Uniform Bar Exam Summary of Proposed Changes

Arizona Supreme Court admissions staff are asking the court to adopt the Uniform Bar Exam (UBE) in its entirety as Arizona’s exam for July 2012 and to provide a third path for admission to law practice by allowing applicants to use their UBE test scores from another jurisdiction.

The state in which applicants take the UBE would not have to be one of the 30 states with which Arizona has reciprocity for admission on motion, nor would applicants have to comply with the admission-on-motion requirement that they have been in active practice for five of the previous seven years.

The petition requests that the court adopt it on an emergency basis so it would take effect January 1, 2012, and apply to the July 2012 bar exam. The court granted the request for emergency consideration. As a result, comments are due November 15, 2011.

According to the National Conference of Bar Examiners, which prepares the UBE, the UBE consists of three components: the Multistate Essay Examination (MEE), a series of 30-minute essay questions; the Multistate Bar Examination (MBE), a six-hour, 200-question multiple-choice examination covering constitutional law, contracts, criminal law and procedure, evidence, real property and torts; and the Multistate Performance Test (MPT), two 90-minute skills questions the NCBE describes as “covering legal analysis, fact analysis, problem solving, resolution of ethical dilemmas, organization and management of a lawyering task, and communication.” Each jurisdiction grades the MEE and the MPT components.

The UBE is intended to “test knowledge and skills that every lawyer should be able to demonstrate prior to becoming licensed to practice law.” The NCBE notes that although jurisdictions agree to accept the standardized test and results, they each still set their own local standards, such as underlying educational requirements and passing scores and making all character and fitness decisions.

According to the NCBE, five jurisdictions - Alabama, Idaho, Missouri, North Dakota and Washington -- already have adopted the UBE. Alabama, Missouri and North Dakota began using it this year; Idaho is scheduled to use it beginning in February; and Washington will begin using it in July 2013.

Unlike the other four states, Alabama is not currently among the 30 jurisdictions with which Arizona has reciprocity for admission on motion. As a result, applicants who take and pass the UBE in Alabama would be able to transfer those scores to Arizona, assuming their scores meet Arizona requirements.
Among other changes to Rules 34, 35, 37 and 38, the petition proposes that applicants who become admitted by transferring their UBE grade would have to take the course on Arizona law, just as admitted-on-motion applicants must; would delete the Committee on Examination’s authority - absent extraordinary circumstances - to review failing exam and instead permit aggrieved applicants to file petitions for review with the court; and imports into rule defining the “active practice of law.”