

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM: December 2018 – O-402

DATE: November 26, 2018

TO: Committee of Bar Examiners

FROM: Natalie Leonard, Principal Analyst, Educational Standards

SUBJECT: Pacific Coast University
Response to Notice of Noncompliance with Guideline 12.2

SUMMARY

All California Accredited Law Schools (CALS) must maintain a Cumulative Five-Year Minimum Bar Passage Rate (MPR) of at least 40% (See Rule 4.160(N) and Guideline 12.1, Rules and Guidelines for Accredited Law Schools). Schools report the MPR annually each July.

When Pacific Coast University School of Law (PCUSOL) reported a verified MPR of 26.4% in July 2018, the Committee of Bar Examiners (Committee) issued a Notice of Noncompliance to the school.

PCUSOL provided the attached response indicating that while the school was out of compliance, it believed that it should be given more time to comply. (Attachment A).

BACKGROUND

Now that the Committee has issued a Notice of Noncompliance to PCUSOL, and the school has responded, Rule 4.170 prescribes that the Committee should take action as follows:

(1) If the Committee deems the response satisfactory, it will notify the law school within thirty days of its consideration of the matter.

(2) If the Committee deems the response unsatisfactory, it must schedule an inspection by the Senior Executive within sixty days of its consideration of the matter.

DISCUSSION

PCUSOL has been unable to meet the minimum bar passage rate since at least 2015 when the State Bar first issued a Notice of Noncompliance to the school regarding the MPR. In 2016, the need to increase bar passage was emphasized at the school's

periodic inspection. In 2017, the Office of Admissions sent a courtesy warning letter to the school in 2017 to remind the school that the reporting requirement would be reinstated in 2018 and the school's pass rate appeared to be out of compliance. In 2018, the school received its most recent Notice of Noncompliance. The school's MPR has decreased from 28.2% in 2015 to 26.4% in 2018.

PCUSOL does not dispute these figures. Instead, the school argues that it should have more time to come in to compliance for a number of reasons. The school notes that, while it was founded in 1927, it has only been provisionally accredited since 2010 and fully accredited since 2013. Also, in 2013, the Dean passed away and the school was run by an interim Dean until 2015. Finally, the school notes that average bar passage rates have been dropping since 2015.

RECOMMENDATION

Because the school has been out of compliance with the MPR for at least four years and the pass rate appears to be dropping slightly, it appears that the Committee will not find the school's response satisfactory and will instead choose the option to schedule an inspection. Given the nature of the inquiry required, it seems likely that a remote inspection conducted by videoconference or telephone could be appropriate.

The purpose of the inspection as defined by 4.171 would be to confirm whether: "the accredited law school is in compliance with these rules; or . . . the accredited law school, or any approved branch or satellite campus is not in compliance with the rules for specific reasons that warrant probation or termination of accreditation."

The results of the inspection would be brought back to a future meeting to be evaluated in accordance with Guideline 12.2. This guideline indicates that, pending the results of the inspection, when the Committee issues a Notice of Noncompliance as to the MPR in 2018, if "[the] law school . . . fails to report compliance with Guideline 12.1 in its 2019 MPR Report [, it] will be placed on probation by the Committee pursuant to Rule 4.172; a law school places on probation that does not meet the terms of its probation by the end of 2020 will be subject to the loss of its accreditation."

PROPOSED MOTION

If the Committee agrees with the staff recommendation, the following motion is suggested:

Move that the Response of Pacific Coast University School of Law Response to the Notice of Noncompliance with Guideline 12.2 be received and filed; and that an inspection be scheduled within sixty days, which may be conducted remotely, to determine whether or not the school is in compliance with Rule 4.160 (N) and Guidelines 12.2, and, if not, whether probation or termination of registration is appropriate.

Attachment:

Attachment A Pacific Coast University School of Law Response to the Notice of Noncompliance with Guideline 12.2.



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Andrea L. Lua, Dean

October 13, 2018

The Committee of Bar Examiners of
The State Bar of California
Office of Admissions
180 Howard Street
San Francisco, CA 94105-1639

Re: Notice of Noncompliance—Minimum, Cumulative Bar Passage Rate

Dear Esteemed Committee Members:

Pacific Coast University, School of Law (PCU) hereby responds to the Notice of Noncompliance with the minimum, cumulative bar examination pass rate (MPR) of at least 40 percent for the most recent five-year reporting period. The current MPR reported by PCU is 26.4%.

A brief history of PCU and its accreditation by the CBE is offered here to present context. PCU has been in continuous operation since 1927. For the majority of this time, PCU operated as an unaccredited law school, with students being required to take and pass the First Year Law Students Examination for the State Bar of California to recognize their legal education. In the changing landscape of legal education within the State of California, PCU embarked upon the quest for accreditation by the CBE and secured Provisional Accreditation in 2010. Full Accreditation followed in Fall 2013.

PCU was the first school to transition from an unaccredited to a CBE Accredited school since the inception of CBE Accreditation. As such, PCU altered its program to fully conform to the Rules and Guidelines for CBE Accredited schools. Any pitfalls or situations which could prove challenging or problematic would be entirely new territory for any CBE Accredited school. In addition, the CBE was just beginning to impose the MPR as a standard for measuring the quality of CBE school programs. The standard reached, 40% over 10 administrations of eligibility, would be applied regardless of the novelty of accreditation and the potential pitfalls which a newly accredited institution might experience.

The first class graduating with any form of accreditation—provisional or full, was the Class of 2014. I bring this to the attention of the Committee at this juncture, because it is important to recognize that the cohort which is included in the MPR consists of a mixed cohort, including those required to take and pass the FYLSX and those not required. As a representation, it should be understood, that the mandatory passage of the FYSLX creates an entirely different cohort. Indeed, the removal of the requirement of passage of the FYSLX for automatic progression from 1L to 2L and completion of the Juris Doctor degree created an uptick in the applicants and a surge in enrollment at PCU. The class of 2014 was the largest graduating class in the history of PCU with 42 graduates being conferred Juris Doctor degrees. Although the quality of the education program did not change, the composition of the student body and their ability to perform at the same level as those who received degrees from PCU prior to accreditation cannot be rightfully compared as they are essentially dissimilar. PCU anticipates graduating students from a fully accredited, site inspection verified program for a full five years in 2019. Until such time, any MPR reported will consist of a mixed and therefore not a true measure of the program's quality.

Against the backdrop of new accreditation and a transitioning composition of students within the cohort to be deemed the measuring unit of success or quality of the educational program, PCU experienced an unexpected loss of leadership and a subsequent period of administrative change. Dean William J. Lewis (2000 to Sept. 2013) spearheaded and directed the accreditation process. He suffered a massive heart attack and died during the first week of the 2013-2014 academic year. As mentioned above, this was to be a critical year for PCU in terms of transition from non-accredited to fully accredited institution. Following his death, the PCU Board of Regents elevated Vice Dean Charles Hicks, Jr. to Dean. The plan for

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succession was not clearly out-lined and there were resultant problems which PCU has since moved decisively and aggressively to correct.

As Dean, Hicks did not move to concretely improve the academic program as aggressively as needed. He proved to be a poor choice. The Board of Regents reviewed his actions, removed him from the Board and terminated him as Dean on June 5, 2015. Immediately thereafter, Assistant Dean Andrea L. Lua was made Interim Dean and tasked with overhauling the institution and addressing concerns which the Board identified. As Interim Dean Lua dissected the existent situation, former Dean Hicks sued PCU and Interim Dean Lua personally for wrongful termination and discrimination. Dean Lua and the PCU Board were tasked with defending the institution, maintaining the integrity of the school, preparing for the upcoming site visit in 2016 and unraveling any needs which required redressing which were not readily apparent. In addition, as the suit asked for Hicks position to be restored, no-one could be recruited from the outside to assume the position of Dean as the position could only remain Interim until the suit was concluded.

Preparing for the April 2016 Site Visit by the CBE served as an autopsy of PCU as it had been operating to this juncture. Educational standards, admissions policies, exams, exam development, professor involvement, staffing, inclusion of alumni, connections with professional organizations, student morale, MPR, record keeping and storage systems, and financial health all received internal and external scrutiny. Preparation was time consuming and revealed many areas which could be updated and or changed. Certain changes would need to be reserved until after the pending suit was either litigated or settled. The matter was set for trial in July 2016.

The three-member team descended on PCU in April 2016. The members included George Leal, Dean Barbieri, and Tracy Belmore. For those who have not had the privilege to participate in a site visit or are unfamiliar with its value, I hope that I can do justice to the process here. The team examined exams, files, financials, and all records related to operations. Meetings were held with students, alumni, professors, staff, Board of Regents, and administration. The over-riding purpose was clear that the CBE team were dedicated to uncovering the root of any existent problems, flesh-out any structural successes, and help provide a roadmap thereafter for PCU to improve its quality of educational program. The process was painful and at times confrontational. But the transparency required of PCU as a school submitting to a site visit was invigorating and therapeutic.

The team presented on the third day of the visit a number of areas which PCU could address and target changes. Following that meeting it was up to the administration to develop strategies to keep what was working, discard what was not, and implement ideas which the team presented from their wealth of experience with other CBE schools and strategies in place at those schools. Following the meeting, as administrators, we met and developed a multi-faceted plan to move PCU into the mainstream of CBE schools.

Information Gleaned from the Self-Study

Bar pass rate was directly related to grade point average while attending PCU. Students that earned a 2.75 or better over the four-year period eventually passed the Bar Exam. Empirically what does this mean? The four-year marathon which is night law school requires that students solidly digest and use the material throughout the entire period. Expecting to make-up for any areas which might be problematic in a Bar Review course is not possible for students who have full-time jobs during the day, families and other concerns. How PCU identifies, targets and assists students who are "on the bubble" so to speak, meaning within the range of grasping the additional skills and information to make it from serial Bar Exam taker to Bar Exam passer was critical. Reliance on the FYLSX to separate those who could eventually pass the Bar after the 1L was no longer the tool PCU could rely upon. But the above mentioned data could be used as a means of identifying alumni to target and assist in getting over the hump and passing the Bar. Further, the information could be used to inform students upon entry to the program of true benchmarks they should hold themselves to in order to succeed. Lastly, PCU could more realistically

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identify those students that would be reachable with academic support and those that would probably not meet the standards necessary to eventually enter the legal profession.

Data is really only important in relation to its practical application. Here PCU endeavored to use this data as a starting point to assist recent graduates that should pass the Bar Examination as identified by the GPA information. Further, others below the benchmark should be offered assistance as well to gauge the potential ability to "reach" them meaningfully. As pointed-out during the site visit, the relationship of an educational institution and its alumni is critical. Conferring a degree, then letting graduates fend for themselves and in many instances flounder time and again on the Bar Exam was not good enough. PCU is a family in a sense, we endeavored to reach out and assist graduates to identify strategies to overcome obstacles which were preventing them from passing the Bar Exam.

Targeting Alumni

PCU recent alumni Paul Nguyen and Tom Yu, each first time Bar Exam passers, participated in the site visit. Each had developed substantial skills in mastering MBEs. The three day Bar Examination would be sunsetting. MBE skills, already critical in passing the Bar Exam, would comprise greater than 50% of the score necessary to pass the Bar Exam beginning in July 2017. Following the visit, Nguyen and Yu crafted a Boot Camp for recent alumni who were struggling with MBEs and unable to pass the Bar Exam. PCU used a portion of prudent reserves to offer the program to alumni within the identified range and reasonably below the range, to hone their MBE skills. Nguyen and Yu clearly identified that black letter law understanding and critical analytical skills developed through their program would be more beneficial than a program mixed with essay and MBE skills. This program was offered with a mere materials fee charge four times. A number of those targeted attained the skills and passed the exam.

PCU continues to offer seminars following Bar results for unsuccessful candidates to identify areas to improve and strategies. Professors, recent Bar passers and Administrators participate in these seminars to connect with those struggling to develop the right strategy to succeed on their next attempt.

Targeting Current Students

Identifying and targeting current students that would need more educational help to be better Bar candidates is a tall order. However, with data to support the group that could be reached, PCU tightened-up the educational standards required for students to remain in the program. An Academic Support Lab was created, with students required to attend that were on Academic Probation in accord with the new tighter standards. The most talented and experienced professors were recruited to staff the Lab to aid these students. Students found the Lab so helpful, that students that were performing at and above the required standards requested the opportunity to attend. Academic Support Lab is now offered two nights a week, with those on Academic Probation or repeating a Failed Course required to attend. All other students are encouraged and open to attend as desired. The result is a thriving Lab with professorial direction and a mixed student composition. The results have been encouraging for both those required to attend and those just availing themselves of the academic assistance.

Designing and implementing a Lab for the 1L students is another component of the change in academics at PCU. Although this adds a fourth class to the daunting first year, the purpose is to strengthen student writing and analysis skills at the beginning of their foray into legal study. Many of our students are returning to academia after a lapse or embarking into an entirely different educational discipline. Directed study with the opportunity to interact with fellow students and greater professorial accessibility has distinct advantages. Students work to gain a greater understanding of the IRAC method in its applications and as the template for all further legal tomes they will be authoring. Students also as a class dissect legal

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problems and hone analytical skills with the guidance of professors. The writing skills of our 1L students have improved markedly as a result.

Workshops on exam writing and developing trends in Bar examination questions have been implemented to assist our professors in better assessing our students. Exam development and calibration of every exam has been the focus of the past two years. Realistically assessing students' mastery of the materials and skills is critical to upholding the standards expected of a CBE accredited school.

Another aspect of improving the study methods and analytical skills of PCU students involved instructing student to effectively use MBEs as a learning companion in all MBE tested subjects from day 1. The methodology that Nguyen and Yu used for the Bootcamp referenced above is now part of the 1L Lab, the Academic Support Lab and the Advanced Legal Reasoning course in 4L. The compressed analysis and precise reading comprehension that is required to be a master of the MBE is a vital skill that full-time working law students such as PCU students cannot afford to wait to acquire. The efficiency that using the MBE as a study aid allows is unparalleled. Students that have been afforded this skill from day 1 are just beginning their third year of PCU's four-year program. As a class, they are impressive. We are refining the usage of this method, but the results are as desired. All 1Ls progressing to the 2L this year demonstrated similar improved writing skills and better performance on MBEs.

PCU has also formed an institutional partnership with Barbri to provide current students and alumni with their materials and their review program. This relationship allows students to benefit from a discounted rate. In addition, professors are able to include the materials in assignments as appropriate. Lastly, participating Bar candidates who participate in this program allow PCU to view their compliance with the program for a better diagnosis of any areas which could benefit from greater attention if the candidate is unsuccessful.

Targeting Future Students

Following the site visit, PCU endeavored to identify where the best quality students over the past five years discovered PCU. Alumni referral is the source of the most successful PCU candidates. The vital role of alumni in student recruiting, mentoring, and future employment opportunities is an area we appreciated but had not officially calibrated. Toward that end, PCU has increased the number of alumni inclusive events and has aggressively moved to recognize alumni's vital contribution to the school and its mission.

PCU Administrators have also identified local professional and legal associations which serve vital mentoring roles for law students and new attorneys. Establishing an ongoing presence in these entities has already provided several quality students.

Increased Involvement with Other CBE Schools

PCU recognized the value of the experience of the other CBE schools from the interaction with the three site visit participants. PCU has sent at least one representative to every RAC and Law School Assembly meeting since the site visit in 2016. Playing an active part in the developing landscape of legal education at this time of diminishing applicants and historically low Bar Exam pass rates has helped PCU develop relationships and strategies which will lead us forward. CBE accredited schools each function in unique environments. However, the unity of mission to provide quality educations which increase diversity within the profession and provide greater access to justice throughout the state dissolves whatever distinctions between the manners or sites in which they are located. The collegiality and encouragement we have been received with has been fortifying at a time of challenge and rededication to the mission of PCU.

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In conclusion, the past five years have been a period in which PCU has faced tremendous change. Preparing for the first five-year site visit following provisional accreditation proved daunting, but very valuable information was gleaned from the Self-Study and the observations of the inspection team. Implementing the suggestions of the team and targeting the areas for improvement with innovative solutions and flexibility has been challenging. The goals of improved educational outcomes with higher Bar Exam Pass Rates cannot be measured yet. Time for measurable results is requested.

PCU further reminds the Committee of Bar Examiners that the MPR at present continues to reflect a mixed offering from provisional to fully accredited CBE school. The imposition of any consequence as PCU is actively endeavoring to implement all manner of solutions to attain a higher MPR in a period when the Bar Pass Rates are at historic lows seems harsh and unwarranted.

Respectfully,

Andrea L. Lua
Dean

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