student			Lists requirement for special students to take FYLSX	This is required by statute and admissions rule.
4.160(B)(7)  Transfers			Adds back transfer requirements that are more flexible than prior rules	Staff provides some guidance and support for schools under statute and admissions rule, while still providing for additional flexibility
4.160(B)(11)  Pass-Fail Grading			Disallows pass-fail grading in bar tested subjects.	Public protection: Gives specific feedback to students on their progress toward licensure, maintaining current practice.
4.160(B)(12)  Length of JD Program	Would give guideline for school program length of 80 units and 24-84 months, but the student could take longer or shorter at school's discretion		Would not allow a program to take less time than 24 months.	80 credits taken in fewer than 24 months would not give sufficient time to allow time for study and reflection.
4.160(B)(12)(b)(3)  Decision Not to Add Competency Examinations in Place of Classes	4.160(B)11(b)(3) a student participation in an experiential or clinical program and (4) “satisfaction or substitution of academic engagement hours via successful	CSBARS sees competency based education at the undergraduate level and would like to introduce it to JD programs. At a minimum, CSBARS would seek to allow competency based learning with prior approval, possibly with a cap on the total number of units earned through	Staff deletes proposed addition of competency exams as option for replacing class time with credit or placement.	This novel topic, not yet incorporated at the JD level and without testing or standards at the JD level, can be revisited in the future as standards evolve at the JD level.



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	completion of competency based examinations or other assessment demonstrating proficiency in course learning outcomes.	competency based education.		
4.160(B)(12)(c)  Declining Option of Competency Examinations in Place of Courses			Staff deletes a proposal that would allow a semester credit to be defined as something other than 45 hours of study and preparation, such as a competency exam or credit for life learning.	See above.
4.160(B)(12)(d)  Internship  Externship  Clinics	CSBARS would not place a cap on the number of clinical hours a student could take as part of the JD program.	If adopting the staff cap of 12.5, suggest to change the cap per year to 50% to allow someone to take all of their hours in a single school year. For example, if a 4-year part-time JD program required 80 total credits, with 20 credits required per year, If a student took all 10 credits of externship/clinical credit in a single year, this could be up to 50% of an academic year.	Staff would limit the time in externship or clinical experience to 12.5 percent of total credits or up to forty percent of credits in one year.	Distinguishes the JD program from law office study method, but increases the limit on internship courses by 25 percent, and deletes the annual cap, allowing the total cap to control.
4.160(B)(17)			Adds basic library requirement for either online or hard copy library	CBE agreed with flexibility, but indicated that a requirement was needed, and should have

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Library			owned by the school.	control over the resources through ownership or electronic license.
4.160(D)(3)  Financial Status Review			Staff adds additional language to preserve option for audit in the case of concern of possible irregularity.	State Bar provided with option to prevent issues related to refunds or other financial issues that may occur.
4.162(A)  Composition of Inspection Team	CSBARS would indicate that all teams <u>should</u> include a member of the Committee and law school representatives.		Staff changes should to may.	State Bar retains the current flexibility to set appropriate teams.
4.162(B)  Terms of Conflict of Interest			Staff removes option for school to challenge a dean for being employed by a competing school.	Removes this option, as all deans are engaged in the practice of educating students, and transition to online education renders all schools in competition.
4.165			Notice of administrative minor changes to be provided within 30 days.	Staff extends timeline to give notification from 5 days in current rule to 30 days for convenience.
4.170	CSBARS would add an		Staff proposal reduces the number	Reduces duplication of effort and streamlines

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Noncompliance Process	interim monitoring option prior to probation and allow schools to respond and have an inspection and/or hearing after each step.		of inspections required, and allows response, including hearing options, before the Committee decides determines whether a sanction is appropriate.	process, while giving schools a full opportunity to be heard live or in writing.
4.170 Evidence Standard	Suggests substantial evidence standard for noncompliance.		Deletes evidence standard in favor of Committee discretion; also adds back reasonable person admissibility for evidence. Hearing panel deliberates in private.	Current system is working; evidentiary standard matched to other similar agencies. Hearing panels can deliberate in private to produce proposed findings for discussion at Committee.
4.172(A)  Length of Probation		CSBARS suggests allowing the Committee to reserve discretion to extend probation beyond 2 years if circumstances warrant and the law school consents.	“If the Committee finds that a provisionally accredited law school, or any branch or satellite campus thereof, has not complied with any core requirement in Rule 4.147(C), or has not substantially complied with any other rule, but has demonstrated the intent and capacity to comply with the rule, the Committee may place the law school on probation for a specified time not to exceed two years.”	Probation should be for a limited time, but it will be posed to Committee whether an extension should be allowed in extraordinary circumstances.
4.173(B)  Timing of	CSBARS suggests termination should not	Termination should also be allowed at a later date. There may be circumstances	“The Committee shall terminate accreditation or provisional accreditation on a specific date, at	Probation serves as notice; teach out not reflective of school status and not needed due

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Termination of Accreditation and Transition Process	be imposed prior to 180 day notice and teach out option, and that a longer time could be made available if appropriate.	where a longer period is warranted. For example, if termination is decided shortly before the end of a given semester, termination at the end of the following semester may be more appropriate.	which time the law school's degree-granting authority shall also terminate. This date should generally coincide with the end of the current semester, though the Committee may terminate accreditation immediately in its discretion. If the law school's accreditation is terminated, it may apply for registration with the Committee as an unaccredited law school. Any application for registered unaccredited status filed concurrently with proceedings related to a Notice of Noncompliance shall not be interpreted as an admission of noncompliance or prevent the Committee from making a finding of compliance with these rules."	to option of registered status. Schools can and should plan for and facilitate the transfer of their students to or schools.