



The State Bar of California

OPEN SESSION

AGENDA ITEM O-402

DECEMBER 2020

COMMITTEE OF BAR EXAMINERS

DATE: December 4, 2020

TO: Members, Committee of Bar Examiners

FROM: Natalie Leonard, Principal Program Analyst

SUBJECT: Consideration of Response to Notice of Noncompliance with Rule 4.160(N) –
San Francisco Law School

EXECUTIVE SUMMARY

At its August 2020 meeting, the Committee issued a Notice of Noncompliance to San Francisco Law School (SFLS) for failure to maintain a compliant Minimum, Cumulative Five-Year Bar Exam Passage Rate (MPR) of 40 percent or more when the school reported an MPR of 36.0 percent. The Committee also directed the school to provide a response within fifteen days. The law school's response does not dispute the Committee's finding of noncompliance and includes an action plan that projects steadily increasing MPR values over the next several years, reaching 50-55 percent during the 2022 or 2023 MPR reporting cycle. (Attachment A.)

It is recommended that the Committee proceed to the next step of the Noncompliance process, directing that an inspection be scheduled within sixty days to assist the Committee in determining the appropriate course of action.

BACKGROUND

All California Accredited Law Schools (accredited law schools) must maintain an MPR of at least 40 percent (See Rule 4.160(N)), calculated using the formula enumerated in guideline 12.1. Accredited law schools report their MPR annually on July 1 each year.

This year, SFLS reported an MPR of 36.0 percent. As a result, the Committee of Bar Examiners (Committee) issued a Notice of Noncompliance to SFLS (Rule 4.170(A).)

When an accredited law school receives such a notice, “the law school must file a response demonstrating that it is . . . in compliance with these rules, if an accredited law school.” (Rule 4.170(B).) After reviewing the law school’s response, the Committee must take one of the following actions under Rule 4.170 (B):

(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.

The purpose of the inspection is to confirm whether: “the accredited law school is in compliance with these rules; or . . . the accredited law school . . . is not in compliance with the rules for specific reasons that warrant probation or termination of accreditation.” (Rule 4.171.) Here, however, the school has not disputed the finding of noncompliance. Therefore, the inspection, reviewed along with the school’s attached response, will assist the Committee in evaluating whether the law school’s plan is likely to lead to future compliance within an acceptable timeframe.

DISCUSSION

Because the law school’s response cannot establish the school’s compliance, the response must be deemed unsatisfactory, and the Committee must schedule an inspection under rule 4.170(B)(2) above. Though noncompliance is already established, the Committee can use the information gathered through the inspection to help determine the appropriate next steps to monitor the law school’s status.

The law school’s MPR values over the last three years have been 46.2 percent (2018), 41.7 percent (2019) and 36.0 percent (2020).

The law school cites several factors that it believes will lead to a significant improvement in the MPR resulting in an MPR value of 50-55 percent during the 2022 or 2023 MPR reporting cycle.

SFLS added additional bar preparation designed to assist the school’s 2020 graduates taking the October 2020 bar examination. The law school also launched a bar preparation program for alumni that included both weekly seminars and one-on-one tutors. SFLS is confident that these initiatives will result in improved bar exam pass rates for the October 2020 and February 2021 bar exams.

SFLS also hopes that future classes graduating in 2022 and beyond will also benefit from a curriculum change launched in 2018. This change involves the addition of a new class designed to help new law students adjust to law school more quickly, and subsequent curriculum that incorporates more legal research and writing and analysis throughout the four-year JD curriculum, offering targeted remedial support as needed. The first students to complete this

full curriculum will graduate in 2022 and their bar exam results will be reflected in the law school's MPR for 2023 and beyond.

Under separate cover, the school's periodic inspection report is also being presented today, and these results can be considered in the context of the results of that report. The inspection team made two recommendations directly related to bar exam passage. One such recommendation suggested that the school review and calibrate its grading to help inform students of their progress toward licensure. SFLS will be implementing this recommendation moving forward. Another recommendation involved increasing the capacity of the school to provide administrative and advising support. The new full-time registrar and professor will be assisting with these tasks.

Because the law school confirmed that its MPR is not compliant, however, the Committee must find that the law school's response has not satisfied its obligation to demonstrate that the law school is in compliance, and, therefore, the Committee must schedule an inspection within sixty days from the date of this meeting. Given the current pandemic circumstances, a remote telephone or videocall inspection is recommended.

A report of the inspection can be returned to the Committee, along with the law school's next set of bar exam results, which will be available in January 2021.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATIONS

It is recommended that the Committee receive and file SFLS's timely response to the Notice of Noncompliance with Rule 4.160(N) issued to the school in August 2020 and make a finding that the law school's response is not satisfactory because it does not establish the law school's compliance. It is further recommended that the Committee direct staff to schedule an inspection within 60 days as required by the rules, at which the law school can further discuss

its plan and timing to return to compliance, including the evidence upon which it bases its projections.

PROPOSED MOTION

Should the Committee of Bar Examiners agree with staff recommendations, the following motion should be made:

MOVE, that the Response of San Francisco Law School to the Notice of Noncompliance with Rule 4.160(N) be received and filed; and that the Committee find that the response is unsatisfactory because it does not establish the law school's compliance with Rule 4.160(N); and

FURTHER MOVE that a remote inspection be scheduled within sixty days to determine whether or not the school is in compliance with Rule 4.160(N) and, if not, to allow the school an opportunity to further explain its plans and timing to return to compliance, including the evidence upon which the plans are based. If the school declines to timely participate in an inspection, the Committee will proceed with the information before it.

ATTACHMENT(S) LIST

- A. San Francisco Law School Response to Notice of Noncompliance

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

Dear Committee Members,

I am writing in response to the Committee Action on Notice of Noncompliance – Accredited Law School Rule 4.160(N).

San Francisco Law School (SFLS), a California accredited law school, acknowledges that its Minimum, Cumulative Five-Year California Bar Examination Passage Rate (MPR) is below the 40% that all accredited law schools are required to maintain pursuant to Rule 4.160, subdivision (N), and Guideline 12.1 of the Guidelines for Accredited Law School Rules (“Guidelines”).

SFLS was in compliance (having an MPR of 43%) until the administration of the 2020 Bar Exam. Like many law schools across the country and the State of California, SFLS has seen its MPR drop each year for the last five years. SFLS and its parent organization, Alliant International University (Alliant), take this requirement very seriously, and since my arrival have been fully committed to improving our overall program to ensure students graduating with a Juris Doctorate are ready to take and pass the bar exam and become practicing lawyers.

SFLS has continued to implement incremental changes, each one building upon the previous change, to improve overall student success in law school and on the State Bar of California’s Bar Exam. These changes are part of a broad, comprehensive plan to help SFLS students be more successful in school, better prepared to take/pass the bar exam, and be prepared to work as a licensed attorney.

In 2018-2019 academic year SFLS introduced a robust new set of academic support courses in the first year of law school in order to optimize the chances of these student’s success both in law school and for taking and passing the bar exam.

In fall 2018 SFLS introduced a required course for all entering 1L students called Success Skills. This one credit course was designed to help students transition into law school quicker and easier and to help them acquire the necessary, basic skills to succeed while in law school. The course familiarizes students with the process of legal education and introduces the foundation skills required for optimal law school performance. The course covers evidence-based learning strategies, reading and briefing cases, note taking, synthesizing rules, creating course outlines, and drafting legal analysis in the content of the law school exam.

In spring 2019 SFLS introduced another course - Foundations of Legal Analysis. This three-credit course is for students who perform poorly in their first semester with a cGPA of less than 2.0. This writing intensive course replaces Legal Writing 2 in the spring semester. The course develops fundamental legal skills such as: sorting detailed factual materials; analyzing statutory,

case, and administrative materials; issue spotting, applying law to facts; and communicating effectively in analytical, legal writing.

During the summer of 2019 SFLS administration and faculty reassessed the legal writing program and collaborated to revise the curriculum to include additional writing assignments with a greater focus on basic legal analysis and writing skills. These revisions were included in the Legal Writing course curriculum for 2019-2020 academic year.

The changes described above were introduced to the incoming students for the 2018-19 and 2019-20 academic years. The results of these changes are not expected until these students graduate and take the California Bar exam in 2022 and 2023. SFLS will continue to monitor improvements internally and expects to see the results manifested in bar exam scores in July 2022 at the earliest.

As the enhanced curriculum focuses on improving student analytical and writing skills early on in their law school experience, we expect overall student GPA to improve over the next two years, resulting in higher bar exam pass rates.

In the fall of 2019 Alliant allocated resources to assist alumni who had not previously passed the bar exam, with preparation assistance for the February exam. Alumni were offered, free of charge, one-on-one tutoring and practice essay review and feedback for the three months prior to the February 2020 Bar exam. Only a small handful of alumni took advantage of these tutoring services.

It should also be noted here that all 4L students are required to take 11 units worth of bar preparation courses their final year at SFLS. Two of those courses are focused on MBE type questions. In 2020 Prof. Scott Pearce improved these courses. First, he has created a library of over 1,000 MBE questions that are accessible to SFLS graduates via a secure website. Prof. Pearce further improved these courses by using new technology in Westlaw's TWEN. This technology allows students to get timely feedback on subject matter comprehension from weekly MBE quizzes. This gives students almost instant feedback on what areas of law they understand and what areas they need to focus their studies on. At the end of these two courses an assessment exam is given. Prof. Pearce then produces a report that allows students to see what areas of law they need to improve their knowledge in. This, in turn, assists the students in creating their 2-3-month bar exam preparation study plan.

I would like to note here that all SFLS graduates receive a BARBRI Bar Preparation course (included in their tuition). Barbri also sends a pre-bar preparation course to all students prior to graduation to help them get started on a study plan. Students also have access to Westlaw and Barbri's law school study aid tools during their time at SFLS and up to six months after they graduate.

The first students to benefit from the new MBE course curriculum and focused study plans, graduated in May 2020 and were planning to take the July 2020 exam. We eagerly await the

administration and results from the October exam to assess how this new technology has helped our graduates on the exam.

SFLS also introduced the SFLS Alumni Bar Exam Preparation Assistance Program in July 2020. This program offers additional bar preparation to any alumni free of charge. The program is run by four professors each specializing in a section of the bar exam: Essay, MBE and Performance Test. The program includes weekly seminars focused on each portion of the exam. Attendees are then given practice questions at the end of each seminar and asked to submit them for review. Professors review, grade and give timely feedback on each exam. This has become invaluable to recent graduates preparing for the upcoming bar exam. Finally, alumni can take advantage of one-on-one tutoring from SFLS professors to help them enhance their knowledge of black letter law.

In the February 2020 onsite inspection report, the Inspection team noted that SFLS could do better in using grading rubrics to give better feedback to students and to gather more data when assessing its overall program and individual courses. In response, SFLS is working with faculty throughout the fall 2020 semester to fine tune a grading rubric specific to SFLS. The rubric will measure core skills needed by students to be successful at law school and the bar exam including but not limited to; basic English/writing skills, Issue spotting, legal analysis, and comprehension of black letter law. This rubric will become mandatory for all spring courses. Information gathered from these rubrics will allow SFLS students to better understand what skills they need to improve. It will also allow professors to see where they need to improve in their courses. This will allow SFLS to improve its overall curriculum and higher bar exam passage rates.

Overall capacity was another item the inspection team discussed in the report. Since the inspection, Alliant and SFLS have committed resources to ensure the long-term success of the law program. In July 2020 SFLS hired a new fulltime Registrar, Karen McCray. Karen has 12+ years of registrar experience. With her help we are already seeing reduced administrative errors. She is also helping SFLS rewrite/update our policies and procedures to ensure full compliance with the State Bar Requirements. With Karen's leadership in this new role, and the unique resources of a centralized university system, SFLS administrators are better able to focus on bigger picture issues such as improving curriculum and bar passage rates.

In August 2020 SFLS hired a new fulltime faculty member, Katherine Alfieri. Prof. Alfieri has an impressive resume. Not only has she had a stellar career as an attorney, she has also been a Bar Exam grader. Prof. Alfieri was hired to lead an effort to continue the improvements we have already mentioned. Her main assignment, outside of teaching 2-3 courses a semester, is to lead the implementation of SFLS' Academic Excellence Program (AEP). This program will allow SFLS to address both the demand for skill-based graduates and graduates that are ready to take and pass the bar exam. The AEP will teach, develop and reinforce a top-notch, legal analytical skill set by replacing, retooling and greatly expanding existing SFLS courses, creating new, specifically curated courses, and organizing SFLS curriculum into a comprehensive four year program that progressively builds upon itself.

The specific goals of the program include creating, developing, and implementing a comprehensive program at SFLS that greatly improves SFLS Students' oral and written, legal, analytical abilities. The program will extensively prepare SFLS students for the California Bar Exam (CBE) and greatly increase the number of SFLS students that pass the CBE on their first attempt. Finally, the program will develop successful, professional, highly skilled attorneys and alumni.

The goals of AEP will be met by combining some of SFLS existing courses into one comprehensive course, such as combining Legal Research and Legal Writing into one Legal Research and Writing course. This will help focus the research part of the curriculum on legal analysis and writing. It will allow SFLS to introduce a new, required Analytical Skills course to be taken each summer. The Analytical Skills courses will utilize the CBE substantive material of 1L courses (i.e., Criminal Law, Contracts, and Torts) to reinforce substantive knowledge and emphasis improving student's legal analysis and MBE exam taking skills.

In other words, the AEP is the next logical step in a larger, robust change that has been taking place at SFLS since June 2018. The new curriculum will be introduced to the 2021 entering class. Again, these students will not graduate until 2026. So, while we will be able to monitor student growth and success internally, we will not see the external results of these changes until these students take the July 2026 California Bar Exam.

The overall goal of all these improvements at SFLS is to improve the MPR for SFLS graduates to 50-55% short term (over the next 2-4 administrations of the exam) and 60%+ long term (3-4 years).

In conclusion, we expect to see vast improvements in the bar pass rates in October 2020 and February 2021 because of the new resources and technologies that have been made available to 4L students and alumni over the last 12 months. As mentioned above, we are eagerly awaiting the October 2020 Bar Exam results.

We also expect to see the improvements from the initial long-term changes made in 2018 & 2019 to manifest themselves in the July 2022 Bar Exam.

Finally, we expect to see the improvements from the Academic Excellence Program changes to be seen in the July 2026 exam.

As demonstrated, Alliant International University and San Francisco Law School are fully committed to improving our overall program to ensure students graduating with a Juris Doctorate are ready to take and pass the bar exam and become practicing lawyers.

Please let me know if you have any questions.

Sincerely,

Timothy P. Weimer, Dean
San Francisco Law School