



The State Bar of California

OPEN SESSION
AGENDA ITEM 4.2
DECEMBER 2024
COMMITTEE OF BAR EXAMINERS

DATE: December 6, 2024

TO: Members, Committee of Bar Examiners

FROM: Cody Hounanian, Program Director
Natalie Leonard, Principal Program Analyst

SUBJECT: Discussion on Unaccredited Law School Rules Review and Proposed Rule Revisions

EXECUTIVE SUMMARY

This report provides an update on the ongoing review of the Unaccredited Law School Rules. Following the first draft discussed in August 2024, feedback from the Committee of State Bar Accredited and Registered Schools (CSBARS) was incorporated into a second draft or is otherwise summarized below. Staff return to the committee with a second draft and seek the committee's guidance on several topics including assessing new law school categories, determining the minimum five-year cumulative bar exam pass rate percentage, exploring a First-Year Law Students' Exam minimum cumulative pass rate, strategies to improve retention and address attrition, and considering a requirement that prospective students take standardized assessments.

RECOMMENDED ACTION

None – Discussion only

DISCUSSION

BACKGROUND

In [December 2023](#), the Committee of Bar Examiners (committee) prioritized improving outcomes at registered unaccredited law schools and reviewing the [Unaccredited Law School](#)

[Rules](#). This effort began with the January 2024 presentation of the [Profile of California Law Schools](#) report, which provided an analysis of the legal education landscape in the state.

In March 2024, feedback from the Committee of State Bar Accredited and Registered Schools (CSBARS) and the Council on Access and Fairness (COAF) aided staff in developing options to enhance outcomes for registered unaccredited schools, presented at the [April 2024](#) committee meeting. [In June](#), staff outlined principles for reviewing the Unaccredited Law School Rules, emphasizing consumer protection and transparency, student success and preparation for licensure, and evidence and data-driven decision-making.

In [August 2024](#), the committee discussed a first draft of proposed revisions. That draft aimed to clarify rules, align rules with current practices, utilize consistent terminology, consolidate text, integrate guidelines into rules, and streamline the compliance processes. New proposals included modernized law school categories, a minimum, cumulative bar exam pass rate requirement, and an expanded acquiescence requirement for non-degree programs.

Since then, CSBARS met twice, on [October 8](#) and [November 1](#), to provide feedback on the proposed changes. Staff and committee members facilitated discussion, asked clarifying questions, and sought input on possible proposals. Staff also met again with liaisons from COAF to gather additional input.

This staff report summarizes the feedback received, presents an updated draft of the rules incorporating that input, and seeks committee input on key issues. Attachments A and B provide the updated draft in redlined and clean formats, with single strikethroughs and underlines indicating changes from the first draft, and double strikethroughs and underlines indicating changes in the updated draft.

SUMMARY OF REVISIONS PROPOSED IN FIRST DRAFT

Many of the proposed revisions introduced in the first draft remain. Below is a summary of those proposals which are described in detail in the staff report from the [August 2024](#) meeting.

The rules for registered unaccredited law schools have not undergone a comprehensive review in many years, prompting technical revisions to improve clarity including consistent terminology, consolidation of definitions, and integration of guidelines into the rules. Other proposed revisions replicate language from the Accredited Law School Rules, such as emergency policies and waivers, streamlined inspection and noncompliance processes, enhanced committee discretion related to probation, and clearer grounds for registration termination.

Revisions to existing rules focus on enhancing consumer disclosures, requiring formal student complaint policies, and clarifying requirements for major changes. Entirely new requirements proposed included: "asynchronous" and "synchronous" law school categories, implementing a minimum five-year cumulative bar exam pass rate (MPR) requirement, and expanding acquiescence requirements to include non-degree programs.

FEEDBACK FROM CSBARS AND STAFF RESPONSE

Members of CSBARS explored specific proposals from the first draft and facilitated discussions with the other members over two meetings in October and November 2024. The discussions provided valuable feedback to consider. Table 1 shares a summary of the feedback received from CSBARS members and other law school representatives and staff's responses to the feedback.

Table 1. Feedback Received from Law Schools and Staff Response

Feedback	Response
Instruction Method Categories	
The inclusion of fixed-facility, distance-learning, and correspondence law school definitions is confusing with the introduction of new categories.	Rules 4.204(l)(1)-(3) are now removed to reduce confusion. References to these terms remain in the descriptions of asynchronous and synchronous categories to provide context and continuity.
Consider creating a hybrid modality option for registered unaccredited law schools.	<p>Rule 4.240(B)(3) allows up to 20 percent of courses may be attended through alternative methods and up to 20 percent of each student's instruction per academic term may use alternative methods.</p> <p>A hybrid category is not created, but the flexibility of Rule 4.240(B)(3) contemplates a scenario in which a school incorporates several modalities.</p>
Disclosure Requirements	
Requiring registered unaccredited law schools to disclose pending, withdrawn, or denied accreditation applications may be confusing.	No changes are proposed. This disclosure is required under California Business and Professions Code Section 6061.
Confusion about when disclosures must be provided, signed, and returned to students and when disclosure forms must be updated.	<p>Rule 4.241(B)-(D) now clarifies that actions must be taken before the payment of any registration fee, payment of any fee for the academic term, or if payment is not required, before the start of an academic term.</p> <p>Language requiring that disclosures are updated between annual report submissions is temporarily removed to allow staff time to identify the most effective requirement.</p>

Clarify library resource disclosure requirements.	Rule 4.241(A)(6) now clarifies that disclosures must include library resources listed in Rule of Court 9.30 and additional legal databases and research tools. The format of each resource (physical, online, or both) must also be specified for clarity.
Concerns about requiring refunds when disclosure requirements are unmet.	No additional changes proposed. The refund requirement is already required under California Business and Professions Code section 6061.
Major Change Requirements	
Clarify the meaning of "division of the JD program" for the major change requirement.	<p>Rule 4.245(A) now clarifies that a major change applies when modifications or additions to JD programs represent a significant departure from existing offerings or teaching methods. This mirrors the language used by the American Bar Association.</p> <p>Circumstances when a major change request is required are now described in more detail.</p>
Require a major change request only for administrative office, campus, or classroom facilities moves exceeding five miles.	No changes are proposed. Rule 4.245(B) requires all moves to undergo review, as short-distance moves can still significantly affect classroom facilities or operations.
Noncompliance Process	
Allow law schools to request early removal from probation.	Rules 4.264(F) and (G) are added to permit schools to request early termination or an extension of probation if they demonstrate compliance or a clear plan to achieve it.
Questions about who can serve on a hearing panel.	No changes are proposed. Rule 4.262(A) provides law schools with an opportunity to challenge the appointment of a panel member for bias or conflict.
Consider "teach-outs" for schools closing in rules and clarify that law schools are responsible for mitigating the impact on students.	Rule 4.265(D) is added to identify the responsibilities of law schools that are closing.

Other Feedback	
Require the committee to respond to law school matters within a specific timeframe or align timelines for law schools and the committee.	Some timelines, such as those in Rule 4.244(D) (inspection reports) and Rule 4.260(B) (response to Notices of Noncompliance), are already included. For other matters, staff recommends flexibility to allow the committee review based on topic complexity and the comprehensiveness of materials received.
Remove the term "unaccredited" in reference to law schools not approved by the American Bar Association or accredited by the committee.	No changes are proposed. Concerns were raised by some CSBARS and committee members that removing "unaccredited" could confuse prospective students.
Concerns about the 90-day registration requirement for students, including costs, burdens on schools, and validation difficulties.	<p>Rule 4.240(A)(10) does not impose new costs, as registration is already required under California Business and Professions Code section 6060.</p> <p>New language clarifies that law schools are required to receive evidence of registration, such as confirmation emails, communication from State Bar staff, or Applicant Portal information.</p>
Concerns about student complaint requirements, including the scope and record retention timeline.	<p>Rule 4.205(B) and (C) continue to include all complaints. Due to staff's own experience investigating student complaints, it believes that it is important to not overlook some complaints.</p> <p>New proposed language clarifies retaining records for 20 years to identify long-term trends across multiple inspection cycles.</p>

TOPICS REQUIRING COMMITTEE FEEDBACK

Staff seek committee discussion and feedback on several topics ahead of a final draft returning to the committee. Those topics and important considerations are identified below.

Assessing New Law School Categories and Principal Method of Instruction

At the August 2024 meeting, staff proposed Rule 4.240(B), which would replace the existing registered unaccredited law school categories—fixed-facility, distance-learning, and correspondence—with the categories of “synchronous instruction” and “asynchronous

instruction.” This change aims to modernize the classification system to better align with current educational practices and technological advancements that support online classroom experiences.

CSBARS members generally supported the change, recognizing that it more accurately reflects today’s learning modalities. However, some expressed concern that the language may not adequately describe the two categories and lacks clarity on what constitutes a “principal” method of instruction.

The descriptions of the two categories remain unchanged in the second draft; staff believe they are sufficiently detailed yet adaptable to account for variations in instructional methods and potential future advancements. To clarify a law school’s principal method of instruction, added language specifies that at least 80 percent of a law school’s courses must be attended using that method, and each student must receive at least 80 percent of their instruction per academic term via the same method.

Staff seek the committee’s input on whether the descriptions of synchronous and asynchronous instruction are sufficiently clear and whether the proposed requirement for a principal method of instruction is appropriate (Attachments A and B; Rule 4.240(B)(1)-(3)).

Determining the MPR Percentage

Proposed Rule 4.240(C) sets the MPR for registered unaccredited law schools at 40 percent, matching the requirement for California-accredited law schools. Since the MPR was introduced for accredited schools, their average MPR increased from 58% to 63.3%, suggesting that a similar requirement for registered unaccredited schools could positively impact outcomes.

The rationale for setting the same MPR for all law schools is to establish a consistent performance baseline across all law school types. All but two registered unaccredited law schools already meet the 40 percent threshold.¹

Some law schools noted, however, that applying the same MPR across all schools may not account for what they describe as the unique characteristics of registered unaccredited schools - more diverse, older, and less advantaged student populations and typically operate with fewer resources. They argue that a lower MPR could better take these factors into account while also providing a pathway for improvement for those law schools that aspire to achieve accreditation. The [Profile of California Law Schools](#) report shows that both California-accredited law schools and registered unaccredited law schools are more diverse than ABA-approved law schools in the state; the State Bar does not currently report the age or socioeconomic background of students.

Staff heard from at least one law school dean who shared their concern about the implications of a uniform MPR for schools that lose accreditation due to noncompliance. While the unaccredited category is not intended as a fallback for accredited schools, it currently offers

¹ Of the two registered unaccredited law schools without a confirmed 2024 MPR over 40 percent, one has an MPR of 22 percent and the other has not reported a 2024 MPR, although it is believed to be below 25 percent.

these institutions an opportunity to continue serving students while working to improve their MPR.

Staff seek the committee's input on whether the MPR for registered unaccredited law schools should differ from that of California-accredited law schools (Attachments A and B; Rule 4.240(C)).

Exploring a First-Year Law Students' Exam Minimum Pass Rate

Staff are exploring a First-Year Law Students' Exam minimum cumulative pass rate (FYMPR) for registered unaccredited law schools. Such a requirement could improve outcomes by discouraging the admission of students unlikely to succeed while incentivizing stronger instruction and enhanced student support.

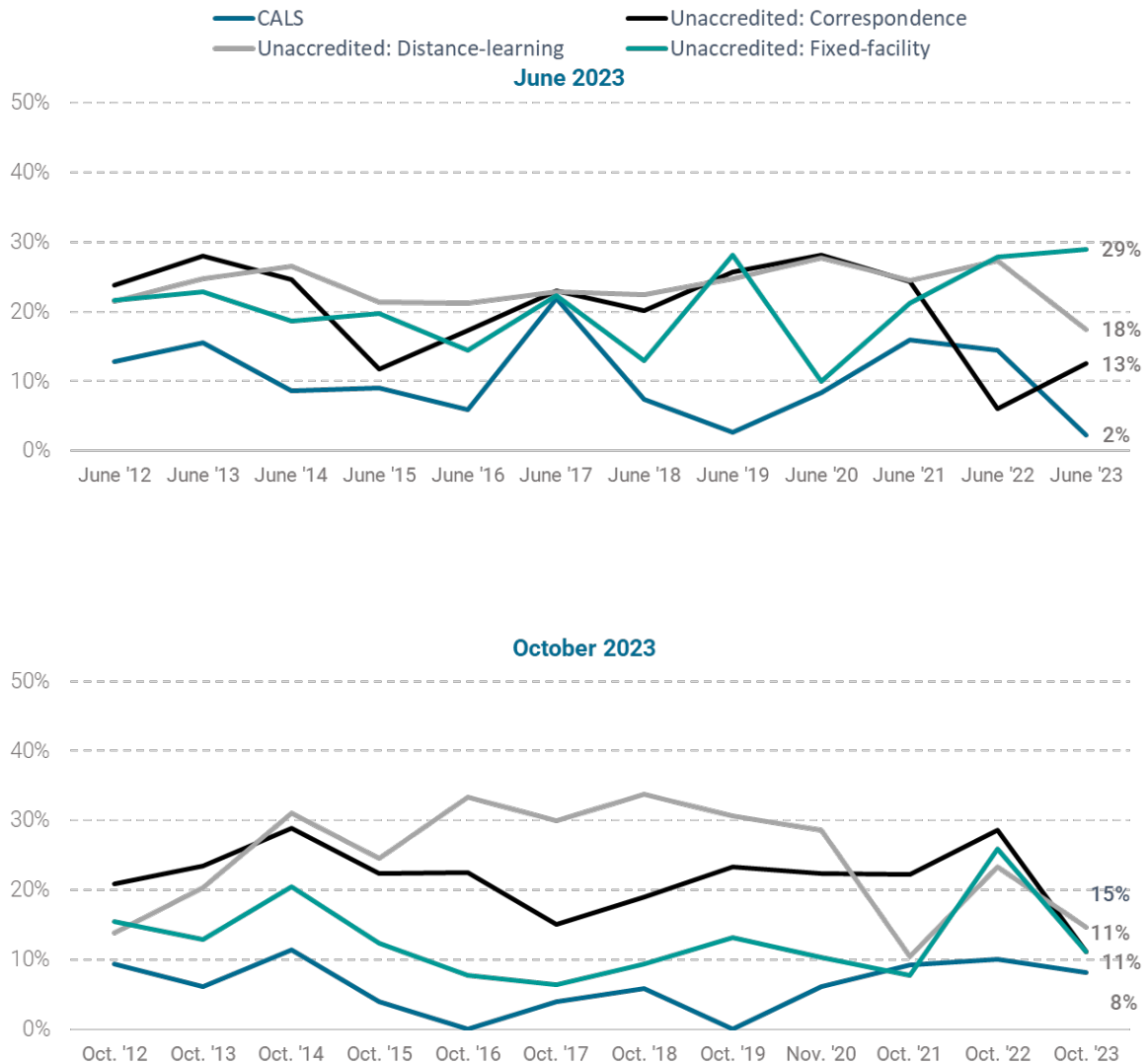
However, some CSBARS members expressed concern that introducing a FYMPR now may be premature, particularly in light of recent changes to the FYLSX exam design. As of June 2024, the essay portion was removed, leaving only multiple-choice questions. The June 2024 pass rate rose to 32% from 13% in the previous year.

Historically, FYLSX pass rates for registered unaccredited law schools have varied between exam administrations, partly due to the small enrollment numbers at many schools. This variability, coupled with the recent changes to the exam format, complicates determining an appropriate FYMPR threshold at this time. Figure 1 highlights pass rate trends from the [2023 California Accredited and Registered Unaccredited Law School Performance Report](#) (Performance Report), covering FYLSX rates from 2012 to 2023.

In the absence of an FYMPR, staff will continue to use FYLSX pass rates as part of their assessment of law schools' compliance with the rules. As such, there is already an incentive for law schools to achieve high FYLSX pass rates.

Staff seek the committee's feedback on whether to amend the rules to include a FYMPR is appropriate at this time.

Figure 1. First-Year Law Students' Exam Pass Rates for All Test-Takers by Law School Type: 2012–2023



Supporting Retention and Addressing Attrition

As part of the State Bar's strategic goal to increase the number of diverse attorneys, staff are exploring ways to support retention and address attrition at registered unaccredited law schools.

One proposal raised at a CSBARS meeting is the option to create an attrition rate ceiling. While no specific threshold was discussed, some CSBARS members expressed what they believed to be concerning attrition levels, with one suggesting 50% and another highlighting 70% as a critical point. Figures 2 and 3 show 2023 first- and second-year attrition rates by reason and law school type as shown in the Performance Report.

Figure 2. First-Year Attrition Rates by Reason and Law School Type

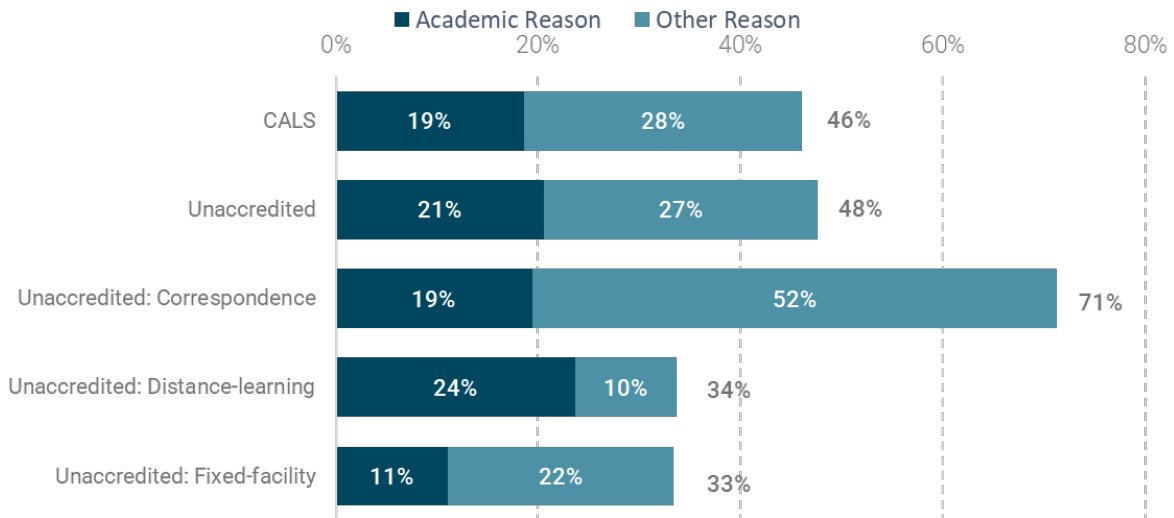
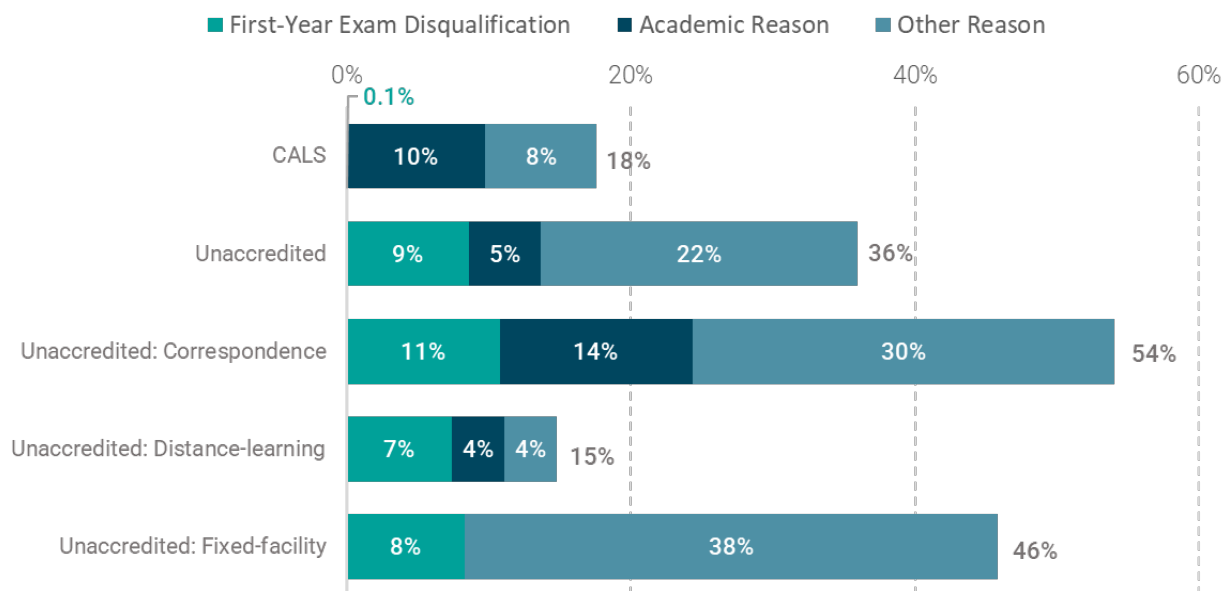


Figure 3. Second-Year Attrition Rates by Reason and Law School Type



CSBARS members also raised a preference for attrition to be one factor that is part of a holistic assessment of a law school’s performance. Staff already use school-specific attrition data as one factor to assess a law school’s compliance. For example, high first-year attrition may suggest noncompliance with Rule 4.240 regarding admissions practices, and higher second-year attrition compared to first-year rates may indicate noncompliance with the requirement to promptly dismiss unqualified students. Current practice aligns well with this preference.

It is worth noting that the State Bar only recently began collecting detailed attrition data, and therefore this analysis of attrition data from all registered unaccredited law schools only spans the past two years. There are opportunities to enhance data collection and analysis to better

understand retention, attrition, student persistence to graduation, and post-graduation outcomes. This includes expanding detailed attrition data to track student progression beyond the second year and through graduation as well as enhancing the graduate employment survey to assess whether students are gainfully employed and achieving a meaningful return on their educational investment.

Staff plan to explore enhanced methods for tracking attrition and collecting additional demographic data specific to non-traditional students following discussions with the committee in early 2024.

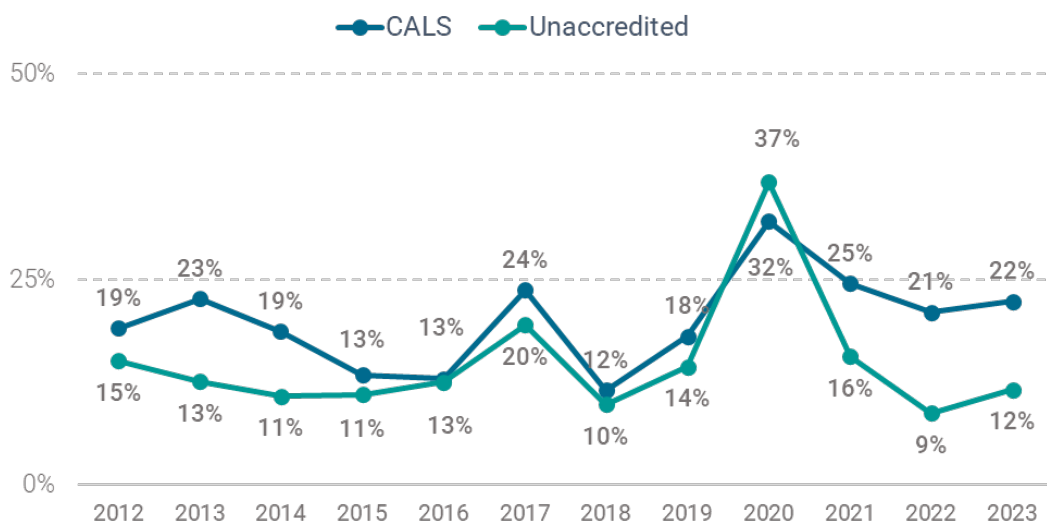
Staff seek the committee's feedback on whether further data collection and analysis is needed before adopting an attrition requirement.

Considering a Standardized Assessment Requirement

Introducing a standardized assessment requirement for prospective students could help registered unaccredited law schools better evaluate applicants and their likelihood of success. Such assessments are already recommended in the unaccredited rules and guidelines, but they have not been used widely.

Research supports the use of standardized assessments in predicting student success. A 2018 [report](#) by former State Bar psychometrician Dr. Roger Bolus found that LSAT scores were the second strongest predictor of California Bar Examination performance, following final-year law school GPA. Figure 4 shows that bar exam pass rates for California-accredited law schools and registered unaccredited law schools have diverged further since the pandemic, despite the permanent lowering of the exam cut score in 2020.

Figure 4. California Bar Exam Pass Rates for All Test Takers July 2012-2023



Higher education stakeholders are actively examining the role of standardized assessments in evaluating student success while addressing concerns about potential accessibility barriers. For

example, in August 2023, the American Bar Association's (ABA) House of Delegates rejected a proposal to make standardized assessments optional for ABA-approved law schools, and a similar proposal was withdrawn in August 2024. However, in November 2024, the ABA's Section on Legal Education and Admissions to the Bar approved a policy allowing law schools to forgo mandatory assessments for three to five years, provided they collect and report data to help determine if the absence of standardized testing impacts the demographics of incoming classes, academic performance, attrition rates, and first-time bar passage rates.

Standardized assessments can offer prospective students insight into their readiness for law school and help them identify all the programs across unaccredited, accredited, and ABA-approved law schools that may be available to them, a sentiment shared with staff by COAF members. Previously, students seeking part-time or online programs were largely limited to programs in the unaccredited or accredited categories, but there has been a major expansion in the number of ABA-approved online and part-time programs in the last two years, and students with a standardized assessment will have more of an opportunity to consider these programs.

However, some CSBARS members shared anecdotally that they believe standardized assessments do not predict well the likelihood of success among the diverse, older, or less advantaged students at registered, unaccredited law schools. Members noted that time and financial constraints might prevent some prospective students from taking these assessments, despite their ability to succeed in law school. While the ABA's recent policy decisions offer a reference point, some law school representatives argue that the different backgrounds of students applying to registered unaccredited law schools justify the need for different admissions practices.

At least one member suggested that if a standardized assessment requirement were adopted, it should apply to all California law schools to ensure that no law school would be disadvantaged by the market if some schools do not require a standardized assessment. Although, there are new assessment models, like JD-Next which combines an eight-week self-paced online course with an admissions test and is priced at \$299 including the preparation portion, that aim to address cost and access concerns. The ABA has allowed law schools to seek a variance to accept the JD-Next evaluation in place of the LSAT.

Staff seek the committee's feedback on whether requiring standardized assessments is appropriate for this category of law schools considering the accessibility concerns above.

Consider Appropriate Phase-In Period for New Rules

Determining a reasonable timeline for implementing proposed rules is critical to ensuring a smooth transition for registered unaccredited law schools. Certain changes do not impose significant structural or operational demands. These policies could be implemented shortly after their adoption. Others, such as the MPR requirement and new law school categories are more complex and require substantial lead time for both law schools to achieve compliance and for staff to make necessary preparations to ensure compliance with new rules.

Staff seek the committee's feedback on appropriate phase-in periods for the more complex requirements.

Next Steps

Staff will gather additional feedback from law schools and the public after the December 2024 committee meeting. Input from the State Bar's rules attorney will also be incorporated to further refine the draft. A final proposal will then be presented to the committee for approval in January 2025.

PREVIOUS ACTION

None

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES

Proposed draft revisions are related to Title 4. Admissions and Educational Standards, Division 3. Unaccredited Law School Rules.

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System

- d. 3. Collaborate with stakeholders and law schools to improve the law school accreditation process.

Goal 4. Protect the Public by Engaging Partners

- d. 1. Collaborate with the legislature and other stakeholders to increase public protection and support the State Bar's mission.

RESOLUTIONS

None – Discussion only

ATTACHMENT(S) LIST

- A. DECEMBER 2024 DRAFT: Proposed Revisions to Unaccredited Law School Rules (Redlined Version)
- B. DECEMBER 2024 DRAFT: Proposed Revisions to Unaccredited Law School Rules (Clean Version)