

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM : **March 2018 – 0-401**

DATE: March 12, 2018

TO: Subcommittee on Educational Standards

FROM: George C. Leal, Program Manager for Educational Standards

SUBJECT: **Monterey College of Law – Major Change Request to
Redesignate Santa Cruz Satellite Campus to a Branch Campus**

BACKGROUND

Attachment A is a Major Change Request submitted by the Monterey College of Law (MCL) seeking approval from the Committee of Bar Examiners (Committee) to elevate its existing Santa Cruz satellite campus to a branch campus that would operate as the Santa Cruz College of Law and open in the spring of 2019. As required by Rule 4.164 and as defined by Rule 4.165(B) of the *Accredited Law School Rules* (Rules), a California-accredited law school (CALS) must request and obtain prior Committee approval to make any major change which includes, “opening a new branch” campus.

As described by Dean Mitchel Winick, MCL’s request has been submitted under the process and timing established by Rule 4.160(H) and Guidelines 15.1 – 15.4 (Division 15. Opening and Operating a Branch or Satellite Campus) of the *Guidelines for Accredited Law Schools Rules* (Guidelines). Under this Rule and these Guidelines, the Committee has simplified and shorten the process used to receive its approval to open a new branch campus. As described below, the Committee’s approval is to be based upon its consideration written narrative, “notice” submission as certified by the Dean.

The timing and process to evaluate MCL’s request is as follows:

As provided by Guideline 15.2(A): “No less than 180 days before the proposed first day of classes of a branch or satellite campus, the law school must provide the Committee with notice of its intention to open a new branch or satellite campus.” In doing so, the notice must identify the type, location, name and proposed opening date of the new campus. It must also provide the Committee a “comprehensive explanation” for its decision to open the new campus, that includes: “a) a narrative discussing any research or planning regarding the new campus; b) projected financial impact of the new campus on the law school; and c) proposed resources to be allocated to the new campus.” Finally, the notice must be certified by the Dean that, “upon its opening,” the

new campus will be in substantial compliance with all relevant academic and operational requirements” as set out in the Rules and Guidelines.

Once submitted, the Committee then has 60 days to consider whether to approve or deny the request. Guideline 15.2(B) requires that “[n]o less than 120 days before the proposed first day of classes at the branch or satellite campus, the Committee must approve or deny the law school’s proposal” if it finds, as certified by the Dean, that the new branch will be in substantial compliance as of the date of its opening. Thereafter, under Guideline 15.2(C), “within 90 days of the first day of classes of the branch or satellite campus,” the law school must submit a report, also “certified by the Dean,” to confirm that the new campus is, in fact, then in “substantial compliance.”

As a final check to confirm that the new branch campus will open in substantial compliance with the Rules and Guidelines, Rule 4.160(H) provides that “no later than 30 days prior to the start of classes, the Dean of the law school “will certify the substantial compliance of each new branch or satellite campus, by a letter to the Committee.

Each of the subsequent certifications is intended to provide the Committee and staff additional information regarding the operational status and readiness of the new branch before students start attending classes. Since some of the information subsequently submitted may not have been available to the Dean when the 180-day notice was initially received the Committee, the Rule and Guidelines are intended to provide the Committee with further factual support to confirm that its approval was appropriate.

Under Guideline 15.3(B), if approved, a new branch campus operates as “provisionally approved” until it is shown to be in full compliance with “all accreditation standards and operational requirements” of the Rules and Guidelines. Moreover, each new branch campus is required to operate with a qualified administrator who, under Guideline 4.1(B), must be a graduate of either an ABA-approved or Committee-accredited law school. Under this Guideline, if a branch opens with 30 or fewer students and offers only first or second-year classes, it may operate with only a part-time administrator.

Once opened, and as required by Guideline 15.3(C), “[w]ithin two years of operating a provisionally-approved branch campus, the law school must seek confirmation from the Committee that the campus is in compliance with all accreditation standards” found in the Rules and Guidelines. To make this determination, the Committee will then conduct an inspection of the campus to determine whether it is to be “deemed approved, continue to be provisionally approved or denied continued provisional approval.”

Finally, under Guideline 15.4, the Annual Compliance Report submitted by a CALS operating a provisionally-approved or fully approved branch campus “must include, by separate attachment, all requested information and data” relating to the operational status of the branch campus. Accordingly, if approved to open in the spring of 2019, MCL will submit a separate section of its 2019 Annual Compliance Report, due November 15, 2019, to provide the Committee with relevant data, such as its admissions, student enrollment and faculty relating to the Santa Cruz branch campus.

PROPOSED, NEW BRANCH CAMPUS

MCL is a non-profit, tax-exempt CALS founded in 1972 that received its accreditation from the Committee in 1981. Dean Winick has served in his position since 2005. MCL currently operates four campuses. Its main campus is located in Seaside, a community just north of Monterey, in close proximity to California State University, Monterey Bay. The Seaside campus offers a part-time, four-year day and evening program leading to the award of the Juris Doctor degree. This campus also offers two other law degrees, a Master of Legal Studies (M.L.S.) and a LL.M. degree in International Law.

In 2010, MCL received Committee approval to open and operate a satellite campus in Santa Cruz, the first and only CALS to operate such a campus. Given its status as a satellite, students enrolled in Santa Cruz are only offered classes in MCL's first-year J.D. curriculum. Once they complete their first year, they must matriculate and commute to the Seaside campus. Since it opened, the Santa Cruz campus has been a success, with approximately 70 students starting there and later enrolling at the Seaside campus. Altogether, Dean Winick estimates that approximately 20% of MCL's current enrollment now originates from the Santa Cruz branch campus. Its currently has eight students.

In 2015, MCL sought and received Committee approval of 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. As of the fall of 2017, this campus 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 fall of 2017, the Kern County College of Law opened with 16 students.

Based upon the enrollment at all of its campuses, MCL current, 2017 enrollment was 119 students, an increase of 7.2% from the year before. Both of MCL's then-existing campuses (Seaside and Santa Cruz) were inspected in September 2012 and each was found operationally compliant. MCL's next periodic inspection, which will include all four campuses, is scheduled to take place sometime next fall.

As discussed by Dean Winick, several key factors prompted MCL's decision to seek approval to elevate its Santa Cruz campus into a four-year branch campus. They include its demonstrated success over the past seven years to attract qualified applicants, and the real potential for its enrollment to grow. There is also meaningful support from the local community given MCL's long-standing commitment to offer its program of legal education along California's Central Coast. As noted in Attachment B, as a member of the Santa Cruz County Board of Supervisor, Mr. Ryan Coonerty supports having a branch campus in Santa Cruz given MCL's "deep ties to the local legal community." Moreover, as expressed by its students and faculty, allowing MCL to offer a four-year program will give residents in Santa Cruz the opportunity to both enroll in an accredited J.D. curriculum and then be able to finish their education in their own community and thus avoid what has become an increasingly tougher and far more time-consuming commute to the Seaside campus. That desire is expressed by Mr. Burleigh Cooper, a current member of the MCL faculty in Santa Cruz. Attachment C.

The current Santa Cruz campus is near downtown and operates in a commercial office building across the street from both the Santa Cruz County Superior Court and County Law Library. Its current, part-time administrator is a member of the faculty, Campus Dean Steve LaBerge, a local attorney who maintains his law office in the same building. He is a graduate of the Santa Clara University School of Law and a certified Criminal Law with over 35 years of experience as a trial attorney. As planned and with approval to offer a four-year program, Mr. LaBerge would continue in a part-time capacity until enrollment exceeds 30 students or when the third or fourth year curriculum is offered. Then as required, a full-time administrator will be retained to be the Campus Dean.

The current campus includes a single large classroom with access to smaller classroom which, together, meet the needs of its current enrollment. The main classroom is equipped with traditional educational technology (whiteboards, AV projector), as well as high-speed Internet connectivity. Additional classroom space in the building is expected to be available in the same building by the fall of 2020 to handle the anticipated growth of future student enrollment into a four-year program. Until then, the current two classroom configuration will support the initial growth in enrollment to include, if approved, the first class of second year students in Santa Cruz in the fall of 2019.

In regard to offering students in Santa Cruz a compliant law library, MCL requested and received a waiver from the Committee in 2010 to allow its students to use the Santa Cruz County Law Library, a library that far exceeds the hardcopy contents requirements of Guideline 8.4. As a result, since it opened, students enrolled in Santa Cruz have extended, non-public access to a law library in very close proximity to their classroom. As with all students enrolled at each of its campuses, students in Santa Cruz are provided with 24/7 access to the online law library resources provided by Lexis/Nexis.

As confirmed during the 2012 inspection, and as discussed at length in Dean Winick's submission, the Santa Cruz campus compliantly operates within each accreditation standard and with all academic and operational requirements found in the Rules and Guidelines. As such, it offers students in Santa Cruz receive the same program of legal education, through the first year, and have access to the same academic support and students services those in Seaside. Finally, if elevated to a full, four-year branch, the Santa Cruz College of Law would join MCL's other provisionally-approved branch campuses (the San Luis Obispo College of Law and the Kern County College of Law) and would continue to operate with the same administrative resources provided in Seaside, including regular online and telephone access to the law school's Registrar.

DISCUSSION

In reviewing Dean Winick's certified submission, the Committee should judge whether MCL has provided sufficient information to support approval to elevate the Santa Cruz satellite campus into a provisionally-approved branch campus. To do this, as required by Guideline 15.2(A), the Committee should consider whether MCL has offered a "comprehensive explanation" for its decision to open the new campus, that includes: "a) a narrative discussing any research or planning regarding the new campus; b) projected

financial impact of the new campus on the law school; and c) proposed resources to be allocated to the new campus.” From an objective reading of Dean Winick’s narrative, it appears MCL has met its burden of proof and its request should be approved.

In regard to the research and planning that supported MCL’s decision, Dean Winick (at pp. 11-12) notes that Santa Cruz is home to two universities including U.C. Santa Cruz and is a community with an above-average population of college graduates that includes what he describes as potential “non-traditional” law students, such as local government and court employees and law firm personnel. These same demographic factors initially prompted MCL in 2010 to open its satellite campus and, over time, have confirmed that they can and will support a steady enrollment of new law students. With the approval to expand into a four-year program, Dean Winick estimates that a full branch campus would increase its enrollment by 15-18 students a year.

With this projected increase in its student enrollment, the projected financial impact on MCL of having a four-year branch campus in Santa Cruz will be positive. As estimated, the net revenues to be generated by having four classes of students enrolled in Santa Cruz will approach and exceed \$500,000 within the first three to four years it is open, a potentially significant sum in light of its current gross revenue of \$2.2 million.

Finally, as discussed at length (pp. 7-10), based upon its current commitment of both financial and academic resources used to operate as a satellite campus, MCL is fully committed to provide all additional resources needed to support its students and faculty if and when the current campus begins to operate as the Santa Cruz College of Law.

RECOMMENDATION

Based upon Dean Winick’s certified submission, it is recommended that the request of the Monterey College of Law (MCL) for approval of a major change, to allow it elevate its existing Santa Cruz satellite campus to a branch campus, be received and filed; that the major change request be approved such that MCL may open, in the spring of 2019, the Santa Cruz College of Law as a provisionally-approved branch campus under the accreditation standards and operational requirements found in *Accredited Law School Rules* and the *Guidelines for Accredited Law School Rules*; that, as required by Rule 4.160(I) and Guideline 15.2(C), no less than 90 days and again within 30 days before the expected first day of classes at the branch campus that a report be submitted, certified by Dean Winick, to confirm the substantial compliance of the branch campus with all relevant *Accredited Law School Rules* and the *Guidelines for Accredited Law School Rules*; and, that following receipt of said certification, the provisionally-approved branch campus may open, enroll students and then begin offering classes; and, pursuant to Guideline 15.3(C), within two years of its opening as a branch campus, MCL must seek confirmation from the Committee of Bar Examiners that the Santa Cruz College of Law is in full compliance with the Rules and Guidelines.

PROPOSED MOTION

Should the Subcommittee agree with the recommendation, the following motion is suggested:

Move, that the request of the Monterey College of Law (MCL) for approval of a major change, to allow it elevate its existing Santa Cruz satellite campus to a branch campus, be received and filed; that the major change request be approved such that MCL may open, in the spring of 2019, the Santa Cruz College of Law as a provisionally-approved branch campus under the accreditation standards and operational requirements found in *Accredited Law School Rules* and the *Guidelines for Accredited Law School Rules*; that, as required by Rule 4.160(I) and Guideline 15.2(C), no less than 90 days and again within 30 days before the expected first day of classes at the branch campus that a report be submitted, certified by Dean Winick, to confirm the substantial compliance of the branch campus with all relevant *Accredited Law School Rules* and the *Guidelines for Accredited Law School Rules*; and, that following receipt of said certification, the provisionally-approved branch campus may open, enroll students and then begin offering classes; and, pursuant to Guideline 15.3(C), within two years of its opening as a branch campus, MCL must seek confirmation from the Committee of Bar Examiners that the Santa Cruz College of Law is in full compliance with the Rules and Guidelines.