



**THE STATE BAR
OF CALIFORNIA**

**THE COMMITTEE OF BAR EXAMINERS
OFFICE OF ADMISSIONS**

MEMORANDUM

Date: June 23, 2007
To: Subcommittee on Examinations
From: Dean E. Barbieri *DEB*
Subject: **Proposal for Analyses of California Bar Examination Data**

Background

This item was previously on the agenda for the December 2006 meeting, but at the request of the parties submitting the proposal, the matter was deferred to the February 2007 meeting. Consideration of the matter at the February 2007 meeting was postponed until the present meeting of the Committee.

At the September 29 and 30, 2006 meeting of the Committee of Bar Examiners (the "Committee") the proposal submitted by Dr. Richard Sander, Dr. Stephen Klein, Professor William Henderson and Dr. E. Douglass Williams to use Committee data for a study concerning bar passage rates by ethnicity was considered. Attached hereto is the original written proposal dated September 5, 2006. Dr. Sander and Dr. Klein appeared and made a presentation regarding their proposal. The Committee deferred making a final decision on the submitted proposal to enable the Committee to study the proposal further, including discussing the proposal with the representatives from the Law School Council.

The Law School Council met on October 23, 2006 and the subject matter of this proposal was discussed. Some of the members of the Law School Council expressed significant concerns about the Committee providing the requested data to support the proposed study. Additionally, concerns were raised about the methodology of the study. Members of the Council stated that should the Committee release the requested information for one study, the Committee should make the information available to other groups to perform similar studies, or to respond to the findings of Dr. Sander's team. No formal recommendation was issued by the Law School Council to the Committee concerning the proposal.

Attached is a supplemental memorandum dated November 19, 2006 submitted by Dr. Sander, Professor Henderson and Dr. Williams addressing some of the concerns raised by the Law School Council, the Committee and staff concerning the proposed study. On November 20, 2006 a conference call was conducted with the studies proposers, Alan Yochelson and staff wherein the proposed study was discussed further. Also attached hereto are three pieces of correspondence received relating to this proposal, two

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in favor of the proposal (by John Steele and members of the United States Commission on Civil Rights) and one against (on behalf of the Society of American Law Teachers). Finally, attached is a copy of correspondence from Judy K. Sakaki, Ph.D., Vice President, Student Affairs from the Office of the President of the University of California. Dr. Sakaki has forwarded a memorandum by Bill Kidder of her staff discussing in substantial detail many issues associated with the proposed study. Please note that Mr. Kidder's memorandum is not submitted in support of an official position taken by the University of California Office of the President.

Dr. Sander, and possibly other members of his research team, may appear before the Subcommittee on Examinations at the upcoming Committee meeting to make another presentation regarding the proposal and respond to the questions and concerns of the Subcommittee.

Staff Recommendation: Deny