



# The State Bar *of California*

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## **OPEN SESSION AGENDA ITEM O-402 AUGUST 2021 COMMITTEE OF BAR EXAMINERS**

**DATE:** August 20, 2021

**TO:** Members, Committee of Bar Examiners

**FROM:** Natalie Leonard, Principal Program Analyst, Office of Admissions

**SUBJECT:** Action on Continuation of Probation for Lincoln Law School of San Jose Due to Noncompliance with the MPR Requirement

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### **EXECUTIVE SUMMARY**

In January 2021, the Committee of Bar Examiners (CBE) placed Lincoln Law School of San Jose (Lincoln-San Jose) on probation through July 1, 2022 when the law school's 2020 Minimum, Cumulative Five-Year Bar Exam Pass Rate (MPR) fell below the required minimum value of 40 percent to 31.5 percent. This year, Lincoln-San Jose's 2021 MPR has risen from 31.5 percent to 36.5 percent, but it remains below the required minimum. Therefore, the law school's probation will continue, and it is recommended that the law school be required to post an updated probationary notice as discussed below.

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### **BACKGROUND**

In January 2021, the Committee of Bar Examiners placed Lincoln Law School of San Jose on probation through July 1, 2022 as a result of reporting a 2020 MPR at 36.5 percent, below the 40 percent minimum. The law school's 2021 MPR, though improved, remains below the minimum requirement.

Prior to placing the law school on probation, the Committee followed the noncompliance process stated under Chapter 5 of the Rules for Accredited Law Schools. This process included delivering a notice of noncompliance, reviewing a response from the law school, conducting an inspection, and reviewing the resulting inspection report before deciding whether to impose a term of probation.

The law school's term of probation is scheduled to conclude on July 1, 2022, which is the deadline for reporting the 2022 MPR.

Since that probation was imposed, two administrative changes have taken place that may slightly affect the timing of the resolution of the law school's probationary status.

First, while the 2022 MPR reporting deadline is set for July 1, 2022, the final MPR may not be known until several weeks after that date. The additional time is needed to gather the figures required to adjust the MPR based on graduates' participation in the Provisional Licensure Program and to prepare final MPR for presentation to the CBE.

Second, a new set of accredited rules were adopted effective January 1, 2022. These new rules maintain the requirements for the MPR, including the 40 percent minimum, but they discuss a slightly different schedule for the conclusion of probation. Under new Rule for Accredited Law Schools 4.172(F):

at least 30 days before probation expires, the Committee will set a date, and notify the law school of such date, and on or after such date, the Committee will determine whether it will . . . end the accredited law school's probation or will proceed to terminate the law school's accreditation.

Unrelated to changes in the rules, the law school's probationary disclosure will also need to be updated, as discussed further below.

## **DISCUSSION**

Because Lincoln-San Jose's 2021 MPR is still below the 40 percent minimum, the law school's probation will continue.

The law school's Notice of Probationary Status should be updated to incorporate its 2021 MPR. It is also recommended that additional language be added to the notice to explain the law school's options if accreditation is terminated because the State Bar has received a number of questions from the public on this topic.

The proposed updated probationary notice is as follows, with the changes noted in track change format:

### Notice of Probationary Status through July 1, 2022

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 31.5 percent for 2020 and 36.5 percent for 2021, 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. If the law school's accreditation is terminated, the law

school will be required to apply for and be granted registered, unaccredited status before it can continue to operate. See current MPR statistics for all accredited law schools on the State Bar's website.

The law school should affirmatively communicate its status consistent with its responsibility under guideline 2.1 “to establish and maintain procedures and practices that demonstrate an on-going commitment to ensuring that every law school activity is conducted honestly and in a forthright manner.”

The includes, but is not limited to, placing the probationary notice prominently in the following locations in a font size of 12 point or larger if fonts on the page are larger: a written 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 insertion of the full notice impossible, the law school may provide a clearly labeled link to the information.

Looking ahead, next year, within six months prior to the scheduled conclusion of probation, the CBE will have the option to extend the law school’s probation. Extending the probation by a few weeks would have several advantages. It would allow ample time to apply the adjustments related to the Provisional Licensing Program described above. It would also allow the CBE to determine whether to end the probation or terminate the law school’s accreditation at the CBE’s regularly scheduled meeting in August 2022 rather than setting a special meeting. Unless and until the CBE decides to make such a change during the appropriate window for changes, the probation end date of July 1, 2022 will continue to be published.

## **FISCAL/PERSONNEL IMPACT**

None

## **RECOMMENDATIONS**

It is recommended that that law school’s probationary status continue as planned through July 1, 2022, and that its probationary notice be updated as discussed above.

## **PROPOSED MOTION**

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

**MOVED**, that the Committee of Bar Examiners continues the probationary status of Lincoln Law School of San Jose through July 1, 2022 consistent with its order issued in January 2021;

and

**FURTHER MOVED**, that the law school shall affirmatively communicate its status consistent with its responsibility under guideline 2.1 “to establish and maintain procedures and practices that demonstrate an on-going commitment to ensuring that every law school activity is conducted honestly and in a forthright manner” using the notice language below:

**Notice of Probationary Status through July 1, 2022**

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 36.0 percent for 2020 and 39.0 for 2021, 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. If the law school's accreditation is terminated, the law school will be required to apply for and be granted registered, unaccredited status before it can continue to operate. See current [MPR statistics for all accredited law schools](#) on the State Bar's website.

and

**FURTHER MOVED**, that this notice should be included anywhere necessary to fulfill the law school's responsibility under guideline 2.1, including, but not limited to, the following locations in a font size of 12 point or larger if fonts on the page are larger: a written 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 insertion of the full notice impossible, the law school may provide a clearly labeled live link to the information.