

COMMITTEE OF BAR EXAMINERS

OPEN SESSION AGENDA ITEM

AGENDA ITEM: March 2018 – O-402

DATE: March 13, 2018

TO: Subcommittee on Educational Standards

FROM: George Leal, Program Manager, Educational Standards

SUBJECT: **Monterey College of Law - Major Change Request for Approval of a Hybrid J.D. Degree Program**

BACKGROUND

Attachment A is a Major Request submitted by the Monterey College of Law (MCL) seeking prior approval from the Committee of Bar Examiners (Committee), along with a Petition for a Waiver of Guideline 7.11, to allow it to offer a “hybrid” Juris Doctor Degree that will provide 70% of its curriculum through online, distance-learning. Submitted by MCL Dean Mitchel Winick, the proposed new degree program would, if approved, begin in the fall of 2018 and be offered to an initial “pilot cohort” of 15 to 18 students.

The request is governed by Rules 4.105(J), 4.164 and 4.165(E) of the *Accredited Law School Rules* and Guideline 7.11 of the *Guidelines for Accredited Law School Rules* (Guidelines). The Petition for a waiver Guideline 7.11, which currently caps the number of semester units that a California-accredited law school (CALS) may offer through distance learning to 12, is submitted under Rule 4.109. Collectively, they require MCL to request and receive, as a “major change,” the Committee’s prior approval to offer “any new program in law study.”

MCL is a non-profit, tax-exempt CALS founded in 1972 which received its accreditation from the Committee in 1981. Dean Winick has served in his position since 2005. It now operates four campuses with its main campus in Seaside, a community just north of Monterey. That campus offers a part-time, three and one-half year program leading to a Juris Doctor degree. The Seaside campus also offers two additional law degrees, a Master of Legal Studies (M.L.S.) and an LL.M. degree in International Law.

In 2010, MCL received Committee approval to open a satellite campus in Santa Cruz, the first and only CALS to do so. As a satellite campus, students attend classes offered in MCL’s first-year J.D. curriculum. After they complete their first year, students must matriculate and then commute to the Seaside campus to complete their program. In 2015, MCL received Committee approval to open its first, four-year branch campus, the San Luis Obispo College of Law. That campus opened in the fall of 2015 and now offers classes in all four years of the MCL J.D. curriculum and, as of the fall of 2017, it had an enrollment of 36 students. In 2016, MCL again sought and received Committee

approval to open a second branch campus in Bakersfield. In the August of 2017, the Kern County College of Law opened with 16 students.

Based upon the combined enrollment of all four campuses, MCL's student enrollment is 119 students. In 2012, each of MCL's then-existing campuses (Seaside and Santa Cruz) was inspected found operationally compliant. MCL's next periodic inspection, which will include all four campuses, is scheduled to take place in the Fall of 2018.

In light of both the number and location of its campuses, MCL has made the logical decision to offer classes that will be taught using distance learning technology. With that goal in mind, it now seeks Committee approval to begin their development.

DISCUSSION

As described in Dean Winick's submission, MCL wishes to develop a pilot program at one of its campuses to expand the methodology used to teach its J.D. curriculum. If approved, it intends to develop a "hybrid" curriculum in which students will complete their first year of study attending on-campus classes and then, with the exception 10 additional units, they would complete the second and third year curricula attending online classes taught through a combination of synchronous and asynchronous content. The additional 10 units of on-campus classes will offer practical skills and competency training and will include a one day, one-unit "colloquium" each semester where students will attend faculty discussions relating to legal ethics, professionalism, specific practical skills and the practice of law. Once fully developed, 70% (63 out of 90 units) of the hybrid curriculum will consist of classes taught through distance learning technology.

Students enrolled in the hybrid program will be required to complete the same sequence of classes in the MCL J.D. curriculum covering the same subjects, including legal research and writing, as those taught to all other MCL students at each of its campuses. In doing so, and among the benefits of this type of hybrid program, students will eventually have the freedom to switch from the hybrid program into the classroom-taught curriculum at any point they choose to. Once made available to all MCL students, the hybrid program will allow students to enroll in one or more of the online courses, which will give them added flexibility in scheduling and attending classes as they complete the program.

Given that the content and sequence of all online classes will mirror those of all classes taught in a classroom, and that students enrolled in any or all of the online classes will be taught, graded and held to the same academic standards as all other MCL students, the long-term goal of the new program is to produce graduates that are equally well educated and capable as any of those graduating from any of MCL's campuses. Once the program is fully implemented and, after being assessed, MCL intends to offer the online courses taught to the pilot cohort to students enrolled in all of its campuses.

To achieve this goal, as described in Dean Winick's submission at pp. 5-6, MCL has already started working with instructional design and educational technology experts at the California State University at Monterey Bay to help with the preliminary design and development of the teaching technology and methodology to be used to create the

content of future online courses. The various online technologies and software programs to be used are already well known and used by legal educators. They include Populi, a widely-used online course management program already used by MCL and many other undergraduate and graduate institutions. It provides both, schools and their students, support in the management of admissions, course registrations, transcript creation and management, along with secure faculty/student communications.

To develop and support both the real time and digitally-recorded content of the online courses to be offered, MCL intends to use existing online platforms, such as *Zoom Video*, *Prezi* and *Go Animate*, now used by many colleges and universities. Using such technology, the MCL's online classes will offer students essentially the same content as that offered in a traditional classroom. As with on-campus lectures and faculty/student discourse, online students will be given the same reading assignments and will be required to complete an equal amount of "academic engagement" with both the course content and their professors as is required for each on-campus class.

The difference in such engagement will be that students attending class online will be able to learn from faculty podcasts, video-taped lectures and real-time, synchronous class discussions and from viewing recorded lectures. Online students will also benefit by being able to collaborate with their classmates using the same online technology to participate in study groups and class blogs. Finally, online students will be able to take many, if not most, of their examinations through the use of online proctoring websites (commonly used by distance-learning institutions) such as ProctorU or Examity.

If approved, MCL is willing to make a significant, initial financial investment (\$150,000) to fund the development and design of its planned hybrid program. As Dean Winick represents, that investment should be augmented by the additional tuition revenue from the 15-18 new students who MCL expects to enroll in its planned pilot cohort.

To ensure compliance with the Rules and Guidelines, the MCL hybrid program will be designed to comply with all academic and operational requirements that currently govern a residential J.D. curriculum. Toward that goal, and to effectuate the number of units to be earned using online, distance-education, a waiver of Guideline 7.11 is needed. As noted, that Guideline currently caps the number of semester units a CALS may offer in a J.D. curriculum to 12. Under this limitation, a CALS may currently offer no more than 13-15%, of its J.D. curriculum through distance-learning technology. Thus, to effectuate a 70/30 percent split between a student's online engagement and their on-campus attendance, a waiver of the 12-unit is obviously essential.

In considering whether to grant MCL a waiver, as noted by Dean Winick, the Committee should consider several very relevant factors. First, the Committee has already granted a similar waiver to allow another CALS, the Santa Barbara/Ventura Colleges of Law (SBVCOL) to offer its own hybrid J.D. program. While it will be structured and taught differently than MCL's, the SBVCOL program was approved with the same 70/30 percent split between on-campus and online instruction and academic engagement.

Next, it should be noted that in approving the SBVCOL hybrid program, the Committee endorsed its earlier commitment to grant waivers of Guideline 7.11, on an *ad hoc* basis,

when a CALS has demonstrated that it is capable of developing a sound J.D. curriculum using a significantly higher percentage of distance-learning course content. In doing so, the Committee reasoned that it would be able to review each proposed program before being developed, or deny those it found to be wanting. Finally, as part of its consideration of the MCL proposal, it must be noted that both the Committee and the State Bar Board of Trustees have recently approved allowing the Committee to begin accrediting online J.D. degree programs that offer their course content entirely through synchronous and asynchronous distance-learning if they meet all of the Committee's accreditation standards. Given these essential endorsements, allowing any CALS the opportunity to develop its own online J.D. Degree course content is clearly consistent with this important expansion of the Committee's accreditation authority.

RECOMMENDATION:

Given the quality of its current J.D. degree program, as taught by its faculty and supported by dean and administrators, MCL clearly appears capable of developing and offering its proposed hybrid J.D. curriculum. Moreover, given the various locations of its approved branch and satellite campuses, MCL appears particularly well suited to offer its students a program containing sound distance learning course content. As a result, it is recommended that the Request for a Major Change and the Waiver Petition of MCL allow it to offer a "hybrid" J.D. degree program, incorporating distance-learning technology in course content of up to 63 units (70%) of its 90-unit curriculum, be approved as a pilot program; that its Petition for a waiver of the 12-unit limitation as to use of such technology under Guideline 7.11 of the *Guidelines for Accredited Law School Rules* be granted, subject to annual renewal; and that the law school be required to submit to the Committee of Bar Examiners a detailed assessment report on the new program within one year of when students first start attending classes in said program.

PROPOSED MOTION:

If the Subcommittee agrees with this recommendation, the following motion is suggested:

Move that, pursuant to Rules 4.105(J), 4.109, 4.164 and 4.165(E) of the *Accredited Law School Rules*, the Request for a Major Change and the Waiver Petition of MCL allow it to offer a "hybrid" J.D. degree program, incorporating distance-learning technology in course content of up to 63 units (70%) of its 90-unit curriculum, be approved as a pilot program; that its Petition for a waiver of the 12-unit limitation as to the use of such technology under Guideline 7.11 of the *Guidelines for Accredited Law School Rules* be granted, subject to annual renewal; and that the law school be required to submit to the Committee of Bar Examiners a detailed assessment report on the new program within one year of when students first start attending classes in said program.