



The State Bar *of California*

OPEN SESSION

AGENDA ITEM

MARCH 2020

COMMITTEE OF BAR EXAMINERS ITEM O-400

DATE: March 30, 2020

TO: Members, Committee of Bar Examiners

FROM: Natalie Leonard, Principal Program Analyst

SUBJECT: Action regarding Emergency Waiver from Peoples College of Law and General
Emergency Waiver for Accredited and Unaccredited Law Schools to Teach Classes
Online Due to the COVID-19 Crisis

BACKGROUND

Attachment A is a Petition submitted by Peoples College of Law (PCOL) to the Committee of Bar Examiners (Committee) seeking a temporary waiver to switch its modality of teaching from teaching in a physical classroom to teaching in a synchronous virtual classroom via internet, retroactive to March 9 and continuing through August 31, 2020.

Staff recommends that the Committee consider this issue on behalf of all accredited and unaccredited law schools operating during this period in which the people of California are urged to stay at home.

PCOL is a registered, unaccredited law school. According to its website, the school admits students who are committed to progressive social change of various types and “willing to employ the skills gained at the school to further these progressive causes in their own way.”

The school normally teaches fixed facility classes in its building located in downtown Los Angeles. Currently, however, the school has transitioned on an emergency basis to teaching its classes online as a result of the health crisis facing the country and the world related to COVID-19, and the school would like to continue to do so through the end of its current term (through August 31, 2020), at which point PCOL hopes that this change will no longer be necessary.

DISCUSSION

While this waiver request seeking a temporary major change is presented by Peoples College of Law, issues related to COVID-19 have affected all accredited and unaccredited fixed facility law schools. The other fixed facility schools have also sought to move classes online on a temporary basis for the same reason. Therefore, it may be helpful to provide guidance and grant a limited waiver to both accredited and unaccredited law schools.

Typically, in order to make such a change, an unaccredited fixed facility school would follow the major change process and “must notify the Committee and obtain its approval before making the change” and explain in detail any effect the change might have on the law school’s compliance with the rules. (Unaccredited Law School rule 4.245). Changing the modality of course delivery or the location of class offerings is considered a major change. (Unaccredited Law School Rule 4.246 (A), (E), (F)).

Accredited law schools may already offer up to twelve credits of distance learning as part of the JD degree. However, to offer additional credits online, accredited law schools would similarly be required to use the major change process to seek permission at least ninety days in advance, according to Committee guidance adopted in June 2019. (Accredited Law School Rules 4.164; 4.165(A), (E); Accredited Law School Guideline 6.5, Committee Meeting, 6/21/19, Action on Item O-402).

However, “[a] law school may request that the committee waive any rule.” (Accredited Rule 4.109(A), Unaccredited Rule 4.208). These waiver provisions also state that a waiver request “must clearly show that the law school otherwise complies with” the applicable rules. Here, PCOL seeks a temporary waiver regarding operations during this emergency period, rather than a permanent change. And the proposed waiver excuses only the need to formally seek a major change before making the emergency transition from physical classrooms to virtual classrooms, rather than a deviation from other substantive rules. And finally, PCOL specifically notes that, as of the time of its request, there had been no significant problems with the emergency transition to virtual classrooms. This statement echoes the informal feedback staff has received from other fixed facility schools, which are affected in a substantially identical way by this state-wide (and world-wide) emergency situation. Therefore, sufficient grounds exist to conclude that this waiver will not otherwise impact PCOL’s (or any otherwise-compliant law school’s) compliance with the applicable rules. Therefore, the Committee has the authority under the waiver provisions to grant this change for PCOL as well as for other fixed facility schools, and to waive the timing requirement that would otherwise apply to accredited law schools requesting this permission.

PCOL affirms its responsibility and intention under California Business and Professions Code 6060 (e)(2) as a fixed facility unaccredited law school to ensure that its students have “[s]tudied law diligently and in good faith for at least four years . . . in a law school that is authorized or approved to confer professional degrees and requires classroom attendance of its students for a minimum of 270 hours a year.” (Cal. Bus. & Prof Code sec. 6060(e)(2)(A)). The school

understands that the State Bar cannot waive compliance with the statute. Instead, PCOL simply wishes to offer some of those classroom hours via virtual classroom.

PCOL also notes that nearly all educational providers around the country have switched to online course delivery to address the crisis and comply with various shelter-in-place orders. For example, the State of California has declared a state of emergency, the Centers for Disease Control has advocated a policy of social distancing, and the [Governor of the State of California issued a stay at home order](#) effective at midnight on March 20, 2020.

The American Bar Association issued a Guidance Memorandum permitting ABA approved law schools to deliver their classes online on an emergency basis, noting that while “the law school should seek a variance where possible ... by their very nature, many ... emergencies require quick decisions and action, and resort to such a process may not be possible” and guiding schools “to giv[e] priority to the health and safety of the law school community” while “recogniz[ing] that the J.D. degrees that they award represent to the profession and the public that the graduate had completed a certain rigorous program of legal education,” and expressly recognizing that distance education may be a good option in these circumstances.

The Department of Education (DOE) also provided expedited permission to deliver classes online, indicating that “[w]e are ... permitting accreditors to waive their distance education review requirements for institutions working to accommodate students whose enrollment is otherwise interrupted as a result of COVID-19. We currently are limiting that permission to distance learning opportunities developed for the purpose of serving students who were already in attendance, but whose attendance was interrupted by COVID-19.” The DOE approves several regional accreditors that are involved with registered and accredited law schools in California, such as the Western Association of Schools and Colleges (WASC) and the Distance Education Accrediting Commission (DEAC).

It is recommended that the Committee grant automatic and temporary approval, retroactive to March 9, 2020 and through August 31, 2020, to PCOL and any other accredited or unaccredited law school seeking to transition classes in progress online for students who were already enrolled and have been affected by this situation. Accredited law schools have long had the ability to offer up to twelve credits of distance learning as part of their JD programs, and for all cases so far reported to the State Bar, moving courses to online delivery for this semester will fit within that allowance for the accredited law schools making this change.

Law schools should be advised to choose synchronous classes whenever possible, and to provide technical and academic support to assist students with the transition. Schools must advise students in writing of any change they plan to make in advance or as soon as possible after implementation, including any changes to syllabi needed to accommodate the switch to online class delivery. (Accredited Guideline 2.7, Unaccredited Guideline 2.9).

If any changes should be made to the grading scheme, schools are reminded to do so in compliance with applicable rules and guidelines, including limitations on the use of pass-fail grading. Unaccredited law schools are limited as to the total amount of pass-fail grades that can

be offered, while accredited law schools may offer a pass-fail option for courses that are not Bar-tested subjects. (e.g. Accredited Guideline 2.7(A)(2), Unaccredited Guideline 2.9(B)(2)).

It is recommended that the Committee direct accredited and unaccredited law schools to provide written notice to the Office of Admissions of any plans to convert classroom classes to online delivery and provide copies of any revised syllabi resulting from this change.

The Committee can revisit the situation as the August date approaches to determine whether a further extension is warranted.

RECOMMENDATION

It is recommended that the Committee temporarily allow all accredited law schools and unaccredited law schools to transfer their current classes in progress to online status, retroactive to March 9, 2020, and continuing through August 31, 2020, encouraging schools to choose synchronous methods whenever possible, with attention paid to academic support and technical assistance.

It is also recommended that the Committee acknowledge that these schools may be legally required to comply with health and safety orders on an immediate basis in a way that could further implicate compliance with State Bar Rules or Guidelines, and that the schools should take that action and keep the State Bar apprised of such action as soon as practical.

Law schools should furnish affected staff and students, to the greatest extent possible, with advance written notice of changes to any plans and policies that were in place at the start of the semester and provide copies of those notices to the Office of Admissions as soon as possible. Any changes should comply with all applicable Rules and Guidelines.

This guidance will continue to be monitored as events develop to allow the Committee to determine whether extension or additional allowances are necessary.

The Committee may wish to issue a General Guidance Memorandum to all law schools regarding this waiver. (Attachment B).

PROPOSED MOTION

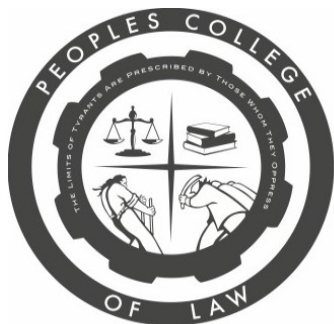
Should the Committee accept this recommendation, the following motion is suggested:

Move, that any accredited or unaccredited law school in California, including Peoples College of Law, may transfer classroom courses to online delivery retroactive to March 9, 2020 and continuing through August 31, 2020, choosing synchronous options when possible, coupled with academic and technical support. Unaccredited law schools must also meet the requirements set forth in California Business & Professions Code section 6060(e), which cannot be waived by the Committee. Schools may adjust syllabi to effectuate these changes, in accordance with applicable Rules and Guidelines. The Committee further

acknowledges that schools may be required to respond to legally required orders from local, state or federal authorities to preserve health and safety, and that schools will comply while maintaining the integrity of the JD degrees that they confer. The law schools should provide written notice to the Office of Admissions as soon as practical to advise of any such changes taken under the authority of this motion, and should include copies of communications to students regarding any changed policies, including revised syllabi. The Committee is taking these steps to allow accredited and unaccredited law schools to serve students already in attendance whose schooling has been interrupted by the health crisis related to COVID-19. The attached Guidance Memorandum should be distributed to all accredited and unaccredited law schools to inform them of this guidance.

Attachment A: Peoples College of Law Request for Waiver – Transfer of Courses to Online Modality

Attachment B: Proposed Guidance Memorandum from the Committee of Bar Examiners to All Accredited and Unaccredited Law Schools



PEOPLES COLLEGE OF LAW

660 South Bonnie Brae St., Los Angeles, CA 90057
Telephone 213-483-0083

Training Peoples Lawyers Since 1974

March 19, 2020

Committee of Bar Examiners
State Bar of California
180 Howard Street
San Francisco, CA 94105
Attn: Contact: Kim Wong

By email to kim.wong@calbar.ca.gov and first class mail

Re: Peoples College of Law
Unaccredited Law School Rule 4.204(J)(3)
Guidelines for Unaccredited Law School Rules, section 5.3(A)(1)

Dear Members of the Committee of Bar Examiners:

Because of the coronavirus emergency, Peoples College of Law, a fixed-facility Registered/Unaccredited law school, requests that the Committee of Bar Examiners temporarily waive the "classroom attendance" requirement in Unaccredited Law School Rule 4.204(J)(3) and Section 5.3(A)(1) of the Guidelines, and temporarily eliminate any restrictions of online attendance, as opposed to physical attendance, that may be in the Rules or Guidelines.

We request that the waiver be effective retroactively, from March 9 through August 31, 2020. We request August 31 because our next regular academic year begins in early September, shortly after Labor Day, and we are hopeful the waiver will no longer be necessary by then.

To require classes to take place in person would place in serious jeopardy the health and safety of our students, faculty and staff, and their families. Also, we are concerned that if we do not conduct classes online, many students, possibly all, or mostly all, would have to make the difficult decision to place health and safety above their need to complete the law school year, and would not complete it. We have begun holding classes by video conference, and there have been no significant problems. We note also that one of our faculty members is pregnant, and some faculty and students are in categories that are high risk for the coronavirus.

There is precedent for this waiver in the decisions of the Committee of Bar Examiners. In 2017, in the absence of any emergency, the Committee granted a request by California Desert Trial Academy College of Law, another a fixed-facility Registered/Unaccredited law school, to conduct classes by online video conference, for students living in some of the Southern California desert communities. We submit with this letter the request by California Desert Academy, and the Committee's agenda item and analysis of the request.

Remote, online instruction, of course, became very widespread long before the coronavirus. An entire category of California Registered/Unaccredited law schools conduct classes *solely* online.

The many emergency measures by governments, schools, businesses and individuals to combat the spread of the coronavirus are becoming well known. The Los Angeles Unified School District has closed its schools, as have many other school districts. A large number of law schools have ceased in-person classes in favor of video conferences. In California those include:

- *Southwestern Law School*, 2/3 of a mile from Peoples College of Law
- *Loyola Law School*, also 2/3 of a mile from Peoples College of Law
 (Its website states: “LLS courses will continue online, and all LLS events are cancelled, through March 31.”)
- *University of Southern California School of Law*, 2½ miles from Peoples College of Law
- *University of West Los Angeles School of Law*
- *University of California, Los Angeles*
 (Website: “Beginning Wednesday, March 11, UCLA, including UCLA Law, transitioned to holding nearly all courses remotely.”)
- *Pepperdine University School of Law* (near Los Angeles)
- *University of California, Berkeley School of Law*
- *Golden Gate University Law School*
- *University of California Hastings School of Law*
 (Website: “... the College has moved academic and administrative operations of the campus to a substantially virtual environment with the exception of our residential building ...All courses are being offered via virtual platforms.”)
- *Stanford Law School*
- *Santa Clara University School of Law*
- *San Joaquin College of Law, Fresno*
 (Website: “SJCL is temporarily transitioning in-person classes to online”)
- *University of San Diego School of Law*
 (Website: “The University of San Diego is mandating campus-wide remote teaching effective March 23, 2020, through the end of the spring semester.”)

Several days ago the Los Angeles Times began publishing daily electronic bulletins of coronavirus developments. The bulletin of March 16 reports the following:¹

Seven counties in the Bay Area have issued a “shelter in place” order that is expected to last for at least two weeks. Effective midnight, residents will be required to stay at home “except for essential needs,” said San Francisco Mayor London Breed. Only police and fire departments, hospitals, grocery stores, pharmacies and a few other businesses will be allowed to remain open under the shelter-in-place order. ...

Announcing new national guidelines on Monday, **President Trump called on Americans to avoid gatherings of more than 10 people**, ... and halt unnecessary travel or shopping trips. Everyone should assume there are coronavirus patients in their

¹ The emphasis in bold is added.

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neighborhood, some of whom might not even know they're sick, said **L.A. County Public Health Department Director Barbara Ferrer**.

...[L.A.] **Mayor Eric Garcetti issued an emergency order** to close L.A. restaurants — with the exception of takeout and delivery....

With regard to the “classroom attendance” requirement, Unaccredited Law School Rule 4.204(J)(3) provides:

A fixed-facility law school must require *classroom attendance* of its students for a minimum of 270 hours a year for four years. [Italics added.]

Section 5.3(A)(1) of the Guidelines for Unaccredited Law School Rules provides:

A law school may issue a J.D. degree to a student who has met the following requirements:

(A) For fixed-facility law schools:

(1) Satisfactory completion of a course of classroom study requiring a minimum of 270 hours of *classroom attendance* a year for four (4) years [Italics added.]

Peoples College of Law unequivocally intends to complete 270 hours of instruction for all students, and we are not asking for any waiver of that requirement. We simply ask that we be allowed temporarily to complete the hours by online instruction.

We recognize that requirements for law school education are stated in another place, a statute, Business and Professions Code section 6060(e)(2)(A)(i), using the same phrase, “requires classroom attendance.” However, what we are requesting, a waiver of a Rule and Guideline, is not the same as a waiver of a statute. Regardless of whether the Committee can grant a waiver of a statute, the Committee unquestionably can grant a waiver of the Rules and Guidelines – the Rules themselves authorize it (Rule 4.208).

Also, a governmental agency unquestionably has the authority to interpret statutes that relate to the agency’s work. The California courts have repeatedly endorsed that authority (see below). Although *interpretation of this statute is not necessary for the Committee to grant a waiver of the Rule and Guideline*, the Committee can and should interpret the words “classroom attendance” in the statute, the Rule and the Guideline, to include attendance by video conference. After all, what is a video conference if not a virtual classroom?

On an agency’s authority to interpret statutes, the California Court of Appeal stated a long-standing principle, quoting the California Supreme Court:

“[B]ecause **the agency will often be interpreting a statute within its administrative jurisdiction**, it may possess special familiarity with satellite legal and regulatory issues. It is this ‘expertise,’ expressed as an interpretation . . . **that is the source of the presumptive value of the agency’s views.**”

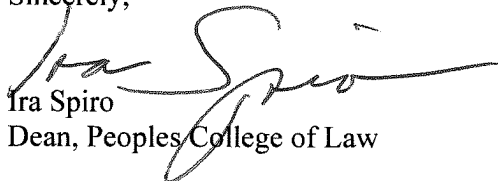
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Butte v. Emergency Med. Services (2010) 187 Cal.App.4th 1175, 1203 (emphasis in bold added), quoting *Capen v. Shewry* (2007) 155 Cal.App.4th 378, 391-392, quoting *Yamaha Corp. v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 11.) The *Butte* opinion added (at 1203) that an agency's interpretation, of course, "commands a commensurably lesser degree of judicial deference" than a body with legislative power to make law.

It is vitally necessary for the health and safety of our students, faculty and staff, and their families, that we conduct our classes online, by video conference, rather than in person.

We ask that our request be taken up, at the latest, at the next meeting of the Committee, scheduled for April 24 and 25, 2020 in San Francisco, preferably the April 24 session.²

Sincerely,



Ira Spiro
Dean, Peoples College of Law

² I plan to attend the Committee's meeting. I have attended a large majority of the Committee's meetings in person, in both San Francisco and Los Angeles, since I became Dean nearly three years ago. However, I am 70 years old, I have a history of respiratory conditions and I live and work in Los Angeles. Thus I plan to attend remotely if that is possible.

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM NUMBER: January 2017 – O-404

DATE: January 10, 2017

TO: Subcommittee on Educational Standards

FROM: George Leal, Director, Educational Standards

SUBJECT: **California Desert Trial Academy College of Law – Major Change Request re Distance Learning Curriculum.**

BACKGROUND

Attachment A is a request submitted by the California Desert Trial Academy College of Law (CDTA) for approval by the Committee of Bar Examiners (Committee) of a major change to allow it to offer a hybrid curriculum in its Juris Doctor degree program. With Committee approval, starting next fall, CDTA hopes to offer its first-year classes at both its fixed-facility campus in Indio and, using distance-learning technology, to students living within 100 miles of Indio. This novel proposal is designed to offer the law school's legal education in remote communities in California to those who would be otherwise unable to physically attend classes at CDTA's campus four nights a week.

As required by Rule 4.245 of the *Unaccredited Law School Rules* (Rules): "A registered law school contemplating a major change must notify the Committee and obtain its prior approval before making the change." As defined by Rule 4.246: "The following are major changes: (A) instituting a new division; . . . (F) providing law study for a fixed-facility law school program or class offered more than then miles from the site of the law school, outside California or in multiple locations."

CDTA is a registered law school located in the Coachella Valley community of Indio. The law school was registered in 2012 and its first students started that fall. Its first class of 11 students graduated this past June and took the July administration of the California Bar Examination. After operating for two years, the law school was inspected in November of 2014 and found to be operating compliantly. CDTA's current enrollment is 37 students and it has an adjunct faculty of 23 professors, almost all of whom are practicing attorneys. The faculty also includes sitting judges and commissioners of the Riverside County Superior Court and a sitting justice of the California Court of Appeal. CDTA's Dean, John Patrick Dolan, is a very experienced criminal defense attorney who has practiced in the Coachella Valley for over two decades.

As described in the correspondence submitted by Dean Dolan, the proposal is intended to expand the geographic area in which CDTA will be able to enroll those who wish to study law in the hope of becoming a licensed California attorney. As it has since it opened, CDTA offers classes at its Indio campus three nights a week, Tuesdays through Thursdays, 6:00 p.m. through 9:30 p.m. Each class is uniquely taught by two professors who use the Socratic method and class discussion to teach their students not the substantive law, but the methods of making persuasive legal arguments.

As proposed, CDTA will use synchronous, distance-learning technology to allow students in remote locations to attend and participate in classes as they are being taught in Indio. In 2016 CDTA moved into a new facility that incorporated both video and audio conferencing in the construction of each of its classrooms. As noted by Dean Dolan, the law school already digitally records and archives each of its classes as they are being taught for the review and use of students as they study during the semester.

The law school intends to acquire and use the interactive, video-conferencing software sold by Zoom, software used by many educational institutions, including Harvard and Stanford Universities, to offer synchronous, online courses. Using this technology, students attending class from a remote location will, prior to the start of class, “enter” by appearing on a video screen and will be seen by both the professors and students attending class in Indio. At the same time those participating remotely will be able to see the classroom, the professors, classroom whiteboard and their fellow students.

Using such technology, professors will be able to conduct classes as they do now and will be able to call upon all of their students, both those in the classroom and those attending remotely. All class materials will be made available digitally and students at all locations will be able to use the Zoom platform to form virtual study groups, while professors will be able to meet privately with students remotely as they do in person.

A key limitation in the geographic reach of the distance-learning proposal is the long-standing requirement that all CDTA students must attend Saturday classes in Indio. Referred to as its “Enrichment Program,” Saturday classes focus mainly on teaching and developing students’ legal research and writing skills, test taking skills and for academic support. All final examinations are also given in Indio on Saturdays.

By requiring remotely-enrolled students to attend weekly classes in Indio, the hope is that they will become and feel like members of the CDTA student community. Moreover, mandatory weekend attendance is expected to limit those who decide to enroll and remotely attend CDTA knowing that they will need to commute to Indio approximately 15-16 times a semester. Despite this limitation in mind, however, Dean Dolan expects to enroll students in several, relatively small and isolated Mojave Desert communities, including El Centro, Victorville, Barstow, Banning and Blythe.

Other than allowing students to attend classes remotely, all other academic aspects of the CDTA J.D. degree program will remain the same for all students enrolled. Finally, if

approved, classes in the second through fourth year curriculum will be introduced and offered in each subsequent year after the initial year such classes are offered.

DISCUSSION

The CDTA proposal appears academically sound and compliant in both concept and execution. As designed, while the law school expects to enroll a relatively modest number of students in its initial year, it expects to expand its hybrid J.D. program into all four years of its J.D. curriculum and, in doing so, will eventually comprise a significant portion of CDTA's total enrollment. More importantly, as noted by Dean Dolan, it will provide the opportunity of an affordable legal education to those living in communities who now have no access to any form of a fixed-facility curriculum. Moreover, each of the communities identified in the proposal has a court facility or community college so it is expected that each will offer a sufficient number of qualified applicants to make the proposed hybrid curriculum a success for both the law school and its future students.

The CDTA proposal also comes at a time when the Committee and representatives of all types of its constituent law schools have been working to draft new rules and guidelines intended to offer accreditation to all registered, unaccredited law schools, including those that offer a J.D. degree curriculum through distance-learning technology. During that process, allowing accredited, fixed-facility law schools the opportunity to offer a hybrid J.D. program that combines in-class and synchronous remote learning has been discussed as being permitted under the Committee's future accreditation standards. If approved, CDTA's proposal would serve as a useful, real-world experiment to provide in the evaluation of the efficacy of all such future programs.

RECOMMENDATION:

It is recommended that pursuant to Rules 4.245 and 4.246 of the *Unaccredited Law School Rules*, the request of the California Desert Trial Academy College of Law for the prior approval of a major change that will allow it to offer its students a hybrid J.D. degree curriculum taught using both in-class and remote student participation through effective distance-learning technology be received and filed; that the request be approved; and that, within 60 days after the end of its first year, the law school prepare and submit to the Committee a report that provides an analysis of the program and discusses its success, benefits, detriments and any perceived improvements to the program prior to the start of its second year.

PROPOSED MOTION:

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

Move that, pursuant to Rules 4.245 and 4.246 of the *Unaccredited Law School Rules*, that the request of the California Desert Trial Academy College of Law for the prior approval of a major change that will allow it to offer its students a hybrid

J.D. degree curriculum taught using both in-class and remote student participation through effective distance-learning technology be received and filed; that the request be approved; and that, within 60 days after the end of its first year the law school prepare and submit to the Committee a report that provides an analysis of the program and which discusses its success, benefits, detriments and any perceived improvements to the program prior to the start of its second year.



California Desert Trial Academy
ATTACHMENT A

45-290 Fargo Street
Indio, CA 92201
800.859.0888 • 760.771.5490
Fax: 760.454.0300
www.CDTALAW.com

November 21, 2016

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

Re: Major Change Request Pursuant to Rule 4.246(A) & (F)

Dear Committee Members:

Our California Desert Trial Academy College of Law has this September 2016 commenced our 5th year of operations.

We have learned over the past 5 years that there are several desert communities where local legal education is unavailable.

One of our 2017-2018 CDTA College of Law objectives is to offer our classes to certain identified desert legal communities through a combination of real time distance learning, on-demand digital access to review archived classes and study materials, and in-person weekend Enrichment Programs.

The geographic locations we wish to serve are:

- El Centro/Brawley in Imperial County,
- Banning/Hemet/San Jacinto in Riverside County,
- Blythe in Riverside County
- Victorville/Barstow in San Bernardino County
- Yucca Valley/Joshua Tree/Twenty Nine Palms in San Bernardino County

Each of the locations mentioned above are within 100 miles of the CDTA campus.

Our initial request is to be approved for a major change by the Committee of Bar Examiners so that we might commence a distance learning program for our incoming 1L class in these designated areas concurrent with our fixed facility 1L class in September 2017.

Our Tuesday-Wednesday-Thursday academic classes would require synchronous on-line attendance and participation with our fixed facility students and faculty.

We would additionally require in-person attendance of all students at our CDTA campus in Indio for annual orientation and for our weekly Saturday Enrichment Programs.

We would eventually intend to present our entire 4-year curriculum through distance learning on Tuesday, Wednesday and Thursday nights from 6:00 – 9:30 and our in-person Saturday Enrichment Programs from 8:30 a.m. to 3:00 p.m..

ATTACHMENT A

We are in this 2016-2017 academic year digitally recording and archiving our academic curriculum class by class.

Both our fixed-facility students and distance learning students have access to each of our classes digitally recorded and archived as well as a robust selection of supplemental materials and study aides in digital format.

We want to offer this hybrid program to the Southern California Inland Desert areas which have been significantly underserved in legal education. Because quality legal education is not available to the areas contemplated, "brain drain" has been experienced.

Each of the identified areas has a legal community, a court facility, and a community college that would in combination support a growing source of attendance and participation.

We believe that a hybrid program a combination of live instruction, synchronous on-line broadcast, digital support materials and our in-person Saturday Enrichment Program will offer a truly superior quality legal education for our identified service areas.

We believe we are well on the way for State Bar accreditation for our registered fixed facility law school operation.

We understand that State Bar authorization is necessary in order to make our contemplated distance learning offering a reality.

We believe that taking the best of live classroom education and joining it with leading edge technology will result in a comprehensive legal education.

We look forward to working with the State Bar of California Committee of Bar Examiners to offer quality legal education to the areas identified above which have been historically underserved.

We hope that our request will be viewed favorably by the Committee at your December meeting.

We stand ready to comply with whatever standards the Committee of Bar Examiners requires.

Our objective is to offer to a new Fall 2017 first year class both fixed facility and distance learning legal education.

We welcome any authorized representative of the Committee of Bar Examiners to tour our facilities, review our curriculum, meet with our faculty, and examine our distance learning capability.

Sincerely,



John Patrick Dolan, Dean
California Desert Trial Academy
College of Law

Enclosure: Addendum to Student and Faculty Handbooks



John Patrick Dolan
Certified Specialist
Criminal Law
The State Bar of California
Board of Legal Specialization

Andrea Dolan Bouchard
Attorney at Law

December 26, 2016

Mr. George Leal
Director of Educational Standards
The State Bar of California
180 Howard Street
San Francisco, CA 94105

Re: Major Change Request

Dear Mr. Leal,

California Desert Trial Academy (CDTA), is requesting California State Bar Committee of Bar Examiners approval to incorporate distance learning into our current educational offering.

We understand that as an unaccredited, fixed facility law school, what we are proposing is unique and we therefore present to you a detailed description of our proposed program.

Geographic Areas to be Served

CDTA is located in Indio, California. Indio is the largest city in the Coachella Valley and home to the Riverside Superior Court's Larsen Justice Center as well as the new county Law Building, which houses the District Attorney's Office, the Public Defender's Office, and the Riverside County Law Library.

CDTA serves an integral role as the only opportunity law school in the Inland Empire. However, there are several key areas within 100 miles which are underserved in legal education.

We have targeted the following areas for their legal community, court facility, community college and proximity:

- El Centro/Brawley in Imperial County
- Banning/Hemet/San Jacinto in Riverside County
- Blythe in Riverside County
- Victorville/Barstow in San Bernardino County
- Yucca Valley/Joshua Tree Twenty-Nine Palms in San Bernardino County

We have begun the process of meeting with the Bench, Bar and administrative staffs of these communities and encountered great interest and support.

The CDTA Program

CDTA will continue to offer the current on site program which includes a four-year curriculum of academic classes Tuesday, Wednesday, and Thursday nights from 6:00pm – 9:30pm as well as Saturday writing and enrichment programs from 8:30am – 4:00pm.

All classes are taught by two professors to incorporate the adversary structure of the legal system and allow students to learn quickly to see both sides of every issue. Our professors are highly dedicated working professionals and include several Bench Officers from our local Superior Court, a Justice from the 4th District Court of Appeal, and top trial attorneys in their respective fields.

Students enrolled in the distance learning program would be attending the weekday classes remotely, in real time, and would be required to attend the Saturday enrichment program sessions in person.

The Saturday enrichment program is largely focused on developing strong writing skills. Our students write practice exams using Exam Soft software under timed conditions. We have a community lunch and which offers an opportunity for both our distance learners and in person attendees to develop study groups, friendships and network with practicing legal professionals.

Our distance learners will also have the option of attending the weekday live classes in person at any time, should they wish to do so.

All our students will have 24/7 access to each class which will be digitally recorded and archived daily as well as digital access to our supplemental class material including lecture handouts and professor's memos.

These materials are in addition to our tuition- inclusive offerings of Fleming's Fundamentals of Law (FFOL) Course reviews for each bar tested subject. The 1L's will be enrolled in the Baby Bar Review Course. The 2L, 3L and 4L classes will have access to a customized package of online videos and outlines coordinated with their course selection for each year.

All Baby Bar and General Bar Candidates will have an AdaptiBar subscription to assist in preparation for their respective state exams. The school has also purchased the AdaptiBar Analytics and Assignments program which will allow us to student performance.

The Lexis Nexis Advanced Program is also provided to all students and faculty for legal research and additional educational offerings.

The ZOOM Platform for Distance Learning

After extensive research, we have decided to use the Zoom platform for our distance learning program. Zoom is a software based interactive video conferencing program. This platform is the program of choice for many of the top educational institutions in the country including Harvard, Yale, Stanford and Penn.

Each class at CDTA is held in a courtroom and will be outfitted with a video camera, microphones and a large television monitor.

Each distance learner will log in on their device and “enter” the classroom prior to the start of class. Their faces will appear on the screen. They will be able to see the professor, the whiteboard, and the students attending in person. Interaction can take place through the professor calling on the distance learner or the distance learner asking questions.

All our class handouts and power point slides will be available in a digital file.

Unlike a purely online course, there is no chance a student can “hide out” or not participate in a class with this platform. Professors review of Zoom reference the increased connection with students by viewing facial expressions.

One of our CDTA graduates has firsthand experience with Zoom and tells us;

“As a student of the Harvard Extension School, I was amazed that the Zoom platform was able to realistically reproduce the experience of a real-time learning experience, despite being more than 3000 miles away. Zoom makes it easy to participate in the learning process just as if I were physically present, and creates the ability to ask questions, listen to lectures, and interact with the other students.”

Zoom is a flexible choice as students can connect on multiple devices including their Mac or Windows based computer, a Chromebook, or their IOS or Android device.

The platform allows flexibility in schedules as students can log in to class from their home, office, or any quiet spot they choose. We anticipate that as we develop our new distance communities that the students will choose to get together to attend classes or study groups together.

Another option is for students to form study groups and use the Zoom platform to meet at a chosen time. This would allow distance learners from different communities to study together. This same practice would apply to team projects which the professors may assign.

Our professors will offer office hours to our distance learners through Zoom as well. We have several dedicated office areas with camera and audio set up just for such meetings.

To facilitate the addition of distance learning, we are videotaping all classes in the 2016-2017 school year and make them available to students through a password on our website.

It is our intention, with State Bar approval, to begin offering distance learning in the fall of 2017 to our 1L class.

Conclusion

We are thrilled to present our unique hybrid program to you for consideration. Our mission at CDTA is to educate, develop and train extraordinary legal advocates.

Many of our current students and recent graduates did not have a viable option for attending law school and fulfilling their dream of becoming an attorney prior to the founding of this school.

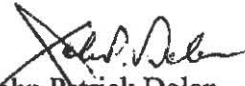
This new program will open the door to many others who might otherwise never have the opportunity.

While a purely online law school with no human interaction works for some, we believe that the practice of law requires a healthy interactive discourse between students and professors.

The practice of law demands that one can think on their feet, address judicial officers and legal personnel appropriately, and learn how to argue both sides of the law.

We believe that our proposed program will do just that in addition to providing a superior legal education.

Sincerely,



John Patrick Dolan
President & CEO
California Desert Trial Academy
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JPD:km



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CDTA COLLEGE OF LAW
STUDENT AND FACULTY HANDBOOKS
ADDENDUM
FALL 2017

PREAMBLE

CDTA College of Law has initiated an opportunity for online synchronous real-time learning. The policy is that prospective students who reside 50 to 100 miles from the campus located at 45-290 Fargo Street, Indio, CA 92201 may enroll to begin classes as a synchronous learning law student starting in the fall of 2017.

This is an opportunity, a chance at attending law school, that people living in these under-served geographical areas would not otherwise have available to them. CDTA College of Law recognizes that students interested in the study of law may live in smaller communities located in all directions and over 50-100 miles away. These people are generally isolated from higher education opportunities but for their local community colleges.

CDTA College of Law holds core learning classes on Tuesday through Thursday evenings from 6 PM to 9:30 PM. The law school also holds Saturday Enrichment programs from 8:30 AM to 3 PM that are mandatory and part of the course curriculum. The law school also holds a day of examinations four (4) times per year on Saturdays.

A synchronous learning student may attend core learning classes held Tuesday through Thursday using online access to the class room. That access will be both visual and audio and it will be two way. This means the student sitting anywhere 50-100 miles away will be "in class" via video. That same student is expected to be present every Saturday for the Saturday Enrichment programs and be on campus for each examination. There are additionally orientation classes and celebratory end of the year events that the students will attend in person. Only the core learning classes Tuesday through Thursday will be available via online access for a student enrolled as a synchronous learning student. Attendance is simultaneous to the class presentation.

DEFINITIONS

"Class" means an individual one-time offering of a course.

"Course" means a focused body of instruction offered by an education provider. A course may be made up of one or more classes.

"Distance learning" means learning that takes place when the instructor and student are separated by space and/or time. The gap between the two can be bridged using technology such as videoconferencing and online technology. CDTA College of law intends its program to be separated only by space.

"PC-based Videoconferencing" means online video technology that allows two or more people to participate synchronous conversations from individual PC stations. Conferencing tools may be video and audio, or only audio. CDTA College of law intends its program tools to be video and audio only.

"Synchronous" means a communication where two or more people occupy the same physical or virtual space at the same time and are able to communicate and interact with each other live and in real time within that space.

MATERIALS REQUIRED

Each student must meet with the CDTA College of Law technical advisor to learn what equipment the student must provide in order to take advantage of the synchronous learning. It is the student's responsibility to have the adequate computer equipment to attend class from a distant location. The technical advisor will work with each student to make sure the equipment functions prior to the first class of each Semester.

CDTA College of Law will ensure that the law school's equipment is effective and adequate to meet all the needs of every synchronous student attending any class at any given time.

TRAINING REQUIRED

CDTA College of Law will provide training to all students during the orientation phase prior to the first year of law school specific to the use of equipment and impact to the class. This training will ensure all students, both those intending to be present physically or be present virtually to take full advantage of each class presentation and discussion. The roles and responsibilities will be carefully addressed including those of the synchronous learning student, those of the physically present students, the faculty and the law school's technical advisor.

MAINTENANCE

CDTA College of Law will have a technical advisor at the school site for each evening of class study, Tuesday through Thursday. This technical advisor will facilitate the link-ups of the synchronous students to the particular classroom and to iron out any issues that may arise.

This technical advisor will also ensure that each class will be separately recorded, archived and posted to the law school's website for student review of class presentations. This resource is not a substitute for class attendance. It can serve as a back-up, however, if, for any given class, there is a temporary failure to link-up with the synchronous learning student. Additionally, there is no course credit for review of archived classes.

SYNCHRONOUS LEARNING ETIQUETTE

All faculty and students must observe polite and respectful class room etiquette. All are held to a standard of behavior whether present in the classroom or attending via visual and audio link to the class. Any behaviors which will serve to be disruptive or distracting to the Professor or any student will be avoided. A sampling of such behaviors are: no eating, no babies, animals or other third parties on camera or in the background linked to the classroom; no side conversations; no side activities such as emailing or texting; beware of any background noise makers; and avoid multi-tasking either in the classroom or at the offsite location.

These behaviors are encouraged: use headsets to insure quality audio; be on time; be acquainted with the tech/login component; be present, be polite, be professional, be respectful of instructor and classmates; and mute one's microphone whenever one is not speaking.

RELATIONSHIP TO OTHER SCHOOL POLICIES AND PROCEDURES

Nothing about opening up the CDTA College of Law student body to synchronous learning changes other policies and procedures of this law school as outlined in the Student and Faculty Handbooks.

Class dates and times are the same for all students.

Saturday Enrichment Programs and Saturday mid-term and final examinations require the on-site presences of ALL students.

Faculty generated syllabi are the same for all students. Student access to faculty for meetings or assistance is the same for all students: each student is encouraged to contact any faculty member to set up an appointment that works well with both the professor and the student. This could be on-campus on any Saturday, or, for those attending from 50-100 miles via face time. Remedial assistance remains available to all.

The cost to each student is the same.

Grading and scoring of all exams and the calculation of credits per class is the same for all students. Graduation requirements are the same for all students.

PROPOSED ROLL OUT OF THIS ADDITION OF SYNCHRONOUS LEARNING

It is the intention of CDTA College of Law to offer synchronous learning to the First year law student's class of fall, 2016. Thereafter, the option to attend as a synchronous learning student will be extended to include each successive year. This means that in the fall of 2018, both the Second year and the First year students will have that opportunity. By the fall of 2020, the school's full curriculum will include a synchronous learning student facet.

CDTA College of Law credits the 2015 edition of the DISTANCE LEARNING IN LEGAL EDUCATION: DESIGN, DELIVERY AND RECOMMENDED PRACTICES book of the Working Group on Distance Learning in Legal Education for many portions of this addendum to the CDTA College of Law Student and Faculty Handbooks. A copy of the volume is available in the library at CDTA College of Law for any student or faculty member to review. To contact the authors, visit www.wgdile.org. Published by The Center for Computer-Assisted Legal Instruction/CALI, www.cali.org.



The State Bar *of California*

OPEN SESSION

AGENDA ITEM

MARCH 2020

COMMITTEE OF BAR EXAMINERS ITEM O-400 ATTACHMENT

DATE: March 30, 2020

TO: All Accredited and Unaccredited Law Schools

FROM: The Committee of Bar Examiners

SUBJECT: Waiver Allowing Temporary Transition to Online Classes at Accredited and Unaccredited Law Schools to Address Issues Related to COVID-19

BACKGROUND

This memo provides guidance from the Committee of Bar Examiners to accredited and unaccredited law schools in California regarding temporary waiver and allowance to transfer fixed facility courses to online delivery, retroactive to March 9 and continuing through August 31, 2020, due to the emergency related to COVID-19.

The State Bar is aware that the State of [California has declared a state of emergency with respect to COVID-19](#), and the [Centers for Disease Control](#) and the [World Health Organization](#) continue to update their communications with pertinent information. Effective March 20, 2020, [California Governor Gavin Newsom ordered all people in California to stay at home to the extent possible, and to practice social distancing in all outings. The Governor and various cities and counties have also banned or limited gatherings to prevent the risk of exposure to COVID-19](#). Communities, organizations and individuals around the State are doing their best to take appropriate action in this quickly evolving situation.

The Committee encourages law schools first and foremost to safeguard the health and safety of students, faculty, staff, and community, while making best efforts to avoid disruption to their JD programs.

[Accredited Law School Rule 4.109 and Unaccredited Law School Rule 4.208](#) allow schools to apply for waivers to temporarily alter or suspend compliance with a Rule in extraordinary circumstances. Certain fast-evolving and serious emergencies such as the one before us, however, may require quick decisions, and resort to such a process may not be possible. To

assist the schools during the period retroactive to March 9, 2020 and continuing through August 31, 2020, the Committee hereby grants permission to accredited and unaccredited law schools to transition fixed facility classes to online delivery, encouraging synchronous delivery when possible, as well as academic and technical support.

Such changes may require a school to make reasonable alteration of syllabi to adapt to online delivery, including adding, changing, or deleting assignments, reconfiguring examinations, and, at the discretion of the school, potentially changing the weighting of grading components, while continuing to provide meaningful feedback to students. Such changes must be made in compliance with the Rules and Guidelines applicable to the school including limitations on the use of pass-fail grading.

In addition, unaccredited law schools must ensure that their JD programs comply with all aspects of [California Business & Professions Code section 6060\(e\)](#) in order to qualify their students to take the Bar Examination, as these requirements cannot be waived by the Committee.

Law schools must provide clear, written notice to affected students and staff as to their rights, expectations and responsibilities under any changed policy, procedure or syllabus. This guidance should be provided in advance whenever possible or as soon as possible after implementation. Any changes should be made in compliance with the Rules and Guidelines applicable to the school.

While schools are not required to file waiver or major change requests to transition to online class delivery, they are directed to provide notice to the State Bar as soon as possible of action taken as well as copies of communications to students regarding change changes, including adjustments to syllabi.

The Committee, through the Office of Admissions, is available to address questions regarding this guidance or receive any additional waiver or change requests that schools may seek, which the Committee will consider under its standard process, unless emergency consideration is warranted and allowed under applicable statutes.

The Committee acknowledges and appreciates the efforts of each accredited and registered law school to protect its students, staff, and community while delivering an effective, affordable JD curriculum in challenging times.