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## RESPONSIVE MEMORANDUM

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**TO:** THE COMMITTEE OF BAR EXAMINERS, STATE BAR OF CALIFORNIA

**FROM:** DEAN LAURA PALAZZOLO, LINCOLN LAW SCHOOL OF SAN JOSE

**SUBJECT:** EDUCATION STANDARDS COMMITTEE, AGENDA ITEM O-404

**DATE:** FEBRUARY 2, 2018

**CC:** AMY NUNEZ, DIRECTOR OF ADMISSIONS

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The matter before you, a Major Change Request to open a branch campus in San Jose brought by John F. Kennedy University ("JFK"), is a matter of first impression. Not because this Committee has not previously approved branch campuses. But because, in this instance, the branch campus is to be located in the same city as an existing California Accredited Law School ("CALs"). To my knowledge, for as long as the Committee has been accrediting schools, no major change has been authorized allowing one accredited school to move where another accredited school exists absent "good cause" and then only after due, careful, deliberate and reasonable consideration by the Committee and its staff. JFK's Request has been given no such consideration.

The requirement of such careful consideration is commanded by sound logic, and sound policy. The Committee must inquire as to the merits of such a substantial change and its consequences, both beneficial and otherwise, to the policies and constituencies it serves. Otherwise the Committee becomes just a "rubber stamp" for dean-proposed policies and dean-influenced staff recommendations. Historically, the Committee has reviewed all the relevant facts, presented by all interested parties, and made a full inquiry before acting. Such an inquiry is for the benefit of the Committee, its members and the constituencies it serves.

It is well known that this was Gayle Murphy's policy when she was Director of Admissions. To my knowledge there has been no official change to this policy. But the message to me last Friday was that JFK's request will, essentially, be "rubber stamped" by the Committee. Two factors were cited by staff: (1) the new streamlined Guidelines; and (2) antitrust concerns. I will address each in turn.

**The New Guidelines Cannot Encourage This Committee To Act Without Appropriate Deliberation.**

No Guideline should be used or interpreted to take away from this Committee's duty to act with appropriate deliberation. As I understand it, this Committee approached the very first request for a branch campus (in a city *without* an existing CALS) with appropriate caution. For-profit Alliant University sought to add a San Diego campus to its existing (accredited) San Francisco location. As is its custom, the Committee proceeded with diligence, and the process took some time while the Committee convinced itself that the new location would have the required resources, provide appropriate personnel, and would not leave its students with debt and with limited options if the experiment did not work out.

Other deans, perhaps seeing an opportunity to expand their own reach, thereafter championed guidelines to "streamline" the process, which the Committee approved. To my recollection, the purpose of the streamlined guidelines was to make it possible for an affordable CALS education to be offered in smaller unserved markets (as they have been in San Luis Obispo and Bakersfield). I do not recall the issue of a potential branch campus where an existing CALS resides being raised before the Committee at that time.

I expressed my concern about this unexpected turn of events with staff last Friday. I was struck by Mr. Leal's apparent lack of neutrality. I've since been advised that Gayle Murphy would not allow Mr. Leal to lead site visits to JFK because of Mr. Leal's long friendly history with Mr. Barbieri. I leave that to Ms. Nunez and the Committee to explore. If this is true, I would object to the Committee's reliance on Mr. Leal's Memorandum and Recommendation in this matter.

In our conversation, Mr. Leal told me that the Guidelines now *require* the Committee to approve a branch campus if the Dean has certified that such campus will be in substantial compliance with the Guidelines by its opening. If this is true, the Committee has been divested of its power to thoroughly review and approve this extraordinary Request, contrary to its longstanding procedures. It is this unprecedented assumption this Memorandum seeks to address.

JFK's Request is brought pursuant to a set of *Guidelines*, which, by their very nature, evoke a flexible structure that would allow for some variation under appropriate circumstances. If there are consequences the Committee had not considered when the Guidelines were adopted, then it is appropriate to talk about how we address those consequences. Otherwise, by Mr. Leal's interpretation, the *accredited parties* have been given the power to draft rules that effectively tie *the accreditors'* hands. I do not believe the Guidelines were intended to operate this way. Nor should they.

### **Automatic Approval Here Impermissibly Interferes With The Marketplace**

This point drives us smack into the middle of the other argument raised by Mr. Leal in our telephone conversation (though it is missing in his Memorandum). Mr. Leal opined that the Committee must approve the Request, or risk being accused of interfering with market forces. But I believe the opposite is true. If Mr. Leal's statement to me that the new Guidelines essentially require the Committee to rubber stamp this Request *based only on the representations of the dean proposing to open the campus*, and thus without significant inquiry, then it is my opinion that antitrust laws are being compromised, not furthered, by such a "no look" policy.

In my view, antitrust concerns prohibit the self-serving declarations that purportedly require automatic accreditation. No such concern is, or should be, raised by this Committee's thoughtful consideration of the potential ramifications of opening a branch campus under circumstances that have not previously presented themselves. It cannot be the case that such thoughtful consideration may never result in a denial of the Request, or else it must follow that it is the branch campus scheme itself, as proposed by the self-same persons who now seek its implementation, which violates antitrust laws.

The anticompetitive nature of the scheme may be simply illustrated. If an ABA school wanted to enter the San Jose market, it would have to go through the regular processes of getting accredited by the ABA. If a new school (not an existing CALS) wanted to open a CALS campus in San Jose, that school would have to go through the process of getting its initial accreditation from this Committee. As is more particularly explained below, that is not a 6 month "no look" process based solely upon the proposed Dean's representation that the new campus will eventually meet the Rules and Guidelines.

So, it seems to me that the Committee has given existing CALS schools an anticompetitive advantage over other schools with respect to opening a new law school in this State. And, more than that, it has done so based on guideline proposals submitted by the members of the very marketplace who now seek to take advantage of that anticompetitive privilege (the deans of the law schools). In its Administrative Order 2017-09-20, filed September 27, 2017 (the "Administrative Order" attached hereto as Exhibit A), the Supreme Court of California opined that "[a]nticompetitive practices may arise when a state empowers a group of active market participants to decide who can participate in its market and on what terms." *Id.* The Administrative Order makes the reporting of such activities mandatory for State Bar personnel. *Id.*, Section II.C.1.

The Supreme Court gave the example of attorneys meeting at State Bar events and discussing anticompetitive issues, such as prices and associate salaries. Administrative Order, Section II.C.1. In response to the Administrative Order, the State Bar separated itself from its various bar "sections". This Committee is now presented with a similar situation. The CALS deans got together at CBE meetings

and discussed, among other things, how to “streamline” the approval process for branch campuses to their advantage. The result is that this Committee, if it accepts Mr. Leal’s interpretation of the Guidelines, has given power to those deans to decide on what terms CALS schools should be allowed to participate in the marketplace pursuant to the Guidelines *they’ve advanced* based on their agreements in those meetings.

**As An Accrediting Body The Committee Has A Duty To Carefully Consider Each CALS Request On Its Own Merits.**

The legislature has tasked the Committee with accrediting and monitoring CALS. It is therefore the Committee’s duty to consider all the ramifications of each CALS request on its own merits. One of the key functions of an accrediting body is consumer protection. The history of failed programs at the proposed, and other, National University campuses, as well as the complete lack of any information relating to the impact of the proposed campus on the target market, indicates that the Committee might give special attention to consumer protection concerns in the context of this Request.

The recent collapse of the likes of the Corinthian schools and ITT Technical Institute did not result in their accreditor (the Western Association of Schools and Colleges (“WASC”)) arguing in its defense that it cannot discriminate in the marketplace, and thus must accredit any school that meets its guidelines. It resulted in WASC tightening its guidelines. In the same way, this Committee must not be easily convinced that it should abdicate its consumer protection role in favor of schools advocating for market advancement.

When Southern California Institute of Law sought permission for a day program some years back, when Dean Barbieri was the Director of Education Standards, I am informed that Dean Pulle was required to obtain field studies and letters of support. The Committee was inquiring whether the market would support another day program. Not because it wanted to interfere with the market, but because it did not want to strand students half way through a law program if the program proved to be unsustainable.

Now the Committee is presented with a Major Change Request, not just for a *program*, but for a *campus*. And the Request comes from a school which admits its initial foray into a branch campus was not successful. JFK’s Request tells of a hurried approval for a Berkeley law program, which only existed for two years and was quickly folded into its Pleasant Hill campus. I am also advised that a paralegal program was started at the San Jose campus not long ago. But that program was also discontinued when enrollment did not meet expectations. These are examples of why this Request should be considered on its merits, and not just the representation of the dean.

**The Ramifications Of This Request Highlight A Real Concern That Special Interests Are Seeking To Expand The Guidelines, And Limit The Committee's Powers, To Their Own Advantage And To The Potential Detriment Of The Public.**

It is disconcerting that such a monumental request as this was mailed on January 12, and staff had completed its evaluation and drafted its Memorandum a mere ten days later, on January 22. With all due respect to staff, the timing does not suggest that this Committee can have confidence that appropriate consideration was given to the significant policy considerations implicated by the Request. Mr. Leal has apparently concluded (without saying as much in the Memorandum) that the Guidelines make approval of the Request mandatory. However, he does not appear to have thought through what such an interpretation would mean to the Committee and its constituencies. A policy is not a sound policy if it may be easily exploited. And Mr. Leal's interpretation could easily be used to turn the entire CALS system inside out.

To test the result of staff's approach, consider a worst-case scenario: Dean Barbieri, emboldened by the acceptance of a "no look" policy, submits a request to open a branch campus at each of National University's 43 other California campuses, accompanied by his representation that each such campus will be compliant with the Guidelines.<sup>1</sup> The concern is that blanket approval of all of these campuses, which would, according to staff, be required, not only further implicates antitrust concerns, but may also endanger consumers. And what staff has not seen, or chose not to point out, is that the Committee would be virtually powerless to protect those consumers.

I read the rules to give branch campuses two years to operate before a site visit, which does not give opportunity for the Committee to timely intervene if the students are not being well-served.<sup>2</sup> Moreover, if staff is overburdened and in a budget deficit now, with 19 main campuses and 3 branch campuses, the Committee should consider how staff's "no look" approach could impact the inspection and discipline of a potentially unlimited number of branch campuses. If a well-funded commercial enterprise wanted to exploit, on a mass scale, the vulnerable population the CALS exist to serve, one could certainly do so.

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<sup>1</sup> A list of these campuses is attached hereto as Exhibit B. Their proximity to existing CALS may be ascertained by reference to Exhibit C.

<sup>2</sup> By contrast, a registered unaccredited fixed-facility law school seeking provisional accreditation (and demonstrating substantial compliance) is subject to an annual inspection and its students are subject to the First Year Law Students Examination requirement. Multiple other restrictions also apply. See Accredited Law School Rules, Rule 4.120, *et seq.*



Exploring further the unconsidered effects of staff's approach on a smaller scale, suppose two schools submit requests to open branch campuses in or near an existing CALS. The Committee should certainly inquire, as a matter of due diligence, whether the public would be served by multiple schools; whether one or more such schools is likely to fail; and what effect such failure might have on the Committee's constituents. But I understand staff to interpret the Guidelines to say the Committee cannot inquire as to such things or, if it does so inquire, it cannot base its decision on anything other than the certification by the dean as to substantial compliance with the Guidelines.

These are unlikely scenarios, but not impossible. The point is that if a "no look" interpretation is adopted, there are no safeguards to *prevent* such possibilities from occurring. And if the Committee is the slightest bit uncomfortable with the idea of subjecting *the entire CALS system* to the unmitigated desires of its self-serving deans, regardless of the possible consequences, it should not, in fairness, "experiment" with what might happen to a single CALS in the present case.

The California legislature and the Federal government have recently enacted legislation designed to crack down on the onslaught of online and other educational programming targeted at military personnel. My fellow CALS know this because we had to get a special exception written into the California legislation to allow for Committee accreditation. So, our legislators are speaking on the proliferation of online and other programs that target vulnerable populations who are not well informed about the high possibility that many for-profit and multi-campus online programs will take their money but never give them a useful degree. It's part of the reason this Committee is taking its time with accrediting online law programs, and has a pilot hybrid program *slowly* working its way through the accreditation process. I implore the Committee to consider these same issues in the context of branch campuses.

As a further test of staff's position, the Committee should at least consider the possibility that the underlying purpose of requests for branch campuses is not the dissemination of a fixed-facility law program, but as a holding space for the future dissemination of online hybrid programs. Thus, under the "worst-case" hypothetical above, as soon as the online programs currently under consideration are approved, the Committee would have grandfathered in, on the declaration of a single dean, 43 new accredited campuses with immediate online capabilities. It would be difficult, if not impossible, for current staff to monitor the impact on student success of all that online programming – especially if individual campus results are hidden in the combined bar pass rate reporting of the main campus, as is required by the Guidelines.

All of this is, as my mother used to say, "borrowing trouble"; but isn't it our *duty* to consider what COULD happen? The point of all this speculation is to highlight the fact that this is not a one-off approval. It *can't* be. As you walk through JFK's Request, and the bases for Mr. Leal's Recommendation, I want you to consider whether, if you say "yes" to THIS Request, you will have any rational basis for

saying “no” to the next one – from any National University campus – or from any for-profit WASC-accredited university with multiple campuses that might seek to partner with a CALS school *for the sole purpose* of occupying the space. Also consider whether it is fair and reasonable to “see what happens” with one CALS (Lincoln Law School of San Jose) while the others stand safely by and watch.

### **The Request Should Be Denied As Insufficiently Supported.**

While the JFK Request appears to address each of the required Guideline subjects, the representations contain almost no factual support. For example, with respect to Research and Planning for the new campus, Dean Barbieri speaks in broad terms about transfer students from other CALS. However, JFK’s Business & Professions Code Section 6061.7(a) Disclosure (attached as Exhibit D) states that it received no transfer students in the last two academic years. It also states that the reasons students are interested in JFK include federal funding, more schedule options (day and evening, full and part time); full time faculty; and online modalities. But the Request is to begin with a part time evening program with faculty borrowed from Pleasant Hill, so three of these four bases for student interest will not apply.

Dean Barbieri does not state how many students expressed an interest in a JFK San Jose campus. All this Committee has to consider with respect to planning and research is Dean Barbieri’s “confidence” that *with proper marketing and promotion*, the San Jose area will support his program. He does not state how much that marketing and promotion will cost, and whether it may affect his existing campus. If it is coming from the National University coffers, then it begs the question whether the law school has any control over whether National University will spend sufficient amounts to support Dean Barbieri’s confidence.

With respect to Financial Impact, Dean Barbieri asserts that *his* analysis (to which the Committee is not privy), indicates that there is nothing but upside for the Pleasant Hill campus. His analysis does not include the cost of marketing and promotion, but limits itself to a brief recitation of the fact that National University has an existing campus, so the law school’s only cost would be the part time professors. If this is the analysis (every existing campus provides the law school with upside revenue), again I caution the Committee about the 43 other branch campuses to come from National, or some other large commercial enterprise, and consider whether such schools should be given an advantage in the marketplace on the basis of such pre-existing campuses, which the majority of existing CALS do not have.

With respect to Resources, Dean Barbieri indicates he will split his time between the schools. He will delegate some of his authority to Assistant Dean Kanios, who previously presided over the failed New College School of Law. Each will be on campus only one night a week, from 4pm to the start of classes, which will constitute the entire academic support, assistance and counseling for the students. Yet, Dean Barbieri states that the San Jose students will have access to “the same

student support, counseling and other services that the law students at the Pleasant Hill campus receive, as well as other JFK University students at the existing San Jose and Berkeley campuses.” Does he mean the same services they received *before* he proposed to split his faculty and staff between the two campuses? Or that *everybody* now gets only half his time? Or that the existing financial aid and advising staff from unrelated National University baccalaureate and masters degree programs are assumed to know the answers to all the questions regarding a never-before-offered law program?

It is not clear that Mr. Leal sought clarification with respect to any of the issues raised by the Request. His Memorandum simply parrots the Request. However, I am more concerned by the fact that his Recommendation does not limit the branch campus to its initial evening program. It is not clear whether he intends that the branch school should be grandfathered in to all the programming currently available at the Pleasant Hill campus (including a day program, a full-time program, and online programming – all of which the Pleasant Hill campus (and all the other CALS) were required to obtain by Major Change Request). This issue should be given significant consideration.

It is not my intention to “nit-pick” the Request and the staff Memorandum, but only to point out the scarcity of any actual factual analysis upon which the Committee’s decision may be based. The Guidelines require that the Committee make a finding which it must necessarily make solely on the basis of Dean Barbieri’s representations. The Committee should therefore take great care in analyzing those representations. If the information given by the requesting party is insufficient, the Request should be denied. I submit that the representations made in JFK’s Request are not sufficient for the Committee to support the required finding.

As noted by Mr. Leal, some of you may know Dean Barbieri from his time on the Committee, or from his time as the Director of Education Standards. But he is not appearing before you as either of those things. He is appearing before you with a distinct career and business interest in the outcome of this proceeding. So, to “just trust” Dean Barbieri here is to “just trust” *any other dean who makes the same broad generalizations*. And to allow the JFK Request is to allow the same Request of a non-WASC accredited institution (or else give advantage to national or programmatic affiliation, or to the expense of dual accreditation which small non-profit campuses cannot afford).

My point is that it should not be assumed that the Committee is a “rubber stamp” – particularly if the only staff member looking at these Requests appears himself to be a “rubber stamp” (at least in this instance). As stated above, this Request is for **extraordinary relief**. Permission to put a branch CALS campus in the same city as an existing, successful CALS **has never been given**, and should require significantly more research and analysis with respect to its potential consequences to this Committee’s constituencies, including both future law students and the entire CALS program, than has been provided in this Request.



Lincoln Law School of San Jose therefore asks that JFK's Major Change Request be denied outright, and that the Guidelines thereafter be amended to address the special circumstance of opening a branch campus near an existing Committee accredited school. If the Committee chooses not to deny the Request, it should consider whether the time provided in the Guidelines is sufficient to gather the information that might be required to make an informed decision. I would ask that you not so limit yourselves, and that you would give Lincoln Law School of San Jose, and other interested parties, sixty days to gather appropriate support for our position (a difficult task on the 7 days' notice we had) and return for further argument in San Francisco in March, rather than issuing a final decision at or prior to the next scheduled meeting. The Northern California public and members of the Bar might like to be heard.

SUPREME COURT  
**FILED**

SEP 26 2017

Jorge Navarrete Clerk

ADMINISTRATIVE ORDER 2017-09-20

Deputy

## IN THE SUPREME COURT OF CALIFORNIA

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### STATE BAR ANTITRUST POLICY

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#### PREAMBLE

The California Supreme Court has the inherent authority to regulate the practice of law in this state. The State Bar of California is the administrative arm of the Supreme Court for attorney licensing, regulation, and discipline. The State Bar acts under the authority and at the direction of the Supreme Court in these matters. The Supreme Court's authority over the State Bar includes the authority to review State Bar actions for antitrust issues and impacts on competition. The Supreme Court, in the exercise of its inherent authority, may conduct a de novo review and may modify or reject any policy or action of the State Bar relating to the regulation of the practice of law, including any that may implicate antitrust and competition issues.

Antitrust laws are designed to promote vigorous and fair competition in the marketplace of competitors and to provide consumers with the best combination of price and quality. The antitrust laws are set forth in the Sherman Act, Federal Trade Commission Act, the Clayton Act, and the Robinson-Patman Act, among other statutes. These laws prohibit anticompetitive activities, including price fixing, attempts to monopolize, and other unreasonable restraints on trade. Unless

otherwise lawfully mandated by the California Legislature or the California Supreme Court, the State Bar must take no action in violation of the antitrust laws.

Although focused on private conduct, antitrust laws may apply to public entities under certain circumstances. When the action complained of is that of a sovereign arm of the state (such as a state legislature or a state Supreme Court acting in a legislative capacity), the state as a sovereign may enjoy immunity from the antitrust laws, notwithstanding any impact on competition. (*N.C. State Bd. of Dental Exam'rs v. FTC* (2015) \_\_ U.S. \_\_, \_\_ [135 S.Ct. 1101, 1110]; *Hoover v. Ronwin* (1984) 466 U.S. 558, 567-568.)

The State Bar is a public licensing and regulatory entity that acts under the authority lawfully delegated to it by the sovereign arms of the State of California: the Supreme Court and the Legislature. The United States Supreme Court has held that, under certain circumstances, state licensing entities or boards must prove two elements before they may invoke the state action doctrine: first, the challenged restraint has been adopted pursuant to clearly articulated state policy; and second, the policy is being actively supervised by a state official (or state agency) that is not a participant in the market that is being regulated. (*N.C. State Bd. of Dental Exam'rs v. FTC, supra*, 135 S.Ct. at p. 1110; see also Fed. Trade Com., FTC Staff Guidance on Active Supervision of State Regulatory Boards Controlled by Market Participants (Oct. 2015))

<[https://www.ftc.gov/system/files/attachments/competition-policy-guidance/active supervision of state boards.pdf](https://www.ftc.gov/system/files/attachments/competition-policy-guidance/active%20supervision%20of%20state%20boards.pdf)> [as of Sept. 20, 2017].)

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## **ORDER**

Pursuant to this court's authority over the State Bar, the court hereby orders the State Bar's adherence to the antitrust policy and guidelines below.

### **I. ANTITRUST POLICY**

The State Bar must conform to the highest standards of conduct and promote the principles of fair and open competition in all of its policies and actions in pursuit of its overarching public protection mission. Actions of the State Bar that have the effect of advancing the interests of attorneys without a clear benefit to the public must be scrutinized closely for potential antitrust violations. This antitrust policy is intended to assist in the identification and analysis of potential antitrust issues and the compliance with antitrust laws by all employees, entities, and committees that comprise the State Bar. Given the important public mission of the State Bar to enforce and uphold the law, the identification and analysis of any potential antitrust issue must be robust.

It is the responsibility of the State Bar Office of the General Counsel (OGC) to monitor antitrust issues for the State Bar. If any person has a question as to whether a proposed or current State Bar course of action implicates antitrust concerns, the matter should be submitted to OGC. OGC must analyze the matter thoroughly and determine whether the action implicates antitrust concerns. OGC's determinations may be reviewed de novo by the California Supreme Court in accordance with the Supreme Court's procedures. Any action determined by OGC to implicate antitrust concerns may not be implemented unless the Supreme Court determines the action may proceed.

### **II. GUIDELINES FOR IDENTIFYING AND ADDRESSING POTENTIAL ANTITRUST ISSUES AT THE STATE BAR**

#### **A. Actions that Have Anticompetitive Effects May Implicate the Antitrust Laws**

The threshold inquiry in antitrust analysis is whether an action has an effect that could impact competition or could be an unreasonable restraint of trade in the market for legal services. Unreasonable restraints on trade generally: raise prices; reduce output; diminish quality; limit choice; or create, maintain, or enhance market power. Anticompetitive practices may arise when a state empowers a group of active market participants to decide who can participate in its market and on what terms.

If the action or proposed action does not affect competition or has only a de minimis impact, the antitrust laws are not implicated. Courts have held that individualized decisions on admissions or discipline do not impact overall competition in the market to sufficiently raise antitrust concerns. A number of the State Bar's public protection programs have no foreseeable impact on competition in the market for legal services, e.g., the Client Security Fund (compensation of victims), the Lawyer Assistance Program (counseling services for attorneys), and the Commission on Judicial Nominees Evaluation (advisory role to the Governor).

## **B. The Role of the California Supreme Court Must Be Analyzed**

### **1. California Supreme Court as Final Decision Maker**

The California Supreme Court enjoys immunity from the antitrust laws when it acts in its sovereign legislative capacity, such as when it adopts the Rules of Professional Conduct. (*Bates v. State Bar of Arizona* (1977) 433 U.S. 350, 360.) Where the State Bar makes only recommendations to the Supreme Court, and the Supreme Court makes the final decision after the opportunity for a de novo review of the recommendation, the actions are those of the state and may be immune from the antitrust laws, notwithstanding any impact on competition. (See, e.g., Supreme Court Order Approving Modifications to the Cal. Bar Exam, S232907, Mar. 16, 2016.)

The California Supreme Court often exercises its inherent authority to modify or disapprove proposed rules recommended by the State Bar. (See, e.g., Supreme Court Order re Request for Approval of Amends. to Rule 5-110 and Rule 5-220 of the Rules of Professional Conduct of the State Bar of Cal., S239387, May 1, 2017 [granting in part request for approval of recommended amendments to the Rules of Professional Conduct; denying in part and remanding to State Bar to develop further recommendations].)

### **2. Actions and Decisions of the State Bar**

If an action of a regulatory agency such as the State Bar has a potential anticompetitive effect, and is not an action of the Supreme Court or the Legislature acting as sovereign, closer analysis will be required. Under these circumstances antitrust immunity is available only if the regulatory entity's action is subject to *active state supervision* and is undertaken pursuant to a *clearly articulated state policy*.

- (a) **Active State Supervision:** Federal Trade Commission staff has issued nonbinding advisory guidelines stating that the following factors should



be considered in determining whether the active supervision requirement is met:

- (i) Whether the state supervisor of the regulatory entity has obtained the information necessary for a proper evaluation of the action approved by the regulatory entity.
  - (ii) Whether the state supervisor has evaluated the substantive merits of the regulatory entity's action and assessed whether it comports with the standards established by the Supreme Court or the Legislature.
  - (iii) Whether the state supervisor has issued a written decision approving, modifying, or disapproving the regulatory entity's action and explaining the reasons and rationale for such decision.
- (b) **Clearly Articulated State Policy:** When undertaking action that may be anticompetitive, the regulatory entity must also act pursuant to a clearly articulated state policy of the Supreme Court or Legislature to displace competition.

Example: A state bar could be in violation of the antitrust laws if it acts in an anticompetitive manner outside of a clearly articulated state policy. In *Goldfarb v. Virginia State Bar* (1975) 421 U.S. 773, the Virginia State Bar took action to enforce a minimum fee schedule for lawyers that had not been authorized by the Virginia Supreme Court. The Virginia Supreme Court had not supervised this anticompetitive action, nor was there any clearly articulated statutory or court policy authorizing enforcement of the fee schedule. The United States Supreme Court held the Virginia State Bar's actions constituted illegal price fixing and were not immune from the antitrust laws.

- (c) **Detailed Statute or Rule of Court:** The active state supervision and clearly articulated state policy requirements are met when the applicable statute or Rule of Court is so detailed and prescriptive as to remove the regulatory entity's discretion. The detailed legislation or court rule itself articulates the policy and satisfies the supervision requirement. (98 Ops.Cal.Atty.Gen. 12 (2015).)

Example: The State Bar is required by law to place on inactive status attorneys who fail to comply with mandatory continuing legal education requirements. (Bus. & Prof. Code, § 6070, subd. (a); Cal. Rules of Court, rule 9.31(d).) Although the State Bar's actions to remove these

attorneys from practice temporarily may impact competition, such actions are only a ministerial activity to enforce the statute and likely would not violate the antitrust laws.

**C. State Bar Personnel Must Report Potential Antitrust Violations Immediately**

**1. Sensitive Topics**

Actions such as collusion among attorneys to fix prices, limit market entry, or otherwise limit competition, whether or not under the auspices of the State Bar, violate the antitrust laws. Meetings convened by the State Bar often involve groups of attorneys who may be considered competitors in the marketplace under the antitrust laws, and discussions in such meetings of price or costs, such as prevailing hourly billing rates and associate or staff salaries, may implicate antitrust concerns. The State Bar may not take actions that have an anticompetitive effect on the marketplace unless authorized by law.

**2. Mandatory Reporting**

State Bar personnel must comply with the antitrust laws and must immediately report to OGC potential antitrust violations, including but not limited to potential violations caused by actions of the State Bar or the Board of Trustees. In the event OGC reviews a current or proposed action, program, or policy decision and opines there is no potential antitrust violation, OGC remains obligated to forward its analysis to the California Supreme Court, which may choose whether to review the action, program, or policy decision as it deems appropriate.

**D. Potential Antitrust Violations Reported by Members of the Public**

Any member of the public may report a potential antitrust violation to the State Bar. The State Bar's determinations on reports of potential antitrust violations brought by members of the public are subject to review by the California Supreme Court in accordance with the Supreme Court's procedures. (Cal. Rules of Court, rule 9.13(d), (e).)

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This order is final forthwith.

**CANTIL-SAKAUYE**

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*Chief Justice*

**CHIN, J.**

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*Associate Justice*

**CORRIGAN, J.**

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*Associate Justice*

**LIU, J.**

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*Associate Justice*

**CUÉLLAR, J.**

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*Associate Justice*

**KRUGER, J.**

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*Associate Justice*

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*Associate Justice*

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# Locations

## Headquarters

[11255 North Torrey Pines Road](#)  
[La Jolla, CA 92037](#)

## Office Hours

8 AM – 5 PM (Mon-Fri)

## Main Office & Admissions

(800) NAT-UNIV  
(800-628-8648)

All Regions

Google

<https://maps.google.com/maps?ll=32.910911>

1. [Academic & Administrative Headquarters](#)

11355 N Torrey Pines Rd  
San Diego, CA 92037

2. [Spectrum Business Park Campus](#)

9388 Lightwave Avenue  
San Diego, CA 92123-1426

3. [Technology and Health Sciences Center - Kearny Mesa Campus](#)

3678 Aero Court  
San Diego, CA 92123

4. [International Programs Office](#)

9388 Lightwave Avenue  
San Diego, CA 92123

5. [Carlsbad Campus & Performance Psychology Lab](#)

705 Palomar Airport Road  
Suite 205  
Carlsbad, CA 92011-1064

6. [La Mesa Campus - San Diego, CA](#)

7787 Alvarado Road  
La Mesa, CA 91941-3643

7. [Rancho Bernardo Campus - San Diego, CA](#)

16875 West Bernardo Drive  
Suite 150  
San Diego, CA 92127-1675

8. [National University Scripps Ranch - San Diego, CA](#)

9980 Carroll Canyon Rd  
San Diego, CA 92131

9. [South Bay Campus - Chula Vista](#)

660 Bay Boulevard, Suite 110  
Chula Vista, CA 91910-5200

10. [Nellis Air Force Base Admissions Office - National University Las Vegas \[/Locations/Military/NellisAFBAdmissionsOffice.html\]](#)  
4475 England Avenue, Suite 300  
Nellis AFB, NV 89191

11. [Nellis Air Force Base Testing Center - National University Nellis AFB \[/Locations/Military/NellisAFBTestingCenter.html\]](#)  
4475 England Avenue  
Suite #300  
Nellis AFB, NV 89191

12. [Marine Corps Base Hawaii Education Center Admissions Office - Kaneohe, Oahu \[/Locations/Military/Marine-Corps-Base-Hawaii.html\]](#)  
Mokapu MCBH  
Building #220 - Room #156  
Kaneohe Bay, HI 96734

13. [Naval Air Weapons Station - China Lake California Admissions Office \[/Locations/Military/China-Lake.html\]](#)  
610 Blandy Ave.  
Building #02308 - Room B - NAWS  
Ridgecrest, CA 93555

Google

[\[https://maps.google.com/maps?ll=32.91091\]](https://maps.google.com/maps?ll=32.91091)

14. [Naval Base Ventura County \(NBVC\) Navy College Admissions Office \[/Locations/Military/Naval-Base-Ventura.html\]](#)  
521 9th St  
Building #104 - Room #2  
NAS Point Mugu, CA 93042

15. [Fort Bliss Education Center - School of Professional Studies \[/Locations/Military/Fort-Bliss-Education-Center.html\]](#)  
Fort Bliss Education Center  
Building 2916/2917  
Fort Bliss, TX 79906

16. [National University Scripps Ranch Military Online Center \[/Locations/Military/Military-Online-Center-Scripps-Ranch.html\]](#)  
9980 Carroll Canyon Rd  
San Diego, CA 92131


17. [Fleet Anti-Submarine Warfare Training Center, San Diego \[/Locations/Military/FleetAntiSubmarine.html\]](#)  
Building 7  
Fleet ASW Training Center  
San Diego, CA 92147-5090

18. [MCAS Miramar Education Center, San Diego \[/Locations/Military/MarineCorpsAirStation.html\]](#)  
MCAS Miramar, Kelso Rd.  
Building #5305 - Room #104  
San Diego, CA 92145

19. [Marine Corps Base Camp Pendleton Learning Center \[/Locations/Military/CampPendleton.html\]](#)  
A Street & 12th Street  
Building #1331 - Room #104  
Camp Pendleton, CA 92055

20. [San Diego Marine Corps Recruit Depot Learning Center \[/Locations/Military/MarineCorpsRecruitDepot.html\]](#)  
4025 Tripoli Ave  
Building #111 - MCRD  
San Diego, CA 92140



21. [North Island Naval Amphibious Base Learning Center, Coronado \[Locations/Military/NavalAmphibiousBase.html\]](#)  
Naval Amphibious Base Coronado  
Building #650  
San Diego, CA 92155-5000
22. [NASNI Naval Air Station North Island San Diego Learning Center \[Locations/Military/NavalAirStationNI.html\]](#)  
Naval Air Station North Island Learning Center  
Building #650  
San Diego, CA 92135
23. [NMCSD Balboa Naval Hospital San Diego Admissions Office \[Locations/Military/NavalHospital.html\]](#)  
34800 Bob Wilson Drive  
Building #26, Floor 3-B  
San Diego, CA 92134-5000
24. [National University 32nd Street Naval Base Learning Center \[Locations/Military/NavalStation32ndStreet.html\]](#)  
3975 Norman Scott Rd.  
Building #3280 - Room B-114  
San Diego, CA 92136
25. [Naval Submarine Base National University Admissions Office \[Locations/Military/NavalSubmarineBase.html\]](#)  
140 Sylvester Road  
Building #211 - Room #210  
San Diego, CA 92106-3521  
  
[\[https://maps.google.com/maps?ll=32.910914,-117.135556\]](https://maps.google.com/maps?ll=32.910914,-117.135556)
26. [MCAGCC Twentynine Palms Learning Center \[Locations/Military/TwentyninePalms.html\]](#)  
MCAGCC Twentynine Palms  
Building #1530  
Twentynine Palms, CA 92278-1118
27. [Quantico, VA Online Information Center \[Locations/Military/Quantico.html\]](#)  
337 Potomac Avenue  
Quantico Town, VA 22134
28. [National University Henderson, NV, Campus \[Locations/Nevada-Region/Henderson.html\]](#)  
2850 W. Horizon Ridge Parkway  
Suite 300  
Henderson, NV 89052
29. [National University Bakersfield College Campus \[Locations/NorthernCalifornia/Bakersfield.html\]](#)  
4560 California Avenue  
Suite 300  
Bakersfield, CA 93309-1150
30. [National University Fresno, CA, Campus \[Locations/NorthernCalifornia/Fresno.html\]](#)  
20 E River Park Place West  
Fresno, CA 93720-1551
31. [San Jose Campus, California \[Locations/NorthernCalifornia/SanJose.html\]](#)  
3031 Tisch Way  
100 Plaza East  
San Jose, CA 95128-2541
32. [Stockton California Campus \[Locations/NorthernCalifornia/Stockton.html\]](#)  
3520 Brookside Road

Stockton, CA 95219-2319

33. [Redding California Campus \[/Locations/NorthernCalifornia/Redding.html\]](#)

760 Cypress Avenue  
Suite 210  
Redding, CA 96001

34. [National University East Bay Campus \[/Locations/NorthernCalifornia/national-university-east-bay-campus.html\]](#)

100 Ellinwood Way  
Pleasant Hill, CA 94523

35. [Rancho Cordova Sacramento CA Campus \[/Locations/NorthernCalifornia/Rancho-Cordova.html\]](#)

10901 Gold Center Drive  
Rancho Cordova, CA 95670

36. [Roseville Regional Admissions Center \[/Locations/NorthernCalifornia/Roseville.html\]](#)

548 Gibson Drive  
Suite #130  
Roseville, CA 95678

37. [Costa Mesa California Campus \[/Locations/SouthernCalifornia/CostaMesa.html\]](#)

3390 Harbor Boulevard  
Costa Mesa, CA 92626-1502

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38. [Los Angeles California Campus \[/Locations/SouthernCalifornia/LosAngeles.html\]](#)

5245 Pacific Concourse Drive  
Suite 100  
Los Angeles, CA 90045-6905

39. [Riverside Campus \[/Locations/SouthernCalifornia/riverside.html\]](#)

1325 Spruce Street Suite 500  
5th Floor  
Riverside, CA 92507

40. [Oxnard Campus Ventura County California \[/Locations/SouthernCalifornia/Oxnard.html\]](#)

1000 Town Center Drive, Suite 125  
Oxnard, CA 93036

41. [Ontario California Campus \[/Locations/SouthernCalifornia/Ontario.html\]](#)

3800 E. Concourse Drive  
Suite 150  
Ontario, CA 91764

42. [Online Information Center Temecula California \[/Locations/SouthernCalifornia/Temecula-Online-Information-Center.html\]](#)

40705 Winchester Road  
Suite 5  
Temecula, CA 92591

43. [Online Information Center Palm Desert California \[/Locations/SouthernCalifornia/Palm-Desert.html\]](#)

44250 Town Center Way  
Suite C-3  
Palm Desert, CA 92260

44. [Online Information Center Long Beach CA \[/Locations/SouthernCalifornia/Long-Beach-Online-Information-Center.html\]](#)

7557 Carson Boulevard  
Long Beach, CA 90808

45. [Woodland Hills CA Campus \[/Locations/SouthernCalifornia/WoodlandHillsCampus.html\]](#)

6300 Canoga Avenue

Suite #101

Woodland Hills, CA 91367

46. [College of the Canyon University Center \[/Locations/SouthernCalifornia/College-of-the-Canyon-University-Center.html\]](#)

26455 Rockwell Canyons Rd.

Suite 204D

Santa Clarita, CA 91355

47. [Glendale Regional Admissions Center \[/Locations/SouthernCalifornia/Glendale.html\]](#)

100 W Broadway

Suite #1070

Glendale, CA 91210

Google

[\[https://maps.google.com/maps?ll=32.910916,-117.123621\]](https://maps.google.com/maps?ll=32.910916,-117.123621)

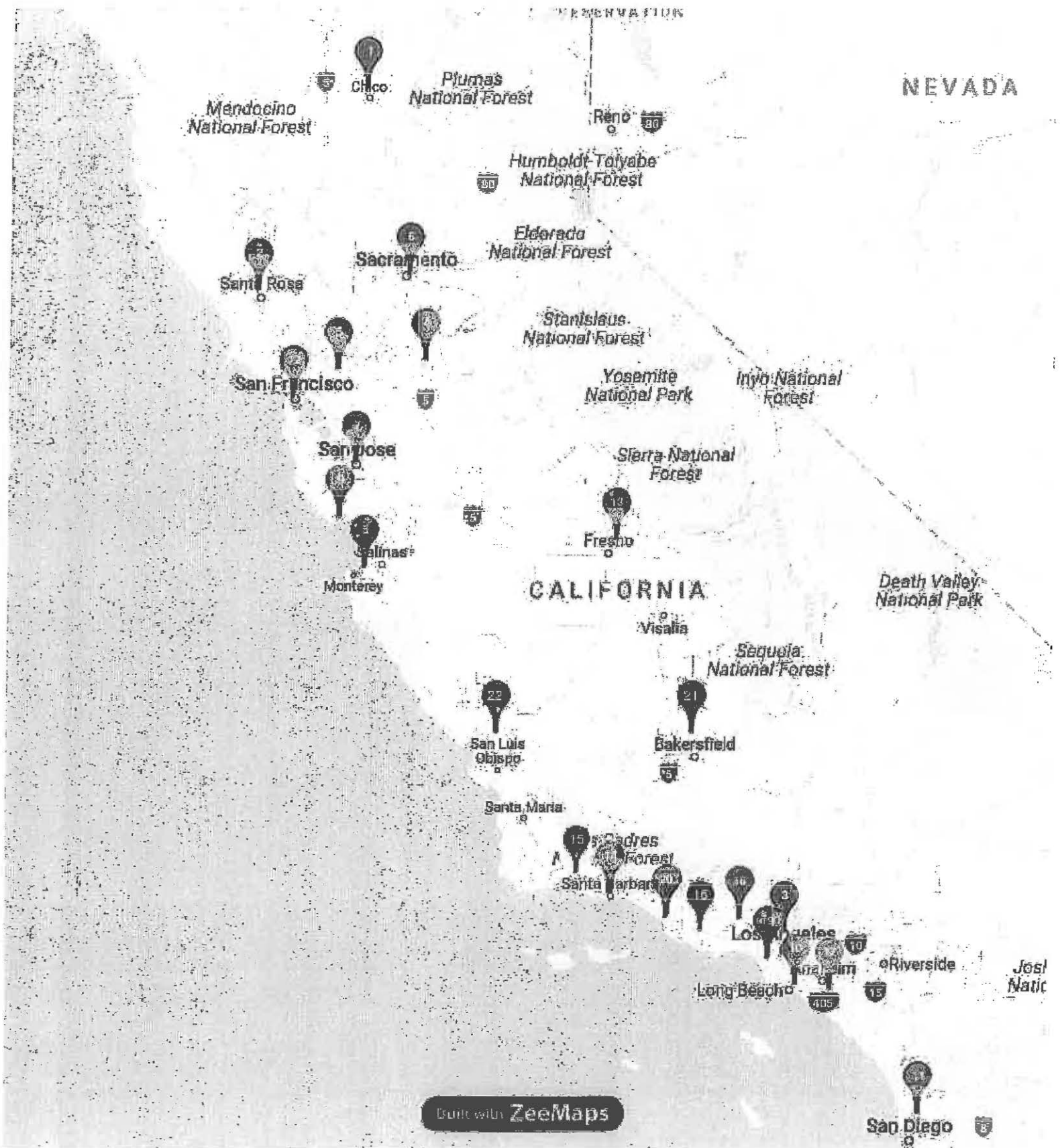


Exhibit C

1. **Cal Northern School of Law**  
1395 Ridgewood Drive, Suite 100  
Chico, CA 95973-7802  
(530) 891-6900  
[www.calnorthern.edu](http://www.calnorthern.edu)
2. **Empire College School of Law**  
3035 Cleveland Avenue  
Santa Rosa, CA 95403-2122  
(707) 546-4000  
[www.empcol.edu](http://www.empcol.edu)
3. **Glendale University College of Law**  
220 North Glendale Avenue  
Glendale, CA 91206-4454  
(818) 247-0770  
[www.glendalelaw.edu](http://www.glendalelaw.edu)
4. **Humphreys College Laurence Drivon School of Law**  
6650 Inglewood Avenue  
Stockton, CA 95207-3861  
(209) 478-0800  
[www.humphreys.edu](http://www.humphreys.edu)
5. **John F. Kennedy University School of Law**  
100 Ellinwood Way  
Pleasant Hill, CA 94523-4817  
(925) 969-3550  
[www.jfku.edu/schools/law](http://www.jfku.edu/schools/law)
6. **Lincoln Law School of Sacramento**  
3140 J Street  
Sacramento, CA 95816-4403  
(916) 446-1275  
[www.lincolnlaw.edu](http://www.lincolnlaw.edu)
7. **Lincoln Law School of San Jose**  
One North First Street  
San Jose, CA 95113-1227  
(408) 977-7227  
[www.lincolnlawsj.edu](http://www.lincolnlawsj.edu)
8. **Monterey College of Law**  
100 Col. Durham Street  
Seaside, CA 93955-7300  
(831) 582-4000  
[www.montereylaw.edu](http://www.montereylaw.edu)
9. **Monterey College of Law Santa Cruz Satellite Campus**  
303 Water Street  
Santa Cruz, CA 93060  
(831) 582-4000  
[www.montereylaw.edu](http://www.montereylaw.edu)
10. **Pacific Coast University School of Law**  
1650 Ximeno Avenue, Suite 310  
Long Beach, CA 90804  
(562) 961-8200  
[www.pculaw.org](http://www.pculaw.org)
11. **San Diego Law School**  
*A branch of San Francisco Law School*  
10455 Pomerado Road  
San Diego, CA 92131  
(310) 718-6516  
[www.alliant.edu/sdis](http://www.alliant.edu/sdis)
12. **San Francisco Law School**  
20 Haight Street  
San Francisco, CA 94102-5802  
(415) 626-5550  
[www.alliant.edu/sfis](http://www.alliant.edu/sfis)
13. **San Joaquin College of Law**  
901 5th Street  
Clovis, CA 93612-1312  
(800) 522-0994  
[www.sjcl.edu](http://www.sjcl.edu)
14. **Santa Barbara College of Law**  
20 E. Victoria Street  
Santa Barbara, CA 93101-2606  
(805) 979-9860  
[www.collegesoflaw.edu](http://www.collegesoflaw.edu)
15. **Southern California Institute of Law**  
*Santa Barbara Campus*  
1525 State Street, Suite 202  
Santa Barbara, CA 93101-2500  
(805) 963-4654  
[www.lawdegree.com](http://www.lawdegree.com)
16. **Southern California Institute of Law Ventura Campus**  
877 South Victoria Ave., Suite 111  
Ventura, CA 93003-5377  
(805) 644-2327  
[www.lawdegree.com](http://www.lawdegree.com)
17. **Trinity Law School**  
2200 North Grand Avenue  
Santa Ana, CA 92705-7016  
(714) 796-7100  
[www.tls.edu](http://www.tls.edu)
18. **University of West Los Angeles School of Law**  
*San Fernando Valley Campus*  
9201 Oakdale Avenue, #201  
Chatsworth, CA 91311  
(818) 775-4500  
[www.uwla.edu](http://www.uwla.edu)
19. **University of West Los Angeles School of Law**  
*West Los Angeles Campus*  
9800 South La Cienega Boulevard, 12th Floor  
Inglewood, CA 90301-4423  
(310) 342-5250  
[www.uwla.edu](http://www.uwla.edu)
20. **Ventura College of Law**  
4475 Market Street  
Ventura, CA 93003-7774  
(805) 765-9300  
[www.collegesoflaw.edu](http://www.collegesoflaw.edu)
21. **Kern County College of Law**  
*A branch of Monterey College of Law*  
1112 Truxton Ave.  
Bakersfield, CA 93301  
(831) 582-4000  
[www.kerncountylaw.org](http://www.kerncountylaw.org)
22. **San Luis Obispo College of Law**  
*A branch of Monterey College of Law*  
4119 Broad St #200  
San Luis Obispo, CA 93401  
(831) 582-4000  
[www.slolaw.org](http://www.slolaw.org)



**Business & Professions Code Section 6061.7(a)**  
**Information Report for All Locations**  
**Reporting Year 2017**

Name of Law School: John F. Kennedy University

Primary Address: 100 Ellinwood Way Room S329

Pleasant Hill, CA 94523

Additional Branch/Satellite Campus Name(s) and Location(s):

\_\_\_\_\_  
\_\_\_\_\_

The following requests apply solely to all first-year students admitted into a law school's J.D. Program, as of September 15<sup>th</sup>, during the previous year and who were not reported in any prior year:

**1) Admissions Data:**

- a) Total number of first-year applications received: 64
- b) Total number of first-year students accepted: 37
- c) Total number of first-year students enrolled: 29
- d) Undergraduate Grade Point Average (GPA) for all first-year students admitted:
  - i) 75<sup>th</sup> Percentile: 3.11
  - ii) 50<sup>th</sup> Percentile: 2.80
  - iii) 25<sup>th</sup> Percentile: 2.35
- e) Law School Admissions Test (LSAT) numerical score (if required for admission).  
Reported Numerical Score:
  - i) 75<sup>th</sup> Percentile: 148.00
  - ii) 50<sup>th</sup> Percentile: 142.00
  - iii) 25<sup>th</sup> Percentile: 138.00

**2) Tuition and Fees Totals for First-Year Students in the Year Reported:**

- a) Total number of units required to earn a J.D. degree: 84
- b) Estimated total tuition charged to complete a J.D. degree: \$ 78,204
- c) Estimated total fees charged to complete a J.D. degree: \$ 3,940

**3) Financial Aid Available to First-Year Students (if qualified):**

- ☒ Federally Guaranteed Loans
- ☒ Private Student Loans
- ☒ Veterans Education Benefits
- ☒ California Dept. of Rehabilitation
- ☒ Unrestricted Scholarships/Grants/Discounts:
  - Total number and dollar amount awarded as of Sept 15:  
2 \$ 6000
- ☒ Conditional Scholarships/Grants:
  - Total number and dollar amount awarded as of Sept 15:  
0 \$ 0

Description of all conditions (e.g., cumulative GPA) required to maintain any such scholarship awarded:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**4) Enrollment Data**

- a) Total number of students enrolled, per class in the law school's J.D. degree program, during each of the prior three years:

	2013-2014	2014-2015	2015-2016
1st	38	43	30
2nd	42	22	32
3rd	52	46	21
4th	24	27	30
Total J.D. enrollment	156	138	113

- b) Total number of students who transferred to and from the J.D. program during the prior three years:

	2013-2014	2014-2015	2015-2016
Transfers (in)	3	0	0
Transfers (out)	0	0	0

- c) Total number of students who did not remain enrolled in the J.D. program, on either a voluntary or involuntary basis during each of the prior three years:

	2013-2014	2014-2015	2015-2016
Total Attrition (#)	10	16	12

**5) Law School Administrators, Faculty, and Librarians:**

- a) Number of full-time faculty: 4  
 b) Number of part-time faculty: 44  
 c) Number of full-time administrators: 4  
 d) Number of part-time administrators: 2  
 e) Number of trained librarians (full- or part-time): 2

**6) Required Courses and Clinical Courses:**

- a) Number of required courses for J.D. degree: 27  
 b) Average class size for required courses: 14  
 c) Number of school-sponsored clinical programs offered for credit: 3

**7) Employment Outcomes:**

The results of a survey conducted by the law school, taken three years after its graduates completed their J.D. degree requirements, indicate that the percent of graduates employed over each of the last three years working at jobs that: a) a J.D. degree is required by their employer; and b) a J.D. degree is an advantage in their employment are as follows.

Graduates of calendar year 2013\* Total number of graduates: 39

Total number of responses received: 29 Survey response rate: 74.00 %

Employment Status	2014	2015	2016
J.D. degree-required	69.00 %	79.00 %	83.00 %
J.D. degree-advantage	21.00 %	17.00 %	17.00 %

\* Initial survey year for this report covers all those attending the law school who completed the curriculum required to earn J.D. degree in 2013, whether or not they actually graduated in that calendar year.

**8) California Bar Examination (CBX) Passage Data**

- a) Reporting period (five years): January 1, 2011 - December 31, 2015;  
 b) Number of qualified graduates during the reporting period:  
     (1) Who took the CBX at least once during the reporting period: 133  
     (2) Who passed the CBX during the reporting period: 82  
     (3) Cumulative, pass rate for the reporting period: 62.00 %