BACKGROUND

This memorandum provides guidance from the Committee of Bar Examiners to accredited and unaccredited law schools in California regarding temporary waivers allowing these schools to transfer fixed facility courses to online delivery, and providing the discretion to transfer grading to pass-fail, retroactive to March 9 and continuing through August 31, 2020, due to the emergency related to COVID-19.

The State Bar is aware that the State of California has declared a state of emergency with respect to COVID-19, and the Centers for Disease Control and the World Health Organization continue to update their communications with pertinent information. Effective March 20, 2020, California Governor Gavin Newsom ordered all people in California to stay at home to the extent possible, and to practice social distancing in all outings. The Governor and various cities and counties have also banned or limited gatherings to prevent the risk of exposure to COVID-19. Communities, organizations and individuals around the State are doing their best to take appropriate action in this quickly evolving situation.

The Committee encourages law schools first and foremost to safeguard the health and safety of students, faculty, staff, and community, while making best efforts to avoid disruption to their JD programs.

Accredited Law School Rule 4.109 and Unaccredited Law School Rule 4.208 allow schools to apply for waivers to temporarily alter or suspend compliance with a rule or guideline. Here,
however, quick action was necessary to preserve health and safety, so the Committee has granted the following waivers to all accredited and unaccredited law schools for the period of March 9 through August 31, 2020.

First, the Committee grants permission to accredited and unaccredited law schools to transition fixed facility classes to online delivery, encouraging synchronous delivery when possible, as well as academic and technical support.

In addition, the Committee temporarily waives any limitations on the use of pass-fail grading otherwise stated in Accredited Guideline 2.7(A)(2) and Unaccredited Guideline 2.9(B)(2). This waiver allows both accredited law schools and unaccredited law schools the discretion to revise their grading policies to their choice of pass-fail grading options for the spring and summer 2020 terms. Law schools must ensure that any pass-fail plan provides students with an individualized assessment of their progress and includes a method to evaluate whether a law student is academically qualified to continue in the JD program.

It is understood that these changes may also require a school to make reasonable alteration of syllabi to adapt to online delivery, including adding, changing, or deleting assignments, reconfiguring examinations, and, at the discretion of the school, potentially changing the weighting of grading components.

In addition, unaccredited law schools must ensure that their JD programs comply with California Business & Professions Code section 6060(e) in order to qualify their students to take the Bar Examination, as these requirements cannot be waived by the Committee.

Law schools must provide clear, written notice to affected students and staff as to their rights, expectations and responsibilities under any changed policy, procedure or syllabus. This guidance should be provided in advance whenever possible or as soon as possible after implementation. Any changes should be made in compliance with the Rules and Guidelines applicable to the school, other than those specifically waived in this memorandum.

Law schools are directed to provide notice to the State Bar as soon as possible of any changes to class delivery methods or grading methodologies, as well as copies of those policies and copies of communications to students regarding these changed policies.

The Committee, through the Office of Admissions, is available to address questions regarding this guidance or receive any additional waiver or change requests that schools may seek, which the Committee will consider under its standard process, unless emergency consideration is warranted and allowed under applicable statutes.

The Committee acknowledges and appreciates the efforts of each accredited and registered law school to protect its students, staff, and community while delivering an effective, affordable JD curriculum in challenging times.