

Summary of Comments to Draft Rules on Unaccredited Law Schools dated May 14, 2007.

CALS Deans (January 30, 2007 and June 6, 2007).

(1) Add definitions of accredited, unaccredited, and ABA accredited law schools.

(2) Add a disclosure requirement that unaccredited law schools indicate they are not approved by the American Bar Association or accredited by the Committee of Bar Examiners to accompany any statement regarding registration, accreditation or approval by any entity or agency other than the Committee and that the schools may not state or imply that any designation by others alters their status as unaccredited law schools in California.

(3) Require unaccredited law schools to disclose that graduating from them may not qualify a student to take the bar examination in other states or to satisfy the requirements to practice law in states other than California in their bulletins, on their websites, and in any other written or electronic materials describing or soliciting their programs.

(4) Require that the disclosure statement of unaccredited law schools to their students include that the students must take and pass the first year law students' examination at the completion of their first year of study to obtain credit for their first year of law study.

(5) Require that the student disclosure statement be provided to each new student with their application form, including any on-line application, be signed and dated by each applicant prior to each school's acceptance of an application fee, and be signed and dated by each returning student prior to the payment of any fee or tuition for the academic year.

(6) Provide that unaccredited law schools can be put on probation if they do not comply with the rules or have not taken substantial steps to comply with the rules, but can show that they have taken adequate initial steps toward compliance with the rules.

The CALS Deans previously recommended, by letter dated January 30, 2007, that any and all unaccredited law programs and schools be required to prominently carry the following disclaimer on their websites, catalogs, and other recruitment materials: "The [name of school] is unaccredited by, but registered with, the Committee of Bar Examiners. Registration with the Committee is neither comparable to nor the equivalent of accreditation."

Jane Gamp, Dean, San Francisco Law School (May 3, 2007)

(1) Believes the CALS Deans should have been allowed to participate in the drafting of the rules.

(2) Believes the current definitions tend to hide the unaccredited status of these law schools. In addition, the "unaccredited" designation should apply to resident facilities, correspondence, and distance-learning law schools.

(3) Believes the disclosure of unaccredited status in the current rules comes too late in the process. "Disclosure needs to [be] given throughout the solicitation, advertising and information process." Believes the required disclosure should include that students must take the first year law students' examination before

advancing to the second year. Is concerned about the adequacy of the penalty for disclosure requirement violations.

(4) Notes that there is no fund to facilitate recovery of funds paid by students.

(5) Notes that only resident unaccredited law schools will have a library requirement.

(6) Notes that there is no requirement for active state bar membership for anyone owning, governing or supervising an unaccredited law school.

(7) Accredited law schools "deserve to be protected from the use of titles from other entities which seek to imply a heighten[ed] status within California (such as "Approved by XX" [or] "Accredited by XXX")."

Stanislaus Pulle, Ph.D, Dean of Law, California Institute of Law at Santa Barbara and Ventura (May 14, 2007)

(1) Believes the rules should provide that for law schools to be registered they "must establish that [their] paramount objective is to provide at minimum an adequate level of legal education measured by preparing [their] students for the First Year Law Students' Examination and reasonable instruction in at least those subjects tested on the General Bar Examination."

Robert K. Strouse, Associate Dean and Chief Operating Officer, William Howard Taft University (May 18, 2007)

(1) Suggests that the Committee of Bar Examiners has concluded that the Dunn legislation removes law schools from all provisions of the California Education Code and that all regulatory oversight is a result of the Dunn legislation and future Supreme Court Rules. Believes the committee should take a formal position regarding its authority. "[I]f the Committee believes that the Education Code does not apply, we strongly suggest that it seek an interpretative opinion from the Attorney General."

(2) As the Committee's authority to implement certain proposed rules clearly comes from the Dunn legislation, it is hoped and expected that any rules, guidelines, and comments will be submitted to the Office of Administrative Law pursuant to the California Administrative Code. Rules adopted by regulatory agencies in the area of private postsecondary education that have not gone through the administrative law process have been found to be unenforceable.

(3) Believes that Rule 4.201(A) is flawed. If the rules only apply to registered law schools and to law schools seeking registration by the Committee, then law schools that do not seek registration will be unregulated.

(4) The rules are not clear as to the legal effect of the guidelines and comments to be adopted by the Committee. The rules are not clear as to the process to be used for establishing such guidelines and comments.

(5) The rules are not clear as to which JD degrees will no longer be permitted. What will be the status of such degrees as Executive JD, Non-Bar JD, and JD-Executive Track? Further, the rules need to clarify what happens to students currently seeking such degrees. Will law schools be able to "teach out" these students?

(6) While it has been suggested that the Master of Legal Studies be substituted for the Non-Bar JD, the ABA's guidelines indicate the MLS degree is a post JD degree.

(7) Supports distinguishing between correspondence law schools and schools that make extensive use of telecommunications technology. Proposes that "Online Law School" replace "Distance Learning Law School."

(8) No individual who have been disbarred or resigned from a state bar with disciplinary charges pending should be allowed to assume any leadership role in a law school. A leadership role includes the title of president, chief executive officer, or dean.

(9) Distance-learning law schools should be exempt from the library requirement, but the Committee should require these schools to "provide electronic learning resources that support the learning objectives of their programs."

(10) Law school finances should be confirmed through annual CPA audited financial statements.

(11) Is concerned that Rule 4.240(L)(Equal Opportunity and Non-Discrimination) violates the First Amendment rights of law schools with religious affiliations. Suggests that the ABA's rule on this topic be adopted in place of the proposed rule.

(12) Is concerned that undergraduate degrees in law will be unregulated when the Bureau for Private Postsecondary and Vocational Education goes out of existence.

(13) Believes the disclosure requirement regarding unaccredited status should read as follows: "The school is not accredited by the Committee of Bar Examiners of the State Bar of California" and that any school that is accredited by an accrediting agency recognized by the U.S. Secretary of Education should be permitted to note that fact in the second sentence of the disclosure.

George J. Gliaudys, Jr., Dean, Irvine University College of Law (May 19, 2007)

(1) The library requirements should "be augmented to indicate that electronic access to materials will be considered as among the criteria in addition to hardcover volumes in meeting the minimum requirements set by the [Committee of Bar Examiners]."

(2) Students that obtain JD degrees from ABA and state accredited law schools who do not wish to become members of the state bar don't have to take the first year bar examination. Students that obtain JD degrees from unaccredited law schools who do not wish to become members of the state bar have to take and pass the first year law students' examination. This is not fair. This unfairness might be resolved by including language in the rules that clearly indicates that a student who pursues a JD degree solely for academic reasons will be awarded a JD degree, but that the student receive notice at the beginning of his or her law studies and when registering with the state bar that the student will not be eligible to take the California bar examination.

Michael Toback, JD (May 25, 2007)

(1) Would like to see more definition in Rule 4.240(D)(Dean and Faculty) as to what constitutes competent faculty. He suggests that no one be considered faculty unless they graduated from an accredited school or are licensed to practice law in the State of California.

(2) Believes Rule 4.240(F)(Scholastic Standards) should be clarified to ensure that law schools are held to some minimum standards in the awarding of grades. He fears law schools will be able to skirt this requirement by simply handing out A's.

(3) Believes Rule 4.240(G)(Admissions) should be clarified to ensure that law schools give students a reasonable chance of passing the first year law students' examination. Students should be protected from "unscrupulous practices where students are coddled for a year then fail the FYLSX miserably only to find that they

really never had a chance of passing any real law school exam but are out \$5000 to \$10,000.”

(4) Appears to support the ability of law schools to award law degrees that do not qualify students to take the California bar examination subject to their being called something other than a JD.

Donald G. Ward (May 28, 2007)

(1) The three categories of law schools should be ABA accredited, state bar accredited, and state bar approved and registered.

(2) New schools, after passing a probationary period of two years, should be considered for accreditation. Similarly, existing unaccredited, correspondence, and distance-learning schools should be considered for accreditation.

(3) All registered law schools should be evaluated under the same accreditation standards.

(4) A law school on probation that is unable to move out of probation should not be allowed to award a JD degree that allows the recipient to take the bar examination.

(5) Only the JD is a professional law degree. A Bachelor of Science in Law and Masters of Legal Studies should be eliminated. Only ABA accredited and state accredited law schools should be allowed to award the academic degree of Master of Laws. The only law degrees that should be allowed are the JD degree to obtain qualification to take the bar examination and the LLM as the advanced academic degree.

(6). The state bar should move toward the establishment of a time line for law schools to obtain accreditation such that they can continue to award the JD degree qualifying recipients to take the California bar examination.

Robert J. Barth, Associate Dean, Oak Brook College of Law (June 5, 2007)

(1) Asks whether it is the intent that all existing distance-learning law schools go through the registration process as new schools.

(2) Suggests that Standard L re Equal Opportunity and Non-Discrimination include a clause that would permit a school to make distinctions among students and faculty on the basis of its statement of faith, mission and code or moral character.

(3) Asks that the provision regarding sponsoring or offering a law study program for credit more than ten miles from the site of the law school be modified so it is clear that it does not apply to distance-learning and correspondence law schools.

Jane A. Della Grotta, Dean, Newport University School of Law (June 7, 2007)

(1) Objects to the rule that states that “J.D. degrees may only be granted through completion of a law program that qualifies students to take the California Bar Examination.” “All of the students at Newport University that are in the non-Bar program are advised that they cannot sit for the State Bar Examination. There is no misleading them to believe otherwise.”

(2) “To require Newport to have [the required] library is onerous and would not benefit most of our students as they live nowhere near our offices in Newport Beach. This requirement should be eliminated from the regulations.”

(3) The Dunn legislation needs to be submitted to the California Office of Administrative Law first in order to have effect. “To bypass this procedure could possibly result in making the proposed rules underground regulations with no effect.”

Daniel Mathew Wigon, Dean, and Anthony Marquez, Dean of Students, Lorenzo Patino School of Law (June 8, 2007)

(1) They have grave concerns that the fees associated with audits will severely hinder a law school's ability to offer an affordable education to its students. To address this issue audits should be conducted by one person. Telephone interviews should be conducted when possible using conferencing technology. Auditors should not travel more than 100 miles from their offices to conduct an audit. Inspections should be limited to no more than once every two years, except for good cause. The state bar should allow for a no-interest payment plan for the payment of any fees. "We suggest providing a no-interest payment plan for audits that exceed \$2000. This will help reduce the risk of a school being put out of business due to the administrative costs of audits."

(2) The requirement that a school maintain a "sound admissions policy" is vague. They suggest that the requirement be that an admissions policy be consistent with the standards established by Rule VII of the Rules Regulating Admission to Practice Law in California.

(3) They object to the requirement that only law programs that qualify students to take the California Bar Examination may result in the granting of a JD degree. This requirement "will adversely impact students whose purpose in obtaining a JD degree is other than the practice of law."

(4) The rules regarding the requirement that law schools dismiss students for various academic reasons are vague. These provisions should be replaced with the requirement that "The school should only retain those students who meet the school's academic standards and retention policies and the State Bar's minimum requirements to study law."

(5). They suggest a new provision that allows unaccredited law schools to meet the library requirements by (a) maintaining a physical library onsite; (2) being in close proximity to a law library (10 miles or less); or (3) providing each student with Internet access and a subscription service such as Lexis. These options would reduce the disparity of regulation between unaccredited, correspondence, and distance-learning law schools.

Stephanie Patterson, Investigator, Consumer Affairs, Department of Consumer Affairs, Los Angeles County (June 11, 2007)

(1) "This e-mail is to express my disagreement with the above proposal."

Concord Law School (June 11, 2007)

(1) The best approach to regulating non-ABA approved law schools is to expeditiously develop one set of standards and one process to apply to all of them. As a first step toward one standard for all non-ABA accredited law schools, the state bar should adopt a standard which includes achieving pass rates on the bar examination that demonstrates each school's effectiveness relative to other non-ABA approved schools. Non-ABA law schools should be required to maintain a pass rate that is no more than a set number of percentage points below the average for all non-ABA accredited law schools;

(2) The rules should include a better definition of "distance-learning law school";

(3) Law schools, including registered law schools, should be permitted to give degrees other than the Juris Doctor degree. As Concord issues an executive juris doctor, it would like to be sure that this non-JD degree is recognized under the rules. Concord suggests three categories of law degrees: (A) JD; (B) post JD; and (C) non-JD;

(4) The multiple location rule [4.222] should not apply to distance-learning or correspondence schools.

(5) The library requirements should apply to correspondence and distance-learning law schools. (6) As to the disclosure of student/faculty ratios, Concord urges the Committee to consider creative ways of satisfying this requirement, but avoiding misleading potential students and the public. A student/faculty ratio that is simply a ratio of the headcount of any who is a student and who is a teacher does not provide particularly useful information. Concord hopes the Committee will allow schools to develop alternative ways of assuring that disclosure statements have been provided and acknowledged by students.

(7) Accepts the notion of the requirement of a self-study process, but comments on the permitted forms of self-study. "Perhaps better than a prescribed form would be a list of matters that the self-study must address." The rules should allow schools to use self-studies submitted to regional or national accreditation bodies to satisfy this requirement.

(8) The requirement that schools receive approval of sponsoring or offering for credit of a class that will meet more than ten miles from the site of the law school does not work well in the content of correspondence or distance-learning law schools. The rules do not contain a definition of "location". Concord believes the easy solution to this problem is that this requirement should not apply to correspondence or distance-learning law schools. Another possibility would be to establish certain thresholds for the amount of work or activity that could take place at a location more than ten miles from the school's campus or home office before it becomes a major change requiring advance approval.

James A. Liontas, President, Independent Law School Association (June 12, 2007)

(1) Recommends the elimination of the first year law students' examination to level the playing field between rich and poor.

(2) It is not clear where law schools that are only accredited by the Committee of Bar Examiners get their degree-granting authority. The Committee has no statutory power to confer degree-granting authority to law schools or to accredit law schools.

(3) Traditionally, education belongs in the legislative arena, not in the judicial branch. The Dunn legislation appears to create a serious separation of powers problem that will have to be resolved by the Supreme Court and the Legislature.

Daryl Fisher-Ogden, Dean, Abraham Lincoln University School of Law (June 16, 2007)

(1) Proposes changes to the definition of "distance-learning law school" in Rule 4.204(C).

A "distance learning law school" is a law school that has its primary administrative offices in California, conducts and provides interactive classroom study using Internet or other telecommunications technology, and requires at least 864 hours of

preparation and study per year for four years. Telecommunications technology includes television, audio, or computer transmission through open broadcast, closed circuit, cable, microwave, or satellite; audio conferencing; computer conferencing; or video cassettes or discs.

Kevin O'Connell, Dean, Pacific West College of Law (June 17, 2007)

- (1) The proposed rules increase the burden upon unaccredited law schools in terms of cost and administration and remove a historical ability to grant the JD degree to all students.
- (2) The proposed rules are so similar to the rules for accredited law schools that the lines between the two categories are blurred. While additional burdens are imposed on unaccredited law schools, they fail to receive the benefits of accreditation.
- (3) Is concerned that Rule 4.240(F)(Scholastic Standards) will be enforced so as to require unaccredited law schools to exclude students who failed the first year law students' examination.
- (4) Appears to believe that unaccredited law schools will be subject to suit under the Sarbanes-Oxley Act by their students who fail the first year law students' examination. Appears to believe the rules expose unaccredited law schools to other claims under the Sarbanes-Oxley Act.
- (5) Objects to Rule 4.204(F)(definition of "professional law degree"). Believes that changing the JD degree from an academic degree to a professional degree violates the Equal Protection Clause of the U.S. Constitution in that other states consider the JD degree an academic and not merely a professional degree.
- (6) Believes that changing the JD degree from an academic degree to a professional degree violates the Commerce Clause of the U.S. Constitution "in that student from law schools outside of the state would not be allowed to use their Juris doctor degree unless they were or attempted to be an attorney."
- (7) Currently registered law schools should be grand fathered under the new rules so that no one losses rights already granted by the State.
- (8) The law school funds in the State Student Tuition Recovery Fund should be transferred to the state bar and a new account set up by the state bar for this purpose.
- (9) The state bar should disclose where the rules for accredited and unaccredited law schools are the same.
- (10) Rule 4.244(A) allowing the committee to conduct inspections as it may deem appropriate could lead to successive inspections until a law school is bankrupt.
- (11) Believes the phrase in Rule 4.240(F)(Scholastic Standards) that law schools "must as soon as possible identify and exclude those students who have demonstrated they are not qualified to continue" is vague. Believes the exclusion of students should only be based on academic grade point average.
- (12) Electronic libraries should satisfy the library requirements in the rules.
- (13) Believes that Rule 4.241(A)(9) should be revised so as to require law schools only to have to disclose to students the final results of noncompliance hearings.
- (14) Under Rule 4.241(E), law schools should only be required to refund tuition for the period of time covered by the student disclosure statement involved.
- (15) Self-study requirements are overly burdensome on the financial resources and administrations of unaccredited law schools and will increase the overhead cost of unaccredited law schools to the point they are the same as for accredited law

schools. Unaccredited law schools will be driven out of California and the burdens on the state bar will be the same for both categories of schools.

(16) Questions whether a team of three people is needed to inspect an unaccredited law school with twenty-five students.

(17) Questions whether the major change category in Rule 4.246(E) includes continuing legal education programs, seminars for the public, and exchange programs with foreign law schools.

(18) Notices of noncompliance should not be public documents at the inquiry stage.

(19) Questions whether the word "responsible" should be "reasonable" in Rule 4.265(B) ("Any relevant evidence is admissible if it is the kind of evidence on which responsible persons rely in the conduct of serious affairs."). The state bar should use the definition of relevancy in California Evidence Code Section 350 et seq.

(20) Questions what the burden of proof is for law schools to show their compliance with the rules under Rule 4.265(B). The burden should be at the lowest legal level which is the burden used in default judgments.

(21) Questions whether the entire record in Rule 4.266(A) includes irrelevant evidence and students complaints that the state bar does not intervene in. Believes only relevance evidence should be considered.

(22) Does not believe the rules give law schools adequate time to respond. Law schools should have the same time the state bar is given concerning corresponding actions.

(23) Unaccredited law schools will be denied due process if they do not receive student complaints and have no opportunity to respond to them.

(24) Action after a noncompliance hearing "should only be based upon relevant evidence that was received in a full and fair hearing [under] the same standard for collateral estoppel".

David Stallings, Dean, West Coast School of Law (June 18, 2007)

(1) Rule 4.208(A) provides, in part, that "A registered law school may request that the committee waive any rule or guideline except one mandated by law." He questions why the rules themselves are not considered "mandated by law" such that none of the rules can be waived the way this rule is currently written.

(2) Believes the word "applicable" in Rule 4.240(A)(Lawful Operation) is unconstitutionally vague.

(3) Is concerned about the impact of the American with Disabilities Act on the requirements of Rule 4.240(F)(Scholastic Standards).

(4) Is concerned about the impact of the American with Disabilities Act on the requirements of Rule 4.240(G)(Admissions).

(5) Is concerned all representatives of registered law schools will be biased against correspondence law schools, have a financial interest to close all competing schools, and have an interest in the intellectual properties and trade secrets of schools being inspected such that they should not serve on site visit teams.

(6) A finding, under Rule 4.262(B), that a law school is not or is not likely to be in compliance with the rules will be difficult to make when the rules are vague.

(7) Sending students the Committee's decision in connection with a noncompliance hearing would be defamation. See Rule 4.266(C)(2).

(8) The words “adequate” and “perceptible” in Rule 4.267 (Probation) are unconstitutionally vague.

Jeffrey D. Fazio, Dean, Southern California University for Professional Studies (June 18, 2007)

(1) Is concerned that students currently in non-JD degree programs will not be allowed to complete their programs in light of Rule 4.204(F). Recommends that the rules clearly state that the requirement that JD degrees only be granted to students seeking to qualify to take the bar examination apply to students enrolling in JD degree programs beginning January 1, 2008 and thereafter.

(2) The following should be added to Rule 4.240(H)(Library): “This requirement does not apply to correspondence or distance-learning law schools.” See the comparable language in Rule 4.241(A)(5).

Michael P. Clancey, Dean, Northern California University School of Law (June 18, 2007)

(1) Recommends that a provision be added to the rules that states that students enrolled at BPPVE approved law schools before January 1, 2008 have the right to complete their degrees according to the requirements in place before the change in oversight and regulation.

CALS DEANS

*An association of Schools Accredited by the Committee of Bar Examiners
of the State Bar of California*

One North First Street
San Jose, CA 95113

January 30, 2007

Ms. Gayle E. Murphy
Senior Executive, Admissions
Committee of Bar Examiners
The State Bar of California
Office of Admissions
180 Howard Street
San Francisco, CA 94105-1639

Dear Ms. Murphy:

It is the sense of the CALS Deans that law schools accredited by the Committee of Bar Examiners, individually and as a group, will be impacted and affected by all rules and regulations, being designed by the Committee, involving the registration and operation of on-line, correspondence and other unaccredited law schools and legal programs.

In order to avoid any confusion or misunderstanding regarding the nature of a law school registered with the Committee and its distinction from one that is, accredited by the Committee, the following motion was duly made, seconded and unanimously adopted by those in attendance at the January 26th meeting:

BE IT RESOLVED:

The CALS Deans call upon the Committee of Bar Examiners to require of any and all unaccredited law programs and law schools to prominently carry the following disclaimer on their websites, catalogs, and such other recruitment materials:

"The [name of school] is unaccredited by, but registered with, the Committee of Bar Examiners. Registration with the Committee is neither comparable to nor the equivalent of accreditation."

The resolution was adopted unanimously by the Deans of the following CALS:

Gayle E. Murphy

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January 30, 2007

Cal Northern School of Law 1395 Ridgewood Drive, Suite 100 Chico, CA 95973-7802	San Francisco Law School 20 Haight Street San Francisco, CA 94102-5802
Empire College School of Law 3035 Cleveland Avenue Santa Rosa, CA 95403-2122	Santa Barbara College of Law 20 E. Victoria Street Santa Barbara, CA 93101-2806
Humphreys College Laurence Drivon School of Law 6650 Inglewood Avenue Stockton, CA 95207-3881	Southern California Institute of Law Santa Barbara campus: 1625 State Street, Suite 202 Santa Barbara, CA 93101-2500
John F. Kennedy University School of Law 100 Ellinwood Way Pleasant Hill, CA 94523-4817	Southern California Institute of Law Ventura campus: 877 South Victoria Ave., Suite 111 Ventura, CA 93003-5377
Lincoln Law School of Sacramento 3140 "J" Street Sacramento, CA 95816-4403	University of West Los Angeles School of Law San Fernando Valley Campus 6400 Canoga Blvd. Ste. 271 Woodland Hills, CA 91367-2465
New College of California School of Law 60 Fell Street San Francisco, CA 94102	Lincoln Law School of San Jose One North First Street San Jose, CA 95113
Glendale University - College of Law 220 N. Glendale Avenue Glendale, CA 91206	San Joaquin College of Law 901 5 th Street Clovis, CA 93612-1312

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January 30, 2007

Monterey College of Law 100 Col. Durham Street Seaside, CA 93955	Ventura College of Law 4475 Market Street Ventura, CA 93003
University of West Los Angeles School of Law West Los Angeles Campus 9920 S. La Cienega Blvd. Inglewood, CA 90301-4423	

We ask that this letter be delivered on our behalf to the Committee and its staff as soon as possible.

Respectfully submitted,

Joseph H. Moless, Jr.
Chair, CALS Deans

CALS DEANS

*An association of Schools Accredited by the Committee of Bar Examiners
of the State Bar of California*

One North First Street
San Jose, CA 95113

June 6, 2007

Ms. Gayle E. Murphy
Senior Executive, Admissions
Committee of Bar Examiners
The State Bar of California
Office of Admissions
180 Howard Street
San Francisco, CA 94105-1639

Dear Ms. Murphy:

The signatories to this letter are Deans who represent all 18 law schools ("schools") accredited by the Committee of Bar Examiners; our letter is sent in the belief that it also represents the views of our faculty, students and alumni.

Enclosed you will find the following:

1. Recommended Changes to the Revised Proposed Rules Regulating Unaccredited Law Schools in California (Appendix "A"); and,
2. Commentary on the Recommended Changes.

The recommendations and commentary relate to the proposed adoption by the Committee of Bar Examiners of the State Bar of California of Rules and Regulations arising by recent amendments to Sections 6061, 6046.7, 6060.7, and 6061.5 of the Business and Professions Code, and Sections 94900 and Section 94364 of the Education Code commonly known as the "Dunn Bill".

California's State Bar-accredited law schools have a long and proud history of contributing to the communities we serve, and to the State of California itself. Some of our schools have offered legal education for nearly 100 years and our schools' graduates fill the ranks of our state's attorneys and judges. It has been the mission of our schools to match the objectives of the State Bar of California by preparing lawyers who will represent the diversity of our state and work to expand access to justice by assisting the underrepresented, in both urban and rural settings. In a singular way, and under challenging circumstances, our schools have been in forefront of those efforts.

Ms. Gayle E. Murphy
Senior Executive, Admissions
June 6, 2007
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The Recommended Changes to the Revised Proposed Rules Regulating Unaccredited Law Schools in California (Appendix "A") represents the opinion of persons who have significant expertise in the creation and implementation of the Rules Regulating Accreditation of Law Schools and the Factors applicable thereto; the administration of law schools; and the public responsibility existing in relationship to both. We not only mold future lawyers, we are lawyers or legal scholars, or both. As such, the issues raised by the proposed Rules and Regulations affect us as educators, as members of the State Bar and, equally important, as members of the public with a special interest in bringing about the goal of the recent legislation—additional protection for consumers of legal education.

We believe the draft before the Committee contains certain omissions and ambiguities. Our Recommended Changes to the Revised Proposed Rules Regulating Unaccredited Law Schools in California (Appendix "A") represents our efforts to address them. In it we have assumed that the primary and overriding purpose of the Dunn Bill is to effect prompt disclosure of material information, so as to assist the potential law student in making an informed and reasoned decision in choosing from an array of possible legal educational programs and methodologies available in the state. Our proposal advances that purpose.

You will find that our Recommended Changes to the Revised Proposed Rules Regulating Unaccredited Law Schools in California (Appendix "A") provides full and complete definitions of the type of law schools permissibly extant in California. The most important definition relates to the core of the legislation itself, "unaccredited law schools". The definition is required, *inter alia*, because it represents the common differentiation in fact utilized by the Bar and the education community; it prevents confusion by placing schools into discrete generic categories; and reduces, thereby, the likelihood of that a prospective law student would be confused or misled in the admissions process.

Our Recommended Changes to the Revised Proposed Rules Regulating Unaccredited Law Schools in California (Appendix "A") also provides that disclosure of all relevant and material facts must be made at the earliest time in all relevant communications. If a disclosure is to have meaningful impact, it must be in the hands of the consumer at the beginning of the decision-making process, so that the consumer may weigh and balance the factors that will impact on the decision. Our proposal would further require disclosure of the significant fact that a student attending an unaccredited law school must take and pass the First Year Law Students Examination. This fact is not only material; rather, it marks the single most fundamental difference between accredited and unaccredited law schools, and its omission in the draft as a fact required to be disclosed is not only surprising, but inexplicable.

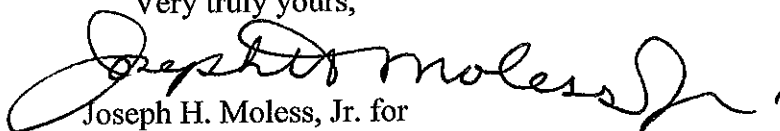
We trust that you who are charged with the implementation of significant new legislation will find our efforts informative and useful. Our proposal represents our collegial efforts to express

Ms. Gayle E. Murphy
Senior Executive, Admissions
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not only concerns but also solutions, and it is submitted with the highest regard for your responsibilities and efforts.

Thank you for the opportunity to provide our comment and suggestions.

Very truly yours,



Joseph H. Moless, Jr. for

Geoffrey F. Brown, Dean
John F. Kennedy University
School of Law

Sandra L. Brooks, Dean
Cal Northern School of Law

Anthony Dicce, Dean
Lincoln Law School of Sacramento

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Jane Gamp, Dean
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Debrenia Madison, Dean
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School of Law

Joseph H. Moless, Jr., Dean
Lincoln Law School of San Jose

Patrick Piggott, Dean of Law
Laurence Drivon School of Law

Mitchel L. Winick, Dean
Monterey College of Law

Copies to the lawyers on the Committee
Whose addresses we procured from the State Bar
Website

Doug Hull
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**RECOMMENDED CHANGES TO THE REVISED, PROPOSED RULES REGULATING
UNACCREDITED LAW SCHOOLS IN CALIFORNIA
APPENDIX A**

A. DEFINITION AND USE OF THE TERM UNACCREDITED

TITLE. DIVISION 3. REGISTRATION OF UNACCREDITED LAW SCHOOLS, WHETHER RESIDENT, CORRESPONDENCE OR DISTANCE LEARNING LAW SCHOOLS.

B. GENERAL PROVISIONS

1. Rule 4.200. Authority. The Committee of Bar Examiners (the Committee) is authorized by law to register, oversee, and regulate unaccredited law schools, whether resident, correspondence or distance learning law schools in California.

2. Rule 2.204. Definitions.

(Add) An “accredited law school” is a law school that has met the standards of accreditation under the Rules Regulating Accreditation of Law Schools in California, is in good standing, and has been granted accreditation by the Committee.

(Add) An American Bar Association Approved Law School is a law school that is approved by the American Bar Association and is deemed accredited by the Committee.

(A) “The Committee” is the Committee of Bar Examiners of the State Bar of California.

(B) An “unaccredited correspondence law school” is a law school, not accredited by the Committee, that has its primary administrative offices in California, conducts instruction by correspondence and requires at least 864 hours of preparation and study per year for four years.

(C) An “unaccredited distance learning law school” is a law school, not accredited by the Committee that has its primary administrative offices in California, conducts instruction over the Internet, and requires at least 864 hours of preparation and study per year for four years.

(G) A “registered law school” is an unaccredited law school, whether resident, correspondence, or distance learning, that meets the

requirements of these rules and that has been registered by the Committee.

(I) An “unaccredited resident law school”, is a law school, not accredited by the Committee, that operates in California and requires classroom attendance of its students for a minimum of 270 hours a year.

(Add) An “unaccredited law school” refers to any resident, correspondence or distance learning law school operating in the State of California that has neither been granted accreditation by the Committee nor approved by the American Bar Association.

(Add) The First Year Law Student Examination (FYLSX) is the examination administer by the Committee that all students attending an unaccredited law school are required to take after the completion of their first year of law study.

3. Rule 4.205. List of Law Schools. The Committee maintains a list of law schools operating in California. The list includes law schools approved by the American Bar Association, those accredited by the Committee and those registered by the Committee. These lists are available on the State Bar web site and upon request.
4. Rule 4.221. Application Procedure. An unaccredited law school, whether resident, correspondence or distance learning law school....
5. Rule 4.241. Disclosure

(Add) The statement that the law school is “not approved by the American Bar Association nor accredited by the Committee of Bar Examiners of the State Bar of California” must accompany any statement regarding registration, accreditation or approval by an entity or agency other than the Committee and the law school may not state or imply that such the designation by others alters the law school’s status as an unaccredited law school in the State of California..

(Add) All unaccredited law schools, whether resident, correspondence or distance learning, must include the following statement in its bulletins, on its website and in any other written or electronic materials describing or soliciting its program :

“Study at, or graduation from, this law school may not qualify a student to take the bar examination in other states or satisfy the requirements to practice law in a state other than California. The student should contact the jurisdiction in which they may wish to practice for the legal education requirements of that jurisdiction.”

(A) An unaccredited law school must provide each student...a disclosure statement that includes all the following information:

- (1) “This law school is not accredited by the Committee of Bar Examiners of the State Bar of California.”
- (4) (New Intro) “Students at this law school must take and pass the First Year Law Student Examination at the completion of their first year of law study. “ In a format
- (5) The number of legal volumes in the library.
- (6) The educational background, qualifications, and experience of the Dean and faculty, and whether the Dean and faculty are members of the State Bar of California or are admitted in another jurisdiction.
- (8) A statement that the education provided by, or graduation from, the school may not satisfy the requirements of other states to take the bar or practice law and that

(B) The disclosure must be

- (1) Provided to each new student with the application form, including an on-line application;
- (2) Signed and dated by each applicant prior to the school’s acceptance of an application fee.
- (3) Signed and dated by each returning student prior to the payment of any fee or tuition for the academic year.

- (C) Each student must receive a copy of his/her signed and dated disclosure statement and the original must be maintained in the file of each student.

6. Rule 4.267 Probation

- (A) If the Committee decides that a law school has not complied or taken substantial steps to comply with these rules but has made adequate initial progress towards compliance, the Committee may place the school on probation for a specified time.

COMMENTARY ON APPENDIX A TO RECOMMENDATIONS TO PROPOSED RULES OF UNACCREDITED LAW SCHOOLS

This commentary provides explanatory information to Appendix A the written recommendations submitted by the California Accredited Law Schools (CALS) pertinent to the proposed adoption by the Committee of Bar Examiners of Rules on Registration of Unaccredited Law Schools.

CALS believe that the revised, proposed Rules before the Committee contain certain significant omissions and ambiguities. Appendix A to this letter represents a concerted effort to address these issues. The recommendations listed in Appendix A are based on the premise that the primary and overriding purpose of the Dunn legislation is the protection of potential and existing law students by the creation of Rules that are clear and unambiguous in language, practices and procedures. Appendix A advances this purpose.

DISCUSSION OF APPENDIX A

A. Division 3. Title. The first section of Appendix A deals with the Title of the new Rules. The new language clears away any confusion that only “resident” law schools have the status of “unaccredited” and demonstrates that these new Rules apply to all unaccredited law schools whether resident, correspondence or long distance. This clarification is applied consistently throughout the additional recommendations.

B. Chapter 1. General Provisions:

B. (1) addresses the Authority of the Committee of Bar Examiners under Rule 4.200. These recommendations address the unaccredited description, as above, and a minor, grammatical change in reference to the Committee (i.e. using a capital for Committee, since it references a specific committee.)

B. (2) of Appendix A deals with Definitions of Rule 4.204, and some additional definitions that should be included. Under the recommendations of Appendix A, a full and complete definition of the types of law schools permissible in California is provided, including consistent definitions of the various kinds of unaccredited law school. The most important definition that was added relates to the core of the Dunn legislation itself – the definition of an “unaccredited law school”. The definition is required because it represents the common differentiation that is utilized by the Bar and the educational community. The new clearer definitions prevent confusion by placing law schools into discrete generic categories which reduces the likelihood that prospective law students will be confused or misled in the admissions process. Additionally added under this section is the definition of the First Year Law Student Examination (FYLSX), which was omitted from the revised proposed Rules. Since every students at an unaccredited law school must take the First Year Law Student Examination at the end of the first year of study (in order to proceed with additional courses to become

eligible for the General Bar Examination), this is an important inclusion and significant disclosure item.

B. (3) of Appendix A deals with the List of Law Schools maintained by the Bar under Rule 4.205. Since this list is greater than “registered” law schools, the title and wording was expanded.

B. (4) of Appendix A merely reflects a language change to be consistent regarding the use of the term - unaccredited law schools.

B. (5) of Appendix A concerns Disclosure under Rule 4.241.

Rule 4.241 (A) Disclosure Statement. The recommendations in this section speak directly to the legislative goal of consumer protection by addressing additions and modifications to both the disclosures required and the appropriate timing of the disclosures. One new recommendation requires that all mailings, letters, web sites and solicitations contain the appropriate caution regarding the status of unaccredited law schools and the fact that other jurisdictions may not recognize their legal studies or graduation. This is similar to the caution that is given by accredited law schools currently.

Another new recommendation requires that comments regarding registration, approval or accreditation by organizations/entities other than the Committee, be accompanied by a statement that the law school is neither approved by the American Bar Association nor accredited by the Committee of Bar Examiners for

the State of California. This allows the unaccredited law school to list affiliations with other organizations but prevents any implication that such affiliation alters the law schools' status in California.

In addressing the particular disclosure statement that must be provided to potential and returning students, a new requirement is recommended – that of telling applicants that they will be required to take and pass the First Year Law Student Examination at the completion of their first year of law study. This disclosure would precede and make clear why the law school is providing information on the passage rates of the First Year Law Student Examination for the particular institution.

The language that correspondence and distance learning law school are excluded from disclosure regarding the number of volumes in the library is deleted, since it is inconsistent with the requirements of Rule 4.240. Standards (H) Library, which requires that the “law school must maintain a library consistent with the minimum requirements set by the Committee”.

Rule 4.241 (B) Receipt of Disclosure Form. Another serious recommendation to the disclosure section concerns timing of the disclosure. The Appendix A changes provide that the disclosure of all relevant, material facts be made much earlier to a prospective student – at the time of application - than merely before registration. If a disclosure is to have a meaningful impact, it must

be in the hands of the consumer at the beginning of the decision making process, so that the consumer can weigh and balance the important factors that could impact on the decision.

To facilitate clarity, the requirements that (1) a student receive a signed and dated copy of the disclosure prior to acceptance of an application fee, and (2) that each returning student receive a copy of the signed and dated disclosure prior to the payment of any fee or tuition, immediately following the requirement that each new student be provided with the disclosure form with the application form, including on-line.

Rule 4.241 (C) Copies of the Disclosure Statement. In this section, Appendix A recommends that the original signed and dated disclosure be placed in the applicant/student file.

Finally, this letter has a comment and request for the Committee. The Rules refer to “Guidelines” that are not included and that, apparently, have not yet been prepared, or, if prepared, have not been distributed. The CALS Deans request assurances that the Committee (and sub-Committees) follow an open and inclusive process for the preparation and adoption of “Guidelines” which are intended to flush out and particularize these Rules.

The CALS Deans trust that the Committee, which is charged with the implementation of significant new legislation, will accept and review these

recommendations and will find our efforts informative and useful. These recommendations represent our collegial and collaborative efforts to express not only concerns, but also viable solutions. They are submitted with the highest regard for your responsibilities and efforts. The CALS Deans thank you for the opportunity to provide our comments and suggestions.



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May 3, 2007

Via E-Mail

Ms. Whitnie Henderson

Association of California Water Agencies

910 K. Street, Ste 100

Sacramento, CA 95814-3577

Re: Proposed Rules Regulating the Registration of Unaccredited Law
Schools in California

Dear Ms. Henderson,

Thank you for offering this opportunity to address some concerns regarding both the process and the proposed rules regulating the registration of unaccredited law schools in California. No one is questioning the enormity of the task of preparing draft Rules in such a constricted time span. The Committee was placed in a very challenging position by the Dunn Bill.

The Process. The CALS schools expressed their desire to part of the proposed Rules process down in Santa Monica, the very day the Dunn Bill was signed. As you may recall, we again expressed our willingness at the meeting at the CBE meeting in December 2006, where several CALS Deans were present. However, on January 26, 2007, when the CALS Deans met with Gayle Murphy and expressed their desire to be included in the drafting process, we were advised that our input would be restricted to the public comment since the CALS schools were not "interested parties." By formal letter to the Committee (copy attached), the CALS Deans respectfully disagreed. However, no member of the CALS Deans was invited to participate in any discussions at any phase of the rules preparation. Indeed, the very day the proposed Rules were being presented, the CALS Deans were meeting in the State Bar Building

without ever being told that the proposed Rules were finished. Written notice of the proposed Rules was not sent out and received until mid-April, well after the Committee had met.

Thus, it was with surprise that the CALS Deans were advised that the proposed Rules are not on the May Agenda at all, and further that the Deans were not going to be allowed to speak at the meeting to express their concerns, even if they made the trip to San Diego.

While there is still an opportunity for written comment, this phase closes on June 11th 2007. 4 days *before* the sole public hearing currently scheduled in Los Angeles on June 15th.2007. As to written comments submitted to the Committee, I have not been able to find a situs on the State Bar web site which discloses where these public comments will be available for review. Lastly, there is no date published as to when and where the proposed Rules, and proposed changes, if any, will be presented to Committee.

Proposed Rules Concerns. There are several concerns that the CALS Deans are discussing:

1. Appellation and Definitions. CALS has previously expressed concern over the titles and designations being discussed - requiring the use of unaccredited vs. other terms such as "regulated", "registered, approved" - all of which tend to hide unaccredited. Additionally, under the draft Rules, "unaccredited" is only used in conjunction with resident facilities and was left out of the definition of either correspondence or distance learning schools.
2. Disclosure Issues
 - a. Time of Disclosure. The disclosure of unaccredited status is too late in the process. It is after application and the student has already shown a commitment. Disclosure needs to be given throughout the solicitation, advertising and information process.
 - b. Quality of Disclosure. The disclosure must be both clear as to status and as to the requirement that

students need to take the FYLSE before advancing to the second year.

c. Response to Disclosure Violations. Penalty is merely to give money back. Discovery is complaint driven rather than oversight.

3. Student Recovery Fund. There is no fund to facilitate this.
4. Title of Rules. The name of the Rules is confusing, i.e. Rules "regulation registration" Also, the status as "unaccredited" is not consistently applied to both correspondence and distance learning law schools - if at all.
5. Integrity. The particulars of this section will be filled out in the factors - but what is the process for this section.
6. Library. Per the rules, only the resident unaccredited law schools will have a library requirement, both correspondent and distance law schools are exempt from any requirement.
7. Law Degree. There is no requirement for active State Bar membership by anyone owning, governing or supervising an unaccredited law school.

The CALS Deans are in the process of preparing formal language to address these concerns and plan to have that to the Committee shortly.

Interested Party. The CALS are interested parties and have been all along. It is the California accredited schools that are mistakenly grouped with unaccredited schools in the public mind. This will be even more prevalent if there is a weakening or elimination of the requirements that solicitations and other advertising not only say *unaccredited* but also reference meaningful definitions of that term.

Both the public and the CALS, who worked hard for their continued accreditation, also deserve to be protected from the use of titles from

Whitnie Houston

• May 3, 2007

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other entities which seek to imply a heightened status within California (such as "Approved by XX" "Accredited by XXX").

I appreciate your time. I understand from the CBE Staff that I should cancel my ticket to San Diego and I will proceed to do that unless I hear differently from you.

Thanks.

Jane Gamp

A Position Paper as it Relates to the
Preamble
on the
Draft Rules
Regulating Registration of
Un-Accredited, Correspondence and
Distance Learning Schools

By Stanislaus Pulle Ph.D.
Dean of Law
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The following is a "Position Paper" presented on behalf of the Southern California Institute of Law @ Santa Barbara and Ventura as part of an invitation to engage in "Public Comment" regarding the Draft of Rules (Rules) as it relates to the registration of Un-Accredited, Correspondence and Distance Learning Law schools.

When rules regulating the delivery of professional services are drafted involving separate actors, a threshold question that must be addressed. Do we have a minimum baseline content and quality of the service for each distinct lines of process?

If we blur the lines, we create a climate for fraud, deception, and consumer depredations.

By defining the template for both as a "quality legal education" the preamble fogs the distinction. Without real evidence to support how two separate streams of regulatory processes can lead to a quality legal education we are reduced instead to accepting at face value a theory of mission goals impoverished by an absence of any supporting intellectual foundation.

The enduring potency of the State as the public's trusted interlocutor in the serious project of legal education cannot be risked by ignoring the contrast.

Nowhere is this distinction flagged for substantive difference than that of the accompanying preamble. For it is from here, that the constitutive Rules provide a refractive prism for analysis and evaluative distinctions. And, it is precisely at this pivot that the Rules as currently drafted are an unmitigated disaster.

Let's begin by a cursory reflection on the Draft Rules and the Accreditation Standards.

On its face, the preamble that frames the Rules is a mirror image reflection of the identical text under the Standards and thus in a single stroke tears down any real substantive qualitative contrasts between law schools accredited by the Committee of Bar Examiners (Standards) and the unaccredited schools.

Here is Section 2.01 under the Standards for Accreditation of Law Schools:

"To become accredited, a law school must establish that its paramount objective is to provide a sound legal education. Financial consideration shall not dictate nor adversely affect the educational program. The school shall not retain any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the program and acquiring the educational qualifications necessary for admission to practice law in California."

The Draft Rules without a hint of irony under the same numbered Section 2.01 tracks the Standards verbatim except, it substitutes "registered" for the word "accredited."

In professional and specialty licensing, labeling that undertakes qualitative assessment does matter.

If "registered" and "unaccredited" become interchangeable and synonymous terms to describe a "sound legal education" then why attempt to create a sharp distinction through the use of similar factors and standards?

And even here, if one places the Rules and the Standards side by side, it becomes readily apparent that the Rules that describe the parameters of what is encompassed by a sound legal education (Integrity, Dean and Faculty, Admissions, Scholastic Standards, Financial Resources, and Records and Reports) rail along tracks that run parallel to those of the Standards.

If the argument is that a "sound legal education" can be achieved by contrasting mechanisms then why appoint different labels for purposes of consumer protection? If all of law school education is reduced to fulfilling a timeline of earned credits going from point A to point B, passing along the way the usual signposts of integrity, dean and faculty...etc, a jalopy should do.

And if there are different varieties of what constitutes a sound legal education, then it becomes part of the purgative function of a preamble to highlight the comparisons and illuminate the distinctions.

Notions of quality reflected in the Rules when wrapped in amorphous generalizations betray a purpose in which process and internal governance are left to the tender ministrations of private operatives exercising unbounded discretion.

Unlike accredited law schools, these entities by and large assume a form and structure that is inherently antithetical to independent oversight, overlooks patent financial conflicts of interests, and its closed-circuit forms of accountability invite a process of academic governance modeled after a satrapy.

For example, what if any academic committee will insure that the form, content, structure and analysis of examinations and the concomitant aspects of testing and grading are of substantive quality and what procedures exist if any for the implementation of honor code standards?

Since any oversight mechanisms under the Rules are not expected to calibrate to the uniform process that inhere in the implementation of accreditation Standards, are consumers to infer that operators of registered-only law schools with their varying degrees of process and oversight (if any) can somehow assure a "sound legal education" as is the stated goal under the Standards of Accreditation?

To ask this question is to underline the absurdity of a draft preamble specifically designed to mark the existing and deep divide between Rules (minimal and varying process) and Standards (content-based and uniform)

A State Bar guided by lights of reason and intellect cannot and must not seal its imprimatur on this farce.

We suggest that the Draft preamble text be fully excised and be replaced with language that corresponds to the confining focus of unaccredited law schools which is, mainly if not exclusively, to prepare students for the First Year Law Students Examination and provide an adequate learning in subjects tested on the General Bar.

Thus we offer the following replacement text:

"To become registered, a law school must establish that its paramount objective is to provide at minimum a basic level of legal education measured by preparing its students for the First Year Law Students' Examination and reasonable instruction in at least those subjects tested on the General Bar Examination.

We submit respectfully, that this text accurately encapsulates the mission of these law schools.

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May 18, 2007

Office of Admissions
The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639
Attention: Saida Salfiti

Re: Comments on the proposed *Rules
Regulating Registration of Unaccredited,
Correspondence and Distance Learning
Law Schools in California*

Set forth below are our comments on the proposed rules. The comments are ours alone and we do not purport to represent the interests of others.

Before we comment on specific provisions, we believe that there is a threshold issue that needs to be addressed. It appears that the Committee has concluded that the Dunn Bill removes law schools from all provisions of the California Education Code and all regulatory oversight is a result of the Dunn Bill and future Supreme Court rules.

We believe that the Dunn Bill, while well intended, is poorly drafted legislation which is vague in many areas. Many attorneys believe that the legislation merely requires the Committee to "step into the shoes of the BPPVE" while others have concluded that the Committee has been given carte blanche authority to draft rules notwithstanding any inconsistent provisions in the Education Code or Administrative Regulations. It would be very helpful if the Committee would take a formal position on this issue.

From our viewpoint, we are not supporting one position or the other. However, if the Committee believes that the Education Code does not apply, we strongly suggest that it seek an interpretative opinion from the Attorney General.

The Committee's authority to implement certain proposed rules clearly comes from the provisions of the Dunn Bill – not the Supreme Court. Therefore, it is our hope and expectation that any rules, guidelines, and

comments be submitted to the Office of Administrative Law pursuant to the provisions of the California Administrative Code. In the history of private postsecondary education, "rules" adopted by regulatory agencies without going through the administrative law process have been found to be unenforceable and the delay in implementing enforceable rules allowed diploma mills and substandard schools to operate in California for extended periods of time.

A great many of the proposed rules are vague and provide little guidance to impacted law schools or other parties as to exactly what schools must demonstrate to comply. Our comments below address only matters that we feel the Committee needs to address immediately and our failure to comment on a proposed Rule should not be interpreted that we agree with the need for or language of such Rules.

Section 1.01 Name and Scope of Rules

"These Rules apply to law schools registered by the Committee of Bar Examiners and those law schools seeking registration."

Comments: Since the CBE has exclusive authority over law schools and law degrees awarded in California, this restrictive language would allow any degree mill to print an unlimited number of law diplomas with no regulatory oversight whatsoever so long as it does not seek registration.

"In addition, the Committee will publish Guidelines and Comments governing the interpretation and application of the Registration Rules."

Comments: The Rules are not clear on the legal effect of "Guidelines" and "Comments" in the operation of law schools nor the process for establishing any such guidelines or comments.

Section 1.04 Definitions.

(N) Professional Law Degrees include the LL.B (Bachelor of Law), Masters of Legal Studies (MLS), J.D. (Juris Doctor), and LL.M. (Master of Law) degrees, and such other post-graduate degrees the Committee authorizes. Only law programs that qualify students to take the California Bar Examination may result in the granting of a J.D. degree.

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Comments: It is unclear if the term "Juris Doctor" degree includes degrees which include Juris Doctor in the title. Examples include Executive Juris Doctor, Non-Bar Juris Doctor, and Juris Doctor-Executive Track. Further, the Rules need to clarify what happens to the status of students currently enrolled in a program that the CBE finds unacceptable. Will schools be permitted to "teach-out" currently enrolled students? Since this may impact thousands of currently enrolled students, we believe that it is critical that these matters be clarified in the Rules and not deferred to a later "Guideline" or "Comment."

Some have suggested that the Master of Legal Studies (MLS) be substituted for the non-Bar Juris Doctor. We note that the ABA publication *ABA – LSAC Official Guide to ABA-Approved Law Schools* describes the MLS as a post-Juris Doctor degree.

Whatever limiting rules the Committee may elect to adopt, the provision would seem to be more appropriate in Section Two (RULES) rather than in "Definitions."

G) A Distance Learning Law School is a law school that has its primary administrative offices in California, is authorized to confer professional law degrees, conducts instruction and provides interactive classroom study using internet technology, and requires at least 864 hours of preparation and study per year for four (4) years.

Comment: We support the concept of distinguishing between correspondence schools and schools that make extensive use of telecommunications technology. But in common usage, "distance learning" is broad term which includes both correspondence and online programs. To avoid possible confusion to the public, we suggest that the title "Distance Learning Law School" be replaced with "Online Law School."

The definition as drafted appears clear and appropriate other than the word "classroom," which should be deleted. A "classroom" is a physical facility and therefore is inconsistent with "online" or "distance."

It is noted that the new classification would need to be referenced in a number of other Supreme Court rules.

(L) The First Year Law Students' Examination is the examination required of all students not otherwise exempt by the California Business and Professions Code. Students who are not exempt from this requirement must take the examination after completion of their first year of law study. Those who pass the examination within three (3) administrations after first becoming eligible to take it will receive credit for all law studies completed to the time the examination is passed. Those who do not pass the examination within three administrations after first becoming eligible to take it, but who subsequently pass the examination, will receive credit for one year of legal study only.

Comments: If the Committee plans to approve programs other than the Juris Doctor Program, this language is misleading. For example, an LL.M. student should not be required to pass the examination.

Section 1.08 Law School Student Complaints. The Committee will place all complaints received from law students about particular law schools in the school's file, but the Committee will not act on any one complaint, except to review it in the context of the school's compliance with the Admission Rules and the Registration Rules and Guidelines and Comments. The Committee will not intercede in matters between a law school and a student.

Comment: If the Committee declines to intercede in matters between a law school and a student, a student will have no remedy short of litigation. In our opinion, this would result in a serious reduction in consumer protection and would be counterproductive to the intent of the Dunn Bill.

Section 2.01 Preamble. To become registered, a law school must establish that its paramount objective is to provide a sound legal education. Financial considerations must not dictate nor adversely affect the educational program.

E) Dean and Faculty. The law school must have a competent dean or other administrative head and a competent faculty devoting adequate time to administration, instruction, and student counseling.

Comment: We believe that, without exception, no individual who has been disbarred or resigned from a state bar with disciplinary charges pending should be allowed to assume any leadership role in a law school. A leadership role would include the titles of president, chief executive officer, or dean.

(F) Library. The law school must maintain a library consistent with the minimum requirements set by the Committee.

Comment: Distance education schools should be exempt from this requirement. With respect to distance education schools, we encourage the Committee to consider requiring distance education schools to provide electronic learning resources that support the learning objectives of their programs.

(J) Financial Resources. The law school must have adequate present and anticipated financial resources to support its programs and operations.

Comment: In our opinion it is critical that the staff and ultimately the Committee receive complete and accurate financial statements prepared in accordance with generally accepted accounting principles. This goal can only be achieved through annual CPA audited financial statements.

(L) Equal Opportunity and Non-Discrimination. Consistent with sound educational policy and the Rules, the law school should demonstrate a commitment to providing equal opportunity to study law and in the hiring, retention and promotion of faculty without regard to sex, race, color, ancestry, religious creed, national origin, disability, medical condition, age, marital status, political affiliation, sexual orientation, disabled veteran or Vietnam Era veteran status.

Comment: The American Bar Association has recognized that such a rule may be in violation of the First Amendment to the United States Constitution. If the Committee believes that it is necessary to engage in social engineering, we suggest that the Committee consider adopting language similar to the ABA Standard set forth below:

- (c) This Standard does not prevent a law school from having a religious affiliation or purpose and adopting and applying policies of admission of students and employment of faculty and staff that directly relate to this affiliation or purpose so long as (i) notice of these policies has been given to applicants, students, faculty, and staff before their affiliation with the law school, and the religious affiliation, purpose, or policies do not contravene any other Standard, including Standard 405(b) concerning academic freedom. These policies may provide a*

preference for persons adhering to the religious affiliation or purpose of the law school, but shall not be applied to use admission policies or take other action to preclude admission of applicants or retention of students on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability. This Standard permits religious affiliation or purpose policies as to admission, retention, and employment only to the extent that these policies are protected by the United States Constitution. It is administered as though the First Amendment of the United States Constitution governs its application.

Section 3.04 Other Legal Studies. *A registered law school that offers, or is part of an institution that offers, any program in legal studies other than the program leading to a professional degree in law or other post-graduate degree program approved by the Committee, must be approved to offer such programs by the Bureau of Private Postsecondary and Vocational Education or its successor. Paralegal programs and undergraduate legal degree programs are not subject to the regulation and oversight of the Committee, and must be approved by the appropriate entity as determined by law.*

Comment: In 2008 and thereafter, the BPPVE (or any successor agency) will have no authority to regulate a Bachelor's degree program in law. If the Committee declines to exercise jurisdiction, the degree would be completely unregulated. We believe that the ability to award a degree without the regulatory oversight of any federal or state agency will result in a significant weakness in consumer protection. (It is also noted that the correct name of the state agency is the Bureau for Private Postsecondary and Vocational Education.)

Section 5.02 Contents of the Disclosure Statement. *The Disclosure Statement must contain the following information:*

(A) *The school is not accredited. However, in addition, if the school has been approved by other agencies, that fact may be stated.*

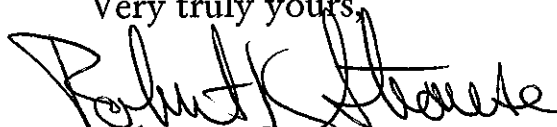
Comment: With respect to William Howard Taft University and Concord Law School this statement is inaccurate. Both are accredited by the Distance Education and Training Council. We suggest that the first sentence be

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amended to read "The school is not accredited by the Committee of Bar Examiners of the State Bar of California" and that any school accredited by an accrediting agency recognized by the United States Secretary of Education be permitted to note that fact in sentence two.

We appreciate the opportunity to express our views and look forward to working with staff in the future on matters related to the regulation of law schools.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert K. Strouse", written over the typed name.

Robert K. Strouse,
Academic Dean and Chief
Operating Officer

RKS:wo

ADMSF

From: georgegliaudys@irvineuniversity.edu
Sent: Saturday, May 19, 2007 9:31 AM
To: ADMSF
Subject: Comments on Draft Rules Regulating Registration

Dear Ms. Salfiti,

Regarding the request for public comment on the State Bar's proposed Rules Regulating Registration of Unaccredited, Correspondence and Distant Learning Law Schools:

Section 2.01 (F) Library - Library resources are a major expenditure for small schools in terms of update services, shelf-space costs, librarian services and acquisitions. Most small schools such as Irvine University expand the range of their shelf collections by providing students with easy access to electronic libraries such as through LexisNexis. Students have the ability to research and print any legal materials ranging from case retrievals to law review articles using electronic means from library computers or from their home computers. Likewise, most law firms have moved from collections of hard copies to electronic library resourcing for their library needs for similar cost reasons and convenience of use. In addition, cooperative use arrangements among neighboring law schools for utilization of library resources allow law students access for hard copy materials as needed in their study. While the CBE minimum requirements are set forth for a library collection and not challenged by these comments, it is recommended that the language in the Section itself be augmented to indicate that electronic access to materials will be considered as among the criteria in addition to hardback volumes in meeting the minimum library requirements set by the CBE.

Section 3.04 - Other Legal Studies - Although numerically small there are students who seek a legal education but who have no intention of entering traditional law practice in California courts nor do they wish to sit for the Bar Examination to become licensed attorneys. Such students want to become learned in the law for academic or other personal reasons and seek a JD degree. Under Section 1.04 (N) Definitions it appears that such academic oriented students would not be permitted to study for the JD degree unless they are seeking to qualify for the State Bar Examination which means that in registered school settings they would need to incur the additional expenditures for taking a FYLSX in order to seek the JD degree.

We agree that the JD degree should not be diluted as a professional degree; however, a student who does not intend to practice law as a lawyer nor plan to take the State Bar, will have a JD degree - especially if they received it from a ABA or CBE accredited school - without the additional expenditures of having spent money for the FYLSX required under the proposed rules that a student who studies law at a registered school will pay but who likewise does not wish to practice law as a member of the State Bar but simply wishes to have an education in the law culminating with the JD degree. This disparity in

economic burden and treatment might be resolved by including language under Other Legal Studies which clearly indicates that a student who pursues a JD for solely academic reasons will be awarded a JD degree upon completion of the regular course of studies required for a JD but will be required to indicate upon enrollment at the beginning of his or her law studies and upon registration with the State Bar as a law student that he or she elects to study for only academic reasons and not for eligibility to take the State Bar Exam upon completion of legal studies.

Respectfully submitted for consideration by the CBE.

George J. Gliaudys Jr.

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ADMSF

From: Michael Toback [michael.toback@gmail.com]
Sent: Friday, May 25, 2007 4:57 PM
To: ADMSF
Subject: comments on "Rules on Registration of Unaccredited, Correspondence and Distance Learning Law Schools"

I am a distance learning law student. I received my JD from Wm Taft University but spent my first two years at British-American.

One of the issues I had with my former school (British-American University) was that there was no one on the faculty who had been licensed by the state of California as an attorney. Worse yet, there was no one who had received a JD from an accredited California law school. The faculty consisted of former students, in some cases not even degreed students. The so-called Dean to my knowledge was an exception in that he was a licensed Colorado attorney, but had never set foot in California for all practical purposes and in fact did not even seem to be aware as recently as 2003 that California had separated Criminal Law and Criminal Procedure as two separate courses.

It seems to me that having a faculty consisting of former correspondence students who had neither passed nor taken is self-defeating. I would like to see more definition to Rule 4.2.4.0 section D in that regard. Perhaps some definition of what defines competent. As a suggestion, that at one cannot be considered faculty unless they graduated from an accredited school or are licensed to practice law in the State of California. The bar has done this in other areas, for instance requiring that a bar grader be a student who passed the bar on the first or second attempt and having attended a school that requires classroom attendance.

Another issue is scholastic standard, section F. There needs to be perhaps some clarification of this section. Although schools can set specific standards in terms of grades, the standard for giving out grades was not set. At BAU, I recall one student who, having no clue, literally copied her briefs out of the book and received an 85. I personally never got less than an A- on any of my exams in my two years there, but most of my grades at Taft were in the range from a C- to a B. Therefore, a school could skirt this requirement by simply handing out A's.

Finally admission standards. Section G states : "The school must not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the degree program.". My question is as to the words "obviously unqualified". Where an ABA schools adopt a weighting system based on LSAT and GPA, I don't know of any school other than Concord who may use such a practice or its equivalent. I think some reasonable standard is needed here. It is not unreasonable to expect that a student would have attended some accredited school and received at least a "B" average for instance. A student who does not do so but for other reasons has characteristics that makes the school administration believe that this student has a chance to become an attorney, then some system of academic probation should be adhered to.

I believe these standards are needed because students should expect reasonable guidance from someone who has knowledge of what it takes to be a law student in California, and to protect students from unscrupulous practices where students are coddled for a year then fail the FYLSX

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miserably only to find that they really never had a chance of passing any real law school exam but are out \$5000 to \$10,000.

Also, I like the idea of 4.2.0.4 (F) which appears to allow schools to teach law to non-bar students but not to call it a JD. I think consumers are fooled into thinking they are dealing with an attorney even if that person is not practicing law. Further, the person who gets this degree sincerely believes that they have the same knowledge as an attorney. Schools that give these degrees are free to build there own programs it seems, which allow non-proctored exams and watered-down curriculums. Still these schools provide a useful service and should be allowed to continue to provide these so-called "executive JD" degrees.

Sincerely,

Michael Toback, JD

6/4/2007

Salfiti, Saida

From: DonaldGWard@aol.com
Sent: Monday, May 28, 2007 5:28 PM
To: Salfiti, Saida
Subject: comments proposed rule changes

Saida Salfiti,

Since I received your notification of out of office until June 4th I decided to write my comments regarding the proposed rules for registration of unaccredited, correspondence and distance learning law schools.

I have read the proposed rules and I strongly suggest the State Bar of California consider the following changes to the proposed rule.

1) Continue the category of ABA approved law schools, State Bar Accredited law schools and for all other law schools whether residential or off-campus the 3rd category of law schools should be referred to as "State Bar Approved and Registered.

2) The rules should be such that after a new law school passed a probationary period of 2 years, or if an existing school, regardless of whether residential correspondence or distance learning, each law school would be evaluated for the status of State Bar Accredited.

The State Bar should work towards accrediting all law schools with such criteria being applied to all registered law schools whether or not in person classes are held or whether the school instructs students via distance learning or the internet.

Thus if after 2 years a law school can not meet the criteria for State Bar Accreditation it could be placed on probation and if unable to move out of probation and move towards State Bar Accreditation the law school should not be allowed to award a J.D. degree for Bar Qualification.

3) Change definition of "Professional Law Degree".

Only a Juris Doctor is a Professional Law Degree, and therefore Bachelor of Science in Law degree should be eliminated, Master of Legal Studies should be eliminated and only those law schools that are State Bar Accredited or ABA accredited should be allowed to award the Academic Law Degree, Master of Laws.

This would therefore only allow 2 law degrees, the J.D. for bar qualification and the LL.M as an advanced academic law degree.

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The State Bar should move towards a program where after a certain timeframe a law school must meet accreditation standards in order to continue to award the Juris Doctor that qualifies a person to take the California Bar.

Don Ward

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