

DATE: July 21, 2016

TO: Members, Admissions and Education Committee
Members, Board of Trustees

FROM: Elizabeth R. Parker, Executive Director

SUBJECT: TFARR Pre-Admission Competency Training Requirement

EXECUTIVE SUMMARY

This agenda item summarizes both the original Task force on Admissions Regulation Reform (TFARR) recommendation regarding pre-admission competency training requirements and the proposed modified implementation approach developed by State Bar staff.

BACKGROUND and DISCUSSION: PRE-ADMISSION COMPETENCY TRAINING REQUIREMENT

Original TFAAR II Approach: As a condition for admission to the practice of law in California, applicants are required to have the following: (a) at least fifteen units, during or following completion law school, of practice-based, experiential courses designed to develop law practice competency or (b) in lieu of some or all of the fifteen units of practice-based, experiential course work, participation in a Bar-approved externship, clerkship or apprenticeship at any time during or following completion of law school.

Proposed Modified Approach: Staff has reorganized the proposed rules to implement this new requirement to ensure alignment with existing rules and regulations, and proposes that instead of amendments to statute, a Rule of Court be approved. Staff is also recommending: 1) Every applicant for admission to practice law must complete 6 units of practice-based, experiential learning; 2) attorneys, domestic and foreign, admitted in good standing in another jurisdiction, be exempt; and 3) that all general applicants be required to meet the requirement – LLM foreign-educated law students would not be exempted. The revised process would also permit law school certification if an applicant has completed the necessary units while in law school. In all other instances, the State Bar will handle the certification process, working directly with the applicant.

A summary of the primary differences between the original TFARR recommendations and the modified implementation approach follows:

- 1) Requirement for experiential competency training is an amended Rule of Court, not statute;
- 2) Requirement is for 6, rather than 15, units of competency training;
- 3) Requirement applies to all general applicants;

- 4) Requirement does not apply to attorneys from other jurisdictions admitted less than one year;
- 5) Requirement codified in Admissions Rule, with implementing details originally proposed to be part of the Rules, such as the definition of what competency training includes and what is considered an approved apprenticeship or clerkship, delineated in new Guidelines; and
- 6) The State Bar will not “approve” apprenticeships or clerkships, but will evaluate an applicant’s “credit” to determine whether it meets the requirements, for a fee.

The proposed new Court Rule, amendments to the *Admissions Rules*, and proposed Guidelines to supplement the *Admissions Rules*, which would implement the requirement for specific competency training pre-admission are also attached. Much of the language of these three documents is taken directly from the TFARR recommendations.

This proposal reduces the practice-based, experiential coursework requirement from 15 to 6 units, to align all law schools in California with the new national standards promulgated by the American Bar Association (ABA) in 2014, for implementation in fall 2016. Thus, the ABA requirement will extend to all law schools in California, and to all non-licensed attorney applicants for admission. In this way, the revised approach both limits and expands the original TFARR recommendation, setting a reasonable and achievable goal for all law schools operating in California. It is expected that review and assessment of the initial implementation effort, in consultation with ABA and California approved law schools, will inform any future increase in the practice-based requirement.

The modified approach for this requirement is expected to reduce the associated cost of implementation as compared to the original proposal. Under the original proposal, it was anticipated that three additional administrative assistant positions would be needed to implement the TFARR requirements (estimated cost of \$220,000). Currently, the State Bar’s Office of Admissions has an eligibility unit composed of a Section Chief and four administrative assistants and an application processing unit composed of a Section Chief and six administrative assistants. These staff are processing about 6,000 new applications each year from people who apply to take the bar examination and first-year law students exam. If the TFARR proposal to require applicants to complete certain legal education skills requirements before admission had been adopted (which documentation could come from someone who has just begun law school through attorneys in their first year of practice), it was anticipated that at least two new positions would be needed in Admissions to process and review the documents to determine that the requirements have been met, and conduct audits.

The third new position would have been primarily assigned to set up files for and monitor the State Bar approved clerkship/apprenticeship programs that could be used in lieu of the law schools skills courses.

Under the modified proposal, law schools would handle most certifications and there would be no tracking of attorney applicants; those applicants who were not certified by their law schools could seek an evaluation by the State Bar, for a fee. There would still be some auditing done, but not to the same extent as originally contemplated. Under the modified proposal, it is anticipated that only one new position would be needed.

FISCAL/PERSONNEL IMPACT

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RULE AMENDMENTS

Title Provide Title #., Division Provide Division #., Chapter Provide Chapter #.

BOARD BOOK IMPACT

Tab Provide Tab #., Article Provide Article #., Section Provide Section #., Page Provide Page #.

BOARD GOALS & OBJECTIVES

BOARD COMMITTEE RECOMMENDATIONS

RESOLVED, that the Admissions and Education Committee recommends that proposed amendments to _____ as attached hereto be released for public comment for a period of 45 days; and it is

FURTHER RESOLVED, that this authorization for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposal.

ATTACHMENT(S) LIST