

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM: May 2018 – O-402

DATE: May 4, 2018

TO: Subcommittee on Educational Standards

FROM: Natalie Leonard, Program Manager, Educational Standards

SUBJECT: Further Discussion: John F. Kennedy University College of Law – Major Change Request re Opening of Branch Campus in San Jose

EXECUTIVE SUMMARY

John F. Kennedy University College of Law (JFKCOL), a California Accredited Law School (CALS), submitted a Major Change Request seeking the approval of the Committee of Bar Examiners (Committee) to open a provisionally approved branch campus in San Jose on August 13, 2018 offering the J.D. degree. (See Attachment A).

This had been the first branch campus request to be considered under the current *Guidelines for Accredited Law Schools Rules* (Guidelines), adopted effective October 2016. Monterey College of Law subsequently submitted a request to convert a satellite campus to a branch campus, and that request, also before the Committee today, is analyzed under those same Guidelines.

At its meeting on March 23, the Subcommittee on Educational Standards (Subcommittee) deferred action on this request to allow staff to gather additional information focused on the school's bar passage rate and updated compliance statistics to confirm the school's continued compliance. In response, staff has calculated a Minimum Bar Passage Rate (MPR) for last year and an estimated figure for this year, and also secured updated statistics about the school's performance.

BACKGROUND

This Major Change Request was discussed at the subcommittee meetings on February 2, February 20 and March 23. At each meeting, decision on the request was deferred to the subsequent meeting so that additional staff review could be completed to ensure the Subcommittee had the information necessary to consider this request appropriately.

In response to the prior subcommittee and Committee discussions, a detailed staff memorandum was presented at the March 23 meeting to analyze the request for

approval of the branch campus and to provide a history of the Committee of Bar Examiners' evaluation of branch campus requests under the Accredited Law School Rules (Rules) and associated Guidelines. (See Attachment B.) After setting forth the criteria for approving or denying a branch campus request, and considering the request in light of that criteria, that memorandum, staff recommended that the subcommittee approve the request as having met all requirements under the Guidelines.

The Subcommittee felt additional information was needed in order for it to carry out its responsibilities in determining whether to approve or deny the request. As a result, the subcommittee voted to recommend, under Rule 4.111, that the Committee exercise its authority to, "for good cause, . . . extend a time limit prescribed by these rules"¹ so that JFKCOL's branch campus request could be considered at this May meeting. The Committee voted unanimously at its meeting later that day to approve this recommendation, and to set a timeline to seek further information.

While the subcommittee members did not submit further questions about the logistics of the branch campus plan itself, members did wish to confirm the continued compliance of the school as whole. Staff compiled the information requested about the school's bar passage rate as well as overall statistical information related to compliance with the Rules and Guidelines. The information gathered, which suggests JFKCOL's continued compliance with all applicable Accredited Law School Rules and Guidelines, is addressed in the discussion section of this memorandum.

DISCUSSION

When seeking to make a Major Change Request, a CALS law school must first meet the requirements of Guideline 15.2(A) of the Guidelines for Accredited Law School Rules. Specifically, Guideline 15.2(A) requires that "[n]o 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," including 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." This includes ensuring that each new branch campus operates 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.

¹ Guideline 15.2(B) provides "[n]o less than 120 days before the proposed first day of classes at the branch or satellite campus [August 13], 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. Therefore, absent the waiver of this timeline, the Committee would have needed to act by April 18, 2018. Because the Guidelines are interpretations of the Rules, staff determined that an extension of a timeline set in the Guidelines could appropriately be waived by application of Rule 4.111.

The Committee's responsibility in evaluating a Major Change Request is set forth in Guideline 15.2(B). Specifically, "[u]pon a finding, based upon the materials and information provided by the law school [set forth in 15.2(A)] and as certified by the Dean that the proposed branch or satellite campus will be in substantial compliance as of the date of its opening, the Committee will provide its approval pursuant to the provisions of Guideline 15.3," which requires further certification of substantial compliance as the program start date nears.

In other words, if, based on the information provided as required by the Guidelines, the Committee determines that the proposed branch campus will be in substantial compliance with the Rules and Guidelines, approval should be granted. Staff believes this language also has the effect of limiting the scope of inquiry to whether the law school provided the information required by Guideline 15.2(A) and whether the branch will be able to satisfy the requirements for substantial compliance. To the extent inquiries go to issues that do not assess either compliance with Guideline 15.2(A), or the analysis of substantial compliance, staff believes such inquiry to be unsupported by the Rules and Guidelines.

If the Committee approves the branch campus request, then the school will be required under Guidelines 15.2(C) to confirm its substantial compliance with the rules and guidelines at least ninety days prior to the start of classes and, pursuant to Guideline 15.3, no later than thirty days prior to the start of classes.

The staff memorandum for the March 23 meeting evaluated the JFKCOL proposal against each element of the current Guidelines, which resulted in the staff recommendation that the Committee approve the request.

Before acting, however, the Subcommittee sought updated information about the school to be assured of its continuing compliance because JFKCOL had not been inspected since the Committee last confirmed its continuing substantial compliance in March 2017.

In response, staff provides the JFKCOL's 2018 general statistical disclosure report under California Business and Professions Code section 6061.7 (see Attachment C), which provides a broad overview of school statistics, including admissions, enrollment, and other general information about the school.

The Subcommittee also requested updated information about the school's five-year minimum cumulative bar passage rate (MPR). Schools are required to maintain an MPR of 40% or above under Guideline 12.1. That requirement was suspended by the Committee from January 2016 until very recently. Therefore, the last MPR provided by any CALS was created in 2015, covering the classes graduating between August 1, 2009 and July 31, 2014. Because the suspension was lifted only recently, the next

cumulative MPR calculated pursuant to Guideline 12.1 is due on July 1, 2018, and will include those students who graduated between August 1, 2012 and July 31, 2017.²

In response to the Committee's request, the State Bar's Office of Research and Institutional Accountability (ORIA) calculated the MPR that would have been reported last summer if the requirement to do so had not been suspended at that time, covering those students who graduated between August 1, 2011 and July 31, 2016. ORIA also estimated the figure that will be provided this summer by July 1, 2018.

ORIA used the methodology adopted by the Committee at its March 23, 2018 meeting to conform to guidelines that schools have been instructed to apply for the upcoming data reporting. The MPR calculation looks at the pass rate for a five-year cohort of graduates over eleven administrations of the examination, per Guideline 12.1.

As noted above, each CALS is required to maintain an MPR bar passage rate of 40% or above. According to the State Bar's calculation, JFKCOL's MPR that normally would have been reported last summer, covering the students who graduated between August 1, 2011 and July 31, 2016, was 46.9%³, while an estimate of the five-year cumulative bar passage rate for those who graduated between August 1, 2012 and July 31, 2017 is 49.1%.⁴

This additional information points toward the continued substantial compliance of JFKCOL as a whole with the applicable Rules and Guidelines.

RECOMMENDATION

The information provided suggests that JFKCOL has established that its proposed branch campus will be in substantial compliance with all Rule and Guidelines upon its opening, as required under Guideline 15.2. The additional data sought by the

² At its January 2016 meeting, the Committee voted to suspend the requirement to calculate and post the MPR under Guideline 12.1 due to the requirements of the newly implemented Business and Professions Code section 6060.25, which stated that "any identifying information submitted by an applicant to the State Bar for admission and a license to practice law and all State Bar admission records, including, but not limited to, bar examination scores . . . shall be confidential and shall not be disclosed." As a result, schools did not have access to pass/fail lists enabling them to report their MPR. Those restrictions were recently revised, permitting pass/fail lists to be shared, and enabling the schools to report the current MPR under Guideline 12.1. The schools are required to report the current MPR by July 1, 2018.

³ This figure looks at the bar passage rate of those who graduated between 8/1/11 and 7/31/2016 and took the California Bar Examination between February 2012 and February 2017 (11 cycles). The numerator consists of passers (82 students), while the denominator consists of unique takers who graduated during the period (175 students).

⁴ This estimated figure looks at the bar passage rate of those who graduated between 8/1/12 and 7/31/2017 and took the California Bar Examination between February 2013 through February 2018 (10 cycles). While the calculation would normally include eleven cycles of examinations, the results are not yet released for the eleventh cycle examination administered in February 2018. Those results will be added in to the actual MPR calculation due on July 1, 2018, and this would more likely increase than decrease the overall cumulative passage rate. Here, and in the final MPR to be issued later this summer, the numerator consists of passers (80 students), while the denominator consists of unique takers who graduated during the period (163 students).

Subcommittee further establishes that the school as a whole remains in continued compliance with the Accredited Law School Rules and Guidelines.

Therefore, staff recommends that JFKCOL's Major Change Request to open a branch campus of its law school in San Jose be received and filed; that the Major Change Request be approved such that the San Jose branch campus of JFKCOL be permitted to open and operate 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 Guideline 15.2(C), no less than 90 days before the expected first day of classes at the branch campus, that JFKCOL submit a certification by Dean Dean Barbieri confirming the substantial compliance of the branch campus with each of the 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.

PROPOSED MOTION

Should the Subcommittee agree with the staff recommendation, the following motion would be appropriate:

Move, that the request of the JFKCOL for approval of a major change, which will allow it to establish and open a branch campus of the law school in San Jose, be received and filed; that the Major Change Request be approved such that the San Jose branch campus of JFKCOL be permitted to open and operate 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 Guideline 15.2(C), no less than 90 days before the expected first day of classes at the branch campus, a report be submitted, certified by Dean Dean Barbieri, that confirms the substantial compliance of the branch campus with each of the 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.



JOHN F. KENNEDY UNIVERSITY
An Affiliate of the Methodist University System

COLLEGE OF LAW

January 12, 2018

Committee of Bar Examiners
The State Bar of California
Attn: George C. Leal, Program Manager, Educational Standards
180 Howard Street, 9th Floor
San Francisco, CA 94105

Re: John F. Kennedy University College of Law Application for a Major Change to Open a Branch Campus-Rule 4.165 (B) and Guideline 15.2

Dear Members of The Committee of Bar Examiners:

The John F. Kennedy University College of Law ("JFK College of Law") is seeking approval for a major change pursuant to Rule 4.165(B) of the Accredited Law School Rules to permit the JFK College of Law to open a branch campus of its law school program in San Jose, California where it will offer a Juris Doctorate ("JD") program starting with the Fall 2018 semester term, in August 2018.

The JFK College of Law is accredited by The Committee of Bar Examiners and the Western Association of Schools and Colleges. In 2017 The Committee of Bar Examiners completed its 5-year periodic inspection, and the JFK College of Law accreditation was approved for another 5 years. Similarly, in 2016 the entire John F. Kennedy University completed its regularly scheduled re-accreditation process with the Western Association of Schools and Colleges, and received an 8-year re-accreditation.

John F. Kennedy University already maintains a branch campus at 3031 Tisch Way, San Jose California 95128, and has operated a branch campus in the South Bay area for many years. The JFK College of Law has never offered law school classes in San Jose or the South Bay. The current JFK University San Jose branch campus offers primarily psychology based programs and courses, including undergraduate bachelor's level as well as master's level degree programs. This major change request is to permit the JFK College of Law to begin offering JD courses, and a JD degree program, at the existing JFK University branch campus.

Previously, the JFK College of Law had been approved to offer, and did offer for a couple of years, a JD program at the Berkeley branch campus of the JFK University. That branch campus of the JD program stemmed originally from the sudden failure of another Cal Bar accredited law school, New College of California of San Francisco, CA. With the approval of The Committee of Bar Examiners law students from the New College law school were able to immediately transfer to the JFK College of Law to complete their JD education and qualify to sit for the California Bar

ATTACHMENT A

Examination. Given the distance between the former campus of New College in the Civic Center area of San Francisco, and the Pleasant Hill campus of the JFK College of Law, The Committee of Bar Examiners approved on an expedited basis the establishment of the JFK Berkeley branch campus. That campus operated for a couple of years, until most of the former New College students graduated, and then the entire JFK College of Law JD program was consolidated to the one Pleasant Hill, CA location. JFK University still maintains a Berkeley branch campus with master's level programs primarily in psychology, business and museum studies.

Type, Name, Location and Proposed Opening Date. Guideline 15.2 provides that in an application for a major change the school must provide the following information:

- a. Type of new campus: Branch Campus
- b. Name: The proposed name is John F. Kennedy University College of Law, San Jose Branch
- c. Location: 3031 Tisch Way, San Jose, CA 95128 where JFK University already maintains a branch campus. That branch campus presently is comprised of 5 separate classrooms, a library/student resource center, computer lab, student lounge, faculty offices, restrooms, and reception area. The total square footage of the existing San Jose Branch campus is over 10,000 square feet. Attached hereto is a schematic of the existing JFK University San Jose branch campus space. Additionally, there is significant parking at the location that can accommodate all of the students attending classes at the branch campus.
- d. Proposed Opening Date: Classes would first be offered for the Fall 2018 Semester which will commence on August 13, 2018.

Research or Planning Regarding the New Campus. Guideline 15.2 (A) (a) asks for a narrative discussing any research or planning for the new campus. JFK University and the College of Law have long considered opening a San Jose branch campus of the law school. Recently, the JFK College of Law has had many students from southern Alameda County as well as Santa Clara County, and we regularly receive inquiries from prospective students about the opening of a San Jose branch of the law school. Prospective students are familiar with the presence of JFK University in the South Bay, and inquire about the possibility of offering JD classes at the San Jose branch. Additionally, over the past few years the JFK College of Law has received many transfer students from currently existing Committee accredited law schools. When asked why the students prefer to transfer to the JFK College of Law the answers include: (1) JFK's ability to offer federal student loans as a result of being WASC accredited; (2) more schedule options as JFK offers full and part time programs, as well as day and evening classes; (3) faculty, as JFK has four full time faculty members, not just adjunct professors; (4) academic support and bar preparation programs; and most recently (5) the attraction and interest of JFK College of Law offering more classes in an online modality. With the growing traffic problems throughout the San Francisco Bay Area, online class offerings are becoming increasingly attractive. JFK University has extensive experience with the development and offering of classes in an online modality, and over the past year the JFK College of Law has begun offering classes online, and

this has resulted in great acceptance and appreciation by the students, with excellent reviews and high student satisfaction with the quality and content of the online offerings. We are confident that with proper marketing and promotion that the San Jose area will support a San Jose Branch campus of the JFK College of Law, and provide an excellent opportunity to receive a quality legal education at the branch campus.

Projected Financial Impact of the New Campus on the Law School. Guideline 15.2 (A) (b) asks for a narrative on the financial impact if a new branch campus is approved. Our financial analysis indicates that there would be a significant positive financial impact on the law school should a San Jose branch campus be approved and operated. The existing infrastructure is already in place in the form of the existing San Jose campus, classes, administrative personnel including Registrar, financial aid advisors and support, computer lab, library space, student lounge and all of the other physical requirements for a fully operating branch campus. The additional costs will include compensation for the teachers, law administrators, library books, and marginal costs associated for each new law student. These additional costs will all be offset by new student tuition, which is expected to result in a net positive gain for JFK University and the JFK College of Law.

Proposed Resources to be Allocated to the New Campus. Guideline 15.2 (A) (c) asks about the proposed resources that will be allocated to the new campus. The follow are those resources:

- a. Dean and Campus Administrator. The exiting Dean of the JFK College of Law, Dean E. Barbieri, will continue to be the Dean of the Pleasant Hill main and San Jose Branch campuses. Dean Barbieri is qualified to serve as the Dean as he is a 1980 graduate of the University of San Francisco School of Law, and has been a member of The State Bar of California in good standing continually since December 1980. The existing Associate Dean of the JFK College of Law, Chris Gus Kanios, will continue to be the Associate Dean of the Pleasant Hill main and San Jose Branch Campuses. Associate Dean and Professor of Law Kanios is a 1980 graduate of New College School of Law, and has been admitted to practice law in California continuously since December 1980. Associate Dean Kanios was previously the Dean of the New College School of Law for many years prior to accepting a teaching and administrative position at the JFK College of Law.

Dean Barbieri and Associate Dean Kanios, as part of their oversight and operation of the San Jose branch campus will each be on the San Jose campus site at least once per week throughout the school year, during regular school times. To provide access to the greatest number of students to account for different work and personal schedules, Dean Barbieri will be on campus from at least 4 p.m. until the start of classes, and will vary the days of the week when he will be on the San Jose Branch campus to hold office hours and meet with students for academic support, assistance and counseling. Associate Dean Kanios will teach the 1st year class of Torts one night per week, from 7-10 p.m., and on the day that he teaches will arrive on the San Jose campus no later than 4 p.m. to be hold office hours and provide academic support, assistance and counseling to the San Jose branch campus students.

Matthew Taxman will serve as the San Jose Branch campus administrator. Depending on the number of students enrolled at the branch campus; Mr. Taxman will serve as either a part-time or full time administrator, consistent with The State Bar of California Accreditation Rules and Guidelines. Mr. Taxman is currently a full time employee of the JFK College of Law and is the Assistant Director College of Law for Admissions, Advising and Records. He is a 2014 graduate of the JFK College of Law, holds a Bachelor of Arts in Speech Communications for the University of Illinois Urbana-Champaign and received a Master's of Fine Arts in Acting from The Theatre School, DePaul University. Mr. Taxman has been employed by the JFK University since 2012 in both Law Library and College of Law admissions, advising and records coordination capacities.

- b. Registrar, Financial Aid, Academic Support, Library and Student Services. As the JFK University is currently operating a successful branch campus at the proposed College of Law San Jose branch campus site, the activities of the Registrar, Financial Aid advisors, Academic Support advisors, full time librarian, student government, IT Support and other student services, are already in place. Representatives from the Registrar, Financial Aid, Student Services and other JFK University offices have a regular and periodic presence at the existing San Jose branch campus enabling the San Jose students to gain access to necessary information and services. Adding the additional JD program will not adversely impact the level of services already being offered.

The current library offerings at the San Jose branch campus of JFK University do not include the hard copy volumes necessary for an on-site library to meet the Accredited Law School Rules and Guidelines. If the Committee of Bar Examiners approves this major change request, then the JFK College of Law will immediately begin assembling all of the necessary books and hard copy volumes to come into compliance well within the time periods established by the Rules and Guidelines. It is not anticipated that the San Jose Branch campus of the JFK College of Law will need to request a waiver of any of the library requirements. Additionally, all of the students at the San Jose Branch campus will have full and complete access to the electronic library resources provided to the current Pleasant Hill main campus students, which include access to both Westlaw and Lexis/Nexus.

Curriculum and Law Faculty.

If approved, the San Jose Branch Campus of the JFK College of Law will have the same curriculum as the Pleasant Hill main campus. The first year of operation will include only first year College of Law classes, and over the course of the following three years thereafter a full four year curriculum is planned to be offered. The only difference will be that for the San Jose Branch, the offerings may be for only for a night program, at the beginning. The Pleasant Hill campus maintains both three year full-time and four year part-time programs, and offers all of the required courses in both the daytime and evening hours. If the enrollment would permit it, the San Jose Branch would also offer day and evening classes, as well as part-time and full-time programs. Given the existing facilities and personnel at the existing San Jose campus, offering

day and evening classes can be accommodated without any additional adjustments to existing operating or work hours.

Commencing with the August 2018 semester, it is anticipated that the First-Year Curriculum of the San Jose Branch Campus will be on a Monday through Thursday schedule, with classes offered between 7 p.m. and 10 p.m. as follows:

<u>Class</u>	<u>Units</u>	<u>Term</u>	<u>Day of Week</u>
Legal Methods	2	Fall	Monday
Legal Research & Writing	2	Spring	Monday
Exam Skills Lab	1	Fall and Spring	Monday
Contracts	6	Fall and Spring	Tuesday
Torts	6	Fall and Spring	Wednesday
Criminal Law	3	Fall	Thursday
Criminal Procedure	3	Spring	Thursday

Faculty

The JFK College of Law currently has four full-time faculty teaching courses at the Pleasant Hill campus. Each has extensive law school teaching experience. If approved to offer a course of study at the San Jose branch campus, it is anticipated that some of the current full time faculty will also teach at the San Jose branch campus. Additionally, existing experienced adjunct professors at the JFK Pleasant Hill campus have expressed interest in teaching at the San Jose branch, if approved. The following are some of the anticipated teaching assignments at the San Jose Branch campus:

- A. Audrey Smith. Legal Methods, Legal Research & Writing, and Exam Skills Lab. Professor Smith is a graduate of the University of Santa Clara College of Law, and has been a full time professor at the JFK College of Law since 2008. Professor Smith is the Director of the Legal Research and Writing Programs at the JFK College of Law and has extensive experience teaching first year law students.
- B. Chris Gus Kanios. Torts. Associate Dean and Professor Kanios is a graduate of the New College School of Law, was the former Dean of New College School of Law, was the Interim Dean of the JFK College of Law. Associate Dean and Professor Kanios is a full-time professor at the JFK College of Law and has over 30 years of law school teaching experience.
- C. Peter Clapp. Contracts. Professor Clapp is a graduate of the UC Hastings College of Law and has over 10 years teaching experience as an adjunct professor at the JFK College of Law, and has taught Torts, Transactional Document Drafting and Remedies courses.
- D. Ian Kelley. Criminal Law and Criminal Procedure. Professor Kelley is a graduate of the New College School of Law, and has been an adjunct professor at JFK College of Law and New College School of Law for over 10 years. Professor Kelley has taught Criminal Law, Criminal Procedure, Constitutional Law and has developed law school courses for online offerings.

Tuition, Academic Policies, Student Support and Counseling

The students at the proposed San Jose Branch Campus of the JFK College of Law will have the same tuition, follow the same academic policies, and have access to and receive the same student support, counseling and other services that the law students at the Pleasant Hill campus receive, as well as the other JFK University students at the existing San Jose and Berkeley branch campuses.

Dean Certification.

Pursuant to Guideline 15.2 (A) I, Dean E. Barbieri, Dean of the College of Law of the John F. Kennedy University, hereby certify that if approved by the Committee of Bar Examiners of The State Bar of California, that upon the opening of the San Jose Branch of the John F. Kennedy University College of Law, each campus of the John F. Kennedy University College of Law will be in substantial compliance with all relevant academic and operational requirements as set forth in the Accredited Law School Rules and the Guidelines for Accredited Law School Rules.

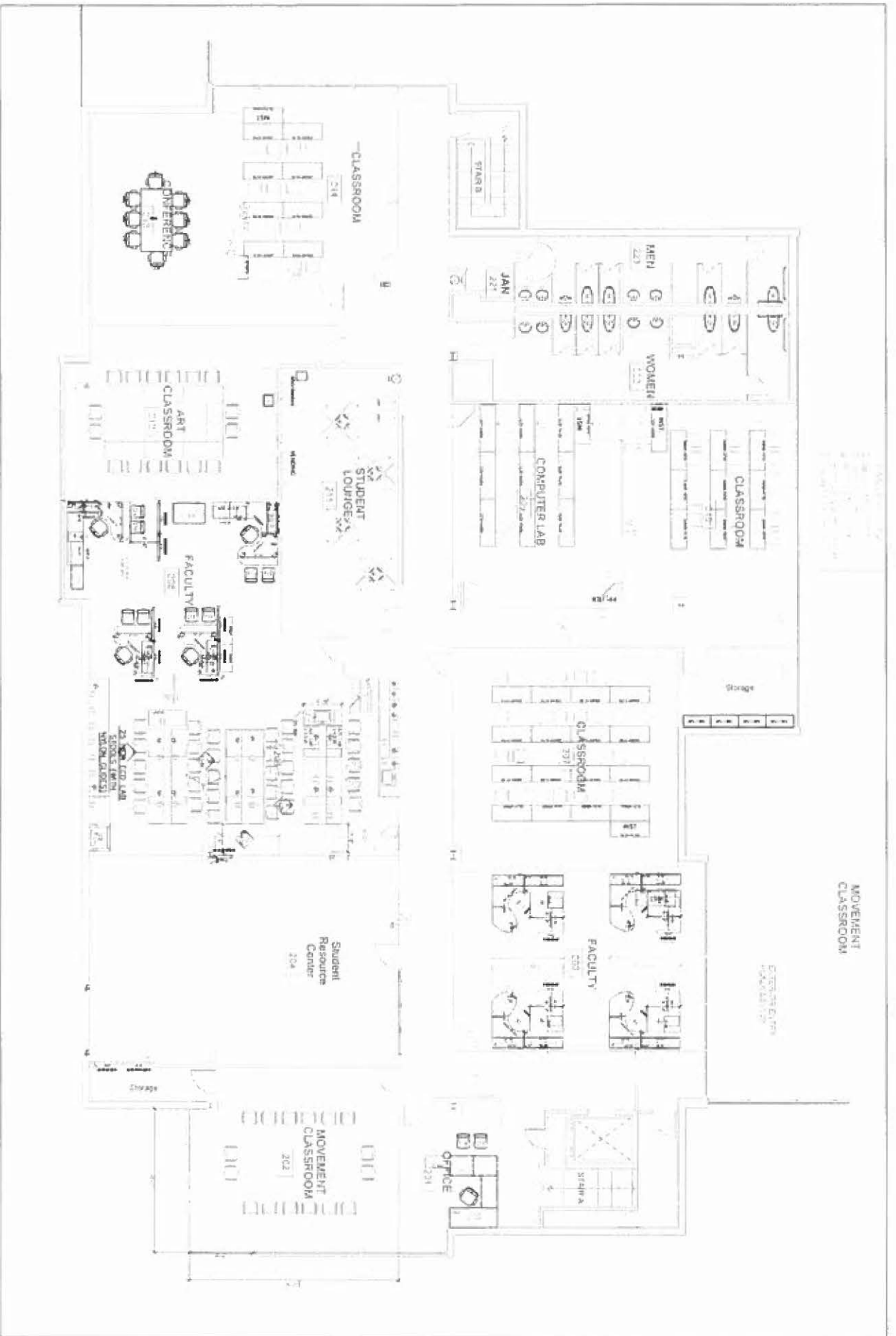
Thank you for your consideration of this major change request to open and operate a branch campus of the JFK College of Law in San Jose, CA. Please contact me should you need any further information in support of this major change request, or should you have any questions about this request.

Sincerely,



Dean E. Barbieri
Dean of the College of Law
John F. Kennedy University





COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM: March 2018 – O-400

DATE: March 16, 2018

TO: Subcommittee on Educational Standards

FROM: Natalie Leonard, Program Manager, Admissions

SUBJECT: Further Discussion - John F. Kennedy University College of Law – Major Change Request re Opening of Branch Campus in San Jose

EXECUTIVE SUMMARY

John F. Kennedy College of Law (JFKCOL), a California Accredited Law School (CALS), submitted a Major Change Request seeking Committee of Bar Examiners (Committee) approval to open a provisionally approved branch campus in San Jose offering the J.D. degree starting in August 2018. (See Attachment A).

This is the first branch campus request to be considered under the current *Guidelines for Accredited Law Schools Rules*, adopted effective October 2016.

This agenda item will provide a historical context of the development of the Rules and Guidelines related to branch campus requests in order to assist the Committee in its evaluation of JFKCOL's request.

BACKGROUND

A. John F. Kennedy College of Law Seeks to Open a San Jose Branch Campus

JFKCOL submits its Major Change Request under Rule 4.164, as defined by Rule 4.165(B) of the *Accredited Law School Rules* (Rules), and detailed in 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*, adopted effective October 2016 (Guidelines). As the Committee prepares to apply the current Guidelines for branch campuses for the first time, it may be helpful to review the process by which the Guidelines have been developed, as well as the ways that prior versions of the Rules and Guidelines have been applied to branch campus requests in the past.

B. The Process for Creating the Guidelines Applied to this Request

Since 2013, the Rules and Guidelines governing branch campus requests have evolved from a single Rule to a set of Rules plus interpretive Guidelines, 15.1-15.4. The Guidelines were created in their initial version in 2015 and amended to the current version in 2016.

When the Committee decided that guidelines were needed to interpret the Rule governing branch campus requests, and later when those guidelines were amended, the Committee used a structured process to create and adopt the changes. The Committee stated its goals for the guidelines at a public meeting and asked staff to create an initial draft that would meet those goals. Staff then researched a proposal, sought feedback from the Advisory Committee on California Accredited Law School Rules (known as the Rules Advisory Committee or, RAC), and returned a proposal to the Committee where it was discussed and posted for further review and solicitation of public comment.

RAC's purpose is to provide advice to the Committee on matters relating to the promulgation of new rules, guidelines and amendments to the *Accredited Law School Rules* and the *Guidelines for Accredited Law School Rules*. RAC consists of six members, three selected by the deans of the California-accredited law schools and three appointed by the Chair of the Committee. The specific qualifications for members and their terms of office are set forth in the attached RAC Functions and Procedures. (See Attachment B). RAC's role is not to act as a rule-making body, but rather to provide comments and recommendations which the Committee may consider when exercising its rule-making authority. RAC may also develop related proposals for the Committee to consider, though the Committee is not required to consider them.

C. The Creation and Application of the First Set of Guidelines Related to Branch Campuses

Up until 2015, the only authority relating to branch campuses was Rule 4.165, which required a CALS to submit a Major Change Request when "changing the location of the school or the location of a branch or opening a new branch." Several CALS campuses had operated multiple campuses for years, but branch campus requests were rare.

In 2013, however, the Committee received a new kind of request for a branch campus. San Francisco Law School applied to open a branch campus in San Diego on property owned by the multi-campus Alliant University, which had purchased San Francisco Law School. Up to that time, no CALS had submitted a request to open a branch campus that far away from its home campus. No guidelines had been promulgated to assist the Committee on how to interpret Rule 4.165. Further, the Rules were silent in providing any direction to the Committee as to whether the branch campus should be fully accredited in its own right, what continuing responsibilities the school would have in order to maintain the Committee's approval, or the amount of time the Committee had to make its decision whether to approve the branch campus. There were other logistical

issues as well, such as whether resources could be shared between the campuses. Ultimately, the Committee approved San Francisco Law School's branch campus after significant discussion, negotiation, and a pre-opening inspection of the campus.

Following its experience with San Francisco Law School's request to open a San Diego branch campus, the Committee came to believe that branch campus requests might become more frequent. As a result, in January 2014, the Committee asked staff to begin creating guidelines that would set forth timelines and requirements for future branch campus applications, with the intent to "make clear that if a California-accredited law school wants to establish a three or four-year branch campus, the new campus must meet the criteria for accreditation independently, although certain requirements may be shared, such as the dean, and that a satellite branch campus may be established for a limited purpose, such as providing a portion of the education at another location."

In March 2015, after more than one year of discussion and input, the Committee adopted Guidelines 15.1-15.4. These new Guidelines defined branch and satellite campuses, set out timelines for approval with multiple checkpoints, and set forth a specific list of materials to be included in any branch campus application. Guideline 15.1 distinguished full branch campuses from more limited satellite campuses. Guidelines 15.2, 15.3 and 15.4 set forth a timeline for consideration, with applications to be received at least 180 days before the opening of a branch campus, a Committee decision rendered at least 120 days before the opening of the branch campus, a dean's certification that the branch is in substantial compliance 90 days before the opening of the branch campus, and, ultimately, the scheduling of a final inspection within two years after the opening of the branch campus to determine whether the branch's provisional approval be continued, converted to a permanent approval, or denied and terminated.

Guideline 15.2(A) indicated that a branch campus request should include "copies of all academic and operational documentation to be used by the staff, faculty and students at the new campus." This Guideline was the Committee's first attempt to clearly request the type of information needed to help it determine whether the branch campus would be operated in substantial compliance with the relevant *Accredited Law School Rules* and *Guidelines for Accredited Law School Rules*. The Committee looked only to the internal operations of the school, and not to the marketplace, the distance from the main campus, or other business choices that the school might make.

The Committee applied these initial Guidelines to five different branch campus requests in 2015 and 2016, rejecting two of the requests and approving three of the requests. In all cases, the framework and direction that the initial Guidelines provided clarified the process and timelines to be used.

The Committee denied two requests from San Francisco Law School to open branch campuses in Irvine and Sacramento. Unlike the school's successful request to open a branch campus in San Diego, these requests did not propose to provide onsite administrators at the new branch locations, and the Committee was concerned that this

reduced staffing would result in the students at those branch campuses having an experience that was not equal to what they could expect at the home campus. While earlier guidance from the Committee had indicated that two campuses could share a dean, the Committee did not believe that four campuses could share a Dean. As a result, the Committee denied these requests.

Coincidentally, two of the branch campus requests approved under the initial Guidelines were submitted by two different CALS seeking to open two different branches at the same time in the same town of San Luis Obispo. The Committee evaluated each branch campus request independently, looking to see if each campus could establish its substantial compliance with the relevant *Accredited Law School Rules and Guidelines for Accredited Law School Rules*. In addition, the Committee did not inform either school about the other school's request. The schools learned of each other's plans when their respective branch campus requests happened to be placed on the same Committee agenda for action. Each of these schools was able to establish that its branch would have sufficient staffing and facilities compared to the home campus and would be in substantial compliance with the Accredited Law School Rules and Guidelines, so both schools' branch campus requests were approved. A similar situation occurred in 1996 when the Committee accredited the Southern California Institute of Law with its campuses in Santa Barbara and Ventura, when there was already an existing CALS operating in those same two communities, the Santa Barbara and Ventura Colleges of Law.

Though the Committee approved both law schools' requests to open branch campuses in San Luis Obispo, only Monterey College of Law ever opened its branch campus in that location. Santa Barbara and Ventura Colleges of Law ultimately decided not to open its approved San Luis Obispo branch campus, once it learned that it would not be in a position to do so until well after Monterey College of Law opened its branch; instead, the school decided to direct its resources and priorities elsewhere. The Committee did not play any role in these decisions.

The third branch campus request approved by the Committee under the initial Guidelines was Monterey College of Law's application to open the brand new Kern County School of Law, a branch campus of Monterey College of Law. This request was very detailed, describing the facilities, staff and support services to be provided at the new campus, which was helpful since the branch campus was proposed to be in new facilities with new faculty in a new town located about five-hours' drive from the main campus.

D. The Committee Began Revising the Guidelines Shortly after They Were Adopted

Even as these five requests were still being considered under the initial Guidelines, the Committee was already studying the initial Guidelines for possible refinement. Again, in January 2016, the Committee invoked the process described earlier, soliciting feedback from staff and the RAC and independent comment from the public.

The amended Guidelines went into effect in October 2016 and remain in effect today. The Committee will consider JFKCOL's request, as well as another pending request on the same agenda today, under these current Guidelines.

The current Guidelines retained essentially the same original timeline, but made two major changes to the list of materials that CALS are asked to include in their branch campus requests. The first change explicitly states the minimum staffing required at each branch, requiring a competent administrator with a J.D. from an ABA-accredited or California-accredited law school at each branch. The administrator can work part-time until the campus serves thirty students, and must be available full-time once the campus serves more than thirty students.

The second change was modifications to the supporting documentation that a CALS would need to include in its application to open a branch campus. The initial Guidelines required a CALS to submit "copies of all academic and operational documentation to be used by the staff, faculty and students at the new campus." This requirement turned out to be difficult to fulfill, and less informative than the Committee had expected. Prior to applying for approval for a branch campus, a CALS had to expend quite a bit of effort to create full documentation for campuses that might not be approved, and to do so at a time when some of the details might still be speculative due to unsigned leases for space, or inability to hire faculty until a campus was approved. In addition, each branch campus request seemed to have unique elements that were unlikely to be addressed by the documentation requested (otherwise referred to as "manuals"). Examples of such unique issues included opening a branch at a far distance from the home campus in new facilities, opening a branch that resulted from the purchase of the facilities of another school that was in the process of closing, and opening a large number of branch campuses.

The Committee removed the requirement to provide manuals and replaced it with a request for the branch campus applicant to include a "comprehensive explanation for its decision to operate a new branch or satellite 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." This more flexible requirement was designed to give a CALS the freedom to include what was necessary to describe the unique circumstances of each branch campus request, without the burden of creating manuals or other documentation that is speculative prior to a branch's approval. The Committee had considered an alternate option, replacing the requirement to deliver all manuals with a requirement to provide a specified list of detailed facts about the branch campus, but that was rejected as potentially inflexible or incomplete in light of the wide range of circumstances presented by various branch campus requests. Thus, branch campus requests submitted under the current Guidelines are in narrative form, and they do not require specific studies, lengthy reports, or extensive financial statements. There is no documentation suggesting the intent of the Guidelines was to have the school divulge marketing plans, describe the likely student population, or assess the branch campus's effect on any other school. Instead, a CALS is asked to use its judgment to ensure that

its “comprehensive explanation” includes the information needed to make the nature of the school’s plan apparent. It is also expected that these branch campus requests may be shorter, since they will not contain multiple manuals or operational guides. The Committee may ask for more detail or clarification as needed, and to approve or deny the request based on the material provided.

E. Further Refinement of the Guidelines Might Be Appropriate

The Guidelines related to branch campuses have been evolving as the Committee has more experience with the requests. After the first request was considered under the Rules alone, the Committee began working to establish Guidelines. As soon as the first round of branch campus requests was under consideration, the Committee again began to consider refinements to the initial Guidelines. Now, the amended Guidelines will be applied for the first time here, and to another branch campus request that is also on the Committee’s March 2018 Agenda. It would be consistent with past practice for the Committee to consider whether any refinements to the current Guidelines should be adopted to be applied to future branch campus requests, and a proposed recommendation to begin that process is included as part of this memorandum.

DISCUSSION

The Committee conducted preliminary discussions of this request at its meetings on February 2 and February 20. The Committee is charged with determining whether JFKCOL has provided sufficient detail to establish that it is prepared to open a substantially compliant branch campus in August 2018.

Guideline 15.2(B) requires that “no less than 120 days before the proposed first day of classes of the branch or satellite campus, the Committee must approve or deny the law school’s proposal.” In this case, because the first day of class is proposed to be August 13, 2018, the Committee’s deadline to act would be April 15, 2018.

Staff has confirmed that JFKCOL’s branch campus request addresses all of the requirements in the current Guidelines. This request differs in appearance from some past requests because the Guidelines have changed. For example, rather than the list of manuals that were previously required, JFKCOL presents the narrative that is newly required. The branch campus request is also shorter than some of the prior branch campus requests, in part, because there are fewer speculative elements since the school will be using an existing classroom space, as well as current administrators, faculty, and curriculum, and the school just completed an inspection in 2017. Summaries and excerpts from JFKCOL’s branch campus request are provided below, and the full branch campus request is available in Attachment A.

The required submissions are set forth in three portions of Guideline 15.2, and JFKCOL addresses each in turn. Guideline 15.2(A) requires JFKCOL to provide the Committee with notice of its intention to open a new branch or satellite campus, including the type, location, name and proposed opening date of the new campus. JFKCOL proposes to

open a branch campus, on August 13, 2018, to be called the John F. Kennedy School of Law, San Jose Branch, located at the current JFK University Campus at Tisch Way in San Jose.

Guideline 15.2(A) further requires JFKCOL to provide the Committee with 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.” “Comprehensive explanation” is not defined further in the Guidelines, nor is there information from the time the Guidelines were adopted defining the level of explanation required. This application is the first attempt by a CALS to provide such a comprehensive explanation. JFKCOL has indicated its willingness supplement or clarify its explanation, if the Committee would benefit from additional information.

JFKCOL’s comprehensive explanation addresses each element listed in this portion of Guideline 15.2(A). JFKCOL has explained planning it engaged in related to all aspects of the proposed branch campus, which will use existing space, faculty, administration, support services and curriculum. Subdivision (a) does not actually require that a CALS have conducted research or planning, or that such research or plans be submitted to the Committee. Rather, the language requires a CALS to include “any research and planning regarding the new campus.” JFKCOL’s application discusses anecdotal student research, as well as its logistical plan to utilize existing space, services, faculty and administrators at the new branch. Subdivision (b) requires the school to include an explanation of the financial impact of the branch on the school, which JFKCOL expects to be positive because “the existing infrastructure is already in place ... [t]he additional costs include compensation for the teachers, law administrators, library books, and marginal costs associated for each law student,” whose costs will be offset by student tuition. Subdivision (c) has the school include a discussion of the resources to be allocated to the new campus; these resources include JFK University classroom space, as well as shared existing services designed to support the students who will be in the night program or, in future years, the day program at the branch campus. JFKCOL notes also that upon approval, it will immediately acquire the books and Westlaw and Lexis/Nexis access needed prior to the first day of class to meet accreditation standards.

Guideline 15.2(B) is directed at the Committee, noting that it will “no less than 120 days before the proposed date the branch or satellite campus is to open, . . . approve or deny the law school’s proposal.”

After the initial approval, JFKCOL is prepared as required by Guideline 15.2(C), “within 90 days of the first day of classes of the branch or satellite campus,” to submit a report certified by the dean, confirming that the new campus is, then in “substantial compliance” with the entirety of the rules and guidelines for accredited schools.

Guideline 15.3(A) contains the third element, which is also one of the major changes added in the 2016 amendments, requiring an administrator qualified under Guideline 4.1(B) to be on campus on at least a part-time basis until the school has 30 or more students, and then on a full-time basis. To satisfy this requirement JFKCOL has indicated that current JFKCOL administrator Matthew Taxman, J.D., will be present on campus for the requisite number of hours. JFKCOL's Dean and Assistant Dean also each plan to travel to the campus at least once per week.

JFKCOL also agrees to take the final step required under Guideline 15.3(C), "[w]ithin two years of operating a provisionally-approved branch campus," to "seek confirmation from the Committee that the campus is in compliance with all accreditation standards" contained in the Rules and Guidelines. After that inspection, the Committee will determine whether the branch is to be "deemed approved, continue to be provisionally approved or denied continued provisional approval."

In summary, the JFKCOL request to open a branch campus in San Jose has addressed each of the elements required by the applicable Rules and Guidelines, and its Dean has certified the request.

RECOMMENDATION

Based on staff's review of the Rules and Guidelines and the application provided by JFKCOL, staff believes that JFKCOL's explanation for its decision to operate a new branch campus is sufficiently comprehensive to satisfy Guidelines 15.2 and 15.3 and that JFKCOL has provided sufficient information to establish that it will be in substantial compliance with all accreditation standards and operations requirements found in the *Accredited Law School Rules* and the *Guidelines for Accredited Law School Rules* as of the date of its opening.

If the Committee agrees with this determination, based on the information JFKCOL has provided in response to all of the applicable Rules and Guidelines, it is recommended that the request of the JFKCOL for approval of a major change, the establishment and opening of a branch campus of the law school in San Jose, be received and filed; that the major change request be approved such that the San Jose branch campus of JFKCOL be permitted to open and operate 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 Guideline 15.2(C), no less than 90 days before the expected first day of classes at the branch campus, that JFKCOL submit a certification by Dean Dean Barbieri confirming the substantial compliance of the branch campus with each of the 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.

If the Committee does not make such a determination, then denial of JFKCOL's request is appropriate.

Finally, apart from JFKCOL's current request, staff also recommends that it may be appropriate to re-evaluate the Guidelines applicable to branch campus requests to see if any refinements are appropriate. This step would be consistent with the Committee's past practice of evaluating the Guidelines once they have been applied. Such refinements, if adopted, would be prospective in nature, applying to future branch campus requests. The Committee will be able to reflect upon its experience evaluating the first several branch campus requests under these Guidelines, and to consider any additional feedback or research received during these discussions or during the rulemaking process described earlier. A proposed additional motion to allow this process to begin is provided below.

PROPOSED MOTIONS

Should the Subcommittee determine that JFKCOL's explanation is sufficiently comprehensive to establish that it will open a substantially compliant branch campus, the following motion would be appropriate:

Move, that the request of the JFKCOL for approval of a major change, which will allow it to establish and open a branch campus of the law school in San Jose, be received and filed; that the major change request be approved such that the San Jose branch campus of JFKCOL be permitted to open and operate 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 Guideline 15.2(C), no less than 90 days before the expected first day of classes at the branch campus, a report be submitted, certified by Dean Dean Barbieri, that confirms the substantial compliance of the branch campus with each of the 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.

In addition, the following motion is recommended:

Move that the Committee, having received a request to open a branch campus under the current Guidelines, as well as additional public comment regarding the Guidelines, ask staff to begin the review process to determine whether any refinements may be needed to Guidelines 15.1-15.4 to assist the Committee in its determination of whether a CALS has offered a plan to open a branch campus that is substantially compliant with each of the relevant *Accredited Law School Rules* and the *Guidelines for Accredited Law School Rules*.

**Business & Professions Code Section
6061.7(a) Information Report for All Locations
2018 Report**

Name of Law School: _____

Primary Address: _____

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

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

1) Admissions Data:

- a) Total number of first-year applications received: _____
- b) Total number of first-year students accepted: _____
- c) Total number of first-year students enrolled: _____
- d) Undergraduate Grade Point Average (GPA) for all first-year students admitted:
 - i) 75th Percentile: _____
 - ii) 50th Percentile: _____
 - iii) 25th Percentile: _____
- e) Law School Admissions Test (LSAT) numerical score (if required for admission).
Reported Numerical Score:
 - i) 75th Percentile: _____
 - ii) 50th Percentile: _____
 - iii) 25th Percentile: _____

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: _____
- b) Estimated total tuition charged to complete a J.D. degree: \$ _____
- c) Estimated total fees charged to complete a J.D. degree: \$ _____

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:
_____ \$ _____
- ☐ Conditional Scholarships/Grants:
 - Total number and dollar amount awarded as of Sept 15:
_____ \$ _____

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:

	2014-2015	2015-2016	2016-2017
1st			
2nd			
3rd			
4th			
Total J.D. enrollment			

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

	2014-2015	2015-2016	2016-2017
Transfers (in)			
Transfers (out)			

- 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:

	2014-2015	2015-2016	2016-2017
Total Attrition (#)			

5) Law School Administrators, Faculty, and Librarians:

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

6) Required Courses and Clinical Courses:

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

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 2014* Total number of graduates: _____

Total number of responses received: _____ Survey response rate: _____%

Employment Status	2015	2016	2017
J.D. degree-required	%	%	%
J.D. degree-advantage	%	%	%

* This report is intended to survey the employment status of all 2014 graduates.

8) California Bar Examination (CBX) Passage Data

- a) Reporting period (five years): January 1, 2011 - December 31, 2015;
 b) The total number of a law school's students who did each of the following **during** the current reporting period:
 (1) Graduated **and** then took the CBX at least once: _____;
 (2) Passed any administration of the CBX: _____;
 c) The cumulative CBX pass rate for the reporting period: _____%