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# Supreme Court

STATE OF ARIZONA

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FROM THE OFFICE OF  
WILLIAM J. O'NEIL  
PRESIDING DISCIPLINARY JUDGE

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May 8, 2012

Arizona Supreme Court  
Hon. Rebecca W. Berch, Chief Justice  
1501 West Washington,  
Phoenix, Arizona. 85007

Re: Petition R-12-0020  
0002

Dear Chief Justice Berch:

The Attorney Regulatory Advisory Committee (ARC) does not favor this petition and opposes the move for early testing for a number of reasons, including:

- This effort to compress the admission process jeopardizes Court oversight of candidates
- Candidates stressing to complete the admission process while attending school and studying for the exam are more likely to perform poorly at all, slowing rather than speeding admission
- Resources devoted to Character and Fitness are not sufficient to complete C&F investigations of students prior to passage of bar exam
- Early testing, even if successful, is no guarantee of early admission.

Admission to the practice of law is regulated by each state, in an effort to provide reliability those applicants possess necessary skills and traits. All states recognize that graduation from a law school accredited by the American Bar Association satisfies the legal education requirements to be eligible to sit for the bar examination. Since 1952, the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association has been recognized by the United States Department of Education as the national agency for the accreditation of programs leading to the J.D. degree. Law schools that are ABA-approved provide a legal education that meets a minimum set of standards promulgated by the Council and Accreditation Committee of the Section of Legal Education and Admissions to the Bar.

A law degree from an ABA-approved school is the primary indicator of competence to practice law, with passing the bar exam being a secondary indicator. Arizona Supreme Court rules provide that an applicant must prove successful completion of a J.D. degree in order to sit for the examination. In Arizona,

regulation of applicants for testing is a Supreme Court function and criteria for eligibility to test are set and enforced by the Court.

We do not recommend testing in February for prospective May law graduates, and respectfully disagree with premises set forth in the petition. ABA Standard 304: Course of Study and Academic Calendar mandates that graduates of ABA-accredited programs must complete a minimum of 83 semester hours of credit and 45,000 minutes of class time as core law school study, which seems inconsistent with the current petition and may not allow students or schools to fulfill their educational requirements for three years of study. Further, it is misleading to style this as "early admission" when a successful exam score is no guarantee of admission.

February testing for proposed May graduates was allowed in Georgia, Missouri, Virginia, Oregon, Kansas, and South Dakota within the recent past, but was discontinued in every state based on outcry from law schools who found it disruptive and distracting. Law schools were left with inattentive, overstressed and absent students in the last year as students focused on studying for the exam and fulfilling bar admission requirements. The idea was proposed by bar administrators in Florida and New York recently, but their state law schools dismissed the idea as impractical and incompatible with educational requirements. This real world experience is important and instructive, and provides the best basis to reject the proposal. The very economic conditions which bring this idea to fruition would require students to devote all their time to study for the bar, because passing the exam becomes their sole economic focus.

A few states now allow "early testing" in very limited conditions, namely by strictly limiting the amount of time which may elapse between testing and completion of J.D. degree. As it exists, this exception is limited to students who have completed all classes but may lack a written or clinical completion. Kansas (which formerly allowed February testing for May graduates) and North Carolina allow applicants to test only if they will complete their degree within 30 days after the exam date. Mississippi, Nebraska and Wisconsin allow applicants to test only if they will complete their degree within 60 days of the exam date. Iowa allows testing for applicants who will complete their degree within 45 days. None of these timeframes would allow testing in February for May graduates, as the time between test date (late February) and completion of degree would be approximately 100 days. Indiana allows applicants to sit for the exam if they will complete their J.D. degree within 100 days of testing, but they also require that students be within 5 hours of degree completion, must have completed 2 hours of professional responsibility, and must have completed all other requirements for admission to the bar at the time of the exam in order to test. In each jurisdiction, if proof of degree completion within this timeframe is not provided, the exam score is void.

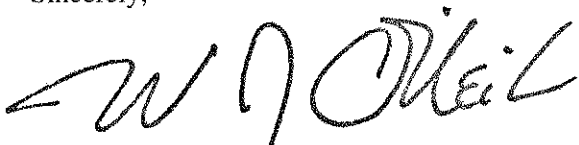
Some jurisdictions do not accept or recognize bar exam scores earned prior to the completion of the J.D. degree. If students do not hold a J.D. at the time of testing, Missouri, Michigan and other states will not recognize their bar passage for UBE transfer, waiver or motion admission.

The best argument is rebuttal to the flawed primary premise of the petition. Testing early will not provide early admission, even if the applicant is successful. Every applicant is required to complete a number of requirements for admission, including successfully testing MPRE, completion of the Course on

alone. The objective of the petition is to gain early admission for applicants but testing does not guarantee this. In order to be competitive for the "early advantage," applicants would be required to complete all requirements in the last year of law school, including completion of the Character Report, testing MPRE, and completion of the Course on Arizona Law. The student will then bear the burden of not only studying for the bar exam but also fulfilling all these other requirements, in order to possibly be eligible for admission in May or June, rather than October.

We recognize that there may be opportunity to reform educational requirements in legal education. The American Bar Association, law schools and consumer groups have suggested various changes recently. However, we do not favor the current proposal and suggest that reforms to curriculum and standards would be necessary before such a move could be made.

Sincerely,

A handwritten signature in black ink, appearing to read "W J O'Neil". The signature is fluid and cursive, with a large initial "W" and "J" followed by "O'Neil".

The Honorable William J. O'Neil  
Chair, Attorney Regulation Advisory Committee