

# AGENDA ITEM

November 141

Schedule of Charges and  
Deadlines for  
Unaccredited Law School  
Registration - Proposed

**DATE:** October 19, 2007

**TO:** Members, Board of Governors  
Members, Board Planning, Program Development and Budget Committee

**FROM:** The Committee of Bar Examiners  
Gayle Murphy, Senior Executive, Admissions

**SUBJECT:** Schedule of Charges and Deadlines for Unaccredited Law School  
Registration – Proposed

## EXECUTIVE SUMMARY

The Committee of Bar Examiners (Committee) assumes complete oversight and regulation of California unaccredited law schools, which includes fixed-facility, correspondence and distance-learning law schools, effective January 1, 2008. The legislation that established these new responsibilities also permits the Committee to charge reasonable fees to fund the program. Historically, other fees that are collected through the admissions process have subsidized the law school accreditation and unaccredited functions. In order to establish reasonable fees for the new registration program, subsidization will have to continue. It is anticipated that after some experience implementing the new program, there will be future proposals to increase the fees to bring revenue into line with the actual costs. The Committee considered this matter during its October 6, 2007 meeting and adopted, subject to approval by the Board of Governors, the fees that will be charged for services related to unaccredited law school registration, which, if approved by the Board, would become effective January 1, 2008.

## SUBJECT/ISSUE

Whether the proposed unaccredited law school fees, which are included in the schedule of charges and deadlines, should be approved.

## BACKGROUND/SUMMARY OF PROPOSAL

The Committee of Bar Examiners (Committee) assumes complete oversight and regulation of unaccredited law schools, which includes fixed-facility, correspondence

and distance-learning law schools, effective January 1, 2008. The legislation that established these new responsibilities also provided that the Committee “shall assess and collect a fee from unaccredited law schools and legal programs in nonlaw schools in an amount sufficient to fund the regulatory and oversight responsibilities imposed by [section one of this new law].” The Committee is not precluded from using other funds or fees collected by the State Bar or by the Committee to supplement the funding of these regulatory and oversight duties, “if that supplemental funding is deemed necessary and appropriate to mitigate some of the additional costs of the regulation and oversight to facilitate the provision of a legal education at an affordable cost.”

In order to implement the legislative directive, new *Unaccredited Law School Rules (Unaccredited Rules)* have been adopted by the Committee and approved by the Board of Governors. The *Unaccredited Rules* contain a number of provisions requiring the payment of fees. Rule 4.209(A) provides, in general, that “[t]he regulatory and oversight services provided by the Committee are funded by reasonable fees that are set forth in the Schedule of Charges and Deadlines.”

Previously, the Committee only collected fees from schools that it directly accredits. The income from that program, however, has never been sufficient to completely fund the program. The Committee did not have the authority to collect fees from the unaccredited law schools, even though it had the responsibility to register them. A history of the revenue collected for law school accreditation related services and the expense of the Educational Standards cost center follows:

The department revenue has been:

|      |                     |
|------|---------------------|
| 2004 | \$30,658            |
| 2005 | \$31,463            |
| 2006 | \$94,253            |
| 2007 | \$68,000 (budgeted) |

The department expense has been:

|      |                      |
|------|----------------------|
| 2004 | \$100,049            |
| 2005 | \$ 93,145            |
| 2006 | \$129,647            |
| 2007 | \$157,450 (budgeted) |

The expense amount noted above is only that related to the educational standards department; none of the overhead costs, such as those related to the budgets for the Committee, Senior Executive, and Interfund, are included with those totals. The revenue and expense has varied over the years as both are directly tied to the number of law school visits that are conducted and the consultants that have been retained.

Since the 2007 budget was prepared for the educational standards department, a number of changes to the program have occurred. A new Director for Educational Standards position was created, and a new Senior Administrative Assistant position was created to replace the Administrative Assistant position. With these new positions, the use of outside consultants will be almost eliminated. In addition, the new program of registering unaccredited law schools has been added to the duties assigned to this department. The 2008 expense budget for this department is now estimated to be approximately \$340,000.

The easiest way to determine the cost of the expanded program at this time (prior to its implementation) would be to take the anticipated expense of the department for next year and add a percentage of the overhead charges (Committee, Senior Executive and Interfund) consistent with the percentage of the departmental budget as it relates to the overall budget for 2008, which is 1.9%. Adding the two costs together (educational standards department budget + percentage of overhead) totals \$402,595.

In the 2008 budget, the projected income is based, in part, on the number of accredited law schools, the annual report fee they pay, anticipated visitations and current law school fees. The annual report fee generates approximately \$12,000 in income. The bulk of the accredited law schools were visited during the last two years, which is why there is such a difference in the income and expenses between 2004 and 2005 compared to 2006 and 2007. As a result, in 2008, and the several years beyond that, income from visitations to California accredited law schools will be minimal. The average cost of a visit is approximately \$15,000 per school, and perhaps two schools will be visited in 2008. In addition, there are generally a couple of major change requests received, which brings in approximately \$1000. Revenue from accredited law school activities in 2008 is anticipated to be approximately \$31,000.

Presume that there are twenty-nine unaccredited law schools currently registered with the Committee. (The number fluctuates based on actions taken by the Committee withdrawing registration or approving new applications.) The Committee believes the best way to set fees is to establish categories based on the number of enrolled students. Category A would be new and very small schools, 0-19 enrolled students. Category B would be schools with 20-199 enrolled students. Category C would be schools with 200 or more enrolled students. If annual compliance report fees were charged according to these categories, the following income from 2008 annual compliance report fees from unaccredited law schools could be generated:

- A ( $\$500 \times 13$ ) = \$6500
- B ( $\$750 \times 12$ ) = \$9000
- C ( $\$1000 \times 4$ ) = \$4000

The annual compliance report fee appears reasonable, and no school should have to go out of business in order to pay it, which was a primary concern that was raised during the legislative process and during the public comment period. The total budget for annual compliance report fees from unaccredited law schools in 2008 would be \$19,500.

In accordance with prior action taken by the Committee, all of the twenty-nine existing unaccredited law schools will be visited within two years beginning January 1, 2008. The travel costs will vary based on the location of the school, and so will the time spent by the Educational Standards staff in preparing for and making the visits, writing the reports, and conducting follow-up monitoring as required. Much of the time difference can be attributed to the number of students that are enrolled in a law school, i.e., more students, more files to look at and more potential complaints to handle. If the total cost of the department is broken down to an hourly fee of \$180/hour (if the overhead charge is added, it comes to approximately \$214/hour), an estimated cost for a visit can be calculated. Based on prior experience, preparation can take 1-2 days, the visit would take one long day, the report writing can take 1-2 days, and follow-up varies. It is anticipated that at least twelve one-day visits could be conducted in 2008. If visits to four schools in each category (A, B or C) were scheduled and if a fee was set as a fixed amount as opposed to a deposit against hourly costs and charges, the following income in periodic inspection fees for unaccredited law schools in 2008 could be anticipated:

Category A (4 x \$5000) = \$20,000  
Category B (4 x \$6500) = \$26,000  
Category C (4 x \$8000) = \$32,000

Total projected periodic inspection fees for unaccredited law schools in 2008 would come to \$78,000. Some of the smaller schools may find this fee difficult to pay, but in that case the Committee may consider some sort of "installment plan" for those schools bringing in less income on a yearly basis.

In addition to the annual compliance report fee and the visitation fee, there should be an application fee. Consideration of an application generally takes about a day and one-half, which translates, approximately, to a fee, using the hourly rate noted above, of \$2,000. This would be in addition to the pre-registration visitation fee of \$5,000. In 2008, there most likely will be three to five new applications received. Taking the middle number of four, and that times \$7,000 (application and visitation), an additional \$28,000 in income would be generated.

Any major change and special consulting requests could be handled on an hourly fee basis, which could be set a little higher (and closer to the actual cost) at \$200/hour.

Department revenue for 2008 would total approximately \$168,500 (approximately one-half of the which comes closer, but not very close to the \$340,000 it will cost to fund the educational standards department. The Committee historically has subsidized the cost of this program, and it appears that will have to continue in order to ensure that reasonable fees are charged. It should also be kept in mind that the department does a few other things for the Office of Admissions and the Committee in addition to overseeing the registration and accreditation programs. For instance, the Director is involved with overall management of the office, assisting the eligibility department with advice, reviewing petitions and preparing recommendations, and considering other general educational standards issues as they arise.

During its October 6, 2007 meeting, the Committee considered this matter and approved the proposed schedule of charges and deadlines, which is attached as Appendix A, subject to the approval of the Board of Governors.

#### **EFFECTIVE DATE OF PROPOSAL**

The proposed fees would become effective January 1, 2008.

#### **FISCAL AND PERSONNEL IMPACT**

Revenue related to law school accreditation for 2008 is expected to total approximately \$168,000. The 2008 expense budget for the Educational Standards business unit is anticipated to be approximately \$340,000.

#### **BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT**

None

#### **RULE AMENDMENTS**

The schedule of charges and deadlines is an appendix to the *Unaccredited Law School Rules*.

#### **PROPOSED BOARD COMMITTEE RESOLUTION**

If the Board Planning, Program Development and Budget Committee agrees with the Committee of Bar Examiners' recommendation to approve the proposed unaccredited law school fees, the following resolution would be appropriate:

**RESOLVED**, upon recommendation of the Committee of Bar Examiners, that the Board Planning, Program Development and Budget Committee

Members, Board of Governors  
Members, Board Planning, Program Development and Budget Committee  
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recommends that the Board of Governors of The State Bar of California approve the proposed charges and deadlines for unaccredited law schools, in the form attached, to be effective January 1, 2008.

#### **PROPOSED BOARD RESOLUTION**

Should the Board of Governors concur with the recommendation of the Board Planning, Program Development and Budget Committee, adoption of the following resolution would be appropriate:

**RESOLVED**, upon recommendation of the Board Planning, Program Development and Budget Committee, that the Board of Governors of The State Bar of California hereby approves the proposed charges and deadlines for unaccredited law schools, in the form to these minutes and made a part hereof, to be effective January 1, 2008.

