



The State Bar of California

OPEN SESSION

AGENDA ITEM O-401

JANUARY 2021

COMMITTEE OF BAR EXAMINERS

DATE: January 29, 2021

TO: Members, Committee of Bar Examiners

FROM: Natalie Leonard, Principal Program Analyst

SUBJECT: Action in Response to Notice of Noncompliance and Inspection Report –
Lincoln Law School of San Jose

EXECUTIVE SUMMARY

In August 2020, the Committee of Bar Examiners (Committee) issued a Notice of Noncompliance to Lincoln Law School of San Jose (Lincoln-San Jose) because the law school's minimum, cumulative five-year bar exam passage rate (MPR) was 30.9 percent, when all accredited law schools are required to maintain an MPR of 40 percent or greater. (Rule 4.160(N)). After an inspection conducted pursuant to this Notice, the inspection team recommends that the law school be placed on probation until July 1, 2022 and required to demonstrate by that date that its MPR is 40 percent or greater as calculated according to the formula in Guideline 12.1, or its accreditation may be terminated. It is further recommended that the State Bar publish the law school's status, and that the school also communicate it to the current student body, prospective students and the public.

BACKGROUND

The Committee of Bar Examiners requires that an accredited law school comply with the State Bar's Rules for Accredited Law Schools and their guidelines as well as other applicable authority. As part of that compliance, 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 described in guideline 12.1. Because the calculation requires results from a specific set of bar exams, the MPR is calculated once per year after February bar exam results are released. Accredited law schools then report their MPR annually by July 1 each year.

In July 2020, Lincoln-San Jose reported an MPR of 30.9 percent to the Committee.

In August 2020, the Committee of Bar Examiners issued a Notice of Noncompliance to Lincoln-San Jose pursuant to Rule 4.170(A) because the law school's MPR was below the 40 percent minimum requirement.

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)) Here, because the noncompliance had already been established and verified, the Committee also asked the law school to include information about the law school's plan to return to compliance.

In September 2020, the law school provided a timely written response. ([December 4, 2020 Committee Agenda, Item V.B. O-401](#)).

In December 2020, the Committee reviewed the response and concluded that the response did not establish that the law school was in compliance with Rule 4.160(N), and, therefore, was not satisfactory. The Committee acknowledged that the law school described a plan in which a return to compliance was projected with MPR reporting in July 2022. Because the law school could not establish its compliance, the Committee was required under the rules to schedule an inspection by the Senior Executive (or her designees) within sixty days of its consideration of the matter. (Rule 4.170(B)2)

On January 11, 2021, a team of Committee members and State Bar staff conducted that inspection, and their report is attached. (Attachment A)

At this meeting today, the Committee reviews the inspection report and all other facts and circumstances and determines which of the following three actions is appropriate: [1] "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 [2] probation or [3] termination of accreditation." (Rule 4.171(B), (D))

Probation for a specified time is appropriate when "the Committee decides that an accredited law school or any approved branch or satellite campus has not complied with these rules, but has made progress toward compliance." (Rule 4.172(B))

"A[n] accredited law school placed on probation . . . is subject to any probation conditions imposed by the Committee, including interim inspections and progress reports." (4.172(C)(1))

The inspection team recommends that the Committee place the law school on probation through July 1, 2022, the last day to report the 2022 MPR, with the option to conclude probation earlier if the law school reports an MPR of 40 percent or greater in July 2021. It should be made clear to the law school that its accreditation may be terminated if it does not return to compliance by July 1, 2022. The inspection team further recommends that the terms require the law school to clearly and affirmatively communicate its probationary status to current and prospective students and the public, as described below.

DISCUSSION

The inspection of Lincoln-San Jose took place on January 11, 2021 from 3:00 p.m. to 4:00 p.m. via videoconference, conducted by the team of Committee members Alex Chan and Larry Kaplan and State Bar staff Natalie Leonard. Educational Standards Chair Paul Kramer attended as an observer. Prior to the inspection, the inspection team reviewed the law school's response to the Notice of Noncompliance, the law school's historical bar exam results, and its October 2020 bar exam results.

The following representatives attended on behalf of Lincoln-San Jose: Laura Palazzolo, Dean; Carmen Sigler, Vice Chair of the Board of Trustees and Chair of its Academic Affairs Committee; Professor Donald Kilmer, member of the Western Association of Schools and Colleges Assessment Leadership Academy; Professor Carlos Singh, Associate Dean of Academics, and Michele Pacheco, Bar Services Director.

Prior to the inspection, it was already established that the law school remains out of compliance with Rule 4.160(N). Therefore, the inspection team focused on evaluating whether probation or termination of accreditation would be appropriate.

Lincoln-San Jose projects that it may reach compliance in 2021 and will reach compliance in 2022, and further explained its plan to do so and the evidence upon which it was based.

After considering all facts and circumstances supporting the law school's plan, the inspection team recommends probation rather than termination of accreditation for a number of reasons.

First, Lincoln-San Jose has not been out of compliance previously. The law school provided detailed calculations explaining how it projected its return to compliance no later than 2022.

Next, the law school has been able to correlate completion of bar preparation exercises, at a target level with improved success on the bar exam, so the law school has just implemented a mandatory, graded bar preparation class with that level of preparation. That class is taught in-house to provide frequent feedback and opportunities for support. The law school has also contracted to secure the help of a bar preparation vendor that previously provided successful bar preparation resources to the law school prior to 2017.

Lincoln-San Jose also continues to evaluate and adjust its plan. For example, at the inspection, the law school described not only how it continues to implement the plan described in its September 2020 response, but also the additional enhancements it has made since that time, now that it has hired additional staff to help with bar preparation. Examples include the creation of standard grading rubrics reviewed by a former bar exam grader.

The law school also that its October 2020 bar exam results did not meet its projections, and those who passed were repeaters, and it was already formulating an action plan in response.

Lincoln-San Jose's new office of institutional research is also helping the school to develop metrics to track its progress and adjust more quickly. A representative from the law school's governing board attended the inspection to underscore the board's commitment to providing sufficient funds and oversight as needed.

Taking all of the facts and circumstances into account, the inspection team recommends a term of probation through the reporting of the school's 2022 MPR no later than July 1, 2022, with the option to conclude the probation sooner if the school demonstrates an MPR of 40 percent or more when reporting its 2021 MPR. The recommendation includes a requirement for the law school to communicate its status to current and prospective students and the public.

Selecting probation under these circumstances balances the Committee's regulatory responsibility to monitor compliance and protect the public with an opportunity for the law school to demonstrate that it can achieve compliance within a reasonable timeframe.

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 of Bar Examiners place Lincoln Law School of San Jose on probation through July 1, 2022 and direct the school to take steps to come into compliance as soon as possible, and no later than July 1, 2022. Compliance is demonstrated by a 2021 or 2022 MPR, calculated after the release of results from the respective February bar exam, of 40 percent or greater, after which probation will be concluded. If the law school does not demonstrate compliance by this date, its accreditation may be terminated.

In addition, the law school should be directed to affirmatively and clearly communicate its probationary status to students, prospective students, and the public using the following language:

This law school has been placed on probation by its accreditor, The State Bar of California, through its Committee of Bar Examiners, due to reporting a five-year cumulative bar exam pass rate (MPR) of 30.9 for 2020, when a minimum of 40 percent is required under Rule 4.160(N); the law school must raise this MPR to 40 percent or more by July 1, 2022 or the law school's accreditation may be terminated. See [current MPR statistics for all accredited law schools](#) on the State Bar's website.

The language must be included prominently in: a communication to current students that must be acknowledged in writing by each student; any advertising, information or outreach to prospective students; the law school's disclosures and enrollment agreements; the law school's website home page; and the law school's accreditation or consumer information webpage. Where space limitations make this impossible, the law school may provide a clearly labeled live link to the disclosure and State Bar MPR statistics.

PROPOSED MOTION

Should the Committee of Bar Examiners agree with the inspection team's recommendations, the following motion should be made:

MOVE, that the Committee of Bar Examiners place Lincoln Law School of San Jose on probation through July 1, 2022 and direct the school to take steps to come into compliance as soon as possible, and no later than July 1, 2022. Compliance is demonstrated by a 2021 or 2022 MPR, calculated after the release of results from the respective February bar exam, of 40 percent or greater, after which probation will be concluded. If the law school does not demonstrate compliance by this date, its accreditation may be terminated.

And that the law school be required, during its period of probation to clearly communicate its status to students, prospective students, and the public using the following language:

This law school has been placed on probation by its accreditor, The State Bar of California, through its Committee of Bar Examiners, due to reporting a five-year cumulative bar exam pass rate (MPR) of 30.9 for 2020, when a minimum of 40 percent is required under Rule 4.160(N); the law school must raise this MPR to 40 percent or more by July 1, 2022 or the law school's accreditation may be terminated. See [current MPR statistics for all accredited law schools](#) on the State Bar's website.

The language must be included prominently in: a communication to current students that must be acknowledged in writing by each student; any advertising, information or outreach to prospective students; the law school's disclosures and enrollment agreements; the law school's website home page; and the law school's accreditation or consumer information webpage. Where space limitations make this impossible, the law school may provide a clearly labeled live link to the information.

ATTACHMENT LIST

- A.** Lincoln Law School of San Jose Inspection Report Regarding Noncompliance with Accredited Law School Rule 4.160(N)



The State Bar of California

Lincoln Law School of San Jose Inspection Regarding Noncompliance with Accredited Law School Rule 4.160(N)

**Inspection Conducted
Pursuant to Rule 4.170 of the
Accredited Law School Rules On:**

January 11, 2021

Inspection Team:

Alex Chan, Committee of Bar Examiners
Larry Kaplan, Committee of Bar Examiners
Natalie Leonard, State Bar Staff
Paul Kramer, Committee of Bar Examiners, Observer

**INSPECTION REGARDING NONCOMPLIANCE WITH
ACCREDITED LAW SCHOOL RULE 4.160(N)
LINCOLN LAW SCHOOL OF SAN JOSE
384 S 2ND STREET, SAN JOSE, CA 95113**

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Introduction

An inspection regarding Lincoln Law School of San Jose's (Lincoln-San Jose) noncompliance with Rule for Accredited Law Schools 4.160(N) was conducted on January 11, 2021 via videoconference. Rule 4.160(N) requires that all accredited law schools maintain a minimum, cumulative five-year bar exam pass rate (MPR) of at least 40 percent when calculated using the formula in guideline 12.1. In 2020, however, Lincoln-San Jose reported an MPR of 30.9 percent.

Lincoln-San Jose is a non-profit public benefit corporation headquartered in San Jose, California. Founded in 1919 as part of Lincoln University in San Francisco, the law school opened a San Jose campus in 1961. In 1993, the law school became an independent non-profit corporation, adopted its current name, and became an accredited law school. Lincoln-San Jose was last inspected by the Committee in October 2018 and was found to be compliant with the Committee's Rules and Guidelines for Accredited Law Schools.

The law school currently enrolls 60 JD candidates and 6 students in its other professional programs, according to its 2020 Annual Report.

Inspection Purpose

In August 2020, the Committee issued a Notice of Noncompliance to the law school after the school reported its MPR of 30.9 percent. When the Committee finds a school to be out of compliance, the Committee must schedule an inspection, as was done here.

Because the law school had already agreed that its MPR was out of compliance, the focus of the inspection shifted to the law school's plan and projected timing to return to compliance, in order to help determine whether probation or termination of accreditation would be appropriate as a next step. The law school projects that its 2021 MPR will be just under 40 percent, and that its 2022 MPR will be at least 55 percent.

Summary of Inspection Procedures

The inspection team consisted of Committee members Alex Chan and Larry Kaplan, an attorney member and a public member respectively, as well as State Bar staff Natalie Leonard. Committee Educational Standards Chair Paul Kramer attended as an observer.

As part of preparing for the inspection, the inspection team considered the written response provided by the law school and reviewed by the Committee at its December 2020 meeting, as well as the law school's bar exam pass rates through and including the October 2020 bar exam.

The following representatives attended on behalf of the law school: Laura Palazzolo, Dean; Carmen Sigler, Vice Chair of the Board of Trustees and Chair of its Academic Affairs Committee; Professor Donald Kilmer, member of the Western Association of Schools and Colleges Assessment Leadership Academy; Professor Carlos Singh, Associate Dean of Academics, and Michele Pacheco, Bar Services Director.

This videoconference inspection lasted one hour. After an introduction by observer Paul Kramer, the law school presented its information and responded to questions. Then the law school then provided closing remarks.

Recommendation to the Committee

The inspection team recommends that Lincoln-San Jose be placed on probation until July 1, 2022 or until compliance is demonstrated, whichever comes first. Compliance will be demonstrated by reporting an MPR of 40 percent or greater by July 1, 2021 or July 1, 2022. If the school does not return to compliance by summer 2022, the Committee should consider termination of accreditation.

The inspection team also recommends that the law school be required to clearly and affirmatively communicate its probationary status to its current students, all prospective students, and the public in all written and verbal communications.

SPECIFIC FINDINGS AS TO THE COMMITTEE'S RULES AND GUIDELINES

Below is a summary of the inspection team's findings, conclusions, and recommendations as to the law school's plan to return to compliance with rule 4.160(N).

Lincoln-San Jose's MPR rate began to decrease several years ago after the prior dean retired and the law school changed its bar preparation method

The law school's response provided to the Committee in September 2020 indicated that the law school's decline in bar passage coincided with the retirement of the prior dean, departure of other key administrators now replaced, a switch from in-house bar preparation to a commercial provider, and a new option to self-direct bar preparation, including the option to opt-out and seek other alternatives rather than those recommended by the law school.

Lincoln-San Jose now conducts bar exam preparation in-house as a mandatory, graded course, and it has altered its curriculum in a manner that it hopes will improve bar exam outcomes

Now that Lincoln-San Jose's contract with an outside commercial bar provider is ending, the school has implemented a new, mandatory, graded, proprietary bar preparation program conducted in-house, supplemented by materials from a vendor that had been used in the past with success.

The law school has also made a number of changes to the curriculum, including adding additional remedial services and graded writing classes, and integrating bar preparation into doctrinal courses. The law school has also hired a former bar exam grader to help calibrate and standardize grading across professors. The school has also started an institutional research program to evaluate the success of its initiatives.

A member of the law school's board also attended the inspection and described the law school's governing board's commitment to allocating resources to improve bar preparation.

Lincoln-San Jose believes that conducting in-house bar exam preparation, where preparation and performance can be tracked on a weekly basis will help the law school to better support its students as they prepare for the bar exam.

While October 2020 bar exam results did not meet Lincoln-San Jose's expectations, the law school explained why it remains confident that the bar exam pass rate will improve significantly in the coming year

The law school filed its initial response with the Committee in September 2020. Since that time, October 2020 bar exam results were released. All who passed were repeaters.

In spite of these results, the law school remains confident that it will be able to return to compliance within one to two reporting cycles for several reasons. First, the most recent graduating class did not complete as much of the bar preparation material as Lincoln-San Jose recommended, despite the law school's encouragement and tracking, but future classes will be required to complete the preparation in a graded class as a condition of graduation. Next, several top students were unavailable to take this bar examination for a number of reasons, but they plan to take the bar exam in the near future. Finally, the law school is now providing increased resources for alumni to help them prepare for the bar exam as well.

In addition, during this school year, Lincoln-San Jose has hired new staff and started implementing initiatives identified in its September 2020 response, including hiring a Bar Services Director who has created and coordinated an in-house bar preparation program. Lincoln-San Jose is also working with the Western Association of Schools and Colleges (WASC) Leadership Academy to improve the institutional capacity evaluate its programs to prepare students for licensure. The law school is not accredited by WASC, but it has been working

toward this accreditation for some time. Through this relationship, the law school is developing ways to work with faculty to create consistent, relevant grading rubrics and to embed additional bar preparation into doctrinal classes and legal writing classes.

Lincoln-San Jose projects that its 2021 MPR will be just under 40 percent, and that its 2022 MPR will be at least 55 percent.

CONCLUSION AND RECOMMENDATION

The inspection team recommends that Lincoln-San Jose be placed on a period of probation through July 1, 2022 to allow the law school a reasonable opportunity to demonstrate its compliance

Overall, the team found the law school to be committed to improvement and prepared to share data to support its strategy choices.

In addition, the law school accepted responsibility for its current noncompliance status, acknowledged that it did not act quickly enough to prevent the noncompliance, and indicated that it understood the need to take action now with priority. The law school recognized that it will be challenging to reverse a three-year decline in bar exam pass rates, but it appears to be making significant, evidence-based changes in an attempt to achieve its goal.

Because the law school has not been out of compliance before, and because they have an evidence-based plan in place to attempt to return to compliance in one to two reporting cycles, the team recommends placing the school on probation through July 1, 2022 or until the law school achieves compliance, whichever is sooner. Probation could conclude prior to 2022 if the law school is able to report compliance as of July 1, 2021.

The inspection team strongly recommends that the law school be required to clearly and affirmatively inform its student body, prospective students and the public of its noncompliance status and the term of any probation imposed to allow for informed decisions by students and prospective students. This should apply to verbal and written communication, as well as communication through the law school's website and social media.

Placing the law school on probation will provide the law school with an opportunity to improve, while accurately communicating the law school's compliance status to its students, prospective students, and the public.