



The State Bar of California

OPEN SESSION

AGENDA ITEM O-400

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 – John F. Kennedy School of Law at Northcentral University

EXECUTIVE SUMMARY

In August 2020, the Committee of Bar Examiners (Committee) issued a Notice of Noncompliance to John F. Kennedy School of Law at Northcentral University (JFK at Northcentral) because the law school's minimum, cumulative five-year bar exam passage rate (MPR) was 39.7 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 that its MPR is 40 percent or greater by that date 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 law 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 accompanying guidelines, as well as all 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, JFK at Northcentral reported an MPR of 39.7 percent to the Committee.

In August 2020, the Committee of Bar Examiners issued a Notice of Noncompliance to JFK at Northcentral 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.A. O-400](#)).

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, the response was not satisfactory. The Committee acknowledged that the law school described a plan in which a return to compliance was projected with the July 1, 2021 reporting cycle. Because the law school could not establish its compliance at this time, however, 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 13, 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 . . . 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 impose a term of 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 that the law

school clearly and affirmatively communicate its probationary status to current and prospective students and the public, as described below.

DISCUSSION

The inspection of JFK at Northcentral took place on January 13, 2021 from 2:30 p.m. to 3:30 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 JFK at Northcentral: Lisa Hutton, JD, Dean, JFK School of Law at Northcentral University; Dr. David Harpool, President Northcentral University; Dr. John LaNear, Provost Northcentral University; Chris Kanios, JD, Professor and Chair of Academic Standards of JFK School of Law at Northcentral University; and Nicole Mills, JD, Professor and Associate Dean of JFK School of Law at Northcentral University.

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.

Taking all of the facts and circumstances into account, the inspection team recommends a term of probation through the reporting deadline for the law school's 2022 MPR on July 1, 2022, with the option to conclude the probation sooner if the law school achieves a 2021 MPR of 40 percent or greater. The recommendation includes a requirement for the law school to communicate its status to current and prospective students and the public.

The inspection team notes that JFK at Northcentral projects that it will reach compliance in July 2021 and that its MPR will continue to increase as its students spend more of their time studying under the new online JD program format launched in fall 2020 and now in exclusive use at the law school.

In part based on this projection, and due to the fact that its MPR was 0.3 points below the minimum compliance level, the law school argued that it should not be placed on probation yet, but instead should be allowed more time to improve its results.

While the inspection team acknowledges these circumstances, it also acknowledges the Committee's responsibility to ensure that accredited law schools maintain full compliance or notify students and prospective students of any noncompliance. The law school is relying on a new and untested program after a period of time in which its MPR has been dropping by several points each year for several years, and October 2020 bar exam results did not meet the law school's expectations; compliance in 2021 cannot be assured, and students and prospective students should be informed. If the law school should reach compliance with the next MPR reporting cycle, the Committee can terminate its probation.

The law school also noted that if the cut score for the bar exam had been reduced to 1390 prior to October 2020, the law school may have remained in compliance. This was not the case, however, and all accredited law schools were held to the same standard.

As a condition of approval of the merger of the law school with Northcentral University approved last year, the University indicated that it understood and accepted the law school's noncompliance, and that it could be subject to imminent corrective action.

The inspection team's recommendation of probation rather than termination of accreditation takes into account a number of factors.

First, JFK at Northcentral has not been out of compliance previously, and the law school provided detailed calculations explaining how it projects to return to compliance in 2021.

Next, though the October 2020 bar exam results did not meet the law school's expectations, the law school's JD program now offers weekly assessment and feedback to students and greatly enhanced academic support, and a targeted support program is available for alumni seeking to pass the bar exam. It is hoped that these factors will improve results for future bar exams.

Selecting probation 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 John F. Kennedy School of Law at Northcentral University on probation through July 1, 2022 and direct the law 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 39.7 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 John F. Kennedy School of Law at Northcentral University 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 and affirmatively 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 39.7 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.** John F. Kennedy School of Law at Northcentral University Inspection Report Regarding Noncompliance with Accredited Law School Rule 4.160(N)



The State Bar of California

**John F. Kennedy School of Law at
Northcentral University
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 13, 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)
JOHN F. KENNEDY SCHOOL OF LAW AT NORTHCENTRAL UNIVERSITY
11355 N. TORREY PINES RD., LA JOLLA, CA 92037**

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Introduction

An inspection regarding John F. Kennedy School of Law at Northcentral University's (JFK at Northcentral) noncompliance with Accredited Law School Rule 4.160(N) was conducted on January 13, 2021 via videoconference. Accredited Law School 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, JFK at Northcentral reported an MPR of 39.7 percent.

The law school's program merged with Northcentral University, effective in January 2021. Previously, it was a part of John F. Kennedy University, which has since closed, and it offered only a classroom JD. In January of 2020, the law school received permission to operate an online JD program in addition to its classroom JD program. In April 2020, the Committee of Bar Examiners (Committee) approved the merger that created John F. Kennedy School of Law at Northcentral University. As part of the merger, the law school also discontinued its classroom program and, effective September 2020 forward, it now offers only an online program.

One of the conditions of approval, allowing Northcentral University to immediately begin operating an accredited program, required Northcentral University to acknowledge and assume responsibility for the school's noncompliant MPR, understanding that these prior results would be considered as part the law school's MPR going forward.

The merged entity is scheduled for inspection in spring 2022.

The law school currently enrolls 113 JD candidates, according to the law school's estimate at the inspection. Approximately 89 students transferred from the prior program, while the additional students registered directly with Northcentral University.

Inspection Purpose

In August 2020, the Committee issued a Notice of Noncompliance to the law school after the school reported its MPR of 39.7 percent. When the Committee finds a law 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. JFK at Northcentral projects that its 2021 MPR will likely demonstrate compliance, or if not, then compliance will be possible by 2022. It further projects that its MPR will continue to increase in subsequent years as the law school's students who have studied for all four years in the online JD program graduate and take the bar exam, due to the increased availability of intermediate feedback and academic support provided by the online JD program.

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: Lisa Hutton, Dean, JFK School of Law at Northcentral University; Dr. David Harpool, President Northcentral University; Dr. John LaNear, Provost Northcentral University; Chris Kanios, J.D., Professor and Chair of Academic Standards of JFK School of Law at Northcentral University; and Nicole Mills, J.D., Professor and Associate Dean of JFK School of Law at Northcentral University.

This videocall 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 JFK at Northcentral 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 CBE'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).

JFK at Northcentral's MPR has been falling for the last three years despite a number of efforts to improve it

JFK at Northcentral's MPR has been dropping for the last several years. The school considered a number of options, including curriculum and adjustments and a possible addition of a branch campus in order to attract students from a wider geographic area. Ultimately, the school decided to create an online JD program, which the school felt would allow more intermediate feedback, more opportunities for academic support, and improved results for students.

The law school is optimistic about the potential of its new online JD offering

While the online program was initially proposed as a parallel offering to the classroom program, it is now the sole offering of the law school, and it launched this fall. The faculty representatives were uniformly enthusiastic about the opportunities for weekly assessment and feedback for each student, as well as flexible availability of academic support during any day of the week. Professor Kanios, a longtime professor at the law school, was initially concerned about the transition, but quickly became comfortable, and feels that the law school's online program is a superior offering.

The law school also includes a commercial bar preparation program as part of the tuition for each law student, and there is a year-long bar preparation component.

The law school also projects that administrative changes may further improve the MPR

The law school also noted that the transition to an online program may allow the law school to be more selective in its Admissions because it hopes to attract a wider range of students across a broader geographic area, so the law school may be able to be more selective. The current class includes 72 students who transferred from the prior program, and 22 students who began their law study in January 2021.

The law school is also working with faculty to standardize grading, and it has tightened the requirements for probation, limiting the conditions under which a student may qualify for probation or be released from probation.

Though the merger was just completed, Northcentral University and JFK School of Law have been planning together for over one year

The law school began working with Northcentral University in October 2019 to embed that University's Teaching for Total Engagement model into the JD curriculum. The administration at Northcentral University has filed joint motions to the Committee of Bar Examiners with the law school throughout this year in anticipation of the merger. The online curriculum and access to the Academic Support resources began in Fall 2020.

JFK at Northcentral asked the Committee to take note of several facts that they wanted to be sure that the Committee considered.

First, they noted that the law school's MPR, while clearly noncompliant, was 0.3 points from a compliant value in 2020. Staff notes that early results from the October 2020 bar exam, however, suggest a downward trend in the 2021 MPR.

Next, the law school also noted that if the cut score had been lowered to 1390 prior to October 2020, the law school believes it would have been able to report a compliant MPR. These were not, however, the conditions under which all accredited law schools were required to submit the MPR.

The law school indicated that it hoped that the Committee would consider options other than probation.

CONCLUSION AND RECOMMENDATION

The inspection team recommends a period of probation through July 1, 2022 to allow the law school a reasonable opportunity to demonstrate its compliance

Overall, the team found JFK at Northcentral to be optimistic about the success of its new program launched in fall 2020, based upon early feedback from both students and professors. The law school has made a significant investment in providing more targeted support and feedback to its students for throughout all years of the curriculum.

The inspection team recommends placing the law 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 law school has not been out of compliance before, and while its plan is brand new, it is modeled off of the existing programs at Northcentral University. It is also very possible that the law school could raise its MPR in one to two cycles based on its current MPR value.

With that said, the school is not in compliance, and it is important for the law school to communicate this to its student body. The inspection team was surprised to find that the school did not inform its students in fall 2020 or earlier, even as they considered several prearranged transfer options that the law school had made available to them, though the information was posted on the State Bar's website. The law school did inform those students enrolling in January 2021.

The law school also identified several circumstances under which the law school believes it would have remained in compliance, but those are not the circumstances under which accredited law schools reported their MPR.

Placing the law school on probation will also give the law school a chance to improve while fairly communicating the law school's compliance status to its students, prospective students and the public.

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.