



# The State Bar *of California*

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OFFICE OF ADMISSIONS

**OPEN SESSION**  
**AGENDA ITEM O-405**  
**DECEMBER 2021**  
**COMMITTEE OF BAR EXAMINERS**

**DATE:** December 3, 2021

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

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

**SUBJECT:** Action on Major Change and Waiver – University of La Verne College of Law – Teach Three Remote Weeks Per Semester, Three Electives Online and Teach Online Temporarily

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## EXECUTIVE SUMMARY

University of La Verne College of Law seeks the Committee of Bar Examiners' (Committee) approval as to three requests as set forth in Attachment A: 1) waiver to pivot to full online class delivery through August 15, 2022 if public health circumstances require; 2) to offer up to three weeks per semester in which classes are taught remotely; 3) to offer upper level elective courses remotely on a permanent basis.

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## BACKGROUND

University of La Verne College of Law is located in Ontario, California. The law school voluntarily returned to accreditation by the Committee of Bar Examiners after a prior period as a law school approved by the American Bar Association (ABA). The law school is in the process of teaching out its students in its ABA-approved program, and it enrolled its first California accredited class in fall 2020.

Its parent institution, the University of La Verne, is institutionally accredited by the Western Association of Schools and Colleges (WASC). The law school is concurrently submitting approval for this request to both the State Bar of California and WASC.

According to its 2020 Annual Report, the law school enrolls 266 students in its JD program. Its Minimum, Cumulative, Five-Year Bar Exam Pass Rate (MPR) trend for the most recent three years is: 2019 MPR 69 percent, 2020 MPR 66 percent; and 2021 MPR 75.1 percent.

Under Rule 4.109, “[a] law school may request that the Committee waive any rule. The request must clearly show that the law school otherwise complies with these rules . . . and a waiver is temporary.”

The first request is subject to this standard.

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 “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).

Requests two and three are permanent and subject to this standard.

## **DISCUSSION**

When discussing each of these requests, the law school demonstrated that they will not adversely affect overall compliance in any aspect.

### **Waiver to Teach Online through August 15, 2022 in the Event of a Public Health Emergency**

La Verne seeks temporary permission to conduct all operations online if public health circumstances require it through August 15, 2022. Barring a public health emergency, however, the law school will largely return to an in-person fixed facility format.

The law school has been delivering classes online successfully while maintaining compliance, as evidenced by its progress documented in quarterly reports since summer 2020. It has the resources and ability to continue to do so if needed through August 15, 2022, and to keep students proactively informed.

### **Major Change to Add Up to Three Remote Weeks Per Semester**

La Verne seeks permanent permission to offer up to three weeks per Semester in remote format. The law school piloted this option during the pandemic to strong results. In clinical classes, the law school arranged the curriculum to maximize the value of in-person class time.

Students who wish to attend in person or use university services would be able to continue to do so during the remote weeks. Also, particular courses could opt out of the remote weeks if that format was not appropriate for the course.

The law school has demonstrated that all compliance elements, including practical skills training, can continue to be met if this option is implemented.

### **Major Change to Teach Upper-Class Electives Online as Needed**

The law school has been teaching classes online with positive results. During the pandemic, the law school also learned that it could increase its ability to hire prominent faculty to teach electives in areas such as intellectual property law or surrogacy if the classes were taught online.

Therefore, the law school would like the ability to teach up to three online electives each semester to increase the scope and quality of electives that it may offer.

## **FISCAL/PERSONNEL IMPACT**

None

## **RECOMMENDATION**

It is recommended that the Committee of Bar Examiners receives, files and grants the University of La Verne College of Law's Request for Waiver and Major Change as follows: 1) a waiver to teach classes online through August 15, 2022 as needed if public health orders require; 2) a major change to allow the addition of up to three remote weeks per semester for each class at the discretion of the law school, with campus services to remain available; and 3) a major change to teach up to three upper-class electives per semester online.

## **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 University of La Verne College of Law's Request for Waiver and Major Change and grants the request effective immediately as follows: 1) a waiver to teach classes online through August 15, 2022 as needed if public health orders require; 2) a major change to allow the addition of up to three remote weeks per semester for each class at the discretion of the law school, with campus services to remain available; and 3) a major change to teach up to three upper-class electives per semester online.

## **ATTACHMENT LIST**

- A. University of La Verne College of Law – Request for Waiver and Major Change

Mrs. Natalie Leonard  
Principal Program Analyst,  
Educational Standards--Office of Admissions  
The State Bar of California  
180 Howard Street, San Francisco, CA 94105

September 29, 2021

Sent Via Regular Mail and Email:

Re: Request for Flexible Variance

Dear Mrs. Natalie Leonard:

I. General Waiver to Transfer to Remote Learning Due to Circumstances Related to COVID-19:

The University of La Verne requests that the current general waiver allowing law schools to transfer classes to remote/online learning due to the Pandemic be extended through August 15, 2022. While we are a fixed-facility, face-to-face program of legal education, we request the flexibility to pivot to remote learning in the event it is necessary for the health and safety of our students.

While we have made public advances with regard to the health and safety challenges relating to the pandemic, the University of La Verne College of Law requests the autonomy to pivot our entire program to remote, synchronous learning in the event it 1) becomes necessary to comply with county, state or federal governmental stay at home mandates; or 2) in the event the health and safety of our students are threatened by a COVID-19 or a variant outbreak at the College of Law or in the event there is a localized outbreak within a particular class. The College of Law requests the continued flexibility to transfer any one of its classes to remote learning (or if necessary our entire program of legal education) should the health and safety of the students enrolled in the class is threatened by an outbreak of COVID-19. We ask that this extension continue through summer of 2022 and expire August 15, 2022, unless our public health crisis continues to threaten the stability of our operations at which time we would ask for additional consideration for a further extension of this general waiver.

Please be advised that all classes that have been taught remotely under the current State Bar general waiver at the College of Law have been and continue to be taught synchronously via Zoom and will continue to be so taught in the event we feel compelled to pivot to remote learning in the future. Please also know that under our current remote learning policy, we require all final exams to be in-person. If it were to become necessary to return a class (or our entire program) to remote learning, all exams will nonetheless be offered remotely for the health and safety of our students. The College of Law administers all remote exams through ExamSoft utilizing its artificial intelligence proctoring capabilities.

Should it be necessary to transfer any of the College of Law classes to remote learning, it will do so only for so long as is required to protect the health and safety of its students or as may be mandated by county, state, or federal authorities. The decision to transfer any classes to remote learning will be limited to the extent possible to minimize any impact on any other aspect of the College of Law programming, including student services, practical skills-based courses in which in-person training is critical (e.g. trial advocacy, our law clinics, advanced appellate advocacy).

## II. Flexible Waiver to Offer Remote Learning on Limited Basis:

### A. Remote Week:

The University of La Verne College of Law requests a flexible waiver to allow it to offer remote learning on a limited basis during any of its future semesters of legal education programming, regardless of whether our request for an extension of the current general waiver is granted. The College of Law observed that remote learning offers operational efficiencies that accommodate and fortify our existing face-to-face, in-person program of legal education.

For example, many of our students commute to and from the College of Law, some for several hours. This semester, although we require that all bar-tested core courses be taught in-person, the College of Law under the authority of the State Bar's general waiver identified and scheduled three weeks to be designated "remote weeks" (one during the month of September, one during the month of October, and one during the month of November). During each designated and scheduled "remote week" students may elect to attend their classes remotely via Zoom thus allowing them a break from their challenging commutes with the intention that they reallocate their savings in time so they may more efficiently engage in the rigorous pursuit for success.

The College of Law implemented this policy under the current authority granted by the State Bar's general waiver which expires in December of 2021. The College of Law requests that it have the continued authority and autonomy to elect to offer and build into its semester programming remote learning weeks on a limited basis to the extent such remote learning offers value-added efficiencies to the study of law. In this regard, we ask that the College of Law have the authority to offer up to and no more than three weeks a semester as "remote weeks" should the College of Law deem it beneficial to the operational efficiency of its program of legal education. This fall we piloted this program with three designated weeks. We may decide to reduce that to one or two weeks (and even possibly eliminate it) depending on our programmatic needs. Our first remote week this semester was scheduled during Labor Day week. Students overwhelmingly voiced appreciation. Accordingly, we would like to have the authority and autonomy to continue to offer "remote weeks" if we deem it beneficial for our community of learners.

Please know that during our designated and scheduled remote weeks for this 2021 fall semester, all practice-based and skill-based courses were and are offered in-person as we believe that learning is maximized in such courses when there is in-person engagement. Also, during "remote week", the College of Law remains open during its regular scheduled hours and students are welcome to engage with their studies at the College of Law, participate remotely via Zoom in their assigned classrooms (this is particularly important if they need access to our College of Law's Wi-Fi bandwidth). Moreover, all student services, including student affairs, career development, library reference services, are offered in person (and remotely depending on the needs of the study). The library remains open during it regularly

scheduled times allowing student study space should they prefer or have the need for same. All administrative offices, including the Office of the Registrar and the Office of the Dean remain open and accessible both on an in-person and remote basis depending on the needs of the student. All College of Law employees are required to be physically present during a designated remote week.

#### B. Upper-Level Elective Offerings:

During the Pandemic, and under the general authority of the State Bar's general waiver, the College of Law was able to hire and retain several highly qualified part-time instructors with expertise in variety of specialized areas practice who are not local. For example, we currently have a part-time faculty member who resides in San Diego who has years of experience in intellectual property law. We currently have the opportunity to hire an attorney who specializes in the law of surrogacy. Being able to offer an upper-level elective course remotely increases our capacity to expand our pool of potential part-time instructors by attracting and engaging with highly specialized practitioner-teachers throughout the Southern California, Los Angeles, and Inland Empire regions. Providing our students greater access to a more diverse and qualified staff of part-time instructors makes our program of legal education even stronger. Moreover, it provides our students additional connections and network opportunities throughout our neighboring region.

Please know that we would limit such offerings to upper-level elective courses only. All such remote classes would be offered synchronously, and all final exams in such courses would be required to be taken in-person at the College of Law. Accordingly, the College of Law requests the authority and autonomy to offer during any one semester no more than three upper-level elective classes remotely via Zoom. While we ask for the authority and autonomy to offer no more than three such courses remotely during any given semester, the offering of such courses will depend on the needs of the program during any given semester. During any given semester, it is conceivable that we may not have the need nor the opportunity to schedule any such remote, upper-level elective. Accordingly, we request a flexible waiver to do so, should the need and value-added opportunity arise.

#### III. Summary of Flexible Waiver Request:

For the above stated reasons, the University of La Verne requests the following general and flexible waivers:

- That the current general waiver to transfer classes to online/remote learning be extended through August 15, 2022 allowing College of Law the authority and autonomy to generally respond and adjust its program of legal education for public health and safety reasons relating to the on-going challenges of the Pandemic due to COVID 19 and its variants.
- That the College of Law be granted the authority and autonomy to offer no more than three "remote weeks" during an given semester as explained above.
- That the College of Law be granted the authority and autonomy to offer remotely via Zoom no more than three upper-level electives during any given semester as explained above.

Thank you for your consideration. I stand by should you have any questions, concerns or need further explanation.

Sincerely,

 Kev Marshall  
JD, MPA, PHD  
The Frank Lizarraga Endowed Dean and Professor of Law.