

Salfiti, Saida

From: ADMSF
Sent: Tuesday, June 05, 2007 9:39 AM
To: Salfiti, Saida
Subject: Comment on Rule II Amendment

Dear Ms. Salfiti,

Regarding the request for public comment on the State Bar's proposal to amend Rule II of the Rules Regarding Admission to Practice Law in California - specifically in terms of foreign educated applicants:

Rule II Section 3 (a) should be re-worded to include a registered law school as among the listed options for legal educational venues that a person may utilize in meeting the additional one year required education as set forth for general applicants who have a first degree in law from a law school located in a foreign state or country. This would allow more consumer choice for the applicant in meeting their study needs as well as more convenient geographic access to a law school that is close to their residence or work location. It would also be consistent with Section 3 (b) which implicitly allows those without a first degree in law from a foreign state or country to complete their legal education at a registered law school.

Respectfully submitted for CBE consideration for adoption in the final version of the proposed change of Rule II.

George J. Gliaudys Jr.

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Salfiti, Saida

From: ADMSF
Sent: Tuesday, June 05, 2007 9:40 AM
To: Salfiti, Saida
Subject: Attn: Saida Salfiti

Re: Foreign-educated Bar Applicants

Dear Saida Salfiti,

I have read the proposed rule. My concern relates to the language in Section 3(a) which states: "must also complete a year of legal education ... in the areas of law as prescribed by the Committee prior to taking the California Bar Examination."

Is there a list of the areas of law that the Committee has prescribed? If so, please direct us to it. If candidates do not know what are the prescribed areas, this new rule would not seem to resolve the problems that have existed with the ad hoc or unspecified process that you are attempting to replace.

Thank you,

Claude Rohwer

Claude D. Rohwer, Professor of Law Emeritus
Univ. of Pacific - McGeorge School of Law
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http://calbar.ca.gov/state/calbar/calbar_generic.jsp?cid=10145&n=84721

Thank you for your interest.

Saida Salfiti
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-----Original Message-----

From: Claude Rohwer [mailto:crohwer@pacific.edu]
Sent: Friday, May 18, 2007 9:52 AM
To: ADMSF

Cc: Michael Malloy; Eric McElwain
Subject: Attn: Saida Salfiti

Re: proposed ammendment to Rules Regulating Admisison regarding foreign-educated applicants

Because we have a significant number of LLM students some of whom seek admission in California, we would appreciate receiving information regarding the proposed rules changes.

Thank you, Claude Rohwer

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CONCORD LAW SCHOOL

June 11, 2007

Ms. Gayle Murphy
Senior Executive
California Committee of Bar Examiners
The State Bar of California
180 Howard Street
San Francisco, California 94105

Dear Ms. Murphy:

This letter offers comments from Concord Law School on the proposed amendments to Rule II of the Rules Regulating Admission to Practice Law in California, which address the requirements that applicants whose legal education took place outside the United States must meet to be eligible to sit for the California general bar exam.

We agree with the proposed amendments' underlying purpose to include in the Rules information about bar admission for persons with law training outside the United States.

We have two comments: (1) The proposed rules may not require enough of individuals who studied law outside the United States; and (2) if education in U.S. law and our legal system is required of such persons, they should be able to obtain it from any law school granting a J.D. and whose graduates are eligible to sit for the California bar exam.

(1) The proposed rules may not require enough of persons whose legal education took place outside the United States.

The proposed Rules divide the foreign-educated applicant pool into two groups: (a) those with a "first degree in law, acceptable to the Committee" and (b) others who "completed legal education ... without the first degree in law."

To be eligible to sit for the general bar exam, the first group must complete a year of law study in an ABA-approved or California Bar accredited law school in subjects prescribed by the Committee. The second group may receive one year's credit toward the legal education the Rules generally required for eligibility to sit for the bar exam.

A related group of applicants for admission to practice in California are lawyers admitted to the legal profession in a foreign country. As we understand it, those in that group may sit for the attorney's bar exam with no required period of practice.

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We support rules that provide a direct path to the bar exam for those who have been admitted to practice elsewhere, whether in another U.S. jurisdiction or abroad. For those admitted to practice in a foreign country who have a direct path to the bar exam, we understand that the combination of (a) the legal education required for admission in the lawyer's home jurisdiction plus (b) the additional steps required for actual admission to practice in that jurisdiction – a licensing examination, an internship, completion of a program of professional study following postsecondary education in the law, and the like – largely substitute for the U.S. J.D. degree that the Rules otherwise require.

Those who have completed a legal education outside the United States but have not been admitted to the profession are in a different situation. They are not lawyers, and they may have not completed all of the training and education requirements beyond the first degree that are part of that particular jurisdiction's admissions rules and process. Because they are not lawyers, the justification for a direct or shortened path to admission is less strong.

Those who hold a "first degree in law acceptable to the Committee," may, in fact, have to do substantially less to qualify to sit for the California general bar exam than is required of those who hold J.D. degrees from a U.S. law school. A great deal turns on what the Committee has in mind with respect to "first degree in law" degree programs.

If that degree is basically a four-year degree following straight from high school, then it is the substantial equivalent of an undergraduate degree in the United States with a major in law. If that is what a "first degree in law" represents (or can represent), then we understand that the holder of that degree, typically in other countries, must complete further professional education, training, and/or internship required before being qualified for admission to the profession.

In our view, California should require a person with law training done in another country to have completed all of that work other than a final licensing exam – the equivalent of our bar exam – to fit into Section 3(a) of the proposed rules and be allowed to sit for the bar exam after completing one year of law school work in the U.S. We are not certain that the proposed Rule, as drafted, does that.

Perhaps we are misreading the proposed Rule or not understanding what the Committee means by "first degree in law." If so, some definition in the Rules of what it means would avoid confusion and misinterpretation. If we are not, then a result might be that a person with four years of postsecondary work in a foreign country plus one year at a U.S. law school could be eligible to sit for the bar exam in California. When the typical bar applicant in California will have had seven years of higher education before qualifying to sit for the bar exam, such a possibility strikes us as not sound policy and, in fact, a way of favoring applicants with foreign law study over U.S. J.D. graduates.

(2) All California law schools able to give a J.D. degree should be permitted to offer the one year of U.S. law study that the proposed Rules require.

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Concord also comments that proposed Rule 3(a) as proposed should not restrict those with foreign law training to taking the required one-year of study in an ABA or California Bar accredited school. The rule should simply require one year in subjects specified by the Committee in any law school whose J.D. graduates may sit for the California bar exam.

The purpose for the year's study is presumably to orient and provide grounding in the law and legal systems of the United States and the State of California. That can be accomplished by specifying the courses or subjects that an applicant must complete. The bar exam itself then measures whether applicants have been sufficiently oriented to our legal system and mastered the law at a level that justifies admission to practice in the state.

We appreciate the opportunity to comment on these proposed Rules.

Sincerely,

A handwritten signature in cursive script, appearing to read "Barry A. Carrier".

Barry A. Carrier
President and Dean