



OPEN SESSION
AGENDA ITEM O-400
OCTOBER 2021
COMMITTEE OF BAR EXAMINERS

DATE: October 15, 2021

TO: Members, Committee of Bar Examiners

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

SUBJECT: Action on Major Change – Empire College of Law – Extend Option for Online Teaching

EXECUTIVE SUMMARY

Empire College School of Law (Empire) seeks the Committee of Bar Examiners' (CBE) approval to continue remote class delivery as needed as set forth in Attachment A, while encouraging students to return to campus when possible.

BACKGROUND

Empire is a privately-owned California stock corporation that has, since 1981, owned and operated Empire College School of Law. The law school offers both Juris Doctor and Master of Legal Studies Programs. The law school is accredited by the Committee of Bar Examiners and was last inspected in 2017 and found to be compliant.

The law school's Minimum, Cumulative Bar Passage Rate (MPR) has continued to be above the 40 percent minimum percent minimum. The law school reported an MPR of 55.4 percent in 2018, 46.9 percent in 2019, 46.1 percent in 2020, and 59.3 percent in 2021.

Under Rules 4.164 and 4.165, "[a]n accredited law school contemplating a major change must notify the Committee . . . [and t]he notice must explain in detail any effect the change might have on the law school's compliance with the rules." (Rule 4.164) Such changes include "instituting a new division," and "offering any new program in law study, whether a degree

program, non-professional degree program, or non-degree program,” as is contemplated here. (Rule 4.165).

Here, Empire’s goal is to return as many students as possible to campus beginning in January, while providing those students who need to attend remotely the option to most of their requirements for the JD program online.

DISCUSSION

Empire does not seek permission to offer an online JD program at this time. Instead, the law school seeks to continue its classroom JD program, but allow students who cannot otherwise come to campus to fulfill many of their requirements via online study. The law school plans to teach its classes live and simultaneously broadcast them via videoconference platform. It has also reconfigured some of its practical skills training classes to offer online participation and may reconfigure more classes in the future.

The law school does not plan to offer an official online JD program. Instead, it plans to encourage all students and faculty to return to campus, but to provide the flexibility to attend some classes online, even those others will still require on-campus participation. The law school plans to advise students of this in writing. Empire’s dean also plans to discuss this verbally with students.

Proposed online JD program curriculum and procedures

Empire has historically taught JD classes in a fixed facility classroom environment. In March 2020, the law school began teaching remotely due to the pandemic. While most students and faculty will look forward to returning to campus in the new year, the law school has learned that some students and professors will want or need to continue to attend classes remotely, depending upon the status of the pandemic at that time.

As a result, the law school filed this major change seeking approval to conduct fixed-facility classes that are simultaneously broadcast to those students attending remotely. The JD program requirements will be the same for all students, whether or not they choose to attend any classes remotely.

Empire intends to conduct classes using a synchronous in-class and remote format. Though the law school has been teaching classes online with positive results, it has recently made several investments to enhance the experience. The law school has purchased new cameras, microphones, monitors and TV screens in order to create an enhanced interactive experience for all students whether they are in the classroom or attending remotely. For example, all classrooms are being equipped with OwlLab cameras that will swivel to focus on the person speaking, and new monitors and TV screens.

The law school has been testing this equipment this fall under the Committee’s general waiver to teach classes online with positive results.

The law school's plan appears to comply with the Accredited Rules and Guidelines

The law school's JD program overall requirements are not changing. The program continues to exceed the minimum requirements of 80 credit hours and 1200 hours of verified academic engagements, as well as the required practical skills courses, as described below and to provide all required services. The law school is also taking steps to communicate its offerings and students rights and responsibilities.

Under Division 6 Academic Program Guidelines, the law school "must maintain a qualitatively and quantitatively sound program of legal education" requiring at least 80 credits, with each credit including at least 15 hours of verified academic engagement plus 30 untracked hours of preparation. (Guideline 6.5 A-B)). Empire's proposed hybrid JD program exceeds the minimum requirement of 80 credits, requiring 86 total.

Under Division 7's Scholastic Standards, the law school's online JD program must include at least 1200 hours of academic engagement. (Guideline 7.11). Empire will be able to meet this requirement through taking attendance, as it does now.

During the pandemic, student services were moved online. The law school plans to continue to offer services both online and in-person beginning in the new year. Exams will be administered securely, with some classes using in-person proctoring and others using remote proctoring.

Accredited law schools must ensure that their JD curriculum includes six hours of practical skills training and the opportunity to take at least 15 hours of practical skills training. Empire plans to advise students that some of these practical skills opportunities will be available in-person. In an addendum to the request, the law school provided full detail regarding the status of its clinics. At this time six units are available remotely, while a wide range of others are offered via in-person format.

The law school understands that it has an affirmative duty to clearly communicate with prospective and current students, and understands its need to inform them that certain programs and requirements are offered in person, and they may need to attend in person in order to complete their JD degree requirements.

The law school understands and agrees to file a further motion in the future if it plans to offer a fully online JD program. At this point, the focus remains on the return to a residential program to the extent possible.

FISCAL/PERSONNEL IMPACT

None

RECOMMENDATION

It is recommended that the Committee of Bar Examiners receives and files Empire College of Law's Request for Major Change seeking permission to add the option to delivery classes simultaneously in-person and via videoconference, as set forth in Attachment A, and to grant the request effective immediately.

PROPOSED MOTION

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

MOVE, that the **Committee of Bar Examiners** receives and files Empire College of Law's Request for Major Change seeking to add the option to deliver JD classes simultaneously in-person and via videoconference, as set forth in Attachment A, and to grants the request effective immediately.

ATTACHMENT LIST

- A. Empire College of Law Major Change Request to Extend Distance Learning Post December 31, 2021

TO: THE STATE BAR OF CALIFORNIA, COMMITTEE OF BAR EXAMINERS
DATED: July 26, 2021
RE: MAJOR CHANGE REQUEST
FROM: EMPIRE COLLEGE SCHOOL OF LAW

RE: USE OF DISTANCE LEARNING POST DECEMBER 31, 2021

Subject of this request: Continued use of Zoom video-conferencing platform for administering law school program after December 31, 2021.

Reason for this request: The CBE previously granted a waiver of certain rules and guidelines governing California Accredited Law Schools in order to allow them to continue teaching through distance learning modalities during the COVID-19 pandemic. The most recent extension of that waiver expires on December 31, 2021, and the CBE has advised that anything done under that waiver which a law school anticipates will continue beyond that date requires approval of a Major Change Request.

The Aspect of the Program Subject to Change: Empire wishes to continue to allow some remote participation in class, by both teachers and students, beyond December 31, 2021.

Discussion: Empire is a residential law school and had only engaged in teaching via Zoom because of the pandemic, beginning that approach in March 2020. Earlier this year, anticipating improvement in the impact of the pandemic, and anticipating changes in the restrictions imposed by State and County officials, Empire surveyed its students and professors on their requirements/needs/concerns before coming back to campus. While most are anxious to return, and while restrictions in Sonoma County are expected to change over time, we anticipate that there will be both professors and students who will still be either unable or unwilling to return to campus by January 1, 2022, depending upon the state of the pandemic at that time.

We are fully expecting and are planning to return to campus by January 1, 2022, and hopefully earlier by the start of our Fall trimester in late August, 2021. But given the anticipated need to continue to serve professors and/or students remotely beyond December 31, 2022, Empire has invested thousands of dollars in more advanced camera, microphone and computer technology to enhance the "Zoom" experience and more accurately portray the classroom to remote participants. All of its classrooms are being outfitted with newly purchased OwlLab equipment, new monitors/TV screens and accompanying software. We have tested the equipment and it works extremely well in transmitting a classroom setting more realistically than one might accomplish using only a laptop or other conventional webcam. The OwlLab camera and microphones will be centrally located in the rooms; they rotate to focus on the speaker. The large TV monitors enhance the classroom visibility of remote participants as well. In short, this will be as close as we can come with the affordable technology in duplicating the classroom experience and interaction for those few students and/or professors who will not be able to be on campus. We expect to have this equipment up and running for the 2021 Fall trimester; we want to be able to continue using it indefinitely.

While the pandemic has been the driving force behind the decision to teach remotely, it has become clear that many goals are served by having this capability. Even when the concerns over infection are down to a minimum, having high quality remote instruction available will serve our students in a variety of ways, as discussed within the U.S. Department of Education handbook referenced below. These include but are not limited to creating an enhanced ability to measure outcomes and student/student and student/professor interaction, but also by addressing interruptions in their lives caused by sudden illnesses, surgeries or deaths in the family, sudden lack of child-care and other unforeseen emergencies impacting their abilities to personally attend classes. We will be better able to serve all our students with this continued technology even well beyond COVID-19 immediate concerns as it will also enhance our ability to serve students who simply may not have the financial means and/or home/work situations to allow them to commute every day.

We do not expect any reduction in either the level of education, the professor-student interaction, or the other support services we provide our students because of this change. To the contrary, the ability to record certain classes, like Moot Court and Trial Practice, will allow for improved study of student performance and enhance professor feedback, and having the ability to create digital “break out” rooms will enhance student participation and collaboration, both of which are key components to their success in law school.

Empire’s Plan is Consistent With the U.S. Department of Education Recommendations. The U.S. Department of Education just published its third volume of its ED COVID-19 HANDBOOK, this one sub-titled: “Strategies for Safe Operation and Addressing the Impact of COVID-19 on Higher Education Students, Faculty and Staff.” To our knowledge, this is the first comprehensive set of government recommendations and guidelines specific to institutions of higher learning (IHEs) and their ongoing response to the pandemic. A few quotes from the handbook’s recommendations are instructive:

“Though many IHEs are working to safely bring students back to in-person learning, the need for high-quality online options is here to stay. Given this reality, it is essential that IHEs invest in professional learning opportunities tailored to the digital context.” (p.19)

And while recognizing that on-line instruction has increased feelings of social isolation, the publication also acknowledges there are positive ways to use technology to increase student engagement and participation:

“For example, consider how instructors might use technology-based tools to foster an active learning environment where students have an opportunity to collaborate, engage in inquiry-based learning, and produce dynamic content. In a digital space, instructors can experiment with different participation techniques that may offer opportunities for more students to contribute their perspectives, and for students to participate in different ways. When synchronous, this might involve the use of small group breakout sessions, in-class polls, and the chat feature.” (p. 21)

These last few examples quoted mirror the inquiry-based interactive law school environment. We anticipate that the widespread use of our new technology will enhance the

professors' ability to find a variety of ways to run their classes, thus improving the level of education for all.

Current Status of Classroom Preparation: Our classrooms have all undergone facelifts this summer while classes have been taught via Zoom. We have new carpeting, new paint, and soon to be installed new OwlLab equipment. We plan to have in-person instruction begin August 30, 2021, county restrictions permitting, and will be able to optimize our new equipment's effectiveness during the Fall 2021 trimester.

Conclusion: We know most people will return to campus as soon as they are allowed to, but some will not feel safe in doing so. Even so, institutions of higher education are expected to have to engage digital instruction beyond the lifespan of the current pandemic. The pandemic has impacted our communities in different ways, and many of our students and their families have been hit hard by it. We want to maintain the ability to honor the desires of some who will not feel safe or otherwise capable to return even when others do. While most of our students and professors are expected to return to campus as soon as it's reasonably safe to do so, we do not feel it appropriate at this stage to predict our ability to require 100% to return by January 1, 2022. To best serve them all, and to stay abreast of what will only be an increase in distance education programs in all educational spheres, we have invested in superior equipment to enhance the synchronous remote experience.

Requested Approval: That Empire College School of Law be allowed to continue its synchronous delivery of its curriculum which began in March of 2020 with its newly obtained OwlLab technology, to be administered as part of its residential program beginning January 1, 2022 and continuing thereafter until further notice from the Committee.
Respectfully Submitted,

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