



The State Bar of California

OPEN SESSION AGENDA ITEM 704 MARCH 2024

DATE: March 21, 2024

TO: Members, Board of Trustees

FROM: Donna S. Hershkowitz, Chief of Mission Advancement & Accountability
Division/Legislative Director

SUBJECT: Adoption of Admissions Fee Increases Related to California Accredited Law
Schools

EXECUTIVE SUMMARY

Following three rounds of public comment, several Board discussions, and subsequent meetings with representatives of California Accredited Law Schools (CALS) this agenda item recommends that the Board revise the fees assessed to CALS for State Bar accreditation services. In addition and related, the Board is asked to approve a modified format for the collection of deposits. Staff will return to the Board in July with the amended Schedule of Charges and Deadlines to reflect approved 2024 assessment amounts.

BACKGROUND

The cost of all expenses for Admissions' operations is paid from the Admissions Fund. Admissions Fund revenue comes from the fees charged by the Office of Admissions to applicants for its programs and services. The Admissions Fund is not supported by the State Bar General Fund or the State General Fund. Over the last five years Admissions revenue has generally been decreasing; at the same time, expenditures have been increasing, leading to a significant structural deficit.

In [September 2023](#), following two rounds of public comment, the Board approved increases to many admissions service fees to reduce that deficit.

Annually, California Accredited Law Schools (CALS) pay certain fees to the State Bar for accreditation. One such fee is intended to cover all services related to accreditation, including review of the periodic compliance report to assess ongoing compliance with accreditation rules,

engagement with the law schools, development and enforcement of accreditation rules, responding to accreditation and compliance questions, advising the schools on how to maintain compliance with accreditation requirements. This fee is submitted with the Periodic Compliance Report, hence it is termed the Periodic Compliance Report fee. Because it is more commonly referred to as the annual report fee, that terminology will generally be used throughout this agenda item. Currently, the annual report is \$2,170, which is far below the cost of providing these services. In September staff proposed that this fee be increased to \$22,900 to reflect actual costs.

CALS also pay a fee for a formal inspection which is scheduled generally every five years. Inspection fees are assessed post facto on an hourly basis. That fee is paid with advance deposits of \$4,400 each year for five years, for a total deposit of \$22,000. Despite rising accreditation costs, these fees haven't changed in five years. The September agenda item proposed to raise this deposit to \$8,000 per year, for a total of \$40,000. This increase accompanied a change in the hourly rate (from \$275 to \$350) that is used to assess the final, true costs assessed for the inspections.

Expenditures on law school regulation for 2023 were projected to exceed revenue by \$555,000. Fee increases were proposed to bring the revenue and expenditures into better alignment and end the subsidization of law school regulation by other admissions service areas as the Admissions Fund could no longer support excess costs in any program area.

At the September meeting, the Board considered whether, instead of a set annual report per school, a better approach might be assessing fees to the CALS based on enrollment numbers. Such a tiered fee structure has been in place for the unaccredited law schools for several years. The Board looked at different approaches to creating a tiered fee structure. However, responding to statements by the law schools that they were likely to pass these fees on to law students, and the fact that such increases would be in addition to other fee increases adopted such as the fee to sit for the bar examination, the Board directed that the proposed increases on the fees assessed to the CALS be adjusted downward. To receive feedback on a revised proposal that included both a tiered structure and an overall downward adjustment of both annual report and formal inspection fees, the Board directed an additional 30-day [public comment period](#).

The final public comment opportunity asked for input on whether to reduce the amount of the fee increase proposed for the annual report by one-third or by two-thirds. The more substantial two-thirds reduction was proposed in light of unanticipated revenue received in 2023 of about \$2 million, which put the Admissions Fund in a somewhat better fiscal condition than anticipated at the onset of the fee review effort. After selecting the preferred amount of the fee, commenters were asked for input on different approaches to tiering the fee based on school size. They were also presented with the option to assess a fee to each school that is calculated by the number of students enrolled multiplied by a set amount. This approach was designed so that if the schools passed the fee on to students, all students would see the same increase, regardless of the size of the law school they chose to attend.

At the January 2024 Board meeting, staff [presented](#) a summary of the 26 public comments received. The agenda item also noted that “[d]eans of 11 California Accredited Law Schools submitted a joint comment on behalf of the CALS (see letter linked in the comment chart). Although staff is not in full agreement with all of the points raised in the letter, staff believes that the deans raise important issues and that additional time and refinement of the proposal is needed to ensure transparency, fairness, and accuracy.”

Following the January meeting, staff held productive meetings with the deans or their representatives on February 20 and March 6 to:

- Review financial information as to the disparity between annual revenue and expenditures related to law school regulation and other topics as requested.
- Discuss a method to identify two levels for the annual report fee – one applicable to those schools that are jointly accredited, and one applicable to schools that are accredited only by the Committee of Bar Examiners.
- Discuss alternative methods for determining student enrollment numbers on which to base the annual report fee.
- Revise the requirement that CALS advance one-fifth of the anticipated inspection fee annually and develop a recommendation for requiring the anticipated inspection fee to be deposited in the year the inspection is scheduled to be completed.

DISCUSSION

The two remaining Admissions program service fees for Board action are the annual report fee and the inspection fee assessed to CALS.

ANNUAL REPORT FEE

Overview

The annual report fee includes staff time developing and presenting on CALS issues at the Committee of Bar Examiners, the Committee of State Bar Accredited and Registered Schools and the Board of Trustees. The name of the fee derives from the fact that the fee is submitted with a school’s annual report. Because the name has the likelihood of leading to confusion about the broad purposes of the fee, staff recommend changing the reference to the fee in the Schedule of Charges and Deadlines to the Accreditation Services Fee. A similar change would be made to the annual report fee for unaccredited schools, changing the name to Registration Services fee.

The State Bar has long subsidized the costs of law school accreditation services and regulation work by assessing fees on law schools that are significantly below State Bar costs. The proposal presented to the Board in September for adoption was intended to eliminate the difference between revenues and expenditures related to accreditation services. As a result, that proposal included a 955 percent increase in the amount of the fee. That proposal would have resulted in \$412,000 in revenue to the State Bar, as compared to the \$39,060 currently received. The Board’s direction was to lower the amount assessed, continuing the subsidization to a certain extent, at least in the immediate term. Following the review of the third round of public comment, described above and in the item presented to the Board in January, staff are now

recommending that the fee be structured in a way that yields \$275,000 in revenue (reducing the prior recommendation by one-third), still, however, representing a significant increase in comparison to the current fee/current revenue.

Staff further recommend adopting the CALS preferred approach of assessing the fee owed by each school based on enrollment numbers as reported in the prior year's annual report. Although the result is that each school pays a different amount, if the fee is passed through to the students—which most schools indicated they felt would be necessary—students are not unevenly affected by the increase. Finally, staff recommend eliminating the separate fee that is assessed for having branch or satellite campuses.

Enrollment Numbers

In meeting with the deans, staff were made aware that some schools might be counting students twice in their enrollment numbers, both in the enrollment numbers for their year in school (i.e., third- or fourth-year students) and in the number of those who graduated. Staff will work with impacted law schools to finalize the method for calculating consistent and accurate enrollment figures. Staff will return to the Board in July 2024 with the amount to set forth in the Schedule of Charges and Deadlines for 2024 based on updated and corrected enrollment data.

Reduced Fee for Jointly Accredited Schools

Pursuant to the rules for accredited law schools recommended by the Committee of Bar Examiners and approved by the Board, CALS that are also accredited by an institutional accreditor, such as the Western Association of Schools and Colleges (WASC), will be subject to fewer California accreditation requirements than CALS that are accredited solely by the Committee of Bar Examiners. Staff reviewed all of the accreditation services that are currently provided and identified those that would have a lesser impact on State Bar resources for jointly accredited schools. Staff reviewed the annual report and determined that 30 percent of the questions currently included could be eliminated for jointly accredited schools. Staff then applied that 30 percent reduction to those accreditation services that require fewer State Bar resources for jointly accredited schools and concluded there would be an approximate 11 percent reduction in staff time dedicated to accreditation services for jointly accredited schools. As a result, staff recommend reducing the amount of the accreditation services fee assessed to jointly accredited schools by 11 percent.

Formula for Calculating the Fee

The formula for calculating the fee that will be used by staff is as follows:

For jointly accredited schools: $[(275,000/\text{aggregate student enrollment}) * 89\%] * \text{the school's total enrollment}$.

For schools accredited only by CBE: $(275,000/\text{aggregate student enrollment}) * \text{the school's total enrollment}$.

Note that by allowing the 11 percent reduction in this manner, the State Bar will not realize the full \$275,000 in additional revenue. However, because it is as yet unknown how many jointly accredited CALS there will be in 2024 or 2025, and since the Admissions Fund now projects a slightly healthier reserve balance at the end of 2024, staff believes this is currently the most sound approach.

Proposal by CALS

The law schools requested that the Board consider phasing in the increase over a few years. The deans recognized this means an annual increase in excess of the CPI, but felt it would allow them and their students to better plan and budget for the increase. For the reasons set forth above and in the fiscal impact section below, staff do not recommend adopting this approach.

INSPECTION FEE

The cost of inspections is based on the number of hours spent inspecting the school, conducting any and all necessary follow ups, compiling the inspection report, and performing similar tasks. Staff analyzed the last 10 inspections conducted to determine if an approach based on enrollment numbers also made sense in this context. The data did not support such an approach; the analysis showed only minor variations in hours based on school size, but not in a linear fashion.

The average cost of inspections, at the newly approved rate of \$350/hour, would be \$37,500, up from \$29,500 under the prior rate. The prior State Bar proposal recommended increasing the advance payment to \$8,000 per year for five years, totaling \$40,000. As with the current fee structure, after the inspection there is a “true up” and if actual costs exceed the amount paid, the school must transmit the additional amount. Similarly, the State Bar would return any amount paid in excess of the actual costs. Based on this analysis, staff recommend using the estimated average cost of \$37,500 for the inspection. Staff also recommend eliminating the requirement that CALS pay one-fifth of this amount each year in the five years leading up to the inspection. Instead, staff propose that schools be required to submit the full deposit a minimum of 30 days prior to the scheduled inspection. This schedule would still allow the State Bar to cover the costs of consultants brought on to assist with many of the inspections; because the inspections are likely to be scheduled on a staggered basis, the Office of Finance does not anticipate this structure would negatively impact the Admissions Fund.

FISCAL/PERSONNEL IMPACT

The 2024 budget projects \$26.4 million in revenue for the Admissions Fund, with \$30.7 million in expenditures. The deficit will be addressed by reserves in the Admissions Fund. The budget projects \$3.3 million remaining in reserves at the end of 2024. Because the Board has not yet acted on the fees for CALS, the 2024 revenue projection does not include new revenue attributable to these proposed fee increases. Once implemented, the new Accreditation Services fee is expected to generate up to \$275,000 in additional revenue annually. The Inspection Fee deposit change is a revenue neutral action.

AMENDMENTS TO RULES OF THE STATE BAR OF CALIFORNIA

Appendix A, Schedule of Charges and Deadlines (changes will be reflected in the agenda item presented to the Board in July 2024).

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System

- a. 1. Increase the number of attorneys admitted through special admissions programs.

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- c. 5. Continue the Mindsets in Legal Education Initiative and evaluate the merits of expanding the program.

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System

- c. 6. Conduct an equity and cost focused analysis of the impact of various options for administration of the bar exam on exam pass rates, including remote and open-book formats.

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System

- c. 7. Provide implicit bias trainings for bar exam proctors and graders to reduce any potential bias.

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System

- c. 8. Continue to diversify the exam development and grading pool.

RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees revises the name of the Periodic Compliance Report Fee to Accreditation Services Fee, adopts the formula for calculation of the fee as set forth in this agenda item, and eliminates the separate fee for branch and satellite campuses; and it is

FURTHER RESOLVED, that the Board of Trustees directs staff to return in July with revisions to the Schedule of Charges and Deadlines reflecting the Accreditation Services fee to be assessed in 2024; and it is

FURTHER RESOLVED, that the deposit for an inspection of a California Accredited Law School be set at \$37,500 and that schools shall be required to submit the full deposit a minimum of 30 days prior to the scheduled inspection; and it is

FURTHER RESOLVED, that the Schedule of Charges and Deadlines be updated to change the reference from “annual report” fee for unaccredited schools to “Registration Services” fee.

ATTACHMENT LIST

None