



OPEN SESSION
AGENDA ITEM O-408
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 Waiver – Irvine University College of Law – Teach Classes Online Temporarily

EXECUTIVE SUMMARY

Irvine University College of Law requests a waiver from the Committee of Bar Examiners (Committee) to teach classes online through August 31, 2022 due to circumstances related to the pandemic. (Attachment A.)

BACKGROUND

Irvine University College of Law is an unaccredited, fixed-facility law school located in Cerritos, California. The law school was last inspected in 2018 and found to be compliant.

According to its 2021 Annual Report, the law school enrolls 58 students in its JD program. The law school's most recent pass rates on the First-Year Law Students Examination were 5.9 percent in October 2020 and 16.7 percent in June 2021. Its most recent cumulative five-year bar pass rate according to its 2021 disclosure pursuant to California Business and Professions Code 6061.7(a) is 30.4 percent.

The Committee's general waiver for fixed-facility law schools to teach classes online that has been in place since March 30, 2020 will expire on December 31, 2021. The Committee requested that fixed-facility schools who saw a pandemic-related need to teach classes online beyond that date should file individual waiver requests, as the law school has done here.

Under Rule 4.208, “[a] law school may request that the Committee waive any rule or guideline [though] . . . a waiver is temporary.”

DISCUSSION

Irvine University College of Law seeks a waiver to continue to teach its JD program synchronously online through August 31, 2022.

The law school cites several reasons for its request. The law school is located in an office building where it cannot control the ventilation, and it also does not feel it can effectively administer a vaccine mandate. The law school also wants to be responsive to faculty and students who have expressed health concerns about attending in person.

The law school has taught classes online throughout the pandemic and plans to continue in the same manner through August 31, 2022. The law school indicates that compliance will not be negatively affected if this waiver is granted.

FISCAL/PERSONNEL IMPACT

None

RECOMMENDATION

It is recommended that the Committee of Bar Examiners receives, files and grants Irvine University College of Law’s waiver request to teach classes online through August 31, 2022.

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, files, and grants Irvine University College of Law’s waiver request to teach classes online through August 31, 2022.

ATTACHMENT LIST

- A.** Irvine University College of Law – Request for Waiver



Via Email

November 8, 2021

Natalie Leonard, Esq.
Office of Admissions, Educational Standards
State Bar of California
180 Howard Street
San Francisco, CA 94105

Re: ***Amendment to Request of Irvine University College of Law for Further Extension of Waiver re Online Class Attendance (submitted 9/15/21)***

Dear Ms. Leonard:

Pursuant to Rule 4.245 of the *Unaccredited Law School Rules*, and in compliance with the April 23, 2021 action by the Committee of Bar Examiners (Committee), Irvine University College of Law (IUCOL) hereby seeks approval of the following major change: An extension of the current waiver through June 1, 2022, allowing IUCOL to continue teaching all courses in its J.D. degree curriculum through synchronous, online class attendance. This request is submitted in the good faith belief that the currently foreseeable health risks associated with COVID-19 and in-classroom instruction will remain at unacceptable levels for at least the next six to eight months. As a result, to protect the health and safety of its entire community (students, faculty, and staff), IUCOL respectfully requests that the Committee extend its waiver to allow it to continue compliantly teaching synchronous, online class sessions through August 2022.

Since the onset of the COVID pandemic, the Committee has wisely allowed both accredited and registered fixed-facility law schools to substitute traditional in-person classroom attendance with online, synchronous class participation. This past April, the Committee timely extended its temporary waiver to allow such teaching through December 31, 2021. Since March of 2020 IUCOL's students have been able to continue their legal education safely through online classes which are nearly identical in form and content to those held in a classroom on IUCOL's campus. Thus, without interruption, they have earned their eligibility to take and pass the First Year Law Students' Examination as well as the California Bar Examination. Without the waiver IUCOL's operations would have ceased and their legal educations would have abruptly stopped.

Being able to continue teaching their students has also been very gratifying to our entire faculty. Which has allowed me to report to the Committee that IUCOL's J.D. program, including both classes and internships has been strengthened through the functionality and ease of use of Zoom's technology. Thus, despite numerous professional and personal COVID related challenges (including becoming ill with COVID), I have been pleased to reaffirm that through

remote teaching and learning all IUCOL class sessions scheduled over the past six semesters since the Committee's waiver went into effect have been taught without any issue whatsoever.

Natalie Leonard, Esq.
November 8, 2021

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Judged against the efficacy, ease of use and safety associated with online teaching, the question of whether it will be safe and acceptable to return to the classroom in less than four months remains, at best, fraught. Despite the relative success in the number of those now vaccinated, given the current scourge of the COVID Delta variant, it remains very uncertain whether it will be considered safe for students and professors alike to spend three plus hours in close quarters.

As is often said, the past is prologue. When the Committee granted the current extension in April, many key COVID indicators (rates of infection, the number of those infected and the number of those being treated in a hospital) were going down and, it appeared all would continue to drop as more received a vaccine. Unfortunately, as we now know, such optimism was clearly premature. Had the waiver extension through December 31st not been granted, IUCOL's fall semester of on-campus classes (which started in mid-August) would have been required to start at the height of the second worse surge of the pandemic. Obviously, they would have been cancelled until the Committee could have granted the extension that it did in April.

Based upon this recent history, it again appears clear that another extension is again advisable. As with the advance planning needed for our current fall semester, the many tasks of planning our 2022 spring semester have already begun. The most important of which is to confirm which members of the faculty will teach which courses. Unfortunately, given current conditions, getting a commitment from most IUCOL faculty members to teach on campus will be, at best, difficult and, more likely, impossible. Over the past 18 months two faculty members have been infected with COVID (along with several students), while at least two have family members who have immunity issues and have confirmed they will no longer teach in person. With a faculty of consisting of only twelve professors, the loss of even two or three for even a semester would be extremely detrimental to the ability of the law school to continue operating. As for our students, while we do not know who would or would not withdraw if required to attend classes in person starting in January, I am confident that more than a few would be due to the risk involved.

While many institutions, both public and institutions, are back on campus, the reality is that they can afford to demand expensive testing regimes and the installation of in-classroom safety precautions that a far smaller entity, such as IUCOL, is simply not able to afford or demand. The IUCOL campus is in a commercial office building that shares its ventilation system with other tenants. While its landlord has taken reasonable precautions for those entering the building (such as requiring masks in common areas), it must be assumed that those working in adjacent offices do so without masks and that, while many are vaccinated, too many, unfortunately, are not.

As a result, as long as infection numbers and rates pose a real and present danger to all (including those vaccinated), combined with the possibility newly discovered infectious variants, there will be a reasonable degree of concern and uncertainty as to whether it will be safe for both students and professors to attend in-person classes. It is this uncertainty, tempered by 18 months of dashed expectations of when the pandemic will end, that amply supports a further extension.

Finally, given this realistic assessment and the dire practical and financial consequences to our program should an extension not be granted, it must again be noted that IUCOL's program has been able to operate compliantly, without interruption, for the past year and a half. While no one is able to predict the future of COVID, what is possible is for those in positions of authority to consider recent events to continue making reasoned and reasonable decisions involving the health and safety of others and, as before, err on the side of caution.

I am therefore confident that the Committee will again do what is needed to keep IUCOL operating safely. Thus, based upon each of the current and foreseeable concerns discussed above, I know that the Committee will consider this renewed request with a realistic appreciation of the importance—if not necessity—of providing IUCOL additional time to continue operating as it has through the first half of 2022 when, we hope, it will be far more certain that the pandemic is no longer the threat that it is now and through the foreseeable future.

On behalf of IUCOL's students, faculty members and staff, I thank you in advance for doing so.

Sincerely yours,

George C. Leal, Dean
Irvine University College of Law

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